

SOLICITATION VERSION

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

MUJI U.S.A. LIMITED,¹

Debtor.

Chapter 11

Case No. 20-11805 (MFW)

**DISCLOSURE STATEMENT FOR AMENDED CHAPTER 11 PLAN
OF REORGANIZATION OF MUJI U.S.A. LIMITED
PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

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Dated: November 23, 2020

¹ The last four digits of the Debtor's federal tax identification number are 2229. The location of the Debtor's principal place of business is 250 West 39th Street, Suite 202, New York, NY 10018.

IMPORTANT INFORMATION ABOUT THIS DISCLOSURE STATEMENT²

THE DEBTOR IS PROVIDING THE INFORMATION IN THIS DISCLOSURE STATEMENT TO HOLDERS OF CLAIMS OR INTERESTS FOR PURPOSES OF SOLICITING VOTES TO ACCEPT OR REJECT THE CHAPTER 11 PLAN OF MUJI U.S.A. LIMITED, WHICH PLAN IS BEING PROPOSED BY THE DEBTOR. NOTHING IN THIS DISCLOSURE STATEMENT MAY BE RELIED UPON OR USED BY ANY PERSON OR ENTITY FOR ANY OTHER PURPOSE.

THE PLAN IS SUPPORTED BY THE DEBTOR. BEFORE DECIDING WHETHER TO VOTE FOR OR AGAINST THE PLAN, EACH HOLDER ENTITLED TO VOTE SHOULD CAREFULLY CONSIDER ALL OF THE INFORMATION IN THIS DISCLOSURE STATEMENT, INCLUDING THE RISK FACTORS DESCRIBED IN ARTICLE VIII HEREIN.

THE DEBTOR URGES EACH HOLDER TO CONSULT WITH ITS OWN ADVISORS WITH RESPECT TO ANY LEGAL, FINANCIAL, SECURITIES, TAX, ACCOUNTING, BUSINESS OR OTHER ADVICE IN REVIEWING THIS DISCLOSURE STATEMENT, THE PLAN, AND THE PROPOSED TRANSACTIONS CONTEMPLATED THEREBY.

THE BANKRUPTCY COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE A GUARANTEE BY THE BANKRUPTCY COURT OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN OR AN ENDORSEMENT BY THE BANKRUPTCY COURT OF THE MERITS OF THE PLAN. FURTHERMORE, THE BANKRUPTCY COURT'S APPROVAL OF THE ADEQUACY OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL OF THE PLAN.

THIS DISCLOSURE STATEMENT CONTAINS, AMONG OTHER THINGS, SUMMARIES OF THE PLAN, CERTAIN STATUTORY PROVISIONS, AND CERTAIN ANTICIPATED EVENTS IN THE CHAPTER 11 CASE. SUMMARIES OF THE PLAN AND THE OTHER STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN. THE SUMMARIES OF THE FINANCIAL INFORMATION AND THE DOCUMENTS ANNEXED TO THIS DISCLOSURE STATEMENT OR OTHERWISE INCORPORATED HEREIN BY REFERENCE ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THOSE DOCUMENTS. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE OF THIS DISCLOSURE STATEMENT, AND THERE IS NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER SUCH DATE. A DESCRIPTION IN THIS DISCLOSURE STATEMENT AND THE TERMS AND PROVISIONS OF THE PLAN OR ANY OTHER DOCUMENTS INCORPORATED

² Capitalized terms used but not defined in this Disclaimer shall have the meaning ascribed to them elsewhere in this Disclosure Statement.

HEREIN BY REFERENCE, THE PLAN OR SUCH OTHER DOCUMENTS WILL GOVERN FOR ALL PURPOSES. FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PROVIDED BY THE DEBTOR'S MANAGEMENT EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED. THE DEBTOR DOES NOT REPRESENT OR WARRANT THAT THE INFORMATION CONTAINED HEREIN OR ATTACHED HERETO IS WITHOUT ANY MATERIAL INACCURACY OR OMISSION. EXCEPT AS OTHERWISE PROVIDED IN THE PLAN OR IN ACCORDANCE WITH APPLICABLE LAW, THE DEBTOR IS UNDER NO DUTY TO UPDATE OR SUPPLEMENT THIS DISCLOSURE STATEMENT.

IN PREPARING THIS DISCLOSURE STATEMENT, THE DEBTOR RELIED ON FINANCIAL DATA DERIVED FROM THE DEBTOR'S BOOKS AND RECORDS AND ON VARIOUS ASSUMPTIONS REGARDING THE DEBTOR'S BUSINESS. WHILE THE DEBTOR BELIEVES THAT SUCH FINANCIAL INFORMATION FAIRLY REFLECTS, IN ALL MATERIAL RESPECTS, THE FINANCIAL CONDITION OF THE DEBTOR AS OF THE DATE HEREOF AND THAT THE ASSUMPTIONS REGARDING FUTURE EVENTS REFLECT REASONABLE BUSINESS JUDGMENTS, NO REPRESENTATIONS OR WARRANTIES ARE MADE AS TO THE ACCURACY OF THE FINANCIAL INFORMATION CONTAINED HEREIN OR ASSUMPTIONS REGARDING THE DEBTOR'S BUSINESS AND FUTURE RESULTS AND OPERATIONS. THE DEBTOR EXPRESSLY CAUTIONS READERS NOT TO PLACE UNDUE RELIANCE ON ANY FORWARD-LOOKING STATEMENTS CONTAINED HEREIN.

THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE, AND MAY NOT BE CONSTRUED AS, AN ADMISSION OF FACT, LIABILITY, STIPULATION, OR WAIVER. THE DEBTOR MAY SEEK TO INVESTIGATE, FILE, AND PROSECUTE CLAIMS AND MAY OBJECT TO CLAIMS AFTER THE CONFIRMATION OR EFFECTIVE DATE OF THE PLAN IRRESPECTIVE OF WHETHER THIS DISCLOSURE STATEMENT IDENTIFIES ANY SUCH CLAIMS OR OBJECTIONS TO CLAIMS.

THE DEBTOR HAS NOT AUTHORIZED ANY PERSON OR ENTITY TO GIVE ANY INFORMATION ABOUT OR CONCERNING THE PLAN OTHER THAN THAT WHICH IS CONTAINED IN THIS DISCLOSURE STATEMENT. THE DEBTOR HAS NOT AUTHORIZED ANY REPRESENTATIONS CONCERNING THE DEBTOR OR THE VALUE OF ITS PROPERTY OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT.

IF THE PLAN IS CONFIRMED BY THE BANKRUPTCY COURT AND THE EFFECTIVE DATE OCCURS, ALL HOLDERS OF CLAIMS OR INTERESTS (INCLUDING THOSE HOLDERS OF CLAIMS WHO DO NOT SUBMIT BALLOTS TO ACCEPT OR REJECT THE PLAN OR WHO VOTE TO REJECT THE PLAN, OR THOSE HOLDERS OF CLAIMS OR INTERESTS WHO ARE NOT ENTITLED TO VOTE ON THE PLAN) WILL BE BOUND BY THE TERMS OF THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY.

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS INCLUDED FOR PURPOSES OF SOLICITING VOTES FOR, AND CONFIRMATION OF, THE PLAN AND MAY NOT BE RELIED ON FOR ANY OTHER PURPOSE. IN THE EVENT OF ANY INCONSISTENCY BETWEEN THE DISCLOSURE STATEMENT AND THE PLAN, THE RELEVANT PROVISIONS OF THE PLAN WILL GOVERN.

THE DEBTOR HAS SOUGHT TO ENSURE THE ACCURACY OF THE FINANCIAL INFORMATION PROVIDED IN THIS DISCLOSURE STATEMENT; HOWEVER, THE FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT OR INCORPORATED HEREIN BY REFERENCE HAS NOT BEEN, AND WILL NOT BE, AUDITED OR REVIEWED BY THE DEBTOR'S INDEPENDENT AUDITORS UNLESS EXPLICITLY PROVIDED OTHERWISE.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 3016(b) AND IS NOT NECESSARILY PREPARED IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER SIMILAR LAWS. THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION (THE "SEC") OR ANY OTHER FEDERAL, STATE, LOCAL, OR FOREIGN REGULATORY AGENCY, NOR HAS THE SEC OR ANY OTHER AGENCY PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

TO THE EXTENT APPLICABLE, THE SECURITIES THAT MAY BE ISSUED ON OR AFTER THE EFFECTIVE DATE WILL HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR UNDER THE SECURITIES LAWS OF ANY STATE ("BLUE SKY LAWS") OR ANY OTHER JURISDICTION. THE PLAN AND THIS DISCLOSURE STATEMENT HAVE NEITHER BEEN FILED WITH, NOR APPROVED OR DISAPPROVED BY, THE SEC OR ANY STATE SECURITIES COMMISSION. NEITHER THE SEC NOR ANY STATE SECURITIES COMMISSION HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE STATEMENT OR THE MERITS OF THE PLAN. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THE DEBTOR IS RELYING ON THE EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT AND EQUIVALENT STATE LAW REGISTRATION REQUIREMENTS PROVIDED BY SECTION 1145(a)(1) OF THE BANKRUPTCY CODE WITH RESPECT TO THE OFFERING AND ISSUANCE OF ANY NEW SECURITIES PURSUANT TO THE PLAN.

THIS DISCLOSURE STATEMENT CONTAINS "FORWARD LOOKING STATEMENTS" WITHIN THE MEANING OF UNITED STATES SECURITIES LAWS. SUCH STATEMENTS CONSIST OF ANY STATEMENT OTHER THAN A STATEMENT OF HISTORICAL FACT AND CAN BE IDENTIFIED BY THE USE OF FORWARD LOOKING TERMINOLOGY SUCH AS "MAY," "WILL," "SHOULD,"

“EXPECT,” “ANTICIPATE,” “ESTIMATE,” “BELIEVE,” “DESIGNED,” “INTEND,” “PLAN,” “GOAL,” OR “CONTINUE,” OR THE NEGATIVE THEREOF, OR OTHER VARIATIONS THEREON OR COMPARABLE TERMINOLOGY. YOU ARE CAUTIONED THAT ALL FORWARD LOOKING STATEMENTS ARE NECESSARILY SPECULATIVE AND THERE ARE RISKS AND UNCERTAINTIES THAT COULD CAUSE ACTUAL EVENTS OR RESULTS TO DIFFER MATERIALLY FROM THOSE REFERRED TO IN SUCH FORWARD LOOKING STATEMENTS, INCLUDING THE DEBTOR’S ABILITY TO CONFIRM AND CONSUMMATE THE PLAN; THE POTENTIAL THAT THE DEBTOR MAY NEED TO PURSUE AN ALTERNATIVE TRANSACTION IF THE PLAN IS NOT CONFIRMED; THE POTENTIAL ADVERSE IMPACT OF THE CHAPTER 11 CASE ON THE DEBTOR’S OPERATIONS, MANAGEMENT, AND EMPLOYEES; THE RISKS ASSOCIATED WITH OPERATING THE DEBTOR’S BUSINESS DURING THE CHAPTER 11 CASE; CUSTOMER RESPONSES TO THE CHAPTER 11 CASE; THE DEBTOR’S INABILITY TO DISCHARGE OR SETTLE CLAIMS DURING THE CHAPTER 11 CASE; GENERAL ECONOMIC, BUSINESS, AND MARKET CONDITIONS; CURRENCY FLUCTUATIONS; INTEREST RATE FLUCTUATIONS; PRICE INCREASES; EXPOSURE TO LITIGATION; A DECLINE IN THE DEBTOR’S MARKET SHARE DUE TO COMPETITION OR PRICE PRESSURE BY CUSTOMERS AND/OR THE CURRENT PANDEMIC; FINANCIAL CONDITIONS OF THE DEBTOR’S CUSTOMERS; ADVERSE TAX CHANGES; LIMITED ACCESS TO CAPITAL RESOURCES; CHANGES IN DOMESTIC LAWS AND REGULATIONS; TRADE BALANCE; NATURAL DISASTERS; GEOPOLITICAL INSTABILITY; THE EFFECTS OF GOVERNMENTAL REGULATION ON THE DEBTOR’S BUSINESS; AND THOSE ADDITIONAL RISKS SET FORTH IN ARTICLE VIII OF THIS DISCLOSURE STATEMENT ENTITLED “RISK FACTORS”.

THE CONFIRMATION AND EFFECTIVENESS OF THE PLAN ARE SUBJECT TO CERTAIN CONDITIONS PRECEDENT DESCRIBED HEREIN AND SET FORTH IN ARTICLE VIII OF THE PLAN. THERE IS NO ASSURANCE THAT THE PLAN WILL BE CONFIRMED, OR IF CONFIRMED, THAT THE CONDITIONS REQUIRED TO BE SATISFIED FOR THE PLAN TO GO EFFECTIVE WILL BE SATISFIED (OR WAIVED). YOU ARE ENCOURAGED TO READ THIS DISCLOSURE STATEMENT IN ITS ENTIRETY, INCLUDING BUT NOT LIMITED TO THE PLAN AND ARTICLE VIII OF THIS DISCLOSURE STATEMENT ENTITLED “RISK FACTORS,” BEFORE SUBMITTING YOUR BALLOT TO VOTE TO ACCEPT OR REJECT THE PLAN.

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EXHIBITS³

EXHIBIT A Plan

EXHIBIT B Liquidation Analysis

EXHIBIT C Financial Projections

EXHIBIT D Tax Consequences

³ Each Exhibit is incorporated herein by reference.

I. INTRODUCTION

MUJI U.S.A. Limited, a Delaware corporation (the “Debtor” or “MUJI”) submits this disclosure statement (this “Disclosure Statement”), pursuant to section 1125 of the Bankruptcy Code, to Holders of Claims against and Interests in the Debtor in connection with the solicitation of votes for acceptance of the *Amended Chapter 11 Plan of Reorganization of MUJI U.S.A. Limited Pursuant to Chapter 11 of the Bankruptcy Code* (as may be amended, the “Plan”), dated November 23, 2020.⁴ A copy of the Plan is attached hereto as **Exhibit A** and incorporated herein by reference.

II. OVERVIEW OF PLAN

The Plan contemplates a reorganization of the Debtor’s operations pursuant to which the Reorganized Debtor will operate a leaner and more profitable MUJI-branded store portfolio than prior to the bankruptcy Filing, all while continuing its growth of online sales. To that end, the Plan preserves the going-concern value of the Debtor’s business, maximizes recoveries to constituents, and protects jobs of the Debtor’s employees. More specifically, pursuant to the terms of the Plan:

- All Allowed Administrative Claims (other than DIP Facility Claims) and Allowed Priority Tax Claims shall be paid in full in cash.
- Allowed DIP Facility Claims shall receive a principal portion of the Exit Facility equal to the DIP Facility Claim Amount (*less* certain fees and expenses that will be paid to the DIP Lender on the Effective Date).
- All Allowed Other Secured Claims and Allowed Other Priority Claims shall be paid in full in cash or receive such other treatment that renders such Claims Unimpaired.
- Each Holder of Allowed Class 3 General Unsecured Claim shall receive its *pro rata* share (calculated based on the proportion that such Holder’s Allowed General Unsecured Claim bears to the aggregate amount of Allowed Class 3 General Unsecured Claims) of the \$4.0 million GUC Cash Distribution Pool; provided, further, if Class 3 votes to accept the Plan, each Holder of an Allowed Class 3 Claim shall also receive a release from the Debtor and its Estate of any Avoidance Action against such Holder of the Allowed Class 3 Claim, which release shall be effective as of the Effective Date.
- Ryohin Keikoku Co., Ltd. (“RKJ”) will contribute its RKJ Unsecured Claims as capital in the Reorganized Debtor.
- In consideration of, among other things, RKJ’s agreement to: (1) in its capacities as the DIP Lender and the Exit Facility Lender, roll the DIP Facility Claims into a

⁴ Capitalized terms used but not otherwise defined in this Disclosure Statement shall have the meaning ascribed to such terms in the Plan. **The summary of the Plan provided herein is qualified in its entirety by reference to the Plan. In the case of any inconsistency between this Disclosure Statement and the Plan, the Plan will govern.**

portion of the Exit Facility, (2) forego distributions from the GUC Cash Distribution Pool on account of its RKJ Unsecured Claims, (3) fund the GUC Cash Distribution Pool (via proceeds from the Exit Facility) for the benefit of, and *pro rata* distribution to, Holders of Allowed Class 3 General Unsecured Claims, and (4) provide the Exit Facility to, among other things, fund distributions under the Plan and provide the Reorganized Debtor with additional liquidity that may be drawn on from time to time, as necessary, by the Reorganized Debtor to, among other things, fund business operations in the future and provide the Reorganized Debtor with a flexible and sustainable capital structure, on the Effective Date, RKJ will retain its Interest in the Reorganized Debtor.

The Debtor is seeking to confirm the Plan pursuant to section 1129(a) of the Bankruptcy Code and will not be seek a “cramdown” pursuant to section 1129(b) of the Bankruptcy Code. Accordingly, the Plan can be confirmed only if Class 3 votes to accept the Plan.

The Debtor is the proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code. ALL HOLDERS OF CLAIMS AND INTERESTS, TO THE EXTENT APPLICABLE, ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

III. EXECUTIVE SUMMARY

A. Chapter 11 Overview and this Disclosure Statement

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. In addition to permitting debtor rehabilitation, chapter 11 promotes equality of treatment for creditors and similarly situated equity interest holders, subject to the priority of distributions prescribed by the Bankruptcy Code.

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

Consummating a chapter 11 plan is the principal objective of a chapter 11 case. A bankruptcy court’s confirmation of a plan binds the debtor, any person acquiring property under the plan, any creditor or equity interest holder of the debtor, and any other entity as may be ordered by the bankruptcy court. Subject to certain limited exceptions, the order issued by a bankruptcy court confirming a plan provides for the treatment of the debtor’s liabilities in accordance with the terms of the confirmed plan.

The Debtor is seeking to obtain Bankruptcy Court approval of the Plan. Before soliciting acceptances of the Plan, section 1125 of the Bankruptcy Code requires the Debtor to prepare a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding acceptance of the Plan and to share such disclosure statement with all holders of claims or interests whose votes on the Plan are being solicited. This Disclosure Statement is being submitted in accordance with these requirements.

B. Voting on the Plan

This Disclosure Statement, which is accompanied by a ballot to be used for voting on the Plan, is being distributed to Holders of Claims in those Classes entitled to vote to accept or reject the Plan. The procedures and instructions for voting and related deadlines are set forth in the exhibits annexed to the *Order (I) Approving Adequacy of Disclosure Statement, (II) Approving Solicitation and Notice Procedures for Confirmation of the Debtor's Plan of Reorganization, (III) Approving Ballots and Notice Forms in Connection Therewith, (IV) Scheduling Certain Dates with Respect Thereto, and (V) Granting Related Relief* [Docket No. 230] (the “Disclosure Statement Order”).

The Disclosure Statement Order is incorporated herein by reference and should be read in conjunction with this Disclosure Statement in formulating a decision to vote to accept or reject the Plan.

THE DISCUSSION OF THE SOLICITATION AND VOTING PROCESS SET FORTH IN THIS DISCLOSURE STATEMENT IS ONLY A SUMMARY.

PLEASE REFER TO THE DISCLOSURE STATEMENT ORDER FOR A MORE COMPREHENSIVE DESCRIPTION OF THE SOLICITATION AND VOTING PROCESS.

1. Holders of Claims Entitled to Vote on the Plan

Your ability to vote on, and your distribution under, the Plan, if any, depends on what type of Claim or Interest you hold. Each category of Holders of Claims or Interests, as set forth in Article III.A of the Plan pursuant to section 1122(a) of the Bankruptcy Code, is referred to as a “Class.” Under the provisions of the Bankruptcy Code, not all holders of claims against or interests in a debtor are entitled to vote on a chapter 11 plan. The table in Section C of this Article III provides a summary of the status and voting rights of each Class (and, therefore, of each Holder within such Class absent an objection to the Holder's Claim or Interest) under the Plan.

As shown in the table, the Debtor is soliciting votes to accept or reject the Plan only from Holders of Claims in Classes 3 and 4 (collectively, the “Voting Classes”). The Debtor is not soliciting votes from Holders of Claims or Interests in Classes 1, 2, and 5 because such Classes are deemed to accept the Plan.

2. “Opt-Out” Provision of Class 3 Ballots

As provided in the Solicitation and Voting Procedures, Holders of Claims in Class 3 may opt out of the release set forth in Article IX.C of the Plan. In the event that you are a Holder of such a Claim and receive a ballot that includes an “opt-out” provision, you may wish to review the Plan and seek legal advice concerning the effects of the release on your Claims. Each Holder of a Class 3 Claim that votes to accept the Plan is deemed to have consented to the Consensual Release unless you properly complete and return the Opt-Out Form so it is received by the Voting Deadline.

3. Voting Record Date

The Voting Record Date is November 20, 2020. The Voting Record Date is the date on which it will be determined which Holders of Claims in the Voting Classes are entitled to vote to accept or reject the Plan and whether Claims have been properly assigned or transferred under Bankruptcy Rule 3001(e) such that an assignee or transferee, as applicable, can vote to accept or reject the Plan as the Holder of a Class 3 General Unsecured Claim or Class 4 RKJ Unsecured Claim.

4. Ballots Not Counted

No ballot will be counted toward Confirmation if, among other things: (1) it was not timely submitted on or prior to the Voting Deadline (as the same may be extended by the Debtor in its sole discretion); (2) it is illegible or contains insufficient information to permit the identification of the Holder of the Claim; (3) it was transmitted by means other than as specifically set forth in the ballot; (4) it was cast by an Entity that is not entitled to vote on the Plan; (5) it was cast for a Claim listed in the Debtor's Schedules as contingent, unliquidated, or disputed for which the applicable Bar Date has passed and no Proof of Claim was timely Filed; (6) it was cast for a Claim that is subject to an objection that was Filed with the Court on or prior to seven (7) days before the Voting Deadline (unless a Resolution Event (as such term is defined in the Disclosure Statement Order) occurs); (7) it was sent to the Debtor, the Debtor's agents/representatives (other than the Notice and Claims Agent (as defined herein)) or the Debtor's financial or legal advisors instead of the Notice and Claims Agent (unless otherwise agreed to by the Debtor in its sole discretion); (8) it is unsigned; or (9) it is not clearly marked to either accept or reject the Plan or it is marked both to accept and reject the Plan. Please refer to the Disclosure Statement Order for additional requirements with respect to voting to accept or reject the Plan.

5. Claims Voting/Opt-Out Deadline

**THE CLAIMS VOTING/OPT-OUT DEADLINE IS
DECEMBER 14, 2020 AT 4:00 P.M. (PREVAILING EASTERN TIME).**

ANY BALLOT RECEIVED AFTER THE VOTING DEADLINE OR THAT IS OTHERWISE NOT IN COMPLIANCE WITH THE DISCLOSURE STATEMENT ORDER WILL NOT BE COUNTED.

6. Voting Instructions

Detailed instructions regarding how to vote on the Plan are contained on the ballots distributed to Holders of Claims that are entitled to vote on the Plan. For your vote to be counted, your ballot must be properly completed, executed, and delivered as directed, so that your ballot including your vote is **actually received** by the Debtor's notice and claims agent, Donlin, Recano & Company, Inc. (the "**Notice and Claims Agent**") by the Voting Deadline.

To vote, complete, sign, and date your ballot and return it **promptly** to one of the below addresses:

<p style="text-align: center;"><u>If sent by first-class mail</u></p> <p style="text-align: center;">Donlin, Recano & Company, Inc. Re: MUJI U.S.A. LIMITED Attn: Voting Department PO Box 199043 Blythebourne Station Brooklyn, NY 11219</p>	<p style="text-align: center;"><u>If sent by hand delivery or overnight mail:</u></p> <p style="text-align: center;">Donlin, Recano & Company, Inc. Re: MUJI U.S.A. LIMITED Attn: Voting Department 6201 15th Ave Brooklyn, NY 11219</p>
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PLEASE SELECT JUST ONE OPTION TO VOTE.
EITHER RETURN A PROPERLY EXECUTED PAPER BALLOT WITH YOUR VOTE
OR
VOTE VIA ELECTRONIC MAIL TO MUJIVOTE@DONLINRECANO.COM

Holders of Claims who cast a ballot via electronic mail to mujivote@donlinrecano.com with “MUJI BALLOT” in the subject line should NOT also submit a paper ballot.

FOR ANY BALLOT CAST VIA ELECTRONIC MAIL, A FORMAT OF THE ATTACHMENT MUST BE FOUND IN THE COMMON WORKPLACE AND INDUSTRY STANDARD FORMAT (*I.E.*, INDUSTRY-STANDARD PDF FILE) AND THE RECEIVED DATE AND TIME IN THE NOTICE AND CLAIMS AGENT’S INBOX WILL BE USED AS A TIMESTAMP FOR RECEIPT.

IF YOU HAVE ANY QUESTIONS ABOUT THE SOLICITATION OR VOTING PROCESS, PLEASE CONTACT THE NOTICE AND CLAIMS AGENT TOLL FREE AT 1 (800) 813-0529 (OR INTERNATIONAL: (212) 771-1128) OR VIA ELECTRONIC MAIL TO MUJINFO@DONLINRECANO.COM.

**C. Summary of Treatment of Claims and Interests and
Description of Recoveries under the Plan**

The following table provides a summary of the anticipated recovery to Holders of Claims or Interests under the Plan.⁵ Any estimates of Claims or Interests in this Disclosure Statement may vary from the final amounts allowed by the Bankruptcy Court. Your ability to receive distributions under the Plan depends upon the Debtor’s ability to obtain Confirmation and meet the conditions necessary to consummate the Plan.

The Debtor and the Reorganized Debtor, as the case may be, intends to reconcile all Proofs of Claim within one-hundred-and-eighty (180) days after the Effective Date such that it can start making distributions to Creditors, including Class 3 Creditors, by July 2021. However,

⁵ The recoveries set forth below may change based upon, among other things, changes in the dollar amount of Claims that are Allowed.

distributions to creditors may occur sooner than July 2021 if the claims reconciliation process is completed in less than one-hundred-and-eighty (180) days after the Effective Date.

THE PROJECTED RECOVERIES SET FORTH IN THE TABLE BELOW ARE ESTIMATES ONLY AND THEREFORE ARE SUBJECT TO CHANGE. FOR A COMPLETE DESCRIPTION OF THE DEBTOR'S CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS, REFERENCE SHOULD BE MADE TO THE ENTIRE PLAN.

Class	Claims/Interests	Plan Treatment	Voting Rights	Projected Amount of Allowed Claims / Interests	Projected Plan Recovery
1	Other Secured Claims	Unimpaired	Deemed to Accept	\$0	100%
2	Other Priority Claims	Unimpaired	Deemed to Accept	\$28,000	100%
3	General Unsecured Claims	Impaired	Entitled to Vote	\$6,000,000 – \$8,000,000	50% – 66.67%
4	RKJ Unsecured Claims	Impaired	Entitled to Vote	\$63,400,000	RKJ Unsecured Claims will be deemed contributed as capital in the Reorganized Debtor
5	Interests in MUJI	Unimpaired	Deemed to Accept	N/A	The Plan leaves unaltered the legal, equitable and contractual rights to which such Holder is entitled on account of such Interest

D. Confirmation Hearing

The Bankruptcy Court has scheduled the Confirmation Hearing for **December 21, 2020 at 10:30 a.m. prevailing Eastern Time**. The Confirmation Hearing may be adjourned from time to time without further notice.

Objections to Confirmation must be Filed and served on the Debtor, and certain other parties, by no later than **December 14, 2020 at 4:00 p.m. prevailing Eastern Time** in accordance with the notice of the Confirmation Hearing that accompanies this Disclosure Statement and the Disclosure Statement Order.

The confirmation of a plan of reorganization by a bankruptcy court binds the debtor, any issuer of securities under a plan of reorganization, any person acquiring property under a plan of reorganization, any creditor or equity interest holder of a debtor, and any other person or entity as may be ordered by the bankruptcy court in accordance with the applicable provisions of the

Bankruptcy Code. Subject to certain limited exceptions, the order issued by the bankruptcy court confirming a plan of reorganization discharges a debtor from any debt that arose before confirmation of such plan of reorganization and provides for the treatment of such debt in accordance with the terms of the confirmed plan of reorganization.

E. Contact Information

If you have any questions regarding this Disclosure Statement or the Plan, please contact the Debtor's Notice and Claims Agent, Donlin, Recano & Company, Inc., via one of the following methods:

By regular mail at:

Donlin, Recano & Company, Inc.
Re: MUJI U.S.A LIMITED
Attn: Voting Department
PO Box 199043 Blythebourne Station
Brooklyn, NY 11219

By hand delivery or overnight mail at:

Donlin, Recano & Company, Inc.
Re: MUJI U.S.A LIMITED
Attn: Voting Department
6201 15th Ave
Brooklyn, NY 11219

By telephone

Toll free: 1 (800) 813-0529
International: (212) 771-1128

By facsimile at: (212) 481-1416

By electronic mail at:

mujinfo@DonlinRecano.com

Copies of the Plan, this Disclosure Statement, and any other publicly Filed documents in the Chapter 11 Case are available upon written request to the Notice and Claims Agent at the addresses above or by downloading (free of charge) the exhibits and documents from the website of the Notice and Claims Agent at <https://www.donlinrecano.com/Clients/mu/Index>.

IV. THE DEBTOR'S CORPORATE HISTORY, STRUCTURE, AND BUSINESS OVERVIEW

MUJI USA, Limited is a Delaware corporation that was established on October 4, 2006, and is headquartered in New York, New York. The Debtor was initially formed as a wholly owned subsidiary of RKJ. RKJ is incorporated in Japan and based in Tokyo; its subsidiaries are located in several countries in North America, Asia, and Europe.

RKJ, together with its subsidiaries (including the Debtor) (collectively, the "MUJI Group"), manufactures and sells household and apparel items, food, and design books in North America, Asia, and Europe under its own private brand, "MUJI". The MUJI Group has since expanded into operating campsites, cafes, meal stores and hotels, and designing and building model houses – selling a wide array of over 7,000 products.

A. MUJI Brand

The MUJI brand was founded in Japan in 1980 as an antithesis to the habits of consumer society at that time. On one hand, foreign-made luxury brands were gaining popularity within an economic environment of ever-rising prosperity. On the other hand, poor-quality, low-priced goods were appearing on the market and had a polarizing effect on consumption patterns. MUJI was conceived as a critique of this prevailing condition, with the purpose of restoring a vision of products that are useful for the customer and maintain an ideal of the proper balance between living and the objects that make it possible. The concept was born of the intersection of two distinct stances: no brand (*Mujirushi*) and the value of good items (*ryohin*).

The MUJI Group provides customers with products at relatively low prices by focusing on three cost-saving practices: carefully selecting materials, streamlining manufacturing processes, and simplifying packaging. The MUJI Group searches for quality industrial materials that can be acquired in bulk; minimizes manufacturing processes to only include processes that increase and maintain products' quality (*i.e.*, cutting down extra processes such as sorting, sizing, and polishing); and uses bulk packaging and packages their products in plain, uniform containers. The combination of these cost-saving practices allows the MUJI Group, including the Debtor, to sell products to end-users at a low price.

B. The Debtor's Business

The Debtor is the main retail distributor of MUJI-products in the United States. The Debtor opened its first retail store in the SoHo neighborhood of New York City on November 16, 2007. As of the Petition Date, the Debtor operated eighteen (18) locations in the United States, located in California, Oregon, New York, Massachusetts, and New Jersey. As described below, the Debtor has since closed down a number of its stores—including its stores in California and New Jersey—and is refocusing its operations around the more profitable stores.

The Debtor also maintains an online presence – which accounted for approximately 6% of its annual gross sales during 2019 and nearly all of the Debtor's sales during the current coronavirus ("COVID-19") pandemic.

The Debtor sells products in the four product groups listed below, with virtually all of its sales coming from the apparel and household items categories:

PRODUCT GROUP	INCLUDES:
Apparel	Ladies' and men's wear, toys, accessories, bags, and shoes
Household Items	Linens and interior goods, furniture, electronic appliances, stationary, and health and beauty products
Food	Sweets and snacks, dried fruits, packaged food, and beverages
Diverse	MUJI's design book, entitled <i>MUJI</i>

The Debtor mainly sources its merchandise—approximately 83% for 2019—from RKJ pursuant to the Purchase Master Agreement, dated January 1, 2011 (as may be amended, supplemented and modified from time to time, and together with any memorandums of understanding, the “PMA”), which it then resells in its stores located throughout the United States and online. The Debtor is responsible for purchasing inventory and optimizing inventory levels in the United States, and the Debtor determines which products to purchase from RKJ. During 2018 and 2019 respectively, the Debtor purchased approximately \$29.0 million and \$46.0 million of inventory from RKJ.

The Debtor also licenses from RKJ the right to use the “MUJI” brand name, operate and manage MUJI stores and use the business concept and design owned by RKJ pursuant to that certain MUJI License Agreement, effective January 1, 2017 (the “License Agreement”). As consideration for the granting of the license by RKJ to the Debtor, the Debtor is obligated to pay to RKJ a royalty of one percent (1%) of annual net sales. The total royalty expense owed to RKJ for the year ending December 31, 2019 was approximately \$1.0 million.

The stated term of the License Agreement ends on January 1, 2021. However, the term of the License Agreement automatically extends to January 1, 2024 unless either the Debtor or RKJ provides a notice of intention not to renew by December 1, 2020.

For the year ending December 31, 2018, the Debtor engaged KPMG LLP (“KPMG”) to prepare a transfer pricing analysis of certain transactions between the Debtor and RKJ. Specifically, the analysis done by KPMG tested the arm’s-length nature of the Debtor’s purchase of inventory from RKJ as well as the royalty payable to RKJ with respect to the Debtor’s use of the “MUJI” brand name and right to operate MUJI retail stores. The KPMG report concluded that the inventory purchased from RKJ was on terms at least as favorable to the Debtor as an arm’s-length transaction. The same report also concluded that the royalty rate on the License Agreement of one percent (1%) was also consistent with the arm’s-length standard.⁶

In addition to the above, the Debtor and RKJ are party to a Software Licensing Agreement, dated May 20, 2016 (the “Systems Agreement”), whereby the Debtor utilizes the accounting and inventory systems that RKJ developed. Pursuant to the Systems Agreement, the Debtor pays RKJ a fee equal to one percent (1%) of net sales. The expense under this agreement for the year ended December 31, 2019 was also approximately \$1.0 million.

The Debtor sources the remaining—approximately 17% for 2019—of its merchandise from outside the MUJI Group. The products purchased from these third-party vendors are mainly household items such as essential oil products, plants and books, and these vendors are primarily located in the United States.

Before being delivered to the Debtor’s retail locations, the Debtor’s household items and apparel items are stored in warehouses in New Jersey and California. These warehouses are run by logistics companies that handle the Debtor’s store and home deliveries. Seasonal items, such as apparel, are primarily held at the store locations.

⁶ KPMG also prepared similar reports relating to the prior calendar year. There is not yet a report for 2019.

C. The Debtor's Management Team

The following table sets forth the names of the Debtor's board of directors and its executive officers as of the Petition Date:

Name	Position
Akita, Toru	Chief Operating Officer and Board Member
Bittner, John	Chief Restructuring Officer
Creason, Victoria	Independent Board Member
Makita, Takafumi	Board Member
Okazaki, Satoshi	President and Board Member
Otomo, Takahiro	Board Member
Shibata, Shunsuke	Chief Administrative Officer and Secretary
Sugiyama, Kouta	Board Member

The identities of the members of the New Board, and to the extent applicable, the officers of the Reorganized Debtor, shall be disclosed at or before the Confirmation Hearing in accordance with section 1129(a)(5) of the Bankruptcy Code.

Commencing on the Effective Date, each of the directors and officers of the Reorganized Debtor shall be elected and serve pursuant to the terms of the Reorganized Debtor's organizational documents and may be replaced or removed in accordance with such organizational documents.

D. The Strategic Transaction Committee

Prior to the Petition Date, effective July 7, 2020, the Debtor's board of directors approved the appointment of Victoria L. Creason, of VLC Associates, to act as the independent director of the Debtor's board and the sole member of the board's Strategic Transaction Committee ("STC"), and vested STC with the exclusive decision-making authority and power over, among other things, debtor-in-possession financing, the chapter 11 plan to be Filed in this Chapter 11 Case, contractual agreements and other business arrangements by and between RKJ and the Debtor, claims of RKJ against the Debtor, claims of the Debtor against RKJ, and overseeing the Debtor's Chief Restructuring Officer.

E. The Debtor's Prepetition Corporate and Capital Structure

1. Organizational Structure

As noted above, the Debtor was initially formed as a wholly owned subsidiary of RKJ. In February 2016, pursuant to a share subscription agreement, 20% of the Debtor's common stock was issued to Mitsubishi Corporation ("Mitsubishi"). As outlined in that certain Shareholders Agreement (the "Shareholders Agreement") dated February 5, 2016, Mitsubishi could nominate 1 of 5 directors to the Debtor's board of directors and appoint a Vice President of the Debtor. The

Shareholders Agreement was amended in May 2019 to increase the Debtor's board of directors to six (6) members, with one (1) member appointed by Mitsubishi and the remaining five (5) members appointed by RKJ. Effective June 1, 2020, Mitsubishi exercised a put option set forth in the Shareholders Agreement, thereby requiring RKJ to purchase all of Mitsubishi's shares for \$1.00.

2. Assets and Liabilities.

As of May 31, 2020, the Debtor's unaudited financial statements reflected assets totaling approximately \$51.6 million and liabilities totaling approximately \$72.6 million. As of the Petition Date, the Debtor had approximately \$3.3 million in cash on hand.

Unsecured Financing Arrangements with RKJ and other RKJ Unsecured Claims. Leading up to the bankruptcy Filing, RKJ funded the Debtor through (a) unsecured loans, and (b) a cash pooling arrangement with The Bank of Tokyo-Mitsubishi UFJ, Ltd., New York Branch (n/k/a MUFG Bank, Ltd.) ("MUFG Bank"), and utilized a cash management system under which the Debtor could overdraw on its account with MUFG Bank, and MUFG Bank would debit RKJ's account with MUFG Bank. The bank overdraft represented a borrowing from RKJ on the centrally managed account with MUFG Bank in excess of funds on deposit.

As of December 31, 2019, the Debtor had a negative balance in the managed cash overdraft of approximately \$26.5 million. Also on this date, the Debtor was also obligated to RKJ in the aggregate amount of \$7.5 million based upon loan agreements with RKJ entered into between 2012 and 2014. As of December 31, 2019, the interest rate on these loans was 3.34%.

On or about April 1, 2020, the Debtor refinanced the outstanding negative balance in the managed cash overdraft (which had grown by a further \$9.0 million in the first three (3) months of 2020) and the \$7.5 million loan payable and replaced these obligations with new financing arrangements with RKJ consisting of (a) a \$4.0 million short-term loan, maturing December 31, 2020 which carried an interest rate of 1.24% and (b) a \$40 million long-term loan, maturing December 31, 2021 which carried an interest rate of 1.29%. As of the Petition Date, approximately \$44.0 million of principal balance was outstanding on these two loans.⁷

Until shortly before the Petition Date, the Debtor continued to operate under the cash pooling arrangement and make overdrafts on the MUFG bank. As of the Petition Date, approximately \$13.8 million was outstanding on overdrafts.

The Debtor moreover owes RKJ approximately \$5.1 million for unpaid invoices for purchases of product, royalties, and other fees. These amounts are in addition to the \$44 million in outstanding principal balances payable to RKJ under the loans and \$13.8 million in advances under the cash pooling arrangement.

⁷ Around that time, on March 31, 2020, in connection with KPMG's annual review of the Debtor's financial statements, RKJ provided a letter to the Debtor and to KPMG indicating its financial support of the Debtor through at least April 30, 2021.

Secured Bridge Financing. Leading up to the bankruptcy Filing, given the unprecedented impacts on the business by the COVID-19 pandemic, RKJ determined that it would no longer advance funds to MUJI on an unsecured basis, including through the cash pooling system, and informed MUJI that any future financing would need to be on a secured basis given the Debtor's deteriorating financial condition.

On June 12, 2020, the Debtor, as borrower, and RKJ, as lender (in such capacity, the "Prepetition Lender") executed a Senior Secured Multi-Draw Term Promissory Note (the "Bridge Loan") pursuant to which the Debtor could borrow up to \$4.0 million from the Prepetition Lender to, among other things, fund general corporate working capital needs and pay fees and expenses associated with preparation for this Chapter 11 Case, thereby providing the Debtor with the runway it needed to ensure a smooth and orderly transition into chapter 11 and continued, uninterrupted operations during the weeks following the Petition Date. The Bridge Loan is secured by substantially all of the Debtor's assets. The Bridge Loan matures on July 31, 2020 and carries an interest rate of 8.0% per annum to be paid in kind. As of the Petition Date, approximately \$4.0 million of principal balance was outstanding on the Bridge Loan. The Bridge Loan was "rolled up" into the DIP Facility during the Chapter 11 Case. Accordingly, the Bridge Loan has been satisfied in full and no balance is outstanding.

V. EVENTS LEADING TO THE CHAPTER 11 FILING

As noted above, the Debtor opened the first of its stores in the United States in late 2007. The Debtor thereafter strategically expanded its footprint in the United States such that by December 31, 2019 the Debtor operated over twenty (20) stores in five states.

The Debtor experienced operating losses for each year since 2017, which losses were funded by an increase in the managed cash overdraft (discussed above) and issuance of common stock to RKJ. A large portion of these losses are directly attributable to the Debtor having expanded its footprint quickly and entered into expensive, above-market leases for numerous store locations.

The Debtor experienced continued operating losses in January and February 2020, and was struggling financially even prior to the outbreak of COVID-19. However, such issues were exacerbated by the COVID-19 pandemic as all of the Debtor's stores were forced to close due to orders by various state and local authorities.

The Debtor ultimately determined that a proceeding under chapter 11 of the Bankruptcy Code was in the best interests of the Debtor and its stakeholders, with the intent of restructuring its operations and right-sizing its footprint, while also continuing to grow its online presence.

In preparation for a bankruptcy Filing, the Debtor negotiated with RKJ (in such capacity, the "DIP Lender") to extend its debtor-in-possession financing consisting of up to \$22.0 million in secured, delayed-draw term loans. The DIP Facility provided MUJI with timely access to liquidity while it restarted operations.

VI. MATERIAL DEVELOPMENTS AND ANTICIPATED EVENTS OF THE CHAPTER 11 CASE

The Debtor expects the Chapter 11 Case to conclude quickly, and is seeking to confirm the Plan and for the Plan to go effective prior to December 31, 2020. No assurances can be made, however, that the Bankruptcy Court will enter various orders on the timetable contemplated by the Debtor.

A. First Day Relief

On July 10, 2020 (the “Petition Date”), along with its voluntary petition for relief under chapter 11 of the Bankruptcy Code, the Debtor Filed several motions (the “First Day Motions”) designed to facilitate the administration of the Chapter 11 Case and minimize disruption to the Debtor’s operations, by, among other things, easing the strain on the Debtor’s relationships with employees, vendors, and customers following the commencement of the Chapter 11 Case.

A brief description of each of the First Day Motions and the evidence in support thereof is set forth in the *Declaration of John Bittner in Support of the Debtor’s Chapter 11 Petition and Requests for First Day Relief* [Docket No. 13] (the “First Day Declaration”), which is incorporated herein by reference. The relief granted as part of the First Day Motions included:

- Retention of Donlin, Recano & Company as the claims and noticing agent;
- Authorization to pay certain taxes and regulatory fees;
- Authorization to maintain, administer and modify the customer programs;
- Authorization to pay prepetition claims of shippers, warehousemen, and customs broker;
- Authorization to pay prepetition employee payroll, salary and benefits;
- Authorization to maintain and continue paying for insurance;
- Authorization to continue using bank accounts, the Debtor’s cash management system and business forms;
- An order prohibiting utility providers from altering, refusing or discontinuing services and deeming such utility providers adequately protected; and
- Authorization to redact certain personally identifiable information from list of creditors and schedules.

Certain of the First Day Motions were granted on an interim basis on July 14, 2020 and subsequently on a final basis on August 10, 2020. The First Day Motions, the First Day Declaration, and all other Bankruptcy Court Filings and orders for relief granted in the Chapter 11 Case, can be viewed free of charge at: <https://www.donlinrecano.com/Clients/mu/Index>.

B. Professional Retentions

The Debtor also Filed several other motions after the Petition Date to further facilitate the smooth and efficient administration of the Chapter 11 Case and reduce the administrative burdens associated therewith, including:

Retention Applications. The Debtor Filed a number of applications seeking to retain certain professionals postpetition pursuant to sections 327 and 328 of the Bankruptcy Code, including Greenberg Traurig, LLP, as legal counsel [Docket No. 64] (Filed July 27, 2020); Donlin, Recano & Company as the administrative advisor [Docket No. 52] (Filed July 21, 2020); B. Riley Real Estate, LLC, as real property lease consultant [Docket No. 66] (Filed July 27, 2020); Mackinac Partners, LLC, as Chief Restructuring Officer [Docket No. 51] (Filed July 21, 2020) (collectively, the “Retention Applications”); KPMG, as a tax services provider [Docket No. 174] (Filed September 30, 2020).

The Bankruptcy Court approved each of the Retention Applications [Docket Nos. 98 & 99 (entered on August 10, 2020); Docket No. 123 (entered on August 20, 2020); Docket No. 151 (entered on September 3, 2020), Docket No. 189 (entered October 16, 2020)]. The foregoing professionals are, in part, responsible for the administration of the Chapter 11 Case.

The fees and expenses of the professionals retained by the Debtor entitled to be paid by the Debtor is subject to approval by the Bankruptcy Court in accordance with the *Order Establishing Procedures for Monthly, Interim, and Final Compensation and Reimbursement of Expenses of Professionals Retained in this Chapter 11 Case and Reimbursement of Expenses of Committee Members Appointed in this Chapter 11 Case* [Docket No. 100].

Ordinary Course Professionals Motion. On July 21, 2020, the Debtor Filed the *Motion of Debtor for Entry of an Order Authorizing the Retention and Compensation of Certain Professionals Utilized in the Ordinary Course of Business* [Docket No. 53] (the “OCP Motion”). The OCP Motion seeks to establish procedures for the retention and compensation of certain professionals utilized by the Debtor in the ordinary course operation of its business. On August 10, 2020, the Bankruptcy Court entered an order granting the OCP Motion [Docket No. 101].

C. Approval of the DIP Facility

Based on the Debtor’s need for debtor in possession financing and its conclusion that the DIP Facility represented the best terms available, on July 11, 2020, the Debtor Filed a motion seeking authorization to enter into the DIP Facility on an interim and final basis [Docket No. 12] (the “DIP Facility Motion”). On July 14, 2020, the Bankruptcy Court entered an order approving the DIP Facility Motion on an interim basis [Docket No. 41] (the “Interim DIP Order”), and on August 11, 2020, the Bankruptcy Court entered an order approving the DIP Facility Motion on a final basis [Docket No. 105] (the “Final DIP Order”).

Under the terms of the DIP Facility Loan Agreement, the \$22.0 million DIP Facility is available in multiple draws. Upon the Bankruptcy Court’s entry of the Interim DIP Order, the Debtor was able to access \$2.6 million under the DIP Facility. Upon the Bankruptcy Court’s entry of the Final DIP Order, the Debtor had authority to access the entire \$22.0 million DIP Facility subject to a number of conditions precedent, and to “roll up” the Bridge Loan into the DIP Facility.

As of October 11, 2020, approximately \$6.6 million of principal balance was outstanding on the DIP Facility, which includes the \$4.0 million principal balance of the prepetition Bridge Loan.

D. Schedules and Statements

On August 7, 2020, the Debtor Filed a motion seeking entry of an order that would extend the deadline to File its schedule of assets and liabilities, schedule of executory contracts, and unexpired leases, and statement of financial affairs (collectively, the “Schedules and Statements”) [Docket No. 86].

On August 27, 2020, the Bankruptcy Court extended the deadline for the Debtor to File the Schedules and Statements to August 14, 2020 [Docket No. 132].

The Debtor Filed its Schedules and Statements with the Bankruptcy Court on August 14, 2020 [Docket Nos. 110 & 111]. If you would like to view the Schedules and Statements, you may do so free of charge by visiting: <https://www.donlinrecano.com/Clients/mu/Index>.

E. Claim Bar Dates

On July 22, 2020, the Debtor Filed a motion seeking to set deadlines for Filing Proofs of Claim [Docket No. 56]. On August 19, 2020, the Bankruptcy Court entered an order approving the motion [Docket No. 122] and set the following Bar Dates:

- *General Bar Date:* September 22, 2020 at 5:00 p.m. (prevailing Eastern Time). The General Bar Date is the last date for Persons or Entities, other than governmental units, to File Proofs of Claim against the Debtor on account of claims (as defined in section 101(5) of the Bankruptcy Code) arising, or deemed to have arisen, prior to the Petition Date, including, for the avoidance of doubt, claims arising under section 503(b)(9) of the Bankruptcy Code.
- *Government Bar Date:* January 6, 2021 at 5:00 p.m. (prevailing Eastern Time). The Government Bar Date is the last date for governmental units, as defined in section 101(27) of the Bankruptcy Code, to File Proofs of Claim against the Debtor on account of claims arising, or deemed to have arisen, prior to the Petition Date.

F. Lease Rejection Motions

On July 31, 2020, the Debtor Filed omnibus motions [Docket Nos. 68 & 69] seeking authority to reject eight leases for non-residential real property in California and New York, and personal property leases for these closed locations. On September 1, 2020, the Bankruptcy Court entered orders approving the omnibus rejection motions [Docket Nos. 140 & 141].

On September 1, 2020, the Debtor Filed its third omnibus rejection motion [Docket No. 139], seeking to reject a lease for its store in New Jersey and a lease for a storage unit in New York. On September 18, 2020, the Bankruptcy Court entered an order approving the third omnibus rejection motion [Docket No. 165].

On October 20, 2020, the Debtor Filed a motion seeking to reject a lease for its headquarters in New York, NY [Docket No. 195]. The hearing to consider this motion is scheduled for December 21, 2020.

G. Lease Deferral Motion

On July 31, 2020, the Debtor Filed the *Motion of Debtor for Entry of an Order (I) Extending Time for Performance of Obligations Arising Under Unexpired Real Property Leases, and (II) Granting Related Relief* [Docket No. 67] (the “Lease Deferral Motion”) seeking, pursuant to section 365(d)(3) of the Bankruptcy Code, to extend the time of its performance obligations under unexpired leases of non-residential real property through and including September 1, 2020.

On September 3, 2020, the Bankruptcy Court entered an Order approving the Lease Deferral Motion [Docket No. 148].

H. De Minimis Asset Sale Motion

On July 21, 2020, the Debtor Filed the *Motion of the Debtor to Approve Motion of the Debtor for Entry of an Order Establishing Procedures for the Sale or Abandonment of De Minimis Assets* [Docket No. 49] (the “De Minimis Sale/Abandonment Motion”), seeking authority to sell *de minimis* assets in amounts not to exceed \$100,000.00, and to abandon any *de minimis* assets that the Debtor determines a sale is unlikely to be consummated quickly or will not result in sufficient sale proceeds.

On August 18, 2020, the Bankruptcy Court entered an Order approving the De Minimis Sale/Abandonment Motion [Docket No. 120].

I. Employee Severance Motions

On July 21, 2020, the Debtor Filed the *Motion of the Debtor for Entry of Order (I) Authorizing the Debtor to Pay Severance to Certain Non-Insider, Store-Level Employees; and (II) Granting Related Relief* [Docket No. 50] (the “Severance Motion”), seeking authority, among other things, to pay severance to certain non-insider, store-level employees up to four (4) weeks of pay to those employees who assist with closing down stores.

On August 10, 2020, the Bankruptcy Court entered an Order approving the Severance Motion [Docket No. 97].

On November 9, 2020, the Debtor Filed the *Motion of the Debtor for Entry of Order (I) Authorizing the Debtor to Pay Severance to Certain Non-Insider Employees; and (II) Granting Related Relief* [Docket No. 214], seeking authority, among other things, to pay severance of up to one (1) month’s pay for full-time employees that were furloughed and which the Debtor decided not to bring back and up to sixty (60) hours of pay to part-time employees that were furloughed and which the Debtor decided not to bring back. The hearing to consider this motion is scheduled for December 21, 2020.

J. Extension of the Debtor's Deadline to Assume or Reject Leases

On October 5, 2020, the Debtor Filed a motion seeking to extend the time by which it must assume or reject leases on non-residential real property through and including February 5, 2021 [Docket No. 179] (the "365(d)(4) Motion")

On October 15, 2020, the Bankruptcy Court entered an Order approving the 365(d)(4) Motion [Docket No. 185].

K. No Appointment of Creditors' Committee

On July 23, 2020, the U.S. Trustee Filed the *Statement that Unsecured Creditors' Committee Has Not Been Appointed*, because there was insufficient interest among creditors [Docket No. 57]. Thus, as of the filing of this Disclosure Statement, an official committee of unsecured creditors has not been constituted.

L. Section 341 Meeting of Creditors

On August 19, 2020, the U.S. Trustee conducted a telephonic meeting of creditors (the "341 Meeting") at which the U.S. Trustee and creditors had the opportunity to question the Debtor under oath concerning the Debtor's acts, conduct, property, and the administration of the Chapter 11 Case.

M. Litigation Matters

In the ordinary course of business, the Debtor is party to certain lawsuits, legal proceedings, collection proceedings, and claims arising out of its business operations. The Debtor cannot predict with certainty the outcome of these lawsuits, legal proceedings, and claims.

With certain exceptions, the Filing of the Chapter 11 Case operates as a stay with respect to the commencement or continuation of litigation against the Debtor that was or could have been commenced before the commencement of the Chapter 11 Case. In addition, the Debtor's liability with respect to litigation stayed by the commencement of the Chapter 11 Case generally is subject to treatment under the Plan, release, and discharge upon the Effective Date of the Plan, with certain exceptions.

VII. THE PLAN

THIS ARTICLE VII OF THIS DISCLOSURE STATEMENT IS INTENDED ONLY TO PROVIDE A SUMMARY OF THE KEY TERMS, STRUCTURE, CLASSIFICATION, TREATMENT, AND IMPLEMENTATION OF THE PLAN, AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE ENTIRE PLAN AND EXHIBITS TO THE PLAN. ALTHOUGH THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT INCLUDE SUMMARIES OF THE PROVISIONS CONTAINED IN THE PLAN AND IN DOCUMENTS REFERRED TO THEREIN, THIS DISCLOSURE STATEMENT DOES NOT PURPORT TO BE A PRECISE OR COMPLETE STATEMENT OF ALL RELATED TERMS AND PROVISIONS, AND SHOULD NOT BE RELIED ON FOR A COMPREHENSIVE DISCUSSION OF THE PLAN. INSTEAD, REFERENCE IS MADE

TO THE PLAN AND ALL SUCH DOCUMENTS FOR THE FULL AND COMPLETE STATEMENTS OF SUCH TERMS AND PROVISIONS. THE PLAN ITSELF (INCLUDING ATTACHMENTS) AND THE PLAN SUPPLEMENT WILL CONTROL THE TREATMENT OF HOLDERS OF CLAIMS AND INTERESTS UNDER THE PLAN. TO THE EXTENT THERE ARE ANY INCONSISTENCIES BETWEEN THIS ARTICLE VII AND THE PLAN (INCLUDING ANY ATTACHMENTS TO THE PLAN) AND THE PLAN SUPPLEMENT, THE PLAN AND PLAN SUPPLEMENT, AS APPLICABLE, SHALL GOVERN.

A. Administrative Claims and Priority Tax Claims

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Professional Fee Claims, DIP Facility 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 of the Plan.

1. Administrative Claims

Unless otherwise agreed to by the Holder of an Allowed Administrative Claim and the Debtor or the Reorganized Debtor (as applicable) each Holder of an Allowed Administrative Claim (other than Holders of Professional Fee Claims, DIP Facility Claims, and Claims for fees and expenses pursuant to section 1930 of chapter 123 of title 28 of the United States Code) will receive in full and final satisfaction of its Administrative Claim an amount of Cash equal to the amount of such Allowed Administrative Claim in accordance with the following: (1) if an Administrative Claim is Allowed on or prior to the Effective Date, on the Effective Date or as soon as reasonably practicable thereafter (or, if not then due, when such Allowed Administrative Claim becomes due or as soon as reasonably practicable thereafter); (2) if such Administrative Claim is not Allowed as of the Effective Date, no later than thirty (30) days after the date on which an order allowing such Administrative Claim becomes a Final Order, or as soon as reasonably practicable thereafter; (3) if such Allowed Administrative Claim is based on liabilities incurred by the Debtor in the ordinary course of its business after the Petition Date in accordance with the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claim without any further action by the Holders of such Allowed Administrative Claim; (4) at such time and upon such terms as may be agreed upon by such Holder and the Debtor or the Reorganized Debtor (as applicable); or (5) at such time and upon such terms as set forth in an order of the Bankruptcy Court.

Except for Professional Fee Claims and DIP Facility Claims, and unless previously Filed, requests for allowance and payment of Administrative Claims must be Filed and served on the Reorganized Debtor no later than the Administrative Claim Bar Date pursuant to the procedures specified in the Confirmation Order and the notice of the occurrence of the Effective Date. Objections to such requests must be Filed and served on the requesting party by the later of (1) one hundred eighty (180) days after the Effective Date and (2) one hundred eighty (180) days after the Filing of the applicable request for allowance and payment of the Administrative Claims, if applicable. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts, if any, of Administrative Claims shall be determined by, and satisfied in accordance with a Final Order.

Holders of Administrative Claims that are required to File and serve a request for allowance and payment of such Administrative Claims that do not File and serve such a request by the Administrative Claim Bar Date shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtor, the Reorganized Debtor or their assets and properties, or the Estate, and such Administrative Claims shall be deemed discharged as of the Effective Date without the need for any notices, objection, or other action from the Reorganized Debtor or any action or approval by the Bankruptcy Court. For the avoidance of doubt, this Paragraph shall not apply to Administrative Claims that are the subject of Articles II.B, II.C, II.D, and II.F of the Plan.

2. DIP Facility Claims

Except to the extent that the Holder of an Allowed DIP Facility Claim agrees to less favorable treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed DIP Facility Claim, the Holder of such Allowed DIP Facility Claim shall receive a principal portion of the Exit Facility equal to the DIP Facility Claim Amount (*less* the amounts paid to the DIP Lender under Article II.C of the Plan), and all commitments under the DIP Credit Agreement shall immediately terminate. For the avoidance of doubt, the DIP Facility Claims shall be Allowed in the amount of the DIP Facility Claim Amount.⁸ Upon the satisfaction of the DIP Facility Claims in accordance with the terms of the Plan, on the Effective Date all Liens and security interests granted to secure such obligations shall be terminated and of no further force and effect.

3. Payment of Fees and Expenses under DIP Orders

On the Effective Date, the Debtor or Reorganized Debtor (as applicable) shall pay all reasonable and documented out-of-pocket costs, disbursements, and expenses of the DIP Lender that have accrued and remain unpaid as of the Effective Date and are required to be paid under or pursuant to the applicable DIP Orders. All payments of fees, expenses, or disbursements pursuant to Article II.C of the Plan shall be subject in all respects to the terms of the DIP Orders. The Debtor's obligation to reimburse the DIP Lender under, as applicable, the DIP Credit Agreement or the DIP Orders, for all fees, expenses, and disbursements, to the extent not indefeasibly paid in full in Cash on the Effective Date or otherwise satisfied by the Debtor in a manner acceptable to the DIP Lender shall survive the Effective Date and shall not be released or discharged pursuant to the Plan or Confirmation Order, notwithstanding any provision hereof or thereof to the contrary.

4. Professional Fee Compensation

i. Final Fee Applications and Payment of Professional Fee Claims

All requests for payment of Professional Fee Claims for services rendered and reimbursement of expenses incurred prior to the Confirmation Date must be Filed no later than

⁸ The Plan defines "DIP Facility Claim Amount" to mean the "aggregate principal amount with respect to drawn amounts under the DIP Facility, plus any unpaid accrued interest and unpaid fees, expenses and other obligations under the DIP Credit Agreement."

thirty (30) days after the Effective Date. Objections to Professional Fee Claims shall be due twenty-one (21) days after the Filing of the same. The Bankruptcy Court shall determine the Allowed amounts of such Professional Fee Claims after notice and a hearing in accordance with the procedures established by the Bankruptcy Court. The Reorganized Debtor shall pay Professional Fee Claims in Cash that are Allowed by Final Order, including from the Professional Fee Escrow Account.

ii. **Professional Fee Escrow Account**

On the Effective Date, the Reorganized Debtor shall, if and to the extent necessary, fund the Professional Fee Escrow Account with Cash equal to the Professional Fee Amount. For the avoidance of doubt, to the extent existing funds in the Professional Fee Escrow Account equal or exceed the Professional Fee Amount on the Effective Date, the Reorganized Debtor shall not be required to fund any additional amounts into the Professional Fee Escrow Account. The Professional Fee Escrow Account is and shall continue to be maintained in trust solely for the Retained Professionals. Such funds shall not be considered property of the Debtor, its Estate or the Reorganized Debtor. The amount of Professional Fee Claims owing to the Retained Professionals shall be paid in Cash to such Retained Professionals by the Reorganized Debtor from the Professional Fee Escrow Account as soon as reasonably practicable after such Professional Fee Claims are Allowed by order of the Bankruptcy Court. When all such Allowed amounts owing to Retained Professionals have been paid in full, any remaining amount in the Professional Fee Escrow Account shall promptly be paid to the Reorganized Debtor without any further notice, action or order of the Bankruptcy Court.

iii. **Professional Fee Reserve Amount**

Retained Professionals shall reasonably estimate their unpaid Professional Fee Claims and other unpaid fees and expenses incurred in rendering services to the Debtor before and as of the Confirmation Date, and shall deliver such estimate to the Debtor no later than five (5) days before the Confirmation Date; provided, however, that such estimate shall not be deemed to limit the amount of the fees and expenses that are the subject of the Retained Professional's final request for payment of Filed Professional Fee Claims. If a Retained Professional does not provide an estimate, the Debtor may estimate the unpaid and unbilled fees and expenses of such Retained Professional for purposes of funding the Professional Fee Escrow Account.

iv. **Post-Confirmation Fees and Expenses**

Except as otherwise specifically provided in the Plan, from and after the Confirmation Date, the Debtor or the Reorganized Debtor, as the case may be, shall, in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, pay in Cash the reasonable and documented legal, professional, or other fees and expenses. Upon the Confirmation Date, any requirement that Retained 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 the Debtor may employ and pay any Retained Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Code.

5. Priority Tax Claims

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of and in exchange for each Allowed Priority Tax Claim, each Holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code.

6. Statutory Fees

All fees due and payable pursuant to 28 U.S.C. § 1930(a) before the Effective Date shall be paid by the Debtor. On and after the Effective Date and through the closing or dismissal of the Chapter 11 Case, the Reorganized Debtor shall pay any and all such fees when due and payable, and shall File with the Bankruptcy Court quarterly reports in a form reasonably acceptable to the United States Trustee. For the avoidance of doubt, no Governmental Unit is required to File a Proof of Claim (including a request for an Administrative Claim) for Statutory Fees or for any Administrative Claim subject to section 503(b)(1)(D) of the Bankruptcy Code.

B. Classification and Treatment of Claims and Interests

1. Classification of Claims

Except for the Claims addressed in Article II of the Plan, all Claims and Interests are classified in the Classes set forth below in accordance with sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or an 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 an Interest also is classified in a particular Class for the purpose of receiving distributions under 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 prior to the Effective Date.

The classification of Claims against and Interests in the Debtor pursuant to the Plan is as follows:

Class	Claim or Interest	Status	Voting Rights
1	Other Secured Claims	Unimpaired	Not Entitled to Vote (Deemed to Accept)
2	Other Priority Claims	Unimpaired	Not Entitled to Vote (Deemed to Accept)
3	General Unsecured Claims	Impaired	Entitled to Vote

Class	Claim or Interest	Status	Voting Rights
4	RKJ Unsecured Claims	Impaired	Entitled to Vote
5	Interests in the Debtor	Unimpaired	Not Entitled to Vote (Deemed to Accept)

2. Treatment of Claims and Interests

i. Class 1 – Other Secured Claims

Classification: Class 1 consists of all Other Secured Claims.

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, release, and discharge of each Other Secured Claim, each Holder of an Allowed Other Secured Claim shall receive the following, at the option of the Debtor or Reorganized Debtor (as applicable): (a) payment in full in Cash on or as soon as is reasonably practicable after the later of (i) the Effective Date and (ii) the date on which such Other Secured Claim is Allowed by a Final Order of the Bankruptcy Court; (b) the collateral securing such Holder's Allowed Other Secured Claim; (c) Reinstatement of such Allowed Other Secured Claim; or (d) such other treatment rendering such Allowed Other Secured Claim Unimpaired.

Voting: Class 1 is Unimpaired, and Holders of Class 1 Other Secured Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Class 1 Other Secured Claims are not entitled to vote to accept or reject the Plan.

ii. Class 2 – Other Priority Claims

Classification: Class 2 consists of all Other Priority Claims.

Treatment: Except to the extent that a Holder of an Allowed Other Priority Claim agrees to less favorable treatment, in exchange for full and final satisfaction, settlement, release, and discharge of each Other Priority Claim, each Holder of such Allowed Other Priority Claim shall receive the following at the option of the Debtor or Reorganized Debtor (as applicable): (a) payment in full in Cash on or as soon as is reasonably practicable after the later of (i) the Effective Date and (ii) the date on which such Other Priority Claim is Allowed by a Final Order of the Bankruptcy Court, or (b) such other treatment rendering such Allowed Other Priority Claim Unimpaired.

Voting: Class 2 is Unimpaired, and Holders of Class 2 Other Priority Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy

Code. Therefore, Holders of Class 2 Other Priority Claims are not entitled to vote to accept or reject the Plan.

iii. **Class 3 – General Unsecured Claims**

Classification: Class 3 consists of all General Unsecured Claims.

Treatment: Except to the extent that a Holder of an Allowed Class 3 General Unsecured Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release, and discharge of each Class 3 General Unsecured Claim, each Holder of an Allowed Class 3 General Unsecured Claim shall receive its *pro rata* share (calculated based on the proportion that such Holder's Allowed Class 3 General Unsecured Claim bears to the aggregate amount of Allowed Class 3 General Unsecured Claims) of the GUC Cash Distribution Pool; provided, further, if Class 3 votes to accept the Plan, each Holder of an Allowed Class 3 General Unsecured Claim shall also receive a release from the Debtor and its Estate of any Avoidance Actions against such Holder of the Allowed Class 3 Claim, which release shall be effective as of the Effective Date.

Voting: Class 3 is Impaired, and Holders of General Unsecured Claims are entitled to vote to accept or reject the Plan.

iv. **Class 4 – RKJ Unsecured Claims**

Classification: Class 4 consists of all RKJ Unsecured Claims.

Treatment: On the Effective Date, the RKJ Unsecured Claims shall be deemed contributed as capital in the Reorganized Debtor. For the avoidance of doubt, the Holder of the RKJ Unsecured Claims shall be not receive any distribution on account of its RKJ Unsecured Claims from the GUC Cash Distribution Pool.

Voting: Class 4 is Impaired, and the Holder of RKJ Unsecured Claims is entitled to vote to accept or reject the Plan.

v. **Class 5 – Interests in the Debtor**

Classification: Class 5 consists of all Interests in the Debtor, all of which are held solely by RKJ.

Treatment: In consideration of, among other things, the Plan Settlement, the legal, equitable and contractual rights to which such Holder is entitled on account of such Interest shall be unaltered.

Voting: Class 5 is Unimpaired, and the Holder of Class 5 Interests is conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holder of Class 5 Interests is not entitled to vote to accept or reject the Plan.

3. Special Provision Governing Unimpaired Claims

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

4. Voting Classes; Presumed Acceptance by Non-Voting Classes

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

5. 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.

6. Subordinated Claims

The allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan shall 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, contract, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtor or the Reorganized Debtor (as applicable) reserve the right to re-classify any Allowed Claim or Allowed Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

7. Elimination of Vacant Classes

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

C. Means for Implementation of the Plan

1. General Settlement of Claims

Pursuant to section 1123 of the Bankruptcy Code, and in consideration for the classification, distributions, releases, and other benefits provided under the Plan (including, without limitation, (1) the DIP Lender's agreement to roll the DIP Facility Claims into a portion of the Exit Facility, (2) RKJ's agreement to (A) forego distributions from the GUC Cash Distribution Pool on account of the RKJ Unsecured Claims, and (B) fund the GUC Cash Distribution Pool (via proceeds from the Exit Facility) for the benefit of, and *pro rata* distribution to, Holders of Allowed Class 3 General Unsecured Claims as provided for in the Plan, and (3) the

Exit Facility to, among other things, fund distributions under the Plan and provide the Reorganized Debtor with additional liquidity that may be drawn on from time to time, as necessary, by the Reorganized Debtor to, among other things, fund business operations in the future and provide the Reorganized Debtor with a flexible and sustainable capital structure), upon the Effective Date, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims, Interests, and controversies resolved pursuant to the Plan (collectively, the “Plan Settlement”). All distributions made to Holders of Allowed Claims and Allowed Interests (as applicable) in any Class are intended to be and shall be final.

2. Restructuring Transactions

On the Effective Date, the Debtor, the Reorganized Debtor, or any other Entity may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including: (a) the execution and delivery of appropriate agreements or other documents containing terms that are consistent with the terms of the Plan and that satisfy the requirements of applicable law; (b) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any property, right, liability, duty, or obligation on terms consistent with the terms of the Plan; (c) the filing of appropriate certificate of incorporation with the appropriate governmental authorities pursuant to applicable law; and (d) all other actions that the Debtor or the Reorganized Debtor (as applicable) determine are necessary or appropriate.

The Confirmation Order shall and shall be deemed to, pursuant to both section 1123 and section 363 of the Bankruptcy Code, authorize, among other things, all actions as may be necessary or appropriate to effectuate any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan.

3. Sources of Consideration for Plan Distributions

The Reorganized Debtor shall fund distributions under the Plan with: (1) cash on hand and (2) proceeds from the Exit Facility.

i. Exit Facility

On the Effective Date, the Reorganized Debtor shall enter into the Exit Facility, the terms and conditions of which will be set forth in the Exit Facility Documents.

To the extent applicable, Confirmation of the Plan shall be deemed (a) approval of the Exit Facility (including the transactions contemplated thereby, and all actions to be taken, undertakings to be made, and obligations to be incurred and fees paid by the Debtor or the Reorganized Debtor (as applicable) in connection therewith), to the extent not approved by the Bankruptcy Court previously, and (b) authorization for the Debtor or the Reorganized Debtor (as applicable) to, without further notice to or order of the Bankruptcy Court, (i) execute and deliver those documents necessary or appropriate to obtain the Exit Facility, including the Exit Facility Documents and (ii) act or take action under applicable law, regulation, order, or rule or vote, consent, authorization, or approval of any Person, subject to such modifications as (A) the Debtor, with the consent of the Exit Facility Lender or (B) Reorganized Debtor (the foregoing (A) or (B) as applicable), may deem to be necessary to consummate the Exit Facility.

The financial accommodations to be extended pursuant to the Exit Facility Documents are being extended and shall be deemed to have been extended in good faith and for legitimate business purposes and are reasonable and shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any other applicable non-bankruptcy law.

ii. **GUC Cash Distribution Pool**

On the Effective Date, the Debtor or the Reorganized Debtor (as applicable) shall have fully funded the GUC Cash Distribution Pool. The GUC Cash Distribution Pool shall be held by the Reorganized Debtor for the benefit of Holders of Allowed Class 3 General Unsecured Claims and, subject to Articles VI.D.4 and VI.K of the Plan, shall be used solely to fund *pro rata* distributions to such Holders on account of their Allowed Class 3 General Unsecured Claims in accordance with the terms of the Plan.

iii. **Contribution of RKJ Unsecured Claims**

On the Effective Date, RKJ Unsecured Claims shall be deemed contributed as capital to the Reorganized Debtor without further action by the Debtor or any party.

4. Corporate Existence

Except as otherwise provided in the Plan, the Debtor shall continue to exist as of the Effective Date as a separate corporate Entity with all the powers of a corporation pursuant to the applicable law in the jurisdiction in which the Debtor is incorporated or formed and pursuant to the certificate of incorporation and bylaws (or other formation documents) in effect prior to the Effective Date, except to the extent such certificate of incorporation and bylaws (or other formation documents) are amended by the Plan or otherwise, and to the extent such documents are amended, such documents are deemed to be pursuant to the Plan and require no further action or approval.

5. Vesting of Assets in the Reorganized Debtor

Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan, on the Effective Date, all property of the Estate (including, without limitation, all Causes of Action, and any property acquired by the Debtor pursuant to the Plan) shall vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges, or other encumbrances. On and after the Effective Date, except as otherwise provided in the Plan, the Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any Claims or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

6. Cancellation of Existing Agreements

On the Effective Date, except to the extent otherwise provided in the Plan, all notes, instruments, certificates, and other documents evidencing Claims, including credit agreements, shall be cancelled and the obligations of the Debtor shall be deemed satisfied in full, cancelled, discharged, and of no force or effect. Holders of or parties to such cancelled instruments,

agreements, and other documentation will have no rights arising from or relating to such instruments, agreements, and other documentation, or the cancellation thereof, except the rights provided for pursuant to the Plan.

7. Exemption from Registration Requirements

The offering, issuance and distribution of any securities pursuant to the Plan and any and all settlement agreements incorporated therein are exempt from applicable federal and state securities laws (including blue sky laws), registration and other requirements, including but not limited to, the registration and prospectus delivery requirements of Section 5 of the Securities Act, pursuant to section 1145 of the Bankruptcy Code or, if section 1145 of the Bankruptcy Code is not available, pursuant to Section 4(a)(2) of the Securities Act or another available exemption from registration under the Securities Act, as applicable.

8. Organizational Documents

Pursuant to section 1123(a)(6) of the Bankruptcy Code, the Reorganized Debtor's organizational documents will prohibit the issuance of non-voting equity securities. After the Effective Date, the Reorganized Debtor may amend and restate its organizational documents, and the Reorganized Debtor may file its certificates or articles of incorporation, bylaws, or such other applicable formation documents, and other constituent documents as permitted by the laws of the state of incorporation and the organizational documents of the Reorganized Debtor.

9. Exemption from Certain Transfer Taxes and Recording Fees

To the fullest extent permitted by section 1146(a) of the Bankruptcy Code, any transfer from the Debtor to the Reorganized Debtor or to any Entity pursuant to, in contemplation of, or in connection with the Plan or pursuant to: (1) the issuance, distribution, transfer, or exchange of any debt, securities, or other interest in the Debtor or the Reorganized Debtor; (2) the creation, modification, consolidation, or recording of any mortgage, deed of trust or other security interest, or the securing of additional indebtedness by such or other means; (3) the making, assignment, or recording of any lease or sublease; or (4) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles, or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment, and the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

10. Directors and Officers of the Reorganized Debtor

i. The New Board

The New Board will initially consist of [●] members. The identity of the New Board members will be disclosed in the Plan Supplement or, to the extent not known, at or prior to the Confirmation Hearing.

ii. Officers of the Reorganized Debtor

The initial officers of the Reorganized Debtor shall be selected as set forth in the Plan Supplement. After the Effective Date, the Reorganized Debtor may remove or appoint officers in accordance with the Reorganized Debtor's organizational documents and applicable non-bankruptcy law.

11. Directors and Officers Insurance Policies

Notwithstanding anything in the Plan to the contrary, each of the D&O Liability Insurance Policies in existence as of the Effective Date (including any "tail policy" in favor of the D&O Indemnified Persons) shall be reinstated and, to the extent applicable, the Reorganized Debtor shall be deemed to have assumed all of the Debtor's D&O Liability Insurance Policies pursuant to section 365(a) of the Bankruptcy Code effective as of the Effective Date. Entry of the Confirmation Order will constitute the Bankruptcy Court's approval of the Reorganized Debtor's foregoing assumption of the unexpired D&O Liability Insurance Policies. Notwithstanding anything to the contrary contained in the Plan, Confirmation of the Plan shall not discharge, impair, or otherwise modify any indemnity obligations assumed by the foregoing assumption of the D&O Liability Insurance Policies, and each such indemnity obligation will be deemed and treated as an Executory Contract that has been assumed by the Debtor under the Plan as to which no Proof of Claim need be Filed.

In addition, after the Effective Date, the Reorganized Debtor shall not terminate or otherwise reduce the coverage under any D&O Liability Insurance Policies (including any "tail policy") in effect on the Petition Date, with respect to conduct occurring prior thereto, and all directors and officers of the Debtor who served in such capacity on or at any time prior to the Effective Date shall be entitled to the full benefits of any such policy for the full term of such policy regardless of whether such directors and officers remain in such positions after the Effective Date.

12. Other Insurance Policies

On the Effective Date, each of the Debtor's insurance policies in existence as of the Effective Date shall be reinstated and continued in accordance with their terms and, to the extent applicable, shall be deemed assumed by the Reorganized Debtor pursuant to section 365 of the Bankruptcy Code and Article V of the Plan. Nothing in the Plan shall affect, impair, or prejudice the rights of the insurance carriers, the insureds, or the Reorganized Debtor under the insurance policies in any manner, and such insurance carriers, the insureds, and the Reorganized Debtor shall retain all rights and defenses under such insurance policies. The insurance policies shall apply to and be enforceable by and against the insureds and the Reorganized Debtor in the same manner

and according to the same terms and practices applicable to the Debtor as existed prior to the Effective Date.

13. Preservation of Causes of Action

In accordance with section 1123(b) of the Bankruptcy Code but subject to the releases set forth in Article IX of the Plan, all Causes of Action that the Debtor and its Estate may hold against any Entity or Person shall vest in the Reorganized Debtor on the Effective Date. Thereafter, the Reorganized Debtor shall have the exclusive right, authority, and discretion to determine, initiate, File, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action, whether arising before or after the Petition Date, and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court. **Subject to the releases set forth in Article IX of the Plan, no Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any specific Cause of Action as any indication that the Debtor or Reorganized Debtor (as applicable) will not pursue any and all available Causes of Action. The Debtor or Reorganized Debtor (as applicable) expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan,** 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 any Cause of Action upon, after, or as a consequence of the Confirmation or the occurrence of the Effective Date.

14. Corporate Action

Upon the Effective Date, all actions contemplated by the Plan shall be deemed authorized, approved, and, to the extent taken prior to the Effective Date, ratified without any requirement for further action by Holders of Claims or Interests, directors, managers, or officers of the Debtor, the Reorganized Debtor, or any other Entity, including: (1) assumption of Executory Contracts and Unexpired Leases; (2) selection of the directors and officers for the Reorganized Debtor; (3) the execution of and entry into the Exit Facility Documents; and (4) all other acts or actions contemplated or reasonably necessary or appropriate to promptly consummate the transactions contemplated by the Plan (whether to occur before, on, or after the Effective Date). All matters provided for in the Plan involving the company structure of the Debtor and any company action required by the Debtor in connection therewith shall be deemed to have occurred on and shall be in effect as of the Effective Date without any requirement of further action by the security holders, directors, authorized persons, or officers of the Debtor.

On or prior to the Effective Date, the appropriate officers, directors, or authorized persons of the Debtor (including any president, vice-president, chief executive officer, treasurer, general counsel, or chief financial officer thereof) shall be authorized and directed to issue, execute, and deliver the agreements, documents, securities, certificates of incorporation, certificates of formation, bylaws, operating agreements, and instruments contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Debtor or the Reorganized Debtor (as applicable), including (1) the Exit Facility Documents and (2) any and all other agreements, documents, securities, and instruments relating to the

foregoing. The authorizations and approvals contemplated by the Plan shall be effective notwithstanding any requirements under non-bankruptcy law.

15. Effectuating Documents; Further Transactions

Prior to, on, and after the Effective Date, the Debtor and Reorganized Debtor, as the case may be, and the directors, officers, and authorized persons are authorized to and may issue, execute, deliver, file, or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and provisions of the Plan and the Exit Facility Documents, without the need for any approvals, authorizations, actions, or consents except for those expressly required pursuant to the Plan.

D. Treatment of Executory Contracts and Unexpired Leases; Employee Benefits; and Insurance Policies

1. Assumption and Rejection of Executory Contracts and Unexpired Leases

On the Effective Date, except as otherwise provided in the Plan, all Executory Contracts or Unexpired Leases not previously assumed or rejected pursuant to an order of the Bankruptcy Court, will be deemed rejected, in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code other than those Executory Contracts or Unexpired Leases that: (1) previously were assumed or rejected by the Debtor; (2) are identified on the Schedule of Assumed Executory Contracts and Unexpired Leases; or (3) are the subject of a motion to assume Executory Contracts or Unexpired Leases that is pending on the Confirmation Date.

Entry of the Confirmation Order by the Bankruptcy Court shall constitute a Bankruptcy Order, pursuant to sections 365(a) and 1123 of the Bankruptcy Code, approving the assumptions or rejections of the Executory Contracts and Unexpired Leases as provided for in the Plan. No default or event of default under an assumed Executory Contract or Unexpired Lease shall be deemed to have caused or cause the loss of any options or right of the Reorganized Debtor under the assumed Executory Contract or Unexpired Lease the exercise by the Reorganized Debtor of which may be contingent upon no prior defaults by the Debtor, such as, rights to renew or extend the term of an Unexpired Lease, rights to expand or reduce the premises covered by an Unexpired Lease, rights of termination, rights for tenant improvement allowance for the premises, rights of first offer or rights of refusal or any similar right.

Each Executory Contract and Unexpired Lease assumed pursuant to Article V.A of the Plan or by any order of the Bankruptcy Court, which has not been assigned to a third party prior to the Confirmation Date, shall revert in and be fully enforceable by the Reorganized Debtor in accordance with its terms, except as such terms are modified by the provisions of the Plan or any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal law.

Notwithstanding anything to the contrary in the Plan, the Debtor or the Reorganized Debtor (as applicable) reserve the right to: (1) remove any Executory Contract or Unexpired Lease from

the Schedule of Assumed Executory Contracts and Unexpired Leases at any time through the Effective Date of the Plan, and (2) remove any Executory Contract or Unexpired Lease from the Schedule of Assumed Executory Contracts and Unexpired Leases at any time, including after the Effective Date of the Plan, if the Debtor or the Reorganized Debtor (as applicable) loses an objection to the Cure amount, in each such case, such Executory Contract or Unexpired Lease shall be deemed rejected as of the Effective Date without any notice to, action, approval or order of the Bankruptcy Court.

To the maximum extent permitted by law, to the extent that any provision in any Executory Contract or Unexpired Lease assumed or assumed and assigned pursuant to the Plan restricts or prevents, purports to restrict or prevent, or is breached or deemed breached by the assumption or assumption and assignment of such Executory Contract or Unexpired Lease (including any “change of control” provision), such provision shall be deemed modified such that the transactions contemplated by the Plan shall not entitle the non-Debtor party thereto to terminate such Executory Contract or Unexpired Lease or to exercise any other default-related rights with respect thereto.

Notwithstanding anything to the contrary in the Plan, the Debtor and the Reorganized Debtor reserve the right to assert that any license, franchise and partially performed contract is a property right and not an Executory Contract.

2. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases

Any monetary defaults under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure amount in Cash on the Effective Date, subject to the limitation described below, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute regarding (1) the amount of any payments to Cure such a default, (2) the ability of the Reorganized Debtor or any assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or (3) any other matter pertaining to assumption, the Cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order or orders resolving the dispute and approving the assumption.

By no later than seven (7) days before the Voting Deadline, the Debtor will provide notices to contract counterparties of all Executory Contracts and Unexpired Leases that the Debtor may seek to assume in connection with Confirmation of the Plan, including the proposed Cure amount for each such Executory Contract and Unexpired Lease, as well as the procedures for objecting to assumption of such Executory Contracts and Unexpired Leases and/or the proposed Cure amount associated therewith and resolution of any such objections by the Bankruptcy Court. Any objection by a counterparty to an Executory Contract or Unexpired Lease must be Filed, served, and actually received by the Debtor by the Plan Objection Deadline. Any counterparty to an Executory Contract or Unexpired Lease that fails to timely object to the proposed assumption and/or Cure amount will be deemed to have assented to such assumption and the Cure amount associated therewith shall be the amount, if any, proposed by the Debtor without any further notice to or action, order, or approval of the Bankruptcy Court.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the effective date of assumption. Any Proofs of Claim Filed with respect to an Executory Contract or Unexpired Lease that has been assumed shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court.

3. Claims Based on Rejection of Executory Contracts or Unexpired Leases; Rejection Damages Bar Date

If the rejection of an Executory Contract or Unexpired Lease pursuant to the Plan and Confirmation Order results in a Claim, **then, unless otherwise ordered by the Court, such Claim shall be forever barred and shall not be enforceable against the Debtor, its Estate, the Reorganized Debtor or any of their respective assets and properties** unless a Proof of Claim is Filed with the Notice and Claims Agent and served upon counsel to the Debtor or the Reorganized Debtor (as applicable) and counsel to the DIP Lender within thirty (30) days of the Effective Date. The foregoing applies only to Claims arising from the rejection of an Executory Contract or Unexpired Lease; any other Claims held by a party to a rejected contract or lease shall have been evidenced by a Proof of Claim Filed by the applicable Bar Date or shall be barred and unenforceable.

Any Claims arising from the rejection of an Executory Contract or Unexpired Lease pursuant to the Plan that are not timely Filed within such time will be automatically disallowed, forever barred from assertion, and shall not be enforceable against, as applicable, the Debtor, its Estate, the Reorganized Debtor, or assets and properties of the foregoing parties, without the need for any objection by the Debtor or the Reorganized Debtor (as applicable) or further notice to, or action, order, or approval of the Bankruptcy Court or any other Entity, and any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully satisfied, released, and discharged, notwithstanding anything in the Schedules or a Proof of Claim to the contrary.

Claims arising from the rejection of the Debtor's Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims and shall, if Allowed, be treated in accordance with Article III.B.3 of the Plan.

4. Preexisting Obligations to the Debtor under Executory Contracts and Unexpired Leases

Rejection of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall not constitute a termination of preexisting obligations owed to the Debtor or the Reorganized Debtor (as applicable) under such Executory Contracts or Unexpired Leases. In particular, notwithstanding any non-bankruptcy law to the contrary, the Reorganized Debtor expressly reserves and does not waive any right to receive, or any continuing obligation of a counterparty to provide, warranties or continued maintenance obligations on goods previously purchased by the Debtor contracting from non-Debtor counterparties to rejected Executory Contracts or Unexpired Leases.

5. Contracts and Leases Entered into After the Petition Date

Contracts and leases entered into after the Petition Date by the Debtor, including any Executory Contracts and Unexpired Leases assumed by the Debtor, will be performed by Debtor or Reorganized Debtor (as applicable) in the ordinary course of its business. Accordingly, such contracts and leases (including any assumed Executory Contracts and Unexpired Leases) will survive and remain unaffected by entry of the Confirmation Order.

6. Indemnification Obligations

All indemnification provisions, consistent with applicable law, currently in place (whether in the by-laws, certificate of incorporation, other organizational documents, board resolutions, indemnification agreements, employment contracts, or otherwise) for the current and former directors, officers, managers, employees, attorneys, accountants, investment bankers, and other professionals of the Debtor shall be reinstated and remain intact, irrevocable, and shall survive the Effective Date on terms no less favorable to such current and former directors, officers, managers, employees, attorneys, accountants, investment bankers, and other professionals of the Debtor than the indemnification provisions in place prior to the Effective Date.

7. Employee Benefits

Unless otherwise provided in the Plan, all employee wages, compensation, and benefit programs in place as of the Effective Date with the Debtor shall be assumed by the Reorganized Debtor and shall remain in place as of the Effective Date, and the Reorganized Debtor will continue to honor such agreements, arrangements, programs, and plans.

8. Modifications, Amendments, Supplements, Restatements, or Other Agreements

Unless otherwise provided in the Plan, each Executory Contract or Unexpired Lease that is assumed shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and Executory Contracts and Unexpired Leases related thereto, if any, including easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated.

Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease.

9. Reservation of Rights

Nothing contained in the Plan or the Plan Supplement shall constitute an admission by the Debtor or any other party that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that the Reorganized Debtor has any liability thereunder. If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption, the Debtor or the Reorganized Debtor (as applicable) shall have thirty (30) calendar days following

entry of a Final Order resolving such dispute to alter their treatment of such contract or lease, including by rejecting such contract or lease effective as of the Confirmation Date.

10. Nonoccurrence of Effective Date

In the event that the Effective Date does not occur, the Bankruptcy Court shall retain jurisdiction with respect to any request to extend the deadline for assuming or rejecting Unexpired Leases pursuant to section 365(d)(4) of the Bankruptcy Code, unless such deadline(s) have expired.

E. Provisions Governing Distributions

1. Timing and Calculation of Amounts to Be Distributed

Unless otherwise provided in the Plan, on the Effective Date or if a Claim is not an Allowed Claim on the Effective Date, on the date that such Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter—in each case subject to Article VI.F of the Plan with respect to Class 3 General Unsecured Claims—each Holder of an Allowed Claim or Allowed Interest (as applicable) shall receive the full amount of the distributions that the Plan provides for Allowed Claims or Allowed Interests (as applicable) in the applicable Class. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day (but shall be deemed to have been completed as of the required date). If and to the extent that there are Disputed Claims, distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in Article VII of the Plan. Except as otherwise provided in the Plan, Holders of Claims shall not be entitled to interest, dividends, or accruals on the distributions provided for in the Plan, regardless of whether such distributions are delivered on or at any time after the Effective Date.

2. Disbursing Agent

Except as otherwise provided in the Plan, all distributions under the Plan shall be made by the Disbursing Agent on the Effective Date. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties. Additionally, if the Disbursing Agent is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be borne by the Reorganized Debtor.

3. Rights and Powers of Disbursing Agent

i. Powers of the Disbursing Agent

The Disbursing Agent shall be empowered to: (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under the Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities (solely if the Reorganized Debtor is the Disbursing Agent and not another Entity); (d) establish any reserves for Disputed Claims; and (e) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan,

or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions of the Plan.

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

Except as otherwise ordered by the Bankruptcy Court, the Reorganized Debtor is authorized to pay any reasonable fees and expenses incurred by the Disbursing Agent on or after the Effective Date. For the avoidance of doubt, the costs and expenses of the Disbursing Agent shall not be charged against or paid from the GUC Cash Distribution Pool.

4. **Delivery of Distributions and Undeliverable or Unclaimed Distributions**

i. **Record Date for Distribution**

On the Distribution Record Date, the Claims Register shall be closed and any party responsible for making distributions shall instead be authorized and entitled to recognize only those record Holders listed on the Claims Register as of the close of business on the Distribution Record Date.

ii. **Delivery of Distributions in General**

Except as otherwise provided in the Plan, the Disbursing Agent shall make distributions to Holders of Allowed Claims and Allowed Interests (as applicable) as of the Distribution Record Date at the address for each such Holder as indicated on the Debtor's records as of the date of any such distribution; provided, however, that the manner of such distributions shall be determined at the discretion of the Reorganized Debtor; provided further, however, that the address for each Holder of an Allowed Claim shall be deemed to be the address set forth in any Proof of Claim Filed by that Holder.

iii. **Minimum Distributions**

No Cash payment of less than fifty dollars (\$50.00) shall be made to a Holder of an Allowed Claim on account of such Allowed Claim.

iv. **Undeliverable Distributions and Unclaimed Property**

In the event that any distribution to any Holder of Allowed Claims is returned as undeliverable (or because the Holder failed to submit tax information required for tax withholdings or tax reporting purposes within forty-five (45) days after the Disbursing Agent solicits the Holder for required tax information), no distribution to such Holder shall be made unless and until the Disbursing Agent has determined the then-current address of such Holder (or when the Holder submits the required tax information); provided, further, that such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code the later of (a) one year from the Effective Date or (b) six months from the date of the initial attempted distribution or request for tax information. After such date, all unclaimed property or interests in property shall revert to the Reorganized Debtor automatically free and clear of all claims and interests, and without need for further order by the Bankruptcy Court (notwithstanding any applicable federal, provincial or state

escheat, abandoned, or unclaimed property laws to the contrary), and the Claim of any Holder of Claims to such property or interest in property shall be discharged and forever barred.

5. Manner of Payment

i. All distributions of Cash to the Holders of Allowed Claims under the Plan shall be made by the Disbursing Agent on behalf of the Debtor or the Reorganized Debtor (as applicable).

ii. At the option of the Disbursing Agent, any Cash payment to be made hereunder may be made by check or wire transfer or as otherwise required or provided in applicable agreements.

6. Distributions to Holders of Allowed Class 3 General Unsecured Claims

Upon the completion of the Claims reconciliation process in accordance with the procedures set forth in Article VII of the Plan, the Disbursing Agent shall distribute the GUC Cash Distribution Pool to Holders of Allowed Class 3 General Unsecured Claims. If all Allowed General Unsecured Claims are paid in full, any amounts remaining in the GUC Cash Distribution Pool shall revert to the Reorganized Debtor.

7. Compliance with Tax Requirements

In connection with the Plan, to the extent applicable, the Reorganized Debtor shall comply with all tax withholding and reporting requirements imposed on it by any Governmental Unit, and all distributions made pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Reorganized Debtor and the Disbursing Agent shall be authorized to take all actions necessary 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, or establishing any other mechanisms they believe are reasonable and appropriate. The Reorganized Debtor reserves the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

8. Allocations

Distributions in respect of Allowed Claims shall be allocated first to the principal amount of such Claims (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claims, to any portion of such Claims for accrued but unpaid interest.

9. No Postpetition or Default Interest on Claims

Unless otherwise specifically provided for in the Plan, postpetition and/or default interest shall not accrue or be paid on any Claims against the Debtor, and no Holder of a Claim against the

Debtor shall be entitled to interest accruing on or after the Petition Date on any such prepetition Claim.

10. Foreign Currency Exchange Rate

As of the Effective Date, any Claim asserted in currency other than U.S. dollars shall be automatically deemed converted to the equivalent U.S. dollar value using the exchange rate for the applicable currency as published in The Wall Street Journal, National Edition, on the Petition Date.

11. Setoffs and Recoupment

Unless otherwise provided for in the Plan or the Confirmation Order, the Debtor and Reorganized Debtor, as applicable, may without further court order, but shall not be required to, setoff against or recoup any payments or distributions to be made pursuant to the Plan in respect of any claims of any nature whatsoever that the Debtor or the Reorganized Debtor may have against the claimant, but neither failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor or the Reorganized Debtor of any such claim it may have against the Holder of the Claim.

12. Claims Paid or Payable by Third Parties

i. Claims Paid by Third Parties

If a Holder of a Claim receives a payment from a party other than the Debtor or the Reorganized Debtor (as applicable) on account of such Claim, such Claim shall be reduced by the amount of such payment without a Claim objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court, and if the Claim was paid in full by a party other than the Debtor or the Reorganized Debtor (as applicable), then such Claim shall be disallowed without a Claim objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court. To the extent a Holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not a Debtor or a Reorganized Debtor on account of such Claim, such Holder shall, within fourteen (14) days of receipt thereof, repay or return the distribution to the Reorganized Debtor, to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan.

ii. Claims Payable by Third Parties

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtor's 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 Debtor's insurers agrees to satisfy in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, the applicable portion of such Claim may be expunged without a Claim objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

iii. **Applicability of Insurance Policies**

Except as otherwise provided in the Plan, distributions to Holders of Allowed Claims shall be in accordance with the provisions of any applicable insurance policy. Nothing contained in the Plan shall constitute or be deemed a waiver of any Cause of Action that the Debtor or any Entity may hold against any other Entity, including insurers under any policies of insurance, nor shall anything contained in the Plan constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

F. Procedures for Resolving Contingent, Unliquidated, and Disputed Claims

1. Allowance of Claims

After the Effective Date, the Reorganized Debtor shall have and retain any and all rights and defenses the Debtor had with respect to any Claim or Interest immediately prior to the Effective Date.

2. Claims Administration Responsibilities

Except as otherwise specifically provided in the Plan, after the Effective Date, the Reorganized Debtor shall have the sole authority to: (1) File, withdraw, or litigate to judgment, objections to Claims or Interests; (2) settle or compromise any Disputed Claim without any further notice to or action, order, or approval by the Bankruptcy Court; and (3) administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court.

3. Estimation of Claims

Before or after the Effective Date, the Debtor or the Reorganized Debtor (as applicable) may (but are not required to) at any time request that the Bankruptcy Court estimate any Disputed Claim that is contingent or unliquidated pursuant to section 502(c) of the Bankruptcy Code for any reason, regardless of whether any party previously has objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any such Claim, including during the litigation of any objection to any Claim or during the appeal relating to such objection. Notwithstanding any provision otherwise in the Plan, a Claim that has been expunged from the Claims Register, but that either is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars (\$0.00) unless otherwise ordered by the Bankruptcy Court. 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 the Plan (including for purposes of distributions), and the Reorganized Debtor may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim.

4. Adjustment to Claims Without Objection

Any Claim that has been paid or satisfied, or any Claim that has been amended or superseded, may be adjusted or expunged on the Claims Register by the Reorganized Debtor without a Claims objection having to be Filed and without any further notice to or action, order,

or approval of the Bankruptcy Court.

5. Time to File Objections to Claims

Except as otherwise provided in the Plan, any objections to Claims shall be Filed on or before the Claims Objection Bar Date (as such date may be extended upon presentment of an Order to the Bankruptcy Court by the Reorganized Debtor).

6. Disallowance of Claims

All Claims Filed on account of an indemnification obligation to a director, officer, or employee shall be deemed satisfied and expunged from the Claims Register as of the Effective Date to the extent such indemnification obligation is assumed (or honored or reaffirmed, as the case may be) pursuant to the Plan, without any further notice to or action, order, or approval of the Bankruptcy Court.

Except as provided for in the Plan or otherwise agreed to by the Reorganized Debtor, any Holder of any and all Proofs of Claim Filed after the Bar Date shall not receive any distributions on account of such Claims, unless on or before the Confirmation Hearing such late Claim has been deemed timely Filed by a Final Order.

7. Amendments to Claims

Except as provided in the Plan, on or after the Effective Date, a Claim may not be Filed or amended without the prior authorization of the Bankruptcy Court or the Reorganized Debtor and any such new or amended Claim Filed shall be deemed disallowed in full and expunged without any further notice to or action, order or approval of the Bankruptcy Court.

8. No Distributions Pending Allowance

If an objection to a Claim or portion thereof is Filed, no payment or distribution provided under the Plan shall be made on account of such Claim or portion thereof unless and until such Disputed Claim becomes an Allowed Claim.

9. Distributions After Allowance

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, distributions (if any) shall be made to the Holder of such Allowed Claim in accordance with the provisions of the Plan, including, for the avoidance of doubt, Article VI.F of the Plan with respect to Class 3 General Unsecured Claims. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, and subject to Article VI.F of the Plan with respect to Class 3 General Unsecured Claims, the Disbursing Agent shall provide to the Holder of such Claim the distribution (if any) to which such Holder is entitled under the Plan as of the Effective Date, without any interest, dividends, or accruals to be paid on account of such Claim unless required under applicable bankruptcy law.

10. No Interest

No interest shall accrue or be paid on any Disputed Claim with respect to the period from the Effective Date to the date a final distribution is made on account of such Disputed Claim if such Disputed Claim becomes an Allowed Claim.

G. Conditions Precedent to the Effective Date

1. Conditions Precedent to the Effective Date

The following are conditions precedent to the Effective Date that must be satisfied or waived in accordance with the terms of the Plan:

i. The Bankruptcy Court shall have approved the Disclosure Statement as containing adequate information with respect to the Plan within the meaning of section 1125 of the Bankruptcy Code.

ii. The Confirmation Order shall have been entered and shall be in full force and effect and such Confirmation Order shall be a Final Order.

iii. The Debtor shall have obtained any authorization, consents, regulatory approvals, rulings, or documents that are necessary to implement and effectuate the Plan and each of the other transactions contemplated thereunder.

iv. All actions, documents, certificates, and agreements necessary to implement the 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.

v. All conditions precedent to the effectiveness of the Exit Facility Documents shall have been satisfied contemporaneously or duly waived.

vi. All documents and agreements necessary to implement the Plan shall have been executed and tendered for delivery. All conditions precedent to the effectiveness of such documents and agreements shall have been satisfied or waived pursuant to the terms thereof (or will be satisfied and waived substantially concurrently with the occurrence of the Effective Date).

vii. The Professional Fee Escrow Account shall have been fully funded pursuant to the terms of the Plan and the Final DIP Order.

viii. All invoiced reasonable and documented fees and out-of-pocket expenses payable pursuant to the DIP Lender shall have been paid in full.

ix. The Debtor and Reorganized Debtor (as applicable) shall have fully funded the GUC Cash Distribution Pool.

x. The Debtor and Reorganized Debtor (as applicable) shall have implemented the restructuring in a manner consistent in all respects with the Plan.

2. Effect of Non-Occurrence of Conditions to the Effective Date

If the Effective Date does not occur, then (1) the Plan shall be null and void in all respects, (2) any settlement or compromise embodied in the Plan, assumption of Executory Contracts or Unexpired Leases effected under the Plan, and document or agreement executed pursuant to the Plan shall be deemed null and void, and (3) nothing contained in the Plan, the Confirmation Order, or the Disclosure Statement shall (a) constitute a waiver or release of any Claims, Interests, or Causes of Action, (b) prejudice in any manner the rights of the Debtor or any other Entity, or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtor or any other Entity.

3. Waiver of Conditions

The Debtor or the Reorganized Debtor (as applicable) may waive any of the conditions to the Effective Date set forth in the Plan at any time, without any notice to parties in interest and without any further notice to or action, order, or approval of the Bankruptcy Court and without any formal action other than a proceeding to confirm the Plan.

H. Release, Injunction, and Related Provisions

1. Discharge of Claims

Pursuant to and to the fullest extent permitted by section 1141(d) of the Bankruptcy Code and except as otherwise specifically provided in the Plan, the distributions, rights, and treatments that are provided in the Plan shall be in full and final satisfaction, settlement, release, and discharge, effective as of the Effective Date, of all Claims of any nature whatsoever, including any interest accrued on such Claims from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against the Debtor, the Reorganized Debtor or any of their respective assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims, including demands, liabilities, and Causes of Action that arose before the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim or Proof of Interest is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code; (2) a Claim or Interest is Allowed; or (3) the Holder of such Claim has accepted the Plan. Except as otherwise provided in the Plan, any default by the Debtor with respect to any Claim that existed immediately prior to or on account of the Filing of the Chapter 11 Case shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the discharge of all Claims subject to the Effective Date occurring, except as otherwise expressly provided in the Plan. For the avoidance of doubt, nothing in Article IX.A of the Plan shall affect the rights of Holders of Allowed Claims and Interests to seek to enforce the Plan, including the distributions to which Holders of Allowed Claims and Interests are entitled under the Plan.

2. Releases by the Debtor⁹

Notwithstanding anything contained in the Plan to the contrary, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, on and after the Effective Date, each Released Party is deemed released and discharged by the Debtor, the Reorganized Debtor, and the Estate from any and all claims and Causes of Action, whether known or unknown, including any derivative claims, asserted on behalf of the Debtor, that the Debtor, the Reorganized Debtor, or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in, the Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtor (including the management, ownership, or operation thereof, or otherwise), any securities issued by the Debtor and the ownership thereof, the Debtor's in- or out-of-court restructuring efforts, any Avoidance Actions, intercompany transactions, the Chapter 11 Case, the formulation, preparation, dissemination, negotiation, or Filing of the Disclosure Statement, the DIP Facility, the DIP Facility Documents, the Exit Facility, the Exit Facility Documents, the Plan, the Plan Supplement, or any restructuring transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the DIP Facility, the DIP Facility Documents, the Exit Facility, the Exit Facility Documents, the Plan, the Plan Supplement, the Chapter 11 Case, the Filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of the DIP Facility, the pursuit of the Exit Facility, the pursuit of consummation, the administration and implementation of the Plan, including the issuance or distribution of securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any post-Effective Date obligations of any party or Entity under the Plan, any restructuring transaction, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan, (b) any individual from any Claim or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual intentional fraud, willful misconduct, or gross negligence of such Released Party, or (c) any Released Party from any claim a Holder may have against a Released Party on account of any guarantees to which a Released Party may be party

The Plan shall be deemed a motion to approve the Plan Settlement pursuant to Bankruptcy Rule 9019 with respect to the Debtor's Releases provided in Article IX.B of the

⁹ The Plan defines "Released Parties" or "Released Party" to mean "collectively, and in each case, in its capacity as such: (a) the Debtor; (b) the Reorganized Debtor; (c) the DIP Lender; (d) the Exit Facility Lender; and (e) with respect to the each of the foregoing entities in clauses (a) through (d), such Entity and its current and former Affiliates and subsidiaries, and such Entities' and their current and former Affiliates' and subsidiaries' current and former directors, managers, officers, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, and assigns, subsidiaries, and each of their respective current and former equity holders, officers, directors, managers, principals, members, employees, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals."

Plan, and 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: (a) in exchange for the good and valuable consideration provided by the Released Parties, including, without limitation, the Released Parties' contributions to facilitating the restructuring and implementing the Plan; (b) a good faith settlement and compromise of the claims released by the Debtor Release; (c) in the best interests of the Debtor and all Holders of Claims and Interests; (d) fair, equitable, and reasonable; (e) given and made after due notice and opportunity for hearing; and (f) a bar to the Debtor, the Reorganized Debtor, or the Estate asserting any claim or Cause of Action released pursuant to the Debtor Release.

3. Releases by Holders of Claims and Interests¹⁰

Notwithstanding anything contained in the Plan to the contrary, as of the Effective Date, each Releasing Party is deemed to have released and discharged each Released Party from any and all claims, Claims and Causes of Action, whether known or unknown, including any derivative claims, asserted on behalf of the Debtor (or its Estate), that such Entity would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtor (including the management, ownership or operation thereof, or otherwise), any securities issued by the Debtor and the ownership thereof, the Debtor's in- or out-of-court restructuring efforts, any Avoidance Actions, intercompany transactions, the Chapter 11 Case, the formulation, preparation, dissemination, negotiation, or Filing of the Disclosure Statement, the DIP Facility, the DIP Facility Documents, the Exit Facility, the Exit Facility Documents, the Plan, the Plan Supplement, or any restructuring transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the DIP Facility, the DIP Facility Documents, the Exit Facility, the Exit Facility Documents, the Plan, the Plan Supplement, the Chapter 11 Case, the Filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of the DIP Facility, the pursuit of the Exit Facility, the pursuit of consummation, the administration and implementation of the Plan, including the issuance or distribution of securities pursuant to the Plan, or the distribution of property under the

¹⁰ The Plan defines "Releasing Parties" or "Releasing Party" to mean "collectively, and in each case, in its capacity as such: (a) the DIP Lender, (b) the Exit Facility Lender, (c) all Holders of Claims, (d) all Holders of Interests, (e) the Debtor and the Reorganized Debtor, (f) with respect to each of the foregoing Entities in clauses (a) through (e), such Entity and its current and former Affiliates and subsidiaries, and such Entities' and their current and former Affiliates' and subsidiaries' current and former directors, managers, officers, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, and assigns, subsidiaries, and each of their respective current and former equity holders, officers, directors, managers, principals, members, employees, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, each in their capacity as such collectively; provided, however, that any Holder of a Claim that (1) is deemed to reject the Plan, (2) that is entitled to vote on the Plan but (X) does not return a ballot by the Voting Deadline or (Y) affirmatively opts out of the release under Article IX.C of the Plan by returning a properly completed ballot by the Voting Deadline and indicating on the Ballot that the Person or Entity opts out of the release under Article IX.C of the Plan, or (3) Files an objection to the releases contained in the Plan shall not be a "Releasing Party" (and, for the avoidance of doubt, the Entities and Persons listed in clause (f) for such Holder, shall not be deemed "Releasing Parties")."

Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any post-Effective Date obligations of any party or entity under the Plan, any restructuring transaction, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or (b) any individual from any claim, Claim, or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual intentional fraud, willful misconduct, or gross negligence of such Released Party.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the releases described in Article IX.C of the Plan, 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 each release described in Article IX.C of the Plan is: (a) consensual; (b) essential to the Confirmation of the Plan; (c) given in exchange for the good and valuable consideration provided by the Released Parties; (d) a good faith settlement and compromise of the claims released pursuant to Article IX.C of the Plan; (e) in the best interests of the Debtor and its Estate; (f) fair, equitable, and reasonable; (g) given and made after due notice and opportunity for hearing; and (h) a bar to any of the Releasing Parties asserting any Claim or Cause of Action released pursuant to Article IX.C of the Plan.

4. Exculpation¹¹

Except as otherwise specifically provided in the Plan, no Exculpated Party shall have or incur liability for, and each Exculpated Party is released and exculpated from any Cause of Action for any claim or Claim related to any act or omission in connection with, relating to, or arising out of, the Chapter 11 Case, the formulation, preparation, dissemination, negotiation, or Filing of the Debtor's in- or out-of-court restructuring efforts, the DIP Facility, DIP Facility Documents, the Exit Facility, the Exit Facility Documents, the Disclosure Statement, the Plan, the Plan Supplement, or any restructuring transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the DIP Facility, DIP Facility Documents, the Exit Facility, the Exit Facility Documents, the Disclosure Statement, the Plan, the Plan Supplement, the Chapter 11 Case, the Filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of the DIP Facility, the pursuit of the Exit Facility, the pursuit of consummation, the administration and implementation of the Plan, including the issuance or distribution of securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, 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

¹¹ The Plan defines "Exculpated Parties" or "Exculpated Party" to mean "collectively, and in each case, in its capacity as such: (a) the Debtor; (b) the Reorganized Debtor; and (c) with respect to each of the foregoing in clauses (a) and (b), each of such Entity's current and former directors, managers, officers, principals, members, employees, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, assigns, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, each in their capacity as such."

actual intentional fraud, willful misconduct, or gross negligence of such person, 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 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.

5. Injunction

Except as otherwise provided in the Plan or the Confirmation Order, all Entities who have held, hold, or may hold Claims, Interests, Causes of Action, or liabilities that: (a) are subject to compromise and settlement pursuant to the terms of the Plan; (b) have been released pursuant to Article IX.B of the Plan; (c) have been released pursuant to Article IX.C of the Plan, (d) are subject to exculpation pursuant to Article IX.D of the Plan (but only to the extent of the exculpation provided in Article IX.D of the Plan), or (e) are otherwise discharged, satisfied, stayed, released, or terminated pursuant to the terms of the Plan, are permanently enjoined and precluded, from and after the Effective Date, from commencing or continuing in any manner, any action or other proceeding, including on account of any Claims, claims, Interests, Causes of Action, or liabilities that have been compromised or settled against the Debtor, the Reorganized Debtor, or any Entity so released or exculpated (or the property or estate of any Entity, directly or indirectly, so released or exculpated) on account of, or in connection with or with respect to, any discharged, released, settled, compromised, or exculpated Claims, claims, Interests, Causes of Action, or liabilities, including being permanently enjoined and precluded, from and after the Effective Date, from taking any of the following actions against, as applicable, the Debtor, the Reorganized Debtor, or the Released Parties: (i) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such claims, Claims or Interests; (ii) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such claims, Claims or Interests; (iii) creating, perfecting, or enforcing any Lien or encumbrance of any kind against such Entities or the property or the estates of such Entities on account of or in connection with or with respect to any such claims, Claims or Interests; (iv) asserting any right of setoff or subrogation of any kind against any obligation due from such Entities or against the property of such Entities on account of or in connection with or with respect to any such claims, Claims or Interests unless such Entity has timely asserted such setoff right in a document Filed with the Bankruptcy Court explicitly preserving such setoff, and notwithstanding an indication of a Claim or Interest or otherwise that such Entity asserts, has, or intends to preserve any right of setoff pursuant to applicable law or otherwise; and (v) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such claims, Claims or Interests released or settled pursuant to the Plan.

6. Release of Liens

Except as otherwise provided in the Plan or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estate shall be fully released and discharged, and all of the right, title, and interest of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall revert to the Reorganized Debtor and its successors and assigns.

To the extent that any Holder of a Secured Claim has had such Claim satisfied or discharged in full pursuant to the Plan or any agent for such Holder has filed or recorded publicly any Liens and/or security interests to secure such Holder's Secured Claim, as soon as practicable on or after the Effective Date, such Holder (or the agent for such Holder) shall take any and all steps requested by the Debtor or the Reorganized Debtor that are necessary or desirable to record or effectuate the cancellation and/or extinguishment of such Liens and/or security interests, including the making of any applicable filings or recordings, and the Reorganized Debtor shall be entitled to make any such filings or recordings on such Holder's behalf.

VIII. RISK FACTORS

Holders of Claims and Interests should read and consider carefully the risk factors set forth below before voting to accept or reject the Plan. Although there are many risk factors discussed below, these factors should not be regarded as constituting the only risks present in connection with the Debtor's business or the Plan and its implementation.

A. Bankruptcy Law Considerations

The occurrence or non-occurrence of any or all of the following contingencies, and any others, could affect distributions available to Holders of Allowed Claims and Interests under the Plan but will not necessarily affect the validity of the vote of the Impaired Class to accept or reject the Plan or necessarily require a re-solicitation of the votes of Holders of Claims in such Impaired Class.

1. Parties in Interest May Object to the Plan's Classification of Claims and Interests

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an equity interest in a particular class only if such claim or equity interest is substantially similar to the other claims or equity interests in such class. The Debtor believes that the classification of the Claims and Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because the Debtor created Classes of Claims and Interests each encompassing Claims or Interests, as applicable, that are substantially similar to the other Claims or Interests, as applicable, in each such Class. Nevertheless, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

2. The Conditions Precedent to the Effective Date of the Plan May Not Occur.

As more fully set forth in Article VIII of the Plan, the Effective Date of the Plan is subject to a number of conditions precedent. If such conditions precedent are not met or waived, the Effective Date will not take place.

3. The Debtor May Fail to Satisfy Vote Requirements.

If votes are received in number and amount sufficient to enable the Bankruptcy Court to confirm the Plan, the Debtor intends to seek, as promptly as practicable thereafter, Confirmation of the Plan. In the event that sufficient votes are not received, the Debtor may seek to confirm an alternative chapter 11 plan or transaction. There can be no assurance that the terms of any such alternative chapter 11 plan or other transaction would be similar or as favorable to Holders of Interests and Allowed Claims as those proposed in the Plan and the Debtor does not believe that any such transaction exists or is likely to exist that would be more beneficial to the Estate than the Plan.

4. The Debtor May Not Be Able to Secure Confirmation of the Plan.

Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation of a chapter 11 plan, and requires, among other things, a finding by the Bankruptcy Court that: (a) confirmation of such plan is not likely to be followed by a liquidation or a need for further financial reorganization unless such liquidation or reorganization is contemplated by the plan; and (b) the value of distributions to non-accepting holders of claims or equity interests within a particular class under such plan will not be less than the value of distributions such holders would receive if a debtor was liquidated under chapter 7 of the Bankruptcy Code.

There can be no assurance that the requisite acceptances to confirm the Plan will be received. Even if the requisite acceptances are received, there can be no assurance that the Bankruptcy Court will confirm the Plan. A non-accepting Holder of an Allowed Claim might challenge either the adequacy of this Disclosure Statement or whether the balloting procedures and voting results satisfy the requirements of the Bankruptcy Code or Bankruptcy Rules. Even if the Bankruptcy Court determines that this Disclosure Statement, the balloting procedures, and voting results are appropriate, the Bankruptcy Court could still decline to confirm the Plan if it finds that any of the statutory requirements for Confirmation are not met. If a chapter 11 plan of reorganization is not confirmed by the Bankruptcy Court, it is unclear whether the Debtor will be able to reorganize its business and what, if anything, Holders of Interests and Allowed Claims would ultimately receive.

The Debtor, subject to the terms and conditions of the Plan, reserves its right to modify the terms and conditions of the Plan as necessary for Confirmation. Any such modifications could result in less favorable treatment of any non-accepting Class of Claims or the Class of Interests than the treatment currently provided in the Plan. Such a less favorable treatment could include a distribution of property with a lesser value than currently provided in the Plan or no distribution whatsoever under the Plan.

5. Continued Risk Upon Confirmation

Even if the Plan is consummated, the Debtor will continue to face a number of risks, including certain risks that are beyond its control, such as further deterioration or other changes in economic conditions, changes in the industry, potential revaluing of its assets due to chapter 11, and increasing expenses. *See Article VIII.C of this Disclosure Statement, entitled “Risks Related to the Reorganized Debtor’s Business and Financial Condition.”* Some of these concerns and effects typically become more acute when a case under the Bankruptcy Code continues for a protracted period without indication of how or when the case may be completed. As a result of these risks and others, there is no guarantee that a chapter 11 plan of reorganization reflecting the Plan will achieve the Debtor’s stated goals.

Furthermore, even if the Debtor’s debts are reduced and/or discharged through the Plan, the Debtor may need to raise additional funds to fund its business after completion of the proceedings related to the Chapter 11 Case. Adequate funds may not be available when needed or may not be available on favorable terms.

6. The Chapter 11 Case May Be Converted to a Case under Chapter 7 of the Bankruptcy Code.

The Bankruptcy Court may convert the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code if the Bankruptcy Court finds that conversion would be in the best interest of creditors and/or the Debtor. In such event, a chapter 7 trustee would be appointed or elected to liquidate the Debtor’s assets for distribution in accordance with the priorities established by the Bankruptcy Code.

The Debtor believes that liquidation under chapter 7 would result in significantly smaller distributions being made to creditors than those provided for in a chapter 11 plan because of (a) the likelihood that the assets would have to be sold or otherwise disposed of in a disorderly fashion over a short period of time, rather than reorganizing or selling the business as a going concern at a later time in a controlled manner, (b) additional administrative expenses involved in the appointment of a chapter 7 trustee, and (c) additional expenses and Claims, some of which would be entitled to priority, that would be generated during the liquidation, including Claims resulting from the rejection of Unexpired Leases and other Executory Contracts in connection with cessation of operations.

7. The Debtor May Object to the Amount or Classification of a Claim.

Except as otherwise provided in the Plan, the Debtor reserves the right to object to the amount or classification of any Claim under the Plan. The estimates set forth in this Disclosure Statement cannot be relied upon by any Holder of a Claim where such Claim is subject to an objection. Any Holder of a Claim that is subject to an objection thus may not receive its expected share of the estimated distributions described in this Disclosure Statement.

8. Contingencies Could Affect Votes of Impaired Class to Accept or Reject the Plan.

The distributions available to Holders of Allowed Claims under the Plan can be affected by a variety of contingencies, including, without limitation, whether the Bankruptcy Court orders certain Allowed Claims to be subordinated to other Allowed Claims. The occurrence of any and all such contingencies, which could affect distributions available to Holders of Allowed Claims under the Plan, will not affect the validity of the vote taken by the Impaired Class entitled to vote to accept or reject the Plan or require any sort of revote by such Impaired Class.

The estimated Claims and creditor recoveries set forth in this Disclosure Statement are based on various assumptions, and the actual Allowed amounts of Claims may significantly differ from the estimates. Should one or more of the underlying assumptions ultimately prove to be incorrect, the actual Allowed amounts of Claims may vary from the estimated Claims contained in this Disclosure Statement. Moreover, the Debtor cannot determine with any certainty at this time the number or amount of Claims that will ultimately be Allowed. Such differences may materially and adversely affect, among other things, the percentage recoveries to Holders of Allowed Class 3 General Unsecured Claims under the Plan.

9. Releases, Injunctions, and Exculpations Provisions May Not Be Approved.

Article IX of the Plan provides for certain releases, injunctions, and exculpations, including a release of Liens and a release of claims against the Debtor's affiliates and representatives, that may otherwise be asserted against the Debtor, the Reorganized Debtor, and/or Released Parties, as applicable. Discussions and summaries of these provisions can be found in Articles VII.H and IX.B of this Disclosure Statement. The releases, injunctions, and exculpations provided in the Plan are subject to objection by parties in interest and may not be approved. If the releases are not approved, certain Released Parties, including RKJ, may withdraw their support for the Plan and the Plan may no longer be confirmable.

10. Debtor Could Withdraw Plan.

The Debtor may revoke or withdraw the Plan prior to the Confirmation Date.

B. Risks Related to Recoveries under the Plan

1. The Reorganized Debtor May Not Be Able to Achieve its Projected Financial Results.

The Financial Projections set forth in this Disclosure Statement represent the Debtor's management team's best estimate of the Reorganized Debtor's future financial performance, which is necessarily based on certain assumptions regarding the anticipated future performance of the Reorganized Debtor's operations, in particular the retail industry in which the Reorganized Debtor will operate, and a potential resurgence of COVID-19 and related store closures.

While the Debtor believes that the Financial Projections contained in this Disclosure Statement are reasonable, there can be no assurance that they will be realized. If the Reorganized

Debtor does not achieve its projected financial results, the Reorganized Debtor may lack sufficient liquidity to continue operating as planned after the Effective Date. Moreover, the financial condition and results of operations of the Reorganized Debtor from and after the Effective Date may not be comparable to the financial condition or results of operations reflected in the Debtor's historical financial statements.

2. Certain Tax Implications of the Plan

Holders of Allowed Claims should carefully review **Exhibit D** of this Disclosure Statement, entitled "Analysis of Certain U.S. Federal Income Tax Consequences of the Plan," to determine how the tax implications of the Plan and the Chapter 11 Case may adversely affect the Reorganized Debtor and Holders of Claims and Interests.

3. The Reorganized Debtor May Not Be Able to Obtain an Acceptable Exit Facility.

The Plan contemplates that the Reorganized Debtor will enter into an Exit Facility with RKJ. However, it is possible that the Reorganized Debtor may not be able to obtain or consummate an acceptable Exit Facility with RKJ.

If the Reorganized Debtor does not obtain funding under an Exit Facility, it will lack sufficient liquidity to continue operating in the ordinary course post-emergence and may be unable to consummate the Plan or any other plan of reorganization.

C. Risks Related to the Reorganized Debtor's Business and Financial Condition

1. Risks Associated with Debtor's Business and Industry.

The fashion retail business is highly competitive, whereby retail companies generally compete on quality, design, customer service, and price. The Reorganized Debtor will compete primarily with specialty retailers, department stores and e-commerce businesses that engage in the sale of women's, men's, and children's apparel, household items, accessories and similar merchandise. Heightened competition could include the intensification of price competition, the entry of new competitors and the expansion, renovation, and opening of new stores by new and existing competitors.

If the Reorganized Debtor fails to successfully respond to competitive pressures in this industry or to effectively implement its strategy to respond to these pressures, its operating results may be negatively affected. In addition, the Reorganized Debtor's principal competitors may have greater financial resources than the Reorganized Debtor and either have used or may in the future use those resources to take steps that may have an adverse effect on the Reorganized Debtor's competitive position and financial performance.

2. COVID-19.

The Debtor has experienced operational and liquidity issues as a result of the COVID-19 pandemic. The Debtor had to close all its retail stores in response to the pandemic. While the Debtor has since reopened stores (and rejected leases for others), renewed store closures may adversely impact the Reorganized Debtor's sales. And, a worsening COVID-19 situation in the

future could force the Reorganized Debtor to temporarily close restarted operations, which would reduce the Reorganized Debtor's ability to operate its business and increase risk of liquidity constraints. These risks may also affect the Financial Projections.

3. Relationship with RKJ.

The Debtor significantly relies on RKJ for, among other things, the supply of merchandise for sale in the Debtor's stores and online. Inability to continue its supply and licensing relationships with RKJ could negatively impact the Reorganized Debtor's operations and performance.

4. Financial Projections Rely on Concessions from Landlords.

The forward-looking Financial Projections are based on substantial concessions from various landlords. If the Debtor is unable to reach satisfactory terms with the quantity of landlords it anticipates, the Debtor may be forced to close additional stores, thereby decreasing revenue. In addition, the actual lease savings realized by the Reorganized Debtor may be substantially less than anticipated.

5. The Reorganized Debtor May Not Be Able to Generate Sufficient Cash to Service All of Its Indebtedness.

The Reorganized Debtor's ability to make scheduled payments on, or refinance its debt obligations, depends on the Reorganized Debtor's financial condition and operating performance, which are subject to prevailing economic, industry, and competitive conditions and to certain financial, business, legislative, regulatory, and other factors beyond the Reorganized Debtor's control. The Reorganized Debtor may be unable to maintain a level of cash flow from operating activities sufficient to permit it to pay the principal, premium, if any, and interest on its indebtedness, including, without limitation, potential borrowings under the Exit Facility upon emergence.

6. The Debtor Will Be Subject to the Risks and Uncertainties Associated with the Chapter 11 Case.

For the duration of the Chapter 11 Case, the Reorganized Debtor's ability to operate, develop, and execute a business plan, and continue as a going concern, will be subject to the risks and uncertainties associated with bankruptcy. These risks include the following: (a) ability to develop, confirm, and consummate the transactions specified in the Plan; (b) ability to obtain Bankruptcy Court approval with respect to motions Filed in the Chapter 11 Case from time to time; (c) ability to maintain relationships with customers, suppliers, vendors, employees, and other third parties; (d) ability to maintain contracts critical to the Reorganized Debtor's operations; (e) ability of third parties to seek and obtain Bankruptcy Court approval to terminate contracts; (f) ability of third parties to seek and obtain Bankruptcy Court approval to terminate or shorten the exclusivity period for the Debtor to propose and confirm a chapter 11 plan, to appoint a chapter 11 trustee, dismiss the Chapter 11 Case, or convert the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code; and (g) the actions and decisions of the Debtor's creditors and other third parties who have interests in the Chapter 11 Case that may be inconsistent with the Debtor's plans.

These risks and uncertainties could affect the Reorganized Debtor's business and operations in various ways. For example, negative events associated with the Chapter 11 Case

could adversely affect the Debtor's relationships with RKJ, its other suppliers, customers, employees, and other third parties, which in turn could adversely affect the Debtor's operations and financial condition. Also, the Debtor will need the prior approval of the Bankruptcy Court for transactions outside the ordinary course of business, which may limit the Debtor's ability to respond timely to certain events or take advantage of certain opportunities. Because of the risks and uncertainties associated with the Chapter 11 Case, the Debtor cannot accurately predict or quantify the ultimate impact of events that occur during the Chapter 11 Case that may be inconsistent with the Debtor's plans.

7. Prolonged Operations in Bankruptcy May Harm the Debtor's Business.

The Debtor's future results will be dependent upon the successful confirmation and implementation of a plan of reorganization. A long period of operations under Bankruptcy Court protection could have a material adverse effect on the Debtor's business, financial condition, results of operations, and liquidity. So long as the proceedings related to the Chapter 11 Case continue, senior management will be required to spend time and effort dealing with the reorganization instead of focusing exclusively on business operations. A prolonged period of operating under Bankruptcy Court protection also may make it more difficult to retain management and other key personnel necessary to the success and growth of the Debtor's business. In addition, the longer the proceedings related to the Chapter 11 Case continue, the more likely it is that customers will lose confidence in the Debtor's ability to reorganize its business successfully, which will hurt goodwill and brand value.

So long as the proceedings related to the Chapter 11 Case continue, the Debtor will be required to incur costs for professional fees and other expenses associated with the administration of the Chapter 11 Case. The chapter 11 proceedings also require debtor in possession financing to fund the Debtor's operations. If the Debtor is unable to fully draw on the availability under the DIP Facility or are unable to consummate the Exit Facility, the chances of successfully reorganizing the Debtor's business may be jeopardized, the likelihood that the Debtor will instead be required to liquidate or sell its assets may be increased, and, as a result, creditor recoveries may be significantly impaired.

Furthermore, the Debtor cannot predict the ultimate amount of all settlement terms for the liabilities that will be subject to a plan of reorganization. Even after a plan of reorganization is approved and implemented, the Reorganized Debtor's operating results may be adversely affected by the possible reluctance of third parties from doing business with a company that recently emerged from bankruptcy protection.

8. The Debtor May Be Adversely Affected by Potential Litigation, Including Litigation Arising Out of the Chapter 11 Case.

In the future, the Debtor and the Reorganized Debtor may become parties to litigation. In general, litigation can be expensive and time consuming to bring or defend against. Such litigation could result in settlements or damages that could significantly affect the Reorganized Debtor's financial results. It is also possible that certain parties will commence litigation with respect to the treatment of their Claims under the Plan. It is not possible to predict the potential litigation that the Debtor or Reorganized Debtor may become party to, nor the final resolution of such

litigation. The impact of any such litigation on the Reorganized Debtor's business and financial stability, however, could be material.

9. The Loss of Key Personnel Could Adversely Affect the Debtor's Operations.

The Debtor's operations are dependent on a relatively small group of key management personnel. The Debtor's financial issues and the Chapter 11 Case have created distractions and uncertainty for key management personnel and employees. As a result, the Debtor has experienced and may continue to experience increased levels of employee attrition. The Debtor may be unable to find acceptable replacements with comparable skills and experience and the loss of such key management personnel could adversely affect the Debtor's ability to operate its business. In addition, a loss of key personnel or material erosion of employee morale at the corporate and/or store levels could have a material adverse effect on the Debtor's ability to meet customer and counterparty expectations, thereby adversely affecting the Debtor's and/or the Reorganized Debtor's business and the results of operations.

10. Certain Claims May Not Be Discharged and Could Have a Material Adverse Effect on the Debtor's Financial Condition and Results of Operations.

The Bankruptcy Code provides that the confirmation of a plan of reorganization discharges a debtor from substantially all debts arising prior to confirmation. With few exceptions, all Claims that arise prior to the Petition Date or before Confirmation of the Plan (a) would be subject to compromise and/or treatment under the Plan and/or (b) would be discharged in accordance with the terms of the Plan. Any Claims not ultimately discharged through the Plan could be asserted against the reorganized entity and may have an adverse effect on the Reorganized Debtor's financial condition and results of operations.

11. The Debtor May Have Limited Ability to Utilize NOLs.

The Debtor estimates that it has approximately \$28.6 million in Net Operating Losses ("NOLs") carryovers as of June 30, 2020.¹² The Internal Revenue Code imposes limitations on a corporation's ability to utilize NOLs. The imposition of a limitation on the Debtor's and Reorganized Debtor's ability to use NOLs to offset future taxable income could cause U.S. federal income taxes to be paid earlier than otherwise would be paid if such limitation were not in effect and could cause such NOLs to expire unused, reducing or eliminating the benefit of such NOLs. The Debtor has taken steps to avoid certain negative tax consequences, and intends to implement the Plan in a manner that will mitigate the adverse impact on its NOLs.

D. Other Risks.

1. No Duty to Update.

The statements contained in this Disclosure Statement are made by the Debtor as of the date hereof, unless otherwise specified herein, and the delivery of this Disclosure Statement after

¹² The NOL for 2020 is not capable of being computed until year-end.

that date does not imply that there has been no change in the information set forth herein since that date.

The Debtor has no duty to update this Disclosure Statement unless otherwise ordered to do so by the Bankruptcy Court.

2. No Representations Outside Disclosure Statement Are Authorized.

No representations concerning or related to the Debtor the Chapter 11 Case, or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this Disclosure Statement. Any representations or inducements made to secure your acceptance or rejection of the Plan that are other than those contained in, or included with, this Disclosure Statement should not be relied upon in making the decision to accept or reject the Plan.

3. No Legal or Tax Advice Is Provided by Disclosure Statement.

The contents of this Disclosure Statement should not be construed as legal, business, or tax advice. Each Claim or Interest Holder should consult their own legal counsel and accountant as to legal, tax, and other matters concerning their Claim or Interest. This Disclosure Statement is not legal advice to you. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to confirmation of the Plan.

4. No Admission Made.

Nothing contained herein or in the Plan will constitute an admission of, or will be deemed evidence of, the tax or other legal effects of the Plan on the Debtor or Holders of Claims or Interests.

IX. CONFIRMATION OF THE PLAN

A. Requirements for Confirmation of the Plan

Among the requirements for Confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code are: (1) the Plan is accepted by the sole Impaired Class of Claims; (2) the Plan is feasible; and (3) the Plan is in the “best interests” of Holders of Claims or Interests.

At the Confirmation Hearing, the Bankruptcy Court will determine whether the Plan satisfies all of the requirements of section 1129 of the Bankruptcy Code. The Debtor believes that: (1) the Plan satisfies, or will satisfy, all of the necessary statutory requirements of chapter 11 for plan confirmation; (2) it has complied, or will have complied, with all of the necessary requirements of chapter 11 for plan confirmation; and (3) the Plan has been proposed in good faith.

B. The Debtor Release, Release by Holders of Claims and Interests, Exculpation, and Injunction Provisions.

Under applicable law, a release provided by a debtor is appropriate where: (a) there is an identity of interest between the debtor and the third party, such that a suit against the released non-debtor party is, at core, a suit against the debtor or will deplete assets of the estate; (b) there is a substantial contribution by the non-debtor of assets to the reorganization; (c) the injunction is

essential to the reorganization; (d) there is overwhelming creditor support for the injunction; and (e) the chapter 11 plan will pay all or substantially all of the claims affected by the injunction. *In re Indianapolis Downs, LLC*, 486 B.R. 286, 303 (Bankr. D. Del. 2013). Importantly, these factors are “neither exclusive nor are they a list of conjunctive requirements,” but “[i]nstead, they are helpful in weighing the equities of the particular case after a fact-specific review.” *Id.* Further, a chapter 11 plan may provide for a release of third-party claims against non-debtors, such as the Released Parties, where such releases are consensual. *In re Washington Mutual, Inc.*, 442 B.R. 314, 355 (Bankr. D. Del. 2011). In addition, exculpation is appropriate where it applies to estate fiduciaries. *Id.* at 345. Finally, an injunction is appropriate where it is necessary to the reorganization and fair pursuant to section 105(a) of the Bankruptcy Code. *In re W.R. Grace & Co.*, 475 B.R. 34, 107 (D. Del. 2012). Approval of the releases, exculpations, and injunctions for each of the Released Parties and each Exculpated Party as part of Confirmation of the Plan will be limited to the extent such releases, exculpations, and injunctions are permitted by applicable law.

The Debtor believes that the releases, exculpations, and injunctions set forth in the Plan are appropriate because, among other things, the releases are narrowly tailored to the Debtor’s restructuring proceedings, and each of the Released Parties has contributed value to the Debtor and aided in the reorganization process (including, without limitation, (1) the DIP Lender’s agreement to roll the DIP Facility Claims into a portion of the Exit Facility, (2) RKJ’s agreement to (A) waive any right to distributions under the Plan on account of the RKJ Unsecured Claims, and (B) fund the GUC Cash Distribution Pool for the benefit of, and *pro rata* distribution to, Holders of Allowed Class 3 General Unsecured Claims (other than the RKJ Unsecured Claims) as provided in the Plan, and (3) the Exit Facility to, among other things, fund distributions under the Plan and provide the Reorganized Debtor with additional liquidity that may be drawn on from time to time, as necessary, by the Reorganized Debtor to, among other things, fund business operations in the future and provide the Reorganized Debtor with a flexible and sustainable capital structure), which facilitated the Debtor’s ability to propose and pursue Confirmation.

The Debtor believes that each of the Released Parties has played an integral role in formulating the Plan and has expended significant time and resources analyzing and negotiating the issues presented by the Debtor’s prepetition and post-confirmation capital structure. The Debtor further believes that such releases, exculpations, and injunctions are a necessary part of the Plan. In addition, the Debtor believes the releases are entirely consensual under the established case law in the United States Bankruptcy Court for the District of Delaware. The Debtor will be prepared to meet its burden to establish the basis for the releases, exculpations, and injunctions for each of the Released Parties and each Exculpated Party as part of confirming the Plan.

C. Best Interests of Creditors/Liquidation Analysis

Often called the “best interests” test, section 1129(a)(7) of the Bankruptcy Code requires that a bankruptcy court find, as a condition to confirmation, that a chapter 11 plan provides, with respect to each impaired class, that each holder of a claim or an equity interest in such impaired class either (1) has accepted the plan or (2) will receive or retain under the plan property of a value that is not less than the amount that the non-accepting holder would receive or retain if a debtor liquidated under chapter 7.

Attached hereto as **Exhibit B** and incorporated herein by reference is a liquidation analysis (the “Liquidation Analysis”) prepared by the Debtor with the assistance of its advisors. As

reflected in the Liquidation Analysis, the Debtor believes that liquidation of its business under chapter 7 of the Bankruptcy Code would result in substantial diminution in the value to be realized by Holders of Claims or Interests as compared to distributions contemplated under the Plan. Consequently, the Debtor and its management believe that Confirmation of the Plan will provide a substantially greater return to Holders of Claims or Interests than would a liquidation under chapter 7 of the Bankruptcy Code.

If the Plan is not confirmed, and the Debtor fails to propose and confirm an alternative plan of reorganization, the Debtor's business may be liquidated pursuant to the provisions of a chapter 11 liquidating plan. In liquidations under chapter 11, the Debtor's assets could be sold in an orderly fashion over a more extended period of time than in a liquidation under chapter 7. Thus, a chapter 11 liquidation may result in larger recoveries than a chapter 7 liquidation, but the delay in distributions could result in lower present values received and higher administrative costs. Any distribution to Holders of Claims or Interests (to the extent Holders of Interests would receive distributions at all) under a chapter 11 liquidation plan would most likely be substantially delayed.

Most importantly, the Debtor believes that there is material risk that the Chapter 11 Case may be converted to a case under chapter 7 of the Bankruptcy Code if the Plan is not confirmed and an alternative plan of liquidation is not proposed. In such scenario, a chapter 7 trustee will be charged with liquidating the Debtor's estate. Distributions to creditors in a chapter 7 liquidation scenario would fail to capture the significant cash value that RKJ is providing to Holders of General Unsecured Claims through the GUC Cash Distribution Pool.

Accordingly, the Debtor believes that neither a chapter 7 nor chapter 11 liquidation would result in distributions to creditors as favorable as those provided under the Plan.

D. Feasibility

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of a plan of reorganization is not likely to be followed by the liquidation, or the need for further financial reorganization of the debtor, or any successor to the debtor (unless such liquidation or reorganization is proposed in such plan of reorganization).

To determine whether the Plan meets this feasibility requirement, the Debtor, with the assistance of the Chief Restructuring Officer, has analyzed MUJI's ability to meet its respective obligations under the Plan. As part of this analysis, the Debtor has prepared its projected balance sheet, income statement, and statement of cash flows (the "Financial Projections"), attached hereto as **Exhibit C**. Creditors and other interested parties should review Article VIII of this Disclosure Statement, entitled "Risk Factors," for a discussion of certain factors that may affect the future financial performance of the Reorganized Debtor.

The Financial Projections are attached hereto as **Exhibit C** and incorporated herein by reference. The Debtor believes that it will be a viable operation following the Chapter 11 Case. Among other things, there will be an Exit Facility in place on the Effective Date that may be drawn on from time to time by the Reorganized Debtor to, among other things, fund future operations. As such, and based upon the Financial Projections, the Debtor believes the Plan will meet the feasibility requirements of the Bankruptcy Code.

E. Acceptance by Impaired Class

The Bankruptcy Code requires, as a condition to confirmation, except as described in the following section, that each class of claims or equity interests impaired under a plan, accept the plan. A class that is not “impaired” under a plan is deemed to have accepted the plan and, therefore, solicitation of acceptances with respect to such a class is not required.

Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a class of impaired claims as acceptance by holders of at least two-thirds in dollar amount and more than one-half in a number of allowed claims in that class, counting only those claims that have *actually* voted to accept or to reject the plan. Thus, a Class of Claims will have voted to accept the Plan only if two-thirds in amount and a majority in number of the Allowed Claims in such Class that vote on the Plan actually cast their ballots in favor of acceptance.

Pursuant to Article III.D of the Plan, if a Class contains Claims eligible to vote and no Holders of Claims eligible to vote in such Class vote to accept or reject the Plan, the Holders of such Claims in such Class shall be deemed to have accepted the Plan.

X. CERTAIN SECURITIES LAW MATTERS

The Debtor does not believe that the Plan’s treatment of the Interests constitutes an offering, distribution, issuance or sale of “securities” under the Securities Act or state securities laws and therefore no registration or exemption thereunder is necessary. If the Plan’s treatment of the Interests were deemed to be an offering, distribution, issuance or sale of “securities” under the Securities Act or state securities laws, Debtor believes that such offer, distribution, issuance or sale would be exempt from the registration requirements of the Securities Act and state securities laws and that, based on the particular Federal and state securities law exemption, and provisions of the Bankruptcy Code, any subsequent transfers of such securities may be subject to registration requirements.

XI. CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

A detailed discussion of the potential federal income tax consequences of the Plan can be found in the *Analysis of Certain U.S. Federal Income Tax Consequences of the Plan* annexed hereto as **Exhibit D**.

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XII. RECOMMENDATION

The Debtor believes that the Plan is preferable to all other available alternatives and provides for a larger distribution to the Debtor's creditors than would otherwise result in any other scenario. Accordingly, the Debtor recommends that Holders of Class 3 General Unsecured Claims and Class 4 RKJ Unsecured Claims vote to accept the Plan and support Confirmation of the Plan.

Respectfully submitted, as of the date first set forth above,

MUJI U.S.A. LIMITED

By: /s/ John Bittner

Name: John Bittner

Title: Chief Restructuring Officer

Exhibit A

Plan of Reorganization

SOLICITATION VERSION

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

MUJI U.S.A. LIMITED,¹

Debtor.

Chapter 11

Case No. 20-11805 (MFW)

**AMENDED CHAPTER 11 PLAN OF REORGANIZATION OF MUJI U.S.A.
LIMITED PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

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Counsel to the Debtor and Debtor in Possession

Dated: November 23, 2020

¹ The last four digits of the Debtor's federal tax identification number are 2229. The location of the Debtor's principal place of business is 250 West 39th Street, Suite 202, New York, NY 10018.

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INTRODUCTION

MUJI U.S.A. Limited (the “Debtor”) proposes this plan of reorganization for the resolution of outstanding Claims against and Interests in the Debtor. The Debtor is a proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code. Capitalized terms used in the Plan and not otherwise defined have the meanings ascribed to such terms in Article I.A of this Plan.

Reference is made to the Disclosure Statement, Filed contemporaneously with the Plan, for a discussion of the Debtor’s history, business, historical financial information, valuation, liquidation analysis, projections, and operations as well as a summary and analysis of the Plan and certain related matters, including distributions to be made under this Plan.

ALL HOLDERS OF CLAIMS AND INTERESTS ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

Article I. DEFINED TERMS AND RULES OF INTERPRETATION

A. *Defined Terms*

The following terms shall have the following meanings when used in capitalized form herein:

1. “**Administrative Claim**” means a Claim for costs and expenses of administration of the Estate under sections 503(b), 507(b), or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred on or after the Petition Date of preserving the Estate and operating the business of the Debtor; (b) Allowed Professional Fee Claims in the Chapter 11 Case; and (c) all fees and charges assessed against the Estate under chapter 123 of title 28 of the United States Code, 28 U.S.C. §§ 1911-1930.

2. “**Administrative Claim Request**” means a request for the payment of an Administrative Claim.

3. “**Administrative Claims Bar Date**” means the deadline for Filing all Administrative Claim Requests, except for Professional Fee Claims (which shall be subject to Article II.D herein), which shall be thirty (30) days after the Effective Date.

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

5. “**Allowed**” means, with respect to any Claim, except as otherwise provided in the Plan: (a) a Claim that is evidenced by a Proof of Claim Filed by the Bar Date (or for which Claim under the Plan, the Bankruptcy Code, or pursuant to a Final Order a Proof of Claim is not or shall not be required to be Filed); (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed, and for which no Proof of Claim, as applicable, has been timely Filed; or (c) a Claim Allowed pursuant to the Plan or a Final Order of the Bankruptcy Court;

provided that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed by any party in interest within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim, as applicable, shall have been Allowed by a Final Order. Any Claim that has been or is hereafter listed in the Schedules as contingent, unliquidated, or disputed, and for which no Proof of Claim is or has been timely Filed, is not considered Allowed and shall be expunged without further action by the Debtor and without further notice to any party or action, approval, or order of the Bankruptcy Court. Notwithstanding anything to the contrary herein, no Claim of any Entity subject to section 502(d) of the Bankruptcy Code shall be deemed Allowed unless and until such Entity pays in full the amount that it owes such Debtor or Reorganized Debtor (as applicable). For the avoidance of doubt, a Proof of Claim Filed after the Bar Date shall not be Allowed for any purposes whatsoever absent entry of a Final Order allowing such late-Filed Claim. “Allow” and “Allowing” shall have correlative meanings.

6. **“Avoidance Actions”** means any and all avoidance, recovery, subordination, or other claims, actions, or remedies that may be brought by or on behalf of the Debtor or its Estate or other authorized parties in interest under the Bankruptcy Code or applicable non-bankruptcy law, including actions or remedies under sections 502, 510, 542, 544, 545, 547 through 553, and 724(a) of the Bankruptcy Code or under similar or related state or federal statutes and common law, including fraudulent transfer laws.

7. **“Bankruptcy Code”** means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time.

8. **“Bankruptcy Court”** means the United States Bankruptcy Court for the District of Delaware.

9. **“Bankruptcy Rules”** means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, 28 U.S.C. § 2075, as applicable to the Chapter 11 Case, and the general, local, and chambers rules of the Bankruptcy Court.

10. **“Bar Date”** means, as applicable, the Administrative Claims Bar Date and any other date or dates to be established by an order of the Bankruptcy Court by which Proofs of Claim must be Filed, including the general bar date of September 22, 2020 and the bar date of January 6, 2021 for Governmental Units, as set forth in the *Order (I) Fixing Deadlines for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [Docket No. 122]; provided that Professional Fee Claims shall be Filed in accordance with Article II.D of the Plan.

11. **“Business Day”** means any day, other than a Saturday, Sunday, or “legal holiday” (as that term is defined in Bankruptcy Rule 9006(a)).

12. **“Cash”** means cash and cash equivalents in legal tender of the United States of America.

13. **“Causes of Action”** means any claims, interests, damages, remedies, causes of action, demands, rights, actions, suits, obligations, liabilities, accounts, defenses, offsets, powers,

privileges, licenses, liens, indemnities, guaranties, and franchises of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, secured or unsecured, assertable, directly or derivatively, matured or unmatured, suspected or unsuspected, in contract, tort, law, equity, or otherwise. Causes of Action also include: (a) all rights of setoff, counterclaim, or recoupment and claims under contracts or for breaches of duties imposed by law; (b) the right to object to or otherwise contest Claims or Interests; (c) claims pursuant to sections 362, 510, 542, 543, 544 through 550, or 553 of the Bankruptcy Code; and (d) such claims and defenses as fraud, mistake, duress, and usury, and any other defenses set forth in section 558 of the Bankruptcy Code.

14. **“Chapter 11 Case”** means the chapter 11 case Filed by the Debtor under chapter 11 of the Bankruptcy Code in the Bankruptcy Court.

15. **“Claim”** means any claim, as defined in section 101(5) of the Bankruptcy Code, against the Debtor or its Estate.

16. **“Claims Objection Bar Date”** means the date that is one hundred eighty (180) days after the Effective Date, which date may be extended upon presentment of an Order to the Bankruptcy Court by the Reorganized Debtor.

17. **“Claims Register”** means the official register of Claims maintained by the Notice and Claims Agent.

18. **“Class”** means a category of Claims or Interests as established by and set forth in Article III of this Plan pursuant to section 1122(a) of the Bankruptcy Code.

19. **“Confirmation”** means the entry of the Confirmation Order by the Bankruptcy Court on the docket of the Chapter 11 Case.

20. **“Confirmation Date”** means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Case.

21. **“Confirmation Hearing”** means the hearing(s) conducted by the Bankruptcy Court pursuant to section 1128(a) of the Bankruptcy Code to consider Confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time.

22. **“Confirmation Order”** means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

23. **“Cure”** means all amounts, including an amount of \$0.00, required to cure any monetary defaults under any Executory Contract or Unexpired Lease (or such lesser amount as may be agreed upon by the parties under an Executory Contract or Unexpired Lease) that is to be assumed by the Debtor pursuant to sections 365 or 1123 of the Bankruptcy Code.

24. **“D&O Liability Insurance Policies”** means all of the Debtor’s insurance policies for directors’ and officers’ liability existing as of the Petition Date.

25. **“Debtor Release”** means the releases set forth in Article IX.B of this Plan.
26. **“DIP Credit Agreement”** means that certain *Senior Secured, Super-Priority Debtor-in-Possession Credit and Security Agreement*, dated as of July 14, 2020, entered into by and between the Debtor and the DIP Lender.
27. **“DIP Facility”** means that certain debtor-in-possession financing facility available pursuant to the DIP Loan Documents.
28. **“DIP Facility Claim”** means any Claim held by the DIP Lender arising under or relating to the DIP Loan Documents, including all principal amounts outstanding, interest, fees, expenses, costs, and other charges arising under or related to the DIP Loan Documents.
29. **“DIP Facility Claim Amount”** means the aggregate principal amount with respect to drawn amounts under the DIP Facility, plus any unpaid accrued interest and unpaid fees, expenses and other obligations under the DIP Credit Agreement.
30. **“DIP Lender”** means RKJ, in its capacity as lender under the DIP Credit Agreement.
31. **“DIP Loan Documents”** means, collectively, the DIP Credit Agreement and all agreements, documents and instruments related thereto, including the DIP Orders, as now in effect or as may be amended, restated, supplemented or otherwise modified from time to time in accordance with their terms and the terms of the DIP Orders.
32. **“DIP Orders”** means, collectively, the Interim DIP Order and the Final DIP Order.
33. **“Disbursing Agent”** means the Reorganized Debtor or the Entity or Entities selected by the Debtor or the Reorganized Debtor (as applicable) to make or to facilitate distributions pursuant to the Plan.
34. **“Disclosure Statement”** means the *Disclosure Statement for the Amended Chapter 11 Plan of MUJI U.S.A. Limited Pursuant to Chapter 11 of the Bankruptcy Code*, dated November 23, 2020 (as may be amended, supplemented or modified from time to time), including all exhibits and schedules thereto and references therein that relate to the Plan, that is prepared and distributed in accordance with the Bankruptcy Code, the Bankruptcy Rules, and any other applicable law.
35. **“Disputed”** means, with respect to any Claim or Interest, any Claim or Interest that is not yet Allowed.
36. **“Distribution Record Date”** means the date for determining which Holders of Claims are eligible to receive distributions under the Plan, which date shall be the Confirmation Date or such other date as designated in a Final Order of the Bankruptcy Code.
37. **“Effective Date”** means the date that is the first Business Day after the Confirmation Date on which (a) no stay of the Confirmation Order is in effect, (b) all conditions precedent to the occurrence of the Effective Date set forth in Article VIII.A of the Plan have been

satisfied or waived in accordance with Article VIII.C of the Plan, and (c) the Debtor declares the Plan effective. Any action to be taken on the Effective Date may be taken on or as soon as reasonably practicable thereafter. The Reorganized Debtor will File and serve a notice of the occurrence of the Effective Date.

38. **“Entity”** means any “entity,” as defined in section 101(15) of the Bankruptcy Code.

39. **“Estate”** means the bankruptcy estate of the Debtor created pursuant to section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

40. **“Exculpated Parties”** or **“Exculpated Party”** means, collectively, and in each case, in its capacity as such: (a) the Debtor; (b) the Reorganized Debtor; and (c) with respect to each of the foregoing in clauses (a) and (b), each of such Entity’s current and former directors, managers, officers, principals, members, employees, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, assigns, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, each in their capacity as such.

41. **“Exit Facility”** means a senior secured credit facility to be arranged and provided by the Exit Facility Lender in a minimum amount of \$22,000,000, on terms satisfactory to the Debtor or the Reorganized Debtor (as applicable).

42. **“Exit Facility Documents”** means, collectively, the Exit Facility Loan Agreement, the Exit Facility and all other agreements, instruments, and documents related thereto, as applicable.

43. **“Exit Facility Lender”** means that lender party to the Exit Facility Loan Agreement.

44. **“Exit Facility Loan Agreement”** means that certain loan agreement memorializing the Exit Facility, which shall be entered into by and between the Debtor or the Reorganized Debtor (as applicable), on the one hand, and the Exit Facility Lender, on the other hand.

45. **“Executory Contract”** means a contract to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

46. **“File”** or **“Filed”** means file, filed, or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case, or, in the case of a Proof of Claim or a Proof of Interest, the Notice and Claims Agent.

47. **“Final DIP Order”** means the *Final Order (I) Authorizing the Debtor to Obtain Post-Petition Financing, (II) Authorizing the Debtor to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief*, entered on August 11, 2020 [Docket No. 105].

48. **“Final Order”** means an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter that has not been reversed, stayed, modified, or amended, and as to which the time to appeal, seek reconsideration under Rule 59(b) or 59(e) of the Federal Rules of Civil Procedure, seek a new trial, reargument, or rehearing and, where applicable, petition for certiorari has expired and no appeal, motion for reconsideration under Rule 59(b) or 59(e) of the Federal Rules of Civil Procedure, motion for a new trial, reargument or rehearing 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 was appealed or from which certiorari was sought, or as to which any motion for reconsideration that has been filed pursuant to Rule 59(b) or 59(e) of the Federal Rules of Civil Procedure or any motion for a new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order, or has otherwise been dismissed with prejudice; provided that the possibility that a motion pursuant to Rule 60 of the Federal Rules of Civil Procedure or Bankruptcy Rule 9024, or any analogous rule, may be filed relating to such order or judgment shall not cause such order or judgment not to be a Final Order.

49. **“General Unsecured Claim”** means any Claim other than a(n): (a) DIP Facility Claim, (b) Administrative Claim, (c) Professional Fee Claim, (d) Priority Tax Claim, (e) Other Priority Claim, (f) Other Secured Claim, (g) Secured Claim, or (h) an RKJ Unsecured Claim.

50. **“Governmental Unit”** means a “governmental unit,” as defined in section 101(27) of the Bankruptcy Code.

51. **“GUC Cash Distribution Pool”** means a cash pool in the amount of \$4,000,000, which shall be used to fund distributions to Holders of Allowed General Unsecured Claims in accordance with the terms of this Plan.

52. **“Holder”** means an Entity holding a Claim or Interest.

53. **“Impaired”** means “impaired” within the meaning of section 1124 of the Bankruptcy Code.

54. **“Impaired Class”** means a Class that is Impaired.

55. **“Interest”** means any issued, unissued, authorized, or outstanding shares of common equity, preferred stock, or other instrument evidencing an ownership interest in the Debtor.

56. **“Interim DIP Order”** means the *Interim Order (I) Authorizing the Debtor to Obtain Post-Petition Financing, (II) Authorizing the Debtor to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief*, entered on July 14, 2020 [Docket No. 41].

57. **“Lien”** means a “lien,” as defined in section 101(37) of the Bankruptcy Code.

58. “**Local Bankruptcy Rules**” means the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware.

59. “**New Board**” means the board of directors of the Reorganized Debtor.

60. “**Notice and Claims Agent**” means Donlin, Recano & Company, Inc. in its capacity as noticing, claims, and solicitation agent for the Debtor, pursuant to orders of the Bankruptcy Court [Docket Nos. 31 & 99].

61. “**Ordinary Course Professionals**” has the meaning ascribed to such term in the *Motion of the Debtor for Entry of an Order Authorizing the Retention and Compensation of Certain Professionals Utilized by the Debtor in the Ordinary Course of Business* [Docket No. 53], which motion was approved pursuant to the *Order Authorizing the Retention and Compensation of Certain Professionals Utilized by the Debtor in the Ordinary Course of Business*, entered on August 10, 2020 [Docket No. 101].

62. “**Other Priority Claim**” means any Claim, 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.

63. “**Other Secured Claim**” means any Secured Claim against the Debtor other than the DIP Facility Claims.

64. “**Person**” means a “person,” as defined in section 101(41) of the Bankruptcy Code.

65. “**Petition Date**” means July 10, 2020, the date on which the Debtor Filed its voluntary petition for relief under chapter 11 of the Bankruptcy Code, thereby commencing the Chapter 11 Case.

66. “**Plan**” means this plan of reorganization under chapter 11 of the Bankruptcy Code, either in its present form or as it may be altered, amended, modified, or supplemented from time to time in accordance with the Bankruptcy Code, the Bankruptcy Rules, or the terms hereof, as the case may be, and the Plan Supplement, which is incorporated herein by reference, including all exhibits and schedules hereto and thereto.

67. “**Plan Objection Deadline**” means the “Plan Objection Deadline,” as such term is defined in the Solicitation Procedures Order.

68. “**Plan Settlement**” shall have the meaning ascribed to in Article IV.A of the Plan.

69. “**Plan Supplement**” means a supplemental appendix to the Plan that shall be Filed by the Debtor no later than seven (7) days before the Voting Deadline to accept or reject the Plan or such later date as may be approved by the Bankruptcy Court on notice to parties in interest and that shall include, among other things, draft forms of documents (or term sheets thereof), schedules, and exhibits to the Plan, and as may be amended, modified, or supplemented from time to time on or prior to the Effective Date in accordance with the terms thereof and hereof, the Bankruptcy Code, and the Bankruptcy Rules, including the following documents: (a) to the extent known, the identity of the members of the New Board; (b) to the extent known, the identity of the

Reorganized Debtor's officers; (c) the extent known, the identity of any insider that will be employed or retained by the Reorganized Debtor, and the nature of any compensation for such insider; (d) the Exit Facility Documents; (e) the Schedule of Assumed Executory Contracts and Unexpired Leases; and (f) other documentation necessary to effectuate the Plan or that is contemplated by the Plan.

70. **"Priority Tax Claim"** means a Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

71. **"Professional Fee Claims"** means a Claim by a Retained Professional seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred after the Petition Date and on or before the Effective Date under sections 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4) or 503(b)(5) of the Bankruptcy Code, as applicable.

72. **"Professional Fee Amount"** means the aggregate of unpaid Professional Fee Claims and other unpaid fees and expenses incurred in rendering services to the Debtor before and as of the Confirmation Date, which estimates shall be submitted by Retained Professionals or otherwise established by the Debtor pursuant to Article II.D.3 of the Plan.

73. **"Professional Fee Escrow"** shall have the meaning ascribed to it in the DIP Orders.

74. **"Professional Fee Escrow Account"** shall have the meaning ascribed to it in the DIP Orders.

75. **"Proof of Claim"** means a proof of Claim Filed against the Debtor in the Chapter 11 Case.

76. **"Proof of Interest"** means a proof of Interest Filed against the Debtor in the Chapter 11 Case.

77. **"Reinstatement"** or **"Reinstated"** means, with respect to Claims and Interests, that the Claim or Interest shall be rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code.

78. **"Released Parties"** or **"Released Party"** means, collectively, and in each case, in its capacity as such: (a) the Debtor; (b) the Reorganized Debtor; (c) the DIP Lender; (d) the Exit Facility Lender; and (e) with respect to the each of the foregoing entities in clauses (a) through (d), such Entity and its current and former Affiliates and subsidiaries, and such Entities' and their current and former Affiliates' and subsidiaries' current and former directors, managers, officers, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, and assigns, subsidiaries, and each of their respective current and former equity holders, officers, directors, managers, principals, members, employees, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals.

79. **"Releasing Parties"** or **"Releasing Party"** means, collectively, and in each case, in its capacity as such: (a) the DIP Lender, (b) the Exit Facility Lender, (c) all Holders of Claims, (d) all Holders of Interests, (e) the Debtor and the Reorganized Debtor, (f) with respect to each of

the foregoing Entities in clauses (a) through (e), such Entity and its current and former Affiliates and subsidiaries, and such Entities' and their current and former Affiliates' and subsidiaries' current and former directors, managers, officers, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, and assigns, subsidiaries, and each of their respective current and former equity holders, officers, directors, managers, principals, members, employees, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, each in their capacity as such collectively; provided, however, that any Holder of a Claim that (1) is deemed to reject the Plan, (2) that is entitled to vote on the Plan but (X) does not return a ballot by the Voting Deadline or (Y) affirmatively opts out of the release under Article IX.C of the Plan by returning a properly completed ballot by the Voting Deadline and indicating on the Ballot that the Person or Entity opts out of the release under Article IX.C of the Plan, or (3) Files an objection to the releases contained in the Plan shall not be a "Releasing Party" (and, for the avoidance of doubt, the Entities and Persons listed in clause (f) for such Holder, shall not be deemed "Releasing Parties").

80. **"Reorganized Debtor"** means the Debtor, as reorganized pursuant to and under the Plan, or any successor or assign thereto by merger, consolidation, or otherwise, on or after the Effective Date.

81. **"Retained Professional"** means (a) an Entity employed in the Chapter 11 Case pursuant to a Final Order in accordance with sections 327 and/or 328 of the Bankruptcy Code and to be compensated for services rendered prior to the Effective Date, pursuant to sections 327, 328, 329, 330, or 331 of the Bankruptcy Code; and (b) Mackinac Partners, LLC. For the avoidance of doubt, Retained Professional does not include Ordinary Course Professionals.

82. **"RKJ"** means Ryohin Keikoku Co., Ltd., a Japanese corporation.

83. **"RKJ Unsecured Claims"** means a Claim that is not a Secured Claim held by RKJ, including any subrogation, contribution and/or reimbursement Claim that RKJ may have on account of satisfying a third party Claim.

84. **"Schedule of Assumed Executory Contracts and Unexpired Leases"** means the schedule of Executory Contracts and Unexpired Leases to be assumed by the Debtor pursuant to the Plan, as the same may be amended, modified or supplemented from time to time, which schedule shall set forth the Debtor's proposed Cure amount for each such Executory Contract and Unexpired Lease to be assumed in connection with Confirmation of the Plan.

85. **"Schedules"** means, collectively, the schedules of assets and liabilities, schedule of Executory Contracts and Unexpired Leases and statement of financial affairs Filed by the Debtor pursuant to section 521 of the Bankruptcy Code, the Bankruptcy Rules and the official bankruptcy forms, as the same may be amended, modified or supplemented from time to time.

86. **"Secured Claim"** means a Claim: (a) secured by a Lien on collateral, which Lien is valid, perfected and enforceable, to the extent of the value of such collateral, as determined in accordance with section 506(a) of the Bankruptcy Code or (b) subject to a valid right of setoff pursuant to section 553 of the Bankruptcy Code.

87. “**Securities**” means any instruments that qualify under Section 2(a)(1) of the Securities Act.

88. “**Securities Act**” means the Securities Act of 1933, as now in effect or hereafter amended, or any regulations promulgated thereunder.

89. “**Solicitation Procedures Order**” means an Order entered by the Bankruptcy Court [Docket No. 230] approving the Disclosure Statement and the solicitation of votes on the Plan.

90. “**Statutory Fees**” means any fees and charges assessed against the Estate under chapter 123 of title 28 of the United States Code, 28 U.S.C. §§ 1911-1930.

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

92. “**Unimpaired**” means, with respect to a Claim, Interest, or Class of Claims or Interests, not “impaired” within the meaning of sections 1123(a)(4) and 1124 of the Bankruptcy Code.

93. “**United States Trustee**” means the United States Trustee for the District of Delaware.

94. “**Voting Deadline**” means the “Voting Deadline,” as such term is defined in the Solicitation Procedures Order.

B. *Rules of Interpretation*

For purposes of this Plan: (a) 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; (b) unless otherwise specified, 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; (c) unless otherwise specified, 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; (d) any reference to an Entity as a Holder of a Claim or Interest includes that Entity’s successors and assigns; (e) unless otherwise specified, all references herein to “Articles” are references to Articles hereof or hereto; (f) unless otherwise specified, all references herein to exhibits are references to exhibits in the Plan Supplement; (g) 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; (h) subject to the provisions of any contract, certificate of incorporation, by-law, 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 federal law, including the Bankruptcy Code and Bankruptcy Rules; (i) 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; (j) unless otherwise specified

herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (k) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; (l) all references to docket numbers of documents Filed in the Chapter 11 Case are references to the docket numbers under the Bankruptcy Court's CM/ECF system; (m) 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 Case, unless otherwise stated; and (n) any immaterial effectuating provisions may be interpreted by the Reorganized Debtor in such a manner that is consistent with the overall purpose and intent of the Plan all without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

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 York, 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), and corporate governance matters; provided, however, that corporate governance matters relating to the Debtor or the Reorganized Debtor (as applicable) shall be governed by the laws of the state of incorporation of the Debtor or the Reorganized Debtor (as applicable).

D. *Reference to Monetary Figures*

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

E. *Reference to Debtor or the Reorganized Debtor*

Except as otherwise specifically provided in the Plan to the contrary, references in the Plan to the Debtor or to the Reorganized Debtor mean the Debtor and the Reorganized Debtor (as applicable) to the extent the context requires.

F. *Computation of Time*

Unless otherwise specifically stated in the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed in the Plan. If the date on which a transaction may occur pursuant to the Plan shall occur on a day that is not a Business Day, then such transaction shall instead occur on the next succeeding Business Day. Any references to the Effective Date shall mean the Effective Date or as soon as reasonably practicable thereafter unless otherwise specified herein.

G. *Controlling Document*

In the event of an inconsistency between the Plan and the Disclosure Statement, the terms of the Plan shall control in all respects. In the event of an inconsistency between the Plan and the

Plan Supplement, the terms of the relevant provision in the Plan shall control (unless stated otherwise in such Plan document or in the Confirmation Order). In the event of an inconsistency between the Plan and the Confirmation Order, the Confirmation Order shall control.

Article II. ADMINISTRATIVE CLAIMS AND PRIORITY CLAIMS

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Professional Fee Claims, DIP Facility 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 of this Plan.

A. *Administrative Claims*

Unless otherwise agreed to by the Holder of an Allowed Administrative Claim and the Debtor or the Reorganized Debtor (as applicable) each Holder of an Allowed Administrative Claim (other than Holders of Professional Fee Claims, DIP Facility Claims, and Claims for fees and expenses pursuant to section 1930 of chapter 123 of title 28 of the United States Code) will receive in full and final satisfaction of its Administrative Claim an amount of Cash equal to the amount of such Allowed Administrative Claim in accordance with the following: (1) if an Administrative Claim is Allowed on or prior to the Effective Date, on the Effective Date or as soon as reasonably practicable thereafter (or, if not then due, when such Allowed Administrative Claim becomes due or as soon as reasonably practicable thereafter); (2) if such Administrative Claim is not Allowed as of the Effective Date, no later than thirty (30) days after the date on which an order allowing such Administrative Claim becomes a Final Order, or as soon as reasonably practicable thereafter; (3) if such Allowed Administrative Claim is based on liabilities incurred by the Debtor in the ordinary course of its business after the Petition Date in accordance with the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claim without any further action by the Holders of such Allowed Administrative Claim; (4) at such time and upon such terms as may be agreed upon by such Holder and the Debtor or the Reorganized Debtor (as applicable); or (5) at such time and upon such terms as set forth in an order of the Bankruptcy Court.

Except for Professional Fee Claims and DIP Facility Claims, and unless previously Filed, requests for allowance and payment of Administrative Claims must be Filed and served on the Reorganized Debtor no later than the Administrative Claim Bar Date pursuant to the procedures specified in the Confirmation Order and the notice of the occurrence of the Effective Date. Objections to such requests must be Filed and served on the requesting party by the later of (1) one hundred eighty (180) days after the Effective Date and (2) one hundred eighty (180) days after the Filing of the applicable request for allowance and payment of the Administrative Claims, if applicable. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts, if any, of Administrative Claims shall be determined by, and satisfied in accordance with, a Final Order.

Holders of Administrative Claims that are required to File and serve a request for allowance and payment of such Administrative Claims that do not File and serve such a request by the Administrative Claim Bar Date shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtor, the Reorganized Debtor or their assets and properties, or the Estate, and such Administrative Claims shall be

deemed discharged as of the Effective Date without the need for any notices, objection, or other action from the Reorganized Debtor or any action or approval by the Bankruptcy Court. For the avoidance of doubt, this Paragraph shall not apply to Administrative Claims that are the subject of Articles II.B, II.C, II.D, and II.F of the Plan.

B. *DIP Facility Claims*

Except to the extent that the Holder of an Allowed DIP Facility Claim agrees to less favorable treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed DIP Facility Claim, the Holder of such Allowed DIP Facility Claim shall receive a principal portion of the Exit Facility equal to the DIP Facility Claim Amount (*less* the amounts paid to the DIP Lender under Article II.C), and all commitments under the DIP Credit Agreement shall immediately terminate. For the avoidance of doubt, the DIP Facility Claims shall be Allowed in the amount of the DIP Facility Claim Amount. Upon the satisfaction of the DIP Facility Claims in accordance with the terms of this Plan, on the Effective Date all Liens and security interests granted to secure such obligations shall be terminated and of no further force and effect.

C. *Payment of Fees and Expenses Under DIP Orders*

On the Effective Date, the Debtor or Reorganized Debtor (as applicable) shall pay all reasonable and documented out-of-pocket costs, disbursements, and expenses of the DIP Lender that have accrued and remain unpaid as of the Effective Date and are required to be paid under or pursuant to the applicable DIP Orders. All payments of fees, expenses, or disbursements pursuant to this Article II.C shall be subject in all respects to the terms of the DIP Orders. The Debtor's obligation to reimburse the DIP Lender under, as applicable, the DIP Credit Agreement or the DIP Orders, for all fees, expenses, and disbursements, to the extent not indefeasibly paid in full in Cash on the Effective Date or otherwise satisfied by the Debtor in a manner acceptable to the DIP Lender shall survive the Effective Date and shall not be released or discharged pursuant to the Plan or Confirmation Order, notwithstanding any provision hereof or thereof to the contrary.

D. *Professional Fee Claims*

1. Final Fee Applications and Payment of Professional Fee Claims

All requests for payment of Professional Fee Claims for services rendered and reimbursement of expenses incurred prior to the Confirmation Date must be Filed no later than thirty (30) days after the Effective Date. Objections to Professional Fee Claims shall be due twenty-one (21) days after the Filing of the same. The Bankruptcy Court shall determine the Allowed amounts of such Professional Fee Claims after notice and a hearing in accordance with the procedures established by the Bankruptcy Court. The Reorganized Debtor shall pay Professional Fee Claims in Cash that are Allowed by Final Order, including from the Professional Fee Escrow Account.

2. Professional Fee Escrow Account

On the Effective Date, the Reorganized Debtor shall, if and to the extent necessary, fund the Professional Fee Escrow Account with Cash equal to the Professional Fee Amount. For the

avoidance of doubt, to the extent existing funds in the Professional Fee Escrow Account equal or exceed the Professional Fee Amount on the Effective Date, the Reorganized Debtor shall not be required to fund any additional amounts into the Professional Fee Escrow Account. The Professional Fee Escrow Account is and shall continue to be maintained in trust solely for the Retained Professionals. Such funds shall not be considered property of the Debtor, its Estate or the Reorganized Debtor. The amount of Professional Fee Claims owing to the Retained Professionals shall be paid in Cash to such Retained Professionals by the Reorganized Debtor from the Professional Fee Escrow Account as soon as reasonably practicable after such Professional Fee Claims are Allowed by order of the Bankruptcy Court. When all such Allowed amounts owing to Retained Professionals have been paid in full, any remaining amount in the Professional Fee Escrow Account shall promptly be paid to the Reorganized Debtor without any further notice, action or order of the Bankruptcy Court.

3. Professional Fee Amount

Retained Professionals shall reasonably estimate their unpaid Professional Fee Claims and other unpaid fees and expenses incurred in rendering services to the Debtor before and as of the Confirmation Date, and shall deliver such estimate to the Debtor no later than five (5) days before the Confirmation Date; provided, however, that such estimate shall not be deemed to limit the amount of the fees and expenses that are the subject of the Retained Professional's final request for payment of Filed Professional Fee Claims. If a Retained Professional does not provide an estimate, the Debtor may estimate the unpaid and unbilled fees and expenses of such Retained Professional for purposes of funding the Professional Fee Escrow Account.

4. Post-Confirmation Fees and Expenses

Except as otherwise specifically provided in the Plan, from and after the Confirmation Date, the Debtor or the Reorganized Debtor, as the case may be, shall, in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, pay in Cash the reasonable and documented legal, professional, or other fees and expenses. Upon the Confirmation Date, any requirement that Retained 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 the Debtor may employ and pay any Retained Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Code.

E. *Priority Tax Claims*

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of and in exchange for each Allowed Priority Tax Claim, each Holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code.

F. *Statutory Fees*

All fees due and payable pursuant to 28 U.S.C. § 1930(a) before the Effective Date shall be paid by the Debtor. On and after the Effective Date and through the closing or dismissal of the

Chapter 11 Case, the Reorganized Debtor shall pay any and all such fees when due and payable, and shall File with the Bankruptcy Court quarterly reports in a form reasonably acceptable to the United States Trustee. For the avoidance of doubt, no Governmental Unit is required to File a Proof of Claim (including a request for an Administrative Claim) for Statutory Fees or for any Administrative Claim subject to section 503(b)(1)(D) of the Bankruptcy Code.

Article III.

CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

A. *Classification of Claims*

Except for the Claims addressed in Article II of the Plan, all Claims and Interests are classified in the Classes set forth below in accordance with sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or an 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 an Interest also is classified in a particular Class for the purpose of receiving distributions under 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 prior to the Effective Date.

The classification of Claims against and Interests in the Debtor pursuant to the Plan is as follows:

Class	Claim or Interest	Status	Voting Rights
1	Other Secured Claims	Unimpaired	Not Entitled to Vote (Deemed to Accept)
2	Other Priority Claims	Unimpaired	Not Entitled to Vote (Deemed to Accept)
3	General Unsecured Claims	Impaired	Entitled to Vote
4	RKJ Unsecured Claims	Impaired	Entitled to Vote
5	Interests in the Debtor	Unimpaired	Not Entitled to Vote (Deemed to Accept)

B. *Treatment of Claims and Interests*

1. *Class 1 — Other Secured Claims*

- a. *Classification:* Class 1 consists of all Other Secured Claims.
- b. *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, release, and discharge of each Other Secured Claim, each Holder of an Allowed Other Secured Claim shall receive the following, at the option of the Debtor or Reorganized Debtor (as applicable):
 - (i) payment in full in Cash on or as soon as is reasonably practicable after the later of (A) the Effective Date and (B) the date on which such Other Secured Claim is Allowed by a Final Order of the Bankruptcy Court;
 - (ii) the collateral securing such Holder's Allowed Other Secured Claim;
 - (iii) Reinstatement of such Allowed Other Secured Claim; or
 - (iv) such other treatment rendering such Allowed Other Secured Claim Unimpaired.
- c. *Voting:* Class 1 is Unimpaired, and Holders of Class 1 Other Secured Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Class 1 Other Secured Claims are not entitled to vote to accept or reject the Plan.

2. *Class 2 — Other Priority Claims*

- a. *Classification:* Class 2 consists of all Other Priority Claims.
- b. *Treatment:* Except to the extent that a Holder of an Allowed Other Priority Claim agrees to less favorable treatment, in exchange for full and final satisfaction, settlement, release, and discharge of each Other Priority Claim, each Holder of such Allowed Other Priority Claim shall receive the following at the option of the Debtor or Reorganized Debtor (as applicable):
 - (i) payment in full in Cash on or as soon as is reasonably practicable after the later of (A) the Effective Date and (B) the date on which such Other Priority Claim is Allowed by a Final Order of the Bankruptcy Court; or
 - (ii) such other treatment rendering such Allowed Other Priority Claim Unimpaired.

- c. *Voting:* Class 2 is Unimpaired, and Holders of Class 2 Other Priority Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Class 2 Other Priority Claims are not entitled to vote to accept or reject the Plan.

3. *Class 3 — General Unsecured Claims*

- a. *Classification:* Class 3 consists of all General Unsecured Claims.
- b. *Treatment:* Except to the extent that a Holder of an Allowed Class 3 General Unsecured Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release, and discharge of each Class 3 General Unsecured Claim, each Holder of an Allowed Class 3 General Unsecured Claim shall receive its *pro rata* share (calculated based on the proportion that such Holder's Allowed Class 3 General Unsecured Claim bears to the aggregate amount of Allowed Class 3 General Unsecured Claims) of the GUC Cash Distribution Pool; provided, further, if Class 3 votes to accept the Plan, each Holder of an Allowed Class 3 General Unsecured Claim shall also receive a release from the Debtor and its Estate of any Avoidance Actions against such Holder of the Allowed Class 3 Claim, which release shall be effective as of the Effective Date.
- c. *Voting:* Class 3 is Impaired, and Holders of General Unsecured Claims are entitled to vote to accept or reject the Plan.

4. *Class 4 — RKJ Unsecured Claims*

- a. *Classification:* Class 4 consists of all RKJ Unsecured Claims.
- b. *Treatment:* On the Effective Date, the RKJ Unsecured Claims shall be deemed contributed as capital in the Reorganized Debtor. For the avoidance of doubt, the Holder of the RKJ Unsecured Claims shall be not receive any distribution on account of its RKJ Unsecured Claims from the GUC Cash Distribution Pool.
- c. *Voting:* Class 4 is Impaired, and the Holder of RKJ Unsecured Claims is entitled to vote to accept or reject the Plan.

5. *Class 5 — Interests in the Debtor*

- a. *Classification:* Class 5 consists of all Interests in the Debtor, all of which are held solely by RKJ.
- b. *Treatment:* In consideration of, among other things, the Plan Settlement, the legal, equitable and contractual rights to which such Holder is entitled on account of such Interest shall be unaltered.

- c. *Voting:* Class 5 is Unimpaired, and the Holder of Class 5 Interests is conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holder of Class 5 Interests is not entitled to vote to accept or reject the Plan.

C. *Special Provision Governing Unimpaired Claims*

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

D. *Voting Classes; Presumed Acceptance by Non-Voting Classes*

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

E. *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.

F. *Subordinated Claims*

The allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan shall 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, contract, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtor or the Reorganized Debtor (as applicable) reserve the right to re-classify any Allowed Claim or Allowed Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

G. *Elimination of Vacant Classes*

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

Article IV.
MEANS FOR IMPLEMENTATION OF THE PLAN

A. *General Settlement of Claims and Interests*

As discussed further in the Disclosure Statement and as otherwise provided herein, pursuant to section 1123 of the Bankruptcy Code, and in consideration for the classification, distributions, releases, and other benefits provided under the Plan (including, without limitation, (1) the DIP Lender's agreement to roll the DIP Facility Claims into a portion of the Exit Facility, (2) RKJ's agreement to (A) forego distributions from the GUC Cash Distribution Pool on account of the RKJ Unsecured Claims, and (B) fund the GUC Cash Distribution Pool (via proceeds from the Exit Facility) for the benefit of, and *pro rata* distribution to, Holders of Allowed Class 3 General Unsecured Claims as provided herein, and (3) the Exit Facility to, among other things, fund distributions under the Plan and provide the Reorganized Debtor with additional liquidity that may be drawn on from time to time, as necessary, by the Reorganized Debtor to, among other things, fund business operations in the future and provide the Reorganized Debtor with a flexible and sustainable capital structure), upon the Effective Date, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims, Interests, and controversies resolved pursuant to the Plan (collectively, the "Plan Settlement"). All distributions made to Holders of Allowed Claims and Allowed Interests (as applicable) in any Class are intended to be and shall be final.

B. *Restructuring Transactions*

On the Effective Date, the Debtor, the Reorganized Debtor, or any other Entity may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including: (a) the execution and delivery of appropriate agreements or other documents containing terms that are consistent with the terms of the Plan and that satisfy the requirements of applicable law; (b) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any property, right, liability, duty, or obligation on terms consistent with the terms of the Plan; (c) the filing of appropriate certificate of incorporation with the appropriate governmental authorities pursuant to applicable law; and (d) all other actions that the Debtor or the Reorganized Debtor (as applicable) determine are necessary or appropriate.

The Confirmation Order shall and shall be deemed to, pursuant to both section 1123 and section 363 of the Bankruptcy Code, authorize, among other things, all actions as may be necessary or appropriate to effectuate any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan.

C. *Sources of Consideration for Plan Distributions*

The Reorganized Debtor shall fund distributions under the Plan with: (1) cash on hand and (2) proceeds from the Exit Facility.

1. Exit Facility

On the Effective Date, the Reorganized Debtor shall enter into the Exit Facility, the terms and conditions of which will be set forth in the Exit Facility Documents.

To the extent applicable, Confirmation of the Plan shall be deemed (a) approval of the Exit Facility (including the transactions contemplated thereby, and all actions to be taken, undertakings to be made, and obligations to be incurred and fees paid by the Debtor or the Reorganized Debtor (as applicable) in connection therewith), to the extent not approved by the Bankruptcy Court previously, and (b) authorization for the Debtor or the Reorganized Debtor (as applicable) to, without further notice to or order of the Bankruptcy Court, (i) execute and deliver those documents necessary or appropriate to obtain the Exit Facility, including the Exit Facility Documents and (ii) act or take action under applicable law, regulation, order, or rule or vote, consent, authorization, or approval of any Person, subject to such modifications as (A) the Debtor, with the consent of the Exit Facility Lender or (B) Reorganized Debtor (the foregoing (A) or (B) as applicable), may deem to be necessary to consummate the Exit Facility.

The financial accommodations to be extended pursuant to the Exit Facility Documents are being extended and shall be deemed to have been extended in good faith and for legitimate business purposes and are reasonable and shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any other applicable non-bankruptcy law.

2. GUC Cash Distribution Pool

On the Effective Date, the Debtor or the Reorganized Debtor (as applicable) shall have fully funded the GUC Cash Distribution Pool. The GUC Cash Distribution Pool shall be held by the Reorganized Debtor for the benefit of Holders of Allowed Class 3 General Unsecured Claims and, subject to Article VI.D.4 and Article VI.K of the Plan, shall be used solely to fund *pro rata* distributions to such Holders on account of their Allowed Class 3 General Unsecured Claims in accordance with the terms of this Plan.

3. Contribution of RKJ Unsecured Claims

On the Effective Date, RKJ Unsecured Claims shall be deemed contributed as capital to the Reorganized Debtor without further action by the Debtor or any party.

D. *Corporate Existence*

Except as otherwise provided in the Plan, the Debtor shall continue to exist as of the Effective Date as a separate corporate Entity with all the powers of a corporation pursuant to the applicable law in the jurisdiction in which the Debtor is incorporated or formed and pursuant to the certificate of incorporation and bylaws (or other formation documents) in effect prior to the Effective Date, except to the extent such certificate of incorporation and bylaws (or other formation documents) are amended by the Plan or otherwise, and to the extent such documents are amended, such documents are deemed to be pursuant to the Plan and require no further action or approval.

E. *Vesting of Assets in the Reorganized Debtor*

Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated herein, on the Effective Date, all property of the Estate (including, without limitation, all Causes of Action, and any property acquired by the Debtor pursuant to the Plan) shall vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges, or other encumbrances. On and after the Effective Date, except as otherwise provided in the Plan, the Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any Claims or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

F. *Cancellation of Existing Agreements*

On the Effective Date, except to the extent otherwise provided in the Plan, all notes, instruments, certificates, and other documents evidencing Claims, including credit agreements, shall be cancelled and the obligations of the Debtor shall be deemed satisfied in full, cancelled, discharged, and of no force or effect. Holders of or parties to such cancelled instruments, agreements, and other documentation will have no rights arising from or relating to such instruments, agreements, and other documentation, or the cancellation thereof, except the rights provided for pursuant to this Plan.

G. *Exemption from Registration Requirements*

The offering, issuance and distribution of any securities pursuant to the Plan and any and all settlement agreements incorporated therein are exempt from applicable federal and state securities laws (including blue sky laws), registration and other requirements, including but not limited to, the registration and prospectus delivery requirements of Section 5 of the Securities Act, pursuant to section 1145 of the Bankruptcy Code or, if section 1145 of the Bankruptcy Code is not available, pursuant to Section 4(a)(2) of the Securities Act or another available exemption from registration under the Securities Act, as applicable.

H. *Organizational Documents*

Pursuant to section 1123(a)(6) of the Bankruptcy Code, the Reorganized Debtor's organizational documents will prohibit the issuance of non-voting equity securities. After the Effective Date, the Reorganized Debtor may amend and restate its organizational documents, and the Reorganized Debtor may file its certificates or articles of incorporation, bylaws, or such other applicable formation documents, and other constituent documents as permitted by the laws of the state of incorporation and the organizational documents of the Reorganized Debtor.

I. *Exemption from Certain Transfer Taxes and Recording Fees*

To the fullest extent permitted by section 1146(a) of the Bankruptcy Code, any transfer from the Debtor to the Reorganized Debtor or to any Entity pursuant to, in contemplation of, or in connection with the Plan or pursuant to: (1) the issuance, distribution, transfer, or exchange of any debt, securities, or other interest in the Debtor or the Reorganized Debtor; (2) the creation, modification, consolidation, or recording of any mortgage, deed of trust or other security interest, or the securing of additional indebtedness by such or other means; (3) the making, assignment, or

recording of any lease or sublease; or (4) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles, or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment, and the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

J. *Directors and Officers of the Reorganized Debtor*

1. The New Board

The New Board will initially consist of [●] members. The identity of the New Board members will be disclosed in the Plan Supplement or, to the extent not known, at or prior to the Confirmation Hearing.

2. Officers of the Reorganized Debtor

The initial officers of the Reorganized Debtor shall be selected as set forth in the Plan Supplement. After the Effective Date, the Reorganized Debtor may remove or appoint officers in accordance with the Reorganized Debtor's organizational documents and applicable non-bankruptcy law.

K. *Directors and Officers Insurance Policies*

Notwithstanding anything in the Plan to the contrary, each of the D&O Liability Insurance Policies in existence as of the Effective Date (including any "tail policy" in favor of the D&O Indemnified Persons) shall be reinstated and, to the extent applicable, the Reorganized Debtor shall be deemed to have assumed all of the Debtor's D&O Liability Insurance Policies pursuant to section 365(a) of the Bankruptcy Code effective as of the Effective Date. Entry of the Confirmation Order will constitute the Bankruptcy Court's approval of the Reorganized Debtor's foregoing assumption of the unexpired D&O Liability Insurance Policies. Notwithstanding anything to the contrary contained in the Plan, Confirmation of the Plan shall not discharge, impair, or otherwise modify any indemnity obligations assumed by the foregoing assumption of the D&O Liability Insurance Policies, and each such indemnity obligation will be deemed and treated as an Executory Contract that has been assumed by the Debtor under the Plan as to which no Proof of Claim need be Filed.

In addition, after the Effective Date, the Reorganized Debtor shall not terminate or otherwise reduce the coverage under any D&O Liability Insurance Policies (including any "tail policy") in effect on the Petition Date, with respect to conduct occurring prior thereto, and all directors and officers of the Debtor who served in such capacity on or at any time prior to the Effective Date shall be entitled to the full benefits of any such policy for the full term of such policy regardless of whether such directors and officers remain in such positions after the Effective Date.

L. *Other Insurance Policies*

On the Effective Date, each of the Debtor's insurance policies in existence as of the Effective Date shall be reinstated and continued in accordance with their terms and, to the extent applicable, shall be deemed assumed by the Reorganized Debtor pursuant to section 365 of the Bankruptcy Code and Article V of this Plan. Nothing in the Plan shall affect, impair, or prejudice the rights of the insurance carriers, the insureds, or the Reorganized Debtor under the insurance policies in any manner, and such insurance carriers, the insureds, and Reorganized Debtor shall retain all rights and defenses under such insurance policies. The insurance policies shall apply to and be enforceable by and against the insureds and the Reorganized Debtor in the same manner and according to the same terms and practices applicable to the Debtor as existed prior to the Effective Date.

M. *Preservation of Causes of Action*

In accordance with section 1123(b) of the Bankruptcy Code but subject to the releases set forth in Article IX of this Plan, all Causes of Action that the Debtor and its Estate may hold against any Entity or Person shall vest in the Reorganized Debtor on the Effective Date. Thereafter, the Reorganized Debtor shall have the exclusive right, authority, and discretion to determine, initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action, whether arising before or after the Petition Date, and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court. **Subject to the releases set forth in Article IX of this Plan, no Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any specific Cause of Action as any indication that the Debtor or Reorganized Debtor (as applicable) will not pursue any and all available Causes of Action. The Debtor or Reorganized Debtor (as applicable) expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan, 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 any Cause of Action upon, after, or as a consequence of the Confirmation or the occurrence of the Effective Date.**

N. *Corporate Action*

Upon the Effective Date, all actions contemplated by the Plan shall be deemed authorized, approved, and, to the extent taken prior to the Effective Date, ratified without any requirement for further action by Holders of Claims or Interests, directors, managers, or officers of the Debtor, the Reorganized Debtor, or any other Entity, including: (1) assumption of Executory Contracts and Unexpired Leases; (2) selection of the directors and officers for the Reorganized Debtor; (3) the execution of and entry into the Exit Facility Documents; and (4) all other acts or actions contemplated or reasonably necessary or appropriate to promptly consummate the transactions contemplated by the Plan (whether to occur before, on, or after the Effective Date). All matters provided for in the Plan involving the company structure of the Debtor and any company action required by the Debtor in connection therewith shall be deemed to have occurred on and shall be in effect as of the Effective Date without any requirement of further action by the security holders, directors, authorized persons, or officers of the Debtor.

On or prior to the Effective Date, the appropriate officers, directors, or authorized persons of the Debtor (including any president, vice-president, chief executive officer, treasurer, general counsel, or chief financial officer thereof) shall be authorized and directed to issue, execute, and deliver the agreements, documents, securities, certificates of incorporation, certificates of formation, bylaws, operating agreements, and instruments contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Debtor or the Reorganized Debtor (as applicable), including (1) the Exit Facility Documents and (2) any and all other agreements, documents, securities, and instruments relating to the foregoing. The authorizations and approvals contemplated by the Plan shall be effective notwithstanding any requirements under non-bankruptcy law.

O. *Effectuating Documents; Further Transactions*

Prior to, on, and after the Effective Date, the Debtor and Reorganized Debtor, as the case may be, and the directors, officers, and authorized persons are authorized to and may issue, execute, deliver, file, or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and provisions of the Plan and the Exit Facility Documents, without the need for any approvals, authorizations, actions, or consents except for those expressly required pursuant to the Plan.

Article V.

TREATMENT OF EXECUTORY CONTRACTS

AND UNEXPIRED LEASES; EMPLOYEE BENEFITS; AND INSURANCE POLICIES

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

On the Effective Date, except as otherwise provided herein, all Executory Contracts or Unexpired Leases not previously assumed or rejected pursuant to an order of the Bankruptcy Court, will be **deemed rejected**, in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code other than those Executory Contracts or Unexpired Leases that: (1) previously were assumed or rejected by the Debtor; (2) are identified on the Schedule of Assumed Executory Contracts and Unexpired Leases; or (3) are the subject of a motion to assume Executory Contracts or Unexpired Leases that is pending on the Confirmation Date.

Entry of the Confirmation Order by the Bankruptcy Court shall constitute a Bankruptcy Order, pursuant to sections 365(a) and 1123 of the Bankruptcy Code, approving the assumptions or rejections of the Executory Contracts and Unexpired Leases as provided herein. No default or event of default under an assumed Executory Contract or Unexpired Lease shall be deemed to have caused or cause the loss of any options or right of the Reorganized Debtor under the assumed Executory Contract or Unexpired Lease the exercise by the Reorganized Debtor of which may be contingent upon no prior defaults by the Debtor, such as, rights to renew or extend the term of an Unexpired Lease, rights to expand or reduce the premises covered by an Unexpired Lease, rights of termination, rights for tenant improvement allowance for the premises, rights of first offer or rights of refusal or any similar right.

Each Executory Contract and Unexpired Lease assumed pursuant to this Article V.A or by any order of the Bankruptcy Court, which has not been assigned to a third party prior to the Confirmation Date, shall revert in and be fully enforceable by the Reorganized Debtor in accordance with its terms, except as such terms are modified by the provisions of the Plan or any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal law.

Notwithstanding anything to the contrary in the Plan, the Debtor or the Reorganized Debtor (as applicable) reserve the right to: (1) remove any Executory Contract or Unexpired Lease from the Schedule of Assumed Executory Contracts and Unexpired Leases at any time through the Effective Date of the Plan, and (2) remove any Executory Contract or Unexpired Lease from the Schedule of Assumed Executory Contracts and Unexpired Leases at any time, including after the Effective Date of the Plan, if the Debtor or the Reorganized Debtor (as applicable) loses an objection to the Cure amount, in each such case, such Executory Contract or Unexpired Lease shall be deemed rejected as of the Effective Date without any notice to, action, approval or order of the Bankruptcy Court.

To the maximum extent permitted by law, to the extent that any provision in any Executory Contract or Unexpired Lease assumed or assumed and assigned pursuant to the Plan restricts or prevents, purports to restrict or prevent, or is breached or deemed breached by the assumption or assumption and assignment of such Executory Contract or Unexpired Lease (including any “change of control” provision), such provision shall be deemed modified such that the transactions contemplated by the Plan shall not entitle the non-Debtor party thereto to terminate such Executory Contract or Unexpired Lease or to exercise any other default-related rights with respect thereto.

Notwithstanding anything to the contrary in the Plan, the Debtor and the Reorganized Debtor reserve the right to assert that any license, franchise and partially performed contract is a property right and not an Executory Contract.

B. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases

Any monetary defaults under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure amount in Cash on the Effective Date, subject to the limitation described below, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute regarding (1) the amount of any payments to Cure such a default, (2) the ability of the Reorganized Debtor or any assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or (3) any other matter pertaining to assumption, the Cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order or orders resolving the dispute and approving the assumption.

By no later than seven (7) days before the Voting Deadline, the Debtor will provide notices to contract counterparties of all Executory Contracts and Unexpired Leases that the Debtor may seek to assume in connection with Confirmation of the Plan, including the proposed Cure amount for each such Executory Contract and Unexpired Lease, as well as the procedures for objecting to

assumption of such Executory Contracts and Unexpired Leases and/or the proposed Cure amount associated therewith and resolution of any such objections by the Bankruptcy Court. Any objection by a counterparty to an Executory Contract or Unexpired Lease must be Filed, served, and actually received by the Debtor by the Plan Objection Deadline. Any counterparty to an Executory Contract or Unexpired Lease that fails to timely object to the proposed assumption and/or Cure amount will be deemed to have assented to such assumption and the Cure amount associated therewith shall be the amount, if any, proposed by the Debtor without any further notice to or action, order, or approval of the Bankruptcy Court.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the effective date of assumption. **Any Proofs of Claim Filed with respect to an Executory Contract or Unexpired Lease that has been assumed shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court.**

C. Claims Based on Rejection of Executory Contracts or Unexpired Leases; Rejection Damages Bar Date.

If the rejection of an Executory Contract or Unexpired Lease pursuant to the Plan and Confirmation Order results in a Claim, **then, unless otherwise ordered by the Court, such Claim shall be forever barred and shall not be enforceable against the Debtor, its Estate, the Reorganized Debtor or any of their respective assets and properties** unless a Proof of Claim is Filed with the Notice and Claims Agent and served upon counsel to the Debtor or the Reorganized Debtor (as applicable) and counsel to the DIP Lender within thirty (30) days of the Effective Date. The foregoing applies only to Claims arising from the rejection of an Executory Contract or Unexpired Lease under the Plan (including, in the case of Unexpired Leases, prepetition amounts owing under the Unexpired Leases); any other Claims held by a party to a rejected contract or lease shall have been evidenced by a Proof of Claim Filed by the applicable Bar Date or shall be barred and unenforceable.

Any Claims arising from the rejection of an Executory Contract or Unexpired Lease pursuant to the Plan that are not timely Filed within such time will be automatically disallowed, forever barred from assertion, and shall not be enforceable against, as applicable, the Debtor, its Estate, the Reorganized Debtor, or assets and properties of the foregoing parties, without the need for any objection by the Debtor or the Reorganized Debtor (as applicable) or further notice to, or action, order, or approval of the Bankruptcy Court or any other Entity, and any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully satisfied, released, and discharged, notwithstanding anything in the Schedules or a Proof of Claim to the contrary.

Claims arising from the rejection of the Debtor's Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims and shall, if Allowed, be treated in accordance with Article III.B.3.

D. *Preexisting Obligations to the Debtor under Executory Contracts and Unexpired Leases*

Rejection of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall not constitute a termination of preexisting obligations owed to the Debtor or the Reorganized Debtor (as applicable) under such Executory Contracts or Unexpired Leases. In particular, notwithstanding any non-bankruptcy law to the contrary, the Reorganized Debtor expressly reserves and does not waive any right to receive, or any continuing obligation of a counterparty to provide, warranties or continued maintenance obligations on goods previously purchased by the Debtor contracting from non-Debtor counterparties to rejected Executory Contracts or Unexpired Leases.

E. *Contracts and Leases Entered into After the Petition Date*

Contracts and leases entered into after the Petition Date by the Debtor, including any Executory Contracts and Unexpired Leases assumed by the Debtor, will be performed by Debtor or Reorganized Debtor (as applicable) in the ordinary course of its business. Accordingly, such contracts and leases (including any assumed Executory Contracts and Unexpired Leases) will survive and remain unaffected by entry of the Confirmation Order.

F. *Indemnification Obligations*

All indemnification provisions, consistent with applicable law, currently in place (whether in the by-laws, certificate of incorporation, other organizational documents, board resolutions, indemnification agreements, employment contracts, or otherwise) for the current and former directors, officers, managers, employees, attorneys, accountants, investment bankers, and other professionals of the Debtor shall be reinstated and remain intact, irrevocable, and shall survive the Effective Date on terms no less favorable to such current and former directors, officers, managers, employees, attorneys, accountants, investment bankers, and other professionals of the Debtor than the indemnification provisions in place prior to the Effective Date.

G. *Employee Benefits*

Unless otherwise provided herein, all employee wages, compensation, and benefit programs in place as of the Effective Date with the Debtor shall be assumed by the Reorganized Debtor and shall remain in place as of the Effective Date, and the Reorganized Debtor will continue to honor such agreements, arrangements, programs, and plans.

H. *Modifications, Amendments, Supplements, Restatements, or Other Agreements*

Unless otherwise provided in the Plan, each Executory Contract or Unexpired Lease that is assumed shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and Executory Contracts and Unexpired Leases related thereto, if any, including easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated.

Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease.

I. Reservation of Rights

Nothing contained in the Plan or the Plan Supplement shall constitute an admission by the Debtor or any other party that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that the Reorganized Debtor has any liability thereunder. If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption, the Debtor or the Reorganized Debtor (as applicable) shall have thirty (30) calendar days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease, including by rejecting such contract or lease effective as of the Confirmation Date.

J. Nonoccurrence of Effective Date

In the event that the Effective Date does not occur, the Bankruptcy Court shall retain jurisdiction with respect to any request to extend the deadline for assuming or rejecting Unexpired Leases pursuant to section 365(d)(4) of the Bankruptcy Code, unless such deadline(s) have expired.

**Article VI.
PROVISIONS GOVERNING DISTRIBUTIONS**

A. Timing and Calculation of Amounts to Be Distributed

Unless otherwise provided in the Plan, on the Effective Date or if a Claim is not an Allowed Claim on the Effective Date, on the date that such Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter—in each case subject to Article VI.F of the Plan with respect to Class 3 General Unsecured Claims—each Holder of an Allowed Claim or Allowed Interest (as applicable) shall receive the full amount of the distributions that the Plan provides for Allowed Claims or Allowed Interests (as applicable) in the applicable Class. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day (but shall be deemed to have been completed as of the required date). If and to the extent that there are Disputed Claims, distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in Article VII hereof. Except as otherwise provided in the Plan, Holders of Claims shall not be entitled to interest, dividends, or accruals on the distributions provided for in the Plan, regardless of whether such distributions are delivered on or at any time after the Effective Date.

B. Disbursing Agent

Except as otherwise provided herein, all distributions under the Plan shall be made by the Disbursing Agent on the Effective Date. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties. Additionally, if the Disbursing Agent is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be borne by the Reorganized Debtor.

C. *Rights and Powers of Disbursing Agent*

1. Powers of the Disbursing Agent

The Disbursing Agent shall be empowered to: (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under the Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities (solely if the Reorganized Debtor is the Disbursing Agent and not another Entity); (d) establish any reserves for Disputed Claims; and (e) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

2. Expenses Incurred On or After the Effective Date

Except as otherwise ordered by the Bankruptcy Court, the Reorganized Debtor is authorized to pay any reasonable fees and expenses incurred by the Disbursing Agent on or after the Effective Date. For the avoidance of doubt, the costs and expenses of the Disbursing Agent shall not be charged against or paid from the GUC Cash Distribution Pool.

D. *Delivery of Distributions and Undeliverable or Unclaimed Distributions*

1. Record Date for Distribution

On the Distribution Record Date, the Claims Register shall be closed and any party responsible for making distributions shall instead be authorized and entitled to recognize only those record Holders listed on the Claims Register as of the close of business on the Distribution Record Date.

2. Delivery of Distributions in General

Except as otherwise provided herein, the Disbursing Agent shall make distributions to Holders of Allowed Claims and Allowed Interests (as applicable) as of the Distribution Record Date at the address for each such Holder as indicated on the Debtor's records as of the date of any such distribution; provided, however, that the manner of such distributions shall be determined at the discretion of the Reorganized Debtor; provided further, however, that the address for each Holder of an Allowed Claim shall be deemed to be the address set forth in any Proof of Claim Filed by that Holder.

3. Minimum Distributions

No Cash payment of less than fifty dollars (\$50.00) shall be made to a Holder of an Allowed Claim on account of such Allowed Claim.

4. Undeliverable Distributions and Unclaimed Property.

In the event that any distribution to any Holder of Allowed Claims is returned as undeliverable (or because the Holder failed to submit tax information required for tax withholdings or tax reporting purposes within forty-five (45) days after the Disbursing Agent solicits the Holder

for required tax information), no distribution to such Holder shall be made unless and until the Disbursing Agent has determined the then-current address of such Holder (or when the Holder submits the required tax information); provided, further, that such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code the later of (a) one year from the Effective Date or (b) six months from the date of the initial attempted distribution or request for tax information. After such date, all unclaimed property or interests in property shall revert to the Reorganized Debtor automatically free and clear of all claims and interests, and without need for further order by the Bankruptcy Court (notwithstanding any applicable federal, provincial or state escheat, abandoned, or unclaimed property laws to the contrary), and the Claim of any Holder of Claims to such property or interest in property shall be discharged and forever barred.

E. *Manner of Payment*

1. All distributions of Cash to the Holders of Allowed Claims under the Plan shall be made by the Disbursing Agent on behalf of the Debtor or the Reorganized Debtor (as applicable).

2. At the option of the Disbursing Agent, any Cash payment to be made hereunder may be made by check or wire transfer or as otherwise required or provided in applicable agreements.

F. *Distributions to Holders of Allowed Class 3 General Unsecured Claims*

Upon the completion of the Claims reconciliation process in accordance with the procedures set forth in Article VII of the Plan, the Disbursing Agent shall distribute the GUC Cash Distribution Pool to Holders of Allowed Class 3 General Unsecured Claims. If all Allowed General Unsecured Claims are paid in full, any amounts remaining in the GUC Cash Distribution Pool shall revert to the Reorganized Debtor.

G. *Compliance with Tax Requirements*

In connection with the Plan, to the extent applicable, the Reorganized Debtor shall comply with all tax withholding and reporting requirements imposed on it by any Governmental Unit, and all distributions made pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Reorganized Debtor and the Disbursing Agent shall be authorized to take all actions necessary 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, or establishing any other mechanisms they believe are reasonable and appropriate. The Reorganized Debtor reserves the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

H. *Allocations*

Distributions in respect of Allowed Claims shall be allocated first to the principal amount of such Claims (as determined for federal income tax purposes) and then, to the extent the

consideration exceeds the principal amount of the Claims, to any portion of such Claims for accrued but unpaid interest.

I. *No Postpetition or Default Interest on Claims*

Unless otherwise specifically provided for in the Plan, postpetition and/or default interest shall not accrue or be paid on any Claims against the Debtor, and no Holder of a Claim against the Debtor shall be entitled to interest accruing on or after the Petition Date on any such prepetition Claim.

J. *Foreign Currency Exchange Rate*

As of the Effective Date, any Claim asserted in currency other than U.S. dollars shall be automatically deemed converted to the equivalent U.S. dollar value using the exchange rate for the applicable currency as published in The Wall Street Journal, National Edition, on the Petition Date.

K. *Setoffs and Recoupment*

Unless otherwise provided for in the Plan or the Confirmation Order, the Debtor and Reorganized Debtor, as applicable, may without further court order, but shall not be required to, setoff against or recoup any payments or distributions to be made pursuant to the Plan in respect of any claims of any nature whatsoever that the Debtor or the Reorganized Debtor may have against the claimant, but neither failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor or the Reorganized Debtor of any such claim it may have against the Holder of the Claim.

L. *Claims Paid or Payable by Third Parties*

1. Claims Paid by Third Parties

If a Holder of a Claim receives a payment from a party other than the Debtor or the Reorganized Debtor (as applicable) on account of such Claim, such Claim shall be reduced by the amount of such payment without a Claim objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court, and if the Claim was paid in full by a party other than the Debtor or the Reorganized Debtor (as applicable), then such Claim shall be disallowed without a Claim objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court. To the extent a Holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not a Debtor or a Reorganized Debtor on account of such Claim, such Holder shall, within fourteen (14) days of receipt thereof, repay or return the distribution to the Reorganized Debtor, to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan.

2. Claims Payable by Third Parties

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtor's 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 Debtor's insurers agrees to satisfy in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, the applicable portion of such Claim may be expunged without a Claim objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

3. Applicability of Insurance Policies

Except as otherwise provided in the Plan, distributions to Holders of Allowed Claims shall be in accordance with the provisions of any applicable insurance policy. Nothing contained in the Plan shall constitute or be deemed a waiver of any Cause of Action that the Debtor or any Entity may hold against any other Entity, including insurers under any policies of insurance, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

Article VII. PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED AND DISPUTED CLAIMS

A. *Allowance of Claims*

After the Effective Date, the Reorganized Debtor shall have and retain any and all rights and defenses the Debtor had with respect to any Claim or Interest immediately prior to the Effective Date.

B. *Claims Administration Responsibilities*

Except as otherwise specifically provided in the Plan, after the Effective Date, the Reorganized Debtor shall have the sole authority to: (1) File, withdraw, or litigate to judgment, objections to Claims or Interests; (2) settle or compromise any Disputed Claim without any further notice to or action, order, or approval by the Bankruptcy Court; and (3) administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court.

C. *Estimation of Claims*

Before or after the Effective Date, the Debtor or the Reorganized Debtor (as applicable) may (but are not required to) at any time request that the Bankruptcy Court estimate any Disputed Claim that is contingent or unliquidated pursuant to section 502(c) of the Bankruptcy Code for any reason, regardless of whether any party previously has objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any such Claim, including during the litigation of any objection to any Claim or during the appeal relating to such objection. Notwithstanding any provision otherwise in the Plan, a Claim that has been expunged from the Claims Register, but that either is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars (\$0.00) unless otherwise ordered by the Bankruptcy Court. 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 the Plan (including for purposes of distributions),

and the Reorganized Debtor may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim.

D. *Adjustment to Claims Without Objection*

Any Claim that has been paid or satisfied, or any Claim that has been amended or superseded, may be adjusted or expunged on the Claims Register by the Reorganized Debtor without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

E. *Time to File Objections to Claims*

Except as otherwise provided herein, any objections to Claims shall be Filed on or before the Claims Objection Bar Date (as such date may be extended upon presentment of an Order to the Bankruptcy Court by the Reorganized Debtor).

F. *Disallowance of Claims*

All Claims Filed on account of an indemnification obligation to a director, officer, or employee shall be deemed satisfied and expunged from the Claims Register as of the Effective Date to the extent such indemnification obligation is assumed (or honored or reaffirmed, as the case may be) pursuant to the Plan, without any further notice to or action, order, or approval of the Bankruptcy Court.

Except as provided herein or otherwise agreed to by the Reorganized Debtor, any Holder of any and all Proofs of Claim Filed after the Bar Date shall not receive any distributions on account of such Claims, unless on or before the Confirmation Hearing such late Claim has been deemed timely Filed by a Final Order.

G. *Amendments to Claims*

Except as provided herein, on or after the Effective Date, a Claim may not be Filed or amended without the prior authorization of the Bankruptcy Court or the Reorganized Debtor and any such new or amended Claim Filed shall be deemed disallowed in full and expunged without any further notice to or action, order or approval of the Bankruptcy Court.

H. *No Distributions Pending Allowance*

If an objection to a Claim or portion thereof is Filed, no payment or distribution provided under the Plan shall be made on account of such Claim or portion thereof unless and until such Disputed Claim becomes an Allowed Claim.

I. *Distributions After Allowance*

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, distributions (if any) shall be made to the Holder of such Allowed Claim in accordance with the provisions of the Plan, including, for the avoidance of doubt, Article VI.F of the Plan with respect to Class 3 General Unsecured Claims. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, and subject to Article VI.F

of the Plan with respect to Class 3 General Unsecured Claims, the Disbursing Agent shall provide to the Holder of such Claim the distribution (if any) to which such Holder is entitled under the Plan as of the Effective Date, without any interest, dividends, or accruals to be paid on account of such Claim unless required under applicable bankruptcy law.

J. *No Interest*

No interest shall accrue or be paid on any Disputed Claim with respect to the period from the Effective Date to the date a final distribution is made on account of such Disputed Claim if such Disputed Claim becomes an Allowed Claim.

Article VIII.
CONDITIONS PRECEDENT TO THE EFFECTIVE DATE

A. *Conditions Precedent to the Effective Date*

The following are conditions precedent to the Effective Date that must be satisfied or waived in accordance with the terms of the Plan:

1. The Bankruptcy Court shall have approved the Disclosure Statement as containing adequate information with respect to the Plan within the meaning of section 1125 of the Bankruptcy Code.

2. The Confirmation Order shall have been entered and shall be in full force and effect and such Confirmation Order shall be a Final Order.

3. The Debtor shall have obtained any authorization, consents, regulatory approvals, rulings, or documents that are necessary to implement and effectuate the Plan and each of the other transactions contemplated thereunder.

4. 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.

5. All conditions precedent to the effectiveness of the Exit Facility Documents shall have been satisfied contemporaneously or duly waived.

6. All documents and agreements necessary to implement the Plan shall have been executed and tendered for delivery. All conditions precedent to the effectiveness of such documents and agreements shall have been satisfied or waived pursuant to the terms thereof (or will be satisfied and waived substantially concurrently with the occurrence of the Effective Date).

7. The Professional Fee Escrow Account shall have been fully funded pursuant to the terms of this Plan and the Final DIP Order.

8. All invoiced reasonable and documented fees and out-of-pocket expenses payable pursuant to the DIP Lender shall have been paid in full.

9. The Debtor and Reorganized Debtor (as applicable) shall have fully funded the GUC Cash Distribution Pool.

10. The Debtor and Reorganized Debtor (as applicable) shall have implemented the restructuring in a manner consistent in all respects with the Plan.

B. Effect of Non-Occurrence of Conditions to the Effective Date

If the Effective Date does not occur, then (1) the Plan shall be null and void in all respects, (2) any settlement or compromise embodied in the Plan, assumption of Executory Contracts or Unexpired Leases effected under the Plan, and document or agreement executed pursuant to the Plan shall be deemed null and void, and (3) nothing contained in the Plan, the Confirmation Order, or the Disclosure Statement shall (a) constitute a waiver or release of any Claims, Interests, or Causes of Action, (b) prejudice in any manner the rights of the Debtor or any other Entity, or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtor or any other Entity.

C. Waiver of Conditions

The Debtor or the Reorganized Debtor (as applicable) may waive any of the conditions to the Effective Date set forth above at any time, without any notice to parties in interest and without any further notice to or action, order, or approval of the Bankruptcy Court and without any formal action other than proceeding to confirm the Plan.

**Article IX.
RELEASE, INJUNCTION, AND RELATED PROVISIONS**

A. Discharge of Claims

Pursuant to and to the fullest extent permitted by section 1141(d) of the Bankruptcy Code and except as otherwise specifically provided in the Plan, the distributions, rights, and treatments that are provided in the Plan shall be in full and final satisfaction, settlement, release, and discharge, effective as of the Effective Date, of all Claims of any nature whatsoever, including any interest accrued on such Claims from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against the Debtor, the Reorganized Debtor or any of their respective assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims, including demands, liabilities, and Causes of Action that arose before the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim or Proof of Interest is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code; (2) a Claim or Interest is Allowed; or (3) the Holder of such Claim has accepted the Plan. Except as otherwise provided herein, any default by the Debtor with respect to any Claim that existed immediately prior to or on account of the Filing of the Chapter 11 Case shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the discharge of all Claims subject to the Effective Date occurring, except as otherwise expressly provided in the Plan. For the avoidance of doubt, nothing in this Article IX.A shall affect the rights of Holders of Allowed Claims and Interests to seek to enforce the Plan, including the distributions to which Holders of Allowed Claims and Interests are entitled under the Plan.

B. *Releases by the Debtor*

Notwithstanding anything contained in the Plan to the contrary, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, on and after the Effective Date, each Released Party is deemed released and discharged by the Debtor, the Reorganized Debtor, and the Estate from any and all claims and Causes of Action, whether known or unknown, including any derivative claims, asserted on behalf of the Debtor, that the Debtor, the Reorganized Debtor, or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in, the Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtor (including the management, ownership, or operation thereof, or otherwise), any securities issued by the Debtor and the ownership thereof, the Debtor's in- or out-of-court restructuring efforts, any Avoidance Actions, intercompany transactions, the Chapter 11 Case, the formulation, preparation, dissemination, negotiation, or Filing of the Disclosure Statement, the DIP Facility, the DIP Facility Documents, the Exit Facility, the Exit Facility Documents, the Plan, the Plan Supplement, or any restructuring transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the DIP Facility, the DIP Facility Documents, the Exit Facility, the Exit Facility Documents, the Plan, the Plan Supplement, the Chapter 11 Case, the Filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of the DIP Facility, the pursuit of the Exit Facility, the pursuit of consummation, the administration and implementation of the Plan, including the issuance or distribution of securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any post-Effective Date obligations of any party or Entity under the Plan, any restructuring transaction, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or (b) any individual from any Claim or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual intentional fraud, willful misconduct, or gross negligence of such Released Party.

The Plan shall be deemed a motion to approve the Plan Settlement pursuant to Bankruptcy Rule 9019 with respect to the Debtor's Releases provided in Article IX.B of the Plan, and 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: (a) in exchange for the good and valuable consideration provided by the Released Parties, including, without limitation, the Released Parties' contributions to facilitating the restructuring and implementing the Plan; (b) a good faith settlement and compromise of the claims released by the Debtor Release; (c) in the best interests of the Debtor and all Holders of Claims and Interests; (d) fair, equitable, and reasonable; (e) given and made after due notice and opportunity for hearing; and (f) a bar to the Debtor, the Reorganized Debtor, or the Estate asserting any claim or Cause of Action released pursuant to the Debtor Release.

C. *Releases by Holders of Claims and Interests*

Notwithstanding anything contained in the Plan to the contrary, as of the Effective Date, each Releasing Party is deemed to have released and discharged each Released Party from any and all claims, Claims and Causes of Action, whether known or unknown, including any derivative claims, asserted on behalf of the Debtor (or its Estate), that such Entity would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtor (including the management, ownership or operation thereof, or otherwise), any securities issued by the Debtor and the ownership thereof, the Debtor's in- or out-of-court restructuring efforts, any Avoidance Actions, intercompany transactions, the Chapter 11 Case, the formulation, preparation, dissemination, negotiation, or Filing of the Disclosure Statement, the DIP Facility, the DIP Facility Documents, the Exit Facility, the Exit Facility Documents, the Plan, the Plan Supplement, or any restructuring transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the DIP Facility, the DIP Facility Documents, the Exit Facility, the Exit Facility Documents, the Plan, the Plan Supplement, the Chapter 11 Case, the Filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of the DIP Facility, the pursuit of the Exit Facility, the pursuit of consummation, the administration and implementation of the Plan, including the issuance or distribution of securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any post-Effective Date obligations of any party or entity under the Plan, any restructuring transaction, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan, (b) any individual from any claim, Claim, or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual intentional fraud, willful misconduct, or gross negligence of such Released Party, or (c) any Released Party from any claim a Holder may have against a Released Party on account of any guarantees to which a Released Party may be party.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the releases described in Article IX.C of the Plan, which includes by reference each of the related provisions and definitions contained in this Plan, and, further, shall constitute the Bankruptcy Court's finding that each release described in Article IX.C of the Plan is: (a) consensual; (b) essential to the Confirmation of the Plan; (c) given in exchange for the good and valuable consideration provided by the Released Parties; (d) a good faith settlement and compromise of the claims released pursuant to Article IX.C of the Plan; (e) in the best interests of the Debtor and its Estate; (f) fair, equitable, and reasonable; (g) given and made after due notice and opportunity for hearing; and (h) a bar to any of the Releasing Parties asserting any Claim or Cause of Action released pursuant to Article IX.C of the Plan.

D. *Exculpation*

Except as otherwise specifically provided in the Plan, no Exculpated Party shall have or incur liability for, and each Exculpated Party is released and exculpated from any Cause of Action for any claim or Claim related to any act or omission in connection with, relating

to, or arising out of, the Chapter 11 Case, the formulation, preparation, dissemination, negotiation, or Filing of the Debtor's in- or out-of-court restructuring efforts, the DIP Facility, DIP Facility Documents, the Exit Facility, the Exit Facility Documents, the Disclosure Statement, the Plan, the Plan Supplement, or any restructuring transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the DIP Facility, DIP Facility Documents, the Exit Facility, the Exit Facility Documents, the Disclosure Statement, the Plan, the Plan Supplement, the Chapter 11 Case, the Filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of the DIP Facility, the pursuit of the Exit Facility, the pursuit of consummation, the administration and implementation of the Plan, including the issuance or distribution of securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, 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 intentional fraud, willful misconduct, or gross negligence of such person, 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 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.

E. *Injunction*

Except as otherwise provided in the Plan or the Confirmation Order, all Entities who have held, hold, or may hold Claims, Interests, Causes of Action, or liabilities that: (a) are subject to compromise and settlement pursuant to the terms of the Plan; (b) have been released pursuant to Article IX.B of this Plan; (c) have been released pursuant to Article IX.C of this Plan, (d) are subject to exculpation pursuant to Article IX.D of this Plan (but only to the extent of the exculpation provided in Article IX.D of this Plan), or (e) are otherwise discharged, satisfied, stayed, released, or terminated pursuant to the terms of the Plan, are permanently enjoined and precluded, from and after the Effective Date, from commencing or continuing in any manner, any action or other proceeding, including on account of any Claims, claims, Interests, Causes of Action, or liabilities that have been compromised or settled against the Debtor, the Reorganized Debtor, or any Entity so released or exculpated (or the property or estate of any Entity, directly or indirectly, so released or exculpated) on account of, or in connection with or with respect to, any discharged, released, settled, compromised, or exculpated Claims, claims, Interests, Causes of Action, or liabilities, including being permanently enjoined and precluded, from and after the Effective Date, from taking any of the following actions against, as applicable, the Debtor, the Reorganized Debtor, or the Released Parties: (i) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such claims, Claims or Interests; (ii) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such

Entities on account of or in connection with or with respect to any such claims, Claims or Interests; (iii) creating, perfecting, or enforcing any Lien or encumbrance of any kind against such Entities or the property or the estates of such Entities on account of or in connection with or with respect to any such claims, Claims or Interests; (iv) asserting any right of setoff or subrogation of any kind against any obligation due from such Entities or against the property of such Entities on account of or in connection with or with respect to any such claims, Claims or Interests unless such Entity has timely asserted such setoff right in a document Filed with the Bankruptcy Court explicitly preserving such setoff, and notwithstanding an indication of a Claim or Interest or otherwise that such Entity asserts, has, or intends to preserve any right of setoff pursuant to applicable law or otherwise; and (v) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such claims, Claims or Interests released or settled pursuant to the Plan.

F. *Release of Liens*

Except as otherwise provided herein or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estate shall be fully released and discharged, and all of the right, title, and interest of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall revert to the Reorganized Debtor and its successors and assigns.

To the extent that any Holder of a Secured Claim has had such Claim satisfied or discharged in full pursuant to the Plan or any agent for such Holder has filed or recorded publicly any Liens and/or security interests to secure such Holder's Secured Claim, as soon as practicable on or after the Effective Date, such Holder (or the agent for such Holder) shall take any and all steps requested by the Debtor or the Reorganized Debtor that are necessary or desirable to record or effectuate the cancellation and/or extinguishment of such Liens and/or security interests, including the making of any applicable filings or recordings, and the Reorganized Debtor shall be entitled to make any such filings or recordings on such Holder's behalf.

Article X.
RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, or related to, the Chapter 11 Case and the Plan pursuant to sections 105(a) and 1142 of the Bankruptcy Code, including 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 of, any applications for allowance of compensation or reimbursement of expenses to Retained Professionals authorized pursuant to the Bankruptcy Code or the Plan;

3. Resolve any matters related to: (a) the assumption or assumption and assignment of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor may be liable and to hear, determine, and, if necessary, liquidate, any Cure arising therefrom, including Cure amount pursuant to section 365 of the Bankruptcy Code; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed; and (c) any dispute regarding whether a contract or lease is or was executory or expired;

4. Ensure that distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;

5. Adjudicate, decide or resolve any motions, adversary proceedings, contested, or litigated matters, and any other matters, and grant or deny any applications involving the Debtor that may be pending on the Effective Date;

6. Adjudicate, decide, or resolve any and all matters related to section 1141 of the Bankruptcy Code;

7. Resolve any cases, controversies, suits, or disputes that may arise in connection with General Unsecured Claims, including claim objections, allowance, disallowance, estimation and distribution;

8. Enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan or the Disclosure Statement;

9. Resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with the interpretation or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;

10. Issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with enforcement of the Plan;

11. Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the releases, injunctions, and other provisions contained in the Plan and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;

12. Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by any Holder of a Claim or Interest for amounts not timely repaid;

13. Enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

14. Determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, or the Confirmation Order;
15. Adjudicate any and all disputes arising from or relating to distributions under the Plan;
16. Consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;
17. Determine requests for the payment of Claims and Interests entitled to priority pursuant to section 507 of the Bankruptcy Code;
18. Hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan or the Confirmation Order;
19. Hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;
20. Hear and determine all disputes involving the existence, nature, or scope of the Debtor's discharge;
21. Enter an order or final decree concluding or closing the Chapter 11 Case;
22. Enforce all orders previously entered by the Bankruptcy Court; and
23. Hear any other matter not inconsistent with the Bankruptcy Code.

Article XI.
MODIFICATION, REVOCATION, OR WITHDRAWAL OF PLAN

A. *Modification of Plan*

Subject to the limitations contained in the Plan, the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules (1) to amend or modify the Plan prior to the entry of the Confirmation Order, including amendments or modifications to satisfy section 1129(b) of the Bankruptcy Code, and (2) after the entry of the Confirmation Order, the Debtor or the Reorganized Debtor, as the case may be, may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

B. *Effect of Confirmation on Modifications*

Entry of the 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 of Plan*

Subject to the conditions to the Effective Date, the Debtor reserves the right to revoke or withdraw the Plan prior to the entry of the Confirmation Order and to File subsequent plans of reorganization. If the Debtor revokes or withdraws the Plan, or if entry of the Confirmation Order or the Effective Date does not occur, then (1) the Plan shall be null and void in all respects, (2) any settlement or compromise embodied in the Plan, assumption of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant hereto shall be deemed null and void, and (3) nothing contained in the Plan shall (a) constitute a waiver or release of any Claims by or against or any Interests in the Debtor or any other Entity, (b) prejudice in any manner the rights of the Debtor or any other Entity, or (c) constitute an admission of any sort by the Debtor or any other Entity.

**Article XII.
MISCELLANEOUS PROVISIONS**

A. *Immediate Binding Effect*

Notwithstanding Bankruptcy Rules 3020(e), 6004(g), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and the documents and instruments contained in the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Debtor, the Reorganized Debtor, and any and all Holders of Claims and Interests (irrespective of whether such Holders of Claims or Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each Entity acquiring property under the Plan and any and all non-Debtor parties to Executory Contracts and Unexpired Leases.

B. *Additional Documents*

On or before the Effective Date, the Debtor 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 Debtor or Reorganized Debtor (as applicable) 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 or the Confirmation Order.

C. *Reservation of Rights*

The Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order. None of the Filing of the Plan, any statement or provision contained in the Plan, or the taking of any action by the Debtor 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 rights of the Debtor with respect to the Holders of Claims or Interests prior to the Effective Date.

D. *Successors and Assigns*

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

affiliate, officer, director, agent, representative, attorney, beneficiaries or guardian, if any, of each Entity.

E. *Notices*

In order for all notices, requests, and demands to or upon the Debtor and the Reorganized Debtor, as the case may be, to be effective such notices, requests and demands shall be in writing (including by facsimile transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by email or facsimile transmission, when received and telephonically confirmed, and served on or delivered to following parties:

Debtor / Reorganized Debtor	Counsel to the Debtor / Reorganized Debtor
MUJI U.S.A. Limited 250 West 39th Street, Suite 202 New York, NY 10018 Attn.: Syunsuke Shibata (syunsbt@MUJI.co.jp)	Greenberg Traurig, LLP 1000 Louisiana Street, Suite 1700 Houston, Texas 77002 Telephone: (713) 374-3500 Facsimile: (713) 374-3505 Attn: Shari L. Heyen (HeyenS@gtlaw.com) David R. Eastlake (EastlakeD@gtlaw.com)
United States Trustee	Counsel to the DIP Lender
Office of the United States Trustee for the District of Delaware 844 King Street, Suite 2207 Wilmington, Delaware 19801 Attn.: David Buchbinder	Chipman Brown Cicero & Cole, LLP Hercules Plaza 1313 North Market Street, Suite 5400 Wilmington, Delaware 19801 Telephone: (302) 295-0191 Facsimile: (302) 295-0199 Attn: William E. Chipman Jr. (chipman@chipmanbrown.com) Mark D. Olivere (olivere@chipmanbrown.com)

After the Effective Date, the Reorganized Debtor has authority to send a notice to Entities that, to continue to receive documents pursuant to Bankruptcy Rule 2002, they must File a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Reorganized Debtor is authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have Filed such renewed requests.

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 Case pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and extant 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. *Entire Agreement*

On the Effective Date, the Plan and the Plan Supplement 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.

H. *Plan Supplement 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. Copies of such exhibits and documents shall be made available upon written request to the Debtor's counsel at the address above or by downloading such exhibits and documents free of charge from <https://www.donlinrecano.com/muji/>. Unless otherwise ordered by the Bankruptcy Court, to the extent any exhibit or document in the Plan Supplement is inconsistent with the terms of any part of the Plan that does not constitute the Plan Supplement, such part of the Plan that does not constitute the Plan Supplement shall control. The documents considered in the Plan Supplement are an integral part of the Plan and shall be deemed approved by the Bankruptcy Court pursuant to the Confirmation Order.

I. *Nonseverability of Plan Provisions upon Confirmation*

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is the following: (a) valid and enforceable pursuant to its terms; (b) integral to the Plan and may not be deleted or modified without the consent of the Debtor or Reorganized Debtor (as applicable); and (c) nonseverable and mutually dependent.

J. *Closing of Chapter 11 Case*

The Reorganized Debtor shall promptly File, after the full administration of the Chapter 11 Case, with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

Respectfully submitted, as of the date first set forth above,

MUJI U.S.A. LIMITED

By: /s/ John Bittner

Name: John Bittner

Title: Chief Restructuring Officer

[Signature Page to Plan]

Exhibit B

Liquidation Analysis

MUJI U.S.A. Limited

Liquidation Analysis in a Chapter 7

In 000s

Assumed Conversion Date

12/31/2020

		Low Recovery Scenario			High Recovery Scenario		
	Item #	Book Value	Estimate Value	% of Book Value	Book Value	Estimate Value	% of Book Value
A Asset Proceeds							
Cash	1	1,300	1,300	100%	1,300	1,300	100%
Restricted Cash	1	956	-	0%	956	-	0%
Accounts Receivable	2	239	215	90%	239	215	90%
Other Receivables	3	524	262	50%	524	393	75%
Prepaid Expense	4	325	33	10%	325	65	20%
Prepaid Tax	5	680	340	50%	680	510	75%
Fixed Assets	6	18,268	548	3%	18,268	913	5%
Inventory	7	21,098	15,824	75%	21,098	17,933	85%
Returnable Deposits	8	431	345	80%	431	345	80%
Restricted Deposits	9	1,434	-	0%	1,434	-	0%
Proceeds: Interchange Fees Claim	10	54	54	100%	54	54	100%
Other Balance Sheet Items	11	-	-	100%	-	-	100%
Total Asset Proceeds		45,308	18,920	42%	45,308	21,728	48%
B Unencumbered Assets							
Avoidance Action Assets	12	-	-	0%	-	-	0%
Other Assets	13	-	-	0%	-	-	0%
Total Unencumbered Assets		-	-	0%	-	-	0%
C Costs to Monetize Assets							
Wind Down Sale Liquidation Fees	14		1,665			1,930	
Operating Costs	15		1,015			1,015	
Other Costs	16		30			30	
Total Costs to Monetize Assets			2,709			2,975	
E Chapter 7 Costs							
Chapter 7 Trustee Fees	17	529	529		613	613	100%
Chapter 7 Professional Fees	18	400	400		400	400	100%
Total Chapter 7 Costs		929	929		1,013	1,013	100%
Net Estimate Proceeds Available for Secured Claims				15,282	17,740		
	Item #	Estimate Allowed Claim	Estimate Payable to Creditors	Estimate % Allowed Claim Payable	Estimate Allowed Claim	Estimate Payable to Creditors	Estimate % Allowed Claim Payable
F Secured Claims							
DIP Loan	19	10,645	10,645	100%	10,645	10,645	100%
Other Secured Claim	20	-	-	0%	-	-	0%
Total Secured Claims		10,645	10,645	100%	10,645	10,645	100%
Net Estimate Proceeds Available for Administrative and Priority Clai				4,637	7,095		
F Administrative and Priority Claims							
503(b)9 Claims	21	-	-	0%	-	-	0%
Accrued Payroll and PTO	22	417	417	100%	417	417	100%
Administrative Claims	23	750	750	100%	750	750	100%
Priority Unsecured Claims	24	28	28	100%	28	28	100%
Total Administrative and Priority Claims		1,195	1,195	100%	1,195	1,195	100%
Net Estimate Proceeds Available for Unsecured Claims				3,442	5,900		
G Unsecured Claims							
Non-Priority Unsecured Claims	25	84,056	3,442	4%	84,056	5,900	7%
Total Unsecured Claims		84,056	3,442	4%	84,056	5,900	7%
Net Estimate Proceeds Available for Equity				-	-		

Notes to the Liquidation Analysis

OVERVIEW

Under the “best interests” of creditors test set forth by section 1129(a)(7) of the Bankruptcy Code, the Bankruptcy Court may not confirm a plan of reorganization unless the plan provides each holder of a claim or interest who does not otherwise vote in favor of the plan with property of a value, as of the effective date of the plan, that is not less than the amount that such holder would receive or retain if the debtor was liquidated under chapter 7 of the Bankruptcy Code (“Conversion Date” or “Liquidation Date”). *See* 11 U.S.C. § 1129(a)(7). Accordingly, to demonstrate that the Plan satisfies the “best interests” of creditors test, the Debtor prepared a hypothetical liquidation analysis (this “Liquidation Analysis”) presenting recoveries available assuming a hypothetical liquidation occurring on the Effective Date which is assumed to be December 31, 2020.

The Liquidation Analysis presents information based on, among other things, the Debtor’s books and records and good faith estimates regarding asset recoveries and claims resulting from a hypothetical liquidation undertaken under chapter 7 of the Bankruptcy Code. The Liquidation Analysis has not been examined or reviewed by independent accountants in accordance with standards promulgated by the American Institute of Certified Public Accountants. Although the Debtor considers the estimates and assumptions set forth herein to be reasonable under the circumstances, such estimates and assumptions are inherently subject to significant uncertainties and contingencies beyond the Debtor’s control. Accordingly, there can be no assurance that the results set forth by the Liquidation Analysis would be realized if the Debtor actually liquidated, and actual results in such a case could vary materially from those presented herein, and distributions available to members of applicable Classes of Claims could differ materially from the balances set forth by this Liquidation Analysis in such instance.

THE LIQUIDATION ANALYSIS IS A HYPOTHETICAL EXERCISE THAT HAS BEEN PREPARED FOR THE SOLE PURPOSE OF PRESENTING A REASONABLE, GOOD FAITH ESTIMATE OF THE PROCEEDS THAT WOULD BE REALIZED IF THE DEBTOR LIQUIDATED IN ACCORDANCE WITH CHAPTER 7 OF THE BANKRUPTCY CODE AS OF THE EFFECTIVE DATE (12/31/20). THE LIQUIDATION ANALYSIS IS NOT INTENDED AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE. THE LIQUIDATION ANALYSIS DOES NOT PURPORT TO BE A VALUATION OF THE DEBTOR’S ASSETS AS A GOING CONCERN, AND THERE MAY BE A SIGNIFICANT DIFFERENCE BETWEEN THE LIQUIDATION ANALYSIS AND THE VALUES THAT MAY BE REALIZED OR CLAIMS GENERATED IN AN ACTUAL LIQUIDATION.

NOTHING CONTAINED IN THE LIQUIDATION ANALYSIS IS INTENDED TO BE, OR CONSTITUTES, A CONCESSION, ADMISSION, OR ALLOWANCE OF ANY CLAIM BY THE DEBTOR. THE ACTUAL AMOUNT OR PRIORITY OF ALLOWED CLAIMS IN THE CHAPTER 11 CASE COULD MATERIALLY DIFFER FROM THE ESTIMATED AMOUNTS SET FORTH AND USED IN THE LIQUIDATION ANALYSIS. THE DEBTOR RESERVES

ALL RIGHTS TO SUPPLEMENT, MODIFY, OR AMEND THE ANALYSIS SET FORTH HEREIN.

BASIS OF PRESENTATION

The Debtor generally prepares financial statements for financial reporting purposes. The Liquidation Analysis was prepared as if the assets and liabilities of the Debtor's Estate was settled in a manner consistent with the settlement and compromise of issues as set forth in the Plan and as discussed in the Disclosure Statement.

Although the Liquidation Analysis was prepared after the deadline for filing Claims against the Debtor's Estate (except with respect to Governmental Units), those Claims have not been fully evaluated by the Debtor or adjudicated by the Bankruptcy Court and, accordingly, the amount of the final Allowed Claims against the Debtor's Estate may differ from the Claim amounts used in this Liquidation Analysis.

The Liquidation Analysis is based on estimated asset and liability values as of September 30, 2020 (except where indicated). However, and as noted above, the actual amount of assets available to the estate and claims arising in the event of an actual liquidation may differ from the assets assumed to be available pursuant to this Liquidation Analysis.

The Liquidation Analysis details two possible scenarios for recovery of asset values. The lower recovery scenario (the "Low Recovery Scenario") shows the possible recovery for various Classes of creditors where the assets of the Debtor are liquidated for proceeds at the lower end of the expected range of recoveries. The high recovery scenario (the "High Recovery Scenario") details the expected liquidation value of assets at the higher end of the expected range of recoveries.

CURRENT VALUES

The Liquidation Analysis is based on asset balances as of September 30, 2020, except where otherwise noted. The Debtor believes its September 30, 2020 balance sheet is a reasonable proxy for a *pro forma* balance sheet with respect to most asset line items as of the assumed Conversion Date of December 31, 2020. Where appropriate, certain adjustments have been made to the September 30, 2020 balance sheet to reasonably reflect forecasted asset balances as of the assumed Conversion Date and such adjustments are summarized herein.

LIQUIDATION PERIOD

The Liquidation Analysis assumes a liquidation scenario over a period of six months, commencing on December 31, 2020.

LIQUIDATION ACTIVITIES

Liquidation activities comprise a one-month period during which the following assets would be marketed and sold:

- Inventory – Inventories would be sold in wind down sales (collectively, the “Wind Down Sales”) conducted by a third-party liquidator. Inventory sales are assumed to be completed over a four-week period.
- Furniture, Fixtures and Equipment (collectively “FF&E”) – An FF&E sale process would be conducted concurrently with the inventory sales as part of the Wind Down Sales. Final removal of FF&E is assumed to occur in the fourth and final week of the inventory sales.

The Liquidation Analysis assumes that the hypothetical chapter 7 trustee would not retain the Debtor’s corporate or store-level employees and would therefore terminate these positions at the commencement of the liquidation process. The Liquidation Analysis further assumes that lease-related obligations and related store occupancy costs would be terminated, and the related leases would be rejected, at the conclusion of the Wind Down Sales. Accrued payroll and paid time off amounts have been estimated for purposes of this Liquidation Analysis but no amounts for severance or other employee claims have been included.

WINDDOWN PERIOD

The Liquidation Analysis assumes that the winddown would occur over the remaining six-month period during which, among other things, final tax returns would be filed, reports and schedules would be filed with the Bankruptcy Court, and remaining assets would be monetized or abandoned.

COMPONENTS OF LIQUIDATION MODEL

A. Asset Proceeds

1. Cash Balance on Conversion Date

The Debtor’s estimated cash balance as of the Conversion Date is \$1.3 million per the latest forecast, including \$100,000 in a utility deposit escrow account. In liquidation, the estimated recovery on the cash balance is estimated at 100%. The cash balance includes net cash, including payment of any accrued but unpaid amounts due, such as payroll expense. The cash balance does not include \$956,000 of restricted cash, which is comprised of the Professional Fee Escrow that will pay holdback payments due to chapter 11 professionals and a money market account that is collateral for a landlord to a certain store lease. In liquidation, the estimated recovery on the restricted cash balance is estimated at 0%.

2. Accounts Receivable

The Debtor’s estimated book balance of accounts receivables as of the Conversion Date is \$239,000, which is primarily comprised of credit card receivables. These receivables consist of sales that occurred prior to but were not collected by the Conversion Date due to timing. The receivables are net of sales tax, credit card fees and credit card holdbacks. In liquidation, the recovery for credit card receivables is estimated at 90%.

3. Other Receivables

The Debtor's estimated book balance of other receivables as of the Conversion Date is \$524,000, which is primarily comprised of management service agreement fees due from MUJI Canada Limited. Fees outstanding as of the Conversion Date maybe subject to offsetting claims so the book value of such receivables have been adjusted to reflect such potential offsets. In a liquidation, the estimated recovery is 50% in the Low Recovery Scenario and 75% in the High Recovery Scenario.

4. Recoupment of Prepaid Expense

The Debtor's estimated book balance of prepaid expense as of the Conversion Date is \$325,000, which is primarily comprised of prepaid insurance premiums and other miscellaneous prepayments. The Debtor pays the premiums for its commercial insurance package, in advance, on a quarterly basis. In a liquidation, little recovery from prepaid expenses is expected. It is likely that the chapter 7 trustee will need to continue certain insurance policies for some time, thus exhausting any prepayment of insurance premiums that may have existed as of the conversion date. Thus, a recovery of 10% and 20% is assumed in the Low Recovery Scenario and High Recovery Scenario, respectively.

5. Recoupment of Prepaid Tax

The Debtor's estimated book balance of prepaid tax as of the Conversion Date is \$680,000, of which 63% is federal income tax, 26% is New York City tax and the balance is comprised of tax paid to other municipalities. In a liquidation, these prepaid taxes are expected to be only partially refunded due to municipal liquidity crises. In a liquidation, the estimated recovery is 50% in the Low Recovery Scenario and 75% in the High Recovery Scenario.

6. Sale of Fixed Assets

The Debtor's estimated net book balance of Fixed Assets, excluding the impact of a fixed asset valuation impairment charge recorded in July 2020, as of the Conversion Date is \$18.27 million. These fixed assets largely consist of leasehold improvements—which leases will likely be rejected during the winddown process. In a liquidation, the estimated recovery is 3% to 5% based on historical experience and initial estimates provided by an experienced liquidator.

7. Sale of Inventory

The Debtor's estimated historical costs amount of Inventory as of the Conversion Date is \$21.1 million, excluding the impact of an \$11.9 million impairment charge recorded in August 2020 due to excess and slow-moving inventory. In a liquidation, the estimated recovery is 75% to 85% of historical costs based on past experience and estimates provided by a third-party liquidator with significant experience in retail liquidations.

8. Recoupment of Returnable Deposits

The Debtor's estimated book balance of Returnable Deposits as of the Conversion Date is \$431,000, of which 98% is comprised of non-store deposits. Ninety-five percent (95%) of the non-

store deposits is comprised of U.S. Customs deposits. In a liquidation, the estimated recovery is 80%.

9. Recoupment of Restricted Deposits

The Debtor's estimated book balance of Restricted Deposits as of the Conversion Date is \$1.434 million, which is comprised of store lease deposits that are not expected to be refunded from landlords. In a liquidation, the estimated recovery is 0%.

10. Sale of Interchange Fees Claim

The Debtor's estimated proceeds from ongoing Visa and Mastercard credit card interchange fee recoveries as of the Conversion Date is \$54,000. In a liquidation, the estimated recovery is 100%.

11. Other Balance Sheet Items

The Debtor's estimated proceeds from other balance sheet items as of the Conversion Date is \$0.

B. Unencumbered Assets

12. Avoidance Action Assets

The Debtor has not conducted an extensive evaluation of potential chapter 5 causes of action that may be available to a chapter 7 trustee. However, upon preliminary review by the Debtor and its advisors, the Debtor does not expect that there will be a material recovery from Avoidance Actions.

13. Other Assets

The Debtor's estimated other assets as of the Conversion Date is \$0.

C. Costs to Monetize Assets

14. Wind Down Sale Liquidation Proceeds

The Debtor's estimated costs to liquidate the Fixed Assets and Inventory beginning on the Conversion Date are \$1.665 million to \$1.930 million per the below table. Sales are assumed to be completed over a four-week period.

Type	Asset Estimate Value	Expense Estimate	Rate	Estimated Value	Asset Estimate Value	Expense Estimate	Rate	Estimated Value
Wind Down Sale Liquidation Fees								
Wind Down- Fixed Assets	548		15%	82	913		15%	137
Wind Down- Inventory	15,824		10%	1,582	17,933		10%	1,793
Total Wind Down Sale Liquidation Fees				1,665				1,930

15. Operating Costs

The Debtor's estimated ongoing costs beginning on the Conversion Date through a four-week period to be \$1.01 million, which is comprised of one-month rent at the stores, one-month of fixed costs at the two warehouses, one-month of property and casualty insurance premiums, one-month of security expenses at an average run rate, as well as one-month of miscellaneous other operating expenses.

16. Other Costs

The Debtor's estimated other costs beginning in the fifth week after the Conversion Date through a six-month period are \$30,000, which is comprised of rent to store paper records.

D. Chapter 7 Costs

17. Chapter 7 Trustee Fees

The Debtor's estimated chapter 7 trustee fees beginning as of the Conversion Date through the period of six months are \$529,000 in the Low Recovery Scenario and \$613,000 in the High Recovery Scenario. In a chapter 7 liquidation, the Bankruptcy Court may allow reasonable compensation for the trustee's services, not to exceed 25% on the first \$5,000 or less, 10% on any amount in excess of \$5,000 but not in excess of \$50,000, 5% on any amount in excess of \$50,000 but not in excess of \$1 million, and reasonable compensation not to exceed 3% of such moneys in excess of \$1 million, upon all moneys disbursed or turned over in the case by the chapter 7 trustee to parties in interest. *See* 11 U.S.C. § 326(a). In consideration of the overall size of the Debtor's Estate, the Liquidation Analysis assumes 3% of gross asset proceeds (not including the cash balance).

18. Chapter 7 Professional Fees

The Debtor's estimated chapter 7 professional fees beginning as of the Conversion Date through the period of six months are \$400,000. The costs associated with a chapter 7 liquidation are assumed to include fees and costs for professionals retained by the chapter 7 trustee including legal, financial, tax, and claims processing advisors.

E. Secured Claims

19. Debtor-in-Possession Loan

The Debtor's estimated DIP loan payable as of the Conversion Date is \$10.64 million, which includes accrued principal, fees, interest and other expenses as outlined in the DIP Loan Agreement and in the forecast.

20. Other Secured Claims

The Debtor's estimated other secured claims as of the Conversion Date is \$0.

F. Administrative and Priority Claims**21. 503(b)(9) Claims**

The Bar Date to file Proofs of Claim seeking administrative expense priority pursuant to section 503(b)(9) of the Bankruptcy Code (“503(b)(9) Claims”) was September 22, 2020. Based on a review of the Filed Proofs of Claim, no Creditor has asserted 503(b)(9) Claims. The Debtor moreover does not anticipate any 503(b)(9) Claims as the Debtor’s stores were largely not in operations during the twenty-day period leading up to the Petition Date and, accordingly, no goods were received by the Debtor during this time.

22. Accrued Payroll and Paid Time Off

The Debtor’s estimated accrued payroll as of the Conversion Date is \$200,000 and estimated accrued paid time off payable as of the Conversion Date is \$217,000. No amounts for potential claims for severance or other employee claims have been included.

23. Administrative Claims

The Debtor’s estimated Administrative Claims as of the Conversion Date is \$750,000 (excluding Professional Fee Claims and DIP Facility Claims),¹ which is comprised primarily of post-petition unpaid operating expenses, including logistics costs, advertising, marketing, services and other operating expenses.

24. Priority Unsecured Claims

The Debtor’s estimated priority unsecured claims as of the Conversion Date is \$28,000, which is comprised primarily by pre-petition tax claims. This amount could increase, potentially materially, as other real estate leases are rejected in a chapter 7 but no attempt to estimate such claims has been made for purposes of this liquidation analysis.

G. Unsecured Claims**25. Non-Priority Unsecured Claims**

The Debtor’s estimated non-priority unsecured Claims as of the Conversion Date is \$84.05 million, which is comprised primarily by the following:

a. Section 502(b)(6) Claims

The Debtor’s estimated Claims pursuant to section 502(b)(6) of the Bankruptcy Code as of the Conversion Date is \$14.575 million, which is comprised of capped lease rejection damages Claims. The Debtor believes that the chapter 7 trustee will reject during the winddown period all leases that are in effect as of the Conversion Date because the leases are above-market.

¹ As noted above, the Professional Fees will be paid from Restricted Cash.

b. Other

The Debtor's estimated unsecured Claims as of the Conversion Date is \$587,000, which is primarily comprised of general vendor Claims.

c. MUFG

The Debtor's estimated unsecured claims as of the Conversion Date is \$4.4 million, which is primarily comprised of store lease letters of credit. It is assumed these amounts would be reimbursed from the Debtors parent company, RKJ, to MUFG, and RKJ's payment would become an unsecured Claim.

d. Accounts Payable Due to RKJ

As of the Petition Date, the Debtor had the following outstanding amounts due to RKJ (in thousands):

Merchandise Accounts Payable Due to Parent	\$ 5,162
Short-Term Loan Payable to Parent	4,000
Short-Term Payable Parent via Cash Pooling Arrangement	13,788
Long-Term Loan Payable to Parent	40,000
Royalty and Technology Fee	427
Interest Due to Parent	<u>1,100</u>
Total Amount Due to RKJ	\$ 64,477

H. Claims Paid During the Chapter 11 Case

In preparing the Liquidation Analysis, the Debtor did not include any prepetition Claims or Administrative Claims that the Debtor paid from the Petition Date through the Conversion Date. As of today, the Debtor has paid the following prepetition Claims:

Wages & Related Costs	\$ 362,017
Taxes	61,621
Logistics	<u>236,213</u>
Total Pre-Petition Claims Paid	\$ 659,851

CONCLUSION AND RECOMMENDATIONS

In the event of a chapter 7 liquidation, the aggregate amount of general unsecured Claims and priority Claims could increase significantly. For instance, the liquidation analysis does not include estimates for damage claims resulting from the Debtor's rejection of executory contracts (other than leases).

The Debtor determined that Confirmation of the Plan will provide Holders of Claims against and Interests in the Debtor with a recovery that is not less than what they would otherwise receive in connection with a hypothetical liquidation of the Debtor under chapter 7 of the Bankruptcy Code.

Exhibit C

Financial Projections

MUJI USA LIMITED
FINANCIAL PROJECTIONS AND ASSUMPTIONS
FOR THE THREE-YEAR PERIOD ENDING DECEMBER 31, 2023

Basis of Presentation

The following projections (“Projections”) include the actual results for the year ended December 31, 2019, forecasted results for the year ending December 31, 2020 along with projected results for the three years ending December 31, 2021, 2022 and 2023. The actual results for the year ended December 31, 2019 and the forecasted results for the year ending December 31, 2020 include the actual results of 8 retail store locations that were permanently closed during 2020. The historical results have not been audited by an independent certified public accountant and the presentation of the historical and projected financial information may not comply in all respects with U.S. generally accepted accounting principles (“GAAP”).

The Projections assume a Plan Effective Date of December 31, 2020.

Summary of Significant Assumptions

The Projections are based upon numerous assumptions regarding the anticipated future business performance of the Debtor, the regulatory environment, general business and economic conditions and any other factors that could affect the Debtor’s business. Most of these assumptions are beyond the control of the Debtor and its’ management. Therefore, the actual results achieved may vary, perhaps materially, from the Projections. Although the Debtor believes that the assumptions underlying the Projections, when considered on an overall basis, are reasonable in light of the current circumstances, no representation can be or is being made with respect to the accuracy of the Projections or the ability of the Debtor to achieve the Projections.

The Debtor’s business has been significantly impacted by COVID-19 during the 2020 calendar year. While each of the Debtor’s remaining retail stores are open and operating, the Debtor remains subject to the jurisdiction and operating restrictions of various federal, state and local authorities, including a potential complete future shutdown of retail store operations. The Projection assumes that retail operations are not impacted by potential future shutdowns.

The Projections assume that the Debtor’s retail store portfolio consists of the 10 currently operating stores for the entirety of the forecast period. However, the Debtor is currently still in negotiations with landlords of certain retail store locations seeking to obtain rent concessions. If unsuccessful in obtaining reasonable concessions, the Debtor may seek to reject additional store leases and the Projections would likely need to be revised.

Additional information relating to the principal assumptions used in preparing the Projections is set forth below.

Net Sales

1. The projected store and e-commerce sales forecast have been developed based upon recent trends and management's expectation of future operating levels.
2. During the year ending December 31, 2021, the Debtor expects retail store operations to continue to be subject to capacity constraints and limited operating hours as mandated by certain state and local governmental authorities.
3. Beginning with the year ending December 31, 2022 and beyond, the Projections assume that any previous operating restrictions for retail store locations will be removed and that store operating parameters will return to levels consistent with those that existed prior to the mandated shutdown beginning in March 2020 due to the COVID-19 pandemic.
4. Retail store sales for the Debtor's remaining stores are projected increase from approximately \$27 million in 2020 and gradually return to near pre-pandemic levels by 2023.
5. E-commerce sales are projected to grow from approximately \$6.8 million in 2020 to \$20.3 million in 2023, or a compound annual growth rate ("CAGR") of approximately 31%.

Cost of Good Sold and Gross Margin

1. Gross margin for retail stores is projected to increase from approximately 56% of sales in 2019 to 58% of sales beginning in 2021. This increase in gross margin is primarily driven by the closure of stores which historically had a lower gross margin percentage than the remaining stores along with certain enhancements made by the Debtor to its merchandising practices.
2. Gross margin for the e-commerce business is expected to increase from approximately 69% of sales in 2019 to 71% beginning in 2021.

Real Estate Costs

1. During the pendency of this Chapter 11 Case, the Debtor has renegotiated certain of its store leases such that it will benefit from reduced rent expense in future years from 2019 levels.
2. All additional rent expense items, such as common area maintenance, taxes and utilities, are projected to remain consistent with historical levels.
3. The projected rent expense for the Debtor's New York headquarters is projected to remain at current contractual amounts. However, the Debtor is currently in negotiations with the applicable landlord and actual future rent expense for the headquarters location may decrease from contractual levels.

Payroll and Fringe

1. Payroll and fringe costs for the Debtor's corporate headquarters are projected to remain consistent with current levels throughout 2022 with a planned cost reduction of approximately \$700,000 included in the Projections for 2023.
2. Projected store labor is expected to decrease from 2019 levels due to the closure of 8 retail store locations during 2020 along with reduced staffing levels in each store due to operating restrictions as a result of COVID-19. As referenced above, such operating restrictions are projected to be in place throughout 2021 and be removed beginning in 2022.

Other Operating Expenses

1. Projected operating expense are generally forecast to be consistent with 2019 levels as a percentage of sales throughout the forecast period.
2. Projected logistics expense for the Debtor's third-party logistics providers is forecasted to be consistent with currently existing contractual rates and expected levels of inventory and sales. The Debtor has recently closed all but one of its West Coast store locations and will attempt to renegotiate certain logistics contracts to potentially reduce future operating expense. However, no such expected savings has been quantified or included in the Projections.

Capital Expenditures

1. The Projections include approximately \$550,000 of capital expenditures during the forecast period for investments in certain technology enhancements related to its e-commerce business and point of sale systems.

Accounts Receivable

1. The Debtor's projected accounts receivable balance is largely related to credit card receipts due from merchant service providers.

Inventories and Accounts Payable

1. The Debtor recorded an inventory impairment charge for financial reporting purposes during August 2020 of approximately \$11.9 million. The balance sheet reserve recorded to reflect such impairment is projected to remain on the Debtor's financial statements throughout the forecast period.
2. The Debtor anticipates continued purchases of merchandise from RKJ and certain third parties during the forecast period on trade terms consistent with historical terms.

3. Inventory levels are projected to decrease slightly during 2021 as the Debtor sells through remaining inventory of its former West Coast store locations but will remain at relatively consistent levels in 2022 and 2023.

Multi-Draw Term Loan Payable

1. The Debtor expects to fund its future operating and working capital needs via a multi-draw term loan facility (the “Exit Facility”) provided by RKJ.
2. The projected DIP loan balance as of the Effective Date will be rolled into the Exit Facility consistent with the Plan. Certain other bankruptcy related costs and distributions under the Plan will also be funded by the Exit Facility.
3. For future years, the Debtor will have access to the Exit Facility to fund cash needs for the business.

Other Long-Term Liabilities

1. Other Long-Term Liabilities reflect the current amount of deferred rent carried on the balance sheet pursuant to GAAP lease accounting. The Debtor has rejected several store leases during this Chapter 11 Case and is in process of renegotiating certain existing store leases.
2. The net accounting impact on the amount of deferred rent carried on the balance sheet has not yet been calculated by the Debtor. Thus, the future carrying amount of such deferred rent amount will likely be adjusted at some future date.
3. The rent expense reflected in the Projections is assumed to be equal to the expected cash payment under remaining leases so any adjustment to the carrying amount of deferred rent will likely have no impact on the Debtor’s future cash flows.

Equity Capital

1. Pursuant to the Plan, RKJ will contribute certain pre-petition amounts owed to capital. The Projections assume approximately \$63 million of pre-petition debt owed to RKJ will be contributed to capital as of the Plan Effective Date.

Exhibit A: MUJI USA Income Statement*In 000's of USD*

	2019 A	2020 F	2021 F	2022 F	2023 F
Net Sales	99,789	38,777	49,458	78,925	86,181
COGS	43,208	29,366	19,926	30,006	32,684
Gross Margin	56,580	9,410	29,531	48,919	53,497
<i>(Gross Margin %)</i>	<i>57%</i>	<i>24%</i>	<i>60%</i>	<i>62%</i>	<i>62%</i>
Total Real Estate Costs	20,171	21,340	8,353	9,587	10,196
Total Payroll and Fringe	18,909	13,857	9,773	12,084	11,686
Other Operating Expenses	23,572	19,699	15,085	21,736	23,797
Total Expenses	62,652	54,896	33,210	43,406	45,679
EBITDA	(6,071)	(45,485)	(3,679)	5,512	7,817
<i>(EBITDA Margin %)</i>	<i>-6%</i>	<i>-117%</i>	<i>-7%</i>	<i>7%</i>	<i>9%</i>
Total Adjustments	0	20,694	150	150	150
Adjusted EBITDA	(6,071)	(24,791)	(3,529)	5,662	7,967
<i>(Adjusted EBITDA Margin %)</i>	<i>-6%</i>	<i>-64%</i>	<i>-7%</i>	<i>7%</i>	<i>9%</i>
- Adjustments	0	(20,694)	(150)	(150)	(150)
- Depreciation	(3,983)	(22,993)	(115)	(183)	(183)
- Non Operating Income / Expense	5	(3,033)	0	(0)	0
Book - Operating Income	(10,050)	(71,511)	(3,793)	5,329	7,634
<i>(Operating Margin %)</i>	<i>-10%</i>	<i>-184%</i>	<i>-8%</i>	<i>7%</i>	<i>9%</i>

Exhibit B: MUJI USA Balance Sheet*In 000's of USD*

	12/31/19	12/31/20	12/31/21	12/31/22	12/31/23
	A	F	F	F	F
Cash and Deposits	707	1,610	1,290	1,348	1,359
Accounts Receivable	631	636	778	1,332	1,500
Inventory	26,961	10,658	9,830	10,017	10,045
Prepaid Expense	169	323	329	336	343
Other Current Assets	963	2,130	796	796	796
Total Current Assets	29,432	15,356	13,023	13,828	14,043
Tangible Fixed Assets	28,715	153	153	153	153
Intangible Assets	106	0	435	252	69
Investments and Other Assets	2,359	1,840	1,840	1,840	1,840
Total Other Assets	31,180	1,993	2,429	2,246	2,062
Total Assets	60,611	17,350	15,452	16,074	16,105
3rd Party Accounts Payable	3,145	1,299	1,677	2,286	2,540
RKJ Accounts Payable	11,997	690	1,351	2,082	2,881
Tax Payable	383	167	203	383	417
Accrued Expense	2,529	831	2,292	3,497	4,486
Advances received	36	54	70	126	147
Deposits received	72	0	0	0	0
Other Current Liabilities	121	41	48	80	88
Total Current Liabilities	18,284	3,081	5,640	8,455	10,558
Short-Term Loan Payable to RKJ	33,993	0	0	0	0
Multi Draw Term Loan Payable to RKJ	0	17,767	18,493	13,159	5,710
Other Long Term Liabilities	8,877	8,990	8,990	8,990	8,990
Total Liabilities	61,154	29,838	33,124	30,604	25,259
Capital Reserve	30,549	93,926	93,926	93,926	93,926
Retained Earnings	(20,124)	(37,057)	(106,415)	(111,598)	(108,457)
Net Income	(10,967)	(69,357)	(5,183)	3,141	5,377
Total Equity	(542)	(12,489)	(17,672)	(14,531)	(9,154)
Total Liabilities & Equity	60,611	17,350	15,452	16,074	16,105

Exhibit D

Tax Consequences

I. CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

The following discussion summarizes certain anticipated U.S. federal income tax consequences of the Plan to the Debtor and Holders of Claims in Class 3 and Class 4. This summary is provided for information purposes only and is based on the Internal Revenue Code of 1986, as amended (the “Tax Code”), the U.S. Treasury regulations promulgated thereunder (the “Treasury Regulations”), judicial authorities, and current administrative rulings and practices of the Internal Revenue Service (the “IRS”), all as in effect as of the date hereof, and all of which are subject to change, possibly with retroactive effect, that could adversely affect the U.S. federal income tax consequences described below.

This summary assumes that a Holder holds an Allowed Claim as something other than a capital asset (within the meaning of section 1221 of the Tax Code) and the following discussion does not address any tax implications if a Holder does hold an Allowed Claim as a capital asset. This summary does not address all aspects of U.S. federal income taxation that may be relevant to a particular Holder of a Claim against or Interest in the Debtor in light of its particular facts and circumstances or to certain types of Holders of Claims subject to special treatment under the Tax Code (for example, persons who are related to the Debtor within the meaning of the Tax Code, U.S. expatriates and former citizens or long-term residents of the United States, financial institutions, broker-dealers, life insurance companies, tax-exempt organizations, real estate investment trusts, regulated investment companies, grantor trusts, persons holding a Claim as part of a “hedging,” “integrated,” or “constructive” sale or straddle transaction, persons holding Claims through a partnership or other pass through entity, persons that have a “functional currency” other than the U.S. dollar, and persons who acquired or expect to acquire either an equity interest or other security in a Debtor or a Claim in connection with the performance of services). In addition, this summary does not discuss any aspects of state, local, estate and gift or non-U.S. taxation. This discussion also does not address the U.S. federal income tax consequences to Holders of Allowed Claims that are not entitled to vote regarding the acceptance of the Plan and are unimpaired or otherwise entitled to payment in full in Cash under the Plan. Additionally, the net investment income tax imposed by section 1411 of the Tax Code is also not addressed in this discussion.

For purposes of this summary, a “U.S. Holder” means a Holder of a Claim or Interest that, in any case, is, for U.S. federal income tax purposes: (i) an individual that is a citizen or resident of the U.S.; (ii) a corporation, or other entity treated as a corporation for U.S. federal income tax purposes, created or organized in or under the laws of the U.S., any state thereof or the District of Columbia; (iii) an estate, the income of which is subject to U.S. federal income taxation regardless of its source; or (iv) a trust, if (a) a court within the U.S. is able to exercise primary supervision over its administration and one or more U.S. persons have the authority to control all of the substantial decisions of such trust, or (b) it has a valid election in effect under applicable Treasury Regulations to be treated as a U.S. person. A “Non-U.S. Holder” means a Holder of a Claim or Interest that is not a U.S. Holder and is, for U.S. federal income tax purposes, an individual, corporation (or other entity treated as a corporation for U.S. federal income tax purposes), estate or trust.

If an entity taxable as a partnership (or other pass-through entity) for U.S. federal income tax purposes holds a Claim, the U.S. federal income tax treatment of a partner (or other beneficial

owner) of the entity generally will depend on the status of the partner (or other beneficial owner) and the activities of the entity. Such partner (or other beneficial owner) should consult its tax advisor as to the tax consequences of the Plan.

A substantial amount of time may elapse between the date of this Disclosure Statement and the date when distributions under the Plan will be made. Events occurring after the date of this Disclosure Statement, such as additional or new tax legislation, court decisions, or administrative changes, could affect the U.S. federal income tax consequences of the Plan and the transactions contemplated thereunder. There can be no assurance that the IRS will not take a contrary view with respect to one or more of the issues discussed below. No ruling will be sought from the IRS with respect to any of the tax aspects of the Plan, and no opinion of counsel has been or will be obtained by the Debtor with respect thereto.

Accordingly, the following summary of certain U.S. federal income tax consequences is for informational purposes only and is not a substitute for careful tax planning and advice based upon the individual circumstances pertaining to a Holder of a Claim against or Interest in the Debtor. All Holders of Claims against or Interests in the Debtor are urged to consult their own tax advisors for the federal, state, local and other tax consequences applicable to them under the Plan.

EACH HOLDER IS HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF U.S. FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES PERTAINING TO A HOLDER OF A CLAIM OR INTEREST; AND (B) EACH HOLDER OF A CLAIM OR INTEREST SHOULD SEEK ADVICE FROM AN INDEPENDENT TAX ADVISOR FOR THE U.S. FEDERAL, STATE, LOCAL, AND NON-U.S. TAX CONSEQUENCES OF THE PLAN BASED ON ITS PARTICULAR CIRCUMSTANCES.

A. U.S. Federal Income Tax Consequences to the Debtor

1. Taxation of the Reorganized Debtor in General

MUJI is currently organized as a corporation, is taxed as a corporation for U.S. federal income tax purposes. The Reorganized Debtor will be taxed as a corporation for U.S. federal income tax purposes.

In general, if as a result of implementing the Plan, the Debtor satisfies any Claim with collateral securing such Claim or sells any collateral, the Debtor will recognize gain or loss in an amount equal to the difference, if any, between the fair market value of the collateral transferred and the Debtor's adjusted tax basis in such collateral. In general, subject to the discussion below, if the Debtor has net operating loss ("NOL") carryforwards, those carryforwards may be used to offset any taxable gains.

2. Limitation of NOL Carryforwards and other Tax Attributes; Sections 382 and 383 of the Tax Code

If, after consummation of the Plan, the Reorganized Debtor continues to have any NOL carryforwards, capital loss carryforwards, tax credit carryforwards, and certain other tax attributes (such as losses and deductions that have accrued economically but are unrecognized as of the date of the ownership change) allocable to periods before the Effective Date (collectively, “Pre-Change Losses”), such Pre-Change Losses may be subject to limitation under sections 382 and 383 of the Tax Code as a result of an “ownership change” of the Reorganized Debtor by reason of the transactions consummated pursuant to the Plan.

Under sections 382 and 383 of the Tax Code, if a loss corporation undergoes an “ownership change,” the amount of its Pre-Change Losses that may be utilized to offset future taxable income generally is subject to an annual limitation (the “Section 382 Limitation”), as further discussed below.

If a loss corporation’s assets in the aggregate have a fair market value less than the loss corporation’s tax basis therein (a “net unrealized built-in loss”) at the time of an ownership change (taking into account most assets and items of “built-in” income and deductions), then generally built-in losses (including amortization or depreciation deductions attributable to such built-in losses) recognized during the following five years (up to the amount of the original net unrealized built-in loss) will be treated as Pre-Change Losses and similarly will be subject to the Section 382 Limitation. Conversely, if the loss corporation’s assets in the aggregate have a fair market value greater than the loss corporation’s tax basis therein (a “net unrealized built-in gain”) at the time of an ownership change, any built-in gains recognized during the following five years (up to the amount of the original net unrealized built-in gain) generally will increase the Section 382 Limitation in the year recognized, such that the loss corporation (or consolidated group) would be permitted to use its Pre-Change Losses against such built-in gain income in addition to its regular Section 382 Limitation. In general, a loss corporation’s net unrealized built-in gain or loss will be deemed to be zero unless it is greater than the lesser of (a) \$10,000,000 or (b) fifteen percent (15%) of the fair market value of its assets (with certain adjustments) before the ownership change. The Debtor has not currently analyzed whether it is in net unrealized built-in gain or net unrealized built-in loss position.

General Section 382 Annual Limitation. In general, the amount of the Section 382 Limitation to which a loss corporation that undergoes an “ownership change” would be subject is equal to the product of (a) the fair market value of the stock of the corporation immediately before the “ownership change” (with certain adjustments) multiplied by (b) the “long-term tax-exempt rate” (which is the highest of the adjusted federal long-term rates in effect for any month in the 3-calendar-month period ending with the calendar month in which the “ownership change” occurs: 0.85 percent for October 2020). As described above, the Section 382 Limitation may be increased to the extent that the loss corporation recognizes certain built-in gains in its assets during the five-year period following the ownership change or are treated as recognizing built-in gains pursuant to the safe harbors provided in IRS Notice 2003-65. Section 383 of the Tax Code applies a similar limitation to capital loss carryforwards and tax credits. Any unused limitation may be carried forward, thereby increasing the annual limitation in the subsequent taxable year. As discussed below, however, special rules may apply in the case of a corporation that experiences an ownership change as the result of a bankruptcy proceeding. Notwithstanding the general rule, if post-ownership change, the loss corporation does not continue its historic business or use a significant portion of its historic assets in a new business during the two-year period beginning on the date of

the ownership change, the annual limitation resulting from the ownership change is zero, which will prevent any utilization of the corporation's pre-change losses (absent any increases due to any recognized built-in gains) or tax credits.

Based on the currently available information, the Debtor's balance sheet reflects NOLs, including NOL carryforwards. It is expected that the current ownership of MUJI will remain the same as prepetition and accordingly there will be no change of ownership and the NOLs will remain unimpaired, but for the changes mandated by the Internal Revenue Special Bankruptcy Exceptions.

3. Cancellation of Debt Income

Under the Tax Code, a U.S. taxpayer generally must include in gross income the amount of any cancellation of indebtedness ("COD") income realized during the taxable year. COD income generally equals the excess of the adjusted issue price of the indebtedness discharged over the sum of (i) the amount of cash, (ii) the fair market value of any property (including equity interests), and (iii) the issue price of any new indebtedness of the Debtor, in each case, transferred or issued by the Debtor in satisfaction of such discharged indebtedness. COD income also includes any interest that has been previously accrued and deducted but remains unpaid at the time the indebtedness is discharged. Any settlement of a guarantee should not give rise to any COD income.

A corporation will not, however, be required to include any amount of COD income in gross income if the corporation is a debtor under the jurisdiction of a court in a case under chapter 11 of the Bankruptcy Code and the discharge of debt occurs pursuant to that proceeding (the "Section 108(a) Bankruptcy Exception") or to the extent that the taxpayer is insolvent immediately before the discharge (the "Insolvency Exception"). Instead under section 108(b) of the Tax Code, as a consequence of such exclusion, the debtor must reduce its tax attributes by the amount of COD income excluded from gross income.

In general, tax attributes are reduced in the following order: (a) NOLs and NOL carryforwards, (b) general business and minimum tax credit carryforwards, (c) capital loss carryforwards, (d) basis of the debtor's assets, (e) passive activity loss and credit carryovers, and (f) foreign tax credit carryforwards. A debtor's tax basis in its assets generally may not be reduced below the amount of liabilities remaining immediately after the discharge of indebtedness. NOLs for the taxable year of the discharge and NOL carryovers to such year generally are the first attributes subject to reduction. However, a debtor may elect under section 108(b)(5) of the Tax Code (the "Section 108(b)(5) Election") to reduce its basis in its depreciable property first. If a debtor makes a Section 108(b)(5) Election, the limitation on reducing a debtor's basis in its assets below the amount of its remaining liabilities does not apply. The Debtor has not yet determined whether an election under section 108(b)(5) will be made. Whether or not an election is made pursuant to section 108(b)(5) of the Tax Code, the reduction in tax attributes occurs only after the tax for the year of the debt discharge has been determined. Any excess COD income over the amount of available tax attributes is not subject to U.S. federal income tax and generally has no other U.S. federal income tax impact.

When, as in the present case, the bankrupt rejects a lease under section 365(a) of the Bankruptcy Code, the damages are restricted to the amounts set forth in section 502(b)(6) of the

Bankruptcy Code. The rejection of the lease does not create COD income, only in the event that the damages under section 502(b)(6) are compromised in an amount less than the statutory allowance will COD income be recognized.

As of December 31, 2019, the Debtor had approximately \$16.9 million of NOLs. The Debtor expects to incur additional \$34.75 million of NOLs in 2020. Because Class 3 Unsecured Claims may receive less than 100% of their claims, the Debtor expects that there may be material reductions in, or elimination of, its NOLs, NOL carryforwards and certain other tax attributes due to the Section 382 Limitation.

4. Alternative Minimum Tax

In general, an alternative minimum tax (“AMT”) is imposed on a corporation’s alternative minimum taxable income (“AMTI”) at a twenty percent (20%) rate to the extent such tax exceeds the corporation’s regular federal income tax for the year. AMTI is generally equal to regular taxable income with certain adjustments. For purposes of computing AMTI, certain tax deductions and other beneficial allowances are modified or eliminated. For example, except for alternative tax NOLs generated in certain years, which can offset one-hundred percent (100%) of a corporation’s AMTI, only ninety percent (90%) of a corporation’s AMTI may be offset by available alternative tax NOL carryforwards. The effect of this rule could cause the Reorganized Debtor to owe an amount of federal income tax on taxable income in future years even if NOL carryforwards are available to offset that taxable income. Additionally, under section 56(g)(4)(G) of the Tax Code, an ownership change (as discussed above) that occurs with respect to a corporation having a net unrealized built-in loss in its assets will cause, for AMT purposes, the adjusted basis of each asset of the corporation immediately after the ownership change to be equal to its proportionate share (determined on the basis of respective fair market values) of the fair market value of the assets of the corporation, as determined under section 382(h) of the Tax Code, immediately before the ownership change, the effect of which may increase the amount of AMT owed by the Reorganized Debtor.

Subject to certain limitations, any AMT that a corporation pays will be allowed as a nonrefundable credit against its regular U.S. federal income tax liability in future taxable years when the corporation is no longer subject to AMT.

B. U.S. Federal Income Tax Consequences to U.S. Holders of Claims and Interests

1. In General

Generally, the U.S. federal income tax consequences to Holders of Allowed Claims against and Interests in the Debtor arising from the distributions to be made in satisfaction of their Claims pursuant to the Plan may vary, depending upon, among other things: (a) the type of consideration received by the Holder of a Claim against or Interest in the Debtor in exchange for such Claim or Interest; (b) the taxable year in which the Holder receives distributions under the Plan; (c) the nature of such Claim or Interest; (d) whether the Holder has previously claimed a bad debt or worthless security deduction in respect of such Claim or Interest; (e) whether such Claim constitutes a security; (f) whether the Holder of such Claim or Interest in the Debtor is a citizen or

resident of the United States for tax purposes, or otherwise subject to U.S. federal income tax on a net income basis, or falls into any special class of taxpayers, as mentioned above; (g) whether the Holder of such Claim against or Interests in the Debtor reports income on the accrual or cash basis; (h) the manner in which the Holder acquired the Claim and whether the Claim was acquired at a discount; (i) the length of time that the Claim has been held; (j) whether the Holder has previously included in income accrued but unpaid interest with respect to the Claim; and (k) whether the Holder of such Claim against or Interests in the Debtor receives distributions under the Plan in more than one taxable year. For tax purposes, if a Claim is Reinstated yet subject to a modification, the Reinstatement may be treated as a taxable exchange of the Claim for a new Claim, even though no actual transfer takes place.

In addition, where gain or loss is recognized by a Holder, the character of such gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss will be determined by a number of factors, including the tax status of the Holder, whether the Claim or Interest constitutes a capital asset in the hands of the Holder and how long it has been held or is treated as having been held, whether the Claim was acquired at a market discount, and whether and to what extent the Holder previously claimed a bad debt deduction with respect to the underlying Claim or Interest. In general, for purposes of the discussion below, subject to other matters discussed herein such as the market discount rules, gain or loss recognized by a Holder upon exchange of that Claim or Interest generally would be long-term capital gain or loss if the U.S. Holder held such asset or Interest for more than one year at the time of the exchange. The deductibility of capital losses is subject to certain limitations. If property is received by a Holder upon an exchange, a Holder's tax basis in the property received should equal the fair market value of such property. A U.S. Holder's holding period for the property received on the Effective Date would begin on the day following the Effective Date.

2. Satisfaction of Claims or Interests

In general, subject to the other discussions below, the satisfaction of Claims or Interests by the Debtor is expected to result in the following U.S. federal income tax consequences for U.S. Holders.

(a) Class 3– Unsecured Claims

Under the Plan, each Holder of an Allowed Class 3 Claim shall receive a one-time cash payment in full satisfaction of its claim. It is expected that said payment will be less than 100% of such claim

Whether and the extent to which a U.S. Holder of an Allowed Class 3 Claim recognizes gain or loss as a result of such payment will depend on how the Holder of such Claim has treated the Claim. If a Holder of an Allowed Class 3 Claim has accrued the Claim and not previously written off any portion of the Claim, the Holder that receives less than 100% of the Claim is expected to recognize loss equal to the difference between the amount of cash received in exchange for the Claim and such Holder's adjusted basis (if any) in such Claim. If a Holder is a cash basis taxpayer, the receipt of the settlement proceeds will be a taxable event.

(b) Class 4 – RKJ Unsecured Claims

Under the Plan the Holder of Class 4 RKJ Unsecured Claims shall be deemed to have contributed the RKJ Unsecured Claims as capital in the Reorganized Debtor and will not receive any distribution from the GUC Cash Distribution Pool.

No gain or loss is expected to be recognized by the Holder of Class 4 Claim that contributes the Claim to the capital of the Reorganized Debtor. The Holder's basis in the stock of Reorganized Debtor is increased by the amount of the Holder's basis in the contributed Claim.

3. Accrued but Unpaid Interest

In general, to the extent a Holder of a Claim or Interest receives consideration in satisfaction of interest accrued during the holding period of such instrument, such amount will be taxable to the Holder as interest income (if not previously included in the Holder's gross income). Conversely, such a Holder should generally recognize a deductible loss to the extent that any accrued interest claimed or amortized original issue discount ("OID") was previously included in its gross income and is not paid in full.

The extent to which property received by a Holder of a Claim or Interest will be attributable to accrued but unpaid interest is unclear. Pursuant to the Plan, all distributions in respect of any Allowed Claim will be allocated first to the principal amount of such Allowed Claim, and thereafter to accrued but unpaid interest, if any. Certain legislative history indicates that an explicit allocation of consideration between principal and interest provided for in a chapter 11 plan is binding on parties for U.S. federal income tax purposes. There is no assurance, however, that such allocation will be respected by the IRS for U.S. federal income tax purposes. If a distribution with respect to a Claim is allocated entirely to the principal amount of such Claim, a Holder may be entitled to claim a loss to the extent of any accrued but unpaid interest on the Claim that was previously included in the Holder's gross income.

Each Holder of an Allowed Claim is urged to consult its tax advisor regarding the allocation of consideration and the deductibility of previously included unpaid interest and OID for tax purposes.

C. U.S. Federal Income Tax Consequences to Non-U.S. Holders of Claims and Interests

Non-U.S. Holders should consult with their own tax advisors to determine the effect of U.S. federal, state, and local tax laws, as well as any other applicable non-U.S. tax laws and/or treaties, with regard to their participation in the transactions contemplated by the Plan and their ownership of Claims or Interests. Non-U.S. Holders are urged to consult their tax advisors regarding the U.S. federal income consequences of owning and disposing of Litigation Trust Units.

1. Gain Recognition upon Consummation of the Plan

Whether a Non-U.S. Holder realizes gain or loss on the exchange of its Claim or Interest is determined in the same manner as set forth above in connection with U.S. Holders. Subject to

the assumptions and intentions of the Debtor described in the Disclosure Statement, any gain realized by a Non-U.S. Holder on the exchange of its Claim generally will not be subject to U.S. federal income taxation unless (a) the Non-U.S. Holder is an individual who was treated as a tax resident for the year in which income is recognized from the restructuring transactions, or (b) such gain is effectively connected with the conduct by such Non-U.S. Holder of a trade or business in the U.S. (and if required by an applicable income tax treaty, such gain is attributable to a permanent establishment maintained by such Non-U.S. Holder in the U.S.).

If the first exception applies, the Non-U.S. Holder generally will be subject to U.S. federal income tax at a rate of thirty percent (30%) (or at a reduced rate or exemption from tax under an applicable income tax treaty) on the amount by which such Non-U.S. Holder's capital gains allocable to U.S. sources exceed capital losses allocable to U.S. sources during the taxable year of the exchange, provided the Non-U.S. Holder has timely filed U.S. federal income tax returns with respect to such losses.

If the second exception applies, the Non-U.S. Holder generally will be subject to U.S. federal income tax with respect to any gain realized on the exchange if such gain is effectively connected with the Non-U.S. Holder's conduct of a trade or business in the U.S. in the same manner as a U.S. Holder. In order to claim an exemption from withholding tax, such Non-U.S. Holder will be required to provide a properly executed IRS Form W-8ECI (or such successor form as the IRS designates). In addition, if such Non-U.S. Holder is a corporation, it may be subject to a branch profits tax ("BPT") equal to thirty percent (30%) (or such lower rate provided by an applicable income tax treaty) of its effectively connected earnings and profits for the taxable year, subject to certain adjustments. However, a BPT may not apply if the Non-U.S. Holder qualifies for the "exit exemption" (i.e., after the exchange, the Holder has no other U.S. business assets and neither the Holder nor a related party reinvests the proceeds in the U.S. for a period of three years following the exchange).

2. Payments Attributable to Interest

Payments to a Non-U.S. Holder that are attributable to interest (including OID and any gain from the sale, redemption, retirement or other taxable disposition of the Claim that is treated as interest income), or to accrued but untaxed interest, generally will not be subject to U.S. federal income or withholding tax, provided that the withholding agent has received or receives, prior to payment, appropriate documentation (generally, an applicable or successor IRS Form W-8, as described below) establishing that the Non-U.S. Holder is not a U.S. person and:

- i. the Non-U.S. Holder does not actually or constructively own ten percent (10%) or more of the total combined voting power of classes of common stock entitled to vote;
- ii. the Non-U.S. Holder is not a "controlled foreign corporation" that is a "related person" with respect to common stock (each within the meaning of the Tax Code); and
- iii. the Non-U.S. Holder is not a bank receiving interest described in section 881(c)(3)(A) of the Tax Code.

If such interest is effectively connected with the conduct by the Non- U.S. Holder of a trade or business within the U.S. (and, if required by an applicable income tax treaty, the Non-U.S. Holder maintains a permanent establishment in the United States to which such interest is attributable), provided the Non-U.S. Holder provides a properly executed IRS Form W-8ECI (or successor form) to the withholding agent, the Non-U.S. Holder (x) generally will not be subject to withholding tax, but (y) will be subject to U.S. federal income tax in the same manner as a U.S. Holder (unless an applicable income tax treaty provides otherwise), and a Non-U.S. Holder that is a corporation for U.S. federal income tax purposes may also be subject to a BPT with respect to such Non-U.S. Holder's effectively connected earnings and profits that are attributable to the accrued but untaxed interest at a rate of thirty percent (30%) (or at a reduced rate or exemption from tax under an applicable income tax treaty).

A Non-U.S. Holder that does not qualify for exemption from withholding tax with respect to interest (including OID) or accrued but untaxed interest that is not effectively connected income generally will be subject to withholding of U.S. federal income tax at a thirty percent (30%) rate (or at a reduced rate or exemption from tax under an applicable income tax treaty) on payments that are attributable to such interest or accrued but untaxed interest. For purposes of providing a properly executed any applicable or successor IRS Form W-8, special procedures are provided under applicable Treasury Regulations for payments through qualified foreign intermediaries or certain financial institutions that hold customers' securities in the ordinary course of their trade or business.

The certifications described above must be provided to the applicable withholding agent prior to the payment of interest and must be updated periodically. Non-U.S. Holders that do not timely provide the applicable withholding agent with the required certification, but that qualify for a reduced rate under an applicable income tax treaty, may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS. Non-U.S. Holders should consult their tax advisors regarding their entitlement to benefits under any applicable income tax treaty.

D. FATCA

Under the Foreign Account Tax Compliance Act ("FATCA"), foreign financial institutions ("FFI") and certain other foreign entities must report certain information with respect to their U.S. account holders and investors or be subject to withholding on the receipt of "withholdable payments." For this purpose, "withholdable payments" are generally U.S.-source payments of fixed or determinable, annual or periodical income (including any, interest on the Claim).

FATCA withholding will apply even if the applicable payment would not otherwise be subject to U.S. federal nonresident withholding tax. FATCA withholding rules generally apply to interest and dividends on Claims and common stock. Previously, withholding with respect to gross proceeds from the disposition of certain property that produces U.S. source interest or dividends, like Claims, was scheduled to begin on January 1, 2019, however, such withholding has been eliminated under proposed U.S. Treasury Regulations (the "Proposed Regulations"), which can be relied on until final regulations become effective, which may adopt or alter the provisions of the Proposed Regulations. Although administrative guidance and Treasury Regulations have been issued, the exact scope of these rules remains unclear and potentially subject to material changes.

A Holder can avoid FATCA withholding if it adheres to certain procedures and requirements imposed by the Tax Code and applicable IRS rules and certifies such compliance to payers of pass-through payments. These rules vary dramatically depending upon whether the non-U.S. person is characterized as an FFI or a non-financial foreign entity. In addition, certain non-U.S. persons are “deemed compliant” with FATCA if they meet certain criteria and certify certain facts to the IRS. Each Holder should consult its own tax advisor regarding the possible impact of these rules on such Holder’s ownership and disposition of its Claims.

FATCA obligations may vary depending on whether the non-U.S. person subject to FATCA regulations is a resident of a country with which the U.S. has signed a bilateral intergovernmental agreement.

E. Information Reporting and Backup Withholding

1. U.S. Holders

Certain payments, including certain payments of Claims pursuant to the Plan and payments of interest may be subject to information reporting to the IRS. Moreover, with respect to U.S. Holders such reportable payments may be subject to backup withholding, currently at the rate of twenty-eight percent (28%), unless the Holder: (i) comes within certain exempt categories (which generally include corporations) or (ii) provides a correct taxpayer identification number on a properly executed IRS Form W-9 and otherwise complies with applicable backup withholding provisions. In addition, Treasury Regulations generally require disclosure by a taxpayer on its U.S. federal income tax return of certain types of transactions in which the taxpayer participated, including, among other types of transactions, certain transactions that result in the taxpayer’s claiming a loss in excess of specified thresholds.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against a Holder’s U.S. federal income tax liability, provided that the required information is furnished to the IRS on a timely basis. Holders are urged to consult their tax advisors regarding these regulations and whether the transactions contemplated by the Plan would be subject to these regulations and require disclosure on the Holders’ tax returns.

2. Non-U.S. Holders

Payments of interest on the creditor’s Claims will be subject to backup withholding, provided the applicable withholding agent does not have actual knowledge or reason to know the Non-U.S. Holder is a U.S. person and the Non-U.S. Holder either certifies its non-U.S. status, such as by furnishing a valid IRS Form W-8BEN, W-8BEN-E or W-8ECI, or otherwise establishes an exemption, such as by providing a substitute statement in a form substantially similar to a relevant IRS Form W-8, under penalty of perjury, that such Non-U.S. Holder is the beneficial owner of the payment, and is not an individual citizen or resident of the United States or an entity formed in the United States, as the case may be.

Copies of information returns that are filed with the IRS may also be made available under the provisions of an applicable treaty or agreement to the tax authorities of the country in which the Non-U.S. Holder resides or is established.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against a Non-U.S. Holder's U.S. federal income tax liability, provided the required information is timely furnished to the IRS. Holders are urged to consult their tax advisors regarding these regulations and whether the transactions contemplated by the Plan would be subject to these regulations and require disclosure on the Holders' tax returns

F. Importance of Obtaining Your Own Professional Tax Assistance

THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATION PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ASSOCIATED WITH THE PLAN ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A HOLDER'S INDIVIDUAL CIRCUMSTANCES. ACCORDINGLY, HOLDERS ARE URGED TO CONSULT THEIR TAX ADVISORS ABOUT THE U.S. FEDERAL, STATE, LOCAL AND NON-U.S. INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.