

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

In re:

VELOCITY HOLDING COMPANY, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 17-12442 (KJC)

(Jointly Administered)

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER  
CONFIRMING THE JOINT CHAPTER 11 PLAN OF REORGANIZATION OF  
VELOCITY HOLDING COMPANY, INC. AND ITS AFFILIATED DEBTORS**

The *Joint Chapter 11 Plan of Reorganization of Velocity Holding Company, Inc. and its Affiliated Debtors*, dated March 26, 2018 [ECF No. 565], a copy of which is annexed hereto as Exhibit A, (together with all addenda, exhibits, schedules or other attachments thereto, including the Plan Supplement (as defined below) and all other exhibits and schedules thereto, as has been or may be amended, supplemented or modified from time to time in accordance with its terms, the “Plan”),<sup>2</sup> having been filed with the Bankruptcy Court (the “Court”) by Velocity Holding Company, Inc. (“Holdings”) and its debtor affiliates, as debtors-in-possession in the above-captioned chapter 11 cases (collectively, the “Debtors”); and the *Disclosure Statement for the Joint Chapter 11 Plan of Reorganization of Velocity Holding Company, Inc. and its Affiliated Debtors* [ECF No. 392] (together with all addenda, exhibits, schedules and other attachments thereto, as approved by the Court, the “Disclosure Statement”) having been filed with the Court;

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Velocity Holding Company, Inc. (1790); Velocity Pooling Vehicle, LLC (4630); Ed Tucker Distributor, Inc. (9197); Ralco Holdings, Inc. (0707); Rally Holdings, LLC (0707); Tucker Rocky Corporation (5967); Tucker-Rocky Georgia, LLC (8121); Motorsport Aftermarket Group, Inc. (0080); DFR Acquisition Corp. (4542); J&P Cycles, LLC (2512); Kuryakyn Holdings, LLC (2341); MAG Creative Group, LLC (4754); MAGNET Force, LLC (2635); Motorcycle Superstore, Inc. (1046); Motorcycle USA LLC (8994); Mustang Motorcycle Products, LLC (3660); Performance Machine, LLC (3924); Renthal America, Inc. (3827); and V&H Performance, LLC (2802). The location of the Debtors’ service address is 651 Canyon Drive, Suite 100, Coppell, Texas 75019.

<sup>2</sup> Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the Plan. The rules of construction contained in Article I.B. of the Plan shall apply to this Confirmation Order.

and the *Supplement to Joint Chapter 11 Plan of Reorganization of Velocity Holding Company, Inc. and its Affiliated Debtors*, dated March 14, 2018 [ECF No. 519], which included (i) the Form of New Operating Agreement of Velocity Pooling Vehicle, LLC; (ii) the Form of New Warrant Documents; (iii) the Exit Revolving Credit Agreement Term Sheet; (iv) the Exit Term Loan Credit Agreement Term Sheet; (v) the Schedule of Rejected Contracts; (vi) the Description of Structure; (vii) the Employment Arrangement Schedule; (viii) the Benefit Plan Schedule; (ix) the Schedule of Retained Affiliate Agreements under Section 8.1(c) of the Plan; (x) the Form of Payoff Letter; and (xi) the Identity of Members of New Board and Related Section 1129(a)(5) Disclosures (as each such documents contained therein have been or may be further amended, supplemented or modified from time to time, the “Plan Supplement”)<sup>3</sup> having been filed with the Court; and appropriate Ballots for voting on the Plan having been approved and transmitted to holders of Claims against the Debtors in the Voting Class (defined below) pursuant to the *Order Approving the Debtors’ Motion for Entry of an Order (I) Approving the Adequacy of the Disclosure Statement, (II) Approving the Solicitation and Notice Procedures with Respect to Confirmation of the Debtors’ Proposed Joint Plan of Reorganization, (III) Approving the Form of Ballots and Notices in Connection Therewith, (IV) Scheduling Certain Dates with Respect Thereto, and (V) Granting Related Relief* [ECF No. 401] (the “Disclosure Statement Order”), which, among other things, approved the adequacy and solicitation of the Disclosure Statement and approved certain procedures for soliciting votes to accept or reject the Plan (the “Solicitation Procedures”); and the Court having reviewed the *Debtors’ Memorandum of Law in Support of Confirmation of Joint Chapter 11 Plan of Reorganization of Velocity Holding Company, Inc. and its Affiliated Debtors* [ECF No. 566] (the “Confirmation Memorandum”); and the Court having

<sup>3</sup> See *Amended Supplement to Joint Chapter 11 Plan of Reorganization of Velocity Holding Company, Inc. and its Affiliated Debtors*, dated March 26, 2018 [ECF No. 570], and *Second Amended Supplement to Joint Chapter 11 Plan of Reorganization of Velocity Holding Company, Inc. and its Affiliated Debtors*, dated March 29, 2018.

conducted the Confirmation Hearing starting on March 29, 2018; and the Court having considered each of: (i) the Confirmation Declarations;<sup>4</sup> (ii) the *Declaration of Jung W. Song on Behalf of Donlin, Recano & Company, Inc. Regarding Voting and Tabulation of Ballots Accepting and Rejecting Joint Chapter 11 Plan of Reorganization of Velocity Holding Company, Inc. and its Affiliated Debtors* [ECF No. 564] (the “Voting Report”), each of (i) and (ii) having been admitted into evidence at the Confirmation Hearing; (iii) any objections, to the extent not withdrawn or resolved, to confirmation of the Plan; (iv) the arguments of counsel, testimony and evidence presented at the Confirmation Hearing; and (v) the record of these Chapter 11 Cases; and the Court being familiar with the Plan, the Disclosure Statement, the Plan Supplement, and other relevant documents and factors affecting the Chapter 11 Cases; and the Court having taken judicial notice of the entire docket of the Chapter 11 Cases maintained by the Clerk of the Court and/or its duly appointed agent, and all pleadings and other documents filed, all orders entered, and evidence and arguments made, proffered, or adduced at the hearings held before the Court during the pendency of the Chapter 11 Cases; and the Court having found that due and proper notice has been given with respect to the Plan, the Plan Supplement, the Confirmation Hearing and the deadlines and procedures for filing objections to confirmation of the Plan in accordance with the Disclosure Statement Order, title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (as amended, the “Bankruptcy Code”), the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), and all other applicable laws, rules, and regulations, in each case as established by the affidavits of service, mailing,

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<sup>4</sup> The Confirmation Declarations include: (a) the *Declaration of Anthony Flanagan in Support of Confirmation of Joint Chapter 11 Plan of Reorganization of Velocity Holding Company, Inc. and Its Affiliated Debtors* [ECF No. 566-A]; (b) the *Declaration of Jeffrey W. Kopa in Support of Confirmation of Joint Chapter 11 Plan of Reorganization of Velocity Holding Company, Inc. and Its Affiliated Debtors* [ECF No. 566-B]; and (c) all other declarations and proffers of sworn testimony admitted into evidence at the Confirmation Hearing.

and/or publication filed with this Court prior to the Confirmation Hearing (collectively, the “Notice Affidavits”)<sup>5</sup>; and upon the record of the Confirmation Hearing, and after due deliberation thereon and good and sufficient cause appearing therefor,

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

IT IS HEREBY FOUND, DETERMINED, AND CONCLUDED THAT:

A. Findings and Conclusions. The findings and conclusions set forth herein and in the record of the Confirmation Hearing constitute the Court’s findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, as made applicable herein by Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. Jurisdiction, Venue and Core Proceeding (28 U.S.C. §§ 157(b)(2), 1334(a)). The Court has jurisdiction over this matter and the Chapter 11 Cases pursuant to 28 U.S.C. § 1334 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware. Confirmation of the Plan and approval of the matters provided in, implemented under or in connection with the Plan are core proceedings pursuant to 28 U.S.C. §§ 157(b). This Court has exclusive jurisdiction to enter a final order with respect thereto, and this Court’s exercise of such jurisdiction is constitutional in all respects. The Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed. Venue is proper in this District and before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

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<sup>5</sup> The Notice Affidavits are located on the Court docket at ECF Nos. 410, 426, 525, and 581.

C. Commencement and Joint Administration. On November 15, 2017 (the “Petition Date”), each Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code in this Court (collectively, the “Chapter 11 Cases”). The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On November 17, 2017, the Court entered an order authorizing the joint administration and procedural consolidation of the Chapter 11 Cases pursuant to Bankruptcy Rule 1015(b) [ECF No. 37]. No trustee or examiner has been appointed in these Chapter 11 Cases. On November 29, 2017, the United States Trustee for Region 3 (the “U.S. Trustee”) appointed a statutory committee of unsecured creditors (the “Committee”) pursuant to section 1102 of the Bankruptcy Code [ECF No. 110].

D. Judicial Notice. The Court takes judicial notice of the docket of the Chapter 11 Cases maintained by the Clerk of the Court, including all pleadings and other documents filed, all orders entered, and all evidence and arguments made, proffered, or adduced at the hearings held before the Court during the pendency of the Chapter 11 Cases.

E. Plan Solicitation. Commencing on February 21, 2018, the Debtors, through their claims, noticing and balloting agent (the “Notice and Claims Agent”), caused the Plan, the Disclosure Statement and Disclosure Statement Order, the applicable Ballots, and the applicable notices (collectively, the “Solicitation Packages”) to be transmitted and served in compliance with sections 1125 and 1126 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Disclosure Statement Order, all other applicable provisions of the Bankruptcy Code, the Securities Act and all other applicable rules, laws and regulations applicable to such solicitation. *See Affidavit of Donlin, Recano and Company, Inc. Regarding Service of Solicitation Packages with Respect to Joint Chapter 11 Plan of Reorganization of Velocity Holding Company, Inc. and*

*Its Affiliated Debtors* [ECF No. 426]. The Debtors were not required to solicit votes from the holders of Claims in Class 1 (Other Priority Claims) and Class 2 (Other Secured Claims) and Interests in Class 8 (Other Debtor Interests) (collectively, the “Unimpaired Classes”) as each such Class was deemed to accept the Plan. The Debtors were not required to solicit votes from the holders of Claims in Class 4 (Second Lien Term Loan Claims), Class 5 (General Unsecured Claims) and Class 6 (Section 510(b) Claims) or from the holders of Interests in Class 7 (Holdings Interests), as each such Class is deemed to reject the Plan (collectively, the “Deemed Rejecting Classes”, and together with the Unimpaired Classes, the “Non-Voting Classes”). The transmittal and service of the Solicitation Packages (the “Plan Solicitation”) was timely, adequate and sufficient under the circumstances and no other or further notice was or shall be required. The solicitation of votes on the Plan complied with the Solicitation Procedures, was appropriate and satisfactory based upon the circumstances of the Chapter 11 Cases, was conducted in good faith, and was in compliance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Disclosure Statement Order, and any other applicable rules, laws, and regulations. All parties in interest in the Chapter 11 Cases had a full and fair opportunity to appear and be heard at the Confirmation Hearing and no further notice shall be required.

F. Voting Report and Voting Results. On March 26, 2018, the Debtors filed the Voting Report, certifying the method and results of Ballot tabulation (as set forth in the Voting Report). All procedures used to tabulate the Ballots were fair and conducted in good faith and in accordance with the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and all other applicable rules, laws and regulations. As more fully described in

the Voting Report, Class 3 First Lien Term Loan Claims (the "Voting Class"), voted to accept the Plan.

G. Compliance with Bankruptcy Rule 3016. The Plan is dated and identifies the Persons submitting and filing it, thereby complying with Bankruptcy Rule 3016(a). The filing of the Disclosure Statement with the Clerk of the Court satisfied Bankruptcy Rule 3016(b). The discharge, release, injunction and exculpation provisions of the Plan are set forth in bold or capitalized typeface, thereby complying with Bankruptcy Rule 3016(c).

H. Assumption and Cure Notices. In accordance with the Disclosure Statement Order, the Debtors served on the applicable counterparties notice of the Executory Contracts and Unexpired Leases to be assumed by the Debtors and related cure amounts and the procedures for objecting thereto and resolution of disputes by the Court thereof (collectively, the "Assumption and Cure Notices"). *See Affidavit of Service* [ECF No. 511]. The transmittal and service of the Assumption and Cure Notices was timely, adequate and sufficient under the circumstances and no other or further notice was or shall be required. On March 7, 2018, the Debtors filed the *Schedule of Proposed Cure Amounts for Executory Contracts and Unexpired Leases* (the "Initial Cure Schedule") [ECF No. 506], and on March 14, 2018, the Debtors filed the *Amended Schedule of Proposed Cure Amounts for Executory Contracts* (the "Cure Schedule") [ECF No. 520].

I. Plan Supplement. The Plan Supplement, and all materials related thereto, complies with the terms of the Plan, and its filing and the notice provided by such filing complied with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Disclosure Statement Order, and all other applicable rules, laws, and regulations, including applicable securities laws, and no other or further notice of the materials in the Plan Supplement is required.

All documents included in the Plan Supplement are integral to, part of, and incorporated by reference into the Plan. The Debtors, with the consent of the Requisite Consenting Term Lenders, and, to the extent modifying the DIP ABL Plan Provisions or the definitions set forth in Sections 1.35 through 1.49, 1.115 and 1.116 of the Plan in a manner that adversely impacts the rights of the DIP ABL Agent or DIP ABL Lenders, with the consent of the DIP ABL Agent acting at the direction of the requisite DIP ABL Lenders, reserve the right to alter, amend, update or modify the Plan Supplement prior to the Effective Date in accordance with the terms of this Confirmation Order.

J. Notice and Opportunity to Object. As evidenced by the Notice Affidavits, due, adequate, and sufficient notice of the Disclosure Statement, the Plan, the Plan Supplement, the Confirmation Hearing, the Voting Deadline, and all deadlines for objecting to the Plan, has been provided in accordance with the Disclosure Statement Order, and adequate and sufficient notice has been provided pursuant to section 1128 of the Bankruptcy Code, Bankruptcy Rules 2002(b) and 3020, and other applicable law and rules. All parties-in-interest have had a full and fair opportunity to object to confirmation of the Plan and to litigate all issues raised by objections to confirmation of the Plan. No other or further notice is or shall be required.

STANDARDS FOR CONFIRMATION  
UNDER SECTION 1129 OF THE BANKRUPTCY CODE

K. Burden of Proof. The Debtors, as proponents of the Plan, have met their burden of proving the elements of section 1129 of the Bankruptcy Code by a preponderance of the evidence, which is the applicable evidentiary standard for confirmation of the Plan.

L. Plan's Compliance with Bankruptcy Code (11 U.S.C. §1129(a)(1)). The Plan complies with each applicable provision of the Bankruptcy Code. Pursuant to sections 1122(a) and 1123(a)(1) of the Bankruptcy Code, Article III of the Plan provides for the separate

classification of Claims and Interests (other than Administrative Expense Claims, Fee Claims, Priority Tax Claims and DIP Claims, all of which are addressed in Article II of the Plan and are not required to be designated as separate Classes pursuant to section 1123(a)(1) of the Bankruptcy Code), based on differences in the legal nature or priority of such Claims and Interests. In particular, the Plan complies with the requirements of sections 1122 and 1123 of the Bankruptcy Code as follows:

1. Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)). Article III of the Plan provides for the separate classification of Claims and Interests into eight Classes. Valid business, factual, and legal reasons exist for the separate classification of such Classes of Claims and Interests. The classifications reflect no improper purpose and do not unfairly discriminate between, or among, holders of Claims and Interests, respectively. Each Class of Claims and Interests contains only Claims or Interests that are substantially similar to the other Claims or Interests within that Class. The Plan therefore satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.
2. Specified Unimpaired Classes (11 U.S.C. § 1123(a)(2)). Sections 3.3, 4.1, 4.2, and 4.8 specify that Claims in Class 1 (Other Priority Claims) and Class 2 (Other Secured Claims) and Interests in Class 8 (Other Debtor Interests) are Unimpaired under the Plan within the meaning of section 1124 of the Bankruptcy Code, thereby satisfying section 1123(a)(2) of the Bankruptcy Code.<sup>6</sup>
3. Specified Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)). Sections 3.3 and 4.1 through 4.7 of the Plan designate Claims in Class 3 (First Lien Term Loan Claims), Class 4 (Second Lien Term Loan Claims), Class 5 (General Unsecured Claims), Class 6 (Section 510(b) Claims), and Interests in Class 7 (Holdings Interests) as impaired within the meaning of section 1124 of the Bankruptcy Code and specifies the treatment of the Claims and Interests in those Classes, thereby satisfying section 1123(a)(3) of the Bankruptcy Code.
4. No Discrimination (11 U.S.C. § 1123(a)(4)). In accordance with section 1123(a)(4) of the Bankruptcy Code, the Plan provides the same treatment for each Claim or Interest within a particular Class unless the holder of such a Claim or Interest has agreed to less favorable treatment.
5. Implementation of the Plan (11 U.S.C. § 1123(a)(5)). In accordance with section 1123(a)(5) of the Bankruptcy Code, the Plan, the Plan Supplement, the Disclosure Statement, and the exhibits and attachments to each such document, provide adequate

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<sup>6</sup> As set forth in Section 4.8 of the Plan, Other Debtor Interests, other than Other Debtor Interests in Velocity Pooling Vehicle, LLC (“Pooling”), are treated as unaffected by the Plan, solely for administrative convenience. Interests in Pooling are cancelled under the Plan.

means for the Plan's implementation, particularly by, among other things, providing for (i) the implementation of the Restructuring Transactions contemplated by the Plan, including the Restructuring Transactions contemplated by the Description of Structure, (ii) the issuance of New Common Units to holders of Allowed First Lien Term Loan Claims in accordance with the Plan, (iii) the entry into the Exit Facility Documents and the issuance of the New Warrants in accordance with the Plan, (iv) a method of determining Allowed Claims and distributions, (v) the revesting of assets of the Debtors' estates, (vi) the adoption of the New Organizational Documents, and (vii) the cancellation of the Interests of Holdings and Pooling.

6. Non-Voting Equity Securities (11 U.S.C. § 1123(a)(6)). As set forth in the Plan Supplement, the New Organizational Documents prohibit the issuance of nonvoting equity securities to the extent required by section 1123(a)(6) of the Bankruptcy Code.

7. Designation of Directors and Officers (11 U.S.C. § 1123(a)(7)). In accordance with section 1123(a)(7) of the Bankruptcy Code, Section 5.10 of the Plan contains provisions regarding the manner of selection of the board of directors or managers of the Reorganized Debtors that are consistent with the interests of all holders of Claims and Interests and public policy. The initial directors or managers and officers of the Reorganized Debtors were disclosed as part of the Plan Supplement.

8. Impairment/Unimpairment of Classes of Claims and Interests (11 U.S.C. § 1123(b)(1)). In accordance with section 1123(b)(1) of the Bankruptcy Code, Article III of the Plan impairs or leaves Unimpaired, as the case may be, each Class of Claims and Interests.

9. Assumption and Rejection of Executory Contracts (11 U.S.C. § 1123(b)(2)). In accordance with section 1123(b)(2) of the Bankruptcy Code, Article VIII of the Plan provides for the assumption, assumption and assignment, or rejection of the Executory Contracts of the Debtors that have not been previously assumed, assumed and assigned or rejected pursuant to section 365 of the Bankruptcy Code.

10. Settlement and Preservation of Claims and Causes of Action (11 U.S.C. § 1123(b)(3)).

(i) Global Compromise and Settlement. Each of the compromises and settlements embodied in the Plan, including, without limitation, its releases, injunctions, exculpation and compromise provisions, are mutually dependent and non-severable parts of the global compromise that the Plan constitutes, are in the best interests of the Debtors, their estates, creditors, and other parties-in-interest, and are fair, equitable, and within the range of reasonableness and are approved.

(ii) Preservation of Causes of Action. Section 10.8 of the Plan provides, in accordance with section 1123(b)(3) of the Bankruptcy Code, that, except as expressly provided in the Plan or this Confirmation Order, all Causes of Action are preserved for the benefit of the Reorganized Debtors, in each case subject to the terms of the Plan. The provisions regarding the preservation of Causes of Action in the Plan are appropriate,

fair, equitable and reasonable, and are in the best interests of the Debtors, the Estates and holders of Claims and Interests.

11. Modification of Rights (11 U.S.C. § 1123(b)(5)). In accordance with section 1123(b)(5) of the Bankruptcy Code, Articles IV, V and X of the Plan modify or leave unaffected, as the case may be, the rights of certain holders of Claims and Interests in Classes 1 through 8.

12. Additional Plan Provisions (11 U.S.C. § 1123(b)(6)). In accordance with section 1123(b)(6) of the Bankruptcy Code, the Plan includes additional appropriate provisions that are not inconsistent with applicable provisions of the Bankruptcy Code, including, without limitation:

(i) Employee Compensation Matters. Section 5.13 of the Plan provides for the assumption and continuation of certain Employment Arrangements and Benefit Plans. From the Petition Date through the Effective Date, no payments have been or will be made on account of the Employment Arrangements and Benefit Plans in violation of section 503(c) of the Bankruptcy Code. The Severance Payments conditionally approved by the *Order Approving Debtors' Key Employee Incentive Plan* [ECF No. 225] (the "KEIP Order") do not create or give rise to any Allowed Administrative Expense Claim, or any other Claim, in these Chapter 11 Cases, may be made only by the Reorganized Debtors after the Effective Date and from post-Effective Date funds, and otherwise comply with all applicable provisions of the Bankruptcy Code.

M. Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(2)). The Debtors, as plan proponents, have complied with all applicable provisions of the Bankruptcy Code. Specifically:

1. Each of the Debtors is an eligible debtor under section 109 of the Bankruptcy Code and a proper proponent under section 1121(a) of the Bankruptcy Code.
2. The Debtors have complied with the applicable provisions of the Bankruptcy Code, including sections 1125 and 1126(b), the Bankruptcy Rules, the Local Rules, the Disclosure Statement Order, applicable non-bankruptcy law (including applicable securities laws), and all other applicable laws, rules, and regulations in filing or transmitting, as applicable, the Solicitation Packages, the Plan Supplement and related documents and notices and in soliciting and tabulating the votes on the Plan.
3. The Debtors have complied with applicable provisions of the Bankruptcy Code, except as otherwise provided or permitted by orders of the Court.

N. Plan Proposed in Good Faith (11 U.S.C. § 1129(a)(3)). The Plan has been proposed in good faith and not by any means forbidden by law. The Debtors filed the Chapter

11 Cases in need of reorganization and with the belief that reorganization in Chapter 11 was the best restructuring alternative available to the Debtors. The Debtors and the Consenting Term Lenders negotiated the Plan, and the contracts, instruments, agreements and documents related to or necessary to implement, effectuate and consummate the Plan, in good faith and at arm's-length with the intention of accomplishing a successful reorganization. The good faith of the Debtors and the Consenting Term Lenders is evident from the facts and record of the Chapter 11 Cases, the Disclosure Statement, the Plan, the record of the Confirmation Hearing and the other proceedings in the Chapter 11 Cases. The Plan fairly achieves a result consistent with the objectives and purposes of the Bankruptcy Code. In so finding, the Court has considered, among other things, the totality of the circumstances in the Chapter 11 Cases. The Debtors and the Consenting Term Lenders and each of their respective officers, directors, managers, members, partners, employees, advisors, agents and professionals (i) acted in good faith in negotiating, formulating, and proposing the Plan and the agreements, documents, settlements, releases, transactions, and transfers contemplated thereby, and (ii) will be acting in good faith in proceeding to (a) consummate the Plan, the Plan Supplement and the agreements, compromises, settlements, transactions, transfers, and documentation contemplated by the Plan, and (b) take any actions authorized and directed or contemplated by this Confirmation Order. Thus, the Plan satisfies the requirements of section 1129(a)(3) of the Bankruptcy Code.

O. Payment for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)). Payments made or to be made by the Debtors for services or for costs and expenses incurred in connection with the Chapter 11 Cases prior to the Effective Date, or in connection with the Plan and incidental to the Chapter 11 Cases, have been previously authorized or approved by prior

procedures or orders of the Court, or are subject to the approval of the Court. The Plan therefore satisfies section 1129(a)(4) of the Bankruptcy Code.

P. Directors, Officers, and Insiders (11 U.S.C. § 1129(a)(5)). The Debtors have disclosed in the Plan Supplement: (i) the identities of the members of the New Board of Pooling as of the Effective Date; (ii) the identities of the members of the boards of directors/managers of the other Reorganized Debtors as of the Effective Date; (iii) the identities of the officers of the Reorganized Debtors as of the Effective Date; and (iv) the nature of any compensation for any insider that will be employed by the Reorganized Debtors. The proposed directors, managers and officers for the Reorganized Debtors are qualified and their appointment to, or continuance in, such offices is consistent with the interests of holders of Claims and Interests and with public policy. Accordingly, the Debtors have complied with section 1129(a)(5) of the Bankruptcy Code.

Q. No Rate Changes (11 U.S.C. § 1129(a)(6)). Bankruptcy Code section 1129(a)(6) is not applicable to the Chapter 11 Cases. The Plan does not provide for any changes in rates that require regulatory approval of any governmental agency.

R. Best Interest of Creditors (11 U.S.C. § 1129(a)(7)). The liquidation analysis set forth at Exhibit C to the Disclosure Statement and other evidence proffered or adduced at or prior to, or in declarations filed in connection with, the Confirmation Hearing (including the Confirmation Declarations) (i) are reasonable, persuasive, accurate and credible; (ii) use reasonable and appropriate methodologies and assumptions; (iii) have not been controverted by any other evidence; and (iv) establish that each holder of an Allowed Claim or Interest in an Impaired Class either (a) has accepted the Plan or (b) will receive or retain under the Plan, on account of such Claim or Interest, property of a value, as of the Effective Date of the Plan, that is

not less than the amount that it would have received if the Debtors were liquidated under chapter 7 of the Bankruptcy Code on such date. Thus, the Plan satisfies sections 1129(a)(7) of the Bankruptcy Code.

S. Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)). Class 1 (Other Priority Claims), Class 2 (Other Secured Claims) and Class 8 (Other Debtor Interests) are Unimpaired and are conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. As set forth in the Voting Report, Class 3, the only Impaired Class entitled to vote, has voted to accept the Plan. The Plan has not been accepted by all Impaired Classes, however, because the holders of Claims in Class 4 (Second Lien Term Loan Claims), Class 5 (General Unsecured Claims), and Class 6 (Section 510(b) Claims) and Interests in Class 7 (Holdings Interests) are deemed to have rejected the Plan under section 1126(g) of the Bankruptcy Code. Nevertheless, the Plan is confirmable because it does not discriminate unfairly and is fair and equitable with respect to the Deemed Rejecting Classes, and thus the Plan satisfies section 1129(b) of the Bankruptcy Code.<sup>7</sup>

T. Treatment of Administrative Claims, Priority Tax Claims and Other Priority Claims (11 U.S.C. § 1129(a)(9)). The Plan provides treatment for Administrative Expense Claims, Priority Tax Claims and Other Priority Claims that is consistent with the requirements of section 1129(a)(9) of the Bankruptcy Code.

U. Acceptance by Impaired Class (11 U.S.C. § 1129(a)(10)). The Plan complies with section 1129(a)(10) of the Bankruptcy Code. As evidenced by the Voting Report, Class 3 (First Lien Term Loan Claims) is Impaired under the Plan and has voted to accept the Plan.

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<sup>7</sup> As set forth in Section 4.8 of the Plan, Other Debtor Interests, other than Other Debtor Interests in Pooling are treated as unaffected by the Plan, solely for the administrative convenience. Interests in Pooling are cancelled under the Plan.

Such determination was made without including any acceptance of the Plan by any “insider” (as that term is defined in section 101(31) of the Bankruptcy Code).

V. Feasibility (11 U.S.C. § 1129(a)(11)). The Plan is feasible, within the meaning of section 1129(a)(11) of the Bankruptcy Code. The Debtors’ projections of the capitalization and financial information of the Reorganized Debtors as of the Effective Date are reasonable and made in good faith. The evidence provided in support of the Plan or adduced by the Debtors at, before, or in declarations filed in connection with, the Confirmation Hearing (including the Confirmation Declarations and the financial projections attached as Exhibit B to the Disclosure Statement): (i) is reasonable, persuasive, credible and accurate as of the dates such evidence was prepared, presented or proffered; (ii) uses reasonable and appropriate methodologies and assumptions; (iii) has not been controverted by other evidence; (iv) establishes that Confirmation of the Plan is not likely to be followed by the liquidation or further financial reorganization of the Reorganized Debtors or any successor to the Reorganized Debtors under the Plan (except as contemplated by the Plan, including the Description of Structure); (v) establishes that the Reorganized Debtors will have sufficient funds available to meet their obligations under the Plan; and (vi) demonstrates adequate assurance of future performance by the Debtors under the Executory Contracts that are proposed to be assumed or assumed and assigned under the Plan.

W. Payment of Certain Fees (11 U.S.C. § 1129(a)(12)). The Plan provides that fees payable pursuant to 28 U.S.C. § 1930 and due and owing to the U.S. Trustee at the time of the Confirmation Hearing will be paid by the Debtors on the Effective Date. After the Effective Date, the Reorganized Debtors will pay the quarterly fees due to the U.S. Trustee for the Reorganized Debtors until the entry of a final decree in the Chapter 11 Cases.

X. Continuation of Retiree Benefits (11 U.S.C. § 1129(a)(13)). To the extent section 1129(a)(13) of the Bankruptcy Code is applicable to the Debtors, the Reorganized Debtors, as set forth in Section 8.7 of the Plan, shall continue to pay, in accordance with applicable law, any retiree benefits (as defined in section 1114 of the Bankruptcy Code), if any, for the period during which the Debtors have obligated themselves to provide such benefits, thereby satisfying section 1129(a)(13) of the Bankruptcy Code.

Y. Non-Applicability of Certain Sections (11 U.S.C. §§ 1129(a)(14), (15)) and (16). Sections 1129(a)(14), (15) and (16) of the Bankruptcy Code do not apply to the Chapter 11 Cases as the Debtors owe no domestic support obligations, are not individuals, and are not nonprofit corporations.

Z. No Unfair Discrimination; Fair and Equitable (11 U.S.C. § 1129(b)). The Plan satisfies section 1129(b) of the Bankruptcy Code with respect to Class 4 (Second Lien Term Loan Claims), Class 5 (General Unsecured Claims), Class 6 (Section 510 Claims) and Class 7 (Holdings Interests). The evidence proffered or adduced at, or prior to, the Confirmation Hearing is persuasive and credible, has not been controverted by other credible evidence, and establishes that the Plan does not discriminate unfairly and is fair and equitable with respect to the Deemed Rejecting Classes, as required by section 1129(b)(2)(C) of the Bankruptcy Code, because (i) no Class of Claims or Interests of similar legal rights is receiving different treatment under the Plan; (ii) no holder of a Claim or Interest will receive more than it is legally entitled to receive on account of its Claim or Interest; and (iii) the Plan does not provide a recovery on account of any Claim or Interest that is junior to the Deemed Rejecting Classes. Thus, the Plan may be confirmed notwithstanding the deemed rejection of the Plan by the Deemed Rejecting Classes.

AA. Only One Plan (11 U.S.C. § 1129(c)). The Plan is the only chapter 11 plan filed in each of the Chapter 11 Cases and, accordingly, section 1129(c) of the Bankruptcy Code has been satisfied.

BB. Principal Purpose of the Plan (11 U.S.C. § 1129(d)). The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act. The Plan thus satisfies section 1129(d) of the Bankruptcy Code.

CC. Small Business Case (11 U.S.C. § 1129(e)). None of the Chapter 11 Cases is a small business case within the meaning of the Bankruptcy Code. Accordingly, section 1129(e) of the Bankruptcy Code is inapplicable to these Chapter 11 Cases.

DD. Good Faith Solicitation (11 U.S.C. § 1125(e)). Based on the record before the Court in the Chapter 11 Cases, including evidence presented at the Confirmation Hearing, (i) the Debtors and the Reorganized Debtors; (ii) the professionals of the Debtors; (iii) the Consenting Term Lenders; and (iv) the professionals of the Consenting Term Lenders (collectively, the “Solicitation Parties”), have acted in “good faith” within the meaning of section 1125(e) of the Bankruptcy Code in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable non-bankruptcy law, rule, or regulation in connection with all of their respective activities relating to the Plan, including, but not limited to, the execution, delivery and performance of the Restructuring Support Agreement, the solicitation of acceptances and rejections of the Plan and the offer, issuance, sale, purchase, and delivery of the New Common Units, the New Warrants and any other securities offered, issued or sold under the Plan, and each Solicitation Party is entitled to and is hereby granted the protections afforded under section 1125(e) of the Bankruptcy Code.

EE. Modification of the Plan (11 U.S.C. § 1127(a)). Pursuant to and in compliance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3018, the Debtors proposed certain modifications to the Plan as reflected herein and/or in modified or amended versions of the Plan and Plan Supplement filed with the Court prior to entry of this Confirmation Order (collectively, the “Plan Modifications”). Adequate and sufficient notice of the Plan Modifications has been given and no other or further notice is or shall be required. In accordance with Bankruptcy Rule 3019, the Plan Modifications do not (i) constitute material modifications of the Plan under section 1127 of the Bankruptcy Code, (ii) cause the Plan to fail to meet the requirements of sections 1122 or 1123 of the Bankruptcy Code, (iii) materially and adversely change the treatment of any Claims or Interests (other than, as applicable, any Claims and Interests held by those who have accepted such Plan Modifications in writing or in open court), (iv) require re-solicitation of any holders of Claims or Interests, or (v) require that any such holders be afforded an opportunity to change previously cast acceptances or rejections of the Plan. Under the circumstances, the form and manner of notice of the proposed Plan Modifications are adequate, and no other or further notice of the proposed Plan Modifications is necessary or required. In accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all holders of Claims who voted to accept the Plan or who are conclusively presumed to have accepted the Plan are deemed to have accepted the Plan as modified by the Plan Modifications. No holder of a Claim that has voted to accept the Plan shall be permitted to change its acceptance to a rejection as a consequence of the Plan Modifications.

FF. Satisfaction of Confirmation Requirements. Based upon the foregoing and all other pleadings and evidence proffered or adduced at or prior to the Confirmation Hearing, the

Plan and the Debtors as proponents of the Plan satisfy the requirements for confirmation set forth in section 1129 of the Bankruptcy Code.

#### IMPLEMENTATION OF THE PLAN

GG. Plan Documents and Agreements. All documents and agreements necessary to implement the Plan, including those contained in and contemplated by the Plan Supplement, and all other documents and agreements that are necessary to implement the Plan and the Plan Supplement documents, including the Description of Structure and transactions set forth therein (collectively, the “Plan Documents and Agreements”) are essential elements of the Plan, and entering into such Plan Documents and Agreements is in the best interests of the Debtors, the Estates and holders of Claims and Interests. The Debtors have exercised reasonable business judgment in determining to enter into the Plan Documents and Agreements, and the Plan Documents and Agreements have been negotiated in good faith and at arm’s-length, are fair and reasonable, are supported by reasonably equivalent value and fair consideration, and shall, upon completion of documentation and execution, be valid, binding, and enforceable agreements and not be in conflict with any federal or state law.

HH. Executory Contracts. Article VIII of the Plan provides, pursuant to sections 365 and 1123(b)(2) of the Bankruptcy Code, for the assumption, assumption and assignment, or rejection of certain Executory Contracts. The Debtors’ determinations regarding the assumption, assumption and assignment, or rejection of Executory Contracts are based on and within the sound business judgment of the Debtors, are necessary to the implementation of the Plan and are in the best interests of the Debtors, their Estates, holders of Claims and Interests, and other parties in interest in the Chapter 11 Cases. The Debtors have provided proper notice to the

affected counterparties of the Debtors' determinations regarding the assumption, assumption and assignment, or rejection, as applicable, of Executory Contracts.

II. Exemption from Securities Laws. The offer, issuance, sale and distribution under the Plan of the (i) New Common Units to holders of Class 3 First Lien Term Loan Claims; and (ii) New Warrants to holders of DIP Term Loans and all New Common Units or other securities issued upon exercise of such New Warrants, in each case, shall be exempt from the registration and/or prospectus delivery requirements under (A) the Securities Act and all rules and regulations promulgated thereunder and (B) any state or local law requiring registration and/or delivery of prospectuses prior to the offer, issuance, sale or distribution of securities, pursuant to section 1145 of the Bankruptcy Code to the maximum extent permitted and applicable and, to the extent that reliance on such section is either not permitted or not applicable, the exemption set forth in Section 4(a)(2) of the Securities Act or, in the case of the New Common Units or other securities issued upon the exercise of the New Warrants, Section 3(a)(9) of the Securities Act, as more fully set forth in section 5.8 of the Plan. All securities described above were (or are designated to be) offered, distributed and sold pursuant to the Plan.

JJ. Global Settlement and Compromise Under the Plan. Pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, including pursuant to the Opt-In Election Distribution, the provisions of the Plan shall constitute a good faith compromise of all Claims, Interests and controversies relating to the contractual, legal, and subordination rights that a holder of a Claim may have with respect to any Allowed Claim, or any Distribution to be made on account of such Allowed Claim. The entry of this Confirmation Order constitutes the Court's approval of all of the compromises and settlements embodied in the Plan, including pursuant to

the Opt-In Election Distribution, and the Court's findings shall constitute its determination that such compromises and settlements are in the best interests of the Debtors, their Estates, creditors, and other parties-in-interest, and are fair, equitable, and within the range of reasonableness. The provisions of the Plan, including, without limitation, its release, injunction, exculpation and compromise provisions, are mutually dependent and non-severable.

KK. In reaching its decision on the substantive fairness of the compromises and settlements contained in the Plan, the Court considered the following factors: (i) the balance between the probability of success of potential litigations and the future benefits of such compromises and settlements; (ii) the likelihood of complex and protracted litigation and the high costs of litigation; (iii) the high proportion of creditors and parties in interest that support the compromises and settlements and the acceptances of the Plan; (iv) the competency of counsel; (v) the nature and breadth of the releases to be granted; and (vi) the extent to which the compromises and settlements are the product of arm's-length bargaining. The Court finds that these factors each weigh in favor of approving the compromises and settlements embodied in the Plan. The Court also considered the purposes of a chapter 11 case and the negative impact and disruption upon the Debtors' Estates and operations arising from a nonconsensual, protracted bankruptcy.

LL. Releases, Exculpations and Injunctions of Released Parties, Exculpation Parties and Solicitation Parties. The release, injunction, discharge and exculpation provisions contained in the Plan (collectively, the "Releases") constitute good-faith compromises and settlements of the matters covered thereby. Such compromises and settlements are made in exchange for good, valuable and adequate consideration and (i) are in the best interests of the Debtors, their Estates and holders of Claims and Interests; (ii) are fair, equitable, and reasonable; and (iii) are integral

elements of the restructuring of the Debtors and resolution of the Chapter 11 Cases in accordance with the Plan and the Restructuring Support Agreement. Each provision of the Releases (i) is within the jurisdiction of the Court under 28 U.S.C. § 1334; (ii) is an essential means of implementing the Plan pursuant to section 1123(a)(5) of the Bankruptcy Code; (iii) is an integral element of the settlements and transactions incorporated into the Plan; (iv) confers a material benefit on, and is in the best interests of, the Debtors, their estates, and holders of Claims and Interests; (v) is important to the overall objectives of the Plan to finally resolve all Claims and Interests among or against the parties in interest in the Chapter 11 Cases with respect to the Debtors' reorganization; (vi) is consistent with sections 105, 1123 and 1129 of the Bankruptcy Code and all other applicable law; (vii) were given and made after adequate notice and opportunity for a hearing, and (viii) is fair, equitable, reasonable and necessary to the Debtors' reorganization. Based on the record of the Chapter 11 Cases and the evidence proffered, adduced and presented at the Confirmation Hearing, the Court finds that the Releases are consistent with the Bankruptcy Code and applicable law.

#### SPECIFIC PLAN IMPLEMENTATION TRANSACTIONS

MM. The Organizational Documents of the Reorganized Debtors. The Debtors, the Consenting Term Lenders and each of their respective officers, directors, employees, attorneys, advisors, investment bankers, consultants, managers, members, partners, agents, and other professionals, and their predecessors, successors, and assigns, in each case, in their respective capacities as such, as applicable, (i) have acted in good faith in negotiating, formulating, and proposing the New Organizational Documents of the Reorganized Debtors, and (ii) will be acting in good faith in proceeding to take any actions authorized or contemplated by this Confirmation Order necessary to implement the New Organizational Documents. The New Organizational Documents are the result of good faith, arms'-length negotiations among the Debtors and the

Consenting Term Lenders, are appropriate and consistent with the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, including, but not limited to, Bankruptcy Code sections 1123, 1129, and 1142, and are necessary to the Debtors' successful emergence from chapter 11. The provisions of the New Organizational Documents are in the best interests of the Debtors, the Estates and holders of Claims and Interests. The notice provided by the Debtors of the New Organizational Documents was consistent with the Bankruptcy Code, the Bankruptcy Rules, and the Disclosure Statement Order, and no other or further notice is or shall be required.

NN. Exit Facilities. The Exit Revolving Credit Facility and the Exit Term Loan Credit Facility (together, the "Exit Facilities") are the best financing alternatives available to the Debtors and the Reorganized Debtors. The terms of the Exit Facilities are fair and reasonable, and entry into the Exit Facilities is in the best interests of the Debtors and their estates. The Exit Facilities are essential elements of the Plan, were proposed in good faith, are critical to the success and feasibility of the Plan and are necessary and appropriate for consummation and implementation of the Plan and the transactions contemplated thereby and to the operation of the Reorganized Debtors. The Debtors, the Consenting Term Lenders and the lenders and agents under the Exit Facility Documents (the "Exit Facility Parties") and each of their respective agents, affiliates, current and former officers, directors, employees, managers, attorneys, financial advisors, accountants, investment bankers, consultants, management companies or other professionals or representatives participated in good faith, arm's length negotiations with respect to the Exit Facilities, respectively, and all Exit Facility Documents. Any credit extended, or loans made to, the Reorganized Debtors by the Exit Facility Parties under the Exit Facilities pursuant to the Exit Facility Documents shall be deemed to have been and has been extended, issued and made in good faith and for legitimate business purposes. The Exit Facility Parties and

each of their respective agents, affiliates, current and former officers, directors, employees, managers, attorneys, advisors, accountants, investment bankers, consultants, management companies or other professionals or representatives are therefore entitled to any and all payments, releases, indemnifications or other protections as set forth in the Plan, this Confirmation Order, and the Exit Facility Documents. The Debtors exercised reasonable business judgment in determining to enter into the Exit Facility Documents and have provided sufficient and adequate notice thereof. The Exit Facility Documents (when and to the extent entered into) shall be, and hereby are, deemed to be valid, binding and enforceable against the applicable Reorganized Debtors in accordance with their terms.

OO. Opt-In Distribution Election. The Opt-In Distribution Election and related Opt-In Distribution Election Procedures represent a good faith settlement and compromise pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019. Approval of the Opt-In Distribution Election and Opt-In Distribution Procedures, including the Election Form attached hereto as Exhibit B, is in the best interests of the Debtors and their estates.

## II. ORDER

BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, IT IS THEREFORE HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Findings of Fact and Conclusions of Law. The above-referenced findings of fact and conclusions of law are hereby incorporated by reference as though fully set forth herein and shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable herein by Bankruptcy Rule 9014. To the extent that any finding of fact shall be determined to be a conclusion of law, it shall be deemed so, and vice versa.

2. Confirmation of the Plan. All requirements for confirmation of the Plan have been satisfied. The Plan (including the Plan Supplement) and each of its/their provisions

(whether or not specifically referenced herein) is and are hereby CONFIRMED in each and every respect, pursuant to section 1129 of the Bankruptcy Code, and the terms of the Plan and the Plan Supplement are incorporated by reference into, and are an integral part of, this Confirmation Order. The Plan, as modified by the Plan Modifications, is deemed acceptable by all creditors who have previously accepted the Plan.

3. Objections to the Plan Are Overruled. Any objections or responses, whether formal or informal, to confirmation of the Plan and any and all reservations of rights that (i) have not been withdrawn, waived or settled prior to the entry of this Confirmation Order or (ii) are not cured by the relief granted herein are hereby OVERRULED in their entirety and on their merits, and all withdrawn objections or responses are hereby deemed withdrawn with prejudice.

4. Reference. The failure to specifically include or refer to any particular article, section or provision of the Plan, Plan Supplement or any related document in this Confirmation Order shall not diminish or impair the effectiveness of such article, section or provision, it being the intent of the Court that this Confirmation Order confirms the Plan and any related documents in their entirety.

5. No Action Required. Under the provisions of applicable non-bankruptcy law, including Section 303 of the Delaware General Corporation Law, and section 1142(b) of the Bankruptcy Code, no action of the respective directors, equity holders, managers, or members of the Debtors is required to authorize the Debtors to enter into, execute, deliver, file, adopt, amend, restate, consummate, or effectuate, as the case may be, the Plan or any other contract, instrument, or other document (including any documents that are part of the Plan Supplement or the Exit Facility Documents) to be executed, delivered, adopted, or amended in connection with the implementation of the Plan, or any of the transactions contemplated by any of the foregoing

(including filing any of the New Organizational Documents with any governmental authority or merging any of the Debtors). If any law, statute, rule or regulation requires that action of the directors, equity holders, managers, and/or members of any of the Debtors is required to do any of the things referred to in the immediately preceding sentence, such Debtor shall be permitted to certify, acknowledge or otherwise state to any governmental authority, agency, body, bureau, department or official that such action has been taken (including in accordance with applicable law) and such Debtor and its officers, directors, managers, employees, agents and representatives shall have no liability for making any such certification, acknowledgment or other statement.

6. Plan Classification Controlling. The terms of the Plan shall govern the classification of Claims and Interests for purposes of the distributions to be made thereunder. The classifications set forth on the Ballots tendered to or returned by the holders of Claims in connection with voting on the Plan: (i) were set forth on the Ballots solely for purposes of voting to accept or reject the Plan; (ii) do not necessarily represent, and in no event shall be deemed to modify or otherwise affect, the actual classification of such Claims under the Plan for distribution purposes; (iii) may not be relied upon by any holder of a Claim as representing the actual classification of such Claim under the Plan for distribution purposes; and (iv) shall not be binding on the Debtors and Reorganized Debtors except for voting purposes. The classification scheme of the Plan is hereby approved.

7. DIP Claims. All DIP ABL Facility Claims and all DIP Term Facility Claims are hereby deemed Allowed Claims in the full amount due and owing under the DIP Credit Documents as of the Effective Date. On the Effective Date, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, each DIP Claim, the DIP Claims shall be satisfied pursuant to Sections 2.5 and 2.6 of the Plan. In accordance with Sections 2.5 and 2.6

of the Plan, upon satisfaction of the Allowed DIP Claims, all Liens and security interests granted to secure the DIP Facilities shall be deemed cancelled, released and terminated and shall be of no further force and effect.

8. Binding Effect. Upon the occurrence of the Effective Date, the terms of the Plan are immediately effective and enforceable and deemed binding on the Debtors, the Reorganized Debtors, any and all holders of Claims or Interests (regardless of whether such holders of Claims or Interests have, or are deemed to have, accepted the Plan), all Persons that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each Person acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts with the Debtors, all Persons making an appearance in the Chapter 11 Cases, any other party in interest in the Chapter 11 Cases, and the respective heirs, executors, administrators, successors, or assigns, if any, of any of the foregoing.

9. Vesting of Assets in the Reorganized Debtors. Except as otherwise provided in the Plan or this Confirmation Order, on the Effective Date, (i) each Debtor will, as a Reorganized Debtor, continue to exist after the Effective Date as a separate legal entity, with all of the powers of such a legal entity under applicable law and without prejudice to any right to alter or terminate such existence (whether by merger, dissolution or otherwise) under applicable law; and (ii) on the Effective Date, all property of each Debtor's Estate, and any property acquired by such Debtor or Reorganized Debtor under the Plan (including as described in the Description of Structure) will vest in such Reorganized Debtor free and clear of all Claims, Liens, charges, other encumbrances, Interests and other interests, except for Liens and obligations expressly established under the Plan (including in respect of the Exit Facility Documents, as applicable). On and after the Effective Date, except as otherwise provided in the Plan, each 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 Court and free of any restrictions imposed by the Bankruptcy Code or the Bankruptcy Rules, subject only to those restrictions expressly imposed by the Plan or this Confirmation Order as well as the documents and instruments executed and delivered in connection therewith, including the documents, exhibits, instruments and other materials comprising the Plan Supplement.

10. Other Essential Documents and Agreements. The form of documents comprising the Plan Supplement and the transactions contemplated therein are approved and, upon execution and delivery of the agreements and documents relating thereto by the applicable parties (and the satisfaction of applicable terms and conditions to their effectiveness), shall be in full force and effect and valid, binding and enforceable in accordance with their terms without the need for any further notice to or action, order or approval of this Court, or other act or action under applicable law, regulation, order or rule. The Debtors and, on and after the Effective Date, the Reorganized Debtors are authorized, without further notice, hearing or approval of this Court or any other party, to execute and deliver all agreements, documents, instruments, securities and certificates relating to such agreements and perform their obligations thereunder, including, without limitation, amendment or modification of such documents in accordance with their terms and applicable non-bankruptcy law and the payment of all fees due thereunder or in connection therewith. The approvals hereunder shall be deemed to be the requisite approval of the same by the members, managers, directors or equity holders of the Debtors, as applicable, for purposes of applicable non-bankruptcy law.

11. Continued Corporate and Limited Liability Company Existence. Subject to the Plan and the Plan Supplement, each Debtor, as a Reorganized Debtor, shall continue to exist

after the Effective Date as a separate legal entity, with all of the powers of such a legal entity under applicable law and without prejudice to any right to alter or terminate such existence (whether by merger, dissolution or otherwise) under applicable law.

12. Continued Effect of Stays and Injunction. Unless otherwise provided in the Plan or this Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code or any order of the Court that is in existence on the Confirmation Date shall remain in full force and effect until the Effective Date.

13. Release, Exculpation, Discharge, and Injunction Provisions. In light of all the facts and circumstances and the record in these Chapter 11 Cases, including without limitation the evidence proffered or adduced at or in connection with the Confirmation Hearing, the Confirmation Memorandum, the Confirmation Declarations, each of the release, exculpation, discharge, injunction, and related provisions set forth in Article X of the Plan are approved in all respects, are incorporated herein in their entirety, and are so ordered and shall be immediately effective on the Effective Date of the Plan without further order or action on the part of the Court or any other party, and are effective and binding on all Persons to the extent provided therein. Such release, exculpation, discharge, injunction, and related provisions (i) are within the jurisdiction of the Court under 28 U.S.C. § 1334; (ii) are an essential means of implementing the Plan pursuant to section 1123(a)(5) of the Bankruptcy Code; (iii) are an integral element of the settlements and transactions incorporated into the Plan; (iv) confer a material benefit on, and is in the best interests of, the Debtors, their estates, and holders of Claims and Interests; (v) are important to the overall objectives of the Plan to finally resolve all Claims and Interests among or against the parties in interest in the Chapter 11 Cases with respect to the Debtors' reorganization; (vi) are consistent with sections 105, 1123 and 1129 of the Bankruptcy Code and

all other applicable law; (vii) were given and made after adequate notice and opportunity for a hearing, and (viii) are fair, equitable, reasonable and necessary to the Debtors' reorganization.

14. **PLAN INJUNCTIONS.** UPON THE ENTRY OF THIS CONFIRMATION ORDER, ALL HOLDERS OF CLAIMS AND INTERESTS AND OTHER PARTIES IN INTEREST, ALONG WITH THEIR RESPECTIVE PRESENT OR FORMER EMPLOYEES, AGENTS, OFFICERS, DIRECTORS, MANAGERS, PRINCIPALS AND AFFILIATES, SHALL BE ENJOINED FROM TAKING ANY ACTIONS TO INTERFERE WITH THE IMPLEMENTATION OR CONSUMMATION OF THIS PLAN.

15. EXCEPT AS EXPRESSLY PROVIDED IN THE PLAN, THIS CONFIRMATION ORDER, OR A SEPARATE ORDER OF THE BANKRUPTCY COURT OR AS AGREED TO BY THE DEBTORS (WITH THE CONSENT OF THE REQUISITE CONSENTING TERM LENDERS) AND A HOLDER OF A CLAIM AGAINST OR INTEREST IN THE DEBTORS, ALL PERSONS WHO HAVE HELD, HOLD, OR MAY HOLD CLAIMS OR CAUSES OF ACTION AGAINST OR INTERESTS IN ANY OR ALL OF THE DEBTORS (WHETHER PROOF OF SUCH CLAIMS OR INTERESTS HAS BEEN FILED OR NOT AND WHETHER OR NOT SUCH PERSONS VOTE IN FAVOR OF, AGAINST OR ABSTAIN FROM VOTING ON THE PLAN OR ARE PRESUMED TO HAVE ACCEPTED OR DEEMED TO HAVE REJECTED THE PLAN) THAT HAVE BEEN RELEASED, EXTINGUISHED, DISCHARGED, OR ARE SUBJECT TO EXCULPATION UNDER THE PLAN (INCLUDING IN CONNECTION WITH, RELATED TO, OR ARISING OUT OF, IN WHOLE OR IN PART, ANY SETTLEMENT OR AGREEMENT IN THE CHAPTER 11

CASES, THE OFFER, ISSUANCE, AND DISTRIBUTION OF ANY SECURITIES ISSUED OR TO BE ISSUED PURSUANT TO THE PLAN, WHETHER OR NOT SUCH DISTRIBUTION OCCURS FOLLOWING THE EFFECTIVE DATE, NEGOTIATIONS REGARDING OR CONCERNING ANY OF THE FOREGOING, OR THE ADMINISTRATION OF THE PLAN OR PROPERTY TO BE DISTRIBUTED THEREUNDER), ALONG WITH THEIR RESPECTIVE PRESENT OR FORMER EMPLOYEES, AGENTS, OFFICERS, DIRECTORS, MANAGERS, PRINCIPALS, AND AFFILIATES, ARE PERMANENTLY ENJOINED, FROM AND AFTER THE EFFECTIVE DATE, FROM TAKING ANY OF THE FOLLOWING ACTIONS AGAINST, AS APPLICABLE, THE DEBTORS, THE REORGANIZED DEBTORS, THE EXCULPATED PARTIES, OR THE RELEASED PARTIES: (I) COMMENCING, CONDUCTING, OR CONTINUING IN ANY MANNER, DIRECTLY OR INDIRECTLY, ANY SUIT, ACTION, OR OTHER PROCEEDING OF ANY KIND (INCLUDING, WITHOUT LIMITATION, ANY PROCEEDING IN A JUDICIAL, ARBITRAL, ADMINISTRATIVE OR OTHER FORUM) ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS, CAUSES OF ACTION OR INTERESTS, (II) ENFORCING, LEVYING, ATTACHING (INCLUDING, WITHOUT LIMITATION, ANY PREJUDGMENT ATTACHMENT), COLLECTING, OR OTHERWISE RECOVERING BY ANY MANNER OR MEANS, WHETHER DIRECTLY OR INDIRECTLY, ANY JUDGMENT, AWARD, DECREE, OR ORDER AGAINST SUCH PERSONS OR THE PROPERTY OF SUCH PERSONS ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO SUCH CLAIMS, CAUSES OF ACTION OR INTERESTS, (III) CREATING, PERFECTING, OR OTHERWISE

ENFORCING IN ANY MANNER, DIRECTLY OR INDIRECTLY, ANY ENCUMBRANCE OF ANY KIND AGAINST SUCH PERSONS OR THE PROPERTY OR THE ESTATES OF SUCH PERSONS ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS, CAUSES OF ACTION OR INTERESTS, (IV) ASSERTING ANY RIGHT OF SETOFF, DIRECTLY OR INDIRECTLY, AGAINST ANY OBLIGATION DUE FROM SUCH PERSONS OR AGAINST THE PROPERTY OF SUCH PERSONS ON ACCOUNT OF OR IN CONNECTION WITH ANY SUCH CLAIMS, CAUSES OF ACTION OR INTERESTS, AND (V) ACTING OR PROCEEDING IN ANY MANNER, IN ANY PLACE WHATSOEVER, THAT DOES NOT CONFORM TO OR COMPLY WITH THE PROVISIONS OF THE PLAN.

16. Preservation of Insurance. The Debtors' discharge, exculpation and release, and the exculpation and release in favor of non-Debtor Released Parties, as provided herein and the Plan shall not diminish or impair the enforceability of any insurance policy that may provide coverage for Claims against the Debtors, the Reorganized Debtors, their current and former directors and officers, or any other Person.

17. Approval of New Organizational Documents. The New Organizational Documents are hereby approved. Subject to, and upon the occurrence of, the Effective Date, and without further notice to any party or further order or other approval of the Bankruptcy Court or further act or action under applicable law, regulation, order or rule, or the vote, consent, authorization or approval of any Person (including any holders of Claims or Interests), the Reorganized Debtors shall execute and enter into the New Organizational Documents, which shall be valid and binding on the Reorganized Debtors. Each party-in-interest entitled to receive

New Common Units and/or New Warrants under the Plan or New Common Units upon exercise of the New Warrants shall be deemed bound by the terms and conditions of the New Organizational Documents, regardless of whether they are a signatory thereto; provided, however, that (i) each party-in-interest entitled to receive New Common Units shall, as a condition to the receipt of such New Common Units, be required to enter into the applicable New Organizational Documents; and (ii) pursuant to Section 6.14 of the Plan, if such party does not execute and deliver the applicable New Organization Documents to Reorganized Pooling within 180 days after the Effective Date, the distributions of New Common Units to which such party was otherwise entitled shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code. Each holder of shares of New Common Units and/or New Warrants acquired or received under the Plan, whether such holder acquired such shares of New Common Units and/or New Warrants on the Effective Date or any time or from time to time thereafter, shall be deemed to have actual knowledge of the terms, provisions, restrictions and conditions set forth in the New Operating Agreement and the Warrant Agreement (as defined in the New Operating Agreement) (including, without limitation, the restrictions on transfer of New Common Units set forth in Section 9.1 of the New Operating Agreement and the restrictions on transfer of New Warrants set forth in Section 2.3 of the Warrant Agreement) for all purposes of the New Operating Agreement, the Warrant Agreement and applicable law (including, without limitation, the Delaware Limited Liability Company Act and the Uniform Commercial Code as adopted and in effect in any applicable jurisdiction), whether or not any certificate or statement of book-entry position representing or otherwise evidencing New Common Units and/or New Warrants owned or held by such holder bear the legends set forth in Sections 9.1(e)(i), 9.1(e)(ii) and/or 9.1(e)(iii) of the New Operating Agreement, the legends set forth in Sections 2.2(a) and/or 2.2(b) of the

Warrant Agreement, or whether or not any such holder received a separate notice of such terms, provisions, restrictions and conditions. Without limiting the foregoing, this Confirmation Order and the Plan (including the Plan Supplement) shall be deemed sufficient and adequate notice of such terms, provisions, restrictions and conditions to all holders of New Common Units and/or New Warrants, such that all such holders shall be deemed to have actual knowledge thereof and shall be deemed to have acquired (whether on the Effective Date or at any time or from time to time thereafter) such New Common Units and/or New Warrants subject thereto.

18. Exit Facility Documents Approved. On the Effective Date, the Reorganized Debtors shall execute and deliver, as applicable, (i) the Exit Revolving Credit Agreement and all other applicable Exit Revolving Credit Documents; and (ii) the Exit Term Loan Credit Agreement and all other applicable Exit Term Loan Credit Documents.

19. The Court hereby (i) approves the Exit Facility Documents and all transactions contemplated thereby and thereof, and all actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtors in connection therewith and (ii) authorizes the Reorganized Debtors, without further notice to or action, order or approval of this Court and without the need for any further corporate or shareholder action, to enter into and fully perform their obligations under the Exit Facility Documents.

20. Upon their execution, the Exit Facility Documents shall constitute legal, valid, binding and authorized obligations of the Reorganized Debtors enforceable in accordance with their terms. 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, for legitimate business purposes, are reasonable, shall not be subject to avoidance, recharacterization or subordination (including equitable subordination) and shall not constitute preferential

transfers, fraudulent conveyances or other voidable transfers under the Bankruptcy Code or any other applicable non-bankruptcy law.

21. On the Effective Date, all of the liens and security interests to be granted in accordance with the Exit Facility Documents (i) shall be deemed to be approved; (ii) shall be legal, binding and enforceable liens on, and security interests in, the collateral granted under and in accordance with the terms of the respective Exit Facility Documents; (iii) shall be deemed fully perfected on the Effective Date, and the priorities of such liens and security interests shall be as set forth in the respective Exit Facility Documents; and (iv) shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) and shall not constitute preferential transfers, fraudulent conveyances or other voidable transfers under the Bankruptcy Code or any applicable non-bankruptcy law. The Reorganized Debtors and the secured parties (and their designees and agents) under such Exit Facility Documents are hereby authorized to make all filings and recordings, and to obtain all governmental approvals and consents to establish and perfect all such liens and security interests under the provisions of the applicable state, provincial, federal or other law (whether domestic or foreign) that would be applicable in the absence of the Plan and this Confirmation Order (it being understood that perfection of the liens and security interests granted under the Exit Facility Documents shall occur automatically on the Effective Date by virtue of the entry of this Confirmation Order and funding on or after the Effective Date, and any such filings, recordings, approvals and consents shall not be necessary or required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such liens and security interests to third parties.

22. Designation of Managers/Directors and Officers Approved. On the Effective Date, the initial board of managers/directors of each of the Reorganized Debtors shall consist of those individuals identified in the Plan Supplement, and such managers and/or directors shall be deemed elected and authorized to serve as managers and/or directors of each of the Reorganized Debtors pursuant to the terms of the applicable New Organizational Documents of such Reorganized Debtor. Such appointment and designation is hereby approved and ratified as being in the best interests of the Debtors and creditors and consistent with public policy, and such managers and directors hereby are deemed elected and appointed to serve in their respective capacities as of the Effective Date without further action of the Court, the Reorganized Debtors or their security holders. The designation or continuation in office as officers of the Reorganized Debtors of each of the individuals identified in the Plan Supplement is hereby approved and ratified as being in the best interests of the Debtors and creditors and consistent with public policy. Such officers hereby are deemed elected and appointed to serve in their respective capacities as of the Effective Date without further action of the Court or the Reorganized Debtors.

23. Discharge of Liens and Security Interest Securing Other Secured Claims. To the extent that any holder of a Secured Claim that has been satisfied or discharged pursuant to the Plan, or any agent for such holder, has filed or recorded any liens and/or security interests to secure such holder's Secured Claim, then 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 Debtors, Reorganized Debtors, or any administrative agent under the Exit Facility Documents that are necessary to cancel and/or extinguish such liens and/or security interests (it being understood that such liens and security interests held by holders of Secured Claims that are satisfied on the

Effective Date pursuant to the Plan shall be automatically canceled and extinguished on the Effective Date by virtue of the entry of this Confirmation Order). The Debtors and Reorganized Debtors are hereby appointed as attorneys-in-fact under the laws of the United States of America for each holder whose liens and/or security interests are terminated pursuant to the Plan, with full power and authority to execute on behalf of such holder any notices or other public statements as are necessary or appropriate to evidence the termination of such party's liens and/or security interests and any financing statement relating to any and all liens and/or security interests in the Debtors' assets, should such holder (or the agent for such holder) fail to take the steps requested by the Debtors, Reorganized Debtors or any administrative agent under the Exit Facility Documents necessary to cancel and/or extinguish such liens and/or security interests pursuant to this paragraph.

24. Issuance of Securities and Exemption from Registration. On the Effective Date, the Reorganized Debtors shall be authorized to issue the New Common Units and the New Warrants in accordance with the terms of the Plan and the Plan Supplement without the need for any further corporate action, under applicable law, regulation, order, rule or otherwise. The Reorganized Debtors shall be authorized to issue the New Common Units underlying the New Warrants upon exercise of the New Warrants in accordance with the terms of the New Warrant Documents. The New Common Units, the New Warrants and any New Common Units issued upon exercise of the New Warrants shall be subject to the terms of the New Organizational Documents.

25. The offer, issuance, sale and distribution under the Plan of the (i) New Common Units to holders of Class 3 First Lien Term Loan Claim and (ii) New Warrants and any New Common Units exercised pursuant to the New Warrants, in each case, shall be exempt from the

registration and/or prospectus delivery requirements under (A) the Securities Act and all rules and regulations promulgated thereunder and (B) any state or local law requiring registration and/or delivery of prospectuses prior to the offer, issuance, sale or distribution of securities, pursuant to section 1145 of the Bankruptcy Code to the maximum extent permitted and applicable and, to the extent that reliance on such section is either not permitted or not applicable, the exemption set forth in Section 4(a)(2) of the Securities Act or, in the case of the New Common Units or other securities issued upon exercise of the New Warrants, Section 3(a)(9) of the Securities Act, as more fully set forth in Section 5.8 of the Plan.

26. Governmental Approvals Not Required. This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state, federal, or other governmental authority with respect to the dissemination, implementation, or consummation of the Plan, the Plan Supplement, and the Disclosure Statement, any certifications, documents, instruments or agreements, and any amendments or modifications thereto, and any other acts referred to in, or contemplated by, the Plan, the Plan Supplement and the Disclosure Statement.

27. Notice of Confirmation and the Effective Date. Promptly following the Effective Date, the Reorganized Debtors shall file and serve a notice of Confirmation and the Effective Date (the "Effective Date Notice") in accordance with Bankruptcy Rules 2002 and 3020(c). Notwithstanding the above, no Effective Date Notice or service of any kind shall be required to be mailed or made upon any Person to whom the Debtors mailed notice of the Confirmation Hearing, but received such notice returned marked "undeliverable as addressed," "moved, left no forwarding address" or "forwarding order expired," or similar reason, unless the Debtors have been informed in writing by such Person, or are otherwise aware, of that Person's new address.

The above-referenced notice is adequate under the particular circumstances of the Chapter 11 Cases and no other or further notice is necessary.

28. Opt-In Distribution Election Procedures. The Election Form and the Opt-In Distribution Procedures set forth in the Plan are hereby approved. Within seven (7) days after the Effective Date, the Reorganized Debtors (or such other party as directed by the Reorganized Debtors) shall mail a notice to each holder of a Class 4 Second Lien Term Loan Claim that is not also a Consenting Term Lender or an Affiliate of a Consenting Term Lender and Class 5 General Unsecured Claim, in each case as of the Election Record Date, setting forth the Opt-In Distribution Procedures and providing such holder with an Election Form. The Opt-In Election Distribution shall be administered by the Reorganized Debtors in accordance with the terms of the Plan and this Confirmation Order. All determinations made by the Reorganized Debtors with respect to the Opt-In Election, including determinations whether Election Forms comply with the Opt-In Election Procedures, shall be made by the Reorganized Debtors in their discretion. The Reorganized Debtors (or such other Person designated by the Reorganized Debtors) shall be the Disbursing Agent with respect to all distributions of the Opt-In Distribution Pool. For the avoidance of doubt, the Reorganized Debtors and their professionals shall be entitled to the exculpations under the Plan with respect to administering the Opt-In Distribution.

29. Compliance with Tax Requirements. The Reorganized Debtors are authorized to take all actions necessary or appropriate to comply with any withholding and reporting requirements imposed by any tax law, including withholding in kind (including withholding New Common Units), liquidating a portion of the Distributions to be made under the Plan to generate sufficient funds to pay applicable withholdings taxes, withholding Distributions pending receipt of information necessary to facilitate such Distributions or establishing any other mechanisms

they believe are reasonable and appropriate. For purposes of the Plan, any withheld amount or property shall be treated as if paid to the applicable claimant. The failure of any holder of a Claim or Interest to furnish the Debtors or Reorganized Debtors information or take any steps necessary to comply with withholding and reporting requirements shall be grounds for the Debtors or Reorganized Debtors to seek an order, upon notice to the affected holder, disallowing any Claim or Interest held by such holder and forfeiting any distribution to which such holder would otherwise be entitled under the Plan.

30. Exemption from Transfer Taxes. Pursuant to, and to the fullest extent permitted by, section 1146(a) of the Bankruptcy Code: (i) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtors or Reorganized Debtors; (ii) the creation, modification, consolidation, assumption, termination, refinancing, and/or recording of any mortgage, deed of trust or other security interest, or the securing of additional indebtedness by such or other means; (iii) the making, assignment, or recording of any lease or sublease; (iv) the grant of collateral as security for the Exit Facilities; (v) the issuance, transfer or exchange under the Plan of New Common Units or New Warrants or any New Common Units upon exercise of the New Warrants; (vi) any assumption or, assignment, and/or sale by the Debtors of their interests in executory contracts or unexpired leases; or (vii) 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 (including any transfers made pursuant to the Contribution Agreements (as defined in the Description of Structure), shall constitute a “transfer under a plan” within the purview of section 1146 of the Bankruptcy Code and shall not be subject to any document

recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, sales and use 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 government officials or agents shall forgo the collection of any such tax recordation fee or government assessment and to accept for filing and recordation this Confirmation Order without the payment of any such tax, recordation fee, or government assessment. This Court shall retain specific jurisdiction with respect to these matters.

31. Executory Contracts.

a. Approval of Plan Provisions Regarding Executory Contracts. The Executory Contract provisions of Article VIII of the Plan are specifically approved in all respects, are incorporated herein in their entirety and are so ordered. The Debtors and Reorganized Debtors are authorized to assume, assume and assign, or reject Executory Contracts in accordance with and subject to Article VIII of the Plan. Except as otherwise provided in this Confirmation Order, any and all objections or reservations of rights in connection with the assumption, assumption and assignment, or rejection of an Executory Contract under the Plan, if any, are overruled on their merits. Each of the Executory Contracts assumed or assumed and assigned to another Debtor pursuant to Article VIII of the Plan shall revest and be fully enforceable by the applicable Reorganized Debtor in accordance with its terms. Notwithstanding the foregoing, no Employment Arrangement or Benefit Plan shall be an assumed Executory Contract unless specifically set forth on the Employment Arrangement Schedule or Benefit Plan Schedule, respectively.

b. Cure Amounts. Upon and subject to the occurrence of the Effective Date, any monetary defaults under each Executory Contract to be assumed or assumed and assigned pursuant to the Plan shall be deemed satisfied, pursuant to section 365(b)(1) of the Bankruptcy

Code, by payment of the Cure Amount set forth on the Cure Schedule, if any (or the amount set forth in such other order of the Court authorizing the assumption or assumption and assignment of such Executory Contract or as otherwise agreed to by the Reorganized Debtors and the applicable counterparty to such Executory Contract).

c. Rejection and Rejection Damages Claims. On the Effective Date, each Executory Contract that is listed on the Schedule of Rejected Executory Contracts shall be deemed rejected or repudiated pursuant to Bankruptcy Code section 365. Until the Effective Date, the Debtors, with the consent of the Requisite Consenting Term Lenders, expressly reserve their right to amend the Schedule of Rejected Executory Contracts to delete any Executory Contract therefrom or to add any Executory Contract thereto. All Claims arising from the rejection of Executory Contracts, if any, will be treated as General Unsecured Claims. All such Claims shall be discharged on the Effective Date, and shall not be enforceable against the Debtors, the Reorganized Debtors or their respective properties or interests in property. In the event that the rejection of an Executory Contract by any of the Debtors pursuant to the Plan results in damages to the non-Debtor party or parties to such contract or lease, a Claim for such damages, if not evidenced by a timely filed proof of claim, shall be forever barred and shall not be enforceable against the Debtors or the Reorganized Debtors, or their respective properties or interests in property as agents, successors or assigns, unless a proof of claim is filed with the Bankruptcy Court and served upon counsel for the Debtors and the Reorganized Debtors on or before the date that is thirty (30) days after the effective date of such rejection (which may be the Effective Date or the date on which the Debtors reject the applicable contract or lease pursuant to an order of the Bankruptcy Court). Notwithstanding the foregoing, holders of General Unsecured Claims arising from the rejection of Executory Contracts shall be permitted to

participate in the Opt-In Distribution Pool, subject to, and in accordance with the terms of the Plan (including the Opt-In Distribution Procedures).

d. Adequate Assurance of Future Performance. The only adequate assurance of future performance required for each assumed Executory Contract shall be the promise of the applicable Reorganized Debtor indicated on the Cure Schedule to perform all obligations under such Executory Contract under this Plan. Sufficient adequate assurance of future performance has been provided for each assumed Executory Contract.

e. Release Upon Assumption of Executory Contract. **ASSUMPTION OF ANY EXECUTORY CONTRACT 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 OF THE DEBTORS OR OTHER BANKRUPTCY-RELATED DEFAULTS, ARISING UNDER ANY ASSUMED EXECUTORY CONTRACT AT ANY TIME BEFORE THE DATE ANY OF THE DEBTORS OR THE REORGANIZED DEBTORS ASSUMES SUCH EXECUTORY CONTRACT. ANY PROOFS OF CLAIM FILED WITH RESPECT TO AN EXECUTORY CONTRACT THAT HAS BEEN ASSUMED SHALL BE DEEMED DISALLOWED AND EXPUNGED, WITHOUT FURTHER NOTICE TO OR ACTION, ORDER OR APPROVAL OF THE COURT, AND THE NOTICE AND CLAIMS AGENT MAY REMOVE SUCH CLAIMS FROM THE CLAIMS REGISTER AT THE DIRECTION OF THE REORGANIZED DEBTORS.**

f. Pre-Effective Date Amendments to Executory Contracts. Prior to assuming any Executory Contracts as provided for in the Plan, pursuant to section 363(b) of the Bankruptcy Code, the Debtors, subject to the consent of the Requisite Consenting Term Lenders, are authorized, to (i) enter into any amendments and modifications to such Executory Contracts, and (ii) take any and all steps and to perform such other and further actions as are necessary to carry out, effectuate, or otherwise enforce the terms, conditions and provisions of any such amendments and modifications, without further notice to or action, order, or approval of the Court.

g. Restrictions on Assignment Void. Any Executory Contract assumed or assumed and assigned shall remain in full force and effect to the benefit of the transferee or assignee in accordance with its terms, notwithstanding any provision in such Executory Contract (including those of the type described in section 541(c)(1) of the Bankruptcy Code) that prohibits, restricts, or conditions such transfer or assignment, including based on any change of control provision. Any provision that prohibits, restricts, or conditions the assignment or transfer of any such executory contract or unexpired lease, terminates or modifies such Executory Contract or allows the counterparty to such Executory Contract to terminate, modify, recapture, impose any penalty or other fees or payments, accelerate or increase obligations, condition renewal or extension, or modify any term or condition thereof on any such transfer or assignment (including on account of any change of control provision), constitutes an unenforceable anti-assignment provision and is void and of no force or effect.

h. Affiliate Agreements. Pursuant to Section 8.1(c) of the Plan, except as otherwise agreed by the Requisite Consenting Term Lenders as set forth in the Plan Supplement, on the Effective Date, any contracts, agreements or arrangements between any of the Debtors, on

the one hand, and any of the holders of the capital stock of Holdings or any Affiliates of any such holder, on the other hand, shall be deemed terminated and of no further force or effect, all without any liability to any of the Debtors or any of the Reorganized Debtors for payment or provision of any fees, costs, expenses, bonuses, compensation, severance or other amounts or benefits thereunder or on account of such termination.

32. Preservation and Vesting of Causes of Action. In accordance with section 1123(b) of the Bankruptcy Code, except as otherwise expressly provided in the Plan or this Confirmation Order, each and every Cause of Action described in the Plan and Plan Supplement, any right of setoff and any and all legal and equitable defenses of any Debtor or any Estate are preserved and retained for the benefit of the Reorganized Debtors, and, along with the exclusive right to enforce such Cause of Action, shall vest exclusively in the Reorganized Debtors as of the Effective Date. Unless a Cause of Action is expressly waived, relinquished, released or compromised in the Plan (including any Causes of Action against the Released Parties, which are released pursuant to Article X of the Plan), this Confirmation Order or another order of the Court, the Reorganized Debtors expressly reserve such Cause of Action for later adjudication and, accordingly, no doctrine of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise), laches or other preclusion doctrine shall apply to such Cause of Action as a consequence of the Confirmation, the Plan, the vesting of such Cause of Action in the Reorganized Debtors, any order of the Bankruptcy Court or the Chapter 11 Cases. No Person may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Cause of Action against them as an indication that the Debtors or the Reorganized Debtors, as applicable, will not pursue such Cause of Action against them. The Debtors or Reorganized Debtors, as applicable, instead expressly reserve all rights to prosecute

any and all Causes of Action against any Person, in accordance with the Plan. For the avoidance of doubt, the Debtors and the Reorganized Debtors waive and release any and all Causes of Action against any of the Released Parties.

33. Administrative Expense Claims Bar Date. Any request for payment of an Administrative Expense Claim must be filed and served on the Reorganized Debtors, the Notice and Claims Agent, and the U.S. Trustee, pursuant to the procedures specified in the notice of entry of the Confirmation Order and this Confirmation Order, on or prior to thirty (30) days after the Effective Date (the “Administrative Bar Date”); *provided* that no request for payment is required to be filed and served with respect to any: (i) DIP Facility Claim; (ii) Fee Claim; (iii) Administrative Expense Claim that has been Allowed on or before the Effective Date; (iv) an Administrative Expense Claim of a Governmental Unit not required to be filed pursuant to section 503(b)(1)(D) of the Bankruptcy Code; (v) Administrative Expense Claim on account of fees and expenses incurred on or after the Petition Date by ordinary course professionals retained by the Debtors pursuant to an order of the Bankruptcy Court; (vi) Administrative Expense Claim arising, in the ordinary course of business, out of the employment by one or more Debtors of an individual from and after the Petition Date, but only to the extent that such Administrative Expense Claim is solely for outstanding wages, commissions, or reimbursement of business expenses; or (vii) Self-Funded Health Insurance Claim.

34. Any holder of an Administrative Expense Claim who is required to, but does not, file and serve a request for payment of such Administrative Expense Claim pursuant to the procedures specified in this Confirmation Order on or prior to the Administrative Bar Date shall be forever barred, estopped and enjoined from asserting such

**Administrative Expense Claim against the Debtors, the Reorganized Debtors, or their respective property, and such Administrative Expense Claim shall be deemed discharged as of the Effective Date.**

35. Fee Claims. All requests for compensation or reimbursement of Fee Claims shall be filed and served on the Reorganized Debtors, counsel to the Reorganized Debtors, the U.S. Trustee, counsel to the Consenting Term Lenders, and such other entities who are designated by the Bankruptcy Rules, this Confirmation Order or other order of the Court, no later than forty-five (45) days after the Effective Date. Holders of Fee Claims that are required to file and serve applications for final allowance of their Fee Claims and that do not file and serve such applications by the required deadline shall be forever barred from asserting such Claims against the Debtors, Reorganized Debtors or their respective properties or assets, and such Fee Claims shall be deemed discharged as of the Effective Date. Objections to any Fee Claims must be filed and served on counsel for the Reorganized Debtors, counsel to the Consenting Term Lenders, and the requesting party no later than twenty-one (21) calendar days after the filing of the final applications for compensation or reimbursement (unless otherwise agreed by the party requesting compensation of a Fee Claim). Notwithstanding anything to the contrary in the Plan or this Confirmation Order, (i) each Reorganized Debtor is authorized to pay the charges that it incurs on or after the Effective Date for Professionals' fees, disbursements, expenses or related support services (including fees relating to the preparation of Professional fee applications) without notice, hearing or approval of the Court, and (ii) any Professional who may receive compensation or reimbursement of expenses pursuant to the *Order (I) Authorizing the Debtors to Retain and Compensate Professionals Utilized in the Ordinary Course of Business, and (II) Granting Related Relief* [ECF No. 175] may continue to receive such compensation and

reimbursement of expenses for services rendered before (but not following) the Effective Date pursuant to the Ordinary Course Professionals Order in accordance with and subject to the Ordinary Course Professionals Order, provided that such order shall terminate on the Effective Date.

36. Plan Implementation.

a. In accordance with section 1142 of the Bankruptcy Code and any provisions of the business corporation law of any applicable jurisdiction (collectively, the “Reorganization Effectuation Statutes”), without further action by the Court or the equity holders, members, managers or directors of any Debtor or Reorganized Debtor, the Debtors and the Reorganized Debtors, as well as the officers of the appropriate Debtor or Reorganized Debtor, are authorized to: (i) take any and all actions necessary or appropriate to implement, effectuate and consummate the Plan, the Plan Supplement, the Plan Documents and Agreements, this Confirmation Order, the Restructuring Transactions, and the transactions contemplated thereby or hereby, including, without limitation, the transactions identified in the Description of Structure and Article V of the Plan; and (ii) make, sign, execute, acknowledge, deliver, file, record and publish any and all agreements, contracts, directions, requests, receipts, certificates or other instruments, papers and documents, and to perform any and all such acts and things as may be necessary or appropriate to implement, effectuate and consummate the Plan and the Plan Supplement.

b. Except as set forth in the Plan, all actions authorized to be taken pursuant to the Plan and the Plan Supplement and the Plan Documents and Agreements (including, without limitation, (i) the adoption or assumption, as appropriate, of any Executory Contracts, (ii) selection of the managers, directors and officers, as appropriate, for the Reorganized Debtors,

(iii) issuances and distributions of New Common Units and New Warrants, and (iv) entry into any contracts, instruments, releases, agreements, and documents necessary to implement, effectuate, and consummate the Plan, including, without limitation, those contracts, instruments, releases, agreements and documents identified in Article V of the Plan (including, without limitation, the Exit Facility Documents and the New Organizational Documents)) shall be effective prior on or after the Effective Date (in accordance with, and as set forth in, the Plan and the Description of Structure) pursuant to this Confirmation Order, without further notice, application to, or order of this Court, or further action by the respective managers, officers, directors, members or equity holders of the Debtors or Reorganized Debtors. All actions and transactions set forth in the Description of Structure shall be deemed to occur and have been consummated at the respective times, in the order and in the manner set forth in the Description of Structure.

c. To the extent that, under applicable non-bankruptcy law, any of the foregoing actions would otherwise require the consent or approval of the equity holders, members, managers or directors of any of the Debtors or Reorganized Debtors, this Confirmation Order shall, pursuant to section 1142 of the Bankruptcy Code and the Reorganization Effectuation Statutes, constitute such consent or approval, and such actions are deemed to have been taken by unanimous action of the directors, managers, members and equity holders of the appropriate Debtor or Reorganized Debtor, as applicable.

d. Each Governmental Unit is hereby authorized to accept any and all documents, certificates (including certificates of merger), amended and restated certificates of incorporation or articles of incorporation, mortgages, security agreements, financing statements, and instruments necessary or appropriate to effectuate, implement or consummate the

transactions contemplated by the Plan, the Exit Facility Documents, and this Confirmation Order.

37. CenturyLink Entities. The Debtors, on the one hand, and CenturyLink Communications LLC f/k/a Qwest Communications Company, LLC, Qwest Corp. d/b/a CenturyLink, QC and their related and affiliated companies (together "CenturyLink"), on the other, are parties to numerous executory contracts scheduled to be assumed pursuant to the Plan (the "CenturyLink Assumed Agreements"). The Debtors desire to assume, and CenturyLink agrees to the Debtors' assumption of, the CenturyLink Assumed Agreements, subject to and conditioned upon the Debtors' and CenturyLink's agreement on a cure amount (the "CenturyLink Agreed Cure Amount") with respect to such agreements. Notwithstanding anything in the Plan, the Plan Supplement, or this Confirmation Order to the contrary, pursuant to section 365 of the Bankruptcy Code and subject to and conditioned upon the payment of the CenturyLink Agreed Cure Amount, this Confirmation Order approves the assumption of the CenturyLink Assumed Agreements as of the Effective Date.

38. Chubb Insurance Contracts. Notwithstanding anything in the Plan, the Plan Supplement, the Restructuring Documents, or this Confirmation Order to the contrary, (including, without limitation, any other provision that purports to be preemptory or supervening, grants an injunction or release, confers Bankruptcy Court jurisdiction, or requires a party to opt out of any releases) (i) the Chubb Insurance Contracts (as defined herein) are Insurance Contracts, as defined in the Plan, and shall be entitled to the treatment in section 8.5(a) of the Plan; (ii) the claims of ACE American Insurance Company, Illinois Union Insurance Company, Insurance Company of North America, Federal Insurance Company, Great Northern Insurance Company, and Pacific Indemnity Company (collectively, and together with each of their

affiliates and successors, "Chubb") arising (whether before or after the Effective Date) under any Insurance Contracts provided by Chubb (the "Chubb Insurance Contracts") (A) are actual and necessary expenses of the Debtors' estates (or the Reorganized Debtors, as applicable), (B) shall be paid in full in the ordinary course of business, whether as an Allowed Administrative Expense Claim or otherwise, regardless of when such amounts are or shall become liquidated, due or paid, and (C) shall not be discharged or released by the Plan or the Confirmation Order or any other order of the Bankruptcy Court; and (iii) Chubb shall not need to or be required to file or serve any objection to a proposed cure amount or a request, application, claim, proof or motion for payment or allowance of any Administrative Expense Claim and shall not be subject to any bar date or similar deadline governing cure amounts or Administrative Expense Claims.

39. Employee Compensation Matters. Nothing in the Plan, the Plan Supplement, or this Confirmation Order shall authorize the payment on or prior to the Effective Date of any amounts that may violate section 503(c) of the Bankruptcy Code. The Severance Payments conditionally approved by the KEIP Order are approved on a final basis, subject to the terms and conditions of the KEIP Order and this Confirmation Order; *provided*, that the Severance Payments shall not create or be deemed to give rise to an Allowed Administrative Expense Claim, or any other Claim, in these Chapter 11 Cases; *provided, further*, that any Severance Payments to be made in accordance with the KEIP Order and this Confirmation Order may be made only by the Reorganized Debtors after the Effective Date and from post-Effective Date funds; *provided, further*, any individual eligible for (a) a Severance Payment pursuant to the KEIP Order and (b) the payment of severance pursuant to such individual's employment agreement assumed under the Plan (the "Employment Agreement Severance") shall be entitled, for the time period provided in the KEIP Order, to the greater of severance under the

KEIP Order or the Employment Agreement Severance, subject to customary terms and conditions, including, but not limited to, execution of a separation agreement and general release, and the Reorganized Debtors shall incur no severance obligations greater than what is provided for herein.

40. Internal Revenue Service. Notwithstanding anything to the contrary in the Plan, this Confirmation Order, or the Restructuring Documents, nothing shall: (a) affect the ability of the Internal Revenue Service ("IRS") to pursue any non-Debtors to the extent allowed by non-bankruptcy law for any liabilities that may be related to any federal tax liabilities owed by the Debtors or the Debtors' Estates; (b) affect the rights of the United States to assert setoff and recoupment and such rights are expressly preserved; (c) discharge any claim of the IRS described in section 1141(d)(6) of the Bankruptcy Code; or (d) require the IRS to file an Administrative Expense Claim in order to receive payment for any liability described in section 503(b)(1)(B) and (C) of the Bankruptcy Code. To the extent the IRS's Priority Tax Claims (including any penalties, interest, or additions to tax entitled to priority under the Bankruptcy Code), if any, are not paid in full in cash on the Effective Date, the IRS's Priority Tax Claims shall accrue interest at the rate and method set forth in 26 U.S.C. sections 6621 and 6622. Administrative Expense Claims of the IRS allowed pursuant to the Plan or section 503 of the Bankruptcy Code, if any, shall accrue interest and penalties as provided by non-bankruptcy law until paid in full. Moreover, nothing in this Confirmation Order or the Restructuring Documents shall: (a) be construed as a compromise or settlement of any IRS Claim or Interest; (b) effect a release, discharge, or otherwise preclude any claim whatsoever against any Debtor by or on behalf of the IRS relating to any liability arising out of any unfiled prepetition or postpetition tax return or any pending audit or audit which may be performed with respect to any prepetition or postpetition

tax return; and (c) nothing shall enjoin the IRS from amending any Claim against any Debtor with respect to any tax liability arising as a result of the filing of an unfiled return or a pending audit or audit that may be performed with respect to any prepetition or postpetition tax return. Further, any liability arising as a result of an unfiled return or final resolution of a pending audit or audit which may be performed with respect to any pre-petition or post-petition tax return shall be paid in accordance with sections 1129(a)(9)(A) and (C) of the Bankruptcy Code. The rights of the Debtors and Reorganized Debtors to contest any claims filed by the IRS on any and all bases are fully reserved.

41. Iowa Department of Revenue. On and after the Effective Date of the Plan, the Allowed Priority Tax Claim(s) of the Iowa Department of Revenue (the “IDR”) shall accrue interest at the rate set forth under applicable non-bankruptcy law. Beginning on the first day of the month following the Effective Date, unless and until IDR’s Allowed Priority Tax Claim(s) have been paid in full, the Debtors shall pay the IDR regular, equal monthly payments of Cash calculated so as to pay off the entire balance of the IDR’s Allowed Priority Tax Claim(s), with interest, no later than November 1, 2022. Each such payment shall be timely if paid by the Debtors no later than the fifteenth (15th) day of the month in which such payment is due (with respect to each month following the Effective Date, the “Due Date”). If the Debtors fail to timely pay any such monthly amount due by the applicable Due Date, the IDR may, upon notice to the Debtors and without further order of the Bankruptcy Court, declare the remaining balance of the IDR’s Allowed Priority Tax Claim(s) due and exercise remedies under applicable non-bankruptcy law for the collection of such remaining balance. Notwithstanding any provision of this Confirmation Order or the Plan, including, but not limited to, the releases or injunctions set forth therein, the IDR shall not be prevented from assessing and collecting tax liabilities from

individuals or entities determined to be responsible for such liabilities pursuant to applicable non-bankruptcy law. The rights of the Debtors and Reorganized Debtors to contest any Claims filed by the IDR on any and all bases are fully reserved.

42. United Parcel Service, Inc. The Debtors and United Parcel Service, Inc. (“UPS”) are parties to numerous executory contracts scheduled to be assumed pursuant to the Plan (the “UPS Assumed Agreements”). The Debtors desire to assume and UPS agrees to the Debtors’ assumption of the UPS Assumed Agreements, subject to and conditioned upon the Debtors’ and UPS’ agreement on a cure amount (the “Agreed Cure Amount”) with respect to the issues raised in the *Limited Objection and Reservation of Rights to the Potential Assumption of Executory Contracts of United Parcel Service, Inc.* [ECF No. 538]. Notwithstanding anything in the Plan, the Plan Supplement, or this Confirmation Order to the contrary, pursuant to section 365 of the Bankruptcy Code and subject to and conditioned upon the payment of the Agreed Cure Amount, this Confirmation Order approves the assumption of the UPS Assumed Agreements as of the Effective Date.

43. Utility Order. On or as soon as reasonably practicable after the Effective Date, the Reorganized Debtors are authorized to withdraw the funds held in the segregated escrow account pursuant to the *Final Order (I) Approving Debtors’ Proposed Adequate Assurance of Payment for Future Utility Services, (II) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Services, (III) Approving Debtors’ Proposed Procedures for Resolving Additional Assurance Requests, and (IV) Granting Related Relief* [ECF No. 168] (the “Utility Order”), and the Reorganized Debtors shall have no further obligations to comply with the Utility Order. If applicable, all utilities, including any Person or Entity that received a deposit or other form of adequate assurance of performance under section 366 of the Bankruptcy Code

during the Chapter 11 Cases in compliance with the Utility Order or otherwise, must return such deposit or other form of adequate assurance of performance to the Debtors or the Reorganized Debtors, as the case may be, on or before the Effective Date, provided that any such utility may apply such deposit or other form of adequate assurance of performance to the Reorganized Debtors' account within 30 days of the Effective Date.

44. Paul Yaffe Design, Inc. Notwithstanding the rejection of the *License and Manufacturing Agreement* between Vance & Hines, LLC and Paul Yaffe Design, Inc. ("PYD"), dated April 26, 2017 (the "License Agreement"), and notwithstanding anything to the contrary in this Confirmation Order (other than paragraph 31(c) of this Confirmation Order) or the Plan, to the extent consistent with applicable law, and subject to PYD's compliance with paragraph 7 of the *Order Granting Debtors' Motion for Order Pursuant to Sections 105(a), 501, 502, 503 and 1111(a) of the Bankruptcy Code, Bankruptcy Rule 2002 and 3003(c), and Local Rules 1009-2 and 2002-1(e), (I) Establishing Bar Dates for Filing Claims Against the Debtors and (II) Approving Form and Manner of Notice Thereof* [ECF No. 347], to the extent applicable, all of PYD's rights, claims and causes of action under the License Agreement, including, but not limited to, specific performance, arising on or after the Effective Date are hereby preserved, and all of the Debtors' rights, claims and defenses with respect thereto are also preserved. Nothing in Section 7.4 of the Plan shall prohibit PYD from filing an amendment to Proofs of Claim 700 and 701 to the extent filing such amendment complies with the Bankruptcy Code, Bankruptcy Rules and Local Rules.

45. Vacatur of Confirmation Order. If this Confirmation Order is vacated, the Plan shall be null and void in all respects, this Confirmation Order shall be of no further force or effect, no distributions under the Plan shall be made, the Debtors and all holders of Claims and

Interests in the Debtors shall be restored to the status quo ante as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred, and upon such occurrence, nothing contained in the Plan or this Confirmation Order shall: (a) constitute a waiver or release of any Claims against or Interests in the Debtors; (b) prejudice in any manner the rights of the holder of any Claim against or Interest in the Debtors; or (c) constitute an admission, acknowledgment, offer or undertaking by any Debtor or any other entity with respect to any matter set forth in the Plan.

46. Reversal. If any or all of the provisions of this Confirmation Order are hereafter reversed, modified or vacated by subsequent order of this Court or any other court, such reversal, modification or vacatur shall not affect the validity of the acts or obligations incurred or undertaken under or in connection with the Plan prior to the Debtors' receipt of written notice of such order. Notwithstanding any such reversal, modification or vacatur of this Confirmation Order, any such act or obligation incurred or undertaken pursuant to, and in reliance on, this Confirmation Order prior to the effective date of such reversal, modification or vacatur shall be governed in all respects by the provisions of this Confirmation Order and the Plan and all related documents or any amendments or modifications thereto.

47. Effectiveness of All Actions. All actions authorized to be taken under the Plan are effective on, prior to, or after the Effective Date, as applicable, under this Confirmation Order, without further application to, or order of the Court, or further action by the respective officers, directors, managers, members, or equity holders of the Debtors or the Reorganized Debtors and with the effect that such actions had been taken by unanimous action of such officers, directors, managers, members, or equity holders.

48. Modification of the Plan. The Plan may be amended, supplemented or modified in accordance with Section 12.5 of the Plan; provided however, that the Debtors or the Reorganized Debtors, as the case may be, with the consent of the Requisite Consenting Term Lenders, and, to the extent modifying the DIP ABL Plan Provisions or the definitions set forth in Sections 1.35 through 1.49, 1.115 and 1.116 of the Plan in a manner that adversely impacts the rights of the DIP ABL Agent or DIP ABL Lenders, with the consent of the DIP ABL Agent acting at the direction of the requisite DIP ABL Lenders, are authorized to make appropriate technical adjustments, remedy any defect or omission, or reconcile any inconsistencies in the Plan, the documents included in the Plan Supplement, any and all exhibits to the Plan, and/or this Confirmation Order, as may be necessary to carry out the purposes and effects of the Plan so long as such action does not materially and adversely affect the treatment of the Classes of holders of Allowed Claims or Interests pursuant to the Plan; provided further however, that, notwithstanding the foregoing, the Debtors (with the consent of the Requisite Consenting Term Lenders and, to the extent modifying the DIP ABL Plan Provisions or the definitions set forth in Sections 1.35 through 1.49, 1.115 and 1.116 of the Plan in a manner that adversely impacts the rights of the DIP ABL Agent or DIP ABL Lenders, with the consent of the DIP ABL Agent acting at the direction of the requisite DIP ABL Lenders) may amend, supplement or modify any of the documents contained in or contemplated by the Plan Supplement prior to the Effective Date so long as such amendment, supplement or modification does not materially and adversely affect the treatment of the Classes of holders of Allowed Claims or Interests pursuant to the Plan. The definitive and execution form of the Plan Documents and Agreements shall each be acceptable to the Debtors and the Requisite Consenting Term Lenders.

49. Post-Effective Date Notices. Except as otherwise may be provided in the Plan or this Confirmation Order, the only parties entitled to notice of any pleadings filed in the Chapter 11 Cases after the Effective Date, including, but not limited to, requests for payment of Fee Claims, shall be: (a) the Reorganized Debtors and their counsel, (b) the United States Trustee, (c) counsel to the ad hoc group of First Lien Term Lenders and Exit Term Lenders, (d) counsel to the agent under the Exit Revolving Credit Facility, and (e) any party known to be directly affected by the relief sought in a given pleading. Such service shall constitute good and sufficient notice pursuant to the Bankruptcy Rules.

50. Retention of Jurisdiction. Upon the Effective Date, the Court shall retain ~~exclusive~~ jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases, including but not limited to the matters set forth in Article XI of the Plan and section 1142 of the Bankruptcy Code.

51. Effect of Conflict. If there is any inconsistency between the terms of this Confirmation Order and the Plan (including any amendments thereto), the terms of this Confirmation Order shall govern and control.

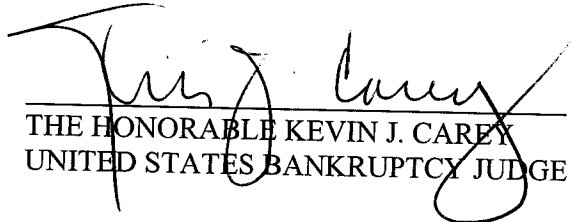
52. Applicable Non-Bankruptcy Law. Pursuant to sections 1123(a) and 1124(a) of the Bankruptcy Code, the provisions of this Confirmation Order, the Plan and related documents, or any amendments or modifications thereto, shall apply and be enforceable notwithstanding any otherwise applicable non-bankruptcy law.

53. Order Effective Immediately. Notwithstanding Bankruptcy Rules 3020(e) or 7062 or otherwise, the stay provided for under Bankruptcy Rule 3020(e) shall be waived and this Confirmation Order shall be effective and enforceable immediately upon entry. The Debtors are authorized to consummate the Plan and the transactions contemplated thereby immediately after

entry of this Confirmation Order and upon, or concurrently with, satisfaction of the conditions set forth in the Plan.

54. Final Order. This Confirmation Order is a Final Order and the period in which an appeal must be filed shall commence upon the entry hereof.

Dated: March 29, 2018  
Wilmington, Delaware

  
\_\_\_\_\_  
THE HONORABLE KEVIN J. CAREY  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT A**

**Plan**

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

In re:

VELOCITY HOLDING COMPANY, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 17-12442 (KJC)

(Jointly Administered)

**JOINT CHAPTER 11 PLAN OF REORGANIZATION  
OF VELOCITY HOLDING COMPANY, INC. AND ITS AFFILIATED DEBTORS**

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*Counsel to the Debtors and Debtors in Possession*

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<sup>1</sup> The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number, include: Velocity Holding Company, Inc. (1790); Velocity Pooling Vehicle, LLC (4630); Ed Tucker Distributor, Inc. (9197); Ralco Holdings, Inc. (0707); Rally Holdings, LLC (0707); Tucker Rocky Corporation (5967); Tucker-Rocky Georgia, LLC (8121); Motorsport Aftermarket Group, Inc. (0080); DFR Acquisition Corp. (4542); J&P Cycles, LLC (2512); Kuryakyn Holdings, LLC (2341); MAG Creative Group, LLC (4754); MAGNET Force, LLC (2635); Motorcycle Superstore, Inc. (1046); Motorcycle USA LLC (8994); Mustang Motorcycle Products, LLC (3660); Performance Machine, LLC (3924); Renthal America, Inc. (3827); and V&H Performance, LLC (2802). The location of the Debtors' service address is 651 Canyon Drive, Suite 100, Coppell, Texas 75019.

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## INTRODUCTION

Velocity Holding Company, Inc. and its affiliated debtors and debtors in possession in the above-captioned Chapter 11 Cases jointly propose this Plan. Although proposed jointly for administrative purposes, the Plan constitutes a separate Plan for each Debtor for the resolution of outstanding Claims against and Interests in each Debtor pursuant to the Bankruptcy Code. The Debtors seek to consummate the Restructuring on the Effective Date. Each Debtor is a proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code. The classifications of Claims and Interests set forth in Article III of this Plan shall be deemed to apply separately with respect to each Plan proposed by each Debtor, as applicable. The Plan does not contemplate substantive consolidation of any of the Debtors. Reference is made to the Disclosure Statement for a discussion of the Debtors' history, businesses, properties and operations, projections, risk factors, a summary and analysis of this Plan, the Restructuring, and certain related matters. Capitalized terms used herein shall have the meanings set forth in Article I.A.

ALL HOLDERS OF CLAIMS WHO ARE ENTITLED TO VOTE ON THIS PLAN ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

## ARTICLE I DEFINITIONS AND INTERPRETATION.

A. **Definitions.** The following terms shall have the respective meanings specified below:

1.1 **503(b)(9) Claim** means a claim that has been timely and properly filed prior to the applicable Bar Date and that is granted administrative expense priority treatment pursuant to section 503(b)(9) of the Bankruptcy Code.

1.2 **Administrative Expense Claim** means any right to payment constituting a cost or expense of administration incurred during the Chapter 11 Cases of a kind specified under section 503(b) of the Bankruptcy Code and entitled to priority under sections 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estates and operating the businesses of the Debtors (such as wages, salaries or commissions for services and payments for goods and other services and leased premises); (b) 503(b)(9) Claims; (c) Fee Claims; (d) Transaction Expenses; and (e) DIP Claims.

1.3 **Affiliates** means "Affiliates" as such term is defined in section 101(2) of the Bankruptcy Code.

1.4 **Allowed** means, with reference to any Claim or Interest, a Claim or Interest (a) that is listed in the Schedules as not contingent, not unliquidated, and not Disputed and for which no contrary proof of Claim or Interest has been filed, (b) arising on or before the Effective Date as evidenced by a proof of Claim or Interest filed by the applicable Bar Date (or a Claim or Interest for which a proof of Claim expressly is not or shall not be required to be filed under the Plan, the Bankruptcy Code or pursuant to a Final Order) as to which (i) no objection to allowance or priority, and no request for estimation or other challenge, including, without limitation, pursuant to section 502(d) of the Bankruptcy Code or otherwise, has been interposed and not withdrawn within the applicable period fixed by the Plan or applicable law, or (ii) any objection thereto has been determined in favor of the holder of the Claim or Interest by a Final Order, (c) as to which the Debtors (with the consent of the Requisite Consenting Term Lenders) or the Reorganized Debtors expressly agree with the holder of such Claim or Interest in writing to the amount, priority and allowance thereof, (d) as to which the liability of the Debtors or Reorganized

Debtors, as applicable, and the amount thereof are determined by a Final Order, or (e) expressly allowed pursuant to the terms of the Plan; provided, however, that notwithstanding the foregoing, (x) unless expressly waived by the Plan, the Allowed amount of Claims or Interests shall be subject to and shall not exceed the limitations or maximum amounts permitted by the Bankruptcy Code, including sections 502 or 503 of the Bankruptcy Code, to the extent applicable, and (y) the Reorganized Debtors shall retain all claims and defenses with respect to Allowed Claims that are Reinstated or otherwise Unimpaired pursuant to the Plan. Notwithstanding the foregoing, (i) any Class 4 Second Lien Term Loan Claim (other than the Claim of a holder that is also a Consenting Term Lender or an Affiliate of a Consenting Term Lender) of a holder that makes the Opt-In Distribution Election shall be an Allowed Claim and (ii) any Class 5 General Unsecured Claim of a holder that makes the Opt-In Distribution Election shall be an Allowed Claim if such Claim (a) is listed in the Schedules as not contingent, not unliquidated, and not Disputed and for which no contrary proof of Claim or Interest has been filed, or (b) is evidenced by a proof of Claim filed by the applicable Bar Date; provided, however, that, in each case, any such Claims in excess of \$25,000 will be reduced to \$25,000 upon making an Opt-In Distribution Election.

1.5 **Awards** has the meaning set forth in Section 5.14 of the Plan.

1.6 **Bankruptcy Code** means title 11 of the United States Code, 11 U.S.C. § 101, *et seq.*, as amended from time to time.

1.7 **Bankruptcy Court** means the United States Bankruptcy Court for the District of Delaware having jurisdiction over the Chapter 11 Cases.

1.8 **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 and any Local Bankruptcy Rules of the Bankruptcy Court, in each case, as amended from time to time.

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

1.10 **Benefit Plan Schedule** has the meaning set forth in Section 5.13(a) of the Plan.

1.11 **Benefit Plans** means each (a) “employee benefit plan,” as defined in section 3(3) of ERISA and (b) other pension, retirement, bonus, incentive, profit sharing, severance, retention, deferred compensation, equity, equity purchase, equity option or other equity-based compensation, employment, change-in-control, tax gross-up, sick leave, paid-time-off, salary continuation, educational assistance, health, life, disability, group insurance, vacation, holiday and fringe benefit plan, program, contract, or arrangement (whether written or unwritten) maintained, sponsored, contributed to, or required to be contributed to, by the Debtors for the benefit of any of their current or former employees, officers, directors, managers, or independent contractors, or their respective dependents.

1.12 **Business Day** means any day other than a Saturday, a Sunday, or any other day on which banking institutions in New York, New York are required or authorized to close by law or executive order.

1.13 **Cash** means the legal tender of the United States of America or the equivalent thereof.

1.14 **Causes of Action** means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, lien, indemnity, guaranty, suit, obligation, liability, loss, debt, damage,

judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, known or unknown, foreseen or unforeseen, existing or hereafter arising, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law (including, without limitation, under any state or federal securities laws). Causes of Action also includes: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Interests; (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense, including fraud, mistake, duress and usury and any other defenses set forth in section 558 of the Bankruptcy Code; and (e) any state law fraudulent transfer claim.

1.15 **Certificate** means any instrument evidencing a Claim or an Interest.

1.16 **Chapter 11 Cases** means the jointly administered cases under chapter 11 of the Bankruptcy Code commenced by the Debtors on the Petition Date, in the Bankruptcy Court.

1.17 **Claim** has the meaning set forth in section 101(5) of the Bankruptcy Code, as against any Debtor.

1.18 **Claims Agent** means Donlin, Recano & Company, Inc., or any other entity approved by the Bankruptcy Court to act as the Debtors' claims and noticing agent pursuant to 28 U.S.C. § 156(c).

1.19 **Class** means any group of Claims or Interests classified as set forth in Article III of the Plan pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code.

1.20 **Collateral** means any cash, assets, real property, securities, rights or other property, or any interest in any cash, assets, real property, securities, rights or other property, of any of the Debtors' Estates that is subject to a Lien to secure the payment or performance of a Claim, which Lien has not been avoided or is not subject to avoidance under the Bankruptcy Code or is not otherwise invalid under the Bankruptcy Code or applicable law.

1.21 **Committee** means the official committee of unsecured creditors appointed in the Chapter 11 Cases in accordance with section 1102 of the Bankruptcy Code, as the same may be reconstituted from time to time.

1.22 **Company Indemnitees** has the meaning set forth in Section 8.5(b) of the Plan.

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

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

1.25 **Confirmation Order** means the order of the Bankruptcy Court confirming the Plan pursuant to, among others, section 1129 of the Bankruptcy Code.

1.26 **Consenting Term Lenders** means "Consenting Term Lenders" as such term is defined in the Restructuring Support Agreement.

1.27 **Corporate Governance Term Sheet** means the term sheet (as amended, supplemented, amended and restated or otherwise modified from time to time in accordance with the terms thereof and the Restructuring Support Agreement), annexed as Exhibit 2 to the Restructuring Term Sheet (as defined in the Restructuring Support Agreement), setting forth the material terms of the New Organizational Documents.

1.28 **Cure** means the payment of Cash, or the distribution of other property (as the parties under the applicable Executory Contract may agree or the Bankruptcy Court may order), by the Debtors as necessary to (a) cure a monetary default by the Debtors in accordance with the terms of an Executory Contract of the Debtors and (b) permit the Debtors to assume such Executory Contract pursuant to section 365 of the Bankruptcy Code.

1.29 **Cure Amount** has the meaning set forth in Section 8.2(a) of the Plan.

1.30 **Cure Dispute** means a pending objection relating to assumption of an Executory Contract pursuant to section 365 of the Bankruptcy Code.

1.31 **Cure Schedule** has the meaning set forth in Section 8.2(b) of the Plan.

1.32 **Debtor or Debtors** means each debtor, or collectively the debtors, in the Chapter 11 Cases.

1.33 **Debtors in Possession** means the Debtors in their capacity as debtors in possession in the Chapter 11 Cases pursuant to sections 1101, 1107(a) and 1108 of the Bankruptcy Code.

1.34 **Description of Structure** means a description, to be filed with the Plan Supplement, of any material changes to the corporate and/or capital structure of the Debtors anticipated to be made in conjunction with the Effective Date as determined by the Debtors and the Requisite Consenting Term Lenders.

1.35 **DIP ABL Agent** means Wells Fargo Bank, N.A.

1.36 **DIP ABL Credit Agreement** means that certain debtor-in-possession credit agreement, dated as of November 20, 2017, by and among the DIP ABL Agent, the DIP ABL Lenders, the loan parties thereto and certain of their affiliates, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms of the DIP Intercreditor Agreement (as defined in the DIP ABL Credit Agreement) and the DIP Orders.

1.37 **DIP ABL Credit Documents** means all of the "Loan Documents" as defined in the DIP ABL Credit Agreement.

1.38 **DIP ABL Facility** means that certain revolving debtor-in-possession credit facility in an aggregate principal amount of up to \$110,000,000 provided by the DIP ABL Lenders on the terms and conditions set forth in the DIP ABL Credit Agreement, as approved by the DIP Orders.

1.39 **DIP ABL Facility Claims** means any Claim against any Debtor on account of, arising under or relating to the DIP ABL Loans, the DIP ABL Credit Documents, or the DIP Orders, which includes, without limitation, all "Obligations" thereunder and all Claims for all principal amounts outstanding, interest, fees, and reasonable and documented fees, expenses, costs and other charges of the DIP ABL Agent and the DIP ABL Lenders.

- 1.40 **DIP ABL Lenders** means the “Lenders” as defined in the DIP ABL Credit Agreement.
- 1.41 **DIP ABL Loans** means the “Loans” as defined in the DIP ABL Credit Agreement.
- 1.42 **DIP ABL Plan Provisions** means Sections 2.5(a), 5.4(a)(ii), 5.9, 9.1(a), 9.2(a), 9.2(f), 9.3, 12.3, 12.5, and 12.8 of the Plan.
- 1.43 **DIP Agents** means the DIP ABL Agent and the DIP Term Agent.
- 1.44 **DIP Claims** means the DIP ABL Facility Claims and the DIP Term Facility Claims.
- 1.45 **DIP Credit Agreements** means the DIP ABL Credit Agreement and DIP Term Credit Agreement.
- 1.46 **DIP Credit Documents** means the DIP ABL Credit Documents and DIP Term Credit Documents.
- 1.47 **DIP Facilities** means the DIP ABL Facility and the DIP Term Facility.
- 1.48 **DIP Lenders** means the DIP ABL Lenders and DIP Term Lenders.
- 1.49 **DIP Orders** means, collectively, the Interim DIP Order and the Final DIP Order.
- 1.50 **DIP Term Agent** means Wilmington Trust, National Association.
- 1.51 **DIP Term Credit Agreement** means that certain senior secured super-priority debtor-in-possession term loan credit agreement, dated as of November 20, 2017, by and among the DIP Term Agent, the DIP Term Lenders, the loan parties thereto and certain of their affiliates, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms of the DIP Intercreditor Agreement (as defined in the DIP Term Credit Agreement) and the DIP Orders.
- 1.52 **DIP Term Credit Documents** means all of the “Loan Documents” as defined in the DIP Term Credit Agreement.
- 1.53 **DIP Term Facility** means that certain senior secured super-priority debtor-in-possession term loan credit facility in an aggregate principal amount of \$25,000,000 provided by the DIP Term Lenders on the terms and conditions set forth in the DIP Term Credit Agreement, as approved by the DIP Orders.
- 1.54 **DIP Term Facility Claims** means any Claim against any Debtor on account of, arising under or relating to the DIP Term Loans, the DIP Term Credit Documents, or the DIP Orders, which includes, without limitation, Claims for all principal amounts outstanding, interest, fees, and reasonable and documented fees, expenses, costs and other charges of the DIP Term Agent and the DIP Term Lenders.
- 1.55 **DIP Term Lenders** means the “Lenders” as defined in the DIP Term Credit Agreement.
- 1.56 **DIP Term Loans** means the “Loans” as defined in the DIP Term Credit Agreement.

1.57 **Disallowed** means, with respect to any Claim or Interest, that such Claim or Interest has been determined by a Final Order or specified in a provision of the Plan not to be Allowed.

1.58 **Disbursing Agent** means any Person (including any applicable Debtor if it acts in such capacity) in its capacity as a disbursing agent under Article VI of the Plan.

1.59 **Disclosure Statement** means the disclosure statement for the Plan that is prepared and distributed in accordance with, among other things, sections 1125, 1126(b), and 1145 of the Bankruptcy Code, Rule 3018 of the Federal Rules of Bankruptcy Procedure and other applicable Law, and all exhibits, schedules, supplements, modifications and amendments thereto, all of which shall be consistent in all material respects with the Restructuring Support Agreement and otherwise in form and substance reasonably acceptable to the Debtors and the Requisite Consenting Term Lenders (as the same may be amended, modified or supplemented from time to time in accordance with the terms hereof).

1.60 **Disclosure Statement Order** means an order of the Bankruptcy Court approving the Disclosure Statement and the Solicitation, which order shall be consistent in all material respects with the Restructuring Support Agreement and otherwise in form and substance reasonably acceptable to the Debtors and the Requisite Consenting Term Lenders.

1.61 **Disputed** means, with respect to any Claim or Interest, other than a Claim or Interest that has been Allowed pursuant to the Plan or a Final Order, a Claim or Interest (a) that is listed in the Schedules as unliquidated, contingent, or disputed, and as to which no request for payment or proof of Claim has been filed, (b) as to which a proper request for payment or proof of Claim has been timely filed, but with respect to which an objection or request for estimation has been filed and has not been withdrawn or determined by a Final Order or (c) that is disputed in accordance with the provisions of the Plan.

1.62 **Disputed Claims Reserve** has the meaning set forth in Section 7.3(b) of the Plan.

1.63 **Effective Date** means the date on which all conditions to the effectiveness of the Plan set forth in Article IX hereof have been satisfied or waived in accordance with the terms of the Plan.

1.64 **Election Deadline** means the date that is forty-five (45) days after the Effective Date.

1.65 **Election Form** means the election form, the form of which is attached as Exhibit B to the Confirmation Order, providing holders of Class 4 Second Lien Term Loan Claims that are not also Consenting Term Lenders or Affiliates of Consenting Term Lenders and holders of Class 5 General Unsecured Claims with the opportunity to make the Opt-In Election.

1.66 **Election Record Date** means the Effective Date.

1.67 **Employment Arrangement Schedule** has the meaning set forth in Section 5.13(a) of the Plan.

1.68 **Employment Arrangements** means any existing employment, services, separation, or related agreements or arrangements with employees, officers or individual independent contractors of the Debtors.

1.69 **ERISA** means the Employee Retirement Income Security Act of 1974, as amended.

1.70 **Estate or Estates** means, individually or collectively, the estate or estates of the Debtors created under section 541 of the Bankruptcy Code.

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

1.72 **Exchange Act** means the Securities Exchange Act of 1934, as amended, and including any rule or regulation promulgated thereunder.

1.73 **Exculpated Parties** means collectively, and in each case in their capacities during the Chapter 11 Cases: (a) the Debtors; (b) the Reorganized Debtors; (c) the Disbursing Agent; (d) the Committee; and (e) with respect to each of the foregoing Persons in clauses (a) through (d), such Persons' current and former officers, directors, managers, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, and representatives to the extent any such Person in this clause (e) is found to be an estate fiduciary.

1.74 **Executory Contract** means an executory contract or unexpired lease to which one or more Debtors is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

1.75 **Existing D&O Policies** has the meaning set forth in Section 8.5(b) of the Plan.

1.76 **Exit Facility Documents** means the Exit Revolving Credit Documents and the Exit Term Loan Credit Documents.

1.77 **Exit Revolving Credit Agreement** means the credit agreement governing the Exit Revolving Credit Facility, which shall be in form and substance satisfactory to the Debtors and the Requisite Consenting Term Lenders. A form of the Exit Revolving Credit Agreement, or a term sheet therefor, will be included in the Plan Supplement.

1.78 **Exit Revolving Credit Documents** means, collectively, the Exit Revolving Credit Agreement and each other agreement, security agreement, pledge agreement, collateral assignment, mortgage, control agreement, guarantee, certificate, document or instrument executed and/or delivered in connection with any of the foregoing, whether or not specifically mentioned herein or therein, as any of the same may be modified, amended, restated, supplemented or replaced from time to time and which shall be in form and substance satisfactory to the Debtors and the Requisite Consenting Term Lenders.

1.79 **Exit Revolving Credit Facility** means a senior secured revolving credit facility, in accordance with and subject to the terms of the Exit Revolving Credit Agreement.

1.80 **Exit Term Loan Credit Agreement** means the credit agreement governing the Exit Term Loan Credit Facility, which shall be in form and substance satisfactory to the Debtors and the Requisite Consenting Term Lenders. A form of the Exit Term Loan Credit Agreement, or a term sheet therefor, will be included in the Plan Supplement.

1.81 **Exit Term Loan Credit Documents** means, collectively, the Exit Term Loan Credit Agreement and each other agreement, security agreement, pledge agreement, collateral assignment, mortgage, control agreement, guarantee, certificate, document or instrument executed and/or delivered in

connection with any of the foregoing, whether or not specifically mentioned herein or therein, as any of the same may be modified, amended, restated, supplemented or replaced from time to time and which shall be in form and substance satisfactory to the Debtors and the Requisite Consenting Term Lenders.

1.82 ***Exit Term Loan Credit Facility*** means the senior secured term loan facility, in accordance with and subject to the terms of the Exit Term Loan Credit Agreement.

1.83 ***Exit Term Loan Lenders*** means the lenders party to the Exit Term Loan Credit Agreement.

1.84 ***Exit Term Loans*** means the loans made pursuant to the Exit Term Loan Credit Facility.

1.85 ***Fee Claim*** means a Claim for professional services rendered or costs incurred on or after the Petition Date through the Effective Date by any Professional.

1.86 ***Final DIP Order*** means the *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363 and 364 (I) Authorizing The Debtors To Obtain Senior Secured Priming Superpriority Postpetition Financing, (II) Granting Liens And Superpriority Administrative Expense Status, (III) Authorizing The Use Cash Collateral, (IV) Granting Adequate Protection, and (V) Granting Related Relief* [ECF No. 203].

1.87 ***Final Order*** means an order or judgment of a court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court, which has not been reversed, vacated or stayed and as to which (a) the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument, or rehearing shall then be pending, or (b) if an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order or judgment shall have been affirmed by the highest court to which such order was appealed, or *certiorari* shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for *certiorari* or move for a new trial, reargument, or rehearing shall have expired; provided, however, that no order or judgment shall fail to be a "Final Order" solely because of the possibility that a motion under Rules 59 or 60 of the Federal Rules of Civil Procedure or any analogous Bankruptcy Rule (or any analogous rules applicable in another court of competent jurisdiction) or sections 502(j) or 1144 of the Bankruptcy Code has been or may be filed with respect to such order or judgment.

1.88 ***First Lien Obligations*** means the "Obligations" of any Debtor as defined in the First Lien Term Loan Credit Agreement.

1.89 ***First Lien Term Lenders*** means the "Lenders" as defined in the First Lien Term Loan Credit Agreement.

1.90 ***First Lien Term Loan Agent*** means Wilmington Trust, National Association (as successor to Credit Suisse AG) as administrative agent under the First Lien Term Loan Credit Agreement.

1.91 ***First Lien Term Loan Claims*** means any Claim against any Debtor on account of, arising under or relating to the First Lien Term Loans, the First Lien Obligations, the First Lien Term Loan Credit Agreement or any of the other "Loan Documents" (as defined in the First Lien Term Loan Credit Agreement), which includes, without limitation, Claims for all principal amounts outstanding, interest, fees, and reasonable and documented fees, expenses, costs and other charges of the First Lien

Term Loan Agent (including reasonable attorneys' fees, charges and disbursements) and the First Lien Term Lenders.

1.92 **First Lien Term Loan Credit Agreement** means that certain First Lien Credit Agreement, dated as of May 14, 2014 (as amended, supplemented, amended and restated or otherwise modified from time to time in accordance with the terms thereof), by and among Holdings, Velocity Pooling Vehicle, LLC, as "Borrower Representative" thereunder, the other borrowers and guarantors thereunder, the First Lien Term Loan Agent, the First Lien Term Lenders, and certain other parties thereto.

1.93 **First Lien Term Loans** means the "Loans" as defined in the First Lien Term Loan Credit Agreement.

1.94 **Final Trade Vendor Order** means the *Final Order (I) Authorizing Debtors to Pay Certain Prepetition Claims of (A) Trade Claimants, (B) Foreign Vendors, (C) Lien Claimants, and (D) 503(B)(9) Claimants, and (II) Granting Related Relief* [ECF No. 201].

1.95 **General Unsecured Claim** means any Claim, other than a First Lien Term Loan Claim, Second Lien Term Loan Claim, Other Secured Claim, Administrative Expense Claim, Priority Tax Claim, or Other Priority Claim.

1.96 **Governmental Entity** means any applicable federal, state, local or foreign government or any agency, bureau, board, commission, court or arbitral body, department, political subdivision, regulatory or administrative authority, tribunal or other instrumentality thereof, or any self-regulatory organization.

1.97 **Holdings** means Velocity Holding Company, Inc., an Indiana corporation.

1.98 **Holdings Interests** means all Interests in Holdings.

1.99 **Impaired** means, with respect to a Claim, Interest, or Class of Claims or Interests, "impaired" within the meaning of section 1124 of the Bankruptcy Code.

1.100 **Insurance Contracts** has the meaning set forth in Section 8.5(a) of the Plan.

1.101 **Insured Claims** means any Claim or portion of a Claim that is, or may be, insured under any of the Debtors' insurance policies.

1.102 **Insurers** means any company or other entity that issued an Insurance Contract.

1.103 **Intercompany Claim** has the meaning set forth in Section 2.7 of the Plan.

1.104 **Interests** means any equity security (as defined in section 101(16) of the Bankruptcy Code) of a Debtor, and, including all common stock, preferred stock, limited partnership interests, general partnership interests, limited liability company interests and any other equity, ownership, beneficial or profits interests in any of the Debtors, whether or not transferable, and any option, warrant, right, or any other security, agreement or interest that is exercisable, convertible or exchangeable into or for any common stock, preferred stock, limited partnership interests, general partnership interests, limited liability company interests, or any other equity, ownership, beneficial or profits interests in or of a Debtor, contractual or otherwise, including, without limitation, equity or equity-based incentives, grants, or other instruments issued, granted or promised to be granted to current or former employees, directors, officers,

or contractors of any of the Debtors, to acquire any such interests in a Debtor that existed immediately before the Effective Date.

1.105 **Interim DIP Order** means the *Interim Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363 and 364 (I) Authorizing The Debtors To Obtain Senior Secured Priming Superpriority Postpetition Financing, (II) Granting Liens And Superpriority Administrative Expense Status, (III) Authorizing The Use Cash Collateral, (IV) Granting Adequate Protection, (V) Scheduling A Final Hearing and (VI) Granting Related Relief* [ECF No. 60].

1.106 **Law** means, in any applicable jurisdiction, any applicable statute or law (including common law), ordinance, rule, treaty, code or regulation and any decree, injunction, judgment, order, ruling, assessment, writ or other legal requirement, in any such case, of any applicable Governmental Entity.

1.107 **LDI** has the meaning set forth in Section 8.5(b) of the Plan.

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

1.109 **Management Incentive Plan** means a post-emergence management incentive plan on terms and conditions described in and consistent with Section 5.14 of the Plan.

1.110 **New Board** means the new board of managers of Reorganized Pooling.

1.111 **New Common Units** means the limited liability company interests of Reorganized Pooling.

1.112 **New Operating Agreement** means that certain Amended and Restated Limited Liability Company Agreement to be executed or deemed to be executed by Reorganized Pooling, the First Lien Term Lenders, and the other Persons to receive New Common Units under the Plan, which shall be consistent in all material respects with the terms and conditions set forth in the Corporate Governance Term Sheet and otherwise in form and substance reasonably acceptable to the Debtors and the Requisite Consenting Term Lenders. A draft form of such New Operating Agreement will be included in the Plan Supplement.

1.113 **New Organizational Documents** means the certificates of incorporation, certificates of formation, limited liability company agreements, bylaws and other organizational documents of the Reorganized Debtors, which shall be consistent in all material respects with the terms and conditions set forth in the Corporate Governance Term Sheet and otherwise in form and substance reasonably acceptable to the Debtors and the Requisite Consenting Term Lenders. The New Organizational Documents shall include (a) the New Operating Agreement and (b) the New Warrant Documents. To the extent such New Organizational Documents reflect material changes to the Debtors' existing forms of organizational documents, draft forms of such New Organizational Documents will be included in the Plan Supplement.

1.114 **New Warrant Documents** means the documents and certificates governing and/or evidencing the New Warrants, which shall be consistent in all material respects with the terms and conditions set forth in Section 5.7 of the Plan and otherwise in form and substance reasonably acceptable to the Debtors and the Requisite Consenting Term Lenders. Draft forms of such New Warrant Documents will be included in the Plan Supplement.

1.115 **New Warrants** means the warrants to acquire New Common Units, which New Warrants are to be issued by Reorganized Pooling on the Effective Date and shall be consistent in all material respects with the terms and conditions set forth in Section 5.7 of the Plan and otherwise in form and substance reasonably acceptable to the Debtors and the Requisite Consenting Term Lenders.

1.116 **Opt-In Distribution Election** means an election by (i) a holder of a Class 4 Second Lien Term Loan Claim that is not also a Consenting Term Lender or an Affiliate of a Consenting Term Lender; or (ii) a holder of a Class 5 General Unsecured Claim, as applicable, to opt into receiving a Cash distribution on account of its Allowed Claim in an amount equal to its Pro Rata share of the Opt-In Distribution Pool; *provided, however*, that any such Claim holder who makes the Opt-In Distribution Election shall waive and release any and all of the portion of its Allowed Claim in excess of \$25,000; and, *provided further, however*, that any such Claim holder who makes the Opt-In Distribution Election shall be deemed to consent to and grant the releases provided in Section 10.6(b) of the Plan.

1.117 **Opt-In Distribution Pool** means \$150,000 in Cash.

1.118 **Opt-in Distribution Procedures** means the procedures set forth in Section 6.24 of the Plan.

1.119 **Ordinary Course Professionals Order** means the *Order (I) Authorizing The Debtors To Retain And Compensate Professionals Utilized In The Ordinary Course Of Business, And (II) Granting Related Relief* [ECF No. 175].

1.120 **Other Debtor Interest** means an Interest in a Debtor held by another Debtor.

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

1.122 **Other Secured Claim** means a Secured Claim, other than an Administrative Expense Claim, a DIP Claim, a Priority Tax Claim, an Other Priority Claim, a First Lien Term Loan Claim or a Second Lien Term Loan Claim.

1.123 **Paid in Full or Payment in Full** means, with respect to the DIP ABL Facility Claims, "payment in full" of such Claims within the meaning of such phrase as used in Section 1.1 of the DIP ABL Credit Agreement.

1.124 **Payoff Letter** means the payoff letter, to be prepared by and in form and substance reasonably satisfactory to, the DIP ABL Agent, pursuant to which, among other things, the DIP ABL Facility Claims are to be Paid in Full.

1.125 **Person** means any individual, corporation, partnership, limited partnership, limited liability company, association, indenture trustee, organization, joint stock company, joint venture, estate, trust, unincorporated organization, Governmental Entity or any political subdivision thereof, or other person (as defined in section 101(41) of the Bankruptcy Code), or any other entity.

1.126 **Petition Date** means November 15, 2017, the date on which the Debtors commenced the Chapter 11 Cases.

1.127 **Plan** means this joint chapter 11 plan, including all appendices, exhibits, schedules, and supplements hereto (including, without limitation, any appendices, exhibits, schedules, and supplements

to the Plan contained in the Plan Supplement), as the same may be amended, supplemented, or modified from time to time in accordance with the provisions of the Bankruptcy Code, the terms hereof, and the terms of the Restructuring Support Agreement.

1.128 **Plan Consideration** means, with respect to any Class of Claims entitled to a distribution under this Plan, Cash, and/or New Common Units, as the context requires.

1.129 **Plan Supplement** means a supplemental appendix to the Plan containing, among other things, draft forms of documents (or term sheets therefor), schedules, and exhibits to the Plan to be filed with the Bankruptcy Court, including, but not limited to, the following, or a term sheet therefor, each of which must be in form and substance reasonably acceptable to the Debtors and the Requisite Consenting Term Lenders: (a) the New Organizational Documents (to the extent such New Organizational Documents reflect material changes from the Debtors' existing organizational documents), (b) the Exit Revolving Credit Agreement, (c) the Exit Term Loan Credit Agreement, (d) the Schedule of Rejected Executory Contracts, (e) the Description of Structure, (f) the Employment Arrangement Schedule, (g) the Benefit Plan Schedule, (h) the Payoff Letter, and (i) to the extent known, information required to be disclosed in accordance with section 1129(a)(5) of the Bankruptcy Code; provided, that, through the Effective Date, the Debtors shall have the right to amend the Plan Supplement and any schedules, exhibits, or amendments thereto, in accordance with the terms of the Plan and the Restructuring Support Agreement. The Plan Supplement shall be filed with the Bankruptcy Court not later than seven (7) calendar days prior to the Voting Deadline.

1.130 **Priority Tax Claim** means any Secured Claim or unsecured Claim of a Governmental Entity of the kind entitled to priority in payment as specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

1.131 **Professional** means a Person retained by the Debtors or the Committee by an order of the Bankruptcy Court pursuant to sections 327, 328, 329, 330, 331, 503(b), or 1103(a) of the Bankruptcy Code in the Chapter 11 Cases, other than any Person retained by the Debtors pursuant to the Ordinary Course Professionals Order.

1.132 **Pro Rata** means the proportion that an Allowed Claim or Allowed Interest in a particular Class bears to the aggregate amount of Allowed Claims or Allowed Interests in that Class, or the proportion that Allowed Claims or Allowed Interests in a particular Class bear to the aggregate amount of Allowed Claims and Disputed Claims or Allowed Interests and Disputed Interests in a particular Class and other Classes entitled to share in the same recovery as such Class under the Plan.

1.133 **Reinstate or Reinstated** means leaving a Claim or Interest Unimpaired under the Plan.

1.134 **Related Fund** means, with respect to any Person, any fund, account or investment vehicle that is controlled or managed by (a) such Person, (b) an Affiliate of such Person or (c) the same investment manager, advisor or subadvisor as such Person or an Affiliate of such investment manager, advisor or subadvisor.

1.135 **Released Parties** means collectively (a) the DIP Lenders; (b) the DIP Agents; (c) the ABL Lenders (as defined in the Restructuring Support Agreement); (d) the Consenting Term Lenders; (e) the ABL Agent; (f) the First Lien Term Loan Agent; (g) the Second Lien Agent; and (h) with respect to each of the foregoing Persons described in clauses (a) through (g), such Person's current and former Affiliates, partners, Subsidiaries, officers, directors, managers, principals, investment managers and advisors, employees, agents, managed funds, advisors, attorneys, accountants, investment bankers,

consultants, representatives, and other professionals, together with their respective successors and assigns, in each case in their capacity as such; and (i) the Debtors and the Reorganized Debtors and their respective current and former Affiliates, partners, Subsidiaries, officers, directors, managers, principals, employees, agents, advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, together with their respective successors and assigns, in each case in their capacity as such, and only if serving in such capacity.

1.136 **Reorganized Debtors** means, with respect to each Debtor, such Debtor as reorganized on the Effective Date in accordance with the Plan (including as described in the Description of Structure).

1.137 **Reorganized Holdings** means Holdings, as reorganized on the Effective Date in accordance with the Plan (including as described in the Description of Structure).

1.138 **Reorganized Pooling** means Velocity Pooling Vehicle LLC, a Delaware limited liability company, as reorganized on the Effective Date in accordance with the Plan (including as described in the Description of Structure).

1.139 **Requisite Consenting Term Lenders** means “Requisite Consenting Term Lenders” as such term is defined in the Restructuring Support Agreement.

1.140 **Restructuring** means, collectively, the transactions necessary or, in the judgment of the Requisite Consenting Term Lenders, desirable to effectuate a comprehensive restructuring of the existing Claims against, and the existing Interests in, the Debtors to be consummated pursuant to the Plan, as described in or contemplated by the Restructuring Support Agreement and the other Restructuring Documents.

1.141 **Restructuring Documents** means the documents, other than the Plan, including any related orders, agreements, instruments, schedules, or exhibits, that are contemplated herein and that are otherwise necessary to implement, or otherwise relate to, the Restructuring, including, without limitation, (a) the Disclosure Statement and any motion seeking the approval thereof and related solicitation materials, (b) the Disclosure Statement Order, (c) the Confirmation Order, (d) the ballots, the motion to approve the form of the ballots and the Solicitation, and the order of the Bankruptcy Court approving the form of the ballots and the Solicitation, (e) the DIP Credit Documents and the DIP Orders, (f) the New Organizational Documents (including the New Operating Agreement and the New Warrant Documents), (g) the Exit Revolving Credit Documents, (h) the Exit Term Loan Credit Documents and (i) any documentation relating to the use of cash collateral, distributions provided to the holders of any Claims or Interests, exit financing or other related documents, each of which shall contain terms and conditions that are consistent in all material respects with the Restructuring Support Agreement and shall otherwise be in form and substance reasonably acceptable to the Debtors and the Requisite Consenting Term Lenders.

1.142 **Restructuring Support Agreement** means that certain Restructuring Support Agreement, dated as of November 15, 2017, by and among the Debtors and the Consenting Term Lenders, including all exhibits, schedules and attachments thereto (as may be amended, supplemented, or otherwise modified from time to time in accordance with the terms thereof), annexed to the Disclosure Statement as Exhibit E.

1.143 **Restructuring Transactions** has the meaning set forth in Section 5.2(a) of the Plan.

1.144 **Schedule of Rejected Executory Contracts** means the schedule of Executory Contracts to be rejected by the Debtors pursuant to the Plan in the form filed with the Bankruptcy Court as part of the

Plan Supplement, which schedule shall be satisfactory in form and substance to the Requisite Consenting Term Lenders (including with respect to any amendment, modification or supplement thereof).

1.145 **Schedules** means the schedules of assets and liabilities, statements of financial affairs, and lists of holders of Claims or Interests in the Debtors, filed with the Bankruptcy Court by the Debtors, including any amendments or supplements thereto.

1.146 **Second Lien Agent** means Medley Capital, LLC (as successor to Credit Suisse AG) as administrative agent under the Second Lien Credit Agreement.

1.147 **Second Lien Credit Agreement** means that certain Second Lien Credit Agreement, dated as of May 14, 2014 (as amended, supplemented, amended and restated or otherwise modified from time to time in accordance with the terms thereof), by and among Holdings, Velocity Pooling Vehicle, LLC, as "Borrower Representative" thereunder, the other borrowers and guarantors thereunder, the Second Lien Agent, the Second Lien Term Lenders, and certain other parties thereto.

1.148 **Second Lien Lenders** means the "Lenders" as defined in the Second Lien Credit Agreement.

1.149 **Second Lien Obligations** means the "Obligations" of any Debtor as defined in the Second Lien Credit Agreement.

1.150 **Second Lien Term Loan Claims** means any Claim against any Debtor on account of, arising under or relating to the Second Lien Term Loans, the Second Lien Obligations, the Second Lien Credit Agreement or any of the other "Loan Documents" (as defined in the Second Lien Credit Agreement), which includes, without limitation, Claims for all principal amounts outstanding, interest, fees, and reasonable and documented fees, expenses, costs and other charges of the Second Lien Agent and the Second Lien Lenders.

1.151 **Second Lien Term Loans** means the "Loans" as defined in the Second Lien Credit Agreement.

1.152 **Section 510(b) Claim** means any Claim subordinated pursuant to section 510(b) of the Bankruptcy Code.

1.153 **Secured Claim** means a Claim (a) secured by a Lien on Collateral to the extent of the value of such Collateral as (i) set forth in the Plan, (ii) agreed to by the holder of such Claim and the Debtors (with the consent of the Requisite Consenting Term Lenders), or (iii) determined by a Final Order in accordance with section 506(a) of the Bankruptcy Code, or (b) secured by the amount of any right of setoff of the holder thereof in accordance with section 553 of the Bankruptcy Code.

1.154 **Securities Act** means the Securities Act of 1933, as amended, and including any rule or regulation promulgated thereunder.

1.155 **Self-Funded Health Insurance Claims** has the meaning set forth in Section 5.19 of the Plan.

1.156 **Self-Funded Health Insurance Plan** means an insurance plan under which a Debtor provides health care benefits to the Debtors' employees and assumes the financial risk associated with the health care benefits provided thereunder.

1.157 **Service Agreements** has the meaning set forth in the Corporate Governance Term Sheet.

1.158 **Servicer** means an agent or other authorized representative of holders of Claims or Interests, including, for the avoidance of doubt, the DIP Agents, the First Lien Term Loan Agent and the Second Lien Agent.

1.159 **Solicitation** means the solicitation of votes in connection with the Plan pursuant to sections 1125 and 1126 of the Bankruptcy Code and the applicable procedures approved by the Bankruptcy Court and set forth in the Disclosure Statement Order as well as the letter of transmittal and ballots related thereto.

1.160 **Solicitation Parties** means each of the following in its capacity as such: (a) the Debtors and the Reorganized Debtors, (b) the professionals of the Debtors, (c) the Consenting Term Lenders, and (d) the professionals of the Consenting Term Lenders.

1.161 **Subsidiary** means, as of any time of determination and with respect to any specified Person, (a) any corporation more than fifty percent (50%) of the voting or capital stock of which is, as of such time, directly or indirectly owned by such Person, (b) any limited liability company, partnership, limited partnership, joint venture, association, or other entity in which such Person, directly or indirectly, owns more than fifty percent (50%) of the equity economic interest thereof, or (c) any corporation, limited liability company, partnership, limited partnership, joint venture, association, or other entity in which such Person, directly or indirectly, has the power to elect or direct the election of more than fifty percent (50%) of the members of the board of directors, board of managers, managing member, general partner or similar governing body of such entity as of such time.

1.162 **Tax Code** means the Internal Revenue Code of 1986, as amended from time to time.

1.163 **Transaction Expenses** means all fees, costs and expenses of each of the Consenting Lenders' Advisors (as defined in the Restructuring Support Agreement), in each case, (a) in connection with the negotiation, formulation, preparation, execution, delivery, implementation, consummation and/or enforcement of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the DIP Credit Documents and/or any of the other Restructuring Documents, the transactions contemplated thereby, and/or any amendments, waivers, consents, supplements or other modifications to any of the foregoing and (b) (i) consistent with any engagement letters or fee reimbursement letters entered into between the Debtors and the applicable Consenting Lenders' Advisor (as supplemented and/or modified by the Restructuring Support Agreement), or (ii) as provided in the DIP Orders.

1.164 **U.S. Trustee** means the United States Trustee for the District of Delaware.

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

1.166 **Voting Deadline** means the date set by the Bankruptcy Court by which all Persons entitled to vote on the Plan must vote to accept or reject the Plan.

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

For purposes of the 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 such document shall be substantially in such form or substantially on such terms and conditions; (c) unless otherwise specified, any reference herein to an existing document, schedule, or exhibit, shall mean such document, schedule, or exhibit, as it may have been or may be amended, modified, or supplemented; (d) unless otherwise specified, all references herein to "Articles" and "Sections" are references to Articles and Sections, respectively, hereof or hereto; (e) unless otherwise specified, the words "herein," "hereof," and "hereto" refer to the Plan in its entirety rather than to any particular portion of the Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (g) unless otherwise specified herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (h) 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 such term in the Bankruptcy Code or the Bankruptcy Rules, as applicable; (i) references to docket numbers of documents filed in the Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court's CM/ECF system; (j) references to "Proofs of Claim," "holders of Claims," "Disputed Claims," and the like shall include "Proofs of Interest," "holders of Interests," "Disputed Interests," and the like, as applicable; (k) references to "shareholders," "directors," and/or "officers" shall also include "members" and/or "managers," as applicable, as such terms are defined under the applicable state limited liability company laws; and (l) the words "include" and "including," and variations thereof, shall not be deemed to be terms of limitation, and shall be deemed to be followed by the words "without limitation."

**C. Reference to Monetary Figures.**

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

**D. Reference to the Debtors or the Reorganized Debtors.**

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

**E. Controlling Document.**

In the event of an inconsistency between the Plan, the Disclosure Statement and the Restructuring Support Agreement, the terms of the Plan shall control. In the event of an inconsistency between the Plan and the Plan Supplement, the terms of the Plan shall control (unless stated otherwise in the Plan or in the Confirmation Order); provided that no Plan Supplement document shall adversely affect the rights of the DIP ABL Agent and the DIP ABL Lenders under the DIP ABL Plan Provisions or to the Payment in Full of the DIP ABL Facility Claims. The provisions of the Plan and of the Confirmation Order shall be construed in a manner consistent with each other so as to effect the purposes of each; provided, that, if there is determined to be any inconsistency between any Plan provision and any provision of the Confirmation Order that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern and any such provision of the Confirmation Order shall be deemed a modification of the Plan and shall control and take precedence.

## ARTICLE II ADMINISTRATIVE EXPENSE AND PRIORITY CLAIMS.

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

### 2.1. *Administrative Expense Claims.*

Except as otherwise provided in this Section 2.1 of the Plan, and except with respect to Administrative Expense Claims that are DIP Claims, Fee Claims or 503(b)(9) Claims, requests for payment of Administrative Expense Claims must be filed and served on the Debtors or the Reorganized Debtors, as applicable, pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order no later than the first Business Day that is thirty (30) calendar days after the Effective Date. Holders of Administrative Expense Claims that are required to, but do not, timely file and serve a request for payment of such Administrative Expense Claims shall be forever barred, estopped, and enjoined from asserting such Administrative Expense Claims against the Debtors or the Reorganized Debtors or their respective property and such Administrative Expense Claims shall be deemed discharged as of the Effective Date. Notwithstanding the foregoing, no request for payment of an Administrative Expense Claim need be filed with respect to an Administrative Expense Claim previously Allowed.

Except to the extent that a holder of an Allowed Administrative Expense Claim and the Debtors or the Reorganized Debtors, as applicable, with the consent of the Requisite Consenting Term Lenders, agree to less favorable treatment, each holder of an Allowed Administrative Expense Claim (other than a Fee Claim or a DIP Claim) shall receive, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Claim, Cash in an amount equal to such Allowed Administrative Expense Claim on, or as soon thereafter as is reasonably practicable, the later of (a) the Effective Date and (b) the first Business Day after the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim; provided, however, Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business after the Petition Date by the Debtors, as Debtors in Possession, shall be paid by the Debtors or the Reorganized Debtors in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any course of dealing or agreements governing, instruments evidencing, or other documents relating to such liabilities.

### 2.2. *Fee Claims.*

All Professionals seeking an award by the Bankruptcy Court of Fee Claims shall file and serve on counsel to the Reorganized Debtors, the U.S. Trustee, counsel to the Consenting Term Lenders, and such other entities who are designated by the Bankruptcy Rules, the Confirmation Order, or another order of the Bankruptcy Court, on or before the date that is forty-five (45) days after the Effective Date, their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred from the Petition Date through the Effective Date. Objections to any Fee Claims must be filed and served on counsel to the Reorganized Debtors, counsel to the Consenting Term Lenders, and the requesting party no later than twenty-one (21) calendar days after the filing of the applicable final application for compensation or reimbursement (unless otherwise agreed by the party requesting compensation of a Fee Claim).

Allowed Fee Claims shall be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court (i) upon the later of (A) the Effective Date and (B) the date upon which a Final Order relating to any such Allowed Fee Claim is entered, in each case, as soon as reasonably practicable

thereafter, or (ii) upon such other terms as may be mutually agreed upon between the holder of such Allowed Fee Claim and the Debtors (with the consent of the Requisite Consenting Term Lenders) or the Reorganized Debtors, as applicable.

The Reorganized Debtors are authorized to pay compensation for services rendered or reimbursement of expenses incurred after the Effective Date in the ordinary course and without the need for Bankruptcy Court approval. Professionals shall reasonably estimate their unpaid Fee Claims and shall deliver such estimate to the Debtors no later than five (5) calendar days before the Effective Date. If a Professional does not provide an estimate, the Debtors or Reorganized Debtors may estimate the unpaid and unbilled fees and expenses of such Professional. On or about the Effective Date, the Debtors or Reorganized Debtors shall separately reserve for such estimated amounts for the benefit of the Professionals until the fee applications related thereto are resolved by Final Order or agreement of the parties.

**2.3. *Fees and Expenses of First Lien Term Loan Agent and Second Lien Agent.***

(a) All reasonable and documented fees and expenses of the First Lien Term Loan Agent (including reasonable attorneys' fees, charges and disbursements) shall be paid in full in Cash on the Effective Date to the extent provided for under the First Lien Term Loan Credit Agreement without the requirement to file requests for allowance of such Claims as otherwise required by Section 2.1 of this Plan, subject to the right of the Debtors to object for reasonableness.

(b) Reasonable and documented fees and expenses of the Second Lien Agent, in an amount not to exceed \$125,000, shall be paid in full in Cash on the Effective Date to the extent provided for under the Second Lien Credit Agreement without the requirement to file requests for allowance of such Claims as otherwise required by Section 2.1 of this Plan, subject to the right of the Debtors to object for reasonableness.

**2.4. *Priority Tax Claims.***

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to less favorable treatment, each holder of an Allowed Priority Tax Claim shall receive, in full and final satisfaction of such Allowed Priority Tax Claim, Cash in a manner consistent with section 1129(a)(9)(C) of the Bankruptcy Code.

**2.5. *DIP ABL Facility Claims.***

(a) Except to the extent that the DIP ABL Agent and the DIP ABL Lenders, on the one hand, and the Debtors, on the other hand, with the consent of the Requisite Consenting Term Lenders, agree to different treatment, on the Effective Date, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, each DIP ABL Facility Claim, the DIP ABL Facility Claims will be Paid in Full in Cash from Cash on hand and the proceeds of the Exit Revolving Credit Facility, without setoff, deduction or counterclaim, in accordance with the terms of the Payoff Letter. Upon the indefeasible Payment in Full of the DIP ABL Facility Claims in accordance with the terms of the Plan, on the Effective Date, all liens and security interests granted to secure such DIP ABL Facility Claims shall be terminated and of no further force and effect.

(b) Upon Payment in Full of the Allowed DIP ABL Facility Claims, all Liens and security interests granted to secure the DIP ABL Facility shall be deemed cancelled, released and terminated and shall be of no further force and effect and the Allowed DIP ABL Facility Claims shall be

deemed to be fully satisfied, settled, released, and compromised. Notwithstanding anything to the contrary in the Plan, the Reorganized Debtors shall be bound by the indemnification and expense reimbursement provisions in favor of DIP ABL Agent and DIP ABL Lenders under the DIP ABL Credit Agreement as and to the extent set forth in the Payoff Letter.

**2.6. *DIP Term Facility Claims.***

(a) On the Effective Date, subject to the satisfaction or waiver of all conditions precedent to effectiveness herein and in the Exit Term Facility Documents, (i) the DIP Term Lenders will surrender all claims for payment of principal of the DIP Term Facility as of the Effective Date in exchange for Exit Term Loans under the Exit Term Loan Credit Facility in an aggregate principal amount equal to the aggregate principal amount of the DIP Term Loans under the DIP Term Facility as of the Effective Date, in full and final satisfaction of the principal portion of the DIP Term Facility Claims, and (ii) the balance of the DIP Term Facility Claims, including accrued but unpaid interest and any other amounts due under the DIP Term Facility, will be satisfied in full in Cash on the Effective Date. Any DIP Term Lender may designate that some or all of the Exit Term Loans under the Exit Term Loan Credit Facility to which such DIP Term Lender is entitled should be issued in the name of, and delivered to, one or more of its Affiliates or Related Funds.

(b) Upon satisfaction of the Allowed DIP Term Facility Claims, all Liens and security interests granted to secure the DIP Term Facility shall be deemed cancelled, released and terminated and shall be of no further force and effect and the Allowed DIP Term Facility Claims shall be deemed to be fully satisfied, settled, released, and compromised.

**2.7. *Intercompany Claims.***

There shall be no distributions on account of any Claim held by a Debtor or any Subsidiary of a Debtor against another Debtor (an "Intercompany Claim"). Notwithstanding the foregoing, the Debtors, with the consent of the Requisite Consenting Term Lenders (such consent not to be unreasonably withheld), may reinstate or compromise, as the case may be, any of the Intercompany Claims.

**2.8. *Transaction Expenses.***

On the Effective Date, the Reorganized Debtors shall pay in full in Cash any outstanding Transaction Expenses in accordance with the terms of any applicable engagement letters or other contractual arrangements without the requirement for the filing of retention applications, fee applications, or any other applications in the Chapter 11 Cases, and without any requirement for further notice or Bankruptcy Court review or approval.

**ARTICLE III CLASSIFICATION OF CLAIMS AND INTERESTS.**

**3.1. *Classification in General.***

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

### 3.2. *Formation of Debtor Groups for Convenience Only.*

The Plan groups the Debtors together solely for the purpose of describing treatment under the Plan, confirmation of the Plan, and making distributions in accordance with the Plan in respect of Claims against and Interests in the Debtors under the Plan. Such groupings shall not affect any Debtor's status as a separate legal Person, change the organizational structure of the Debtors' business enterprise, constitute a change of control of any Debtor for any purpose, cause a merger or consolidation of any legal Persons, or cause the transfer of any assets. Except as otherwise provided by or permitted under the Plan, all Debtors shall continue to exist as separate legal Persons after the Effective Date.

### 3.3. *Summary of Classification.*

The following table designates the Classes of Claims against and Interests in each of the Debtors and specifies which of those Classes are (a) Impaired or Unimpaired by the Plan, (b) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code, and (c) deemed to accept or reject the Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, including DIP Claims, Fee Claims and Priority Tax Claims, have not been classified. The classification of Claims and Interests set forth herein shall apply separately to each of the Debtors. All of the potential Classes for the Debtors are set forth herein. Certain of the Debtors may not have holders of Claims or Interests in a particular Class or Classes, and such Classes shall be treated as set forth in Section 3.5 of the Plan.

Class	Designation	Treatment	Entitled to Vote
1	Other Priority Claims	Unimpaired	No (Deemed to accept)
2	Other Secured Claims	Unimpaired	No (Deemed to accept)
3	First Lien Term Loan Claims	Impaired	Yes
4	Second Lien Term Loan Claims	Impaired	No (Deemed to reject)
5	General Unsecured Claims	Impaired	No (Deemed to reject)
6	Section 510(b) Claims	Impaired	No (Deemed to reject)
7	Holdings Interests	Impaired	No (Deemed to reject)
8	Other Debtor Interests	Unimpaired	No (Deemed to accept)

### 3.4. *Special Provision Governing Unimpaired Claims.*

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

### 3.5. *Elimination of Vacant Classes.*

Any Class of Claims against or Interests in a Debtor that, as of the commencement of the Confirmation Hearing, does not contain at least one holder of a Claim or Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan of such Debtor for purposes of voting to accept or reject such Debtor's Plan, and disregarded for purposes of determining whether such Debtor's Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to that Class.

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

The Debtors seek confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to Classes 4, 5, 6, and 7 as the holders of Claims or Interests in Classes 4, 5, 6, and 7 are deemed to have rejected the Plan. The Debtors also seek confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any other Class(es) of Claims or Interests that vote to reject the Plan. The Debtors reserve the right to modify the Plan in accordance with Section 12.5 of the Plan, and subject to the terms and conditions of the Restructuring Support Agreement, to the extent, if any, that confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code requires modification of the Plan, including by (a) modifying the treatment applicable to a Class of Claims or Interests to render such Class of Claims or Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules and (b) withdrawing the Plan as to an individual Debtor at any time before the Confirmation Date, in each case with the consent of the Requisite Consenting Term Lenders.

**ARTICLE IV TREATMENT OF CLAIMS AND INTERESTS.**

4.1. ***Other Priority Claims (Class 1).***

(a) *Classification:* Class 1 consists of Other Priority Claims.

(b) *Treatment:* Except to the extent that a holder of an Allowed Other Priority Claim against any of the Debtors agrees to a less favorable treatment of such Claim, in full and final satisfaction of such Allowed Other Priority Claim, at the option of the Debtors (with the consent of the Requisite Consenting Term Lenders) or the Reorganized Debtors, as applicable (i) such holder shall receive payment in Cash in an amount equal to such Claim, payable on the later of the Effective Date and the date on which such Other Priority Claim becomes an Allowed Other Priority Claim, or as soon as reasonably practicable thereafter, (ii) such holder's Allowed Other Priority Claim shall be Reinstated, or (iii) such holder shall receive such other treatment so as to render such holder's Allowed Other Priority Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code.

(c) *Voting:* Class 1 is Unimpaired, and the holders of Other Priority Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Other Priority Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to Other Priority Claims.

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

(a) *Classification:* Class 2 consists of Other Secured Claims. To the extent that Other Secured Claims are secured by different Collateral or different interests in the same Collateral, such Claims shall be treated as separate subclasses of Class 2 for purposes of voting to accept or reject the Plan and receiving distributions under the Plan.

(b) *Treatment:* Except to the extent that a holder of an Allowed Other Secured Claim against any of the Debtors agrees to a less favorable treatment of such Claim, in full and final satisfaction of such Allowed Other Secured Claim, at the option of the Debtors (with the consent of the Requisite Consenting Term Lenders) or the Reorganized Debtors, as applicable (i) such holder shall receive payment in Cash in an amount equal to such Claim, payable on the later of the Effective Date and the date on which such Other Secured Claim becomes an Allowed Other Secured Claim, or as soon as reasonably practicable thereafter, (ii) such holder shall receive the Collateral securing its Allowed Other Secured Claim on the later of the Effective Date and the date on which such Other Secured Claim

becomes an Allowed Other Secured Claim, or as soon as reasonably practicable thereafter, (iii) such holder's Allowed Other Secured Claim shall be Reinstated, or (iv) such holder shall receive such other treatment so as to render such holder's Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code.

(c) *Voting:* Class 2 is Unimpaired, and the holders of Other Secured Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Other Secured Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to Other Secured Claims.

#### 4.3. ***First Lien Term Loan Claims (Class 3).***

(a) *Classification:* Class 3 consists of First Lien Term Loan Claims.

(b) *Allowance:* The First Lien Term Loan Claims are Allowed pursuant to section 506(a) of the Bankruptcy Code against each of the Debtors in the aggregate principal amount of \$285,104,499.87 *plus* accrued but unpaid interest (including default interest), *plus* any other premiums, fees, costs, or other amounts due under the First Lien Term Loan Credit Agreement or any of the other Loan Documents (as defined in the First Lien Term Loan Credit Agreement). The First Lien Term Lenders and the First Lien Term Loan Agent shall not be required to file proofs of Claim on account of their First Lien Term Loan Claims.

(c) *Treatment:* In full and final satisfaction and extinguishment of each Allowed First Lien Term Loan Claim, on the Effective Date, or as soon as reasonably practicable thereafter, each holder of an Allowed First Lien Term Loan Claim will be entitled to receive its Pro Rata share of one hundred percent (100%) of the New Common Units issued and outstanding on the Effective Date (subject to dilution by the New Warrants and the Awards issued under the Management Incentive Plan). Any holder of First Lien Term Loan Claims may designate that some or all of the New Common Units to which such holder is entitled should be issued in the name of, and delivered to, one or more of its Affiliates or Related Funds.

(d) *Voting:* Class 3 is Impaired, and the holders of First Lien Term Loan Claims are entitled to vote to accept or reject the Plan.

#### 4.4. ***Second Lien Term Loan Claims (Class 4).***

(a) *Classification:* Class 4 consists of Second Lien Term Loan Claims.

(b) *Treatment:* Each holder of an Allowed Second Lien Term Loan Claim shall:

(i) if such holder is not also a Consenting Term Lender or an Affiliate of a Consenting Term Lender, and such holder validly and timely makes an Opt-In Distribution Election in accordance with the Opt-In Distribution Procedures, receive its Pro Rata share of the Opt-In Distribution Pool and be deemed to consent to and grant the releases provided under Section 10.6(b) of the Plan; *provided, however*, that any holder making the Opt-In Distribution Election shall waive any portion of its Allowed Claim in excess of \$25,000; or

(ii) if such holder does not make an Opt-In Distribution Election, not receive any recovery or distribution on account of such Second Lien Term Loan Claim.

(c) *Voting:* Class 4 is Impaired, and the holders of Second Lien Term Loan Claims are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of Second Lien Term Loan Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to Second Lien Term Loan Claims.

**4.5. General Unsecured Claims (Class 5).**

(a) *Classification:* Class 5 consists of General Unsecured Claims.

(b) *Treatment:* Each holder of an Allowed General Unsecured Claim shall:

(i) if such holder validly and timely makes an Opt-In Distribution Election in accordance with the Opt-In Distribution Procedures, receive its Pro Rata share of the Opt-In Distribution Pool and be deemed to consent to and grant the releases provided under Section 10.6(b) of the Plan; *provided, however*, that any holder making the Opt-In Distribution Election shall waive any portion of its Allowed Claim in excess of \$25,000; or

(ii) if such holder does not make an Opt-In Distribution Election, not receive any recovery or distribution on account of such General Unsecured Claim.

(c) *Voting:* Class 5 is Impaired, and the holders of General Unsecured Claims are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of General Unsecured Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to General Unsecured Claims.

**4.6. Section 510(b) Claims (Class 6).**

(a) *Classification:* Class 6 consists of Section 510(b) Claims.

(b) *Treatment:* Holders of any Section 510(b) Claims shall not receive any recovery or distribution on account of such Claims.

(c) *Voting:* Class 6 is Impaired, and the holders of Section 510(b) Claims are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of Section 510(b) Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to Section 510(b) Claims.

**4.7. Holdings Interests (Class 7).**

(a) *Classification:* Class 7 consists of Holdings Interests.

(b) *Treatment:* On the Effective Date, and without the need for any further corporate or limited liability company action or approval of any board of directors, board of managers, members, shareholders or officers of any Debtor or Reorganized Debtor, as applicable, all Holdings Interests shall be cancelled and the holders of any Holdings Interests shall not receive any recovery or distribution on account of such Interests.

(c) *Voting:* Class 7 is Impaired, and the holders of Holdings Interests are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code.

Therefore, holders of Holdings Interests are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to Holdings Interests.

4.8. ***Other Debtor Interests (Class 8).***

(a) *Classification:* Class 8 consists of Other Debtor Interests.

(b) *Treatment:* On the Effective Date, and without the need for any further corporate or limited liability company action or approval of any board of directors, board of managers, members, shareholders or officers of any Debtor or Reorganized Debtor, as applicable, all Other Debtor Interests (except for the Interests in Velocity Pooling Vehicle, LLC, which shall be cancelled as addressed in, and subject to, the Description of Structure) shall be unaffected by the Plan and continue in place following the Effective Date, solely for the administrative convenience of maintaining the existing organizational structure of the Debtors.

(c) *Voting:* The holders of Other Debtor Interests (other than the holders of Interests in Velocity Pooling Vehicle, LLC) are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. The holders of Interests in Velocity Pooling Vehicle, LLC are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of Other Debtor Interests are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Other Debtor Interests.

**ARTICLE V MEANS FOR IMPLEMENTATION.**

5.1. ***Compromise and Settlement of Claims, Interests, and Controversies.***

Pursuant to sections 363 and 1123(b)(2) of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Claim holder or an Interest holder may have with respect to any Allowed Claim or Allowed Interest or any distribution to be made on account of such Allowed Claim or Allowed Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and holders of such Claims and Interests, and is fair, equitable, and reasonable.

5.2. ***Restructuring Transactions.***

(a) Subject to entry of the Confirmation Order, without the need for any further corporate or limited liability company action or approval of any board of directors, board of managers, members, shareholders or officers of any Debtor or Reorganized Debtor, as applicable, the Debtors or Reorganized Debtors shall take, or cause to be taken, all actions necessary or, in the judgment of the Requisite Consenting Term Lenders, appropriate to consummate and implement the provisions of this Plan (including as described in the Description of Structure), including such actions as may be necessary or appropriate to effectuate a corporate restructuring of their respective businesses (whether for tax purposes or otherwise), to simplify the overall corporate structure of the Debtors, to convert certain of the Debtors into limited liability companies and/or corporations (as applicable), to reincorporate certain of the Debtors under the laws of jurisdictions other than the laws of which the applicable Debtors are presently incorporated, to issue intercompany equity, to transfer, assign, assume and/or delegate (as applicable) any

cash, assets, properties, securities, contracts, rights, liabilities or obligations of any of the Debtors to or from (as applicable) any of the other Debtors, or to change the classification of any of the Debtors for United States federal income tax purposes. Such restructuring may include one or more mergers, consolidations, restructures, dispositions, liquidations or dissolutions, creations of one or more new Persons, or the making of any tax classification elections, in each case, as may be determined by the Debtors or Reorganized Debtors, with the consent of the Requisite Consenting Term Lenders, to be necessary or appropriate (collectively, the "Restructuring Transactions"). The timing, form, and substance of the Restructuring Transactions shall be satisfactory to the Requisite Consenting Term Lenders. The material anticipated Restructuring Transactions will be summarized in the Description of Structure, and, in all cases, such Restructuring Transactions shall be subject to the terms and conditions of this Plan and the Restructuring Documents and any consents or approvals required hereunder or thereunder.

(b) During the period from the Confirmation Date through and until the Effective Date, the Debtors may continue to operate their businesses as Debtors In Possession, subject to all applicable orders of the Bankruptcy Court, the Bankruptcy Code, and any limitations set forth herein or in the Confirmation Order, the DIP Credit Documents, the DIP Orders and the Restructuring Support Agreement.

### 5.3. *Continued Corporate Existence.*

(a) On or after the Effective Date, each Reorganized Debtor may take such action as permitted by applicable law and such Reorganized Debtor's organizational documents, as such Reorganized Debtor may determine is reasonable and appropriate, to effect any transaction described in, approved by, or necessary or appropriate to effectuate the Plan (including as described in the Description of Structure), including, without limitation, causing: (i) a Reorganized Debtor to be merged into another Reorganized Debtor or an affiliate of a Reorganized Debtor, (ii) a Reorganized Debtor to be dissolved, (iii) the legal name of a Reorganized Debtor to be changed, (iv) the conversion of a Reorganized Debtor into a limited liability company and/or corporation (as applicable), or (v) the closure of a Reorganized Debtor's Chapter 11 Case on the Effective Date or any time thereafter. Except as described in the Description of Structure, the Debtors shall continue to exist after the Effective Date as Reorganized Debtors in accordance with the applicable laws of the respective jurisdictions in which they are incorporated or organized and pursuant to the applicable New Organizational Documents.

(b) Notwithstanding anything to the contrary herein, from and after the Effective Date, Reorganized Holdings shall continue to exist, as described in the Plan (including the Description of Structure), solely for the limited purpose of taking the specific steps necessary or, in the judgment of the New Board, advisable to be taken by Reorganized Holdings to perform its obligations pursuant to the Plan (including as described in the Description of Structure) and the Restructuring Documents. At such time as determined by the New Board, Reorganized Holdings shall promptly take all such action that is necessary or required to dissolve under the laws of the jurisdiction of its incorporation, including, without limitation, (i) executing, acknowledging and/or filing articles of dissolution or similar document, together with all other necessary corporate documents, to effect the dissolution of Reorganized Holdings under the laws of the jurisdiction of its incorporation, and (ii) completing, executing and filing all required federal, state and local tax returns for Reorganized Holdings. Such dissolution of Reorganized Holdings shall be deemed authorized and approved in all respects, without a need for any approvals, authorizations, consents, or any further action required under applicable law, regulation, order, or rule (including, without limitation, any meetings, consents, adoptions, recommendations, notifications, approvals or other actions by or to (as applicable) the stockholders, directors, officers or any other representatives or agents of Reorganized Holdings), other than the filing of articles of dissolution with the secretary of state of the

jurisdiction of Reorganized Holdings' incorporation to effect such dissolution under the laws of such jurisdiction. Any Governmental Entity (including the secretary of state of the jurisdiction of Reorganized Holdings' incorporation and any other state or local governmental officials) shall accept any articles of dissolution or similar document filed with such Governmental Entity to effect the dissolution of Reorganized Holdings under the laws of such jurisdiction, and such acceptance shall be made notwithstanding that such dissolution may not have been effected in accordance with the laws of such jurisdiction (including any requirement that such dissolution shall have been approved by the directors and/or stockholders of Reorganized Holdings). The director(s) and officer(s) of Reorganized Holdings as of the Effective Date shall be set forth in the Plan Supplement.

#### 5.4. ***Exit Facilities.***

(a) On the Effective Date, in accordance with, and subject to, the terms and conditions of the Exit Revolving Credit Documents, certain of the Reorganized Debtors shall enter into the Exit Revolving Credit Facility on terms and conditions reasonably acceptable to the Debtors and the Requisite Consenting Term Lenders, without the need for any further corporate or limited liability company action and without further action by the holders of Claims or Interests. The proceeds received by the Reorganized Debtors under the Exit Revolving Credit Facility shall be used to (i) fund distributions under the Plan, (ii) pay the DIP ABL Facility Claims pursuant to the terms of the Payoff Letter, Allowed Fee Claims, fees and expenses of the First Lien Term Loan Agent and the Second Lien Agent and the Transaction Expenses in full, each in accordance with Article II of the Plan, (iii) fund other distributions, costs, and expenses contemplated by the Plan, and (iv) fund general working capital and other general corporate purposes of the Reorganized Debtors, in each case subject to the terms of the Exit Revolving Credit Documents.

(b) On the Effective Date, in accordance with, and subject to, the terms and conditions of the Exit Term Loan Credit Documents, certain of the Reorganized Debtors will enter into the Exit Term Loan Credit Facility, pursuant to which the Exit Term Loans in an aggregate principal amount equal to the outstanding principal amount of the DIP Term Loans under the DIP Term Facility as of the Effective Date (or such greater amount as determined by the Requisite Consenting Term Lenders, the incremental amount of which shall be offered *pro rata* to the DIP Term Lenders) shall be deemed provided to the Reorganized Debtors by the Exit Term Loan Lenders, without the need for any further corporate or limited liability company action and without further action by the holders of Claims or Interests.

(c) The Exit Term Loan Credit Facility shall be on terms acceptable to the Exit Term Loan Lenders and shall provide that non-default interest on the Exit Term Loans shall accrue at a rate equal to LIBOR plus eleven percent (11%) per annum and be payable quarterly in cash, with default interest accruing in cash at a rate equal to two percent (2%) per annum in excess of the non-default interest rate.

(d) On the Effective Date, the Exit Facility Documents shall be executed and delivered substantially on the terms and conditions set forth in the Restructuring Support Agreement, with such modifications to which the Debtors (with the consent of the Requisite Consenting Term Lenders) may agree. All Liens and security interests granted pursuant to the Exit Facility Documents shall be (i) valid, binding, perfected, and enforceable Liens and security interests in the personal and real property described in and subject to such documents, with the priorities established in respect thereof under applicable non-bankruptcy law and (ii) together with all claims under the Exit Facility Documents, not subject to avoidance, recharacterization, or subordination for any purpose whatsoever and not constitute

preferential transfers or fraudulent conveyances under any applicable law. The Debtors, the Reorganized Debtors, and the Persons granted such Liens and security interests are authorized to make all filings and recordings, and to obtain all approvals and consents, necessary to establish, create, attach and perfect such Liens and security interests under any applicable law (it being understood that such establishment, creation, attachment and perfection shall occur automatically by virtue of the entry of the Confirmation Order and the occurrence of the Effective Date and any such filings, recordings, approvals and consents shall not be required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such Liens and security interests to third parties.

(e) The Debtors shall be authorized to execute, deliver, and enter into and perform under the Exit Facility Documents without the need for any further corporate or limited liability company action and without further action by the holders of Claims or Interests.

#### 5.5. *New Operating Agreement.*

On the Effective Date, Reorganized Pooling and all of the holders of Claims and other Persons to receive New Common Units under the Plan shall be deemed to be parties to, and bound by, the New Operating Agreement, which shall be on terms consistent with the Corporate Governance Term Sheet, without the need for execution thereof by any such holder or other Person; provided, however, that it shall be an express condition to the right of a holder of an Allowed Claim or any other Person to receive New Common Units under the Plan that such holder or other Person execute and deliver to Reorganized Pooling a counterpart signature page to the New Operating Agreement. Notwithstanding anything herein to the contrary, each holder of New Common Units (whether such holder received New Common Units on the Effective Date or after the Effective Date (including receipt of New Common Units upon exercise of New Warrants or otherwise)) shall be deemed to have accepted the terms of the New Operating Agreement and to be parties thereto and bound by the provisions thereof, all without further action or signature. The New Operating Agreement shall be effective as of the Effective Date and, as of such date, shall be deemed to be valid, binding, and enforceable in accordance with its terms, and each holder of New Common Units shall be bound thereby even if such holder has not actually executed and delivered a counterpart thereof.

#### 5.6. *Authorization and Issuance of New Common Units.*

(a) On the Effective Date, Reorganized Pooling is authorized to issue, and shall issue, the New Common Units in accordance with the terms of the Plan and the New Operating Agreement, without the need for any further limited liability company action. All of the New Common Units issuable under the Plan, when so issued, shall be duly authorized, validly issued, fully paid, and non-assessable and not to have been issued in violation of any preemptive rights, rights of first refusal or similar rights or any applicable law.

(b) Upon the Effective Date, (i) the New Common Units shall not be registered under the Securities Act, and shall not be listed for public trading on any securities exchange and (ii) none of the Reorganized Debtors shall be a reporting company under the Exchange Act. The distribution of New Common Units pursuant to the Plan may be made by means of book-entry registration on the books of a transfer agent or by means of book-entry exchange through the facilities of a transfer agent reasonably satisfactory to the Debtors and the Requisite Consenting Term Lenders in accordance with the customary practices of such agent, as and to the extent practicable.

### 5.7. *New Warrants.*

(a) On the Effective Date, Reorganized Pooling is authorized to issue, and shall issue, the New Warrants to the DIP Term Lenders in accordance with the terms of the Plan and the New Warrant Documents, without the need for any further limited liability company action. All of the New Warrants issuable under the Plan, when so issued, shall be duly authorized, and validly issued, and not to have been issued in violation of any preemptive rights, rights of first refusal or similar rights or any applicable law. All New Common Units or other securities to be received upon exercise of any New Warrants shall be deemed to have been duly authorized and, upon issuance thereof in accordance with the terms of the New Warrant Documents, validly issued, fully paid, and nonassessable, and not to have been issued in violation of any preemptive rights, rights of first refusal or similar rights or any applicable law.

(b) The issuance of the New Warrants to the DIP Term Lenders shall be made in connection with the exchange of DIP Term Facility Claims for Exit Term Loans. Any DIP Term Lender may designate that some or all of the New Warrants to which such lender is entitled should be issued in the name of, and delivered to, one or more of its Affiliates or Related Funds.

(c) Each DIP Term Lender shall receive New Warrants to acquire an aggregate number of New Common Units equal to (after giving effect to the full exercise of the New Warrants) 0.0008% of the total number of New Common Units that are issued and outstanding on the Effective Date (immediately after giving effect to the consummation of the Plan), per \$1,000 in principal amount of DIP Term Loans. The New Warrants issued under the Plan shall be exercisable at an exercise price of \$0.01 per share. The New Warrants shall be exercisable at any time and from time to time prior to the expiration thereof. The New Warrants shall expire on the earlier to occur of (a) the ten (10) year anniversary of the Effective Date and (b) the consummation of a liquidity event (to be defined in the New Warrant Documents).

(d) Upon the Effective Date, (i) the New Warrants shall not be registered under the Securities Act, and shall not be listed for public trading on any securities exchange and (ii) none of the Reorganized Debtors shall be a reporting company under the Exchange Act. The distribution of New Warrants pursuant to the Plan may be made by means of book-entry registration on the books of a transfer agent or by means of book-entry exchange through the facilities of a transfer agent reasonably satisfactory to the Debtors and the Requisite Consenting Term Lenders in accordance with the customary practices of such agent, as and to the extent practicable.

### 5.8. *Section 1145 Exemption.*

(a) The offer, issuance, sale and distribution of the New Common Units hereunder to holders of the First Lien Term Loan Claims pursuant to Section 4.3 of the Plan shall be exempt, pursuant to section 1145 of the Bankruptcy Code, without further act or action by any Person, from the registration and/or prospectus delivery requirements under (i) the Securities Act and all rules and regulations promulgated thereunder and (ii) any state or local law requiring registration and/or delivery of prospectuses prior to the offer, issuance, sale or distribution of securities. The New Common Units issued hereunder to holders of the First Lien Term Loan Claims pursuant to Section 4.3 of the Plan will (I) not be "restricted securities" (as defined in Rule 144(a)(3) under the Securities Act), and (II) be freely tradable by any recipient thereof that (x) at the time of transfer is not an "affiliate" (as defined in Rule 144(a)(1) under the Securities Act) of Reorganized Pooling and has not been such an "affiliate" within 90 days of such transfer, (y) is not an entity that is an "underwriter" (as defined in subsection (b) of section 1145 of the Bankruptcy Code) and (z) has not acquired such New Common Units from an "affiliate" of Reorganized Pooling within one year of such transfer, subject to (A) compliance with any rules and

regulations of the Securities and Exchange Commission, if any, applicable at the time of any future transfer of such securities, (B) the restrictions, if any, on the transferability of the New Common Units contained in the New Operating Agreement, and (C) applicable regulatory approval.

(b) The offer, issuance, sale and distribution of the New Warrants hereunder to DIP Term Lenders pursuant to Section 5.7 of the Plan and all New Common Units or other securities issued upon exercise of such New Warrants, in each such case, shall be exempt, pursuant to section 1145 of the Bankruptcy Code to the maximum extent permitted and applicable and, to the extent that reliance on such section is either not permitted or not applicable, the exemption set forth in Section 4(a)(2) of the Securities Act or, in the case of the New Common Units or other securities issued upon exercise of the New Warrants, Section 3(a)(9) of the Securities Act, without further act or action by any Person, from the registration and/or prospectus delivery requirements under (i) the Securities Act and all rules and regulations promulgated thereunder and (ii) any state or local law requiring registration and/or delivery of prospectuses prior to the offer, issuance, sale or distribution of securities. To the extent the New Warrants issued hereunder to DIP Term Lenders pursuant to Section 5.7 of the Plan are issued pursuant to section 1145 of the Bankruptcy Code, then such New Warrants and all New Common Units or other securities issued upon exercise of such New Warrants will (I) not be “restricted securities” (as defined in Rule 144(a)(3) under the Securities Act), and (II) be freely tradable by any recipient thereof that (x) at the time of transfer is not an “affiliate” (as defined in Rule 144(a)(1) under the Securities Act) of Reorganized Pooling and has not been such an “affiliate” within 90 days of such transfer, (y) is not an entity that is an “underwriter” (as defined in subsection (b) of section 1145 of the Bankruptcy Code) and (z) has not acquired such New Warrants or such New Common Units from an “affiliate” of Reorganized Pooling within one year of such transfer, subject to (A) compliance with any rules and regulations of the Securities and Exchange Commission, if any, applicable at the time of any future transfer of such securities, (B) the restrictions, if any, on the transferability of the New Common Units contained in the New Operating Agreement, (C) the restrictions, if any, on the transferability of the New Warrants contained in the New Warrant Documents, and (D) applicable regulatory approval. To the extent the New Warrants issued hereunder to DIP Term Lenders pursuant to Section 5.7 of the Plan are issued in reliance on Section 4(a)(2) of the Securities Act or Regulation D thereunder, such New Warrants and all New Common Units or other securities issued upon exercise of such New Warrants (other than New Common Units that are issued upon cash-less exercise of New Warrants that are not “restricted securities” at the time of exercise) will be “restricted securities” (as defined in Rule 144(a)(3) under the Securities Act) subject to resale restrictions and may be resold, exchanged, assigned or otherwise transferred only pursuant to registration, or an applicable exemption from registration, under the Securities Act and other applicable law, and also subject to the additional restrictions described in clauses (A)-(D) of the immediately preceding sentence.

#### 5.9. *Cancellation of Existing Securities and Agreements.*

Except for the purpose of evidencing a right to a distribution under the Plan and except as otherwise set forth in the Plan, including with respect to Executory Contracts that shall be assumed by the Reorganized Debtors, on the Effective Date, all agreements, instruments, and other documents evidencing or governing any Claim or Interest (other than those Other Debtor Interests that are not modified by the Plan) and any rights of any holder in respect thereof (including all registration rights, preemptive rights, rights of first refusal, rights of first offer, co-sale rights and other investor rights governing or relating to any Interests) shall be deemed cancelled, discharged, and of no force or effect and the obligations of the Debtors thereunder shall be deemed fully discharged. Notwithstanding such cancellation and discharge, the First Lien Term Loan Credit Agreement and the DIP Credit Agreements shall continue in effect solely to (a) the extent necessary to allow the holders of Allowed First Lien Term Loan Claims and Allowed

DIP Claims to receive distributions under the Plan, (b) the extent necessary to allow the Debtors, Reorganized Debtors, First Lien Term Loan Agent, Disbursing Agent, and/or DIP Agents to make post-Effective Date distributions or take such other action pursuant to the Plan on account of the Allowed First Lien Term Loan Claims and/or Allowed DIP Claims, (c) preserve and continue all confidentiality obligations therein, (d) allow the First Lien Term Loan Agent, Disbursing Agent and/or DIP Agents to seek compensation and reimbursement for any reasonable and documented fees, charges and disbursements incurred in making distributions under the Plan and (e) allow the First Lien Term Loan Agent and DIP Agents to appear in the Chapter 11 Cases, provided, however, that nothing in this Section 5.9 shall affect the discharge of Claims pursuant to the Bankruptcy Code, the Confirmation Order, or the Plan or result in any liability or expense to the Reorganized Debtors. Notwithstanding the foregoing, any provision in any document, instrument, lease, or other agreement that causes or effectuates, or purports to cause or effectuate, a default, termination, loss, waiver, or other forfeiture of, or by, the Debtors or their interests, or any increase or acceleration of any of their obligations, in any such case as a result of the cancellations, terminations, satisfaction, releases, or discharges provided for in this Section 5.9 shall be deemed null and void and shall be of no force and effect. Nothing contained herein shall be deemed to cancel, terminate, release, or discharge the obligation of the Debtors or any of their counterparties under any Executory Contract to the extent such Executory Contract has been assumed by the Debtors pursuant to a Final Order of the Bankruptcy Court or hereunder. Notwithstanding the foregoing, the DIP ABL Credit Agreement shall continue in effect to the extent necessary to (i) allow the DIP ABL Agent to make distributions to the holders of DIP ABL Facility Claims; (ii) permit the DIP ABL Agent to appear before the Bankruptcy Court or any other court of competent jurisdiction after the Effective Date; and (iii) permit the DIP ABL Agent to perform any functions that are necessary to effectuate the foregoing. Subject to applicable law, and except with respect to any Claims or Causes of Action released under the Plan, any rights and/or remedies of non-Debtor parties solely against other non-Debtor parties pursuant to agreements, instruments, and other documents canceled pursuant to this paragraph are preserved.

#### 5.10. *Officers and Boards of Directors.*

(a) On the Effective Date, the initial managers on the New Board shall consist of seven (7) managers, as selected in accordance with the Corporate Governance Term Sheet. The identities of the members of each board of directors or managers of a Reorganized Debtor, as applicable, and, to the extent applicable, the officers of each Reorganized Debtor, shall be disclosed prior to the Confirmation Hearing in accordance with section 1129(a)(5) of the Bankruptcy Code.

(b) Except as otherwise provided in the Plan Supplement or with respect to Reorganized Holdings, the officers of the respective Reorganized Debtors immediately before the Effective Date, as applicable, shall serve as the initial officers of each of the respective Reorganized Debtors on and after the Effective Date and in accordance with Section 5.13 of the Plan and applicable non-bankruptcy law. After the Effective Date, the selection of officers of the Reorganized Debtors shall be as provided by their respective New Organizational Documents.

(c) Except to the extent that a member of the board of directors, board of managers or other governing body, as applicable, of a Debtor continues to serve as a director, manager or member of such other governing body of such Debtor on and after the Effective Date, the members of the board of directors, board of managers or other governing body of each Debtor prior to the Effective Date, in their capacities as such, shall have no continuing obligations to the Reorganized Debtors on or after the Effective Date and each such director, manager or member of such other governing body will be deemed to have resigned or shall otherwise cease to be a director, manager or member of such other governing body of the applicable Debtor on the Effective Date, all without the payment or provision of any fees,

costs, expenses, bonuses, compensation, severance or other amounts or benefits on account of such resignation. Commencing on the Effective Date, each of the directors, managers and members of any other governing body of each of the Reorganized Debtors shall be elected and serve pursuant to the terms of the applicable New Organizational Documents of such Reorganized Debtor and may be replaced or removed in accordance with such New Organizational Documents.

**5.11. *Effectuating Documents; Further Transactions.***

(a) After the Confirmation Date, but on or prior to the Effective Date, the Debtors (in consultation with the Requisite Consenting Term Lenders) shall take such actions as may be or become necessary or, in the judgment of the Requisite Consenting Term Lenders, appropriate to effect the Restructuring Transactions, subject to Section 5.2(a) of the Plan.

(b) On or as soon as practicable after the Effective Date, the Reorganized Debtors shall take such actions as may be or become necessary or, in the judgment of the New Board, appropriate to effect any transaction described in, approved by, or contemplated by the Plan (including as described in the Description of Structure), including (i) the execution and delivery of appropriate agreements or other documents of merger, consolidation, restructuring, financing, conversion, disposition, transfer, dissolution, or liquidation containing terms that are consistent with the terms of the Plan and the Restructuring Support Agreement and that satisfy the applicable requirements of applicable law and any other terms to which the applicable Persons may agree, (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms to which the applicable Persons agree, (iii) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion, or dissolution and the New Organizational Documents pursuant to applicable state law, (iv) the issuance of securities, all of which shall be authorized and approved in all respects in each case without further action being required under applicable law, regulation, order, or rule, and (v) all other actions that the applicable Persons determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law, subject, in each case, to the New Organizational Documents.

(c) Each officer and each member of the board of directors, board of managers or other applicable governing body of the Debtors is (and each officer and each member of the board of directors, board of managers or other applicable governing body of the Reorganized Debtors shall be) authorized and directed to issue, execute, deliver, file, or record such contracts, securities, instruments, certificates, notices, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and the securities issued pursuant to the Plan in the name of and on behalf of the Debtors or the Reorganized Debtors, as applicable, all of which shall be authorized and approved in all respects, in each case, without the need for any approvals, authorizations, consents, or any further action required under applicable law, regulation, order, or rule (including, without limitation, any action by the stockholders, members, directors or managers of the Debtors or the Reorganized Debtors) except for those expressly required pursuant to the Plan.

(d) All matters provided for herein involving the corporate or entity structure of the Debtors or Reorganized Debtors, including the Restructuring Transactions described in the Description of Structure, to the extent applicable, or any corporate, limited liability company, or related action required by the Debtors or Reorganized Debtors in connection herewith shall be deemed to have occurred and shall be in effect, without any requirement of further action by the stockholders, members, or directors or

managers of the Debtors or Reorganized Debtors, and with like effect as though such action had been taken unanimously by the stockholders, members, directors or managers, as applicable, of the Debtors or Reorganized Debtors.

#### 5.12. *Cancellation of Liens.*

Except as otherwise specifically provided herein, upon the Effective Date, any Lien securing a Secured Claim shall be deemed released, and the holder of such Secured Claim (or any agent for such holder) shall be authorized and directed to release any Collateral or other property of the Debtors (including any Cash Collateral) held by such holder and to take such actions as may be requested by the Debtors (with the consent of the Requisite Consenting Term Lenders), or the Reorganized Debtors, as applicable, to cancel, terminate, extinguish, and release such Liens.

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

#### 5.13. *Employee Matters.*

(a) Except as provided in Section 5.13(b) of the Plan, on the Effective Date, the Reorganized Debtors shall be deemed to have assumed (i) each Employment Arrangement listed on a schedule to be contained in the Plan Supplement (the "Employment Arrangement Schedule") and (ii) each Benefit Plan listed on a schedule to be contained in the Plan Supplement (the "Benefit Plan Schedule").

(b) Any Interests granted to a current or former employee, officer, director, manager or contractor under an Employment Arrangement or otherwise, shall be deemed cancelled on the Effective Date. For the avoidance of doubt, if a Benefit Plan or an Employment Arrangement is assumed and the Benefit Plan or Employment Arrangement provides in part for an award or potential award of Interests in the Debtors, such Benefit Plan or Employment Arrangement shall be assumed in all respects other than the provisions of such Benefit Plan or Employment Arrangement relating to Interest awards.

None of the Benefit Plans provide for retiree benefits (as such term is defined in section 1114 of the Bankruptcy Code) or is a defined benefit pension plan or multi-employer pension plan. The consummation of the Plan shall not be treated as a change in control or change of control or other similar transaction under any Benefit Plan or Employment Arrangement, or otherwise entitle any officer, director, manager, employee, consultant or contractor of any of the Debtors to any fees, costs, expenses, bonuses, compensation, severance or other amounts or benefits, or serve as grounds for, a predicate to or the satisfaction of a condition to the receipt of any of the foregoing under any Benefit Plan or Employment Arrangement. Nothing in the Plan, including the assumption of Employment Arrangements or Benefit Plans, authorizes the Debtors to pay any bonuses or severance payments that are prohibited under section 503(c) of the Bankruptcy Code.

#### 5.14. *Management Incentive Plan.*

Within ninety (90) days after the Effective Date, the New Board, acting in accordance with the New Organizational Documents, shall adopt the Management Incentive Plan, in accordance with the Corporate Governance Term Sheet, that provides for the issuance of options and/or other equity or

equity-based awards (“Awards”) to certain employees of the Reorganized Debtors or any of their respective Subsidiaries. The form of the Awards (i.e., stock options, restricted stock, appreciation rights, etc.), the employee participants in the Management Incentive Plan, the allocations of the Awards to such participants, and the terms and conditions of the Awards shall be determined by the New Board; provided that no Specified Stockholder (as defined in the Corporate Governance Term Sheet), and no employee of a Specified Stockholder, shall be eligible for receipt of an Award under the Management Incentive Plan.

**5.15. *Tax Treatment of the Restructuring.***

For U.S. federal income tax purposes, the receipt by the holders of the First Lien Term Loan Claims of the New Common Units in satisfaction and extinguishment of their First Lien Term Loan Claims and the receipt by the holders of the DIP Term Facility Claims of New Warrants shall be treated as a (i) taxable purchase of all the assets of Velocity Pooling Vehicle, LLC in consideration for the satisfaction and extinguishment of the First Lien Term Loan Claims and a portion of the DIP Term Facility Claims, followed by (ii) a contribution of such assets to Velocity Pooling Vehicle, LLC in exchange for the New Common Units in the case of the holders of the First Lien Term Loan Claims and the New Warrants in the case of the holders of the DIP Term Facility Claims. It is intended that, after the Effective Date, a timely election will be made under Section 336(e) of the Tax Code (a “Section 336(e) Election”) with respect to the Interests of some or all of the Reorganized Debtors (as determined by the New Board), such that the purchase of such Interests will be treated as a purchase of the assets of such Reorganized Debtors for U.S. federal income tax purposes. In furtherance thereof, and in accordance with applicable Treasury Regulations issued with respect to the Section 336(e) Election (the “Applicable Regulations”), Holdings shall (i) on or prior to the Effective Date, enter into a written, binding agreement with (or on behalf of, as may be required) each applicable Reorganized Debtor to make a Section 336(e) Election, (ii) retain a copy of such written agreement, (iii) properly complete and attach a Section 336(e) Election statement (as prescribed in the Applicable Regulations) with respect to each Reorganized Debtor for which a Section 336(e) Election is being made to its timely filed U.S. federal income tax return for the tax year that includes the Effective Date, (iv) provide a copy of such Section 336(e) Election statement to the respective Reorganized Debtors on or before filing its U.S. federal income tax return for the tax year that includes the Effective Date, and (v) report the Section 336(e) Election in a manner consistent with an “asset allocation statement” and Internal Revenue Service Form 8883 reasonably prepared by the Reorganized Debtors (other than Holdings) in accordance with applicable tax principles.

**5.16. *Closing of Chapter 11 Cases.***

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

**5.17. *Notice of Effective Date.***

On the Effective Date, the Debtors shall file a notice of the occurrence of the Effective Date with the Bankruptcy Court.

**5.18. *Notice of Opt-In Distribution Election Procedures.***

Within seven (7) days after the Effective Date, the Reorganized Debtors shall mail a notice to (i) each holder of a Class 4 Second Lien Term Loan Claim that is not also a Consenting Term Lender or an Affiliate of a Consenting Term Lender and (ii) each holder of a Class 5 General Unsecured

Claim, in each case as of the Election Record Date, setting forth the Opt-In Distribution Procedures and providing such holder with an Election Form.

**5.19. *Separability.***

Notwithstanding the combination of separate plans of reorganization for the Debtors set forth in the Plan for purposes of economy and efficiency, the Plan constitutes a separate chapter 11 plan for each Debtor. Accordingly, if the Bankruptcy Court does not confirm the Plan with respect to one or more Debtors, it may still confirm the Plan with respect to any other Debtor that satisfies the confirmation requirements of section 1129 of the Bankruptcy Code with the consent of the Requisite Consenting Term Lenders.

**5.20. *Self-Funded Health Insurance Claims.***

Any Persons who hold claims under a Self-Funded Health Insurance Plan ("Self-Funded Health Insurance Claims") are not required to file a request for allowance or payment of such a claim and the allowance and payment thereof shall be determined in accordance with the normal procedures and course of dealing under the applicable Self-Funded Health Insurance Plan. Furthermore, Sections 6.12, 6.14 and 6.15 shall not apply to Self-Funded Health Insurance Claims.

**ARTICLE VI DISTRIBUTIONS.**

**6.1. *Distributions Generally.***

One or more Disbursing Agents shall make all distributions under the Plan to the appropriate holders of Allowed Claims in accordance with the terms of the Plan.

**6.2. *Distribution Record Date.***

The Distribution Record Date under the Plan shall be the Effective Date. As of the close of business on the Effective Date, the various transfer registers for each of the Classes of Claims or Interests as maintained by the Debtors or their respective agents, shall be deemed closed, and there shall be no further changes in the record holders of any of Claims or Interests. The Debtors or the Reorganized Debtors shall have no obligation to recognize any transfer of the Claims or Interests occurring after the Effective Date. In addition, with respect to payment of any Cure Amounts or Cure Disputes over any Cure Amounts, neither the Debtors, the Reorganized Debtors nor the Disbursing Agent shall have any obligation to recognize or deal with any party other than the non-Debtor party to the applicable Executory Contract as of the Effective Date, even if such non-Debtor party has sold, assigned, or otherwise transferred its Claim for a Cure Amount.

**6.3. *Date of Distributions.***

Except as otherwise provided in the Plan, any distributions and deliveries to be made under the Plan shall be made on the Effective Date or as otherwise determined in accordance with the Plan, including, without limitation, the treatment provisions of Article IV of the Plan, or as soon as practicable thereafter; provided that the Reorganized Debtors may implement periodic distribution dates to the extent they determine them to be appropriate.

**6.4. *Disbursing Agent.***

All distributions under the Plan shall be made by the Reorganized Debtors (or such other Person designated by the Reorganized Debtors), as Disbursing Agents, on or after the Effective Date or as otherwise provided herein. A Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties, and all reasonable and documented fees and expenses incurred by such Disbursing Agent directly related to distributions hereunder shall be reimbursed by the Reorganized Debtors. The Reorganized Debtors shall use all commercially reasonable efforts to provide each Disbursing Agent (if other than the Reorganized Debtors) with the amounts of Claims and the identities and addresses of holders of Claims, in each case, as set forth in the Debtors' or Reorganized Debtors' books and records. The Reorganized Debtors shall cooperate in good faith with the applicable Disbursing Agent (if other than the Reorganized Debtors) to comply with the reporting and withholding requirements outlined in Section 6.23 of the Plan.

**6.5. *Surrender of Cancelled Instruments or Securities.***

On the Effective Date, each holder of a Certificate shall be deemed to have surrendered such Certificate to the Disbursing Agent or a Servicer (to the extent the relevant Claim is governed by an agreement and administered by a Servicer). Notwithstanding the immediately preceding sentence, this Section 6.5 shall not apply to any Claims and Interests Reinstated pursuant to the terms of the Plan.

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

(a) From and after the Effective Date, the Disbursing Agent, solely in its capacity as Disbursing Agent, shall be exculpated by all Persons, including, without limitation, holders of Claims against and Interests in the Debtors and other parties in interest, from any and all Claims, Causes of Action, and other assertions of liability arising out of the discharge of the powers and duties conferred upon such Disbursing Agent by the Plan or any order of the Bankruptcy Court entered pursuant to or in furtherance of the Plan, or applicable law, except for actions or omissions to act arising out of the gross negligence or willful misconduct, fraud, malpractice, criminal conduct, or *ultra vires* acts of such Disbursing Agent. No holder of a Claim or Interest or other party in interest shall have or pursue any claim or Cause of Action against any Disbursing Agent, solely in its capacity as Disbursing Agent, for making payments or distributions in accordance with the Plan or for implementing provisions of the Plan, except for actions or omissions to act arising out of the gross negligence or willful misconduct, fraud, malpractice, criminal conduct, or *ultra vires* acts of such Disbursing Agent.

(b) A Disbursing Agent shall be empowered to (i) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties hereunder, (ii) make all distributions contemplated hereby, and (iii) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court or pursuant to the Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

**6.7. *Expenses of Disbursing Agent.***

Except as otherwise ordered by the Bankruptcy Court, any reasonable and documented fees and expenses incurred by a Disbursing Agent acting in such capacity (including reasonable and documented attorneys' fees and expenses) on or after the Effective Date shall be paid in Cash by the Reorganized Debtors in the ordinary course of business.

**6.8. *Special Rules for Distributions to Holders of Disputed Claims and Interests.***

Notwithstanding any provision to the contrary herein and except as otherwise agreed by the relevant parties: (a) no partial payments and no partial distributions shall be made with respect to a Disputed Claim or Disputed Interest until all such disputes in connection with such Disputed Claim or Disputed Interest have been resolved by settlement or Final Order; and (b) any Person that holds both (i) an Allowed Claim or Allowed Interest and (ii) a Disputed Claim or Disputed Interest, shall not receive any distribution on the Allowed Claim or Allowed Interest unless and until all objections to the Disputed Claim or Disputed Interest have been resolved by settlement or Final Order or the Disputed Claims and/or Disputed Interests have been Allowed or expunged. Any dividends or other distributions arising from property distributed to holders of Allowed Claims or Allowed Interests in a Class and paid to such holders under the Plan shall also be paid, in the applicable amounts, to any holder of a Disputed Claim or Disputed Interest in such Class that becomes an Allowed Claim or Allowed Interest, after the date such Disputed Claim or Disputed Interest becomes an Allowed Claim or Allowed Interest and after the date or dates that such dividends or other distributions were earlier paid to holders of Allowed Claims or Allowed Interests in such Class.

**6.9. *No Postpetition Interest on Claims.***

Except for DIP Claims and, as applicable, Other Secured Claims, interest shall not accrue or be paid on any Claims on or after the Petition Date. DIP Claims and, as applicable, Other Secured Claims shall accrue and be paid interest in accordance with the terms set forth in the agreements governing the DIP Claims and, as applicable, the Other Secured Claims.

**6.10. *Accrual of Dividends and Other Rights.***

For purposes of determining the accrual of distributions or other rights after the Effective Date, the New Common Units shall be deemed distributed as of the Effective Date regardless of the date on which they are actually distributed; provided, however, the Reorganized Debtors shall not pay any such distributions or distribute such other rights, if any, until after distribution of the applicable New Common Units actually takes place.

**6.11. *Foreign Currency Exchange Rate.***

Except as otherwise provided in a Bankruptcy Court order, 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 Effective Date.

**6.12. *Delivery of Distributions.***

Subject to Bankruptcy Rule 9010, all distributions to any holder of an Allowed Claim shall be made to a Disbursing Agent, who shall transmit such distribution to the applicable holders of Allowed Claims at the respective addresses for such holders identified in a proof of Claim or request for payment of an Administrative Expense Claim or, if none, in the Schedules. In the event that any distribution to any holder is returned as undeliverable, no further distributions shall be made to such holder unless and until such Disbursing Agent is notified in writing of such holder's then-current address, at which time all currently-due, missed distributions shall be made to such holder as soon as reasonably practicable thereafter without interest. Nothing herein shall require a Disbursing Agent to attempt to

locate holders of undeliverable distributions and, if located, assist such holders in complying with Section 6.23 of the Plan.

**6.13. *Distributions after Effective Date.***

Distributions made after the Effective Date to holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall be deemed to have been made on the Effective Date without interest.

**6.14. *Unclaimed Property.***

Undeliverable distributions or unclaimed distributions with respect to any Claim shall remain in the possession of the Reorganized Debtors until such time as such distribution becomes deliverable or a holder accepts such distribution, or such distribution reverts back to the Reorganized Debtors, and shall not be supplemented with any interest, dividends, or other accruals of any kind, other than interest, dividends or other accruals on or made with respect to property distributed to holders of Claims of the same Class as such Claim. Such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of one hundred and eighty (180) days from the date of distribution. After such date, all unclaimed property or interest in such property shall revert to the Reorganized Debtors, and the Claim of any holder to such property or interest in property shall be discharged and forever barred.

**6.15. *Time Bar to Cash Payments.***

Checks issued by a Disbursing Agent in respect of Allowed Claims shall be null and void if not negotiated within one hundred and eighty (180) days after the date of issuance thereof. Thereafter, the amount represented by such voided check shall irrevocably revert to the Reorganized Debtors, and any Claim in respect of such voided check shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary. Requests for re-issuance of any check shall be made to the applicable Disbursing Agent by the holder of the Allowed Claim to whom such check was originally issued.

**6.16. *Manner of Payment under Plan.***

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

**6.17. *Satisfaction of Claims.***

Except as otherwise specifically provided in the Plan, any distributions and deliveries to be made on account of Allowed Claims under the Plan shall be in complete and final satisfaction, settlement, and discharge of and in exchange for such Allowed Claims.

**6.18. *Fractional Securities.***

If any distributions of New Common Units or New Warrants pursuant to the Plan would result in the issuance of a fractional New Common Unit or New Warrants that are exercisable into a fractional New Common Unit, then the number of New Common Units or New Warrants, as applicable,

to be issued in respect of such distribution will be calculated to one decimal place and rounded up or down to the closest whole New Common Unit or New Warrants that are exercisable into the closest whole New Common Unit, as applicable (with a half New Common Unit or greater rounded up and less than a half New Common Unit rounded down). All New Common Units to be issued to a holder of an Allowed Claim that receives New Common Units under the Plan and all New Warrants to be issued to a holder of an Allowed Claim that receives New Warrants under the Plan shall, in either such case, be aggregated for purposes of determining whether such holder would receive a fractional New Common Unit or a New Warrant that is exercisable into a fractional New Common Unit, as applicable. The total number of New Common Units to be distributed in connection with the Plan and the total number of New Common Units that are issuable upon exercise of New Warrants to be distributed in connection with the Plan shall, in both cases, be adjusted as necessary to account for the rounding provided for in this Section 6.18. No consideration shall be provided in lieu of fractional New Common Units or New Warrants that are exercisable into fractional New Common Units that are rounded down. Neither the Reorganized Debtors nor any Disbursing Agent shall have any obligation to make a distribution that consists of less than one (1) New Common Unit or New Warrants that are exercisable into less than one (1) New Common Unit.

**6.19. *Minimum Cash Distributions.***

A Disbursing Agent shall not be required to make any distribution of Cash less than one hundred dollars (\$100) to any holder of an Allowed Claim; provided, however, that if any distribution is not made pursuant to this Section 6.19, such distribution shall be added to any subsequent distribution to be made on behalf of such Allowed Claim.

**6.20. *Setoffs and Recoupments.***

The Debtors (with the consent of the Requisite Consenting Term Lenders) and the Reorganized Debtors, as applicable, or such entity's designee (including, without limitation, a Disbursing Agent) may, but shall not be required to, set off or recoup against any Claim, and any distribution to be made on account of such Claim, any and all claims, rights, and Causes of Action of any nature whatsoever that the Debtors or the Reorganized Debtors may have against the holder of such Claim or any of its Affiliates pursuant to the Bankruptcy Code or applicable nonbankruptcy law; provided, however, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by a Debtor or Reorganized Debtor or its successor of any claims, rights, or Causes of Action that a Debtor or Reorganized Debtor or its successor or assign may possess against the holder of such Claim or any of its Affiliates.

**6.21. *Allocation of Distributions between Principal and Interest.***

Except as otherwise provided herein and other than with respect to the DIP Claims, the aggregate consideration paid to holders with respect to their Allowed Claims shall be treated pursuant to the Plan as allocated first to the principal amount of such Allowed Claims (to the extent thereof) and, thereafter, to accrued but unpaid interest, if any, on such Allowed Claims.

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

Notwithstanding anything in the Plan to the contrary, no holder of an Allowed Claim shall receive, on account of such Allowed Claim, distributions in excess of the Allowed amount of such Claim.

**6.23. *Withholding and Reporting Requirements.***

(a) *Withholding Rights.* In connection with the Plan, any party issuing any instrument or making any distribution described in the Plan shall comply with all applicable withholding and reporting requirements imposed by any federal, state, or local taxing authority, and all distributions pursuant to the Plan and all related agreements shall be subject to any such withholding or reporting requirements. In the case of a non-Cash distribution that is subject to withholding, the distributing party may withhold an appropriate portion of such distributed property and either (i) sell such withheld property to generate Cash necessary to pay over the withholding tax (or reimburse the distributing party for any advance payment of the withholding tax), or (ii) pay the withholding tax using its own funds and retain such withheld property. Any amounts withheld pursuant to the preceding sentence shall be deemed to have been distributed to and received by the applicable recipient for all purposes of the Plan. Notwithstanding the foregoing, each holder of an Allowed Claim or any other Person that receives a distribution pursuant to the Plan shall have responsibility for any taxes imposed by any governmental unit, including, without limitation, income, withholding, and other taxes, on account of such distribution. Any party issuing any instrument or making any distribution to a holder of an Allowed Claim or any other Person pursuant to the Plan has the right, but not the obligation, to not make a distribution until such holder or Person has made arrangements satisfactory to such issuing or disbursing party for payment of any such tax obligations.

(b) *Forms.* Any Person entitled to receive any property as an issuance or distribution under the Plan shall, upon request, deliver to the applicable Disbursing Agent or such other Person designated by the Reorganized Debtors (which Person shall subsequently deliver to the applicable Disbursing Agent any applicable IRS Form W-8 or Form W-9 received) an appropriate Form W-9 or (if the payee is a foreign Person) Form W-8. If such request is made by the Reorganized Debtors, the applicable Disbursing Agent, or such other Person designated by the Reorganized Debtors or Disbursing Agent and the holder fails to comply before the date that is one hundred and eighty (180) days after the request is made, the amount of such distribution shall irrevocably revert to the applicable Reorganized Debtor and any Claim in respect of such distribution shall be discharged and forever barred from assertion against such Reorganized Debtor or its respective property.

**6.24. *Opt-in Distribution Procedures.***

(a) Any holder of (i) a Class 4 Second Lien Term Loan Claim that is not also a Consenting Term Lender or an Affiliate of a Consenting Term Lender or (ii) an Allowed Class 5 General Unsecured Claim, as applicable, that wishes to make the Opt-In Distribution Election must submit a properly completed Election Form to the Reorganized Debtors on or before the Election Deadline. By signing the Election Form, such claimant certifies to the Bankruptcy Court, the Debtors and the Reorganized Debtors that:

- (i) as of the Election Record Date, either: (i) the Person is the holder of the Class 4 Second Lien Term Loan Claims and/or Class 5 General Unsecured Claims described in such Election Form; or (ii) the Person is an authorized signatory for an entity that is the holder of such Claims described in such Election Form;
- (ii) the holder of any Class 5 General Unsecured Claim has consolidated all of the Class 5 General Unsecured Claims held by it (or in the case of an authorized signatory, the holder) and made the same election with respect to all such Claims;

- (iii) the Person has neither transferred nor acquired any portion of its Class 4 Second Lien Term Loan Claims and/or Class 5 General Unsecured Claims following the Election Record Date;
- (iv) no other Election Forms with respect to the Second Lien Term Loan Claims and/or Class 5 General Unsecured Claims identified in such Election Form have been submitted or, if any other Election Forms have been submitted with respect to such Second Lien Term Loan Claims and/or Class 5 General Unsecured Claims, then any such earlier Election Forms are thereby revoked;
- (v) such holder agrees to the waiver of any portions of such holder's Allowed Claim in excess of \$25,000 and such holder is thereafter forever barred, estopped and enjoined from asserting claims against the Debtors or Reorganized Debtors arising from or related to such holder's Allowed Claim; and
- (vi) such holder agrees to grant the releases set forth in section 10.6(b) of the Plan.

(b) The Opt-In Election Distribution shall be administered by the Reorganized Debtors in accordance with the terms of this Plan. All determinations made by the Reorganized Debtors with respect to the Opt-In Election, including determinations whether Election Forms comply with the Opt-In Election Procedures, shall be made by the Reorganized Debtors in their discretion. The Reorganized Debtors (or such other Person designated by the Reorganized Debtors) shall be the Disbursing Agent with respect to all distributions of the Opt-In Distribution Pool. The Reorganized Debtors (or such other Person designated by the Reorganized Debtors) shall make all distributions of the Opt-In Distribution Pool within ten (10) Business Days following the Election Deadline, or as soon as reasonably practicable thereafter.

## **ARTICLE VII PROCEDURES FOR DISPUTED CLAIMS.**

### **7.1. *Objections to Claims.***

Except insofar as a Claim is Allowed under the Plan or the Schedules or by a Final Order of the Bankruptcy Court, the Debtors, the Reorganized Debtors, and any other party in interest shall be entitled to object to Claims. Any objections to proofs of Claim (other than Administrative Expense Claims) shall be served and filed (a) on or before the date that is one hundred and eighty (180) days following the later of (i) the Effective Date and (ii) the date that a proof of Claim is filed or amended or a Claim is otherwise asserted or amended in writing by or on behalf of a holder of such Claim, or (b) such later date as ordered by the Bankruptcy Court upon motion filed by the Debtors or the Reorganized Debtors. Any Claims that are either (a) filed after the applicable Bar Date or that has been or hereafter is listed in the Schedules as Disputed, contingent or unliquidated, and for which no proof of Claim has been timely filed shall be deemed Disallowed and expunged in their entirety without further notice to or action, order or approval of the Bankruptcy Court or any action being required on the part of the Debtors or Reorganized Debtors, unless the Person or entity wishing to file such untimely Claim has received Bankruptcy Court authority to do so. From and after the Effective Date, the Reorganized Debtors may settle or compromise any Disputed Claim without approval of the Bankruptcy Court.

## 7.2. *Estimation of Claims.*

The Debtors (with the consent of the Requisite Consenting Term Lenders) or the Reorganized Debtors, as applicable, may at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtors previously objected to such Claim, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any contingent, unliquidated, or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtors (with the consent of the Requisite Consenting Term Lenders) or the Reorganized Debtors may pursue supplementary proceedings to object to the allowance of such Claim.

## 7.3. *Disputed Claims.*

(a) *No Distributions or Payments Pending Allowance.* Except as provided in this Section 7.3, if an objection, motion to estimate, or other challenge to a Claim is filed, no payment or distribution provided under the Plan shall be made on account of such Claim unless and until such Claim becomes an Allowed Claim.

(b) *Establishment of Disputed Claims Reserve.* On the Effective Date or as soon thereafter as is reasonably practicable, the Reorganized Debtors shall set aside and reserve, for the benefit of each holder of a Disputed Administrative Expense Claim, Disputed Priority Tax Claim, Disputed Other Priority Claim, and Disputed Other Secured Claim, Cash in an amount equal to (i) the amount of such Claim as estimated by the Bankruptcy Court pursuant to an Estimation Order or (ii) if no Estimation Order has been entered with respect to such Claim, (A) the amount listed in the Schedules or (B) if a timely filed proof of claim or application for payment has been filed with the Bankruptcy Court or Claims Agent, as applicable, the amount set forth in such timely filed proof of claim or application for payment, as applicable. The Reorganized Debtors, in their reasonable discretion, may increase the amount reserved as to any particular Disputed Claim. Such reserved amounts, collectively, shall constitute the “Disputed Claims Reserve.”

(c) *Plan Distributions to Holders of Subsequently Allowed Claims.* To the extent that a Disputed Claim ultimately becomes an Allowed Claim, the Disbursing Agent will make distributions or payments from the Disputed Claims Reserve. The Disbursing Agent shall distribute in respect of such newly Allowed Claims the distributions under the Plan to which holders of such Claims would have been entitled under this Plan if such newly Allowed Claims were fully or partially Allowed, as the case may be, on the Effective Date.

(d) *Distribution of Reserved Plan Consideration Upon Disallowance.* To the extent any Disputed Administrative Expense Claim, Disputed Priority Tax Claim, Disputed Other Priority Claim, or Disputed Other Secured Claim becomes Disallowed in full or in part (in accordance with the procedures set forth in the Plan), any Plan Consideration held by the Reorganized Debtors on account of, or to pay, such Disputed Claim shall become the sole and exclusive property of Reorganized Pooling or its successors or assigns.

**7.4. *Amendments to Claims.***

On or after the Effective Date, except as provided in the Plan or the Confirmation Order, a Claim may not be filed or amended without the prior authorization of the Bankruptcy Court or the Reorganized Debtors.

**7.5. *Claim Resolution Procedures Cumulative.***

All of the objection, estimation, and resolution procedures in the Plan are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently settled, compromised, withdrawn, or resolved in accordance with the Plan without further notice or Bankruptcy Court approval.

**7.6. *Insured Claims.***

If any portion of an Allowed Claim is an Insured Claim, no distributions under the Plan shall be made on account of such Allowed Claim until the holder of such Allowed Claim has exhausted all remedies with respect to any applicable Insurance Contracts. To the extent that an Insurer agrees to satisfy a Claim in whole or in part, then immediately upon such satisfaction, the portion of such Claim so satisfied may be expunged without an objection to such Claim having to be filed and without any further notice to or action, order or approval of the Bankruptcy Court.

**7.7. *Single Satisfaction of Claims and Interests.***

Holders of Allowed Claims or Allowed Interests may assert such Claims against or Interests in each Debtor obligated with respect to such Claims or Interests, and such Claims and Interests shall be entitled to share in the recovery provided for the applicable Class of Claims or Interests against each obligated Debtor based upon the full Allowed amount of the Claim or Interest. Notwithstanding the foregoing, in no case shall the aggregate value of all property received or retained under the Plan on account of an Allowed Claim or an Allowed Interest exceed one hundred percent (100%) of the underlying Allowed Claim or Allowed Interest plus applicable interest (which interest shall not include any post-petition interest, except with respect to DIP Claims and, if applicable, Other Secured Claims). For the avoidance of doubt, this shall not affect the obligation of each and every Debtor to pay U.S. Trustee Fees until such time as a particular Chapter 11 Case is closed, dismissed, or converted.

**ARTICLE VIII EXECUTORY CONTRACTS.**

**8.1. *Assumption of Executory Contracts.***

(a) Unless an Executory Contract: (i) was assumed or rejected, as mutually agreed upon by the Debtors and the Requisite Consenting Term Lenders, (ii) was previously expired or terminated pursuant to its own terms, (iii) is the subject, as mutually agreed upon by the Debtors and the Requisite Consenting Term Lenders, of a motion to reject filed on or before the Confirmation Date, (iv) is designated specifically as an Executory Contract on the Schedule of Rejected Executory Contracts, or (v) is an Employment Arrangement or Benefit Plan (except for such Employment Arrangements or Benefit Plans set forth on the Employment Arrangement Schedule or Benefit Plan Schedule, respectively), each Executory Contract shall be deemed assumed, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, as of the Effective Date under section 365 of the Bankruptcy Code. The assumption of Executory Contracts hereunder may include the assignment of certain of such contracts to the Debtors. The Confirmation Order will constitute an order of the Bankruptcy Court

approving the above-described assumptions and assignments pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date.

(b) Except as otherwise provided herein or agreed to by the Debtors, the Requisite Consenting Term Lenders and the applicable counterparty, each assumed Executory Contract shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests; provided, however, that no Employment Arrangement or Benefit Plan shall be an assumed Executory Contract unless specifically set forth on the Employment Arrangement Schedule or Benefit Plan Schedule, respectively. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts that have been executed by the Debtors and the applicable contract counterparty during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or the validity, priority, or amount of any Claims that may arise in connection therewith.

(c) Except as otherwise agreed by the Requisite Consenting Term Lenders as set forth in the Plan Supplement, on the Effective Date, any contracts, agreements or arrangements between any of the Debtors, on the one hand, and any of the holders of the capital stock of Holdings or any Affiliates of any such holder, on the other hand, shall be deemed terminated and of no further force or effect, all without any liability to any of the Debtors or any of the Reorganized Debtors for payment or provision of any fees, costs, expenses, bonuses, compensation, severance or other amounts or benefits thereunder or on account of such termination.

## 8.2. *Cure Claims.*

(a) *Cure Payments.* Except to the extent that less favorable treatment has been agreed to by the non-Debtor party or parties to an Executory Contract, any monetary defaults arising under each Executory Contract to be assumed pursuant to the Plan (subject to the consent of the Requisite Consenting Term Lenders) shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the appropriate amount required to cure such monetary default pursuant to section 365 of the Bankruptcy Code (or such lesser amount as may be agreed upon by the parties under such Executory Contract) (the “Cure Amount”) in Cash on the later of thirty (30) calendar days after: (i) the Effective Date, and (ii) the date on which any Cure Dispute relating to such Cure Amount has been resolved (either consensually or through judicial decision).

(b) *Cure Schedule and Objections.* No later than fourteen (14) calendar days prior to the Voting Deadline, the Debtors shall file a cure schedule (which shall be satisfactory in form, substance and amount to the Requisite Consenting Term Lenders) (the “Cure Schedule”) that includes the identity of the proposed assignee, if any, for any Executory Contract, and serve such Cure Schedule on each applicable counterparty. Any party that fails to object to the applicable Cure Amount listed on the Cure Schedule on or prior to March 21, 2018 at 4:00 p.m. prevailing Eastern Time, shall be forever barred, estopped and enjoined from disputing the Cure Amount set forth on the Cure Schedule (including a Cure Amount of \$0.00) and/or from asserting any Claim against the applicable Debtor arising under section 365(b)(1) of the Bankruptcy Code except as set forth on the Cure Schedule.

(c) *Cure Disputes.* In the event of a Cure Dispute regarding: (i) the Cure Amount, (ii) the ability of the applicable Reorganized Debtor or the proposed assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract to be assumed or assumed and assigned, or (iii) any other matter pertaining to the proposed assumption or assumption and assignment, the cure payments required by section 365(b)(1) of

the Bankruptcy Code shall be made following the entry of a Final Order resolving such Cure Dispute and approving the assumption or assumption and assignment. To the extent a Cure Dispute relates solely to the Cure Amount, the applicable Debtor, with the consent of the Requisite Consenting Term Lenders, may assume and/or assume and assign the applicable Executory Contract prior to the resolution of the Cure Dispute; provided, that, such Debtor or proposed assignee reserves Cash in an amount sufficient to pay the full amount reasonably asserted as the required Cure Amount by the non-Debtor party to such Executory Contract (or such smaller amount as may be fixed or estimated by the Bankruptcy Court or otherwise agreed to by such non-Debtor party and the Reorganized Debtors).

To the extent applicable, if under any Executory Contract, including related instruments and agreements, assumed or deemed assumed during the Chapter 11 Cases, the transactions contemplated by the Plan would (i) constitute a "change of control" or "assignment" (or terms with similar effect) under, (ii) result in a violation, breach or default (with or without notice or lapse of time, or both) under, (iii) increase, accelerate or otherwise alter any obligations or liabilities of, or result in the loss of any benefit to, the Debtors or the Reorganized Debtors under, or (iv) result in the creation or imposition of a Lien upon any property or asset of the Debtors or the Reorganized Debtors pursuant to, the applicable Executory Contract, such a result will be unenforceable and deemed not to have occurred, and any consent or advance notice required under such Executory Contract shall be deemed satisfied by the Confirmation Order.

On the Effective Date, each Executory Contract that is listed on the Schedule of Rejected Executory Contracts and each Employment Arrangement and Benefit Plan that is not set forth on the Employment Arrangement Schedule or Benefit Plan Schedule, respectively, shall be deemed rejected or repudiated pursuant to Bankruptcy Code section 365. Until the Effective Date, the Debtors, with the consent of the Requisite Consenting Term Lenders, expressly reserve their right to amend (i) the Schedule of Rejected Executory Contracts to delete any Executory Contract therefrom or to add any Executory Contract thereto, (ii) the Employment Arrangement Schedule to delete any Employment Arrangement therefrom or to add any Employment Arrangement thereto and (iii) the Benefit Plan Schedule to delete any Benefit Plan therefrom or to add any Benefit Plan thereto.

All Claims arising from the rejection of Executory Contracts, if any, will be treated as General Unsecured Claims. All such Claims shall be discharged on the Effective Date, and shall not be enforceable against the Debtors, the Reorganized Debtors or their respective properties or interests in property. In the event that the rejection of an Executory Contract by any of the Debtors pursuant to the Plan results in damages to the other party or parties to such Executory Contract, a Claim for such damages shall be forever barred and shall not be enforceable against the Debtors or the Reorganized Debtors, or their respective properties or interests in property as agents, successors or assigns, unless a proof of claim is filed with the Bankruptcy Court and served upon counsel for the Debtors and the Reorganized Debtors on or before the date that is thirty (30) days after the effective date of such rejection (which may be the Effective Date or the date on which the Debtors reject the applicable contract or lease pursuant to an order of the Bankruptcy Court).

ASSUMPTION OF ANY EXECUTORY CONTRACT 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 AT ANY TIME BEFORE THE DATE ANY OF THE DEBTORS ASSUME OR ASSUME AND ASSIGN SUCH EXECUTORY CONTRACT OR

THE DATE ON WHICH ANY REORGANIZED DEBTOR HAS TAKEN ASSIGNMENT OF SUCH EXECUTORY CONTRACT. ANY PROOFS OF CLAIM FILED WITH RESPECT TO AN EXECUTORY CONTRACT THAT HAS BEEN ASSUMED OR ASSUMED AND ASSIGNED SHALL BE DEEMED DISALLOWED AND EXPUNGED, WITHOUT FURTHER NOTICE TO OR ACTION, ORDER OR APPROVAL OF THE BANKRUPTCY COURT.

**8.3. *Reservation of Rights.***

Nothing contained in the Plan shall constitute an admission by the Debtors that any contract or lease is in fact an Executory Contract or that any Debtor or 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 Debtors (with the consent of the Requisite Consenting Term Lenders) or the Reorganized Debtors, as applicable, shall have forty-five (45) days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease, in which case the deemed assumptions and rejections provided for in the Plan shall not apply to such contract or lease.

**8.4. *Assignment.***

Any Executory Contract to be held by any of the Debtors or the Reorganized Debtors and assumed hereunder or otherwise in the Chapter 11 Cases, if not expressly assigned to a third party previously in the Chapter 11 Cases, will be deemed assigned to the applicable Reorganized Debtor or to such other Reorganized Debtor as is designated on the Cure Schedule pursuant to section 365 of the Bankruptcy Code. If an objection to a proposed assumption, assumption and assignment, or Cure Claim is not resolved in favor of the Debtors before the Effective Date, the applicable Executory Contract may be designated by the Debtors (with the consent of the Requisite Consenting Term Lenders) or the Reorganized Debtors for rejection within five (5) Business Days after the entry of the order of the Bankruptcy Court resolving the matter against the Debtors. Such rejection shall be deemed effective as of the Effective Date.

**8.5. *Insurance Policies.***

(a) Notwithstanding anything in the Plan, the Plan Supplement, the Restructuring Documents, or the Confirmation Order to the contrary (including, without limitation, any other provision that purports to be preemptory or supervening, grants an injunction, discharge or release, confers Bankruptcy Court jurisdiction, or requires a party to opt out of any releases) (i) all insurance policies that have been issued (or provide coverage) at any time to the Debtors, and any agreements, documents or instruments relating thereto (collectively, the “Insurance Contracts”), are treated as and deemed to be Executory Contracts under the Plan; (ii) unless designated on the Schedule of Rejected Executory Contracts, on the Effective Date, the Debtors shall be deemed to have assumed all Insurance Contracts in their entirety pursuant to sections 105 and 365 of the Bankruptcy Code; (iii) unless otherwise determined by the Bankruptcy Court prior to the Effective Date, or agreed to by the parties thereto prior to the Effective Date, no payments shall be required to cure any defaults (if any) of the Debtors existing as of the Effective Date with respect to each such Insurance Contract, and to the extent that the Bankruptcy Court determines otherwise as to any such Insurance Contract, the Debtors’ rights to seek the rejection of such Insurance Contract or other available relief within thirty (30) days after such determination are fully reserved; provided, however, that the rights of any party that issues an Insurance Contract to object to such proposed rejection on any and all grounds are fully reserved; (iv) nothing (A) alters, modifies or otherwise amends the terms and conditions of (or the coverage provided by) any Insurance Contracts (unless otherwise agreed to in writing by the applicable insurer), and all rights and obligations shall be determined under the Insurance Contracts and applicable non-bankruptcy law, (B) limits the Reorganized

Debtors from asserting a right or claim to the proceeds of any Insurance Contract or limits any Insurer from contesting such assertion, (C) impairs, alters, waives, releases, modifies or amends any of the parties' legal, equitable or contractual rights, remedies, claims, counterclaims, defenses or Causes of Action in connection with any Insurance Contract, (D) alters or modifies the duty, if any, that Insurers have to pay claims covered by the Insurance Contracts and the Insurers' right to seek payment or reimbursement from the Reorganized Debtors in accordance with the terms of the applicable Insurance Contract, subject to any and all legal, equitable or contractual rights, remedies, claims, counterclaims, defenses or Causes of Action of the Reorganized Debtors, or (E) constitutes a determination or admission that any person or entity, including the Reorganized Debtors, is an insured under any of the Insurance Contracts; and (v) the automatic stay of Bankruptcy Code section 362(a) and the injunctions set forth in Article 10.5 of the Plan, if and to the extent applicable, shall be deemed lifted without further order of this Court, solely to permit: (A) claimants with valid workers' compensation claims or direct action claims against an Insurer under applicable non-bankruptcy law to proceed with their claims; (B) the Insurers to administer, handle, defend, settle, and/or pay, in the ordinary course of business and without further order of this Bankruptcy Court, (1) workers' compensation claims covered by the applicable Insurance Contracts, (2) claims where a claimant asserts a direct claim against an Insurer under applicable non-bankruptcy law, or an order has been entered by this Court granting a claimant relief from the automatic stay or the injunctions set forth in Article 10.5 of the Plan to proceed with its claim, and (3) all costs in relation to each of the foregoing; (C) the Insurers to draw against any or all of the collateral or security provided by or on behalf of the Debtors (or the Reorganized Debtors, as applicable) at any time and to hold the proceeds thereof as security for the obligations of the Debtors (and the Reorganized Debtors, as applicable) and/or apply such proceeds to the obligations of the Debtors (and the Reorganized Debtors, as applicable) under the applicable Insurance Contracts, in such order as the applicable Insurer may determine; and (D) the Insurers to cancel any Insurance Contracts, and take other actions relating thereto, in each case to the extent permissible under applicable non-bankruptcy law and in accordance with the terms of the applicable Insurance Contracts.

(b) The Debtors have (i) confirmed that, as of the Restructuring Support Effective Date (as defined in the Restructuring Support Agreement), all Persons who are beneficiaries of indemnification or expense reimbursement or advancement obligations from the Debtors ("Company Indemnitees") are covered under the existing officers' and directors' liability insurance and fiduciary liability insurance policies (the "Existing D&O Policies") provided by Lacy Distribution, Inc. or its Affiliates ("LDI"), and (ii) received reasonable assurances from LDI that all Company Indemnitees will remain covered under the Existing D&O Policies following the Effective Date, with no costs to the Debtors or the Reorganized Debtors, with an available limit on liability that is no less than, a retention or deductible that is no greater than, and containing such other terms and conditions that are no less favorable than, the limit, retention or deductible or such other terms and conditions set forth in the Existing D&O Policies as of the Restructuring Support Effective Date.

#### 8.6. *Postpetition Contracts and Leases.*

Except as to Employment Agreements and Benefit Plans, which are governed by Section 5.13 of the Plan, all contracts, agreements, and leases that were entered into by one or more of the Debtors or assumed by any of the Debtors after the Petition Date shall be deemed assigned by the applicable Debtor(s) to the applicable Reorganized Debtor(s) or to such other Reorganized Debtor as is designated by the Debtors (with the consent of the Requisite Consenting Term Lenders) on the Effective Date.

**8.7. *Compensation and Benefit Programs.***

Notwithstanding anything to the contrary contained herein, pursuant to section 1129(a)(13) of the Bankruptcy Code, on and after the Effective Date, all retiree benefits (as such term is defined in section 1114 of the Bankruptcy Code), if any, shall continue to be paid in accordance with applicable law.

**8.8. *Certain Indemnification Obligations.***

Notwithstanding anything to the contrary herein, as of the Effective Date, any obligation of any of the Debtors to indemnify, defend, reimburse, advance fees and expenses to, or limit the liability of any current or former director, officer, manager, employee, agent, principal or affiliate of any of the Debtors against any Causes of Action or Claims, whether in contract, under state law, pursuant to any of the Debtor's organizational documents, board resolutions, employment agreements, or otherwise that arise out of, relate to, result from or are in connection with any acts, omissions, occurrences, causes, events, transactions, matters or circumstances that occur or happen prior to the Effective Date or on the Effective Date (but prior to the effectiveness of the Plan) shall be discharged and shall not be enforceable against the Debtors, the Reorganized Debtors or their respective properties or interests in property.

**8.9. *Intellectual Property Licenses and Agreements.***

All intellectual property contracts, licenses, royalties, or other similar agreements to which the Debtors have any rights or obligations in effect as of the date of the Confirmation Order shall be deemed and treated as Executory Contracts pursuant to the Plan and shall be assumed in accordance with Section 8.1 of the Plan by the respective Debtors and Reorganized Debtors and shall continue in full force and effect unless any such intellectual property contract, license, royalty, or other similar agreement is set forth on the Schedule of Rejected Executory Contracts, is specifically rejected pursuant to a separate order of the Bankruptcy Court, is the subject of a separate rejection motion filed by the Debtors (with the consent of the Requisite Consenting Term Lenders) or is treated as set forth in Section 8.1(c) of the Plan. Unless otherwise noted hereunder, all other intellectual property contracts, licenses, royalties, or other similar agreements shall vest in the Reorganized Debtors and the Reorganized Debtors may take all actions as may be necessary or appropriate to ensure such vesting as contemplated herein.

**8.10. *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 Executory Contracts pursuant to section 365(d)(4) of the Bankruptcy Code.

**ARTICLE IX      CONDITIONS PRECEDENT TO CONFIRMATION OF PLAN AND  
EFFECTIVE DATE.**

**9.1. *Conditions Precedent to Confirmation of Plan.***

The following are conditions precedent to confirmation of the Plan:

(a) the final version of the Plan shall have been filed with the Bankruptcy Court, and shall be in form and substance consistent in all material respects with the Restructuring Support Agreement and otherwise reasonably acceptable to the Debtors and the Requisite Consenting Term Lenders and, in respect of the Payment in Full of the DIP ABL Facility Claims, the DIP ABL Agent;

(b) the Restructuring Support Agreement shall not have been terminated and shall be in full force and effect and there shall not be continuing any Consenting Term Lender Termination Event (as defined in the Restructuring Support Agreement) or any cure period with respect to any event, occurrence or condition that would permit the Requisite Consenting Term Lenders to terminate the Restructuring Support Agreement in accordance with its terms;

(c) the Bankruptcy Court shall have entered the Confirmation Order in form and substance consistent in all material respects with the Restructuring Support Agreement and otherwise reasonably satisfactory to the Debtors, the Requisite Consenting Term Lenders and the DIP ABL Agent; and

(d) the DIP Orders shall have been entered by the Bankruptcy Court and the DIP Orders and the DIP Credit Agreements shall be in full force and effect in accordance with their terms, and no Termination Event (as defined in the DIP Orders) or Event of Default (as defined in the applicable DIP Credit Documents) shall have occurred or be continuing.

9.2. ***Conditions Precedent to Effective Date.***

The following are conditions precedent to the Effective Date of the Plan:

(a) the Plan, the Plan Supplement (and all of the schedules, documents, and exhibits contained therein), and all other Restructuring Documents shall have been negotiated, executed, delivered and filed with the Bankruptcy Court (as applicable) and be in form and substance consistent in all material respects with the Restructuring Support Agreement and otherwise reasonably acceptable to the Debtors and the Requisite Consenting Term Lenders and, with respect to Payment in Full of the DIP ABL Facility Claims, the DIP ABL Agent;

(b) the Bankruptcy Court shall have entered the Confirmation Order in form and substance consistent in all material respects with the Restructuring Support Agreement and otherwise reasonably acceptable to the Debtors, the Requisite Consenting Term Lenders and the DIP ABL Agent, and such order shall not have been stayed or modified or vacated on appeal;

(c) the Restructuring Support Agreement shall not have been terminated and shall be in full force and effect and there shall not be continuing any Consenting Term Lender Termination Event (as defined in the Restructuring Support Agreement) or any cure period with respect to any event, occurrence or condition that would permit the Requisite Consenting Term Lenders to terminate the Restructuring Support Agreement in accordance with its terms;

(d) the DIP Orders shall have been entered by the Bankruptcy Court and the DIP Orders and the DIP Credit Documents shall be in full force and effect in accordance with their terms, and no Termination Event (as defined in the DIP Orders) or Event of Default (as defined in the applicable DIP Credit Documents) shall have occurred or be continuing;

(e) all Transaction Expenses shall have been paid in full, in Cash, in accordance with the Restructuring Support Agreement, the Plan and the DIP Orders;

(f) the Exit Revolving Credit Facility shall have closed and the Payment in Full of the DIP ABL Facility Claims per the Payoff Letter shall have occurred;

(g) the Exit Term Loan Credit Facility shall have closed;

(h) all conditions precedent to the issuance of the New Common Units and the New Warrants, other than any conditions related to the occurrence of the Effective Date, shall have occurred;

(i) all governmental and material third party approvals and consents, including Bankruptcy Court approval, necessary in connection with the Restructuring shall have been obtained, not be subject to unfulfilled conditions, and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent, or otherwise impose materially adverse conditions on the Restructuring; and

(j) there shall be no ruling, judgment or order issued by any Governmental Entity making illegal, enjoining, or otherwise preventing or prohibiting the consummation of the Restructuring.

### 9.3. *Waiver of Conditions Precedent.*

Except as otherwise provided herein (including in the Description of Structure), all actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously and no such action shall be deemed to have occurred prior to the taking of any other such action. Each of the conditions precedent in Section 9.1 and Section 9.2 of the Plan may be waived in writing by the Debtors with the prior written consent of the Requisite Consenting Term Lenders without leave of or order of the Bankruptcy Court; provided, however, that no waivers of any conditions pertaining to the rights of the DIP ABL Agent or DIP ABL Lenders under the DIP ABL Plan Provisions or to the Payment in Full of the DIP ABL Facility Claims may occur without the prior written consent of the DIP ABL Agent. If the Plan is confirmed for fewer than all of the Debtors as provided for in Section 5.18 of the Plan, only the conditions applicable to the Debtor or Debtors for which the Plan is confirmed must be satisfied or waived for the Effective Date to occur.

### 9.4. *Effect of Failure of a Condition.*

If the conditions listed in Section 9.2 of the Plan are not satisfied or waived in accordance with Section 9.3 of the Plan on or before the first Business Day that is more than one hundred sixty (160) days after the Petition Date or by such later date as set forth by the Debtors, with the consent of the Requisite Consenting Term Lenders, in a notice filed with the Bankruptcy Court prior to the expiration of such period, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall (a) constitute a waiver or release of any claims by or against or any Interests in the Debtors, (b) prejudice in any manner the rights of any Person, or (c) constitute an admission, acknowledgement, offer, or undertaking by the Debtors, any of the Consenting Term Lenders or any other Person.

## ARTICLE X EFFECT OF CONFIRMATION OF PLAN.

### 10.1. *Vesting of Assets.*

On the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all property of the Debtors' Estates shall vest in the Reorganized Debtors free and clear of all Claims, Liens, encumbrances, charges, and other interests, except as provided pursuant to the Plan, the Confirmation Order or the Exit Facility Documents. On and after the Effective Date, the Reorganized Debtors may take any action, including, without limitation, the operation of their businesses; the use, acquisition, sale, lease and disposition of property; and the entry into transactions, agreements, understandings, or arrangements, whether in or other than the ordinary course of business, and execute, deliver, implement, and fully perform any and all obligations, instruments, documents, and papers or otherwise in connection with any

of the foregoing, free of any restrictions of the Bankruptcy Code or Bankruptcy Rules and in all respects as if there were no pending cases under any chapter or provision of the Bankruptcy Code, except as expressly provided herein. Without limiting the foregoing, the Reorganized Debtors may pay the charges that they incur on or after the Effective Date for professional fees, disbursements, expenses, or related support services without application to the Bankruptcy Court.

**10.2. *Binding Effect.***

As of the Effective Date, the Plan shall bind all holders of Claims against and Interests in the Debtors and their respective successors and assigns, notwithstanding whether any such holders were (a) Impaired or Unimpaired under the Plan, (b) deemed to accept or reject the Plan, (c) failed to vote to accept or reject the Plan, or (d) voted to reject the Plan.

**10.3. *Discharge of Claims and Termination of Interests.***

Upon the Effective Date, and in consideration of the distributions to be made hereunder, except as otherwise expressly provided herein, each holder (as well as any representatives, trustees, or agents on behalf of each holder) of a Claim or Interest, and any affiliate of such holder, shall be deemed to have forever discharged the Debtors, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Interests, rights, and liabilities that arose prior to the Effective Date. Upon the Effective Date, all such Persons shall be forever precluded and enjoined, pursuant to section 524 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or terminated Interest in the Debtors against the Debtors, the Reorganized Debtors, or any of its or their assets or property, whether or not such holder has filed a proof of Claim or proof of Interest and whether or not the facts or legal bases therefor were known or existed prior to the Effective Date. Notwithstanding anything to the contrary contained herein, the Plan does not discharge any Person's rights of recoupment.

**10.4. *Term of Injunctions or Stays.***

Unless otherwise provided herein or in a Final Order of the Bankruptcy Court, all injunctions or stays arising under or entered during the Chapter 11 Cases under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

**10.5. *Injunction.***

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

(b) Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court or as agreed to by the Debtors (with the consent of the Requisite Consenting Term Lenders) and a holder of a Claim against or Interest in the Debtors, all Persons who have held, hold, or may hold Claims or Causes of Action against or Interests in any or all of the Debtors (whether proof of such Claims or Interests has been filed or not and whether or not such Persons vote in favor of, against or abstain from voting on the Plan or are presumed to

have accepted or deemed to have rejected the Plan) that have been released, extinguished, discharged, or are subject to exculpation under the Plan (including in connection with, related to, or arising out of, in whole or in part, any settlement or agreement in the Chapter 11 Cases, the offer, issuance, and distribution of any securities issued or to be issued pursuant to the Plan, whether or not such distribution occurs following the Effective Date, negotiations regarding or concerning any of the foregoing, or the administration of the Plan or property to be distributed hereunder), along with their respective present or former employees, agents, officers, directors, managers, principals, and affiliates, are permanently enjoined, from and after the Effective Date, from taking any of the following actions against, as applicable, the Debtors, the Reorganized Debtors, the Exculpated Parties, or the Released Parties: (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) on account of or in connection with or with respect to any such Claims, Causes of Action or Interests, (ii) enforcing, levying, attaching (including, without limitation, any prejudgment attachment), collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against such Persons or the property of such Persons on account of or in connection with or with respect to such Claims, Causes of Action or Interests, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against such Persons or the property or the estates of such Persons on account of or in connection with or with respect to any such Claims, Causes of Action or Interests, (iv) asserting any right of setoff, directly or indirectly, against any obligation due from such Persons or against the property of such Persons on account of or in connection with any such Claims, Causes of Action or Interests, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

(c) The injunctions set forth in this Section 10.5 shall extend to any successors of the Debtors and the Reorganized Debtors and their respective property and interests in property.

Notwithstanding anything to the contrary in the foregoing, the injunction does not enjoin any party under this Plan or under any document, instrument or agreement (including those included in the Plan Supplement) executed to implement this Plan from bringing an action to enforce the terms of this Plan or such document, instrument or agreement (including included in the Plan Supplement) executed to implement this Plan.

#### 10.6. *Releases.*

##### (a) Releases by Debtors.

As of the Effective Date, except (i) for the right to enforce the Plan or any right or obligation arising under the Restructuring Documents that remains in effect or becomes effective after the Effective Date or (ii) as otherwise expressly provided in the Plan or in the Confirmation Order, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan and the contributions of the Released Parties to facilitate and implement the Plan, on and after the Effective Date, the Released Parties (other than the Debtors and the Reorganized Debtors) shall be deemed conclusively, absolutely, unconditionally, irrevocably and forever released and discharged by the Debtors, the Reorganized Debtors, the Estates and their Affiliates from any and all claims and Causes of Action, including any derivative claims, asserted or assertable on behalf of the Debtors, the Reorganized Debtors, the Estates or their Affiliates, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, that

the Debtors, the Reorganized Debtors, the Estates, or their Affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Person, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Restructuring, the Chapter 11 Cases, the purchase, sale or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any such Released Party, the restructuring of Claims and Interests before or during the Chapter 11 Cases, the negotiation, formulation, preparation or consummation of the Plan (including the Plan Supplement, including the transactions described in the Description of Structure), the Restructuring Support Agreement, the Restructuring Documents or related agreements, instruments or other documents, the solicitation of votes with respect to the Plan, any settlement or agreement in the Chapter 11 Cases, the offer, issuance, and distribution of any securities issued or to be issued pursuant to the Plan, whether or not such distribution occurs following the Effective Date, negotiations regarding or concerning any of the foregoing, or the administration of the Plan or property to be distributed hereunder, in all cases based upon any act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date; provided, that, nothing in this Section 10.6(a) shall be construed to release any party or Person from gross negligence, willful misconduct, or intentional fraud as determined by a Final Order.

(b) Releases by Holders of Claims or Interests.

As of the Effective Date, except (i) for the right to enforce the Plan or any right or obligation arising under the Restructuring Documents that remains in effect or becomes effective after the Effective Date or (ii) as otherwise expressly provided in the Plan or in the Confirmation Order, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan and the contributions of the Released Parties to facilitate and implement the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, the Released Parties shall be deemed conclusively, absolutely, unconditionally, irrevocably and forever released, and discharged by:

(1) (A) the holders of Unimpaired Claims or Unimpaired Interests; and (B) the holders of Impaired Claims or Impaired Interests except those (i) deemed to reject the Plan or (ii) (x) who voted to reject, or abstained from voting on, the Plan and (y) have also checked the box on the applicable ballot or notice indicating that they opt out of granting the releases provided in the Plan; provided, that, the Consenting Term Lenders may not opt out of granting the releases provided in the Plan in accordance with and subject to the terms and conditions of the Restructuring Support Agreement; provided, further, that any holder of a Class 4 Second Lien Term Loan Claim or Class 5 General Unsecured Claim who makes the Opt-In Distribution Election shall be deemed to grant the releases provided herein; and

(2) with respect to any Person in the foregoing clause (1), such Person's predecessors, successors and assigns, Subsidiaries, Affiliates, managed accounts or funds, current or former officers, directors, principals, shareholders, members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors and other professionals, and such Person's respective heirs, executors, estates, servants and nominees solely in their capacities as such;

in each case, from any and all claims, interests or Causes of Action whatsoever, including any derivative claims asserted or assertable on behalf of a Debtor, a Reorganized Debtor, an Estate or their Affiliates, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, that such Person would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Person, based on, relating to, or in any manner arising from, in whole or in part, the Debtors, the Restructuring, the Chapter 11 Cases, the purchase, sale or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any other Released Party, the restructuring of Claims and Interests before or during the Chapter 11 Cases, the negotiation, formulation, preparation, or consummation of the Plan (including the Plan Supplement, including the transactions described in the Description of Structure), the Restructuring Support Agreement, the Restructuring Documents, or any related agreements, instruments, or other documents, the solicitation of votes with respect to the Plan, any settlement or agreement in the Chapter 11 Cases, the offer, issuance, and distribution of any securities issued or to be issued pursuant to the Plan, whether or not such distribution occurs following the Effective Date, negotiations regarding or concerning any of the foregoing, or the administration of the Plan or property to be distributed hereunder, in all cases based upon any act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date; provided, that, nothing in this Section 10.6(b) shall be construed to release the Released Parties from gross negligence, willful misconduct, or intentional fraud as determined by a Final Order.

#### 10.7. *Exculpation.*

Notwithstanding anything herein to the contrary, on the Confirmation Date and effective as of the Effective Date, and to the maximum extent permitted by applicable law, the Exculpated Parties shall neither have nor incur any liability to any holder of a Claim or Interest or any other party in interest, or any of their respective predecessors, successors and assigns, Subsidiaries, Affiliates, managed accounts or funds, current or former officers, directors, managers, principals, shareholders, members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors and other professionals, and such Person's respective heirs, executors, estates, servants or nominees for any act or omission (both prior to and subsequent to the Petition Date) in connection with, related to, or arising out of, in whole or in part, the Restructuring, the Chapter 11 Cases, the treatment of any Claim or Interest under the Plan, the restructuring of Claims and Interests during the Chapter 11 Cases, the negotiation, formulation, preparation, or consummation of the Plan (including the Plan Supplement, including the transactions described in the Description of Structure), the Restructuring Support Agreement, the Restructuring Documents, or any related agreements, instruments, or other documents, the solicitation of votes with respect to the Plan, any settlement or agreement in the Chapter 11 Cases, the offer, issuance, and distribution of any securities issued or to be issued pursuant to the Plan, whether or not such distribution occurs following the Effective Date, negotiations regarding or concerning any of the foregoing, or the administration of the Plan or property to be distributed hereunder, except for actions determined by a Final Order to constitute gross negligence, willful misconduct, or intentional fraud.

**10.8. *Release of Preference Actions Against Holders of Class 5 General Unsecured Claims.***

On the Effective Date and except where otherwise expressly preserved in any agreement to provide Customary Trade terms entered into by such holder pursuant to the Final Trade Vendor Order, all of the Debtors' Causes of Action under section 547 of the Bankruptcy Code against any holder of a Class 5 General Unsecured Claim shall be deemed released and discharged by the Debtors, the Reorganized Debtors, the Estates, and their Affiliates.

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

Except as otherwise provided herein, including in Sections 10.5, 10.6, 10.7 and 10.8 of the Plan, nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, claims, Causes of Action, rights of setoff or recoupment, or other legal or equitable defenses that the Debtors had immediately prior to the Effective Date on behalf of the Estates or of themselves in accordance with any provision of the Bankruptcy Code or any applicable nonbankruptcy law, including, without limitation, any affirmative Causes of Action against parties with a relationship with the Debtors. The Reorganized Debtors shall have, retain, reserve, and be entitled to assert all such claims, Causes of Action, rights of setoff or recoupment, and other legal or equitable defenses as fully as if the Chapter 11 Cases had not been commenced, and all of the Debtors' legal and equitable rights in respect of any Unimpaired Claim may be asserted after the Confirmation Date and Effective Date to the same extent as if the Chapter 11 Cases had not been commenced. **No Person may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtors or the Reorganized Debtors will not pursue any and all available Causes of Action against them. The Debtors and the Reorganized Debtors expressly reserve all rights to prosecute any and all Causes of Action against any Person, except as otherwise expressly provided herein.**

In accordance with section 1123(b)(3) of the Bankruptcy Code, any Causes of Action preserved pursuant to the first paragraph of this Section 10.8 that a Debtor may hold against any Person shall vest in the Reorganized Debtors. The applicable Reorganized Debtor, through its authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action. The Reorganized Debtors shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action, or to decline to do any of the foregoing, without the consent or approval of any third party or any further notice to or action, order, or approval of the Bankruptcy Court.

**10.10. *Solicitation of Plan.***

Confirmation of the Plan shall constitute a finding that the solicitation of acceptances or rejections of the Plan by the Solicitation Parties has been in good faith and in compliance with applicable provisions of the Bankruptcy Code, including without limitation section 1125 of the Bankruptcy Code. Accordingly, the Solicitation Parties 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 the offer and issuance of securities under the Plan.

**10.11. *Corporate and Limited Liability Company Action.***

Upon the Effective Date, all actions contemplated by the Plan (including as described in the Description of Structure) shall be deemed authorized and approved in all respects, including (a) those set forth in Section 5.11 of the Plan, (b) the selection of the managers, directors, and officers for the

Reorganized Debtors, (c) the adoption, execution, delivery and/or filing of the New Organizational Documents, (d) the entry into the Exit Revolving Credit Facility, the Exit Term Loan Credit Facility and the Exit Facility Documents, (e) the entry into the New Operating Agreement, (f) the entry into the New Warrant Documents, (g) the authorization, issuance, delivery and distribution of the New Common Units and the New Warrants, (h) the authorization, issuance, delivery and distribution of New Common Units upon exercise of the New Warrants, and the reservation of a sufficient number of New Common Units for issuance, delivery and distribution upon any such exercise, (i) the entry into the Service Agreements, (j) the rejection, assumption, or assumption and assignment, as applicable, of Executory Contracts, and (k) all other actions contemplated by the Plan (whether to occur before, on, or after the Effective Date), in each case, in accordance with and subject to the terms hereof. All matters provided for in the Plan (including in the Description of Structure) involving the corporate or limited liability company structure of the Debtors or the Reorganized Debtors, and any corporate or limited liability company action required by the Debtors or the Reorganized Debtors in connection with the Plan (including as set forth in the Description of Structure), shall be deemed to have occurred and shall be in effect, without any requirement of further action by the security holders, directors, managers, or officers of the Debtors or the Reorganized Debtors. On or (as applicable) before the Effective Date, the appropriate directors, managers or officers of the Debtors or the Reorganized Debtors, as applicable, shall be authorized and directed to issue, execute, deliver and file, as applicable, the agreements, documents, securities, instruments, certificates of merger, certificates of conversion, certificates of incorporation, certificates of dissolution, or comparable documents, or franchise tax reports contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan, including the transactions described in the Description of Structure) in the name of and on behalf of the Debtors or the Reorganized Debtors, as applicable, including, but not limited to, (i) the New Organizational Documents, (ii) the Exit Revolving Credit Facility, (iii) the Exit Term Loan Credit Facility, (iv) the New Operating Agreement, (v) the New Warrant Documents, (vi) the Service Agreements, and (vii) any and all other agreements, documents, securities, and instruments relating to the foregoing. The authorizations and approvals contemplated by this Section 10.10 shall be effective notwithstanding any requirements under non-bankruptcy law.

#### 10.12. *Release of Liens.*

Except as otherwise specifically provided in the Plan, in the Exit Facility Documents (including in connection with any express written amendment of any mortgage, deed of trust, Lien, pledge, or other security interest under the Exit Facility Documents), 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 and, in the case of a Secured Claim, in satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates 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 Debtors and their successors and assigns, in each case, without any further approval or order of the Bankruptcy Court and without any action or filing being required to be made by the Debtors, the DIP ABL Agent, the DIP Term Agent, the First Lien Term Loan Agent, the Second Lien Agent or any other holder of a Secured Claim. In addition, at the expense of the Debtors or the Reorganized Debtors, the DIP ABL Agent, the DIP Term Agent, the First Lien Term Loan Agent, the Second Lien Agent and any other holder of a Secured Claim shall execute and deliver all documents reasonably requested by the Debtors, Reorganized Debtors or administrative agent(s) for the Exit Revolving Credit Facility and the Exit Term Loan Credit Facility to evidence the release of such mortgages, deeds of trust, Liens, pledges, and other security interests and shall authorize the Reorganized Debtors and their designees to file UCC-3 termination statements and other release documentation (to the extent applicable) with respect thereto.

**10.13. *Reimbursement or Contribution.***

If the Bankruptcy Court Disallows a Claim for reimbursement or contribution of a Person pursuant to section 502(e)(1)(B) of the Bankruptcy Code, then to the extent that such Claim is contingent as of the Effective Date, such Claim shall be forever Disallowed unless prior to the Effective Date (a) such Claim has been adjudicated as noncontingent, or (b) the relevant holder of such Claim has filed a noncontingent proof of Claim on account of such Claim and a Final Order has been entered determining such Claim as no longer contingent.

**ARTICLE XI RETENTION OF JURISDICTION.**

**11.1. *Retention of Jurisdiction.***

On and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising in, arising under, and related to the Chapter 11 Cases for, among other things, the following purposes:

- (a) resolve any matters related to Executory Contracts, including: (i) the assumption or assumption and assignment of any Executory Contract to which a Debtor is party or with respect to which a Debtor may be liable and to hear, determine, and, if necessary, liquidate, any Cure Dispute or Claims arising therefrom, including pursuant to section 365 of the Bankruptcy Code; (ii) any potential contractual obligation under any Executory Contract that is assumed; and (iii) any dispute regarding whether a contract or lease is or was executory or expired;
- (b) to determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date;
- (c) to ensure that distributions to holders of Allowed Claims are accomplished as provided for in the Plan and Confirmation Order and to adjudicate any and all disputes arising from or relating to distributions under the Plan;
- (d) to Allow, Disallow, determine, liquidate, classify, estimate, or establish the priority, secured or unsecured status, or amount of any Claim against or Interest in a Debtor, including the resolution of any request for payment of any Claim or Interest and the resolution of any and all objections to the secured or unsecured status, priority, amount, or allowance of Claims and Interests;
- (e) to enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;
- (f) to issue injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation, or enforcement of the Plan, the Confirmation Order, or any other order of the Bankruptcy Court;
- (g) to hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code or to remedy any defect or omission, or reconcile any inconsistency, in the Plan or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;
- (h) to hear and determine all Fee Claims;

(i) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, the Plan Supplement, or the Confirmation Order, or any agreement, instrument, or other document governing or relating to any of the foregoing;

(j) to take any action and issue such orders as may be necessary to construe, interpret, enforce, implement, execute, and consummate the Plan;

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

(l) to hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code);

(m) to hear, adjudicate, decide, or resolve any and all matters related to Article X of the Plan, including, without limitation, the releases, discharge, exculpations, and injunctions issued thereunder;

(n) to resolve disputes concerning Disputed Claims or the administration thereof;

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

(p) to enter a final decree closing the Chapter 11 Cases;

(q) to recover all assets of the Debtors and property of the Debtors' Estates, wherever located;

(r) to hear and determine any rights, claims, or Causes of Action held by or accruing to the Debtors pursuant to the Bankruptcy Code or pursuant to any federal statute or legal theory;

(s) to hear and resolve any dispute over the application to any Claim of any limit on the allowance of such Claim set forth in sections 502 or 503 of the Bankruptcy Code, other than defenses or limits that are asserted under non-bankruptcy law pursuant to section 502(b)(1) of the Bankruptcy Code;

(t) to grant any consensual request to extend the deadline for assuming or rejecting Executory Contracts pursuant to section 365(d)(4) of the Bankruptcy Code; and

(u) to enforce all orders previously entered by the Bankruptcy Court.

#### 11.2. *Courts of Competent Jurisdiction.*

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of the Plan, such abstention, refusal, or failure of jurisdiction shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

## **ARTICLE XII MISCELLANEOUS PROVISIONS.**

### **12.1. *Payment of Statutory Fees.***

On the Effective Date and thereafter as may be required, the Reorganized Debtors shall pay all fees incurred pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, together with interest, if any, pursuant to section 3717 of title 31 of the United States Code for each Debtor's Chapter 11 Case, or until such time as a final decree is entered closing a particular Debtor's Chapter 11 Case, a Final Order converting such Debtor's Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code is entered, or a Final Order dismissing such Debtor's Chapter 11 Case is entered.

### **12.2. *Substantial Consummation of the Plan.***

On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

### **12.3. *Plan Supplement.***

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, and any reference to the Plan shall mean the Plan and the Plan Supplement. The documents contained 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. The Plan Supplement shall be filed with the Clerk of the Bankruptcy Court. Upon its filing with the Bankruptcy Court, the Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court during normal court hours. Documents included in the Plan Supplement will be posted at <https://www.donlinrecano.com/Clients/vhc>. The Debtors, with the consent of the Requisite Consenting Term Lenders, shall have the right to amend the documents contained in, and exhibits to, the Plan Supplement through the Effective Date consistent in all material respects with the Plan and the Restructuring Support Agreement; provided, however, that no such amendment or modification may adversely affect any rights of the DIP ABL Agent and the DIP ABL Lenders under the DIP ABL Plan Provisions or to the Payment in Full of the DIP ABL Facility Claims, without the prior written consent of the DIP ABL Agent (acting at the requisite direction of the DIP ABL Lenders).

### **12.4. *Exemption from Certain Transfer Taxes.***

Pursuant to section 1146 of the Bankruptcy Code, (a) the issuance, transfer or exchange of any securities, instruments or documents, (b) the creation of any Lien, mortgage, deed of trust, or other security interest, (c) the making or assignment of any lease or sublease or the making or delivery of any deed or other instrument of transfer under, pursuant to, in furtherance of, or in connection with the Plan, including, without limitation, any deeds, bills of sale, or assignments executed in connection with any of the transactions contemplated under the Plan or the reinvesting, transfer, or sale of any real or personal property of the Debtors pursuant to, in implementation of or as contemplated in the Plan (whether to one or more of the Reorganized Debtors or otherwise), (d) the grant of Collateral under the Exit Facility Documents, and (e) the issuance, renewal, modification, or securing of indebtedness by such means, and the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including, without limitation, the Confirmation Order, shall not be subject to any document recording tax, stamp tax, conveyance fee, or other similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, sales tax, use tax, or other similar tax or governmental assessment. Consistent with the foregoing, each recorder of deeds or similar official for any county, city, or governmental unit in which

any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument without requiring the payment of any filing fees, documentary stamp tax, deed stamps, stamp tax, transfer tax, intangible tax, or similar tax.

#### 12.5. *Amendments.*

(a) *Plan Modifications.* Subject to the terms of the Restructuring Support Agreement, with the consent of the Requisite Consenting Term Lenders and, to the extent modifying the DIP ABL Plan Provisions or the definitions set forth in Sections 1.35 through 1.49, 1.115 and 1.116 of the Plan in a manner that adversely impacts the rights of the DIP ABL Agent or DIP ABL Lenders, with the consent of the DIP ABL Agent acting at the direction of the requisite DIP ABL Lenders, (i) the Debtors reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, 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 (ii) after entry of the Confirmation Order, the Debtors may, upon order of the Bankruptcy Court, amend, modify or supplement the Plan in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law, in each case without additional disclosure pursuant to section 1125 of the Bankruptcy Code. A holder of a Claim or Interest that has accepted the Plan shall be deemed to have accepted the Plan, as altered, amended, modified or supplemented, if the proposed alteration, amendment, modification or supplement does not materially and adversely change the treatment of the Claim or Interest of such holder.

(b) *Other Amendments.* Subject to the Restructuring Support Agreement, before the Effective Date, the Debtors may make appropriate technical adjustments and modifications to the Plan and the documents contained in the Plan Supplement without further order or approval of the Bankruptcy Court.

(c) *Effect of Confirmation on Modifications.* Entry of the Confirmation Order shall constitute approval of all modifications to the Plan occurring after the solicitation of votes thereon pursuant to section 1127(a) of the Bankruptcy Code and a finding that such modifications to the Plan do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

#### 12.6. *Revocation or Withdrawal of Plan.*

Subject to the terms of the Restructuring Support Agreement, the Debtors reserve the right to revoke or withdraw the Plan prior to the Effective Date as to any or all of the Debtors. If, with respect to a Debtor, the Plan has been revoked or withdrawn prior to the Effective Date, or if confirmation of the Plan or the occurrence of the Effective Date as to such Debtor does not occur by the Effective Date, then, with respect to such Debtor: (a) the Plan shall be null and void in all respects; (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount of any Claim or Interest or Class of Claims or Interests), assumption, assumption and assignment, or rejection of Executory Contracts affected by the Plan, and any document or agreement executed pursuant to the Plan shall be deemed null and void; and (c) nothing contained in the Plan shall (i) constitute a waiver or release of any claim by, Claim against, or Interest in, such Debtor or any other Person, (ii) prejudice in any manner the rights of such Debtor or any other Person, or (iii) constitute an admission of any sort by any Debtor, any of the Consenting Term Lenders or any other Person; provided, however, that all orders of the Bankruptcy Court and all documents executed pursuant thereto, except the Confirmation Order, shall remain in full force and effect. This provision shall have no impact on the rights of the Consenting Term Lenders or the Debtors, as set forth in the Restructuring Support Agreement, in respect of any such revocation or withdrawal.

**12.7. *Dissolution of Committee.***

On the Effective Date, the Committee shall be automatically dissolved and each member (including each officer, director, employee, or agent thereof) of the Committee and each professional retained by the Committee shall be released and discharged from all rights, duties, responsibilities, and obligations arising from, or related to, the Debtors, their membership on the Committee, the Plan, the Chapter 11 Cases, or under the Bankruptcy Code, except with respect to any matters concerning any Fee Claims held or asserted by any professional retained by the Committee.

**12.8. *Severability of Plan Provisions.***

If, before the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtors (with the consent of the Requisite Consenting Term Lenders), 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 (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 Debtors or the Reorganized Debtors (as the case may be) and the Requisite Consenting Term Lenders, consistent with the terms set forth herein and the Restructuring Support Agreement, and, to the extent relating to the rights of the DIP ABL Agent and the DIP ABL Lenders under the DIP ABL Plan Provisions or to the Payment in Full of the DIP ABL Facility Claims, the consent of the DIP ABL Agent (acting at the direction of the requisite DIP ABL Lenders) and (c) nonseverable and mutually dependent.

**12.9. *Governing Law.***

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

**12.10. *Time.***

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

**12.11. *Dates of Actions to Implement the Plan.***

In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

**12.12. *Immediate Binding Effect.***

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), 7062, or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and Plan Supplement shall be immediately effective and enforceable and deemed binding upon and inure to the benefit of the Debtors, the holders of Claims and Interests (irrespective of whether such Claims or Interests are deemed to have accepted the Plan), all Persons that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each Person acquiring property under the Plan, any and all non-Debtor parties to Executory Contracts with the Debtors, and each of their respective successors and assigns, including, without limitation, the Reorganized Debtors.

**12.13. *Deemed Acts.***

Subject to and conditioned on the occurrence of the Effective Date, whenever an act or event is expressed under the Plan (including in the Description of Structure) to have been deemed done or to have occurred, it shall be deemed to have been done or to have occurred without any further act by any party, by virtue of the Plan and the Confirmation Order.

**12.14. *Successor and Assigns.***

The rights, benefits, and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, permitted assign, Affiliate, officer, director, manager, agent, representative, attorney, beneficiary, or guardian, if any, of each Person.

**12.15. *Entire Agreement.***

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

**12.16. *Exhibits to Plan.***

All exhibits, schedules, supplements, and appendices to the Plan (including the Plan Supplement) are incorporated into and are a part of the Plan as if set forth in full herein.

**12.17. *Notices.***

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

- (a) if to the Debtors or the Reorganized Debtors:

Velocity Pooling Vehicle, LLC  
51 Canyon Drive, Suite 100  
Coppell, Texas 75019  
Attn: Andrew Graves

Email: andy.graves@maggroup.com

-and-

Proskauer Rose LLP  
70 West Madison, Suite 3800  
Chicago, IL 60602-4342  
Attn: Jeff J. Marwil, Esq.  
Paul V. Possinger, Esq.  
Christopher M. Hayes, Esq.  
Jeramy D. Webb, Esq.  
Telephone: (312) 962-3550  
Facsimile: (312) 962-3551  
Email: jmarwil@proskauer.com  
ppossinger@proskauer.com  
chayes@proskauer.com  
jwebb@proskauer.com

-and-

Cole Schotz P.C.  
500 Delaware Avenue, Suite 1410  
Wilmington, DE 19801  
Attn: Norman L. Pernick, Esq.  
Patrick J. Reilley, Esq.  
Telephone: (302) 652-3131  
Facsimile: (302) 652-3117  
Email: npernick@coleschotz.com  
preilley@coleschotz.com

Lenders: (b) if to the Consenting Term Lenders, the DIP Term Lenders, or the Exit Term Loan

Stroock & Stroock & Lavan LLP  
180 Maiden Lane  
New York, New York 10038  
Attn: Jayme Goldstein, Esq.  
Daniel Ginsberg, Esq.  
Matthew Garofalo, Esq.  
Telephone: (212) 806-5400  
Facsimile: (212) 806-6006  
Email: jgoldstein@stroock.com  
dginsberg@stroock.com  
mgarofalo@stroock.com

-and-

Young Conaway Stargatt & Taylor LLP  
1000 N. King Street  
Rodney Square  
Wilmington, Delaware 19801  
Attn: Matthew B. Lunn, Esq.  
Telephone: (302) 571-6600  
Facsimile: (302) 571-1253  
Email: mlunn@ycst.com

After the Effective Date, the Debtors have authority to send a notice to Entities providing 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 Debtors and the Reorganized Debtors, as applicable, are authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have filed such renewed requests.

12.18. *Reservation of Rights.*

The Plan shall have no force or effect unless and until entry by the Bankruptcy Court of 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 any 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 any Debtor with respect to the holders of Claims or Interests prior to the Effective Date.

*[THE REMAINDER OF THIS PAGE INTENTIONALLY WAS LEFT BLANK]*

Dated: March 26, 2018

Respectfully submitted,

VELOCITY HOLDING COMPANY, INC., *et al.*  
on behalf of itself and all other Debtors

By: /s/ Anthony Flanagan  
Name: Anthony Flanagan  
Title: Chief Restructuring Officer

**EXHIBIT B**

**Opt-In Distribution Election Form**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

VELOCITY HOLDING COMPANY, INC., *et al.*,<sup>1</sup>  
Debtors.

Chapter 11

Case No. 17-12442 (KJC)

(Jointly Administered)

**NOTICE OF OPT-IN DISTRIBUTION ELECTION PROCEDURES  
PURSUANT TO THE JOINT CHAPTER 11 PLAN OF REORGANIZATION  
OF VELOCITY HOLDING COMPANY, INC. AND ITS AFFILIATED DEBTORS**

**AS DESCRIBED BELOW, YOU WILL BE DEEMED TO HAVE CONSENTED TO THE  
RELEASES SET FORTH IN SECTION 10.6 OF THE PLAN IF YOU MAKE AN OPT-IN  
DISTRIBUTION ELECTION.**

**PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS FOR  
COMPLETING FORMS CAREFULLY *BEFORE* COMPLETING THIS FORM.**

**IN ORDER FOR YOUR ELECTION TO BE COUNTED, THIS FORM  
MUST BE COMPLETED, EXECUTED, AND RETURNED SO AS TO BE  
ACTUALLY RECEIVED BY THE REORGANIZED DEBTORS BY \_\_\_\_\_, 2018, AT 4:00  
P.M. PREVAILING EASTERN TIME (THE "ELECTION DEADLINE") IN  
ACCORDANCE WITH THE FOLLOWING:**

Pursuant to the *Joint Chapter 11 Plan of Reorganization of Velocity Holding Company, Inc. and its Affiliated Debtors* (as may be amended from time to time, the "Plan"), Holders of Class 5 General Unsecured Claims ("Class 5 Claimants") and Holders of Class 4 Second Lien Term Loan Claims (other than Holders who are a Consenting Term Lender or an Affiliate of a Consenting Term Lender) ("Class 4 Claimants") are entitled to make an Opt-In Distribution Election if they choose to do so. The Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") has confirmed the Plan by entry of an order on \_\_\_\_\_, 2018 (the

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Velocity Holding Company, Inc. (1790); Velocity Pooling Vehicle, LLC (4630); Ed Tucker Distributor, Inc. (9197); Ralco Holdings, Inc. (0707); Rally Holdings, LLC (0707); Tucker Rocky Corporation (5967); Tucker-Rocky Georgia, LLC (8121); Motorsport Aftermarket Group, Inc. (0080); DFR Acquisition Corp. (4542); J&P Cycles, LLC (2512); Kuryakyn Holdings, LLC (2341); MAG Creative Group, LLC (4754); MAGNET Force, LLC (2635); Motorcycle Superstore, Inc. (1046); Motorcycle USA LLC (8994); Mustang Motorcycle Products, LLC (3660); Performance Machine, LLC (3924); Renthal America, Inc. (3827); and V&H Performance, LLC (2802). The location of the Debtors' service address is 651 Canyon Drive, Suite 100, Coppell, Texas 75019.

“Confirmation Order”). Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan or the Confirmation Order, as applicable.

You are receiving this Opt-In Distribution Election Form (the “Election Form”) because you are a Class 4 or Class 5 Claimant as of \_\_\_\_\_, 2018 (the “Election Record Date”). Accordingly, you have a right to make an Opt-In Distribution Election.

Your rights are described in the Plan. Each Class 4 Claimant that is not also a Consenting Term Lender or an Affiliate of a Consenting Term Lender or Class 5 Claimant who makes an Opt-In Distribution Election will receive its Pro Rata share of the \$150,000 Opt-In Distribution Pool; *provided, however*, that any such Claim Holder who makes the Opt-In Distribution Election shall waive and release any and all of the portion of its Allowed Claim in excess of \$25,000; and, *provided further, however*, that any such Claim Holder who makes the Opt-In Distribution Election shall be deemed to consent to and grant the releases provided in Section 10.6(b) of the Plan (described below). Any Class 4 Claimant or Class 5 Claimant who does not make an Opt-In Distribution Election shall not receive any recovery or distribution on account of such Claims.

The Opt-In Election Distribution shall be administered by the Reorganized Debtors in accordance with the terms of the Plan. **All determinations made by the Reorganized Debtors with respect to the Opt-In Election, including determinations whether Election Forms comply with the Opt-In Election Procedures, shall be made by the Reorganized Debtors in their discretion.** The Reorganized Debtors (or such other Person designated by the Reorganized Debtors) shall be the Disbursing Agent with respect to all distributions of the Opt-In Distribution Pool. The Reorganized Debtors (or such other Person designated by the Reorganized Debtors) shall make all distributions of the Opt-In Distribution Pool within ten (10) Business Days following the Election Deadline, or as soon as reasonably practicable thereafter.

You should review the Plan before you decide whether to make an Opt-In Distribution Election. You may wish to seek legal advice concerning the Plan and the Plan’s classification and treatment of your Claim.

**Item 1.            Amount of Claim**

The undersigned hereby certifies that as of the Election Record Date, the undersigned was the holder of Class 4 Second Lien Term Loan Claims and/or Class 5 General Unsecured Claims in the following aggregate unpaid amount:

\$ \_\_\_\_\_

All of the Class 4 Second Lien Term Loan Claims and/or Class 5 General Unsecured Claims of any Class 4 Claimant or Class 5 Claimant who makes an Opt-In Distribution Election must be consolidated for purposes of the Opt-In Distribution Election. Any Class 4 Second Lien Term Loan Claims or Class 5 General Unsecured Claims in excess of \$25,000 will be reduced to \$25,000 upon making an Opt-In Distribution Election.

**Item 2.**      **Opt-In Distribution Election.**

If the holder of the Class 4 Second Lien Term Loan Claims and/or Class 5 General Unsecured Claims set forth in Item 1 does not wish to make the Opt-In Distribution Election, it does not need to submit this Election Form. **Any Class 4 Claimant or Class 5 Claimant that does not submit an Election Form will be deemed to choose *not* to make the Opt-In Distribution Election, and shall not receive any recovery or distribution on account of such Claims.**

If the holder of the Class 4 Second Lien Term Loan Claims and/or Class 5 General Unsecured Claims set forth in Item 1 chooses to make the Opt-In Distribution Election, it must so indicate by checking the following box:

☐      **I MAKE THE OPT-IN DISTRIBUTION ELECTION**

**Item 3.**      **Important information regarding the Release by Holders of Claims.** Any Class 4 Claimant or Class 5 Claimant who makes the Opt-In Distribution Election shall be deemed to grant the releases in Section 10.6(b) of the Plan, as set forth below.

**Section 10.6(b) of the Plan contains the following provision:**

As of the Effective Date, except (i) for the right to enforce the Plan or any right or obligation arising under the Restructuring Documents that remains in effect or becomes effective after the Effective Date or (ii) as otherwise expressly provided in the Plan or in the Confirmation Order, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan and the contributions of the Released Parties to facilitate and implement the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, the Released Parties shall be deemed conclusively, absolutely, unconditionally, irrevocably and forever released, and discharged by:

(1) (A) the holders of Unimpaired Claims or Unimpaired Interests; and (B) the holders of Impaired Claims or Impaired Interests except those (i) deemed to reject the Plan (provided, however, that any Holder of a Claim in Class 4 or 5 who makes the Opt-In Distribution Election shall be deemed to grant the releases provided herein) or (ii) (x) who voted to reject, or abstained from voting on, the Plan and (y) have also checked the box on the applicable ballot or notice indicating that they opt out of granting the releases provided in the Plan; provided, that, the Consenting Term Lenders may not opt out of granting the releases provided in the Plan in accordance with and subject to the terms and conditions of the Restructuring Support Agreement; provided, further, that any holder of a Class 4 Second Lien Term Loan Claim or Class 5 General Unsecured Claim who makes the Opt-In Distribution Election shall be deemed to grant the releases provided herein; and

(2) with respect to any Person in the foregoing clause (1), such Person's predecessors,

successors and assigns, Subsidiaries, Affiliates, managed accounts or funds, current or former officers, directors, principals, shareholders, members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors and other professionals, and such Person's respective heirs, executors, estates, servants and nominees solely in their capacities as such;

in each case, from any and all claims, interests or Causes of Action whatsoever, including any derivative claims asserted or assertable on behalf of a Debtor, a Reorganized Debtor, an Estate or their Affiliates, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, that such Person would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Person, based on, relating to, or in any manner arising from, in whole or in part, the Debtors, the Restructuring, the Chapter 11 Cases, the purchase, sale or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any other Released Party, the restructuring of Claims and Interests before or during the Chapter 11 Cases, the negotiation, formulation, preparation, or consummation of the Plan (including the Plan Supplement, including the transactions described in the Description of Structure), the Restructuring Support Agreement, the Restructuring Documents, or any related agreements, instruments, or other documents, the solicitation of votes with respect to the Plan, any settlement or agreement in the Chapter 11 Cases, the offer, issuance, and distribution of any securities issued or to be issued pursuant to the Plan, whether or not such distribution occurs following the Effective Date, negotiations regarding or concerning any of the foregoing, or the administration of the Plan or property to be distributed hereunder, in all cases based upon any act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date; provided, that, nothing in this Section 10.6(b) shall be construed to release the Released Parties from gross negligence, willful misconduct, or intentional fraud as determined by a Final Order.

\* \* \*

**Item 4.       Certifications.**

By signing this Election Form, the undersigned certifies to the Bankruptcy Court, the Debtors and the Reorganized Debtors that:

- (a) as of the Election Record Date, either: (i) the Person is the holder of the Class 4 Second Lien Term Loan Claims and/or Class 5 General Unsecured Claims described in such Election Form; or (ii) the Person is an authorized signatory for an entity that is the holder of such Claims described in such Election Form;
- (b) the holder of any Class 5 General Unsecured Claim has consolidated all of the Class 5 General Unsecured Claims held by it (or in the case of an authorized

signatory, the holder) and made the same election with respect to all such Claims;

- (c) the Person has neither transferred nor acquired any portion of its Class 4 Second Lien Term Loan Claims and/or Class 5 General Unsecured Claims following the Election Record Date; and
- (d) no other Election Forms with respect to the Second Lien Term Loan Claims and/or Class 5 General Unsecured Claims identified in such Election Form have been submitted or, if any other Election Forms have been submitted with respect to such Second Lien Term Loan Claims and/or Class 5 General Unsecured Claims, then any such earlier Election Forms are thereby revoked;
- (e) such holder agrees to the waiver of any portions of such holder's Allowed Claim in excess of \$25,000 and such holder is thereafter forever barred, estopped and enjoined from asserting claims against the Debtors or Reorganized Debtors arising from or related to such holder's Allowed Claim; and
- (f) such holder agrees to grant the releases set forth in section 10.6(b) of the Plan.

Name of Holder:	_____
	(Print or Type)
Signature:	_____
Name of Signatory:	_____
	(If other than holder)
Title:	_____
Address:	_____
	_____
	_____
Telephone Number:	_____
Email:	_____
Date Completed:	_____

**PLEASE COMPLETE, SIGN, AND DATE THIS ELECTION FORM AND RETURN IT (WITH AN ORIGINAL SIGNATURE) *PROMPTLY* VIA EITHER:**

- (A) FIRST CLASS MAIL (IN THE ENCLOSED REPLY ENVELOPE PROVIDED) TO:**

**Velocity Holding Company, Inc.  
Attn: Chief Financial Officer  
651 Canyon Drive, Suite 100  
Coppell, Texas 75019;**

***OR***

- (B) OVERNIGHT COURIER OR HAND DELIVERY TO:**

**Velocity Holding Company, Inc.  
Attn: Chief Financial Officer  
651 Canyon Drive, Suite 100  
Coppell, Texas 75019**

**IN ORDER FOR YOUR ELECTION TRANSMITTED BY THIS ELECTION FORM TO BE EFFECTIVE, IT MUST BE *ACTUALLY RECEIVED* BY THE REORGANIZED DEBTORS ON OR BEFORE \_\_\_\_\_, 2018, AT 4:00 P.M. PREVAILING EASTERN TIME.**