

**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)

**SOLICITATION AND VOTING PROCEDURES**

**PLEASE TAKE NOTICE THAT** on February 14, 2018, the United States Bankruptcy Court for the District of Delaware (the “Court”) entered an order (the “Disclosure Statement Order”): (a) authorizing Velocity Holding Company, Inc. and its affiliated debtors and debtors in possession (collectively, the “Debtors”), to solicit acceptances for the *Joint Chapter 11 Plan of Reorganization of Velocity Holding Company, Inc. and its Affiliated Debtors* (as modified, amended, or supplemented from time to time, the “Plan”);<sup>2</sup> (b) approving the *Disclosure Statement for the Joint Chapter 11 Plan of Reorganization of Velocity Holding Company, Inc. and its Affiliated Debtors* (as approved, the “Disclosure Statement”) as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code; (c) approving the solicitation materials and documents to be included in the solicitation packages (the “Solicitation Packages”); and (d) approving procedures for soliciting, receiving, and tabulating votes on the Plan and for filing objections to the Plan.

**A. The Voting Record Date.**

The Court has approved **February 14, 2018** as the record date for purposes of determining which holders of Claims in Class 3 (First Lien Term Loan Claims) are entitled to vote on the Plan (the “Voting Record Date”).

**B. The Voting Deadline.**

The Court has approved **March 21, 2018, at 4:00 p.m.**, prevailing Eastern Time, as the

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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.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Plan.

voting deadline (the “Voting Deadline”) for the Plan. The Debtors may extend the Voting Deadline, in their discretion and with the consent of the Requisite Consenting Term Lenders, without further order of the Court. To be counted as votes to accept or reject the Plan, all ballots (“Ballots”) must be properly executed, completed, and delivered by: (1) first class mail (using the reply envelope provided in the Solicitation Package or otherwise); (2) overnight courier; (3) personal delivery; or (4) electronic mail via VelocityVote@DonlinRecano.com with “Velocity Vote” on the subject line so that they are actually received, in any case, no later than the Voting Deadline by the Notice and Claims Agent. All Ballots sent by **first class mail** should be sent to: Donlin, Recano & Company, Inc., *Re: Velocity Holding Company, Inc., et al.*, Attn: Voting Department, PO Box 192016, Blythebourne Station, Brooklyn, NY 11219. All Ballots sent by **overnight courier** or by **personal delivery** should be sent to: Donlin, Recano & Company, Inc., *Re: Velocity Holding Company, Inc., et al.*, Attn: Voting Department, 6201 15th Ave, Brooklyn, NY 11219. Delivery of a Ballot to the Notice and Claims Agent by facsimile or any other electronic means (other than by email as expressly provided herein) shall not be valid.

### **C. Form, Content, and Manner of Notices.**

#### **1. The Solicitation Package.**

The following materials shall constitute the solicitation package (the “Solicitation Package”):

- a. a copy of these Solicitation and Voting Procedures;
- b. the *Notice of Hearing to Consider Confirmation of the Chapter 11 Plan Filed By the Debtors and Related Voting and Objection Procedures*, in substantially the form annexed as **Schedule 8** to the Disclosure Statement Order (the “Confirmation Hearing Notice”);
- c. a cover letter, in substantially the form annexed as **Schedule 7** to the Disclosure Statement Order describing the contents of the Solicitation Package and urging the holders of Claims in the Voting Class to vote to accept the Plan;
- d. the form of Ballot, in substantially the form annexed as **Schedule 4** to the Disclosure Statement Order;
- e. the approved Disclosure Statement annexed as **Schedule 2** to the Disclosure Statement Order (and exhibits thereto, including the Plan); and
- f. any additional documents that the Court has ordered to be made available.

#### **2. Distribution of the Solicitation Package.**

The Solicitation Package shall provide the Plan, the Disclosure Statement, and the Disclosure Statement Order (without exhibits except these Solicitation and Voting Procedures) in electronic format (i.e., CD-ROM or flash drive format), and all other contents of the Solicitation

Package, including Ballots, shall be provided in paper format. Any party that receives the materials in electronic format but would prefer paper format may contact Donlin, Recano & Company, Inc. (the “Notice and Claims Agent”) by: (a) calling the Debtors’ restructuring hotline at 800-581-5607 (toll free) or 212-771-1128 (international); (b) visiting the Debtors’ restructuring website at: <https://www.donlinrecano.com/Clients/vhc/Index>; (c) writing to Donlin, Recano & Company, Inc., *Re: Velocity Holding Company, Inc., et al.*, Attn: Voting Department, PO Box 192016, Blythebourne Station, Brooklyn, NY 11219 (**first class mail**) or Donlin, Recano & Company, Inc., *Re: Velocity Holding Company, Inc., et al.*, Attn: Voting Department, 6201 15th Ave, Brooklyn, NY 11219 (**hand delivery or overnight mail**); and/ or (d) emailing [VelocityVote@donlinrecano.com](mailto:VelocityVote@donlinrecano.com) and request paper copies of the corresponding materials previously received in electronic format (to be provided at the Debtors’ expense).

The Debtors shall serve, or cause to be served, all of the materials in the Solicitation Package on the U.S. Trustee (except the Ballot). In addition, the Debtors shall mail, or cause to be mailed, the Solicitation Package to all holders of Claims in the Voting Class on or before February 21, 2018, who are entitled to vote, as described in section D below.

To avoid duplication and reduce expenses, the Debtors will make every reasonable effort to ensure that any holder of a Claim who has filed duplicative Claims against a Debtor (whether against the same or multiple Debtors) that are classified under the Plan in the same Voting Class receives no more than one Solicitation Package (and, therefore, one Ballot) on account of such Claim and with respect to that Class as against that Debtor.

### **3. Non-Voting Status Notices for Unimpaired Classes and Classes Deemed to Reject the Plan.**

Certain Holders of Claims and Interests that are not classified in accordance with section 1123(a)(1) of the Bankruptcy Code or who are not entitled to vote because they are Unimpaired or otherwise presumed to accept the Plan under section 1126(f) of the Bankruptcy Code will receive only the *Non-Voting Status Notice for Unimpaired Claims Conclusively Presumed to Accept the Plan*, substantially in the form annexed as **Schedule 5** to the Disclosure Statement Order. Such notice will instruct these holders as to how they may obtain copies of the documents contained in the Solicitation Package (excluding Ballots). Certain holders of Claims and Interests who are not entitled to vote because they are deemed to reject the Plan under section 1126(g) of the Bankruptcy Code will receive the *Non-Voting Status Notice to Holders of Impaired Claims and Equity Interests Deemed to Reject the Plan*, substantially in the form annexed as **Schedule 6** to the Disclosure Statement Order. Such notice will instruct these holders as to how they may obtain copies of the documents contained in the Solicitation Package (excluding Ballots). In addition, holders of Claims and Interests in the classes deemed to reject the Plan will also receive the Disclosure Statement (together with the Plan attached as **Exhibit A** thereto).

### **4. Notices in Respect of Executory Contracts and Unexpired Leases.**

Counterparties to Executory Contracts and Unexpired Leases that receive an *Assumption Notice or a Rejection Notice*, substantially in the forms attached as **Schedule 10** and **Schedule 11** to the Disclosure Statement Order, respectively, may file an objection to the Debtors’

proposed assumption, rejection, and/or cure amount, as applicable. Such objections must be ***actually received*** by the following parties on or before **March 21, 2018 at 4:00 p.m.**, prevailing Eastern Time: (i) counsel to the Debtors, Proskauer Rose LLP, 70 West Madison, Suite 3800, Chicago, Illinois 60602, Attn: Jeff J. Marwil, Paul V. Possinger, Christopher M. Hayes and Jeremy D. Webb; (ii) co-counsel to the Debtors, Cole Schotz P.C., 500 Delaware Avenue, Suite 1410, Wilmington, DE 19801, Attn: Norman L. Pernick and Patrick J. Reilley; (iii) counsel to the ad hoc group of first lien term lenders and term DIP lenders, Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, NY 10038, Attn: Jayme T. Goldstein, Daniel P. Ginsberg, and Matthew Garofalo, and Young Conaway Stargatt & Taylor LLP, 1000 N. King Street, Rodney Square, Wilmington, DE 1980, Attn: Matthew B. Lunn; (iv) the Office of the United States Trustee for the District of Delaware, Caleb Boggs Federal Building, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda J. Casey; and (v) counsel to the official committee of unsecured creditors, Foley & Lardner LLP, 3000 K Street, N.W., Suite 600, Washington, D.C. 20007-5109, Attn: Erika L. Morabito and Brittany J. Nelson, and Foley & Lardner LLP, 321 North Clark Street, Suite 2800, Chicago, IL 60654, Attn: Michael J. Small and Lars A. Peterson, and Whiteford, Taylor & Preston LLC, The Renaissance Center, 405 North King Street, Suite 500, Wilmington, DE 19801, Attn: Christopher M. Samis and L. Katherine Good.

**D. Voting and Tabulation Procedures.**

**1. Holders of Claims Entitled to Vote.**

Only holders of Class 3 Claims holding such Claims as of the Voting Record Date, as evidenced by the applicable records held by the First Lien Term Loan Agent and provided to the Debtors no later than two (2) business days following the Voting Record Date, shall be entitled to vote to accept or reject the Plan.

**2. Establishing Claim Amounts for Voting Purposes.**

**Class 3 Claims.** The Claim amount of Class 3 Claims for voting purposes only will be established based on the amount of the applicable positions held by such Class 3 Claim holder, as of the Voting Record Date, as evidenced by the applicable records provided by the First Lien Term Loan Agent in electronic Microsoft Excel format to the Debtors or the Notice and Claims Agent no later than two (2) business days following the Voting Record Date.

**3. Voting and Ballot Tabulation Procedures.**

The following voting procedures and standard assumptions shall be used in tabulating Ballots, subject to the Debtors' right to waive any of the below specified requirements for completion and submission of Ballots so long as such requirement is not otherwise required by the Bankruptcy Code, Bankruptcy Rules, or Local Rules:

- a. except as otherwise provided in the Solicitation and Voting Procedures, unless the Ballot being furnished is timely submitted on or prior to the Voting Deadline (as the same may be extended by the Debtors upon the consent of the Requisite Consenting Term Lenders), the Debtors shall

reject such Ballot as invalid and, therefore, shall not count it in connection with Confirmation of the Plan;

- b. the Notice and Claims Agent will date-stamp all Ballots when received. The Notice and Claims Agent shall retain the original Ballots and an electronic copy of the same for a period of one year after the Effective Date of the Plan, unless otherwise ordered by the Court;
- c. consistent with the requirements of Local Rule 3018-1, the Debtors will file with the Court by March 26, 2018 at 12:00 p.m. (Eastern Time) a voting report (the “Voting Report”). The Voting Report shall, among other things, delineate every Ballot that does not conform to the voting instructions or that contains any form of irregularity including, but not limited to, those Ballots identified in paragraph 3.o herein and those Ballots that are late or (in whole or in material part) illegible, unidentifiable, lacking signatures or lacking necessary information, received via facsimile or damaged (“Irregular Ballots”). The Voting Report shall indicate the Debtors’ intentions with regard to each Irregular Ballot;
- d. the method of delivery of Ballots to be sent to the Notice and Claims Agent is at the election and risk of each holder, and except as otherwise provided, a Ballot will be deemed delivered only when the Notice and Claims Agent actually receives the executed Ballot;
- e. an executed Ballot is required to be submitted by the Entity submitting such Ballot. Delivery of a Ballot to the Notice and Claims Agent by facsimile, or any electronic means other than as expressly approved by the Disclosure Statement Order or these Solicitation and Voting Procedures will not be valid;<sup>3</sup>
- f. no Ballot should be sent to the Debtors, the Debtors’ agents (other than the Notice and Claims Agent) or the Debtors’ financial or legal advisors, and if so sent will not be counted;
- g. if multiple Ballots are received from the same holder with respect to the same Claim prior to the Voting Deadline, the last properly executed Ballot timely received will be deemed to reflect that voter’s intent and will supersede and revoke any prior received Ballot;
- h. holders must vote all of their Claims either to accept or reject the Plan and may not split any votes between different Debtors. To the extent there are multiple Claims within the same Class, the applicable Debtor may, in its

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<sup>3</sup> For the avoidance of doubt, a Ballot may be submitted via electronic mail to the Notice and Claims Agent at [VelocityVote@donlinrecano.com](mailto:VelocityVote@donlinrecano.com) with “Velocity Vote” on the subject line.

discretion and upon consent of the Requisite Consenting Term Lenders, aggregate the Claims of any particular holder within a Class for the purpose of counting votes;

- i. a person signing a Ballot in its capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation, or otherwise acting in a fiduciary or representative capacity of a holder of Claims must indicate such capacity when signing;
- j. the Debtors, subject to a contrary order of the Court, may waive any defects or irregularities as to any particular Irregular Ballot at any time, either before or after the close of voting, and any such waivers will be documented in the Voting Report;
- k. neither the Debtors nor any other Entity will be under any duty to provide notification of defects or irregularities with respect to delivered Ballots other than as provided in the Voting Report, nor will any of them incur any liability for failure to provide such notification;
- l. unless waived or as ordered by the Court, any defects or irregularities in connection with deliveries of Ballots must be cured prior to the Voting Deadline or such Ballots will not be counted;
- m. in the event a designation of lack of good faith is requested by a party in interest under section 1126(e) of the Bankruptcy Code, the Court will determine whether any vote to accept and/or reject the Plan cast with respect to that Claim will be counted for purposes of determining whether the Plan has been accepted and/or rejected;
- n. subject to any order of the Court, the Debtors reserve the right to reject any and all Ballots not in proper form, the acceptance of which, in the opinion of the Debtors, would not be in accordance with the provisions of the Bankruptcy Code or the Bankruptcy Rules; *provided* that any such rejections will be documented in the Voting Report;
- o. the following Ballots shall not be counted in determining the acceptance or rejection of the Plan: (i) any Ballot that is illegible or contains insufficient information to permit the identification of the holder of such Claim; (ii) any Ballot cast by any Entity that does not hold a Claim in a Voting Class; (iii) any Ballot cast for a Claim scheduled as unliquidated, contingent, or disputed for which no Proof of Claim was timely filed by the Voting Record Date; (iv) any unsigned Ballot or Ballot lacking an original signature (for the avoidance of doubt, a Ballot submitted via electronic mail in accordance with these procedures shall be deemed an original signature); (v) any Ballot not marked to accept or reject the Plan or marked both to accept and reject the Plan; and (vi) any Ballot submitted

by any Entity not entitled to vote pursuant to the procedures described herein;

- p. after the Voting Deadline, no Ballot may be withdrawn or modified without the prior written consent of the Debtors or order of the Court; and
- q. in the event that (i) a Ballot, (ii) a group of Ballots within a Voting Class received from a single creditor, or (iii) a group of Ballots received from the various holders of multiple portions of a single Claim partially reject and partially accept the Plan, such Ballots shall not be counted.

**E. Amendments to the Plan and Solicitation and Voting Procedures.**

The Debtors reserve the right to make non-substantive or immaterial changes, consistent with the Disclosure Statement Order and the Restructuring Support Agreement, to the Disclosure Statement, Plan, Ballots, Confirmation Hearing Notice, and related documents without further order of the Court, including, without limitation, changes to correct typographical and grammatical errors, if any, with the consent of the Requisite Consenting Term Lenders, and to make conforming changes among the Disclosure Statement, the Plan, and any other materials in the Solicitation Package before their distribution.

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