

**EXHIBIT A**

**Settlement Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

In re:  CAFE HOLDINGS CORP. <i>et al.</i> , <sup>1</sup>  Debtors.	Chapter 11  Case No. 18-05837 (hb)  Jointly Administered
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**ORDER GRANTING DEBTORS' MOTION FOR  
ENTRY OF AN ORDER APPROVING GLOBAL SETTLEMENT**

Upon consideration of the *Debtors' Motion for Entry of an Order Approving Global Settlement* (the "**Motion**")<sup>2</sup> of the above captioned debtors and debtors in possession (collectively, the "**Debtors**"); and the Court having reviewed the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all the proceedings had before the Court; and after due deliberation thereon; and good and sufficient cause appearing therefore; it is hereby

**ORDERED, ADJUDGED AND DECREED THAT:**

1. The Motion is GRANTED as set forth herein.

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Cafe Holdings Corp. (7910); Cafe Enterprises, Inc. (4946); CE Sportz LLC (2009); and CES Gastonia LLC (0863). The location of the Debtors' corporate headquarters is 4324 Wade Hampton Blvd., Suite B, Taylors, South Carolina 29687.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

2. All objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are overruled on the merits and denied with prejudice.

3. The Term Sheet attached to this Order as **Exhibit 1** is approved in its entirety and shall be effective according to its terms as if set forth fully in this Order.

4. The Release Agreement attached to this Order as **Exhibit 2** is approved in its entirety and shall be effective according to its terms as if set forth fully in this Order.

5. The Debtors are hereby authorized and directed to perform their obligations arising under the Term Sheet and this Order.

6. The Debtors, the Committee, and the DIP Secured Parties are authorized to take such steps as may be necessary or appropriate in order to implement the terms of the Term Sheet and this Order.

7. This Order and the Term Sheet shall be binding upon the Debtors, the DIP Secured Parties, and the Committee.

8. To the extent applicable, the 14-day stay to effectiveness of this Order provided by Bankruptcy Rule 6004(h) is waived and this Order shall be effective and enforceable immediately upon entry.

9. To the extent allowed by applicable law, this Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the implementation, interpretation, or enforcement of this or any other Order of this Court entered in the Chapter 11 Cases.

AND IT IS SO ORDERED.

**EXHIBIT 1**

**Term Sheet**

***In re Café Holdings Corp., et al.***  
**Term Sheet for Global Resolution of Cases**

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*The terms outlined below (this “Term Sheet”) are the terms and conditions for a global resolution of the Debtors’ Chapter 11 bankruptcy cases. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the proposed Final Order (1) Authorizing the Debtors to Obtain Post-Petition Financing, Granting Senior Post-Petition Security Interests and According Superpriority Administrative Expense Status Pursuant to Sections 364(c) and 364(d) of the Bankruptcy Code, (2) Authorizing the Use of Cash Collateral, (3) Granting Adequate Protection, (4) Modifying the Automatic Stay, and (5) Granting Related Relief (the “Final DIP Order”).*

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**Parties to Term Sheet:**

Cafe Enterprises, Inc., CE Sportz LLC, CES Gastonia LLC and Cafe Holdings Corp. (collectively, the “Debtors”);

Atalaya Administrative LLC (the “DIP Agent”), ACM Fatz VII LLC (the “DIP Lender” or “Stalking Horse Bidder” and collectively, with the DIP Agent, the “DIP Secured Parties”); and

The Official Committee of Unsecured Creditors (the “Committee”).

**Final DIP Order:**

The Committee shall withdraw its objection and support the entry of the Final DIP Order as proposed by the Debtors and the DIP Secured Parties to the extent the Final DIP Order is consistent with the terms of this Term Sheet.

**Challenge Period:**

In connection with its support of the Final DIP Order, the Committee shall agree to the termination of the Challenge Period.

**363 Sale:**

The Stalking Horse Bidder shall modify its Stalking Horse bid to be consistent with the terms of this Term Sheet. The Committee shall support the entry of the Sale Procedure Order and the current sale timelines set forth therein. The Committee shall also support the entry of a Sale Order authorizing the sale of the Debtors’ assets to the Stalking Horse Bidder (or such other Winning Bidder) to the extent consistent with the terms of this Term Sheet.

The Acquired Assets under the APA shall include Avoidance Actions and all other claims or causes of action under any other provision of the Bankruptcy Code or applicable laws, including, without limitation, all actions relating to the Debtors’ vendors, service providers, and landlords; provided that, upon the Sale closing, neither the Stalking Horse Bidder, nor any Person claiming by, through or on behalf of the Stalking Horse Bidder (including, but not limited to, by operation of law, sale, assignment, conveyance or otherwise) shall (x) assert, pursue, prosecute, litigate, institute or commence an action based on the

Avoidance Actions, or (y) assert, sell, convey, assign or file any Avoidance Actions, or (z) assert or use any such Avoidance Actions for defensive purposes.

- Employment Causes of Action:** The Acquired Assets under the APA shall include Employment Causes of Action; provided, however, that upon the Sale closing, neither the Stalking Horse Bidder, nor any Person claiming by, through or on behalf of the Stalking Horse Bidder (including, but not limited to, by operation of law, sale, assignment, conveyance or otherwise) shall assert, pursue, prosecute, litigate, institute or commence an action based on the Employment Causes of Action, other than Employment Causes of Action based upon fraud, theft, or willful misconduct, regardless of whether such Employment Cause of Action may be or is covered by a policy of insurance, a third-party payor or otherwise.
- Confidentiality Policy:** The Stalking Horse Bidder (or such other Winning Bidder) shall agree to be bound by the Debtors' existing confidentiality policy for the protection of customer information.
- Stub Rent:** The DIP Secured Parties shall provide sufficient DIP Advances to pay all allowed stub rent claims in full.
- 503(b)(9) Claims:** The DIP Secured Parties shall provide sufficient DIP Advances to pay all allowed claims under Bankruptcy Code section 503(b)(9).
- D&O Tail Policy:** The DIP Secured Parties shall provide sufficient DIP Advances for the Debtors to retain "D&O" tail coverage of at least six years under the Debtors' current D&O liability policy, or substantially similar coverage from the same or different insurance provider. The retention of the D&O tail coverage shall be a condition precedent to the closing of the Sale.
- Executive Bonus Compensation Plan:** On or before the closing of the Sale, the DIP Secured Parties shall deposit into escrow sufficient DIP Advances to fund the amount of payments to be made under the Executive Bonus Compensation Plan on the Sale closing date. The funding of the Executive Bonus Compensation Plan shall be a condition precedent to the closing of the Sale.
- Administrative Claims:** The DIP Secured Parties shall provide sufficient DIP Advances for the Debtors to pay all allowed administrative claims set forth in the Budget, including but not limited to, the allowed fees and expenses of the Chapter 11 Professionals.
- Committee's Professional Fees:** The Budget line item for Professional Fees for the Committee shall be increased to \$300,000.
- Professional Fee Escrow:** Contemporaneous with the closing of the Sale, an interest-

bearing account shall be established by the Debtors to hold an amount equal to the Professional Fee Escrow Amount. At the Sale closing, the DIP Secured Parties shall fund the Professional Fee Escrow with cash in an amount equal to the Professional Fee Escrow Amount.

**U.S. Trustee Fees and Court Costs:**

The DIP Secured Parties shall provide sufficient DIP Advances to pay all unpaid, postpetition fees and expenses of the Clerk of the Court and the U.S. Trustee pursuant to 28 U.S.C. § 1930(a) in such amount, with respect to the U.S. Trustee, as agreed to by the U.S. Trustee or as determined by the Court.

**Settlement Motion and Mutual Releases:**

The Debtors, the DIP Secured Parties, and the Committee agree to each use their commercially reasonable best efforts to memorialize the terms of this Term Sheet, and seek Bankruptcy Court approval of such terms, through a compromise and settlement motion filed pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedures (the “**9019 Motion**”). The 9019 Motion shall include a broad and comprehensive mutual release of all claims.

**Dismissal of Cases:**

The Debtors, the DIP Secured Parties, and the Committee agree to each use their commercially reasonable best efforts to seek and support a dismissal of the Debtors’ bankruptcy cases.

**Other Definitions:**

**“363 Sale”** means the sale of all or substantially all of the assets of the Debtors under Section 363 of the Bankruptcy Code.

**“APA”** means the asset purchase agreement executed by and among Café Holdings Corp., the Subsidiaries of Café Holdings Corp., and the Winning Bidder for the sale of substantially all of the Debtors’ assets on terms and conditions satisfactory to the DIP Agent and the Committee.

**“Auction”** means an auction held in connection with the 363 Sale and in accordance with the provisions set forth in the Sale Procedure Order.

**“Avoidance Actions”** means all causes of action for the avoidance of any preferential transfer or fraudulent conveyance arising under Sections 544, 547, 548, 549, or 550 of the Bankruptcy Code or any analogous or similar state or federal law.

**“Bankruptcy Code”** means Title 11 of the United States Code (11 U.S.C. § 101 et seq.), as amended.

**“Bankruptcy Court”** means the United States Bankruptcy Court for the District of South Carolina presiding over the Chapter 11 Cases.

**“Budget”** means the budget of the Debtors relative to the operations of the Debtors in the Chapter 11 Cases for any fiscal period, as delivered to the DIP Agent in form and substance satisfactory to the DIP Agent. The Budget may be amended from time to time as may be agreed to by the DIP Agent, in writing, in its sole discretion.

**“Chapter 11 Cases”** means the voluntary Chapter 11 cases commenced by the Debtors in the Bankruptcy Court.

**“Employment Causes or Action”** means any rights, demands, claims, causes of action against any employee, officer, or director of the Debtors.

**“Executive Bonus Compensation Plan”** means a bonus compensation plan for the Debtors’ executives and senior management, in form and substance satisfactory to the DIP Agent, that has been approved by the DIP Agent and the Debtors in writing.

**“Petition Date”** means the date on which the Chapter 11 Cases for the Debtors were commenced.

**“Professional Fee Escrow Amount”** means the aggregate amount of accrued and unpaid fees and expenses of the Chapter 11 Professionals, such amounts not to exceed the amounts set

forth in the Budget.

“**Sale**” means a sale of all or substantially all of the Debtors’ assets.

“**Sale Order**” means the order entered by the Bankruptcy Court in form and substance satisfactory to the DIP Agent, the Stalking Horse Bidder, the Debtors, and the Committee that, among other things, approves the 363 Sale, the results of the Auction (if applicable) and the Winning Bidder’s bid.

“**Sale Procedure Order**” means an order in form and substance satisfactory to the DIP Agent approving the bidding procedures to be applicable to the 363 Sale.

“**Winning Bidder**” means the bidder that makes the highest or best bid for substantially all of the Debtors’ assets.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first set forth above.

**DEBTORS:**

**CAFE HOLDINGS CORP.**

By: \_\_\_\_\_  
Name:  
Title:

**CAFE ENTERPRISES, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**CE SPORTZ LLC**

BY: CAFE ENTERPRISES, INC.  
ITS: SOLE MEMBER

By: \_\_\_\_\_  
Name:  
Title:

**CES GASTONIA LLC**

BY: CE SPORTZ LLC  
ITS: SOLE MEMBER

By: \_\_\_\_\_  
Name:  
Title:

**DIP AGENT:**

**ATALAYA ADMINISTRATIVE LLC**

By: \_\_\_\_\_  
Name:  
Title:

**DIP LENDER:**

**ACM FATZ VII LLC**

By: \_\_\_\_\_  
Name:  
Title:

**THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS**

By: \_\_\_\_\_  
Name: STORE Master Funding V, LLC  
Title: Solely in its capacity as Chair of the Official  
Committee of Unsecured Creditors of Cafe  
Enterprises, Inc., *et al.*, and not in any other  
capacity.

**EXHIBIT 2**

**Release Agreement**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

In re:

CAFE HOLDINGS CORP. *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 18-05837 (hb)

Jointly Administered

**RELEASE AGREEMENT**

This release agreement (the “**Release Agreement**”) is made by and among the above-captioned debtors and debtors-in-possession (collectively, the “**Debtors**”), the Official Committee of Unsecured Creditors (the “**Committee**”), Atalaya Administrative LLC (the “**DIP Agent**”), and ACM Fatz VII LLC (the “**DIP Lender**” or “**Stalking Horse Bidder**” and collectively with the DIP Agent, the “**DIP Secured Parties**”) (collectively, the “**Parties**”). The Parties hereby agree as follows:

**RECITALS**

**WHEREAS** on November 15, 2018 (the “**Petition Date**”), the Debtors each filed a voluntary petition for relief (collectively, the “**Chapter 11 Cases**”) under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of South Carolina (the “**Bankruptcy Court**”);

**WHEREAS** on January 15, 2019, the Debtors filed the *Debtors’ Motion for Entry of an Order Approving Global Settlement* (the “**Settlement Motion**”) in which they sought entry of an

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Cafe Holdings Corp. (7910); Cafe Enterprises, Inc. (4946); CE Sportz LLC (2009); and CES Gastonia LLC (0863). The location of the Debtors’ corporate headquarters is 4324 Wade Hampton Blvd., Suite B, Taylors, South Carolina 29687.

order approving a global compromise of controversies (the “**Global Settlement**”) in accordance with the term sheet (the “**Term Sheet**”) attached to the Motion as **Exhibit 1**;

**WHEREAS** after substantial analysis and following good faith, arms-length negotiations among the Parties, the Parties determined that a sale of the Debtors’ assets within the framework set forth in the Global Settlement embodied in the Term Sheet would be the best means to achieve a resolution of open issues in the Chapter 11 Cases;

**WHEREAS** pursuant to the Term Sheet, the Parties agreed to exchange broad and comprehensive releases in favor of each other;

**NOW THEREFORE**, in light of the foregoing, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged, it is hereby agreed by the Parties as follows:

1. In consideration of the premises contained herein and in the Settlement Motion and the Term Sheet, upon the occurrence of a closing of a sale of substantially all of the Debtors’ assets (the “**Closing**”) (and subject to the occurrence of such Closing), the Debtors and their respective estates, the Committee, the DIP Secured Parties, and each of the afore-mentioned party’s successors and assigns (each a “**Releasing Party**” and collectively, the “**Releasing Parties**”) grant a full, complete, and unconditional release of each other Releasing Party, and each of the afore-mentioned party’s respective past, present, and future officers, members, directors, employees, controlling stockholders, partners, agents, contractors, affiliates, subsidiaries, parents, insurers, attorneys, advisors, predecessors, successors, and assigns, from any and all claims, demands, proceedings, causes of action, orders, obligations, contracts, indebtedness and liabilities whatsoever, whether known or unknown, suspected or unsuspected, both at law and in equity, which such Releasing Party now has, have ever had or may hereafter have against the respective other Releasing Parties arising contemporaneously with or prior to the Closing or on account of or

arising out of any matter, cause or event whatsoever, including any matter relating in any way to, or arising from any transaction with, or in connection to, the Debtors or their estates of whatever kind or nature; *provided, however*, that nothing contained herein shall (i) operate to release any claims against any other Releasing Party based on fraud, theft or willful misconduct; (ii) operate to release any of the Debtors' or the Stalking Horse Bidder's obligations under the asset purchase agreement governing the sale of substantially all of their assets to the Stalking Horse Bidder (or any of the Stalking Horse Bidder's successors and assigns); (iii) operate to release any of the Debtors' obligations under the postpetition financing facility provided by the DIP Lender to the Debtors, or operate to release any rights of the DIP Lender under such postpetition financing facility; (iv) operate to release any prepetition claims against the Debtors held by the DIP Lender, DIP Agent, or any affiliate thereof for amounts owed under a prepetition credit facility furnished pursuant to that certain Credit Agreement (the "**Pre-Petition Credit Agreement**"), dated as of March 21, 2014, by and between one or more of the Debtors and Atalaya Administrative LLC as agent (as successor in interest to Madison Capital Funding LLC) and the other documents relating to the Pre-Petition Credit Agreement; or (v) operate to release any claims or obligations of any of the Parties under the Global Settlement or Term Sheet governing the Global Settlement..

2. This Release Agreement contains the entire agreement between the Parties as to the subject matter hereof.

3. This Release Agreement is subject to the approval of the Bankruptcy Court.

4. Each party hereto represents and warrants to the other party hereto that, subject to paragraph 3 above, (i) it is authorized to execute this Release Agreement, (ii) this Release Agreement is duly executed and delivered by it and constitutes its valid, binding agreement in

accordance with its terms, and (iii) it has full knowledge of and has consented to this Release Agreement.

5. This Release Agreement shall not be modified, altered, amended, or vacated without the written consent of the Parties.

6. The Bankruptcy Court shall retain jurisdiction (and each party consents to retention of jurisdiction) with respect to any disputes arising from or other actions to interpret, administer, or enforce the terms and provisions of this Release Agreement.

7. This Release Agreement may be executed in one or more counterparts, by facsimile or otherwise, each of which shall be deemed an original, all of which, when taken together, shall constitute one and the same document.

8. This Release Agreement shall be deemed to have been drafted jointly by the Parties, and any uncertainty or omission shall not be construed as an attribution of drafting by any party.

*[Signature Page Follows]*

**DEBTORS:**

**CAFE HOLDINGS CORP.**

By: \_\_\_\_\_  
Name:  
Title:

**CAFE ENTERPRISES, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**CE SPORTZ LLC**

BY: CAFE ENTERPRISES, INC.  
ITS: SOLE MEMBER

By: \_\_\_\_\_  
Name:  
Title:

**CES GASTONIA LLC**

BY: CE SPORTZ LLC  
ITS: SOLE MEMBER

By: \_\_\_\_\_  
Name:  
Title:

**DIP AGENT:**

**ATALAYA ADMINISTRATIVE LLC**

By: \_\_\_\_\_  
Name:  
Title:

**DIP LENDER:**

**ACM FATZ VII LLC**

By: \_\_\_\_\_  
Name:  
Title:

**THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS**

By: \_\_\_\_\_  
Name: STORE Master Funding V, LLC  
Title: Solely in its capacity as Chair of the Official  
Committee of Unsecured Creditors of Cafe  
Enterprises, Inc., *et al.*, and not in any other  
capacity.