

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

In re:	)	
	)	Chapter 11
	)	
Klausner Lumber One LLC, ¹	)	Case No. 20-11033 (KBO)
	)	
Debtor.	)	
	)	

**DISCLOSURE STATEMENT PURSUANT TO SECTION 1125 OF THE BANKRUPTCY CODE
WITH RESPECT TO FIRST AMENDED JOINT CHAPTER 11 PLAN FOR
KLAUSNER LUMBER ONE, LLC PROPOSED BY THE DEBTOR
AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

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Dated: May 17, 2021

¹ The last four digits of the Debtor's federal EIN are 9109. The Debtor's mailing address is Klausner Lumber One LLC, P.O. Box 878, Middleburg, VA 20118.

This Disclosure Statement and its related documents are the only documents authorized by the Bankruptcy Court to be used in connection with the solicitation of votes accepting the Joint Chapter 11 Plan Proposed by the Debtor and the Creditors' Committee disclosed herein (as may be amended, the "Plan"). No representations have been authorized by the Bankruptcy Court concerning the Debtor, its business operations or the value of its assets, except as explicitly set forth in this Disclosure Statement.

This Disclosure Statement contains a summary of the Plan. This Disclosure Statement is qualified in its entirety by reference to the more detailed provisions set forth in the Plan (which is included as Exhibit A to this Disclosure Statement). In the event of a conflict between the Plan and the Disclosure Statement, the provisions of the Plan will govern. All Holders of Claims and Interests are encouraged to review the full text of the Plan and to read carefully this Disclosure Statement, including all exhibits annexed hereto, before deciding whether to vote to accept the Plan.

The statements contained in this Disclosure Statement are made as of the date hereof, and the delivery of this Disclosure Statement will not, under any circumstances, create any implication that the information contained herein is correct at any time after the date hereof.

Holders of Claims and Interests should not construe the contents of this Disclosure Statement as providing any legal, business, financial, or tax advice. Each such Holder should consult with his or her own legal, business, financial, and tax advisors as to any such matters concerning the Plan and the transactions contemplated thereby.

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**I.
INTRODUCTION**

A. General

On April 30, 2020 (the “Petition Date”), Klausner Lumber One, LLC (“KL1” or the “Debtor”) filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

The Debtor and the Official Committee of Unsecured Creditors in the Chapter 11 Case (the “Creditors’ Committee”, and together with the Debtor, the “Proponents”), jointly submit this *First Amended Disclosure Statement Pursuant to Section 1125 of the Bankruptcy Code with Respect to First Amended Joint Chapter 11 Plan for Klausner Lumber One, LLC Proposed by the Debtor and the Official Committee of Unsecured Creditors Plan* dated May 17, 2021 (the “Disclosure Statement”), pursuant to section 1125 of the Bankruptcy Code, in connection with the solicitation of acceptances or rejections of the *First Amended Joint Chapter 11 Plan for Klausner Lumber One, LLC Proposed by the Debtor and the Official Committee of Unsecured Creditors Plan*, dated May 17, 2021 (the “Plan”) from certain Holders of Claims against the Debtor. A copy of the Plan is annexed hereto as Exhibit A. All capitalized terms used in this Disclosure Statement that are not otherwise defined herein have the meanings ascribed to them in the Plan, which is incorporated by reference into this Disclosure Statement.

The Proponents urge all voting creditors, all equity holders, and all other parties in interest to read this Disclosure Statement and the Plan carefully. This Disclosure Statement does not include a description of each and every term of the Plan. Accordingly, the description of the Plan set forth herein is qualified by the entirety of the Plan.

B. Disclosure Statement Enclosures

Accompanying this Disclosure Statement are copies of:

1. The Plan.
2. A notice (the “Confirmation Hearing Notice”), including, among other things: (i) notice of the filing of the Disclosure Statement and Plan, and of approval of the Disclosure Statement; (ii) the deadline for the submission of Ballots to vote to accept or reject the Plan (the “Voting Deadline”); (iii) the deadline for filing a motion pursuant to Bankruptcy Rule 3018(a); (iv) the deadline for objecting to confirmation of the Plan and information on how to object to Confirmation of the Plan; (v) the time, date, and place of the Confirmation Hearing; (vi) information on releases and how to affirmatively opt in to the releases; and (vii) instructions on how to obtain copies of the Disclosure Statement and the Plan.
3. The *Order (I) Approving Disclosure Statement, (II) Fixing Voting Record Date, (III) Approving Solicitation Materials and Procedures for Distribution Thereof, (IV) Approving Forms of Ballots and Establishing Procedures for Voting on Plan, (V) Scheduling Hearing and Establishing Notice and Objection Procedures in Respect of Confirmation of Plan, and (VI) Granting Related Relief* [D.I. 917] (the “Disclosure Statement Order”).
4. A Ballot, with a preaddressed, postage-prepaid return envelope for creditors who may be entitled to vote to accept or reject the Plan.

II. SOME FREQUENTLY ASKED QUESTIONS

A. What is Chapter 11?

Chapter 11 is a chapter of the Bankruptcy Code permitting debtors a period of time in which to organize their affairs and to review their assets and obligations in order to reorganize or liquidate their businesses. The Debtor commenced its Chapter 11 Case on the Petition Date (April 30, 2020) by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the Bankruptcy Court.

The commencement of the Chapter 11 Case triggered the application of the “automatic stay” under section 362 of the Bankruptcy Code. The automatic stay halts, with certain exceptions, nearly all attempts to collect prepetition claims from debtors or otherwise interfere with debtors’ property.

B. What is a Plan?

A primary purpose of a chapter 11 case is to permit the formulation of a plan of reorganization or liquidation. An orderly liquidation provides for the distribution to creditors (and sometimes, equity holders) of the value achieved through the liquidation of a debtor’s assets. The Plan proposed by the Proponents provides that the Debtor’s orderly liquidation will be accomplished principally through elimination of all existing equity interests, and the distribution of cash to the Debtor’s creditors as set forth below and in the Plan.

The Plan proposed by the Proponents further provides, among other things, that after Confirmation and Consummation of the Plan, a Plan Administrator will be appointed to administer the Post-Confirmation Debtor’s liquidation and to oversee distributions to creditors, with oversight from a Plan Advisory Committee.

C. What is a Disclosure Statement?

After a plan has been proposed, the holders of claims against, or equity interests in, the debtors that are impaired by the terms of the plan and who are to receive distributions under the plan are entitled to vote on whether to accept or reject the plan. Section 1125 of the Bankruptcy Code requires the disclosure of “adequate information” to all such voting creditors and equity holders by way of a court-approved “disclosure statement” before the Debtor (or anyone else) may solicit any votes on a plan. The Bankruptcy Code provides that a disclosure statement must contain “information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records, that would enable a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgment about the plan.” Following a hearing held on May 20, 2021, this Disclosure Statement was approved by the Bankruptcy Court as containing “adequate information” in accordance with section 1125 of the Bankruptcy Code.

The Debtor presents this Disclosure Statement to the voting Holders of Allowed Claims against the Debtor in order to satisfy the disclosure requirements of the Bankruptcy Code by providing each voting Holder of an Allowed Claim with sufficient information to make an informed decision whether to accept or reject the Plan.

D. How Does One Vote?

THIS DISCUSSION OF THE SOLICITATION AND VOTING PROCESS IS ONLY A SUMMARY. PLEASE REFER TO THE DISCLOSURE STATEMENT ORDER ENCLOSED HERewith FOR A MORE COMPREHENSIVE DESCRIPTION OF THE SOLICITATION AND VOTING PROCESS.

To vote on the Plan, a Holder of an Allowed Claim in a Class that is entitled to vote on the Plan must complete the Ballot (enclosed with this Disclosure Statement) and comply with the voting instructions outlined in Section VII of this Disclosure Statement.

Pursuant to the Bankruptcy Code, only Classes of Claims and Interests that are “impaired” under the Plan may vote to accept or reject the Plan. Generally, a claim or interest is impaired under a plan if the holder’s legal, equitable, or contractual rights are changed under such plan. Holders of claims or interests that are not impaired are presumed to accept the plan. Holders of claims or interests in an impaired class that are not going to receive or retain any property under a plan on account of such claims or interests are deemed to have rejected the plan. The Bankruptcy Code defines “acceptance” of a plan by a class of claims as acceptance by creditors in that class that hold at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the claims that cast ballots for acceptance or rejection of the plan.

Under the Plan, Claims in Classes 3A, 3B, 4, 5, 6, and 7 and Interests in Class 8 are impaired.

Under the Plan, Holders of Interests in Class 8 will receive no distribution and, accordingly, such Holders are deemed to reject the Plan. Therefore, their votes are not being solicited.

Under the Plan, Claims in Classes 1A, 1B, 1C and 2 are Unimpaired, and, therefore, the Holders of Claims in Class 1A, Class 1B, Class 1C, and Class 2 are presumed to have accepted the Plan. Accordingly, a ballot to accept or reject the Plan is being provided only to Holders of Claims in Classes 3A, 3B, 4, 5, 6 and 7.

For a summary of the treatment of each Class of Claims and Interests, see the section captioned “Overview of the Plan,” below.

This Disclosure Statement, along with a Ballot or Ballots used for voting on the Plan, is being distributed to the Holders of Claims that may be entitled to vote to accept or reject the Plan.

The Bankruptcy Court has fixed the date of the Disclosure Statement Hearing as the “Voting Record Date.” Only Persons who hold Claims in Classes 3A, 3B, 4, 5, 6, and 7 on the Voting Record Date, are entitled to vote whether to accept the Plan.

Pursuant to section 502 of the Bankruptcy Code and Bankruptcy Rule 3018, the Bankruptcy Court may temporarily allow a Claim for voting or other purposes. Pursuant to the Disclosure Statement Order, voting tabulation procedures have been established, which include rules providing for the temporary allowance or disallowance of certain Claims for voting purposes only. These voting procedures, including the tabulation rules, are described in the solicitation materials provided with your Ballot.

The Ballots have been specifically designed for the purpose of soliciting votes on the Plan from Holders of Claims within Classes 3A, 3B, 4, 5, 6, and 7 who are entitled to a vote with respect

thereto. Accordingly, in voting on the Plan, please use only the Ballot sent to you with this Disclosure Statement. To be counted, please complete and sign your Ballot, and submit it so as to be received by 5:00 p.m. (Prevailing Eastern Time), on June 24, 2021 using one of the following methods:

If by Mail or Hand Delivery:

Klausner Lumber One LLC Ballot Processing Center
c/o Donlin, Recano & Company, Inc.
6201 15th Avenue
Brooklyn, NY 11219

If by Electronic, Online Submission via the Online Portal:

<https://www.donlinrecano.com/Clients/klo/vote>. Please make sure to follow the instructions on the Online Portal to submit your Ballot.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized electronic Ballot:

Unique E-Ballot ID#: _____

The Online Portal is the sole manner in which Ballots will be accepted via electronic or online transmission. Ballots submitted by facsimile, email or other means of electronic transmission will not be counted. Ballots should not be sent to the Debtors or the Bankruptcy Court

ANY BALLOTS RECEIVED AFTER THE VOTING DEADLINE WILL NOT BE COUNTED, NOR WILL ANY BALLOTS RECEIVED BY TELECOPY, FACSIMILE, OR EMAIL BE ACCEPTED. Following the Voting Deadline, the Notice and Claims Agent will prepare and file with the Bankruptcy Court a certification of the results of the balloting with respect to the Plan.

If you have any questions regarding the Ballot, did not receive a return envelope with your Ballot, did not receive an electronic copy of the Disclosure Statement and the Plan, or need physical copies of the Ballot or other enclosed materials, please contact the Debtors' solicitation and claims agent, Donlin Recano & Company, Inc. ("**DRC**"), by email at klausnerinfo@donlinrecano.com with a reference to "Klausner Lumber One" in the subject line, or via telephone at (800) 903-3727 (toll-free) or (212) 481-1411 for international callers and request to speak with a member of the solicitation team.

E. Confirmation Hearing

The Bankruptcy Court has scheduled a hearing to consider Confirmation of the Plan for **July 1, 2021 at 9:30 a.m. (Prevailing Eastern Time)**, in the United States Bankruptcy Court, 824 N. Market St., Wilmington, DE 19801 (the "**Confirmation Hearing**"). The Bankruptcy Court has directed that objections, if any, to Confirmation of the Plan be served and filed on or before **June 24, 2021 at 4:00 p.m. (ET)**, in the manner described in the Confirmation Hearing Notice accompanying this Disclosure Statement. The date of the Confirmation Hearing may be adjourned from time to time without further notice except for an in-court announcement at the Confirmation Hearing of the date and time as to which the Confirmation Hearing has been adjourned.

F. Recommendation

The Debtor and the Creditors' Committee Believe that the Plan Provides the Greatest Possible Recovery to Creditors.

The Debtor and the Creditors' Committee Urge All Creditors who are Entitled to Vote, to Vote in Favor of the Plan.

**III.
OVERVIEW OF THE PLAN**

The following is a brief summary of the treatment of Claims and Interests under the Plan. The description of the Plan set forth below constitutes a summary only. Creditors and other parties in interest are urged to review the more detailed description of the Plan contained in this Disclosure Statement and the Plan itself, which is annexed as Exhibit A to this Disclosure Statement.

Set forth below is a table summarizing the classification and treatment of Claims and Interests under the Plan and the estimated distributions to be received by the Holders of such Claims and Interests thereunder. For a more detailed analysis and summary of the estimated distributions to each Class, see the supplemental chart at Exhibit B to this Disclosure Statement (collectively with the below table, the "Distribution Summary"). Actual distributions may differ from the estimates set forth in the Distribution Summary depending on, among other things, variations in the amounts of Allowed Claims and the existence and disposition of Disputed Claims. As discussed more fully below and in the Plan, each Holder of an Allowed Unsecured Claim² shall receive its Pro Rata Share of the Class 4 Distribution Amount, Class 5 Distribution Amount, or the Class 6 Distribution Amount, as appropriate, from the Net Distribution Proceeds in accordance with the treatment provided for such Class in the Plan Support Settlement and Term Sheet.

SUMMARY OF ESTIMATED DISTRIBUTIONS UNDER THE PLAN³

Description/Classes	Estimated Allowed Amounts ⁴	Treatment under the Plan	Estimated Recovery ⁵	Impaired
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2 "Allowed Unsecured Claim" means an Allowed Claim in Class 3B (Non-WARN Act Class Settlement Claims – limited to that portion of an Allowed Non-WARN Act Settlement Claim, if any, that constitutes an Allowed General Unsecured Claim), Class 4 (FS Deficiency/Unsecured Claims), Class 5 (General Unsecured Claims), and Class 6 (Affiliate Unsecured Claim).

3 As set forth more fully below, the Distribution Summary presented herein is an estimate based on a number of significant assumptions. The Distribution Summary is not and does not purport to be a valuation of the Debtor's assets. The Distribution Summary was calculated based on a number of values, estimates and assumptions that are inherently subject to contingencies beyond the control of the Debtor or its Professionals. All numbers contained in this analysis are estimates. Accordingly, there can be no assurance that the values reflected in the Distribution Summary or recovery percentages will be realized, and actual results could vary materially from those shown in this Summary.

4 Estimates are non-binding and include certain disputed claims, the resolution of which may result in no allowed claim or allowed claims that differ from the estimates.

5 The estimated recoveries set forth in the Summary of Estimated Distributions Under the Plan are based upon estimated Net Distribution Proceeds of \$30 million.

Description/Classes	Estimated Allowed Amounts ⁴	Treatment under the Plan	Estimated Recovery ⁵	Impaired
Class 1A- Florida Sawmills (“FS”) Secured Claims	\$0.00	On or as soon as practicable after the Effective Date, each Holder of an Allowed FS Secured Claim shall receive on account of such Claim, except to the extent that any Holder of an Allowed FS Secured Claim agrees to less favorable treatment therefor, Cash equal to the amount of such Allowed FS Secured Claim.	100%	No.
Class 1B – Affiliate Secured Claims	\$0.00	On or as soon as practicable after the Effective Date, each Holder of an Allowed Affiliate Secured Claim shall receive on account of such Claim at the Debtor’s or Post-Confirmation Debtor’s exclusive election, except to the extent that any Holder of an Allowed Affiliate Secured Claim agrees to less favorable treatment therefor, either: (i) Cash equal to the amount of such Allowed Affiliate Secured Claim; (ii) the property that serves as security for such Allowed Affiliate Secured Claim; or (iii) such other treatment that shall render such Allowed Affiliate Secured Claims Unimpaired pursuant to section 1124 of the Bankruptcy Code (which may include Reinstatement). The Debtor does not believe that there are any Claims that will be Allowed Claims within this Class.	100%	No.
Class 1C – Other Secured Claims	\$0.00	On or as soon as practicable after the Effective Date, each Holder of an Allowed Other Secured Claim shall receive on account of such Claim at the Debtor’s or Post-Confirmation Debtor’s exclusive election, except to the extent that any Holder of an Allowed Other Secured Claim agrees to less favorable treatment therefor, either: (i) Cash equal to the amount of such Allowed Other Secured Claim; (ii) the property that serves as security for such Allowed Other Secured Claim; or (iii) such other treatment that shall render such Allowed Other Secured Claims Unimpaired	100%	No.

Description/Classes	Estimated Allowed Amounts ⁴	Treatment under the Plan	Estimated Recovery ⁵	Impaired
		pursuant to section 1124 of the Bankruptcy Code (which may include Reinstatement). The Debtor does not believe that there are any Claims that will be Allowed Claims within this Class.		
Class 2 – Priority Claims	\$0.00	On or as soon as practicable after the Effective Date, each Holder of an Allowed Priority Claim shall receive on account thereof payment of the full amount of such Allowed Priority Claim in Cash or in the ordinary course of business as and when due, or otherwise receive treatment consistent with the provisions of section 1129(a) of the Bankruptcy Code, except to the extent the Holder of an Allowed Priority Claim agrees to less favorable treatment.	100%	No.
Class 3A – WARN Act Class Settlement Claims	\$1,530,141	In full and complete satisfaction of its Claim, each Holder of an Allowed Warn Act Class Settlement Claim shall receive its WARN Act Pro Rata Share of the Net WARN Act Class Settlement Amount less any and all state, federal and/or other payroll tax withholdings, with such distribution to be paid as follows: (i) fifty percent (50%) of each Holder's WARN Act Pro Rata Share of the Net WARN Act Class Settlement Amount less any and all state, federal, and/or other payroll tax withholdings to be paid on or as soon as practicable after the Effective Date; and (ii) the remaining fifty percent (50%) of each Holder's WARN Act Pro Rata Share of the Net WARN Act Class Settlement Amount less any and all state, federal, and/or other payroll tax withholdings will be paid within one hundred and twenty (120) days following the initial distribution.	100%	Yes.
Class 3B – Non-WARN Act Class Settlement	\$0.00	In full and complete satisfaction of its Claim, each Holder of an Allowed Non-Warn Act Class Settlement Claim shall	100% of Allowed Priority	Yes.

Description/Classes	Estimated Allowed Amounts ⁴	Treatment under the Plan	Estimated Recovery ⁵	Impaired
Claims		receive a distribution consisting of (i) <u>on account of its Allowed Priority Wage Claim</u>, such Allowed Priority Wage Claim less any and all state, federal, and/or other payroll tax withholdings, with such distribution to be paid as follows: (x) thirty three and one-third percent (33.33%) of each Holder's Allowed WARN and/or Priority Wage Claim to be paid on or as soon practicable after the Effective Date; (y) an additional thirty three and one-third percent (33.33%) of each Holder's Allowed Priority Wage Claim to be paid within one hundred and twenty (120) days following the initial distribution; and (z) a final distribution of thirty three and one-third percent (33.33%) of each Holder's Allowed Priority Wage Claim to be paid within one hundred and eighty (180) days following the initial distribution; and (ii) <u>on account of any portion of such Allowed Claim that constitutes an Allowed General Unsecured Claim</u>, on or as soon as practicable after the Effective Date, and from time to time when practicable thereafter, its Pro Rata Share of an amount equal to the Class 5 Distribution Amount, less (aa) any and all state, federal, and/or other payroll tax withholdings, and (bb) any amounts that the Plan Administrator's in her, his, or its reasonable discretion determines to be necessary to be held to wind up the Debtor's affairs and administer the P. For the avoidance of doubt, each Holder of an Allowed Non-Warn Act Class Settlement Claim shall receive its Pro Rata Share of the Net Distribution Proceeds along with other Holders of Allowed Unsecured Claims.	Wage Claim	
Class 4 – FS Deficiency/Unsecured Claim	\$76,410,413.63	Pursuant to the Plan Settlement, on or after the Effective Date, and from time to time when practicable thereafter, each Holder of the Allowed FS	24.9%	Yes.

Description/Classes	Estimated Allowed Amounts ⁴	Treatment under the Plan	Estimated Recovery ⁵	Impaired
		Deficiency/Unsecured Claim shall receive its Pro Rata Share of the Class 4 Distribution Amount.		
Class 5 – General Unsecured Claims	\$6.3 - \$12.4 million	Pursuant to the Plan Settlement, on or as soon as practicable after the Effective Date, and from time to time when practicable thereafter, each Holder of an Allowed General Unsecured Claim shall receive its Pro Rata Share of the Class 5 Distribution Amount.	58.1% - 100%	Yes.
Class 6 – Affiliate Unsecured Claim	\$65,972,334.79	Pursuant to the Plan Settlement, on or as soon as practicable after the Effective Date, and from time to time when practicable thereafter, each Holder of an Allowed Affiliate Unsecured Claim shall receive its Pro Rata Share of the Class 6 Distribution Amount.	5.8%	Yes.
Class 7 – Subordinated Claims	\$36,546,503.70	Each Holder of an Allowed Subordinated Claim will receive its Pro Rata Share of an amount equal to the Net Distribution Proceeds remaining after satisfaction in full of all Allowed Claims in all senior classes (i.e., Classes 1, 2, 3, 4, 5, and 6).	0.00%	Yes.
Class 8 – Interests	\$0.00	All Interests shall be canceled and extinguished and shall be of no further force or effect. No Holder of Interests shall receive or retain any property under the Plan on account of such Interest.	0.00%	Yes.

The treatment and distribution provided to Holders of Allowed Claims and Interests pursuant to the Plan are in full and complete satisfaction of the Allowed Claims and Interests, as the case may be.

IV.

BACKGROUND OF THE DEBTORS AND CERTAIN EVENTS PRECEDING THE FILING OF THEIR CHAPTER 11 CASES

A. Background of the Debtor

The Debtor was formed several years ago, along with sister entity Klausner Lumber Two LLC (“KL2”), to build two state-of-the-art sawmills: the Debtor in the aptly named town of Live Oak, in north-central Florida, an area known for its abundant timber and agricultural resources, and KL2 in eastern

North Carolina, which had similar natural advantages for a large, modern timber mill.

KL1 and KL2, along with certain affiliates that provided support to the core operations, were to be the new, United States operations of Austria's Klausner family of companies. Prior to the Great Recession, such companies were collectively the sixth largest sawmill operation in the world. KL1 and KL2 were to be the first new sawmills built in the United States for some time. Using European technology that would result in efficiencies of operations and production, and far greater utilization / less waste of raw materials, the operations would, if successful, have a competitive advantage over traditional East Coast lumber mills. In addition, KL1 and KL2 would be located in rural, timber-rich areas with a populace that would greatly benefit from new, large employers in the region.

In light of this, based on the Debtor's books and records, more than \$147 million was invested in KL1 to build it from the ground up and render it operational. Such funds were raised through shareholder and related-party loans and capital contributions, and an indirect investment – alleged to be as much as \$49.5 million – by “EB-5” investors in the Debtor's “lender,” an entity named Florida Sawmills L.P. (“Florida Sawmills”) that is an affiliate of KL1. In addition, certain Florida governmental agencies provided several million dollars in direct and indirect grants, support, and infrastructure (building out roads, water, power substations, etc.). Such governmental support helped KL1 become operational and has been provided with the hope and expectation that KL1 would create a substantial number of new jobs in an area that historically did not have large local employers.

Despite construction delays that resulted in cost overruns and a drain on liquidity, KL1 began production in March of 2015. Production ramped to an annual production rate of more than 240 million board feet of lumber, however, production, sales, and distribution were not as successful as planned, resulting in KL1 accruing trade debt and needing additional funding. However, KL1's efforts to raise new capital were not successful.

B. Events Leading to the Chapter 11 Filing

The Debtor's senior management, all of whom were European individuals experienced in sawmill operations and/or the financial aspects of KL1, spent 2019 and early 2020 considering various liquidity, sale, and capital raising options, all of which were challenging. In addition, by early 2020, KL1's foreign related parties appeared to be facing financial issues of their own. These difficulties culminated in foreign insolvency proceedings being filed by two parties related to KL1 on April 15, 2020 (Klausner Nordamerika Beteiligungs GmbH and Klausner Trading International GmbH) in Austria's Innsbruck Regional Court. As such, KL1's and its related parties' distress left KL1 on very unsound financial footing. As 2020 progressed, it appeared that KL1 would have to commence the insolvency or liquidation proceeding.

In March of 2020, the impact on KL1 of COVID-19 and the global pandemic that followed manifested itself, with an impact unforeseen by virtually all America. The rapid escalation of COVID-19's spread and concerns about COVID-19's consequences rendered unfeasible any plans for a controlled liquidation or bankruptcy. KL1's management team and certain skilled engineers and plant operators were concerned that potential travel restrictions would preclude them from returning to Europe and that they would become stranded in the United States. Of note, they would have no ability to operate KL1 remotely.

The liquidity problems at KL1 were acute, and KL1's foreign related parties – long the source of financial support for KL1's operations – were unable to provide further funding. Moreover, KL2 had been shuttered several months before, raising fears among trade creditors and the industry. Additionally, the EB-5 investors in KL1's affiliate lender, Florida Sawmills, were growing restless, asserting that they

had not been provided with adequate information, that they were not obtaining a return on their investments in Florida Sawmills, that Florida Sawmills was not acting in their interests due to its affiliated status with KL1, and that some of them apparently had not obtained their permanent “green cards,” an important component to providers of EB-5 funds.

On or about March 16, 2020, KL1’s entire management team and numerous engineers and operators returned to Europe in light of the pandemic growing in the United States and to avoid being impacted by potential long-term travel restrictions. Shortly thereafter, the U.S. did in fact adopt travel regulations that prohibited return travel of European management and technicians. Thus, having no ability to operate, no financing, and no liquidity, KL1’s operations were shuttered immediately. Insurance coverage lapsed shortly thereafter, and there were no security personnel for the plant. Additionally, a tax sale had been scheduled for mid-May, due to past due ad valorem taxes. KL1’s corporate counsel stated that it had received no responses to multiple entreaties to management and was owed substantial amounts, and therefore provided written notice that it would disengage from all matters. Trade creditor lawsuits had been filed and were progressing to judgment unopposed.

The lack of any source of financing left KL1’s operations financially crippled. All possible value for any and all creditors and other constituents was on the precipice of being lost, despite the more than \$147 million invested by related parties (and by EB-5 investors in such parties), millions of dollars in local government spending and support, and substantial amounts owed to trade creditors.

Shortly thereafter, in March of 2020, Asgaard Capital LLC (“Asgaard”) – a complete stranger to this situation – was introduced to KL1’s senior managers in Europe. Asgaard realized the significant risk to creditor recoveries if the then-current path was continued as well as the potential opportunity to creditors that existed under an alternate scenario. Asgaard assembled a team, including new bankruptcy counsel and an investment banker, for KL1 to consider. A few weeks later, a new proposed independent director for KL1 was approached by such professionals. Over the course of April, Asgaard and the other new professionals diligently pursued pre- and post-petition financing, which was desperately needed to pay for insurance, security, utilities, and employees to care for the plant. In addition, an action to appoint a receiver for KL1 (and of Florida Entrepreneur, LLC (“Florida Entrepreneur”), which is the general partner of the affiliated lender, Florida Sawmills) had been filed in Florida, by the parties who made EB-5 investments in Florida Sawmills.

A bankruptcy stay was desperately needed. But with no buyer, no funds, no financing, no operations, no insurance, no new fiduciaries, and no plan, there appeared to be no hope. Then, shortly before the Petition Date, KL1’s newly-hired investment banker, Cypress Holdings LLC (“Cypress”), began to obtain interest from large, well-capitalized, competing sawmills in North America. Additionally, two potential lenders considered providing a modest, but sufficient, post-petition loan. KL1 maintained its corporate control, as the action to appoint a receiver was not progressing, and the Austrian insolvency proceedings had not affected KL1 or its governing individuals. Florida Sawmills, after consulting with its own counsel in Germany, was willing to subordinate its liens and claims to the expected professional fees and administrative claims of a Chapter 11, including the proposed post-petition financing.

Asgaard negotiated with two potential new post-petition lenders. This succeeded, and the Debtor believed that the financing terms, timing, and budget would allow a sale process to proceed. During the week of April 26, 2020, KL1 finalized a term sheet with a “new money,” wholly unaffiliated lender to provide post-petition financing.

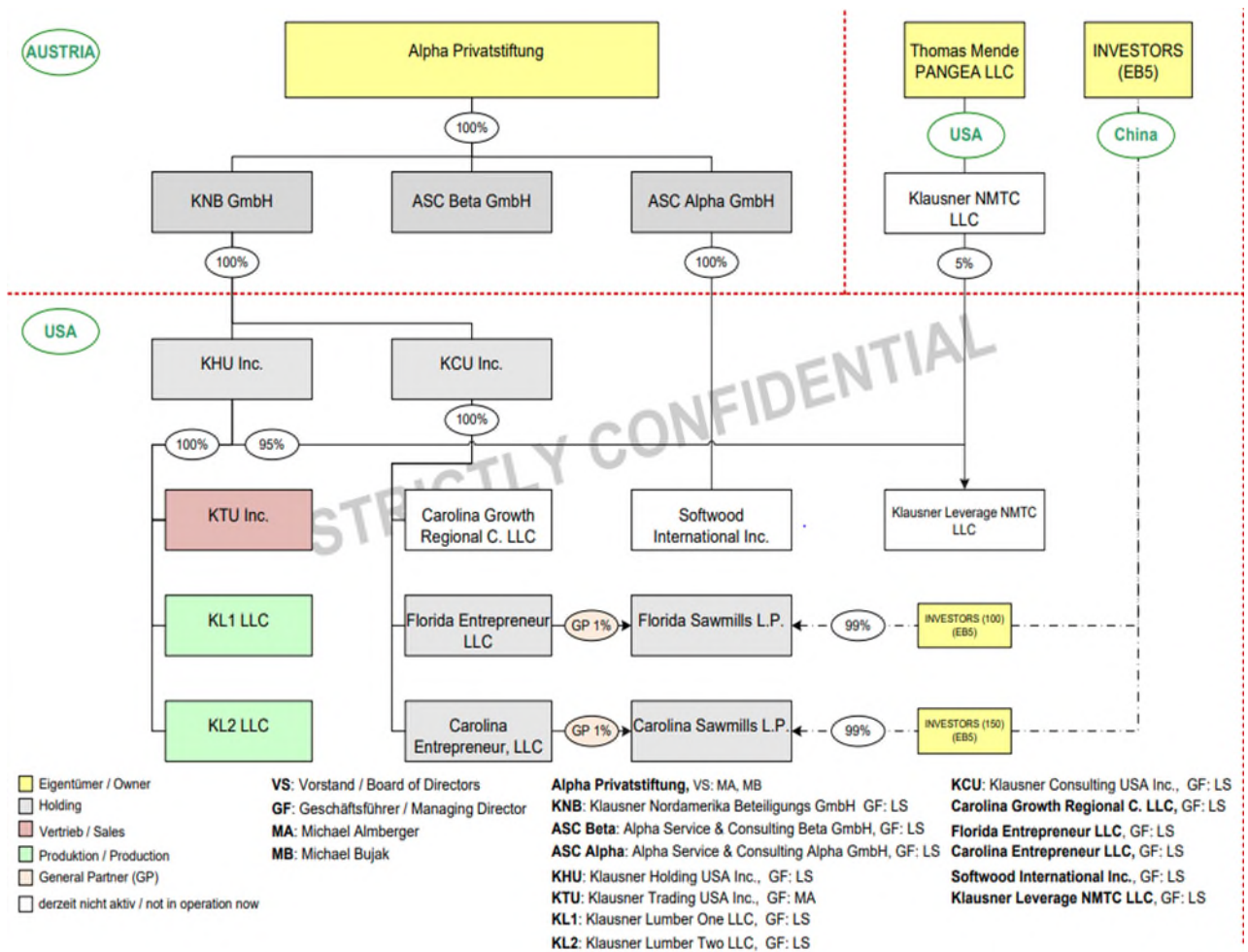
C. The Debtors' Officers and Directors

As of the Petition Date, the Debtor's Officers and Directors were (i) Leopold Stephan, the prepetition sole director of the Board of Directors, (ii) Nat Wasserstein, the newly appointed Independent Director, who accepted his appointment on May 1, 2020, and (iii) Michael Freeman, the CRO. These Directors and Officers have served the Debtor throughout the Chapter 11 Case.

D. The Debtors' Corporate and Capital Structure

The following description provides a synopsis of the Debtor's corporate and capital structure as of the Petition Date:

1. Corporate Structure



2. Corporate Ownership

As of the Petition Date, the Debtor was 100% owned by non-debtor Klausner Holding USA, Inc. Klausner Holding USA, Inc. was 100% owned by non-debtor KNB GmbH (Austria). KNB GmbH was 100% owned by non-debtor Alpha Privatstiftung (Austria).

3. Pre-Petition Capital Structure

The Debtor and Florida Sawmills entered into a Construction Loan Agreement dated November 26, 2012 (the “Loan Agreement”), pursuant to which Florida Sawmills agreed to lend to the Debtor up to \$49.5 million (the “Loan”) for the acquisition of land and costs of constructing the sawmill. The Loan was to be secured by a note and mortgage and Florida Sawmills was permitted to take steps to perfect its interests in the collateral.

On September 13, 2013, Suwanee County and the Debtor entered into a County Lien Agreement, pursuant to which the Debtor granted the County a lien on the property to secure the Debtor’s obligations under a development agreement. This was a “permitted encumbrance” (up to \$3.5 million) under the Loan Agreement. If the Debtor did not reach certain milestones with respect to construction of the sawmill, the County had a “right of reverter” to take back the real property.

The Debtor executed that certain Mortgage, Security Agreement and Assignment of Rents in favor of Florida Sawmills, dated November 26, 2012 (the “Mortgage”). The Mortgage, which was not recorded until August 26, 2014, granted Florida Sawmills a lien on the real property on which the sawmill was constructed. However, the Mortgage contains a “Limitation on Recovery” provision that specifically states that “the maximum amount of principal indebtedness secured by this Mortgage at any time” is \$7 million, with a similar limitation on secured interest. On or about September 23, 2014, the Debtor executed a supplement to the Mortgage to add fixtures and equipment as additional collateral securing the Loan, which was recorded in the County records. On the same date, Florida Sawmills and Suwanee County executed and recorded an agreement by which the County agreed to subordinate its lien in the property to the Mortgage lien of Florida Sawmills. On December 8, 2014, Florida Sawmills recorded a UCC-1 financing statement (the “Financing Statement”) in the state of Delaware, asserting a lien against the Debtor’s personal property. The Financing Statement was not renewed and so lapsed at the end of its five-year term on December 8, 2019.

On or about June 1, 2016, the Loan Agreement was amended by the First Amendment to the Construction Loan Agreement (the “First Amendment”), which (i) increased the principal amount of the Loan from \$49.5 million to \$50 million and (ii) extended the maturity date of the Loan⁶. In connection with the First Amendment, the Debtor executed an Amended and Restated Promissory Note, with an effective date of November 26, 2012, in the principal sum of \$50,000,000.

E. LP Litigation

In March of 2020, a group of Limited Partners of Florida Sawmills (*i.e.*, some of the EB-5 investors) commenced (i) an action against the Debtor and Florida Entrepreneur in Suwanee County Circuit Court for breach of fiduciary duty, among other claims, and (ii) a derivative suit, also in Suwanee County Circuit Court, against the Debtor, Florida Sawmills, Florida Entrepreneur, Leopold Stephan, and the former VP of Sales for the Debtor, Thomas Mende. In addition, after a default judgment was entered against Florida Entrepreneur, the LPs filed a motion requesting that a receiver be appointed for Florida Entrepreneur, asserting among other things, claims of breach of fiduciary duty on the part of Florida Entrepreneur.

On January 15, 2021, Florida Sawmills filed a Claim against the Debtor for purported “money loaned” a secured claim in the amount of \$33,245,413.63 and an unsecured claim in the amount of \$43,165,000.00. As set forth below in Section V.H., the Committee contests the allowance of the entire

⁶ The Debtor also executed a Second Amended and Restated Promissory Note with an effective date of January 23, 2014, showing a maturity date of January 23, 2022.

Florida Sawmills' Claim as either secured and unsecured, arguing that such Claim should be recharacterized as a contribution of equity or subordinated in its entirety, and/or reduced amount based upon Florida Sawmills' miscalculation of interest and default interest, and waiver of interest, default interest, penalties, fees, and costs. On February 16, 2021, the Committee filed the *Official Committee of Unsecured Creditors' Objection to Claim Number 195 Pursuant to 11 U.S.C. § 502 and Fed. R. Bankr. P. 3007*.

V. EVENTS DURING THE CHAPTER 11 CASES

A. Commencement of the Chapter 11 Cases

On April 30, 2020, the Debtor filed a voluntary petition under chapter 11 of the Bankruptcy Code in the Bankruptcy Court. The Chapter 11 Case was assigned to Bankruptcy Judge Karen B. Owens. The Debtor has continued to manage and possess its business and property as a debtor in possession since the Petition Date. No trustee or examiner has been appointed in the Chapter 11 Case. Set forth below is a summary of material events that have occurred since the Petition Date.

B. First-Day Relief

Shortly after the Petition Date, the Debtor filed various motions or applications seeking typical "first-day" relief in its Chapter 11 Case (collectively, the "First Day Motions"), as well as declarations in support thereof, in order to ensure a smooth transition into bankruptcy and to allow the Debtor to administer its Estate and pursue a sale of its assets.

On May 14, 2020, the Debtor obtained a final *Order Pursuant to 28 U.S.C. § 156(c), Bankruptcy Rule 2002(f), and Local Bankruptcy Rule 2002-1(f), Appointing Donlin, Recano & Company as Claims and Noticing Agent, Nunc Pro Tunc to May 4, 2020* [D.I. 59]. Thereafter, between June 4, 2020 and June 8, 2020, the Debtor obtained a number of additional final orders on the First Day Motions granting various forms of relief that the Debtor deemed essential to facilitating its transition into chapter 11, including:

- *Order (I) Extending the Time to File Schedules of Assets and Liabilities and Statements of Income and Financial Affairs* [D.I. 124];
- *Order Granting Debtor's First Omnibus Motion for Entry of an Order (I) Authorizing the Debtor to (A) Reject Certain Unexpired Leases of Residential Real Property Nunc Pro Tunc to the Rejection Date, (B) Abandon Personal Property in Connection Therewith and (II) Granting Related Relief* [D.I. 125];
- *Final Order (I) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Utility Services, (II) Approving Proposed Adequate Assurance of Payment to Utility Providers and Authorizing Debtor to Provide Additional Assurance, (III) Establishing Procedures to Resolve Requests for Additional Assurance and (IV) Granting Related Relief* [D.I. 126];
- *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals* [D.I. 132];
- *Final Order (I) Authorizing the Debtor to Obtain Post-Petition Financing on a Final Basis, Granting Senior Post-Petition Security Interests and According Superpriority Administrative*

Expense Status Pursuant to Sections 364(c) and 364(d) of the Bankruptcy Code, (II) Authorizing the Use of Cash Collateral, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, and (V) Granting Related [D.I. 136];

- *Order (I) Scheduling a Hearing on the Approval of the Sale of All or Substantially All of the Debtor's Assets, and the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (II) Approving Certain Bidding Procedures and Assumption and Assignment Procedures, and the Form and Manner of Notice Thereof, (III) Authorizing the Debtor to Provide (But Not Approving) Certain Bid Protections for Any Stalking Horse Purchaser and (IV) Granting Related Relief [D.I. 140].*

C. Prepetition Consent and Subordination Agreements and DIP Financing

As stated above, the Debtor had an immediate and critical need to obtain financing. Specifically, the Debtor needed funds to maintain its assets, obtain insurance on its property, pay its utility providers, and obtain physical security to protect and preserve the sawmill, which was idled prior to the Petition Date. Additionally, the Debtor needed financing to pay the costs of administering the Chapter 11 Case, including the payment of professional fees, while pursuing a going-concern sale of its assets.

Prior to the Petition Date, Florida Sawmills entered into that certain consent and subordination (the “DIP Lender Consent and Subordination”) in favor of a DIP lender which provides, *inter alia*, that, in consideration for the DIP lender’s extensions of credit to the Debtor in this Chapter 11 Case, Florida Sawmills agreed: (i) that the DIP Loan Obligations (as defined therein) would be paid from the proceeds of any assets of the Debtor free and clear of any lien, claim, or interest that Florida Sawmills may have in or against the Debtor’s assets or the proceeds thereof, and (ii) to fully subordinate its right to payment of its claims or debt or any other recovery on its claims against the Debtor, its assets, and the proceeds thereof, to the payment, in full and in cash, of the DIP Loan Obligations⁷.

Additionally, (i) Florida Sawmills and each of Asgaard and co-counsel to the Debtors (collectively, the “Professionals”) entered into that certain consent and subordination agreement effective as of April 24, 2020 (the “Professionals Consent and Subordination”), and (ii) Florida Sawmills and the Debtor’s investment banker, Cypress, entered into a similar consent and subordination agreement effective as of April 2, 2020 (the “Cypress Consent and Subordination,” and together with the Professionals Consent and Subordination and the DIP Lender Consent and Subordination, the “Consent and Subordination Agreements”). These agreements provide, *inter alia*, that, in consideration for the Professionals’ agreement to render services to the Debtor under the terms of the Engagement Agreements (as defined therein), Florida Sawmills agrees that: (i) the Professionals’ fees and expenses shall be paid, either from the proceeds of any assets of the Debtor, loan proceeds available to the Debtor, or as a cost of each transaction warranting a fee or incurring hourly fees or expenses in accordance with the Engagement Agreements, which fees and expenses shall be paid to the Professionals free and clear of any lien, claim, or interest that the Prepetition Lenders may have in or against the Debtor’s assets or the proceeds thereof, and (ii) it fully subordinates its right to payment of its claims or debt, or any other recovery on its claims against the Debtor, its assets, and the proceeds thereof, to the payment, in full and in cash, of all fees and expenses due to the Professionals under the Engagement Agreements. The Professionals Consent and Subordination explicitly provides that “[t]o induce the Professionals to accept this engagement, the

⁷ Florida Sawmills also agreed to support a post-petition carveout for “(X) all other allowed administrative claims in any Chapter 11 proceeding, including fees and expenses of the professionals of any creditors’ committee of up to \$250,000, as negotiated by the Professionals and approved by the Bankruptcy Court, and any required statutory fees of the Office of the United States Trustee pursuant to 28 U.S.C. § 1930, plus (Y) not less than 10% of the net proceeds from the disposition of each Lenders’ collateral for unsecured creditors in such proceeding, plus (Z) \$50,000 for any Chapter 7 trustee if any Chapter 11 case is converted to Chapter 7.”

[Prepetition Lender] further agree[s] that [it] will consent to and further subordinate [its] Claims to any debtor-in-possession financing.”

As noted above, prior to the Petition Date, Asgaard identified two potential lenders, negotiated with these firms, and ultimately reached a deal with the DIP Lender on financing terms and a budget that, it was believed, would allow a value-maximizing sale process to proceed. During the week of April 26, 2020, KL1 finalized a term sheet with the DIP Lender.

On May 8, 2020, the Debtor filed a Motion [D.I. 20] (the “DIP Financing Motion”) seeking authority to obtain debtor-in-possession, secured financing in the principal amount of \$2 million (the “DIP Credit Facility”) pursuant to the DIP Loan Documents (as defined in the DIP Financing Motion) by and among the Debtor as borrower and Big Shoulders Capital VI, LLC and CRG Acquisition, LLC (jointly, the “DIP Lender”). The DIP Lender was granted (i) first priority perfected liens in all of the Debtor’s unencumbered assets, (ii) with Florida Sawmills’ consent, first priority, senior perfected priming liens in the Prepetition Collateral, and (iii) second priority, junior perfected Liens in all other collateral subject to pre-existing Permitted Liens.

All amounts due under the DIP Credit Facility were indefeasibly paid to the DIP Lender upon the closing of the sale of the Debtors’ assets as set forth below.

D. Debtor’s Retention of Professionals and Claims and Noticing Agent

On May 18, 2020, the Debtors filed: (i) an Application for an Order Authorizing the Retention and Employment of Westerman Ball Ederer Miller Zucker & Sharfstein LLP as co-counsel for the Debtor [D.I. 75]; (ii) an Application for an Order Authorizing the Employment and Retention of Morris, Nichols, Arsht & Tunnell LLP as co-counsel for the Debtor [D.I. 74]; (iii) a Motion for an Order Authorizing the Employment and Retention of Asgaard to provide the Debtor with a Chief Restructuring Officer and other personnel and designate Michael Freeman as CRO [D.I. 76]; and (iv) an Application for an Order Authorizing the Employment and Retention of Cypress as Investment Banker to the Debtor [D.I. 84]⁸. The Bankruptcy Court granted these motions by orders entered on June 4, 2020 [D.I. 121, 122], June 6, 2020 [D.I. 133] and June 8, 2020 [D.I. 142], respectively. Thereafter, the Debtor filed additional applications to retain certain professionals to assist it with respect to discrete matters in the Chapter 11 Case, including:

- An application to retain Fallace & Larkin, L.C. as special litigation and real estate counsel, which was granted by order dated July 14, 2020 [D.I. 204];
- An application to retain Shapiro Law as Florida bankruptcy counsel, which was granted by order dated July 14, 2020 [D.I. 203];
- An application to retain Duane Morris LLP as bankruptcy conflicts and labor/ERISA counsel, which was granted by order dated August 17, 2020 [D.I. 288];
- An application to retain Curtis, Mallet-Prevost, Colt & Mosle LLP as EB-5 counsel, which was granted by order dated October 14, 2020 [D.I. 452]; and
- An application to retain McCausland Keen & Buckman as intellectual property counsel, which was granted by order dated October 30, 2020 [D.I. 491].

⁸ The Application to retain Cypress was filed on May 22, 2020.

An order establishing procedures for interim compensation and reimbursement of expenses for all retained professionals was entered on June 5, 2020 [D.I. 132].

Additionally, on May 7, 2020, the Debtor filed an application to retain DRC to serve as official claims and noticing agent to the Debtor [D.I. 17]. DRC was retained to, among other duties, notify creditors of the filings of the Debtor's petition, send out proof of claim forms and the notice of the claims bar date to the Debtor's creditors, maintain the official claims register, send out Ballots with respect to the proposed Plan, and tabulate the voting results. The Bankruptcy Court granted the Debtor's application by order entered May 14, 2020 [D.I. 59]. In addition, due to the expansion of its duties beyond its work as a claims and noticing agent, including assisting with balloting and voting procedures in connection with a plan of liquidation, on May 18, 2020, the Debtor filed an application to retain DRC as Administrative Advisor for the Debtor [D.I. 73]. The Bankruptcy Court granted this application by order entered June 4, 2020 [D.I. 123].

E. Appointment of Creditors' Committee and Creditors' Committee Professionals

On May 21, 2020, the U.S. Trustee filed the *Notice of Appointment of Committee of Unsecured Creditors* [D.I. 82], notifying parties in interest that the U.S. Trustee had appointed a statutory committee of unsecured creditors in the Chapter 11 Case. The Creditors' Committee is comprised of: (i) Sunbelt Rentals, Inc.; (ii) M.A. Rigoni, Inc.; (iii) Peninsula Pipeline Company, Inc.; (iv) Mahild Drying Technologies; and (v) Warn Act Plaintiffs (defined below), by Helmut Thomay. On June 19, 2020, the Creditors' Committee sought approval from the Bankruptcy Court to retain and employ Foley & Lardner LLP ("Foley") as counsel [D.I. 154], and the Court approved Foley's retention and employment on July 14, 2020 [D.I. 200]. In addition, on June 19, 2019, the Creditors' Committee sought to employ and retain Morris James LLP ("Morris James") as Delaware counsel [D.I. 155], and the Bankruptcy Court approved Morris James' retention and employment on July 14, 2020 [D.I. 202]. On June 19, 2020, the Creditors' Committee sought to employ and retain Berkeley Research Group, LLC ("BRG") as financial advisor [D.I. 156], and BRG's retention was approved on July 14, 2020 [D.I. 201]. Finally, on March 1, 2021, the Creditors' Committee sought to employ and retain Faegre Drinker Biddle & Reath LLP ("Faegre Drinker") as co-counsel [D.I. 745], and the Court approved Faegre Drinker's retention and employment on March 25, 2021 [D.I. 818]. Throughout the Chapter 11 Case, the Debtor and its advisors have engaged with the Creditors' Committee and its advisors on a range of issues, including with respect to certain investigations, and have sought to obtain the Creditors' Committee's support wherever possible.

F. Creditors' Committee Investigations

Shortly after its appointment, counsel to the Creditors' Committee issued informal discovery requests to the Debtor as part of its investigation of the Debtor's prepetition operations. Thereafter, on July 28, 2020, the Creditors' Committee filed a motion [D.I. 232] (the "2004 Motion"), pursuant to which the Creditors' Committee sought, among other things, subpoenas to obtain information concerning the circumstances surrounding the Debtor's bankruptcy filing and prepetition transactions by and between the Debtor and its insiders, related entities, and affiliates, including Florida Sawmills. On August 6, 2020, the Court entered an Order granting the 2004 Motion [D.I. 258]. The Debtor cooperated fully with the Creditors' Committee on these requests.

G. Marketing and Sale of Substantially all of the Debtor's Assets to Binder

On May 13 2020, the Debtor filed its *Motion for Entry of (A) an Order (I) Scheduling a Hearing on the Approval of the Sale of All or Substantially All of the Debtor's Assets Free and Clear of All Encumbrances, and the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (II) Approving Certain Bidding Procedures and Assumption and Assignment Procedures, and the*

Form and Manner of Notice Thereof, (III) Authorizing the Debtor to Provide (But Not Approving) Certain Bid Protections for Any Stalking Horse Purchaser, and (IV) Granting Related Relief; and (B) an Order (I) Approving the Asset Purchase Agreement, (II) Authorizing the Sale of All or Substantially All of the Debtor's Assets Free and Clear of all Encumbrances, (III) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief [D.I. 52] (the "Bidding Procedures Motion"), which was granted by the Court by Order dated June 8, 2020 [D.I. 140] (as amended by that *Order Amending Certain Deadlines Set Forth in the Bidding Procedures Order and Related Bidding Procedures and Assumption and Assignment Procedures* [D.I. 165], that *Second Order Amending Certain Deadlines Set Forth in the Bidding Procedures Order and Related Bidding Procedures and Assumption and Assignment Procedures* [D.I. 193], and that *Third Order Amending Certain Deadlines Set Forth in the Bidding Procedures Order and Related Bidding Procedures and Assumption and Assignment Procedures* [D.I. 246], together, the "Bidding Procedures Order").

In order to enhance the value that the sawmill was likely to realize in the sale process, the Debtor's CRO, Michael Freeman, took an active role in restoring the plant to operational status. Among the actions undertaken by Mr. Freeman were repairing and returning to working condition yellow gear equipment that was critical to the operation of the plant, testing the operational readiness of the plant, and halting the County from selling off the assets in a tax sale. Mr. Freeman interfaced with state environmental agencies to forestall the termination of required permits and with Suwanee County officials regarding various issues vital to rendering the plant operational.

Pursuant to the Bidding Procedures Order, the Debtor conducted a fulsome marketing and sale process led by Cypress and the Debtor's CRO. Mr. Freeman conducted technical due diligence meetings and led numerous site tours for potential purchasers and served as an integral point of contact with respect to operational inquiries—a crucial function given the lack of historical management or employees remaining with the Debtor. Mr. Freeman also created a video tour that contained both static and operational scenarios to provide to potential buyers who might otherwise have not been able to participate in the sale process due to COVID-induced travel restrictions.

These efforts culminated in a spirited Auction among three active bidders, Binder Beteiligungs AG, acting through its affiliate Timber One Acquisition Holdings LLC ("Binder"), was selected as the "Successful Bidder" for the Debtor's assets. On August 31, 2020, the Court held a hearing on the sale portion of the Bidding Procedures Motion, approved the sale of substantially all of the Debtor's assets to Binder for the cash purchase price of \$61 million, plus certain assumed liabilities as set forth in Binder's modified Asset Purchase Agreement.

H. Schedules of Assets and Liabilities and Statement of Financial Affairs, Claims Bar Date and Claims Objections

On June 25, 2020, the Debtor filed its Schedules of Assets and Liabilities and Statements of Financial Affairs, listing over \$200 million in scheduled liabilities [D.I. 167, 168]. Thereafter, on August 17, 2020, the Debtor sought entry of an order establishing certain deadlines for filing proofs of claim against the Debtor [D.I. 292] (the "Bar Date Motion"). On August 26, 2020, the Bankruptcy Court entered an order granting the Bar Date Motion (the "Bar Date Order") and established October 30, 2020 at 5:00 P.M. (Prevailing Eastern Time) as the last date by which creditors asserting (i) prepetition claims (including section 503(b)(9) Claims) were required to file proofs of claim, with certain exceptions (the "General Bar Date") and (ii) administrative claims arising from the Petition Date through and including September 30, 2020, with certain exceptions (the "Administrative Claims Bar Date"). The Bar Date Order also established a bar date of October 27, 2020 for governmental units and established bar dates for: (a) creditors asserting claims arising from lease or contracts rejections; and (b) creditors affected by any amendments to the Debtor's Schedules of Assets and Liabilities. Pursuant to the Bar Date Order, the

Debtor completed service of the Bar Date Order on known creditors by August 31, 2020. The Debtor also ran a publication in the national edition of *USA Today*, *The Lake City Reporter* and *The Gainesville Sun* as required under the Bar Date Order on September 9, 2020.

The Debtor, with the assistance of the Creditors' Committee, is reviewing and reconciling the filed Claims and has filed (i) *Debtor's First Omnibus Objection (Substantive) to Certain Claims Pursuant to 11 U.S.C. §502, Fed. R. Bankr. P. 3007 and Del. L.R. 3007-1 (Disallow; Reduce and Allow)* [D.I. 480], which Objection was granted by Order dated December 15, 2020 [D.I. 604], (ii) *Debtor's Second Omnibus Objection (Non-Substantive) to Certain Claims Pursuant to 11 U.S.C. §502, Fed. R. Bankr. P. 3007 and Del. L.R. 3007-1 (Duplicate; Amended)*, which Objection was granted by Order dated December 15, 2020 [D.I. 605]; (iii) *Debtor's Third Omnibus Objection (Substantive) to Certain Claims Pursuant to 11 U.S.C. §502, Fed. R. Bankr. P. 3007 and Del. L.R. 3007-1 (Reduce and Allow)* [D.I. 612], which was granted by Order Dated January 15, 2021 [D.I. 664]; (iv) *Debtor's Fourth Omnibus Objection (Substantive) to Certain Claims Pursuant to 11 U.S.C. § 502, Fed. R. Bankr. P. 3007 and Del. L.R. 3007-1 (Disallow; Reduce and Allow; Reclassify)* [D.I. 792], which was granted by Order dated April 14, 2021 [D.I. 853]; (v) *Debtor's Fifth (Non-Substantive) to Certain Claims Pursuant to 11 U.S.C. § 502, Fed. R. Bankr. P. 3007 and Del. L.R. 3007-1 (Amended)* [D.I. 793], which was granted by Order dated April 14, 2021 [D.I. 850]; and (vi) *Debtors Sixth Omnibus Objection (Substantive) to Certain Claims Pursuant to 11 U.S.C. § 502, Fed. R. Bankr. P. 3007 and Del. L.R. 3007-1 (Disallow; Reduce and Allow)* [D.I. 863], filed by conflicts counsel to the Debtor, which objection is pending.

On February 16, 2021, the Creditors' Committee filed ten (10) objections to proofs of claim filed by entities and individuals related to the Debtor (the "Related Entity Claims"), including to the claims of Florida Sawmills, and parent entities Klausner Holding USA, Inc. and KNB GmbH (Austria). The Related Entity Claims total over \$179 million. The Committee's objections to the Related Entity Claims were based on, *inter alia*, insufficient documentation, reclassification of alleged secured claim as unsecured claims, recharacterization of debt as equity, equitable subordination, double counting of amounts across the claims of various of the related entities, late filed claims, and Bankruptcy Code 502(d) defenses.

Additionally, on May 3, 2021, the Debtor and KL2 filed an objection to the proof of claim filed by Deloitte Financial Advisory GmbH ("Deloitte") against each of the Debtor and KL2 in the amount of €736,000 whereby the Debtor and KL2 seek entry of an order pursuant to Section 502(b) of the Bankruptcy Code disallowing Deloitte's claim for an alleged success fee "relating to refinancing of the Debtor's financial obligations pursuant to an engagement letter". On May 4, 2021, the Debtor filed an adversary proceeding seeking the avoidance of certain transfers made and/or obligations to Scharpenack GmbH ("GmbH") prior to the Petition Date and objected to the proof of claim filed by Scharpenack in the amount of \$2 million for an alleged success fee related to the sale of the Debtor's assets.

On March 11, 2021, the Court entered an agreed order [D.I. 780] (the "Mediation Order") appointing the Hon. Kevin Gross (Ret.) as mediator to conduct a non-binding mediation concerning, *inter alia*, the Related Entity Claims, the Committee's objections thereto, as well as potential treatment of the Related Entity Claims in the Plan (the "Mediation Issues"). The parties, and their counsel, that agreed to participate in the Mediation include: (a) the Debtor; (b) the Committee; (c) KTI; (d) KNB; (e) ASC Alpha; (f) KHT; (g) KHS; (h) KNH; (i) KHU; (j) K NMTC; and (k) Florida Sawmills (as defined in the Mediation Order, the "Mediation Parties"). Several Mediation conferences were held among the Mediation Parties and Judge Gross via zoom (including on April 14, 16, 20 and 23, 2021) regarding the Mediation Issues, and on or about May 17, 2021, the Mediation Parties entered into that certain *Plan Support and Settlement Term Sheet* (the "PSA") which outlines a resolution of the Mediation Issues, including the resolution of the Committee's objections to the Related Entity Claims and the treatment of the Allowed Related Entity Claims in the Plan. A copy of the PSA is annexed to the Plan as Exhibit "A".

The PSA is predicated on the estimation, upon information and belief, that the Net Distribution Proceeds available for distributions under the Plan will be approximately \$30 million. In such event, the Mediation Parties have agreed to the following sharing arrangement (subject to adjustment as set forth in the PSA and Plan):

- a. Class 4 (FS Deficiency/Unsecured Claims) shall receive \$19 million of Net Distribution Proceeds (the “Class 4 Distribution Amount”) for distribution on account of the Allowed Florida Sawmills Claim (the sole Allowed Claim in Class 4).
- b. Class 5 (General Unsecured Claims) shall receive \$7.2 million of Net Distribution Proceeds (the “Class 5 Distribution Amount”), for distribution Pro Rata on account of the Allowed Class 5 General Unsecured Claims.
- c. Class 6 (Affiliate Unsecured Claims) shall receive \$3.8 million of Net Distribution Proceeds (the “Class 6 Distribution Amount”) for distribution on account of the Allowed Affiliate Claims, provided, however, that if the total amount of the Allowed Class 5 General Unsecured Claims is less than \$7.2 million (such that the distribution in clause b. above results in 100% recovery to Allowed Claims in Class 5), then the portion of the Class 5 Distribution Amount which exceeds the total amount of Allowed Class 5 General Unsecured Claims, (i) the first up to \$200,000 (that would have otherwise been distributed to Allowed Class 5 General Unsecured Claims), will be added to and become part of the Class 6 Distribution Amount and be distributed to the Affiliates to bring their total recovery to a possible maximum amount of \$4 million, and (ii) any excess amount above \$200,000 will be split equally (e.g., 50%/50%) between the Class 4 Distribution Amount and the Class 6 Distribution Amount.

The PSA provides for certain other adjustments to the Class 4, 5 and 6 Distribution Amounts based on the ultimate amount of Net Distribution Proceeds available for distribution as well as provides for the Allowance of certain Claims held by Florida Sawmills and the Affiliates. In addition, the PSA and Plan provide for the exchange of mutual releases among the parties to the PSA with respect to all matters related to the Disputes (as defined in the PSA) and this Chapter 11 Case.

I. Exclusivity Extension Motions

On August 25, 2020, the Debtor sought authorization from the Bankruptcy Court to extend the periods during which the Debtor (i) had the exclusive right to file a chapter 11 plan by four months, from August 28, 2020 through and including December 28, 2020, and (ii) had the exclusive right to solicit acceptances thereof by approximately four months from October 27, 2020 through and including March 1, 2021 [D.I. 321] (the “First Exclusivity Motion”). The Bankruptcy Court entered an order approving the First Exclusivity Motion on September 10, 2020 [D.I. 386].

On December 23, 2020, the Debtor sought authorization from the Bankruptcy Court to further extend the periods during which the Debtor (i) has the exclusive right to file a chapter 11 plan by two months from December 28, 2020 through and including February 28, 2021, and (ii) has the exclusive right to solicit acceptances thereof by approximately two months from March 1, 2021 to May 1, 2021 [D.I. 630] (the “Second Exclusivity Motion”). The Bankruptcy Court entered an order approving the Second Exclusivity Motion on January 13, 2021 [D.I. 658].

On February 26, 2021, the Debtor sought authorization from the Bankruptcy Court to further extend the periods during which the Debtor (i) has the exclusive right to file a chapter 11 plan by four months from February 28, 2021 through and including June 28, 2021, and (ii) has the exclusive right to

solicit acceptances thereof by approximately four months from May 1, 2021 to September 1, 2021 [D.I. 741] (the “Third Exclusivity Motion”). The Bankruptcy Court entered an order approving the Third Exclusivity Motion on March 25, 2021 [D.I. 817].

J. WARN Litigation, Mediation and Settlement

On March 27, 2020, Johnnie Raymond and other individuals including Helmut Thomay⁹ and Cornelius Turner, on behalf of themselves and others similarly situated (collectively, “Warn Act Plaintiffs”), filed a *First Amended Class Action Complaint* in the United States District Court for the Middle District of Florida, Jacksonville Division (the “Middle District of Florida”), for violation of WARN, FLSA, and unpaid wage claims, titled *Johnnie Raymond, et al. v. Klausner Lumber One, LLC, Klausner Lumber Two, LLC, Klausner Holding USA, Inc., Leopold Stephan, Christoph Schaetz and David Larkin* (3:20-cv-00287-BJD-MCR) (“Florida Complaint”).

Following the Petition Date, on May 18, 2020, WARN Act Plaintiffs filed a class action adversary proceeding complaint (“Adversary Proceeding” and together with the Florida Complaint, the “WARN Action”) against the Debtor, Klausner Lumber Two, LLC, Klausner Holding USA, Inc., and Klausner Trading USA, Inc. (collectively, the “WARN Defendants”) in the Bankruptcy Court seeking WARN Act backpay and benefits, unpaid wages pursuant to the North Carolina Wage and Hour Act, § 95-25.3 (“NC Wage Act”) and the Florida Constitution, and payment of accrued but unused paid time off for the WARN Defendants’ former employees with priority treatment under Sections 507(a)(4) and (5) of the Bankruptcy Code for the amounts up to the allowed cap, with the balance treated as general unsecured. (Adv. No. 20-50602-KBO).

On May 29, 2020, the Florida Complaint was stayed by the Middle District of Florida, and the case was administratively closed pending the outcome of the ongoing Adversary Proceeding. On November 30, 2020, the Court entered the Parties’ *Agreed Order (I) Appointing Mediator, (II) Referring Certain Matters to Mediation, and (III) Granting Related Relief Filed Klausner Lumber One, LLC, Klausner Lumber Two, LLC* [Adv. Doc. 46] (the “Mediation Order”). Pursuant to the Mediation Order, on December 11, 2020, the parties attended a mediation with former Chief Judge Kevin Gross (Ret.). The parties were unable to resolve the WARN Action at mediation, but the parties continued to engage in settlement discussions with Judge Gross’s assistance.

As a result of these continued efforts, the Debtor has reached an amicable resolution of the WARN Action with the WARN Act Plaintiffs and on March 8, 2021, the Debtor filed a motion pursuant to section 9019 of the Bankruptcy Rules to approve the WARN Act Class Settlement Agreement. The key terms of the WARN Act Class Settlement Agreement will be implemented through the Plan, which provides for classification and treatment and of the WARN Act Class Settlement Claims. On April 13, 2021, the Court entered an *Order Certifying a Class for Settlement Purposes, Appointing Plaintiff Helmut Thomay as Class Representative and Plaintiffs’ Counsel and Class Counsel, Preliminarily Approving Settlement, Approving Class Notice, and Scheduling Fairness Hearing* [D.I. 849]. A final fairness hearing with respect to the WARN Act Class Settlement Agreement is scheduled for May 20, 2021.

VI. SUMMARY OF THE PLAN

THE FOLLOWING IS A SUMMARY OF CERTAIN PROVISIONS OF THE PLAN. IT IS NOT A COMPLETE STATEMENT OF THE PLAN OR ITS OPERATION AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN, WHICH IS ANNEXED TO THIS

⁹ On May 21, 2020, WARN Act Plaintiffs, by Helmut Thomay, was appointed to the Creditors’ Committee.

DISCLOSURE STATEMENT AS EXHIBIT A. IN CERTAIN RESPECTS, THE PLAN DEALS WITH COMPLEX LEGAL CONCEPTS AND INCORPORATES THE DEFINITIONS AND REQUIREMENTS OF THE BANKRUPTCY CODE. THEREFORE, YOU MAY WISH TO CONSULT WITH COUNSEL OF YOUR CHOICE BEFORE VOTING ON THE PLAN.

A. Description, Classification and Treatment of Claims and Interests

Among the various categories of Claims and Interests are: (i) Administrative Expense Claims; (ii) Priority Tax Claims; (iii) FS Secured Claims; (iv) Affiliate Secured Claims; (v) Other Secured Claims; (vi) Priority Claims; (vii) WARN Act Class Settlement Claims; (viii) Non-WARN Act Class Settlement Claims; (ix) FS Deficiency/Unsecured Claim; (x) General Unsecured Claims; (xi) Affiliate Unsecured Claims; (xii) Subordinated Claims and (xiii) Interests.

1. Unclassified Administrative Expense Claims

Administrative Claims are Claims for costs and expenses of administration of the Debtor's Estate pursuant to sections 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code, including: (a) to the extent they meet the statutory requirements, the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; (b) Allowed Professional Fee Claims; and (c) all Allowed requests for compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Case pursuant to sections 503(b)(3), (4), and (5) of the Bankruptcy Code. Administrative Expense Claims also consist of fees and expenses of Professionals employed in the Chapter 11 Cases.

Except with respect to Administrative Expense Claims that (a) are Professional Fee Claims, (b) have already been paid during the Chapter 11 Case, or (c) the Holder of an Allowed Administrative Expense Claim has agreed to less favorable treatment, each Holder of an Allowed Administrative Expense Claim shall receive in full satisfaction of its Administrative Expense Claim, Cash equal to the amount of such Allowed Administrative Expense Claim either: (i) on the Effective Date; (ii) if the Administrative Expense Claim is not Allowed as of the Effective Date, thirty (30) days after the date on which an order allowing such Administrative Expense Claim becomes a Final Order, or as soon thereafter as reasonably practicable; or (iii) if the Allowed Administrative Expense Claim is based on a liability incurred by the Debtor in the ordinary course of its business after the Petition Date, pursuant to the terms and conditions of the particular transaction or agreement giving rise to such Allowed Administrative Expense Claim, without any further action by the Holders of such Allowed Administrative Expense Claim and without any further notice to, or action, order, or approval of, the Bankruptcy Court. The Debtor estimates that the total amount of Administrative Expense Claims that will be paid over the course of this Chapter 11 Case is between approximately \$22 million and \$27 million, of which \$16.6 million has been paid pursuant to orders of the Court¹⁰.

a. Professional Fee Claims

The Plan provides that all final requests for payment of Professional Fee Claims incurred during the period from the Petition Date through the Confirmation Date shall be Filed no later than forty-five (45) days after the Effective Date. All such final requests will be subject to approval by the Bankruptcy Court after notice and a hearing in accordance with the procedures established by the Bankruptcy Code, Bankruptcy Rules, and prior orders of the Bankruptcy Court, including the Interim Compensation Order, and once approved by the Bankruptcy Court, shall be paid within two (2) business days or as soon

¹⁰ These amounts include Professional Fee Claims (including those related to the Wind Down), transactions fees, financing fees, U.S. Trustee fees and operating expenses.

thereafter as reasonably practicable of such order from the Professional Fee Escrow Account in the full Allowed amount. To the extent that funds held in the Professional Fee Escrow Account are insufficient to satisfy the amount of Professional Fee Claims owing to the Professionals, such Professionals shall have an Allowed Administrative Expense Claim for any such deficiency, and the Debtor or the Plan Administrator, as applicable, shall pay the full unpaid amount of such Allowed Administrative Expense Claim in Cash.

2. **Priority Tax Claims**

Priority Tax Claims are Claims against the Debtors that are entitled to priority in accordance with section 507(a)(8) of the Bankruptcy Code. The Plan provides that, except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of and in exchange for each Allowed Priority Tax Claim, each Holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code. For the avoidance of doubt, Holders of Allowed Priority Tax Claims will receive interest on such Allowed Priority Tax Claims after the Effective Date in accordance with sections 511 and 1129(a)(9)(C) of the Bankruptcy Code. The Debtors estimate that the total amount of Priority Tax Claims that will be paid over the course of this Chapter 11 Case will be approximately \$3.2 million, with all but \$28,000 having already been paid¹¹.

3. **Class 1A – FS Secured Claims**

- a. *Classification:* Class 1A consists of the FS Secured Claims against the Debtor.¹²
- b. *Treatment:* On or as soon as practicable after the Effective Date, each Holder of an Allowed FS Secured Claim shall receive on account of such Claim, except to the extent that any Holder of an Allowed FS Secured Claim agrees to less favorable treatment therefor, Cash equal to the amount of such Allowed FS Secured Claim.
- c. *Voting:* Class 1A is Unimpaired. Holders of FS Secured Claims are conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. Therefore, Holders of Claims in Class 1A are not entitled to vote to accept or reject the Plan.

4. **Class 1B – Affiliate Secured Claims**

- a. *Classification:* Class 1B consists of the Affiliate Secured Claims against the Debtor.¹³
- b. *Treatment:* On or as soon as practicable after the Effective Date, each Holder of an Allowed Affiliate Secured Claim shall receive on account of such Claim at the Debtor's or Liquidating Trust's exclusive election, except to the extent that any Holder of an

¹¹ These amounts include property taxes paid at the closing of the sale but does not include transfer taxes associated with the sale.

¹² Pursuant to the Settlement Agreement, there are no Allowed Claims in this Class.

¹³ Pursuant to the Settlement Agreement, there are no Allowed Claims in this Class.

Allowed Affiliate Secured Claim agrees to less favorable treatment therefor, either: (i) Cash equal to the amount of such Allowed Affiliate Secured Claim; (ii) the property that serves as security for such Allowed Affiliate Secured Claim; or (iii) such other treatment that shall render such Allowed Affiliate Secured Claims Unimpaired pursuant to section 1124 of the Bankruptcy Code (which may include Reinstatement). The Debtor does not believe that currently there are any Claims that will be Allowed Claims within this Class.

- c. *Voting:* Class 1B is Unimpaired. All Holders of Affiliate Secured Claims are conclusively be presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. Therefore, Holders of Claims in Class 1B are not entitled to vote to accept or reject the Plan.

5. **Class 1C – Other Secured Claims**

- a. *Classification:* Class 1C consists of the Other Secured Claims against the Debtor.
- b. *Treatment:* On or as soon as practicable after the Effective Date, each Holder of an Allowed Other Secured Claim shall receive on account of such Claim at the Debtor's or Liquidating Trust's exclusive election, except to the extent that any Holder of an Allowed Other Secured Claim agrees to less favorable treatment therefor, either: (i) Cash equal to the amount of such Allowed Other Secured Claim; (ii) the property that serves as security for such Allowed Other Secured Claim; or (iii) such other treatment that shall render such Allowed Other Secured Claims Unimpaired pursuant to section 1124 of the Bankruptcy Code (which may include Reinstatement). The Debtor does not believe that currently there are any Claims that will be Allowed Claims within this Class.
- c. *Voting:* Class 1C is Unimpaired. All Holders of Other Secured Claims are conclusively be presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. Therefore, Holders of Claims in Class 1C are not entitled to vote to accept or reject the Plan.

6. **Class 2 – Priority Claims**

- a. *Classification:* Class 2 consists of Priority Claims.
- b. *Treatment:* On or as soon as practicable after the Effective Date, each Holder of an Allowed Priority Claim shall receive on account thereof payment of the full amount of such Allowed Priority Claim in Cash or in the ordinary course of business as and when due, or otherwise receive treatment consistent with the provisions of section 1129(a) of the Bankruptcy Code, except to the extent the Holder of an Allowed Priority Claim agrees to less

favorable treatment.

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

7. **Class 3A – WARN Act Class Settlement Claims**

- a. *Classification:* Class 3A consists of all of the Allowed WARN Act Class Settlement Claims of the WARN Act Class Members.
- b. *Treatment:* In full and complete satisfaction of its Claim, each Holder of an Allowed Warn Act Class Settlement Claim shall receive its WARN Act Pro Rata Share of the Net WARN Act Class Settlement Amount less any and all state, federal and/or other payroll tax withholdings, with such distribution to be paid as follows: (i) fifty percent (50%) of each Holder's WARN Act Pro Rata Share of the Net WARN Act Class Settlement Amount less any and all state, federal, and/or other payroll tax withholdings to be paid on or as soon as practicable after the Effective Date; and (ii) the remaining fifty percent (50%) of each Holder's WARN Act Pro Rata Share of the Net WARN Act Class Settlement Amount less any and all state, federal, and/or other payroll tax withholdings will be paid within one hundred and twenty (120) days following the initial distribution.
- c. *Voting:* Class 3A is Impaired. Holders of Allowed WARN Act Class Settlement Claims are entitled to vote to accept or reject the Plan.

8. **Class 3B - Non-WARN Act Class Settlement Claims**

- a. *Classification:* Class 3B consists of all Non-WARN Act Class Settlement Claims.
- b. *Treatment:* In full and complete satisfaction of its Claim, each Holder of an Allowed Non-Warn Act Class Settlement Claim shall receive a distribution consisting of (i) on account of its Allowed Priority Wage Claim, such Allowed Priority Wage Claim less any and all state, federal, and/or other payroll tax withholdings, with such distribution to be paid as follows: (x) thirty three and one-third percent (33.33%) of each Holder's Allowed WARN and/or Priority Wage Claim to be paid on or as soon practicable after the Effective Date; (y) an additional thirty three and one-third percent (33.33%) of each Holder's Allowed Priority Wage Claim to be paid within one hundred and twenty (120) days following the initial distribution; and (z) a final distribution of thirty three and one-third percent (33.33%) of each Holder's Allowed Priority Wage Claim to be paid within one hundred and eighty (180) days following the initial

distribution; and (ii) on account of any portion of such Allowed Claim that constitutes an Allowed General Unsecured Claim, on or as soon as practicable after the Effective Date, and from time to time when practicable thereafter, its Pro Rata Share of an amount equal to the Net Distribution Proceeds, less (aa) any and all state, federal, and/or other payroll tax withholdings, and (bb) less any amounts that the Plan Administrator in her, his, or its reasonable discretion determines to be necessary to be held to wind up the Debtor's affairs and administer the Liquidating Trust. For the avoidance of doubt, each Holder of an Allowed Non-Warn Act Class Settlement Claim shall receive its Pro Rata Share of the Net Distribution Proceeds along with other Holders of Allowed Unsecured Claims.

- c. *Voting:* Class 3B is Impaired. Holders of Allowed Non-WARN Act Class Settlement Claims are entitled to vote to accept or reject the Plan.

9. **Class 4 – FS Deficiency/Unsecured Claims**

- a. *Classification:* Class 4 consists of FS Deficiency/Unsecured Claims.
- b. *Treatment:* Pursuant to the Plan Settlement, on or after the Effective Date, and from time to time when practicable thereafter, each Holder of the Allowed FS Deficiency/Unsecured Claim shall receive its Pro Rata Share of the Class 4 Distribution.
- c. *Voting:* Class 4 is Impaired. Holders of FS Deficiency/Unsecured Claims are entitled to vote to accept or reject the Plan.

10. **Class 5 - General Unsecured Claims**

- a. *Classification:* Class 5 consists of all other General Unsecured Claims.
- b. *Treatment:* Pursuant to the Plan Settlement, on or as soon as practicable after the Effective Date, and from time to time when practicable thereafter, each Holder of an Allowed General Unsecured Claim shall receive its Pro Rata Share of the Class 5 Distribution Amount.
- c. *Voting:* Class 5 is Impaired. Holders of Allowed General Unsecured Claims are entitled to vote to accept or reject the Plan.

11. **Class 6 – Affiliate Unsecured Claims**

- a. *Classification:* Class 6 consists of Affiliate Unsecured Claims.

- b. *Treatment:* Pursuant to the Plan Settlement, on or as soon as practicable after the Effective Date, and from time to time when practicable thereafter, each Holder of an Allowed Affiliate Unsecured Claim shall receive its Pro Rata Share of the Class 6 Distribution Amount.
- c. *Voting:* Class 6 is Impaired. Holders of Allowed Affiliate Unsecured Claims are entitled to vote to accept or reject the Plan.

12. **Class 7 – Subordinated Claims**

- a. *Classification:* Class 7 consists of all Subordinated Claims.
- b. *Treatment:* Each Holder of an Allowed Subordinated Claim will receive its Pro Rata Share of an amount equal to the Net Distribution Proceeds remaining after satisfaction in full of all Allowed Claims in all senior classes (*i.e.*, Classes 1, 2, 3, 4, 5, and 6).
- c. *Voting:* Class 7 is Impaired. Holders of Subordination Claims are entitled to vote to accept or reject the Plan.

13. **Class 8 –Interests**

- a. *Classification:* Class 8 consists of all Interests in the Debtor.
- b. *Treatment:* All Interests shall be canceled and extinguished and shall be of no further force or effect. No Holder of Interests shall receive or retain any property under the Plan on account of such Interest.
- c. *Voting:* Class 8 is Impaired. Holders of Interests in the Debtor are deemed to have rejected the Plan under section 1126(g) of the Bankruptcy Code. Therefore, Holders of Interests in Class 8 are not entitled to vote to accept or reject the Plan.

B. Implementation of the Plan

1. **General Settlement of Claims**

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and as consideration for the classification, distributions, releases, and other benefits provided under the Plan, on the Effective Date, the provisions of the Plan shall constitute a good-faith compromise and settlement of all Claims, Interests, Causes of Action, and controversies released, settled, compromised, discharged, satisfied, or otherwise resolved pursuant to the Plan. The Plan shall be deemed a motion to approve the good-faith compromise and settlement of all such Claims, Interests, Causes of Action, and controversies pursuant to Bankruptcy Rule 9019. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of such compromise and settlement under section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, as well as a finding by the Bankruptcy Court that such settlement and compromise is fair, equitable, reasonable, and in the best interests of the Debtor and its Estate.

2. Global Plan Settlement

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, the Plan incorporates the “Plan Settlement,” which is a compromise and global settlement among the Plan Settlement Parties of numerous debtor-creditor issues designed to achieve an economic resolution of Claims against the Debtor, claims that may be asserted against Florida Sawmills and the Affiliates and an efficient resolution of the Chapter 11 Case. The Plan Settlement effects, among other things, the allowance, compromise, treatment and satisfaction of all Claims asserted or which may be asserted by Florida Sawmills and the Affiliates in the Chapter 11 Case, which collectively were asserted to be in the amount of approximately \$180 million. Confirmation of the Plan will constitute the Bankruptcy Court’s approval of the Plan Settlement under Bankruptcy Rule 9019 and section 1123 of the Bankruptcy Code and shall constitute a finding that the compromises and settlements proposed in the Plan Settlement are in the best interest of the Debtor, its estate, its creditors, and other parties-in-interest and are fair, equitable, and within the range of reasonableness. Each provision of the Plan Settlement is considered non-severable from each other and from the remaining terms of the Plan. The Plan Settlement also amicably resolves all disputes among the Plan Settlement Parties concerning alleged Claims in Class 1 (FS Secured Claims), Class 2 (Affiliate Secured Claims), Class 4 (FS Deficiency/Unsecured Claims), Class 6 (Affiliate Unsecured Claims), and Class 7 (Subordinated Claims), and the potential distributions to Holders of Allowed Claims in Class 5 (General Unsecured Claims).

The terms of the Plan Settlement are detailed in the Plan Support Settlement and Term Sheet (annexed at Exhibit A to the Plan), and include the following salient terms:

a. Payment of Net Distribution Proceeds.

In the event the Net Distribution Proceeds to be distributed under the Plan are \$30 million, the Settlement Parties agree to the following sharing of the available Net Distribution Proceeds between Classes 4, 5, and 6 pursuant to the Plan, subject to adjustment pursuant to Paragraphs 4 and 5 of the Plan Support and Settlement Term Sheet:

i. Class 4 (FS Deficiency/Unsecured Claims) shall receive \$19 million of Net Distribution Proceeds (the “Class 4 Distribution Amount”) for distribution on account of the Allowed Florida Sawmills Claim (the sole Allowed Claim in Class 4).

ii. Class 5 (General Unsecured Claims) shall receive \$7.2 million of Net Distribution Proceeds (the “Class 5 Distribution Amount”), for distribution Pro Rata on account of the Allowed Class 5 General Unsecured Claims.

iii. Class 6 (Affiliate Unsecured Claims) shall receive \$3.8 million of Net Distribution Proceeds (the “Class 6 Distribution Amount”) for distribution on account of the Allowed Affiliate Claims, provided, however, that if the total amount of the Allowed Class 5 General Unsecured Claims is less than \$7.2 million (such that the distribution to Class 5 above results in 100% recovery to Allowed Claims in Class 5), then from the portion of the Class 5 Distribution Amount which exceeds the total amount of Allowed Class 5 General Unsecured Claims, (i) the first up to \$200,000 (that would have otherwise been distributed to Allowed Class 5 General Unsecured Claims), will be added to and become part of the Class 6 Distribution Amount and be distributed to the Affiliates to bring their total recovery to a possible maximum amount of \$4 million, and (ii) any excess amount above \$200,000 will be split equally (e.g., 50%/50%) between the Class 4 Distribution Amount and the Class 6 Distribution Amount

b. Net Distribution Proceeds in Excess of \$30 million

In the event that the Net Distribution Proceeds exceed \$30 million, the Class 4 Distribution Amount will be increased by the first additional \$1 million of Net Distribution Proceeds (*i.e.*, Net

Distribution Proceeds between \$30 million and \$31 million) to a maximum possible amount of \$20 million. Thereafter, Net Distribution Proceeds in excess of \$31 million shall be split equally (e.g., 33% to each Class) among the Class 4 Distribution Amount, the Class 5 Distribution Amount, and the Class 6 Distribution Amount until the Class 5 General Unsecured Claims are fully paid. If the Class 5 Distribution Amount exceeds the total amount of Allowed Class 5 General Unsecured Claims as a result of this paragraph, the excess shall be split equally among only the Class 4 Distribution Amount and the Class 6 Distribution Amount.

c. Net Distribution Proceeds Less than \$30 million

In the event that the Net Distributions Proceeds are less than \$30 million, the Parties agree that the Class 4 Distribution Amount, the Class 5 Distribution Amount, and the Class 6 Distribution Amount will be proportionally reduced in the ratio contemplated in Paragraph 3 hereof, such that the Class 4 Distribution Amount will be 63.33% of available Net Distribution Proceeds, the Class 5 Distribution Amount will be 24% of the available Net Distribution Proceeds, and the Class 6 Distribution Amount will be 12.67% of available Net Distribution Proceeds.

d. Allowance of Claims

i. In full and complete settlement and satisfaction of the Florida Sawmills Claim, the Florida Sawmills Claim shall be an Allowed FS Deficiency/Unsecured Claim in Class 4 under the Plan in the amount of \$76,410,413.63; provided, however, in accordance with Paragraphs 3, 4 and 5 of the Plan Support and Settlement Term Sheet, the total distribution to Holders of Allowed Claims in Class 4 under the Plan shall be limited to the Class 4 Distribution Amount (e.g., \$19 million if the Net Distribution Proceeds to be distributed under the Plan are \$30 million).

ii. In full and complete settlement and satisfaction of the Affiliate Claims, (i) Claim the Debtor, such claims are waived and withdrawn, and shall not be Allowed. 168, Claim 169, Claim 179, Claim 180, Claim 181, Claim 182, and Claim 194 shall be Allowed Affiliate Unsecured Claims in Class 6 under the Plan (collectively, the “Allowed Affiliate Class 6 Claims”) in the aggregate amount of \$65,972,334.79 (collectively, the “Aggregate Allowed Affiliate Class 6 Claim Amount”); provided, however, in accordance with Paragraphs 3, 4 and 5 above, the total distribution to Holders of Allowed Claims in Class 6 shall be limited to the Class 6 Distribution Amount (e.g., \$3.8 million if the Net Distribution Proceeds to be distributed under the Plan are \$30 million); and (ii) Claim shall be an Allowed Subordinated Claims in Class 7 under the Plan in the aggregate amount of \$36,546,503.70; provided, however, the Holders of Allowed Claims in Class 7 shall receive no or zero (\$0.00) distributions under the Plan on account of such Allowed Subordinated Claims. The Affiliates shall designate in writing to the Debtor’s bankruptcy counsel no later than three (3) Business Days prior to the Effective Date the manner in which the Aggregate Allowed Affiliate Class 6 Claim Amount is allocated on account of the Allowed Affiliate Class 6 Claims. The Affiliates represent and warrant that the Affiliate Claims comprise all Claims filed against the Debtor by all Persons related to Alpha Privatstiftung, Fritz Klausner Holzindustrie GmbH, and Klausner Holzindustrie GmbH & Co. KG; provided, however, if such Persons file Claims against the Debtor, such claims are waived and withdrawn, and shall not be Allowed.

e. Timing of Payments.

All Net Distribution Proceeds available for distribution on account of the Allowed Class 4 Claim (*i.e.*, the Florida Sawmills Claim), Allowed Class 5 Claims, and Allowed Class 6 Claims (*i.e.*, the Affiliate Claims) as of the Effective Date shall be distributed to Holders of such Allowed Claims on or as soon as practicable after the Effective Date in accordance with the Plan. Any Net Distribution Proceeds that are collected or otherwise become available for distribution after the Effective Date shall be distributed to the Holders of such Allowed Claims in accordance with the Plan from time to time when practicable thereafter.

f. Plan Settlement Releases.

Florida Sawmills and the Affiliates consent to the following releases that will become effective upon the occurrence of the Effective Date of the Plan:

i. Florida Sawmills, on behalf of itself and its past and present partners (including limited partners), agents, employees, attorneys, predecessors, successors, administrators, trustees, representatives, investors and any assigns of each of the foregoing, and each of them (collectively, the “Florida Sawmills Releasing Parties”), fully releases, acquits and forever discharges (i) the Debtor, together with its past and present officers, including Michael Freeman of Asgaard Capital, LLC, the Debtor’s duly appointed Chief Restructuring Officer in the Chapter 11 Case (the “CRO”), directors, including Nat Wasserstein of Lindenwood Associates LLC (the “Independent Director”), the Debtor’s independent director who was retained after the Petition Date, and Freidrich Klausner and Leopold Stephan, in their capacity with the Affiliates, or otherwise, the Debtor’s Professionals, any plan administrator or liquidating trustee under the Plan, employees, agents, attorneys, predecessors, successors, administrators, insurers, representatives, and any assigns of each of the foregoing, (ii) the Committee and each of its members (solely in their capacity as members of the Committee), together with the Creditors’ Committee’s Professionals and any assigns of each of the foregoing, and (c) the Affiliates, together with their past, present, and future officers, directors, employees, agents, stockholders, attorneys, predecessors, successors, administrators, insurers, representatives, investors, and any assigns of each of the foregoing; and each of them (collectively, the “Florida Sawmills Releasees”), from any and all claims, demands, actions, causes of action, suits, obligations, liabilities, damages, debts, expenses, executions, costs, attorneys’ fees, injuries, controversies, and disputes of any kind or nature, whether known or unknown, foreseen or unforeseen, accrued or unaccrued, mature or unmatured, which Florida Sawmills or any of the Florida Sawmills Releasing Parties had, may have, or now has against any of the Florida Sawmills Releasees beginning at the beginning of the world and extending through the Effective Date, related in any way to the Disputes and/or the Chapter 11 Case (the “Florida Sawmills Released Claims”), provided that the foregoing release shall not limit or be deemed to limit Florida Sawmills’ rights to enforce this Settlement and the Plan in accordance with their terms.

ii. The Affiliates, on behalf of themselves and their past and present officers, directors, employees, agents, stockholders, partners (including limited partners), members, attorneys, predecessors, successors, administrators, representatives, investors and any assigns of each of the foregoing, and each of them (collectively, the “Affiliate Releasing Parties”), fully release, acquit and forever discharge (i) the Debtor, together with its past and present officers, including the CRO, directors, including the Independent Director and Leopold Stephan, the Debtor’s Professionals (as defined in the Plan), any plan administrator or liquidating trustee under the Plan, employees, agents, attorneys, predecessors, successors, administrators, insurers, representatives, and any assigns of each of the foregoing, (ii) the Committee and each of its members (solely in their capacity as members of the Committee), together with the Creditors’ Committee’s Professionals (as defined in the Plan) and any assigns of each of the foregoing, and (iii) Florida Sawmills, together with its past, present, and future

partners (including limited partners), agents, employees, attorneys, predecessors, successors, administrators, insurers, representatives, investors, and any assigns of each of the foregoing; and each of them (collectively, the “Affiliate Releasees”), from any and all claims, demands, actions, causes of action, suits, obligations, liabilities, damages, debts, expenses, executions, costs, attorneys’ fees, injuries, controversies, and disputes of any kind or nature, whether known or unknown, foreseen or unforeseen, accrued or unaccrued, mature or unmatured, which the Affiliates or any of the Affiliate Releasing Parties had, may have, or now has against any of the Affiliate Releasees beginning at the beginning of the world and extending through the Effective Date, related in any way to the Disputes and/or the Chapter 11 Case (the “Affiliate Released Claims”), provided that the foregoing release shall not limit or be deemed to limit the Affiliates’ rights to enforce this Settlement and the Plan in accordance with their terms.

iii. The Debtor, on behalf of itself and its past and present officers, directors, employees, agents, attorneys, predecessors, successors, administrators, representatives and any assigns of each of the foregoing, and each of them (collectively, the “Debtor Releasing Parties”), fully releases, acquits and forever discharges (i) Florida Sawmills, together with its past, present, and future partners (including limited partners), agents, employees, attorneys, predecessors, successors, administrators, trustees, insurers, representatives, investors, and any assigns of each of the foregoing, (ii) the Committee and each of its members (solely in their capacity as members of the Committee), together with the Creditors’ Committee’s Professionals and any assigns of each of the foregoing, and (iii) the Affiliates, together with their past, present, and future officers, directors, employees, agents, stockholders, attorneys, predecessors, successors, administrators, insurers, representatives, investors, and any assigns of each of the foregoing; and each of them (collectively, the “Debtor Releasees”), from any and all claims, demands, actions, causes of action, suits, obligations, liabilities, damages, debts, expenses, executions, costs, attorneys’ fees, injuries, controversies, and disputes of any kind or nature, whether known or unknown, foreseen or unforeseen, accrued or unaccrued, mature or unmatured, which the Debtor or any of the Debtor Releasing Parties had, may have, or now has against any of the Debtor Releasees beginning at the beginning of the world and extending through the Effective Date, related in any way to the Disputes and/or the Chapter 11 Case (the “Debtor Released Claims”), provided that the foregoing release shall not limit or be deemed to limit the Debtor’s rights to enforce this Settlement and the Plan in accordance with their terms.

g. The failure of the Bankruptcy Court to confirm the Plan or for the Effective Date of the Plan to occur shall return the parties to the *status quo ante* and pending the occurrence of the Effective Date of the Plan, all parties’ rights are expressly reserved and preserved; provided that upon the occurrence of the Effective Date of the Plan, the Plan Settlement (and other provisions of the Plan) shall be binding on all creditors and equity-holders of the Debtor. Debtor shall take all reasonable and necessary steps to seek confirmation of the Plan so that the Effective Date occurs as soon as reasonably practicable and, subject to the Bankruptcy Court’s availability, within sixty (60) days from the date that the Disclosure Statement incorporating the terms of the Plan Support and Settlement Term Sheet is approved by the Bankruptcy Court.

C. Cancellation of Notes, Instruments, Certificates, and Other Documents

On the Effective Date, except as otherwise specifically provided for in the Plan, the obligations of the Debtor under any certificate, share, note, bond, indenture, purchase right, or other instrument or document, directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest or equity in the Debtor or any warrants, options, or other securities exercisable or exchangeable for, or convertible into, debt, equity, ownership, or profits interests in the Debtor giving rise to any Claim or Interest shall be canceled and deemed surrendered as to the Debtor and shall not have any continuing obligations thereunder.

D. Exemption from Certain Taxes and Fees

To the maximum extent permitted pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto, or the issuance, transfer or exchange of any security under the Plan shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, sale or use tax, mortgage recording tax, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents shall forgo the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents pursuant to such transfers of property without the payment of any such tax, recordation fee, or governmental assessment.

E. Effectuation of the Plan

The following provisions shall govern the effectuation of the Plan:

1. General.

On the Effective Date, the Plan Administrator shall assume control over the Post-Confirmation Estate and shall be authorized to continue the usual and ordinary operations of the Debtor in the ordinary course of the Debtor's business and the liquidation of the Post-Confirmation Estate in accordance with the terms hereof, and to spend funds of the Post-Confirmation Debtor and the Post-Confirmation Estate for such purpose.

2. Creation of Post-Confirmation Estate.

On the Effective Date, a Post-confirmation Estate will be created consisting of all assets of the Debtor, from which payment in connection with all remaining Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Secured Claims, Allowed Priority Claims, Allowed General Unsecured Claims, together with the actual and necessary costs and expenses to be incurred after the Effective Date identified in and to be paid from the Post-Confirmation Estate Reserve as set forth in the Plan.

3. Appointment of Plan Administrator.

The Plan Administrator will be appointed on the Effective Date pursuant to the Plan and Confirmation Order, and he/she will have the powers and responsibilities of a disbursing agent and plan administrator as set forth herein and in the Plan Administrator Agreement, and to manage and administer the Post-Confirmation Estate in accordance with the Plan.

4. Vesting of Estate Assets.

Except as otherwise provided in the Plan, on the Effective Date, all assets of the Debtor shall remain with and vest in the Post-Confirmation Estate under the control of the Plan Administrator for the purpose of liquidating the Estate, free and clear of all Liens, Claims, charges, or other encumbrances. On the Effective Date, the Florida Sawmills Reserve will be dissolved and such funds included in the Distribution Proceeds.

5. Sources of Consideration for Plan Distributions

The Post-Confirmation Debtor will fund distributions under the Plan with the Post-Confirmation

Estate Assets and the Distribution Proceeds.

6. **Plan Administrator Agreement**

On or after the Confirmation Date, the Debtor and the Plan Administrator shall enter into the Plan Administrator Agreement.

7. **Dissolution and Board of Directors**

On the Effective Date and as applicable, the authority, power, and incumbency of the persons acting as directors, managers and/or officers of the Debtor shall be terminated and they shall be deemed to have resigned, solely in their capacities as such, and the Plan Administrator, or a duly authorized representative thereof, shall be appointed as the sole manager and sole officer of the Debtor, and shall succeed to the powers of the Debtor's directors, managers and officers.

Subject in all respects to the terms of the Plan, the Debtor shall be dissolved as soon as practicable on or after the Effective Date, but in no event later than the closing of the Chapter 11 Case.

8. **Corporate Action**

Upon the Effective Date, all actions contemplated under the Plan, regardless of whether taken before, on, or after the Effective Date, shall be deemed authorized and approved in all respects. All matters provided for in the Plan or deemed necessary or desirable by the Debtor before, on, or after the Effective Date involving the corporate structure of the Debtor or the Post-Confirmation Debtor, and any corporate action required by the Debtor or the Post-Confirmation Debtor in connection with the Plan or corporate structure of the Debtor or Post-Confirmation Debtor, shall be deemed to have occurred and shall be in effect on the Effective Date, without any requirement of further action by the security holders, directors, managers, or officers of the Debtor or the Post-Confirmation Debtor. Before, on, or after the Effective Date, the appropriate officers of the Debtor (including the Chief Restructuring Officer) or the Post-Confirmation Debtor, as applicable, shall be authorized to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated under the Plan (or necessary or desirable to effect the transactions contemplated under the Plan) in the name of and on behalf of the Post-Confirmation Debtor. The authorizations and approvals contemplated by this Article IV.D shall be effective notwithstanding any requirements under any non-bankruptcy law.

F. **Treatment of Executory Contracts and Unexpired Leases**

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

On the Effective Date, except as otherwise provided in the Plan or otherwise agreed to by the Debtor and the counterparty to an Executory Contract or Unexpired Lease, all Executory Contracts or Unexpired Leases not previously assumed, assumed and assigned, or rejected in the Chapter 11 Case shall be deemed rejected, effective as of the Effective Date, in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, other than: (1) those that are identified on the Schedule of Assumed Executory Contracts and Unexpired Leases; (2) those that have been previously assumed or rejected by a Final Order; (3) those that are the subject of a motion to assume or reject Executory Contracts or Unexpired Leases that is pending on the Confirmation Date; (4) those that are subject to a motion to assume or reject an Executory Contract or Unexpired Lease pursuant to which the requested effective date of such assumption or rejection is after the Effective Date; or (5) to the extent they may be executory, the D&O Liability Insurance Policies (which shall be treated in accordance with the applicable provisions of Articles V and VI of the Plan regardless of whether they may be executory).

Except as otherwise provided in the Plan, the Debtor shall assume or assume and assign, as the case may be, Executory Contracts and Unexpired Leases set forth in the Schedules of Assumed Executory Contracts and Unexpired Leases. Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the assumption, assumption and assignment, or rejection of such Executory Contracts or Unexpired Leases as set forth in the Plan or the Schedule of Assumed Executory Contracts and Unexpired Leases, pursuant to sections 365(a) and 1123 of the Bankruptcy Code, except as otherwise provided in the Plan or the Confirmation Order. Unless otherwise indicated or agreed by the Debtor and the applicable contract counterparties, the assumption, assumption and assignment, or rejections of Executory Contracts and Unexpired Leases pursuant to the Plan are effective as of the Effective Date. Each Executory Contract or Unexpired Lease assumed pursuant to the Plan or by Bankruptcy Court order but not assigned to a third party before the Effective Date shall vest or re-vest, as applicable, in and be fully enforceable by the Post-Confirmation Debtor in accordance with its terms, except as such terms may have been modified by any order of the Bankruptcy Court authorizing and providing for its assumption under applicable bankruptcy or other federal law or as otherwise agreed by the Debtor and the applicable counterparty to the Executory Contract or Unexpired Lease. Notwithstanding anything to the contrary in the Plan, the Debtor and the Post-Confirmation Debtor reserve the right to alter, amend, modify, or supplement the Schedule of Assumed Executory Contract and Unexpired Leases at any time through and including thirty (30) days after the Effective Date.

2. Claims Based on Rejection of Executory Contracts or Unexpired Leases

Proofs of Claims with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, if any, must be Filed with the Bankruptcy Court within the latest to occur of: (1) thirty (30) days after the date of entry of an order of the Bankruptcy Court (including the Confirmation Order) approving such rejection and (2) thirty (30) days after notice of any rejection that occurs after the Effective Date. **Any Holder of a Claim arising from the rejection of an Executory Contract or Unexpired Lease for which a Proof of Claim was not timely Filed shall not (a) be treated as a creditor with respect to such Claim, (b) be permitted to vote to accept or reject the Plan on account of any Claim arising from such rejection, or (c) participate in any distribution in the Chapter 11 Case on account of such Claim. Any Claims arising from the rejection of an Executory Contract or Unexpired Lease not Filed with the Bankruptcy Court within such time will be automatically Disallowed, forever barred from assertion, and shall not be enforceable against the Debtor, the Debtor's Estate, the Post-Confirmation Debtor, or the property for any of the foregoing without the need for any objection by the Debtor or the Post-Confirmation Debtor, as applicable, or further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity. Any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully compromised, settled, and released, notwithstanding anything in the Schedules or a Proof of Claim to the contrary.** Claims arising from the rejection of the Debtor's Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims and shall be treated in accordance with Article III.B.8 hereof.

Counterparties to Executory Contracts or Unexpired Leases shall be served with a notice substantially in the form approved by the Bankruptcy Court, pursuant to the order of the Bankruptcy Court approving the Disclosure Statement, as soon as reasonably practicable following entry of the Bankruptcy Court order approving the Disclosure Statement.

3. Cure of Defaults for Assumed, or Assumed and Assigned, Executory Contracts and Unexpired Leases

Any monetary default under an Executory Contract or Unexpired Lease to be assumed, or assumed and assigned, shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the

Cure Claim, as reflected on the Cure Notice or as otherwise agreed or determined by a Final Order of the Bankruptcy Court, in Cash on the Effective Date or as soon as reasonably practicable thereafter, subject to the limitations described below, or on such other terms as the parties to such Executory Contract or Unexpired Lease may otherwise agree. In the event of a dispute regarding: (1) the amount of any Cure Claim; (2) the ability of the Post-Confirmation Debtor or any assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assumed and assigned; or (3) any other matter pertaining to assumption or the assumption and assignment, the Cure Claims shall be paid following the entry of a Final Order resolving the dispute and approving the assumption or the assumption and assignment. Notwithstanding the foregoing, nothing herein shall prevent the Post-Confirmation Debtor from settling any Cure Claim without further notice to, or action, order, or approval of the Bankruptcy Court.

Unless otherwise provided by an order of the Bankruptcy Court, at least seven (7) days before the Voting Deadline, the Debtor shall distribute, or cause to be distributed, Cure Notices to the applicable counterparty to the Executory Contract or Unexpired Lease. **Any objection by a counterparty to an Executory Contract or Unexpired Lease to the proposed assumption, assumption and assignment, or related Cure Claim must be Filed by the Cure/Assumption Objection Deadline.** Any counterparty to an Executory Contract or Unexpired Lease that fails to timely object to the proposed assumption, assumption and assignment, or Cure Notice will be deemed to have consented to such assumption or assumption and assignment, or Cure Claim. To the extent that the Debtor seeks to assume and assign an Executory Contract or Unexpired Lease pursuant to the Plan, the Debtor will identify the assignee in the applicable Cure Notice and/or Schedule and provide “adequate assurance of future performance” for such assignee (within the meaning of section 365 of the Bankruptcy Code) under the applicable Executory Contract or Unexpired Lease to be assumed and assigned.

Assumption or assumption and assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise, and the payment of the Cure Claim shall result in the full release and satisfaction of any Claims or defaults, whether monetary or non-monetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time before the date that the Debtor assumes or assumes and assigns such Executory Contract or Unexpired Lease. Any Proofs of Claim Filed with respect to an Executory Contract or Unexpired Lease that has been assumed or assumed and assigned as set forth herein shall be deemed Disallowed and expunged, without further notice to, or action, order, or approval of the Bankruptcy Court.

4. **Indemnification Obligations**

All indemnification obligations that arise after the Petition Date and exist as of or immediately prior to the Effective Date for the current and former directors, officers, managers, employees, attorneys, accountants, investment bankers, and other professionals of the Debtor, as applicable, shall be assumed by the Post-Confirmation Debtor to the same extent that such were obligations of the Debtor immediately before the Effective Date and shall remain in full force and effect after the Effective Date. Nothing in this section is intended to enlarge or reduce the rights of any party having or claiming rights of indemnification (an “Indemnification Claimant”), nor any party disputing any such rights or claims. Moreover, after the Effective Date, each Indemnification Claimant shall retain all rights to assert any and all rights of setoff against the Post-Confirmation Debtor, which rights are subject to Article IX.I. of the Plan, that such Indemnification Claimant had against the Debtor immediately prior to the Effective Date.

5. **Director and Officer Liability Insurance**

In accordance with Article VII.H of the Plan, upon the Effective Date, the Post-Confirmation

Debtor shall be deemed to succeed to all of the Debtor's rights and benefits under all D&O Liability Insurance Policies with respect to the Debtor's present and former directors, managers, officers, and employees, and coverage for defense and indemnity under any of the D&O Liability Insurance Policies shall remain available to all individuals and entities covered thereby, including those within the definition of "Insured Person" in any of the D&O Liability Insurance Policies, subject in all respects to the terms and conditions of the D&O Liability Insurance Policies. From and after the Effective Date, neither the Plan Administrator nor the Post-Confirmation Debtor shall take any action to alter or modify in any way the D&O Liability Insurance Policies with respect to coverage for any claims insured thereunder. Entry of the Confirmation Order will constitute the Bankruptcy Court's approval of the foregoing succession by the Post-Confirmation Debtor to the Debtor's rights and benefits under each of the D&O Liability Insurance Policies.

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

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

Modifications, amendments, supplements, and restatements of prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith.

7. Reservation of Rights

Nothing in the Plan is intended to constitute a finding by the Bankruptcy Court or an admission by the Debtor that any agreement or contract is an Executory Contract or Unexpired Lease or that the Debtor or the Post-Confirmation Debtor has any liability thereunder, including, without limitation, the exclusion or inclusion of any contract or agreement on the Schedule of Assumed Executory Contracts and Unexpired Leases.

8. Nonoccurrence of Effective Date

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

9. Contracts and Leases Entered Into After the Petition Date

Contracts and leases entered into after the Petition Date by the Debtor, including any Assumed Executory Contracts or Unexpired Leases, will be performed by the Debtor or the Post-Confirmation Debtor, whichever is liable thereunder in the ordinary course of its business. Accordingly, any such contracts and leases (including any Assumed Executory Contracts or Unexpired Leases) that have not been rejected as of the Confirmation Date shall survive and remain unaffected by entry of the Confirmation Order.

G. Provisions Governing Distributions**1. Timing and Calculation of Amounts to Be Distributed**

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

2. Plan Administrator

Distributions under the Plan shall be made by the Plan Administrator.

3. Delivery of Distributions and Undeliverable or Unclaimed Distributions**a. Record Date for Distribution**

On the Distribution Record Date, the Claims Register shall be closed, and the Post-Confirmation Debtor shall instead be authorized and entitled to recognize only those Holders listed on the Claims Register as of the close of business on the Distribution Record Date.

b. Delivery of Distributions

Except as otherwise provided in the Plan or in the WARN Act Class Settlement Agreement, distributions to Holders of Allowed Claims shall be made to Holders of record as of the Distribution Record Date by the Plan Administrator: (a) to the signatory set forth on any Proof of Claim Filed by such Holder or other representative identified therein (or at the last known addresses of such Holder if no Proof of Claim is Filed or if the Debtor has been notified in writing of a change of address); (b) at the addresses set forth in any written notices of address changes delivered to the Plan Administrator after the date of any related Proof of Claim; (c) at the addresses reflected in the Schedules if no Proof of Claim has been Filed and the Post-Confirmation Debtor has not received a written notice of a change of address; or (d) on any counsel that has appeared in the Chapter 11 Case on such Holder's behalf. Subject to this Article VI.C, distributions under the Plan on account of Allowed Claims shall not be subject to levy, garnishment, attachment, or like legal process, so that each Holder of an Allowed Claim shall have and receive the benefit of the distributions in the manner set forth in the Plan. The Debtor, the Plan Administrator, or the Post-Confirmation Debtor, as applicable, shall not incur any liability whatsoever on account of any distributions under the Plan except for gross negligence or willful misconduct.

c. Distribution

After funding of the Professional Fee Escrow Account in accordance with Article II.C.2 hereof, any funds in the Distribution Account shall be allocated and paid in the following priority (in each case on

a Pro Rata basis): *first*, on account of all Secured Claims (subject to any carve outs for Allowed Administrative Expense Claims approved by order of the Bankruptcy Court during the Chapter 11 Case); *second*, on account of all Allowed Administrative Expenses Claims; *third*, on account of the Allowed Priority Claims including, without limitation the Allowed WARN Act Class Settlement Claims and the Allowed Non-WARN Act Class Settlement Claims (to the extent constituting Priority Claims); and *fourth*, on account of all Allowed Non-WARN Act Class Settlement Claims (to the extent constituting General Unsecured Claims), any Allowed FS Deficiency/Unsecured Claim, Allowed General Unsecured Claims, and Allowed Affiliate Unsecured Claims.

d. **Minimum Distributions**

Holders of Allowed Claims entitled to distributions of \$50 (whether Cash or otherwise) or less shall not receive distributions. Each such Claim shall be discharged and its Holder shall be forever barred pursuant to Article IX hereof from asserting that Claim against the Debtor or the Post-Confirmation Debtor, as applicable, or its property; *provided, however*, that distributions that would otherwise be made to such Holder shall carry over until the next date of a distribution to such Holders (on account of a Disputed Claim or otherwise) until the cumulative amount of Allowed Claims held by such Holder is more than \$50, at which time (if such occurs) such cumulative amount shall be paid to such Holder.

e. **Undeliverable Distributions and Unclaimed Property**

In the event that any distribution to any Holder is returned as undeliverable, no distribution to such Holder shall be made unless and until the Plan Administrator has determined the then-current address of such Holder, at which time such distribution shall be made to such Holder without interest; *provided, however*, that such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six (6) months from the Effective Date, except as may be provided otherwise in the WARN Act Class Settlement Agreement. After such date, all unclaimed property or interests in property shall revert to the Post-Confirmation Debtor, without need for a further order by the Bankruptcy Court (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary), and the Claim of any Holder to such property or Interest in property shall be discharged and forever barred, except as may be provided otherwise in the WARN Act Class Settlement Agreement.

4. **Manner of Payment**

Unless otherwise set forth herein, all distributions of Cash to the Holders of Allowed Claims under the Plan shall be made by the Plan Administrator. At the option of the Plan Administrator, any Cash payment to be made under the Plan may be made by check or wire transfer or as otherwise required or provided in applicable agreements.

5. **Compliance with Tax and Other Legal Requirements**

In connection with the Plan and the WARN Act Class Settlement Agreement, to the extent applicable, the Post-Confirmation Debtor shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Any taxes withheld and deposited with the appropriate Governmental Unit shall be treated as if distributed to the applicable Holder for purposes of determining the distributions to which such Holder is entitled to receive. Notwithstanding any provision in the Plan to the contrary, the Post-Confirmation Debtor shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including (1) liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes,

(2) withholding distributions pending receipt of information necessary to facilitate such distributions, (3) establishing any other mechanisms it believes are reasonable and appropriate, and (4) obtaining, if such information is not already in the possession of the Post-Confirmation Debtor, (a) in the case of a U.S. Holder, a properly executed Internal Revenue Service Form W-9, and (b) in the case of a non-U.S. Holder, a properly executed applicable Internal Revenue Service Form W-8 and any other forms required by any applicable law (or in each of the cases of clauses (a) and (b) above, such Holder otherwise establishes eligibility for an exemption). The Post-Confirmation Debtor reserves the right to allocate to the applicable Holders all distributions made under the Plan in compliance with applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

6. **Allocations**

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

7. **No Post-petition Interest on Claims**

Unless otherwise specifically provided for in an order of the Bankruptcy Court, the Plan, or the Confirmation Order or required by applicable bankruptcy law, post-petition interest shall not accrue or be paid on any Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any such Claim.

8. **Setoffs and Recoupment**

The Debtor or the Post-Confirmation Debtor, as applicable, may, but shall not be required to, set off against or recoup any payments or distributions to be made pursuant to the Plan in respect of any Claims of any nature whatsoever that the Debtor or the Post-Confirmation Debtor may have against the claimant, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Post-Confirmation Debtor, or their successors of any such Claim it may have against the Holder of such Claim.

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

a. **Claims Paid by Third Parties**

To the extent that the Holder of an Allowed Claim receives payment in full on account of such Claim from a party that is not the Debtor or Post-Confirmation Debtor, such Claim shall be Disallowed without an objection having to be Filed and without any further notice to, or action, order, or approval of, the Bankruptcy Court. To the extent a Holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not the Debtor or Post-Confirmation Debtor on account of such Claim, such Holder shall, within fourteen (14) days of receipt thereof, repay or return the distribution to the Debtor or Post-Confirmation Debtor, to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan. The failure of such Holder to timely repay or return such distribution shall result in the Holder owing the Debtor annualized interest at the Federal Judgment Rate on such amount owed for each Business Day after the 14-day grace period specified above until the amount is repaid.

b. **Claims Payable by Third Parties**

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to the Debtor's insurance policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtor's insurers agrees to pay in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction or otherwise settled), then immediately upon such insurers' agreement, the applicable portion of such Claim shall be expunged without a Claims objection having to be Filed and without any further notice to, or action, order, or approval of the Bankruptcy Court.

c. **Applicability of Insurance Policies**

Except as otherwise provided in the Plan, payments to Holders of Claims by the Debtor's insurance carriers shall be in accordance with the provisions of any applicable insurance policy. Notwithstanding anything herein to the contrary, nothing shall constitute or be deemed a release, settlement, satisfaction, compromise, or waiver of any Cause of Action that the Debtor or any other Entity may hold against any other Entity, including insurers under any policies of insurance, including the D&O Liability Insurance Policies, or applicable indemnity, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

d. **Provisions Regarding Vesting of Insurance Policies in Post-Confirmation Debtor**

Notwithstanding anything to the contrary in the Plan Documents, the Confirmation Order, any bar date notice or claim objection, any other document related to any of the foregoing or any other prior order of the Bankruptcy Court (including, without limitation, any other provision that purports to be preemptory or supervening, grants an injunction, discharge or release, or requires a party to opt out of any releases), the Post-Confirmation Debtor shall succeed to all of the Debtor's rights and obligations under the D&O Liability Insurance Policies, which policies shall be enforceable by and against the Post-Confirmation Debtor.

H. The Post-Confirmation Estate

1. **The Post-Confirmation Debtor**

The Post-Confirmation Debtor shall be formed on the Effective Date and shall continue in existence for the benefit of the Holders of Allowed Claims in accordance with the terms hereof. The powers, authority, responsibilities, and duties of the Post-Confirmation Debtor and the Plan Administrator are set forth in and shall be governed by the Plan and the Plan Administrator Agreement.

2. **Purpose of the Post-Confirmation Debtor**

The Post-Confirmation Debtor shall be established pursuant to the Plan Administrator Agreement for the sole purpose of liquidating and administering the Post-Confirmation Estate Assets and making distributions on account thereof as provided for under the Plan. Pursuant to such purpose, the Post-Confirmation Debtor shall engage in (i) resolving Disputed Claims, (ii) prosecuting Causes of Action, (iii) pursuing any and all Post-Confirmation Estate Assets, (iv) making distributions on account of Allowed Claims as provided hereunder and in the Plan Administrator Agreement, (v) maximizing recovery of the Post-Confirmation Estate Assets, (vi) distributing the proceeds of the Post-Confirmation Estate Assets in accordance with the Plan and the Plan Administrator Agreement, (vii) establishing and funding the Distribution Account, and (viii) all other matters not expressly set forth herein, as may be

reasonably necessary, in the opinion of the Plan Administrator, to effectuate the Plan and the terms of the Plan Administrator Agreement. As of the Effective Date, the Post-Confirmation Debtor, by and through the Plan Administrator, shall be authorized to act on behalf of the Debtor and, to the extent necessary, deemed to be substituted as the party-in-lieu of the Debtor in all matters, including (a) motions, contested matters, and adversary proceedings pending in the Bankruptcy Court, relating to the Post-Confirmation Debtor and/or Post-Confirmation Estate Assets, (b) any and all tax or regulatory filings, relating to the Post-Confirmation Debtor, and (c) all matters pending in any courts, tribunals, forums, or administrative proceedings outside of the Bankruptcy Court relating to the Post-Confirmation Debtor and/or Post-Confirmation Estate Assets, in each case without the need or requirement for the Post-Confirmation Debtor to file motions or substitutions of parties or counsel in each such matter.

3. **Post-Confirmation Estate Assets**

On the Effective Date, and in accordance with sections 1123 and 1141 of the Bankruptcy Code and pursuant to the terms of the Plan, all title and interest in all of the Post-Confirmation Estate Assets, as well as the rights and powers of the Debtor in such Post-Confirmation Estate Assets, shall automatically vest, transfer and be assigned in and to the Post-Confirmation Debtor, free and clear of all Claims and Interests, except as otherwise provided by Bankruptcy Court order, to be administered in accordance with the Plan. Notwithstanding the foregoing, for purposes of section 553 of the Bankruptcy Code, the transfer of the Post-Confirmation Estate Assets to the Post-Confirmation Debtor shall not affect the mutuality of obligations which otherwise may have existed prior to the effectuation of such transfer. Such transfer shall be exempt from any stamp, real estate transfer, mortgage reporting, sales, use, or other similar tax, pursuant to section 1146(a) of the Bankruptcy Code.

The Debtor, the Plan Administrator, and any party under the control of such parties will execute any documents or other instruments and shall take all other steps as reasonably necessary to cause title to the Post-Confirmation Estate Assets to be transferred to the Post-Confirmation Debtor.

4. **The Plan Administrator**

The Plan Administrator shall be a Person or Entity mutually acceptable to the Debtor and the Creditors' Committee, whose appointment shall be approved by the Bankruptcy Court pursuant to the Confirmation Order. Subject to Bankruptcy Court approval, the initial Plan Administrator will be Berkley Research Group, LLC, by and through Jay Borow. Following appointment, the Plan Administrator shall act in accordance with the Plan and the Plan Administrator Agreement, and in such capacity shall have the same powers as the board of directors, managers and/or officers of the Debtor (and all bylaws, articles of incorporation, and related corporate documents are deemed amended by the Plan to permit and authorize the same). The Plan Administrator may be removed at any time by the Bankruptcy Court after notice and hearing and upon a showing of cause. In the event of resignation or removal, death or incapacity of the Plan Administrator, the Bankruptcy Court shall designate another Person or Entity to serve as Plan Administrator. Thereupon, the successor Plan Administrator shall become fully vested with all of the rights, powers, duties, and obligations of the predecessor; *provided, however*, that the Plan Administrator shall be deemed released from such position on the date the Chapter 11 Case is closed, and no successor thereto shall be designated. All documented and reasonable fees and expenses incurred by the Plan Administrator and its professionals (which the Plan Administrator may retain in accordance with Article VII.K hereof) following the Effective Date shall be paid from the Post-Confirmation Estate Assets as set forth in the Plan Administrator Agreement.

5. **Vesting and Estate Assets in the Post-Confirmation Debtor**

Pursuant to section 1141(b) of the Bankruptcy Code, the Post-Confirmation Estate Assets shall

vest in the Post-Confirmation Debtor free and clear of all Liens, Claims, and Interests, except as otherwise specifically provided in the Plan or in the Confirmation Order; *provided, however*, that the Plan Administrator may abandon or otherwise not accept any non-Cash Post-Confirmation Estate Assets that the Plan Administrator believes, in good faith, have no value or are burdensome to the Post-Confirmation Debtor. Any non-Cash Post-Confirmation Estate Assets that the Plan Administrator so abandons or otherwise does not accept shall not be property of the Post-Confirmation Debtor.

6. Post-Confirmation Debtor Expenses

Subject to the provisions of the Plan Administrator Agreement, all costs, expenses, and obligations incurred by the Plan Administrator in administering the Plan, the Post-Confirmation Debtor, or in any manner connected, incidental, or related thereto, that results in distributions from the Post-Confirmation Debtor shall be charged against the Post-Confirmation Estate Assets remaining from in the hands of the Plan Administrator. Such costs, expenses, and obligations shall be paid in accordance with the Plan Administrator Agreement, which shall provide for an initial distribution to the Distribution Account to fund a prompt distribution to Holders of Allowed General Unsecured Claims and any other similarly situated creditors in accordance with Article III.B hereof.

7. Role of the Plan Administrator

a. **Role of Plan Administrator.** On the Effective Date, the Plan Administrator is deemed the representative of the Debtor's Estate under Section 1123(b)(3)(B) of the Bankruptcy Code, and has all rights associated therewith. Pursuant to the terms of Plan and the Plan Administrator Agreement, the Plan Administrator has all duties, powers, and standing authority necessary to implement the Plan and to administer and liquidate the assets of the Debtor's Estate and the Post-Confirmation Estate for the benefit of the Holders of Allowed Claims, and shall be entitled to indemnification and exculpation from the Debtor's Estate and the Post-Confirmation Estate.

b. **Appointment of Plan Administrator.** Effective immediately on the Effective Date, the Plan Administrator is designated, appointed and vested with full authority and control over the Post-Confirmation Estate Assets and to effectuate the distributions contemplated pursuant to the terms of the Plan. The Plan Administrator has the powers and responsibilities of a disbursing agent and trustee in all respects as it relates to all matters set forth in the Plan. All distributions under the Plan shall be made by the Plan Administrator, as disbursing agent, or by such other Person designated by the Plan Administrator to act as a disbursing agent.

c. **Duties and Powers.** As of the Effective Date, the Plan Administrator is the representative of and successor to the Debtor, and has the rights and powers provided in the Bankruptcy Code, in addition to any rights and powers granted herein and in the Confirmation Order. Without limiting the foregoing, the Plan Administrator is the successor-in-interest to the Debtor with respect to all interests constituting Post-Confirmation Estate Assets and with respect to the creditors holding Claims under the Plan. Plan Administrator shall act in a fiduciary capacity for the Holders of all Allowed Claims under the Plan. The Plan Administrator shall assume all of the responsibilities, duties and obligations of the Debtor's former officers, directors, managers or managing members that arise on or after the Effective Date, and is empowered and authorized to satisfy such responsibilities, duties and obligations without further corporate or limited liability company authority as may have been required prior to the Effective Date. The Plan Administrator will pay from the Post-Confirmation Estate Assets all ordinary and necessary costs of protecting, preserving, disposing, liquidating and realizing upon the Post-Confirmation Estate Assets. The Plan Administrator will liquidate and administer the Post-Confirmation Estate Assets, including making distributions therefrom, all in accordance with the terms of the Plan. Unless otherwise excused or exempted from doing so by the Bankruptcy Code, the Plan Administrator will abide by all

laws, including tax laws. The Plan Administrator shall have sole and exclusive authority for the retention of professionals to assist in any manner on and after the Effective Date.

As of the Effective Date, the Plan Administrator has the power to take any and all actions which, in the business judgment of the Plan Administrator, are necessary or appropriate to fulfill the Plan Administrator's obligations under the Plan, including, but not limited to, each of the powers set forth below:

1. Receive, manage, invest, dispose, liquidate, supervise, control, exercise authority over, and protect the Post-Confirmation Estate Assets, including through the creation of reserves as provided for under the Plan or the Plan Administrator Agreement, and generally oversee and provide management of the affairs of the Post-Confirmation Debtor's Estate;
2. Pay all necessary expenses incurred in connection with the duties and responsibilities of the Plan Administrator under the Plan to the extent of available funds, including funds in the Post-Confirmation Estate Reserve;
3. File tax returns or other reports required by governmental entities and pay taxes or other liabilities incurred by the Debtor and Post-Confirmation Debtor to the extent payable consistent with the Plan, the Bankruptcy Code, or order of the Bankruptcy Court;
4. Retain and compensate, without further order of the Bankruptcy Court, the services of employees, professionals, and consultants to advise and assist in the administration, prosecution, and distribution of Post-Confirmation Estate Assets;
5. Calculate and implement distributions of Post-Confirmation Estate Assets;
6. Investigate, prosecute, compromise, and settle Causes of Action or other legal rights vested in the Post-Confirmation Debtor;
7. Object to Claims and address and resolve issues involving objections, reconciliation, and allowance of Claims;
8. Undertake all administrative functions necessary to implement the Plan and related to the Chapter 11 Case after the Effective Date;
9. Open bank accounts and any other depository or investment accounts deemed necessary in the Plan Administrator's sole discretion;
10. Execute any documents and take any actions necessary to bind the Post-Confirmation Debtor (or Debtor), as may be necessary, as determined in the Plan Administrator's sole discretion;
11. Take possession of (or exert dominion over) all books, records, and files (whether in hard copy or electronic form) of the Post-Confirmation Debtor and its Estate, and provide for the retention and storage of such books, records, and files until such time as the Plan Administrator determines that retention of same is no longer necessary or required;
12. At the Plan Administrator's sole discretion, invest Cash (including any earnings thereon or proceeds therefrom) as permitted by section 345 of the Bankruptcy Code or in other prudent investments;

13. At the Plan Administrator's sole discretion, purchase and carry all insurance policies and pay all insurance premiums and costs the Plan Administrator deems reasonably necessary or advisable, including, without limitation, purchasing any errors and omissions insurance with regard to any Losses (defined below) it may incur, arising out of or due to its actions or omissions, or consequences of such actions or omissions, other than as a result of fraud or willful misconduct, with respect to the implementation and administration of the Plan Administrator Agreement;

14. Abandon any Post-Confirmation Estate Assets; and

15. Take all other actions consistent with the provisions of the Plan, the Confirmation Order, and the Plan Administrator Agreement that the Plan Administrator deems reasonably necessary or desirable to administer the Post-Confirmation Debtor's Estate.

8. Prosecution and Resolution of Causes of Action

From and after the Effective Date, prosecution and settlement of all Causes of Action in the Post-Confirmation Estate shall be the sole responsibility of the Post-Confirmation Debtor and the Plan Administrator pursuant to the Plan and the Confirmation Order. From and after the Effective Date, the Post-Confirmation Debtor and the Plan Administrator shall have exclusive rights, powers, and interests of the Debtor and the Debtor's Estate to pursue, settle, or abandon such Causes of Action as the sole representative of the Debtor and the Debtor's Estate pursuant to section 1123(b)(3) of the Bankruptcy Code. Proceeds recovered from all Causes of Action will be deposited into the Distribution Account and will be distributed by the Plan Administrator to Holders of Allowed Claims in accordance with the provisions of the Plan. All Causes of Action that are not expressly released or waived under the Plan are reserved and preserved, transferred to and vest in the Post-Confirmation Debtor in accordance with the Plan. No Person may rely on the absence of a specific reference in the Plan, the Plan Administrator Agreement, or the Disclosure Statement to any Cause of Action against it as any indication that the Debtor or the Plan Administrator will not pursue any and all available Causes of Action against such Person. The Plan Administrator expressly reserves all Causes of Action, except for any Causes of Action against any Person that are expressly released or waived under the Plan. Therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of confirmation or consummation of the Plan. No claims or Causes of Action against the Released Parties that are waived, released, and discharged pursuant to the Plan shall be transferred to the Post-Confirmation Debtor.

Settlement by the Plan Administrator of any Cause of Action in the Post-Confirmation Estate shall not require notice of approval of the Bankruptcy Court and shall only require: (1) approval of the Plan Administrator in his, her, or its discretion if the amount claimed by the Post-Confirmation Debtor against a Person is less than two hundred fifty thousand dollars (\$250,000); and (2) approval of the Plan Administrator in his, her, or its discretion and approval of the Bankruptcy Court, upon notice and a hearing, if the amount claimed by the Post-Confirmation Debtor against a Person is unliquidated or equals or exceeds two hundred fifty thousand dollars (\$250,000).

9. Indemnification

Subject to the Bankruptcy Code, the Bankruptcy Rules and any prior orders of the Bankruptcy Court, the Post-Confirmation Debtor shall indemnify the Indemnified Persons for, and shall hold them harmless against, any loss, liability, damage, judgment, fine, penalty, claim, demand, settlement, cost, or expense (including, without limitation, the reasonable fees and expenses of their respective professionals)

incurred without gross negligence, willful misconduct, or fraud on the part of the Indemnified Persons (which gross negligence, willful misconduct, or fraud, if any, must be determined by Final Order of a court of competent jurisdiction) for any action taken, suffered, or omitted to be taken by the Indemnified Persons in connection with the acceptance, administration, exercise, or performance of their duties under the Plan or the Plan Administrator Agreement, as applicable. An act or omission taken with the approval of the Bankruptcy Court will conclusively be deemed not to constitute gross negligence, willful misconduct, or fraud.

11. **Term of the Post-Confirmation Debtor**

The Plan Administrator shall be discharged and the Post-Confirmation Debtor shall be terminated, at such time as (1) all Disputed Claims have been resolved, (2) all of the Post-Confirmation Estate Assets have been liquidated or abandoned, (3) all duties and obligations of the Plan Administrator under the Plan Administrator Agreement have been fulfilled, (4) all distributions required to be made by the Post-Confirmation Debtor under the Plan and the Plan Administrator Agreement have been made, and (5) the Debtor's Chapter 11 Case has been closed; *provided, however*, that in no event shall the Post-Confirmation Debtor be dissolved later than five (5) years from the Effective Date unless the Bankruptcy Court, upon motion within the six-month period prior to the fifth anniversary (or the end of any extension period approved by the Bankruptcy Court), determines that an extension is necessary to facilitate or complete the recovery and liquidation of the Post-Confirmation Estate Assets and/or distributions in accordance with the Plan.

12. **Retention of Professionals by the Post-Confirmation Debtor**

The Plan Administrator may, in connection with the performance of his, her, or its functions, in the Plan Administrator's sole and absolute discretion, retain, consult with, and compensate attorneys, accountants, advisors, or agents to assist in his, her, or its duties on such terms (including on a contingency or hourly basis) as he, she, or it deems reasonable and appropriate without Bankruptcy Court approval. The Plan Administrator may assert the reasonable reliance on the advice of counsel as a defense to any claim asserted against the Plan Administrator. Notwithstanding such authority, the Plan Administrator shall be under no obligation to consult with any such attorneys, accountants, advisors, or agents, and his, her, or its determination not to do so shall not result in the imposition of liability on the Plan Administrator or his, her, or its members unless such determination is based on willful misconduct, gross negligence, or fraud.

13. **Conflicts Between the Plan Administrator Agreement and the Plan**

In the event of any inconsistencies or conflict between the Plan Administrator Agreement and the Plan, the terms and provisions of the Plan shall control.

14. **Wind Down**

The Post-Confirmation Debtor, by and through the Plan Administrator, shall have the power and authority to take any action necessary to wind down and dissolve the Debtor/Post-Confirmation Debtor and, without further action under applicable law, regulation, order, or rule, including any action by the stockholders, members, board of directors, or board of managers of the Debtor.

As soon as practicable on or after the Effective Date, but in no event later than the closing of the Chapter 11 Case, the Post-Confirmation Debtor shall be responsible for the following: (1) to the extent applicable, file a certificate of dissolution or equivalent document, together with all other necessary corporate and company documents, to effect the dissolution of the Debtor under the applicable laws of

its state of incorporation or formation; (2) to the extent applicable, complete and file any final or otherwise required federal, state, and local tax returns and pay any taxes required to be paid for the Debtor, and pursuant to section 505(b) of the Bankruptcy Code, request an expedited determination of any unpaid tax liability of the Debtor or its Estate for any tax incurred during the administration of the Debtor's Chapter 11 Case, as determined under applicable tax laws, and represent the interests and account of the Debtor or its Estate before any taxing authority in all matters, including, without limitation, any action, suit, proceeding, or audit; and (3) take such other actions and/or undertake administrative functions as the Plan Administrator and Post-Confirmation Debtor may reasonably determine to be necessary or desirable to carry out the purposes of the Plan. Any certificate of dissolution or equivalent document may be executed by the Post-Confirmation Debtor without need for any additional action or approval by any Person or Entity. From and after the Effective Date, except with respect to the Post-Confirmation Debtor as set forth herein, the Post-Confirmation Debtor (a) for all purposes shall be deemed to have withdrawn its business operations (if any) from any state in which the Debtor was previously conducting, or is registered or licensed to conduct, its business operations, and shall not be required to file any document, pay any sum, or take any other action in order to effectuate such withdrawal, (b) shall be deemed to have canceled pursuant to the Plan all Interests, and (c) shall not be liable in any manner to any taxing authority for franchise, business, license, or similar taxes accruing on or after the Effective Date. Notwithstanding the Debtor's dissolution, the Debtor shall be deemed to remain intact solely with respect to the preparation, filing, review, and resolution of applications for Professional Fee Claims.

The filing of the final monthly report (for the month in which the Effective Date occurs) shall be the responsibility of the Debtor, and the filing of subsequent quarterly reports shall be the responsibility of the Plan Administrator.

For the avoidance of doubt, all reasonable expenses incurred by the Post-Confirmation Debtor in connection with the Wind Down shall be deemed Post-Confirmation Debtor Expenses and shall be paid by the Post-Confirmation Debtor, including, but not limited to the reasonable fees and expenses of the Debtor's Professionals retained by the Post-Confirmation Debtor; provided, however, that the Post-Confirmation Debtor shall provide the Plan Administrator with documentation for such expenses and the Plan Administrator shall have a ten (10) day calendar review period with respect thereto. If there is an objection by the Plan Administrator to any portion of the expenses during this time, the disputed portion of any such expenses will not be paid until the objection is resolved consensually or by the Bankruptcy Court. Additionally, as set forth in the Plan Administrator Agreement, Section 6.1 (Standard of Care; Exculpation), Section 6.2 (Indemnification) and Section 6.5 (No Liability for Good Faith Error of Judgment) shall apply to the Post-Confirmation Debtor and any of the Debtor's Professionals retained by the Post-Confirmation Debtor, as applicable, in connection with the Wind Down contemplated in this Section VII.P. When the Wind Down is complete, any *de minimus* funds remaining with the Post-Confirmation Debtor, may be donated by the Plan Administrator to a charity of its choosing.

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

1. Allowance of Claims

The Plan provides that after the Effective Date, the Liquidating Trust shall have and retain any and all rights and defenses the Debtor had with respect to any Claim immediately before the Effective Date. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Case before the Effective Date (including the Confirmation Order), no Claim shall become an Allowed Claim unless and until such Claim is deemed Allowed under the Plan or the Bankruptcy Code, or the Bankruptcy Court has entered a Final Order, including the Confirmation Order (when it becomes a Final Order), in the Chapter 11 Case allowing such Claim.

2. Estimation of Claims

The Plan provides that before, on, or after the Effective Date, the Debtor or the Plan Administrator, as applicable, may (but are not required to) at any time request that the Bankruptcy Court estimate any Claim pursuant to applicable law, including pursuant to section 502(c) of the Bankruptcy Code, for any reason, regardless of whether any party previously has objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any such Claim, including during the litigation of any objection to any Claim or during the pendency of any appeal relating to such objection. Notwithstanding any provision in the Plan to the contrary, a Claim that has been expunged from the Claims Register, but that either is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any Claim, such estimated amount shall constitute a maximum limitation on such Claim for all purposes under the Plan (including for purposes of distributions and discharge) and may be used as evidence in any supplemental proceedings. The Debtor or the Plan Administrator, as applicable, may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim. Notwithstanding section 502(j) of the Bankruptcy Code, in no event shall any Holder of a Claim that has been estimated pursuant to section 502(c) of the Bankruptcy Code or otherwise be entitled to seek reconsideration of such estimation unless such Holder has Filed a motion requesting the right to seek such reconsideration on or before seven (7) days after the date on which such Claim is estimated. The foregoing Claims and objection, estimation, and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

3. Disputed Claims

The Plan provides that on or after the Effective Date, the Plan Administrator shall retain funds for potential payment of Disputed Claims in the event such Disputed Claims, or the disputed portion thereof, is Allowed, in an amount or amounts as reasonably determined by the Plan Administrator consistent with the Proof of Claim Filed by the applicable Holder of such Disputed Claim.

4. Objections to Claims and Resolution of Disputed Claims

The Plan provides that, except as otherwise specifically provided in the Plan and notwithstanding any requirements that may be imposed pursuant to Bankruptcy Rule 9019, after the Effective Date, the Plan Administrator shall have the sole authority to File and prosecute objections to Claims on behalf of the Liquidating Trust, and the Plan Administrator shall have the sole authority, on behalf of the Liquidating Trust, to: (1) settle, compromise, withdraw, litigate to judgment, or otherwise resolve objections to any and all Claims, regardless of whether such Claims are in a Class or otherwise; (2) settle, compromise, or resolve any Disputed Claim without any further notice to, or action, order, or approval of, the Bankruptcy Court; and (3) administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to, or action, order, or approval of, the Bankruptcy Court; *provided, however*, that nothing herein shall preclude the U.S. Trustee or other parties with requisite standing from objecting to any Claim. On and after the Effective Date, the Plan Administrator shall use commercially reasonable efforts to resolve Claims and advance the claims resolution process through estimation or otherwise.

The Plan further provides that, any objections to Claims shall be Filed on or before the Claims Objection Deadline. If the Debtor or the Plan Administrator, as applicable, files a motion to extend the Claims Objection Deadline, the Claims Objection Deadline shall be automatically extended until the Bankruptcy Court acts on such motion, without the necessity for the entry of a bridge order.

5. Disallowance of Claims

The Plan provides that pursuant to section 502(d) of the Bankruptcy Code, any Claims held by Entities from which property is recoverable under section 542, 543, 550, or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall not be deemed Allowed. Holders of such Claims may not receive any distributions on account of such Claims until such time as (1) such Causes of Action against that Entity have been settled or a Bankruptcy Court order with respect thereto has been entered and all sums due, if any, to the Debtor by that Entity have been turned over or paid to the Debtor or the Plan Administrator, as applicable, or (2) such Claims are Allowed by a Final Order of the Bankruptcy Court. All Proofs of Claim Filed on account of an indemnification obligation shall be deemed satisfied and expunged from the Claims Register as of the Effective Date to the extent such indemnification obligation is assumed (or honored or reaffirmed, as the case may be) pursuant to the Plan, without any further notice to, or action, order, or approval of, the Bankruptcy Court.

Except as otherwise provided herein or as agreed to by the Debtor or the Plan Administrator, as applicable, any Claim that has been or is hereafter listed in the Schedules as contingent, unliquidated, or disputed, and for which no Proof of Claim or Interest is or has been timely Filed, is not considered Allowed and shall be expunged without further action by the Debtor or the Plan Administrator and without further notice to any party or action, approval, or order of the Bankruptcy Court, and Holders of such Claims may not receive any distributions on account of such Claims. A Proof of Claim Filed after the Bar Date shall not be Allowed for any purposes whatsoever absent entry of a Final Order allowing such late-Filed Claim.

6. Amendments to Claims

The Plan provides that on or after the Effective Date, a Claim may not be Filed or amended without the prior authorization of the Bankruptcy Court or the Plan Administrator, and any such new or amended Claim Filed shall be deemed Disallowed in full and expunged without any further notice to, or action, order, or approval of, the Bankruptcy Court to the maximum extent provided by applicable law.

J. Release, Injunction, Exculpation and Related Provisions

1. Compromise and Settlement of Claims, Interests, and Controversies

Pursuant to section 1123 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 and settlement of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have, or any distribution to be made on account of such Allowed Claim. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all 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 Debtor, its Estate, and Holders of Claims and Interests and is fair, equitable, and reasonable. In accordance with the provisions of the Plan, pursuant to Bankruptcy Rule 9019, without any further notice to, or action, order, or approval of, the Bankruptcy Court, after the Effective Date, the Plan Administrator for and on behalf of the Post-Confirmation Debtor may compromise and settle any Claims and Causes of Action against other Entities.

2. Term of Injunctions or Stays

Unless otherwise provided in the Plan or the Confirmation Order, all injunctions or stays in effect

in the Chapter 11 Case pursuant to section 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect through the Effective Date and shall continue in effect for the maximum time permitted by section 362 of the Bankruptcy Code. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

The Debtor shall not receive a “discharge” in violation of section 1141(d)(3) of the Bankruptcy Code; *provided, however*, that no Person or Entity may assert any Claim, seek or receive any payment from, or seek recourse against, the Estate, the Post-Confirmation Debtor, the Plan Administrator and/or their respective successors, assigns and/or property, except as expressly provided in the Plan.

3. **Release of Liens**

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

4. **Release by the Debtor**

Pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, on and after the Effective Date, each Released Party is deemed released and discharged by the Debtor, its Estate and the Post-Confirmation Debtor from any and all Causes of Action that the Debtor, its Estate or the Post-Confirmation Debtor has or 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 that any Holder of any Claim or Interest could have asserted on behalf of the Debtor, arising from the Petition Date through the Effective Date, including Causes of Action based on or relating to, or in any manner arising from, in whole or in part:

- a. **the Debtor, the Debtor’s operations and restructuring efforts, and the formulation, preparation, dissemination, negotiation, or filing of the Plan Documents;**
- b. **any Plan Document, contract, instrument, release, or other agreement or document (including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion) created or entered into in connection with the Disclosure Statement or the Plan;**
- c. **the Chapter 11 Case, including without limitation, the management, administration and implementation thereof, the Plan, the Disclosure Statement, the WARN Act Class Settlement Agreement, the DIP Documents, the filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan or the distribution of property under the Plan or any other related agreement; or**
- d. **the business or contractual arrangements between the Debtor and any Released**

Party, and any other act or omission, transaction, agreement, event, or other occurrence relating to any of the foregoing.

Notwithstanding anything to the contrary in the foregoing, these releases do not release any post-Effective Date obligations of any Entity under the Plan, any Plan Document, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases set forth above, which includes by reference each of the related provisions and definitions contained herein, *and further*, shall constitute the Bankruptcy Court's finding that the releases set forth above are: (a) in exchange for the good and valuable consideration provided by the Released Parties; (b) a good-faith settlement and compromise of the claims released by the releases set forth above; (c) in the best interests of the Debtor and all Holders of Claims and Interests; (d) fair, equitable, and reasonable; (e) given and made after reasonable investigation by the Debtor and after notice and opportunity for hearing; and (f) a bar to the Debtor, its Estate or the Plan Administrator for or on behalf of the Post-Confirmation Debtor asserting any claim released by the releases set forth above against any of the Released Parties.

5. Release by Holders of Claims or Interests

1. As of the Effective Date, each Releasing Party is deemed to have released and discharged the Debtor and all other Released Parties from any and all Causes of Action that such Entity has or would have been legally entitled to assert (whether individually or collectively), arising from the Petition Date through the Effective Date, including Causes of Action based on or relating to, or in any manner arising from, in whole or in part:

- a. the Debtor, the Debtor's operations and restructuring efforts, and the formulation, preparation, dissemination, negotiation, or filing of the Plan Documents;
- b. any Plan Document, contract, instrument, release, or other agreement or document (including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion) created or entered into in connection with the Disclosure Statement or the Plan;
- c. the Chapter 11 Case, including without limitation, the management, administration and implementation thereof, the Plan, the Disclosure Statement, the WARN Act Class Settlement Agreement, the DIP Documents, the filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan or the distribution of property under the Plan or any other related agreement; or
- d. the business or contractual arrangements between the Debtor and any Released Party, and any other act or omission, transaction, agreement, event, or other occurrence relating to any of the foregoing.

2. Without limiting the preceding subsection E.1., as of the Effective Date, each Creditor Releasing Party is deemed to have released and discharged each Manager Releasee from

any and all Causes of Action that such Entity has or would have been legally entitled to assert (whether individually or collectively), arising from the Petition Date through the Effective Date, including Causes of Action based on or relating to, or in any manner arising from, in whole or in part:

- a. the Debtor, the Debtor's operations and restructuring efforts, and the formulation, preparation, dissemination, negotiation, or filing of the Plan Documents;
- b. any Plan Document, contract, instrument, release, or other agreement or document (including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Manager Releasee on the Plan or the Confirmation Order in lieu of such legal opinion) created or entered into in connection with the Disclosure Statement or the Plan;
- c. the Chapter 11 Case, including without limitation, the management, administration and implementation thereof, the Plan, the Disclosure Statement, the WARN Act Class Settlement Agreement, the DIP Documents, the filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan or the distribution of property under the Plan or any other related agreement; or
- d. the business or contractual arrangements between the Debtor and any Manager Releasee, and any other act or omission, transaction, agreement, event, or other occurrence relating to any of the foregoing.

3. Notwithstanding anything to the contrary in the foregoing subsections D., E.1. and E.2, these releases do not release (a) any post-Effective Date obligations of any Entity under the Plan, any Plan Document, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan; or (b) subject to Article IX.F hereof, claims against any Exculpated Party related to any act or omission that is determined in a Final Order to have constituted actual fraud, willful misconduct, or gross negligence. For the avoidance of doubt, nothing in the Plan, the Plan Supplement, or the Confirmation Order shall preclude the Post-Confirmation Debtor, Plan Administrator, or other successors of the Debtor and its Estate, from seeking or obtaining any recovery from the D&O Liability Insurance Policies or other available insurance, subject to the provisions of any such insurance policies and applicable law. Furthermore, for the avoidance of doubt, the third-party releases set forth above in Section E.2 do not apply to any Manager Releasees (other than Nat Wasserstein of Lindenwood Associates LLC, the Debtor's independent director who was appointed post-petition) for any actions taken by prior to the Petition Date.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the third-party releases set forth above, which include by reference each of the related provisions and definitions contained herein and further shall constitute the Bankruptcy Court's finding that the third-party releases set forth above are: (i) given voluntarily; (ii) in exchange for the good and valuable consideration provided by the Released Parties and Manager Releasees; (iii) a good-faith settlement and compromise of the claims released by the Releasing Parties and Creditor Releasing Parties; (iv) in the best interests of the Debtor and all Holders of Claims and Interests; (v) fair, equitable, and reasonable; (vi) given and made after notice and opportunity for hearing; (vii) a bar to any of the Releasing Parties asserting any Claim released by the third-party releases set forth above against any of the Released Parties;

and (viii) a bar to any of the Creditor Releasing Parties asserting any Claim released by the third-party releases set forth above against any of the Manager Releasees.

6. Exculpation

Except as otherwise specifically provided in the Plan, no Exculpated Party shall have or incur and each Exculpated Party is hereby released and exculpated from any Cause of Action or claim for any act or omission occurring from the Petition Date through the Effective Date in connection with, relating to, or arising out of, the Chapter 11 Case, including without limitation, the management, administration and implementation thereof, the Disclosure Statement, the Plan, the WARN Act Class Settlement Agreement, the DIP Documents, or any Plan Document, contract, instrument, release or other agreement or document (including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Exculpated Party on the Plan or the Confirmation Order in lieu of such legal opinion) created or entered into in connection with the Disclosure Statement or the Plan, the filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, or the distribution of property under the Plan or any other related agreement, except for claims related to any act or omission that is determined in a final order to have constituted actual fraud, willful misconduct, or gross negligence, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have, and upon closing of the Chapter 11 Case or the Effective Date shall be deemed to have, participated in good faith and in compliance with the applicable laws with regard to the solicitation and distribution of consideration pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan. For the avoidance of doubt, no Exculpated Party shall be exculpated for any act or omission that occurred prior to the Petition Date.

7. Injunction

Except with respect to the obligations arising under the Plan or the Confirmation Order, and except as otherwise expressly provided in the Plan or the Confirmation Order, all Entities that held, hold, or may hold Claims or Interests that have been released, discharged, or exculpated pursuant to the Plan, are permanently enjoined from and after the Effective Date, to the fullest extent consistent with section 362(b)(4) of the Bankruptcy Code, from taking any of the following actions against, as applicable, the Debtor or the Post-Confirmation Debtor, or the other Released Parties: (1) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests; (2) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such Claims or Interests; (3) creating, perfecting, or enforcing any Lien or encumbrance of any kind against such Entities or the property of such Entities on account of or in connection with or with respect to any such Claims or Interests; (4) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from such Entities or against the property of such Entities on account of, in connection with, or with respect to any such Claims or Interests unless such Entity has timely asserted such setoff right in a document Filed with the Bankruptcy Court explicitly preserving such setoff, and notwithstanding an indication of a Claim or Interest or otherwise that such Entity asserts, has, or intends to preserve, any right of setoff pursuant to applicable law or otherwise; and (5) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests released or settled

pursuant to the Plan. For the avoidance of doubt and notwithstanding anything to the contrary in the Plan, the Debtor is not receiving a discharge under section 524(a) of the Bankruptcy Code and the injunction set forth herein shall, at least with respect to the Debtor, terminate upon the later of (a) distribution of all of the Debtor's property under the Plan, and (b) the closing of the Chapter 11 Case.

8. Protection Against Discriminatory Treatment

Consistent with section 525 of the Bankruptcy Code and the Supremacy Clause of the U.S. Constitution, all Entities, including Governmental Units, shall not discriminate against the Post-Confirmation Debtor or deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to or discriminate with respect to such a grant against the Post-Confirmation Debtor, or another Entity with whom the Post-Confirmation Debtor has been associated, solely because the Debtor has been a debtor under chapter 11 of the Bankruptcy Code, may have been insolvent before the commencement of the Chapter 11 Case (or during the Chapter 11 Case), or have not paid a debt that is dischargeable in the Chapter 11 Case.

9. Setoffs and Recoupment

In no event shall any Holder of a Claim or any Indemnification Claimant be entitled to set off or recoup against such Claim any claim, right, or Cause of Action of the Debtor or the Post-Confirmation Debtor, as applicable, unless such Holder actually has provided notice of such setoff or recoupment in writing to the Debtor on or before the Confirmation Date, which notice may be provided in a timely filed Proof of Claim.

11. Subordination Rights

Any distributions under the Plan shall be received and retained free from any obligations to hold or transfer the same to any other Holder and shall not be subject to levy, garnishment, attachment, or other legal process by any Holder by reason of claimed contractual subordination rights. Any such subordination rights shall be waived, and the Confirmation Order shall constitute an injunction enjoining any Entity from enforcing or attempting to enforce any contractual, legal, or equitable subordination rights to property distributed under the Plan, in each case other than as provided in the Plan.

K. Conditions Precedent to Confirmation and Consummation of the Plan

1. Conditions Precedent to Confirmation

Unless waived pursuant to the provisions of this Article X, it shall be a condition to Confirmation that the Confirmation Order has been entered by the Bankruptcy Court and shall provide that:

1. the form of Confirmation Order is reasonably acceptable to the Proponents;
2. the Debtor and the Post-Confirmation Debtor are authorized to take all actions necessary or appropriate to enter into, implement and consummate the contracts, instruments, releases, leases, and other agreements or documents to be executed and/or delivered in connection with the Plan; and
3. the provisions of the Confirmation Order are non-severable and mutually dependent.

2. **Conditions Precedent to the Effective Date**

It shall be a condition to Consummation of the Plan that the following conditions shall have been satisfied (or waived pursuant to the provisions of this Article X):

1. the Confirmation Order shall not have been subject to any reversal, stay, modification, or vacatur;
2. all actions, documents, authorizations, consents, regulatory approvals, rulings, or agreements necessary to implement the Plan shall have been obtained, effected, or executed;
3. the Bankruptcy Court shall have entered the Approval Order approving the WARN Act Class Settlement Agreement;
4. all Allowed Professional Fee Claims approved by the Bankruptcy Court shall have been paid in full or amounts sufficient to pay such Allowed Professional Fee Claims after the Effective Date shall have been placed in the Professional Fee Escrow Account pending approval of the Professional Fee Claims by the Bankruptcy Court; and
5. The Plan Administrator has accepted his, her, or its engagement in writing.

3. **Waiver of Conditions**

The conditions to the Confirmation and the Effective Date of the Plan set forth in this Article X may be waived by the Debtor, after consultation with the Creditors' Committee, without notice, leave, or order of the Bankruptcy Court or any formal action other than proceedings to confirm or consummate the Plan.

4. **Substantial Consummation**

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

5. **Effect of Nonoccurrence of Conditions to the Effective Date**

If the Effective Date does not occur, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any Claims or Interests; (2) prejudice in any manner the rights of the Debtor, any Holders of a Claim or Interest, or any other Entity; or (3) constitute an admission, acknowledgment, offer, or undertaking by the Debtor, any Holders, or any other Entity in any respect.

L. **Modification, Revocation, or Withdrawal of the Plan**

1. **Modification and Amendments**

Subject to the limitations contained in the Plan, the Debtor reserves the right to modify the Plan, including, but not limited to, by changing the treatment applicable to any Class of Claims. The Debtor further reserves the right to seek Confirmation of a modified Plan consistent with the Bankruptcy Code and, as appropriate, not resolicit votes on such modified Plan. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those

restrictions on modifications set forth in the Plan, the Debtor or the Post-Confirmation Debtor, as applicable, expressly reserves their right to alter, amend, or modify materially the Plan, one or more times, after Confirmation and before the Effective Date, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan.

2. Effect of Confirmation on Modifications

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

3. Revocation or Withdrawal of the Plan

The Debtor reserves the right to revoke or withdraw the Plan before the Effective Date. If the Debtor revokes or withdraw the Plan, or if Confirmation and Consummation do not occur by July 30, 2021, or such later date as may be agreed to by the Debtor, after consultation with the Creditors' Committee, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void; and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of the Debtor or any other Entity, including the Holders of Claims; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtor or any other Entity.

M. Retention of Jurisdiction

The Plan provides that notwithstanding the occurrence of the Confirmation Order and occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over the Chapter 11 Case and all matters arising out of or related to the Chapter 11 Case and the Plan, to the fullest lawful extent, including jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate, or establish the priority, Secured or unsecured status, or amount of any Claim, including the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the Secured or unsecured status, priority, amount, or allowance of Claims;
2. decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals;
3. resolve any matters related to: (a) the assumption or rejection of any Executory Contract or Unexpired Lease and to hear, determine, and, if necessary, liquidate, any Claims arising therefrom, including Claims related to the rejection of an Executory Contract or Unexpired Lease, Cure Claims pursuant to section 365 of the Bankruptcy Code, or any other matter related to such Executory Contract or Unexpired Lease; (b) the Liquidating Trust amending, modifying or supplementing, after the Effective Date, pursuant to Article V.A of the Plan, the Schedule of Assumed Executory Contracts and Unexpired Leases; and (c) any dispute regarding whether a contract or lease is or was executory or expired;

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

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

6. adjudicate, decide, or resolve any and all matters related to Causes of Action;

7. adjudicate, decide, or resolve any and all matters related to sections 1141 and 1145 of the Bankruptcy Code;

8. adjudicate, decide, or resolve any and all matters regarding, pertaining or related to the WARN Act Class Settlement Agreement;

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

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

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

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

13. resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the settlements, compromises, discharges, releases, injunctions, exculpations, and other provisions contained in Article IX of the Plan and enter such orders as may be necessary or appropriate to implement or enforce such releases, injunctions, and other provisions;

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

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

16. determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order, or the Plan Supplement;

17. adjudicate any and all disputes arising from or relating to distributions under the Plan or any transactions contemplated therein;

18. consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;

19. determine requests for the payment of Claims entitled to priority pursuant to section 507 of the Bankruptcy Code;

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

21. hear and determine all disputes involving the existence, nature, or scope of the release provisions set forth in the Plan, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee or retiree benefit program, regardless of whether such termination occurred before or after the Effective Date;

22. enforce all orders previously entered by the Bankruptcy Court in the Chapter 11 Case;

23. hear any other matter not inconsistent with the Bankruptcy Code;

24. enter an order closing the Chapter 11 Case; and

25. enforce the injunction, release, and exculpation provisions provided in Article IX of the Plan.

N. Miscellaneous Provisions

1. Immediate Binding Effect

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, on the Effective Date, the terms of the Plan, the final versions of the documents contained in the Plan Supplement, and the Confirmation Order shall be immediately effective and enforceable and deemed binding upon the Post-Confirmation Debtor, any and all Holders of Claims or Interests (regardless of whether such Claims or Interests are deemed to have accepted or rejected the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, and injunctions described in the Plan, each Entity acquiring property under the Plan or the Confirmation Order, and any and all non-Debtor counterparties to Executory Contracts and Unexpired Leases with the Debtor. All Claims and debts shall be fixed, adjusted, or compromised, as applicable, pursuant to the Plan regardless of whether any Holder of a Claim or debt has voted on the Plan.

2. Additional Documents

On or before the Effective Date, the Debtor may File with the Bankruptcy Court such agreements and other documents as may be necessary or advisable to effectuate and further evidence the terms and conditions of the Plan. The Debtor or the Plan Administrator, as applicable, all Holders of Claims and Interests receiving distributions pursuant to the Plan, and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

3. Dissolution of the Creditors' Committee

On the Effective Date, the Creditors' Committee shall dissolve automatically and the members thereof shall be released and discharged from all rights, duties, responsibilities, and liabilities arising from, or related to, the Chapter 11 Case and under the Bankruptcy Code, except for the limited purpose of prosecuting requests for payment of Professional Fee Claims for services and reimbursement of expenses incurred prior to the Effective Date by the Creditors' Committee and its Professionals. After

the Effective Date, the Post-Confirmation Debtor shall no longer be responsible for paying any fees or expenses incurred by the members of or advisors to the Creditors' Committee after the Effective Date.

4. **Reservation of Rights**

Before the Effective Date, neither the Plan, any statement or provision contained in the Plan, nor any action taken or not taken by the Debtor with respect to the Plan, the Disclosure Statement, the Confirmation Order, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of the Debtor or the Post-Confirmation Debtor with respect to any Claims or Interests.

5. **Successors and Assigns**

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

6. **Service of Documents**

All notices, requests, and demands to or upon the Debtor or the Post-Confirmation Debtor to be effective shall be in writing (including by facsimile transmission), with an electronic copy delivered to the recipients listed email address, and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

If to the Debtor, to:

Klausner Lumber One LLC
c/o Asgaard Capital LLC
1934 Old Gallows Road, Suite 350
Vienna, VA 22182
Attn.: Michael Freeman, CRO
Email: mfreeman@asgaardcapital.com

With a copy to Charles Reardon at creardon@asgaardcapital.com

And with copies to:

Westerman Ball Ederer Miller Zucker & Sharfstein, LLP
1201 RXR Plaza
Uniondale, NY 11556
Attn.: Thomas A. Draghi
Email: tdraghi@westermanllp.com
Attn.: Alison M. Ladd
Email: aladd@westermanllp.com

- and -

Morris, Nichols, Arsht & Tunnell LLP
1201 North Market Street, 16th Floor
P.O. Box 1347
Wilmington, DE 19899
Attn.: Eric Schwartz
Email: eschwartz@mnat.com
Attn.: Daniel B. Butz
Email: dbutz@mnat.com

If to the Plan Administrator:

Berkeley Research Group, LLC,
by and through Jay Borow, as Plan Administrator
810 7th Avenue, 41st Floor
New York, New York 10019
Email: jborow@thinkbrg.com
with copies to:

Faegre Drinker Biddle & Reath LLP
1177 Avenue of the Americas, 41st Floor
New York, NY 10036
Attn: Richard J. Bernard
Email: Richard.Bernard@faegredrinker.com

-and-

Foley & Lardner LLP
90 Park Avenue
New York, NY 10016
Attn.: Alissa M. Nann
Email: anann@foley.com

- and -

Morris James LLP
500 Delaware Avenue, Ste. 1500
Wilmington, DE 19801
Attn.: Eric J. Monzo
Email: emonzo@morrisjames.com
Attn.: Brya M Keilson
Email: bkeilson@morrisjames.com

After the Effective Date, the Plan Administrator shall have the authority to send a notice to parties in interest providing that, to continue to receive documents pursuant to Bankruptcy Rule 2002, such party must File a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Plan Administrator is authorized to limit the list of Entities or parties in interest receiving documents pursuant to Bankruptcy Rule 2002 to (1) those Entities who have Filed such renewed requests; (2) Entities whose rights are affected by such documents; and (3) the U.S. Trustee.

7. **Entire Agreement**

Except as otherwise indicated, the Plan supersedes 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.

8. **Exhibits**

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are Filed, copies of such exhibits and documents shall be available for free at <https://www.donlinrecano.com/Clients/klo/Index> or for a fee via PACER at: <https://www.pacer.gov>.

9. **Non-severability of Plan Provisions**

If, before Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall 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: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the Debtor's or the Post-Confirmation Debtor's consent, as applicable; and (3) non-severable and mutually dependent.

10. **Votes Solicited in Good Faith**

Upon entry of the Confirmation Order, the Debtor shall be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code, and, pursuant to section 1125(e) of the Bankruptcy Code, the Debtor and its respective Affiliates, agents, representatives, members, principals, shareholders, officers, directors, managers, employees, advisors, and attorneys shall be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale, and purchase of Securities offered and sold under the Plan, and, therefore, neither any of such parties or individuals nor the Post-Confirmation Debtor, as applicable, shall have any liability for the violation of any applicable law (including the Securities Act), rule, or regulation governing the solicitation of votes on the Plan or the offer, issuance, sale, or purchase of the Securities offered and sold under the Plan.

11. **Waiver or Estoppel**

Each Holder of a Claim or Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Interest should be Allowed in a certain amount, in a certain priority, Secured, or not subordinated by virtue of an agreement made with the Debtor or its counsel, or any other Entity, if such agreement was not disclosed in the Plan, the Disclosure Statement, or papers Filed before the Confirmation Date.

VII.

VOTING REQUIREMENTS, ACCEPTANCE AND CONFIRMATION OF THE PLAN

The Bankruptcy Code requires that, in order to Confirm the Plan, the Bankruptcy Court must make a series of findings concerning the Plan and the Debtor, including that (i) the Plan has classified Claims and Interests in a permissible manner, (ii) the Plan complies with applicable provisions of the Bankruptcy Code, (iii) the Debtor has complied with applicable provisions of the Bankruptcy Code, (iv) the Proponents have proposed the Plan in good faith and not by any means forbidden by law, (v) the disclosure required by section 1125 of the Bankruptcy Code has been made, (vi) the Plan has been accepted by the requisite votes of creditors (except to the extent that cramdown is available under section 1129(b) of the Bankruptcy Code), (vii) the Plan is feasible and Confirmation is not likely to be followed by liquidation other than the liquidation as provided for in the Plan, (viii) the Plan is in the “best interests” of all holders of Claims or Interests in an impaired Class by providing to such Holders on account of their Claims or Interests property of a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain in a chapter 7 liquidation, unless each Holder of a Claim or Interest in such Class has accepted the Plan, and (ix) all fees and expenses payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the hearing on Confirmation, have been paid or the Plan provides for the payment of such fees on the Effective Date.

A. Parties in Interest Entitled to Vote

Pursuant to the Bankruptcy Code, only Classes of Claims and Interests that are “impaired” (as defined in section 1124 of the Bankruptcy Code) under the Plan are entitled to vote to accept or reject the Plan. A Class is impaired if the legal, equitable or contractual rights to which the Claims or Interests of that Class entitle the Holders of such Claims or Interests are modified, other than by curing defaults and reinstating the debt. Classes of Claims and Interests that are not impaired are not entitled to vote on the Plan and are presumed to have accepted the Plan. Classes of Claims and Interests that receive no distributions under the Plan are not entitled to vote on the Plan and are deemed to have rejected the Plan.

B. Classes Impaired Under the Plan

Acceptances of the Plan are being solicited only from those Holders of Claims in impaired Classes that will or may receive a distribution under the Plan. Accordingly, the Debtors are soliciting acceptances from Holders of Claims in Classes 3A, 3B, 4, 5, 6 and 7. The Holders of Class 8 Equity Interests will not receive any distributions under the Plan, and are deemed to reject the Plan, and the Debtor will not be soliciting acceptances from this Class.

C. Voting Procedures and Requirements

THIS DISCUSSION OF THE SOLICITATION AND VOTING PROCESS IS ONLY A SUMMARY. PLEASE REFER TO THE DISCLOSURE STATEMENT ORDER ENCLOSED HERewith FOR A MORE COMPREHENSIVE DESCRIPTION OF THE SOLICITATION AND VOTING PROCESS.

1. Ballots

In voting for or against the Plan, please use only the Ballot or Ballots sent to you with this Disclosure Statement. **If you have any questions regarding the Ballot, did not receive a return envelope with your Ballot, did not receive an electronic copy of the Disclosure Statement and the Plan, or need physical copies of the Ballot or other enclosed materials, please contact the Debtors’**

solicitation and claims agent, Donlin Recano & Company, Inc. (“DRC”), by email at klausnerinfo@donlinrecano.com with a reference to “Klausner Lumber One” in the subject line, or via telephone at (800) 903-3727 (toll-free) or (212) 481-1411 for international callers and request to speak with a member of the solicitation team.

In most cases, each Ballot enclosed with this Disclosure Statement has been encoded with the amount of your Claim for voting purposes (if your Claim is a Disputed Claim this amount may not be the amount ultimately allowed for purposes of distributions under the Plan) and the Class in which your Claim has been classified. **YOU MUST FOLLOW THE DIRECTIONS CONTAINED ON THE ENCLOSED BALLOT CAREFULLY. IF YOU FAIL TO DO SO, YOUR VOTE MAY NOT BE COUNTED.**

2. **Returning Ballots**

The Ballots have been specifically designed for the purpose of soliciting votes on the Plan from Holders of Claims within Classes 3A, 3B, 4, 5, 6 and 7 who are entitled to a vote with respect thereto. Accordingly, in voting on the Plan, please use only the Ballot sent to you with this Disclosure Statement. Please complete and sign your Ballot and return in accordance with the voting instructions provided with the Ballot.

To be counted, your Ballot or Ballots must be received by 5:00 p.m. (Prevailing Eastern Time), on June 24, 2021 using one of the following methods:

If by Mail or Hand Delivery:

Klausner Lumber One LLC Ballot Processing Center
c/o Donlin, Recano & Company, Inc.
6201 15th Avenue
Brooklyn, NY 11219

If by Electronic, Online Submission via the Online Portal:

<https://www.donlinrecano.com/Clients/klo/vote>. Please make sure to follow the instructions on the Online Portal to submit your Ballot.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized electronic Ballot:

Unique E-Ballot ID#: _____

The Online Portal is the sole manner in which Ballots will be accepted via electronic or online transmissions. Ballots submitted by facsimile, email or other means of electronic transmission will not be counted. Ballots should not be sent to the Debtors or the Bankruptcy Court

ANY BALLOTS RECEIVED AFTER THE VOTING DEADLINE WILL NOT BE COUNTED, NOR WILL ANY BALLOTS RECEIVED BY TELECOPY, FACSIMILE, OR EMAIL BE ACCEPTED. Following the Voting Deadline, the Notice and Claims Agent will prepare and file with the Bankruptcy Court a certification of the results of the balloting with respect to the Plan.

D. Confirmation Hearing

The Bankruptcy Code requires the Bankruptcy Court, after notice, to conduct a hearing regarding whether the Debtors and the Plan have fulfilled the confirmation requirements of section 1129 of the Bankruptcy Code.

The Confirmation Hearing has been scheduled for **July 1, 2021 at 9:30 a.m. (Prevailing Eastern Time)**, before the Honorable Karen B. Owens, United States Bankruptcy Judge, United States Bankruptcy Court for the District of Delaware, 824 North Market Street, Wilmington, Delaware 19801. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice, except for an announcement at the Confirmation Hearing of the date to which the Confirmation Hearing has been adjourned.

E. Confirmation

At the Confirmation Hearing, the Bankruptcy Court will Confirm the Plan only if all of the requirements of section 1129 of the Bankruptcy Code are met. Among the requirements for Confirmation are that the Plan (i) be accepted by the requisite holders of Claims and Interests or, if not so accepted, be “fair and equitable” and “does not discriminate unfairly” as to the non-accepting Class of Claims or Interests, (ii) be in the “best interests” of each holder of a Claim or Interest that does not vote to accept the Plan in each impaired class under the Plan, (iii) be feasible, and (iv) comply with the applicable provisions of the Bankruptcy Code.

F. Acceptance of the Plan

As a condition to Confirmation, the Bankruptcy Code requires that each class of impaired claims or interests vote to accept the Plan, except under certain circumstances. Generally, a class is “impaired” under a plan unless such plan leaves unaltered the legal, equitable and/or contractual rights to which such claim or interest entitles the holder of such claim or interest. Classes of claims and interests that are not impaired are not entitled to vote on the plan and are conclusively presumed to have accepted the plan. A plan is accepted by an impaired class of claims if holders of at least two-thirds in dollar amount and more than one-half in number of claims of that class vote to accept the plan. A plan is accepted by an impaired class of interests if holders of at least two-thirds of the number of shares in such class vote to accept the plan. Only those holders of claims or interests who actually vote count in these tabulations. Holders of claims who fail to vote are not counted as either accepting or rejecting a plan for purposes of determining whether the requirements for confirmation have been met.

In addition to this voting requirement, section 1129 of the Bankruptcy Code requires that a Plan be accepted by each holder of a claim or interest in an impaired class or that the Plan otherwise be found by the bankruptcy court to be in the best interests of each holder of a claim or interest in such class. This is the “Best Interests Test” discussed below. In addition, each impaired class must accept the Plan for the Plan to be Confirmed without application of the “fair and equitable” and “unfair discrimination” tests in section 1129(b) of the Bankruptcy Code discussed below.

In the event that any impaired class of claims or interests does not accept the Plan, the Bankruptcy Court may nevertheless confirm the Plan if all other requirements under section 1129(a) of the Bankruptcy Code are satisfied, and if, with respect to each impaired class which has not accepted the Plan, the Bankruptcy Court determines that the Plan does not “discriminate unfairly” and is “fair and equitable” with respect to such class. Confirmation under section 1129(b) of the Bankruptcy Code requires that at least one impaired class of claims accepts the Plan, excluding any acceptance of the Plan

by an "insider" (as that term is defined in section 101 of the Bankruptcy Code). The Debtor intends to seek confirmation of the Plan notwithstanding the nonacceptance of one or more impaired classes.

- i. No Unfair Discrimination. A plan of reorganization does not "discriminate unfairly" with respect to a nonaccepting class if the value of the cash and/or securities to be distributed to the nonaccepting class is equal or otherwise fair when compared to the value of distributions to other classes whose legal rights are the same as those of the nonaccepting Class. The Debtor believes that the Plan would not discriminate unfairly against any nonaccepting class of claims or interests.
- ii. Fair and Equitable Test. The "fair and equitable" test of section 1129(b) of the Bankruptcy Code requires absolute priority in the payment of claims and interests with respect to any nonaccepting class or classes. The "fair and equitable" test established by the Bankruptcy Code is different for secured claims, unsecured claims and interests, and includes the following treatment:
 - a. Secured Claims. A plan is fair and equitable with respect to a nonaccepting class of secured claims if (i) the holder of each claim in such class will retain its lien or liens and receive deferred cash payments totaling the allowed amount of its claim, of a value, as of the effective date of the plan, equal to the value of such holder's interest in the collateral, (ii) the holder of each claim in such class will receive the proceeds from the sale of such collateral or (iii) the holder of each claim in such class will realize the indubitable equivalent of its allowed secured claim.
 - b. Unsecured Claims. A plan is fair and equitable with respect to a nonaccepting class of unsecured claims if (i) the holder of each claim in such class will receive or retain under the plan property of a value, as of the effective date of the plan, equal to the allowed amount of its claim, or (ii) holders of claims or interests that are junior to the claims of such creditors will not receive or retain any property under the plan on account of such junior claim or interest.
 - c. Interests. A plan is fair and equitable with respect to a nonaccepting class of interests if the plan provides that (i) each member of such class receives or retains on account of its interest property of a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the value of such interest, or (ii) holders of interests that are junior to the interests of such class will not receive or retain any property under the plan on account of such junior interests.

Based upon the classifications made and distributions provided for under the Plan, the Debtor believes the Plan is fair and equitable as to all classes.

G. Best Interests Test and Liquidation Analysis

Even if a plan is accepted by the holders of each class of claims and interests, the Bankruptcy Code requires a court to determine that such plan is in the best interests of all holders of claims or interests that are impaired by that plan and that have not accepted the plan. The "best interests" test, as set forth in section 1129(a)(7) of the Bankruptcy Code, requires a court to find either that all members of an impaired class of claims or interests have accepted the plan or that the plan will provide a member who has not accepted the plan with a recovery of property of a value, as of the effective date of the plan, that is not less than the amount that such holder would recover if the debtor were liquidated under chapter 7 of the Bankruptcy Code.

To calculate what Holders of Allowed Claims and Allowed Interests would receive if the Debtor was hypothetically liquidated under chapter 7 of the Bankruptcy Code, the Bankruptcy Court must first determine the dollar amount that would be realized from the liquidation (the “Liquidation Fund”) of the Debtor. The Liquidation Fund would consist of the net proceeds from the disposition of the Debtor’s assets (after satisfaction of all valid liens) augmented by the Cash held by the Debtor and recoveries on actions against third parties, if any. The Liquidation Fund would then be reduced by the costs of the liquidation. The costs of liquidation under chapter 7 would include the fees and expenses of a trustee, as well as those of counsel and other professionals that might be retained by the trustee, selling expenses, any unpaid expenses incurred by the Debtor during its case (such as fees for attorneys, financial advisors and accountants) which would be allowed in the chapter 7 proceeding, interest expense on secured debt and claims incurred by the Debtor during the pendency of the case. These claims would be paid in full out of the Liquidation Fund before the balance of the Liquidation Fund, if any, would be made available to Holders of Allowed Unsecured Claims. In addition, other claims which would arise upon conversion to a chapter 7 case (*e.g.*, the costs and expenses of the liquidation, and such additional administrative expenses and priority Claims that may result from the use of chapter 7 for purposes of liquidation) would dilute the balance of the Liquidation Fund available to Holders of Allowed Unsecured Claims. Moreover, additional Claims against the Debtor’s Estate may be filed as the result of the establishment of a new bar date for the filing of claims in a chapter 7 case for the Debtor. The present value of the distributions out of the Liquidation Fund (after deducting the amounts described above) is then compared with the present value of the property offered to each of the Classes of Claims and Interests under the Plan to determine if the Plan is in the best interests of each holder of a Claim.

The Creditors’ Committee and the Debtor (*i.e.*, the Proponents) believe that a chapter 7 liquidation of the Debtor’s remaining assets would result in less value to be realized by Holders of Claims than they would receive under the Plan. That belief is based upon, among other factors: (i) the additional administrative expenses involved in the appointment of a trustee, attorneys, accountants, and other chapter 7 professionals; (ii) the substantial time which would elapse before creditors would receive any distribution in respect of their Claims due to a trustee’s need to become familiar with the Debtor’s Chapter 11 Case, the Debtor’s books and records, and his or her duty to conduct his or her own investigations; (iii) the additional unsecured Claims that may be asserted against the Debtor; (iv) the substantial cost and delay which can be avoided by a consensual Plan; (v) the potential for lower returns on the Debtor’s assets in a chapter 7 proceeding, as compared to the value of such assets to the Post-Confirmation Estate; (vi) the disruption related to a change in management and other personnel; (vii) turmoil in the record-keeping and information systems involved in the administration of the Debtor’s Estate; and (viii) the potential for diminished recoveries on any causes of action of the Debtor, given the potential difficulties in managing related legal actions and marshaling and presenting required evidence without the presence of the Plan Administrator and others that have been involved through the administration of the Chapter 11 Case.

Accordingly, the Debtor believes that Holders of Allowed Claims would receive less than anticipated under the Plan if the Chapter 11 Case was converted to a chapter 7 case, and therefore, the classification and treatment of Claims and Interests in the Plan complies with section 1129(a)(7) of the Bankruptcy Code.

H. Feasibility

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation is not likely to be followed by the liquidation or need for further financial reorganization of the Debtor or any successor to the Debtor (unless such liquidation or reorganization is proposed in the Plan). Because the Plan proposes a liquidation of all the Debtor’s assets, for purposes of determining whether the Plan meets this requirement, the Debtor’s management analyzed the Plan Administrator’s ability to meet its respective

obligations under the Plan. Based on the Debtor's analysis regarding recoveries available to creditors under the Plan, the Plan Administrator will have sufficient assets to accomplish its tasks under the Plan, including to fund the Class 4 Distribution Amount, the Class 5 Distribution Amount, or the Class 6 Distribution Amount, as appropriate, from the Net Distribution Proceeds in accordance with the treatment provided for such Class described in the Plan. Therefore, the Proponents believe that liquidation pursuant to the Plan will meet the feasibility requirements of the Bankruptcy Code.

The Distribution Summary sets forth the Proponents' estimates of probable ranges of recoveries for the different Classes, including the potential range of recoveries for Allowed Claims in Class 5 (General Unsecured Claims). The Distribution Summary contains various estimates and assumptions that are inherently subject to contingencies beyond the control of the Proponents and their Professionals. For example, many claims—including several large Claims in Class 5 (*i.e.*, MMH, Deloitte, Scharpenack)—are still going through the formal allowance process and ultimate amounts that will be allowed by the Court are still not certain. Accordingly, there can be no assurance that the recovery percentages set forth in the Distribution Summary will in fact be realized and, as such, the actual recoveries per claim – and accordingly per class – may vary from the estimated ranges shown below.

Significantly, however, the resolution of the Related Entity Claims pursuant to the terms of the PSA resolves all pending issues regarding the allowance and treatment of such previously Disputed Claims in the Plan, including the asserted secured claim by Florida Sawmills in the amount of ~\$33.2 million. As a result of the terms and structure of the global settlement which provides for an agreed upon sharing of the Net Distribution Proceeds (which sharing is adjusted upward or downward based upon the actual amount of Net Distribution Proceeds available for distribution) essentially ensures that the Plan Administrator will have sufficient assets to accomplish its tasks under the Plan—that is, to pay in full Allowed Administrative and Priority Claims and fund the agreed upon Class Distribution Amounts as set forth in the PSA and Plan.

As such, and in light of the global resolution of the large Related Entity Claim in the PSA, the Proponents believe the Plan meets the feasibility requirements of the Bankruptcy Code.

THE DISTRIBUTION SUMMARY PRESENTED IS AN ESTIMATE BASED ON A NUMBER OF SIGNIFICANT ASSUMPTIONS. THE DISTRIBUTION SUMMARY IS NOT AND DOES NOT PURPORT TO BE A VALUATION OF THE DEBTOR'S ASSETS. UNDERLYING THE DISTRIBUTION SUMMARY CONTAINS A NUMBER OF VALUES, ESTIMATES AND ASSUMPTIONS THAT ARE INHERENTLY SUBJECT TO CONTINGENCIES BEYOND THE CONTROL OF THE DEBTOR OR ITS PROFESSIONALS. ALL NUMBERS CONTAINED IN THIS ANALYSIS ARE ESTIMATES. ACCORDINGLY, THERE CAN BE NO ASSURANCE THAT THE VALUES REFLECTED IN THE DISTRIBUTION SUMMARY OR RECOVERY PERCENTAGES WILL BE REALIZED, AND ACTUAL RESULTS COULD VARY MATERIALLY FROM THOSE SHOWN IN THE ANALYSIS.

I. Compliance with the Applicable Provisions of the Bankruptcy Code

Section 1129(a)(1) of the Bankruptcy Code requires that the Plan comply with all other applicable provisions of the Bankruptcy Code. The Debtor has considered each of these issues in the development of the Plan and believe that the Plan complies with all applicable provisions of the Bankruptcy Code.

VIII. RISK FACTORS

ALL IMPAIRED HOLDERS SHOULD READ AND CAREFULLY CONSIDER THE FACTORS SET FORTH BELOW, AS WELL AS THE OTHER INFORMATION SET FORTH OR OTHERWISE REFERENCED IN THIS DISCLOSURE STATEMENT PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN.

A. Certain Bankruptcy Considerations

1. Parties in Interest May Object to the Debtor's Classification of Claims

Section 1122 of the Bankruptcy Code provides that a chapter 11 plan may place a class or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests in such class. The Debtor believes that the classification of Claims and Interests under the Plan complies with the requirements set forth in the Bankruptcy Code. However, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

2. The Debtor May Not be Able to Secure Confirmation of the Plan

There can be no assurance that the Debtor will receive the requisite acceptances to Confirm the Plan. Even if the requisite acceptances are received, there can be no assurance that the Bankruptcy Court will Confirm the Plan. The Bankruptcy Court could decline to Confirm the Plan if it finds that any of the statutory requirements for Confirmation have not been met, including that the terms of the Plan are fair and equitable to non-accepting Classes. Section 1129 of the Bankruptcy Code sets forth the requirements for Confirmation and requires, among other things, a finding by the Bankruptcy Court that the Plan “does not unfairly discriminate” and is “fair and equitable” with respect to any non-accepting Classes, Confirmation of the Plan is not likely to be followed by a liquidation or a need for further financial reorganization, and the value of distributions to non-accepting Holders of Claims or Interests within a particular Class under the Plan will not be less than the value of distributions such Holders would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. While there can be no assurance that these requirements will be met, the Debtor believes that the Plan will not be followed by a need for further liquidation or reorganization and that non-accepting Holders within each Class under the Plan will receive distributions at least as great as they would receive following a liquidation under chapter 7 of the Bankruptcy Code when taking into consideration all administrative claims and costs associated with any such chapter 7 case. The Debtor believes that Holders of Interests would receive no distribution under a liquidation pursuant to chapter 7.

3. The Confirmation and Consummation of the Plan Are Also Subject to Certain Conditions as Described in the Plan

If the Plan is not Confirmed, it is unclear whether another Plan could be implemented and what distributions Holders of Claims ultimately would receive with respect to their Claims. If an alternative Plan could not be agreed to, it is possible that the Debtor would have to liquidate its assets under chapter 7, in which case it is likely that Holders of Claims would receive less favorable treatment than they would receive under the Plan.

4. The Debtors May Object to the Amount or Classification of a Claim or Interest

The Debtor and the Plan Administrator reserve and retain the right to object to the amount or classification of any Claim or Interest. The estimates set forth in this Disclosure Statement cannot be

relied on by any creditor whose Claim is subject to an objection. Any such Claim Holder may not receive its specified share of the estimated distributions described in this Disclosure Statement.

B. Risks Relating to the Administration of the Post-Confirmation Estate

1. Post-Confirmation Operations

The ultimate amount of Cash available to satisfy the Allowed amount of Claims in Classes 3A, 3B, 4, 5, 6, and 7 depends, in part, on the success of the Plan Administrator in monetizing its remaining assets, and the expense required to do so. To the extent that the Plan Administrator's expenses exceed current expectations, the amount of Cash remaining to satisfy Allowed Claims in Classes 3A, 3B, 4, 5, 6, and 7 will decrease.

The ultimate amount of Cash available for distribution to holders of Allowed Claims in Classes 3A, 3B, 4, 5, 6, and 7 also will be affected by the performance and relative success of the Plan Administrator in pursuing preference, fraudulent conveyance, setoff and other claims under the Bankruptcy Code. The less successful the Plan Administrator is in pursuing such matters, the less Cash there will be available for distribution to satisfy Allowed Claims and/or the greater will be the Allowed Claims over which the Cash will need to be allocated, resulting in a lower distribution per Allowed Claim.

C. Risks Relating to the Allowance of Certain Claims under the Plan

Class 5 General Unsecured Claims consists of filed Unsecured Claims and the reclassified, Unsecured Deficiency Claims from Class 1C. Claims falling in this Class include, among others, trade Claims, MMH's Claims as well as the Claims filed by Scharpenack and Deloitte. As set forth above, on May 3-4, 2021, the Debtor filed objections to the Claims filed by Deloitte and Scharpenack, respectively. The Debtor estimates that the Allowed Claims in Class 5 will be in the range of \$6.3-\$12 million, depending primarily on the ultimate resolution of the aforementioned Disputed Claims. As such, the ultimate recovery realized by Holders of Allowed Class 5 General Unsecured Claims pursuant to the terms of the PSA, as implemented in the Plan, will depend on the resolution of these remaining Disputed Claims.

For example, if there are \$30 million of Net Distributable Proceeds and the Class 5 General Unsecured Claims pool is reduced to \$6.3 million, Holders of Allowed Class 5 General Unsecured Claims will receive a 100% distribution on their Claims (*i.e.*, the Class 5 Distribution Amount of \$7.2 million will be sufficient to pay all Allowed Class 5 General Unsecured Claims in full), as set forth in the PSA and Plan. Alternatively, assuming the same \$30 million of Net Distributable Proceeds and a higher Class 5 General Unsecured Claims pool of \$12.4 million, Holders of Allowed Class 5 General Unsecured Claims will receive a 58.1% distribution on their Claims. In all instances, however, the Debtor believes that the Global Settlement embodied in the PSA and Plan results in significantly increased recoveries for Holder of Allowed Class 5 General Unsecured Claims than such Claimants would receive absent the global settlement.

D. Risks Relating to the Tax Consequences of the Plan

The U.S. federal income tax consequences to Holders of Claims or Interests as a result of Consummating the Plan are complex and subject to uncertainty. Holders of Claims or Interests should carefully review Section IX ("Certain Federal Income Tax Consequences of the Plan"), below.

Certain U.S. tax attributes of the Debtor, including net operating loss carryovers, may be reduced or eliminated as a consequence of the Plan. In addition, the Debtor's subsequent utilization of any net operating loss carryforwards remaining, and possibly certain other U.S. tax attributes, may be restricted following the Consummation of the Plan. The elimination, reduction and/or restriction on the use of net operating loss carryovers and/or such other tax attributes may increase the amount of tax payable by the Post-Confirmation Debtor following the Effective Date as compared with the amount of tax payable without such reduction having been required. For further discussion, Holders should refer to Section IX ("Certain Federal Income Tax Consequences of the Plan"), below.

Additionally, the Debtor has not yet prepared their state and local taxes for 2020. To the extent that taxes are owed in excess of estimated amounts, this will diminish recoveries available for Allowed Unsecured Claims.

Holders of Claims are strongly urged to consult with their tax advisors as to the U.S. federal income tax consequences of Consummating the Plan.

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THESE RISK FACTORS CONTAIN CERTAIN STATEMENTS THAT ARE "FORWARD-LOOKING STATEMENTS" WITHIN THE MEANING OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995. THESE STATEMENTS ARE SUBJECT TO A NUMBER OF ASSUMPTIONS, RISKS AND UNCERTAINTIES, MANY OF WHICH ARE BEYOND THE CONTROL OF THE DEBTOR AND POST-CONFIRMATION DEBTOR, INCLUDING THE IMPLEMENTATION OF THE PLAN, THE CONTINUING AVAILABILITY OF SUFFICIENT BORROWING CAPACITY OR OTHER FINANCING TO FUND OPERATIONS, THE PRICES AT WHICH THE DEBTOR AND POST-CONFIRMATION DEBTOR CAN SELL THEIR PRODUCTS AND SERVICES, CURRENCY EXCHANGE RATE FLUCTUATIONS, NATURAL DISASTERS AND UNUSUAL WEATHER CONDITIONS, TERRORIST ACTIONS OR ACTS OF WAR, OPERATING EFFICIENCIES, LABOR RELATIONS, ACTIONS OF GOVERNMENTAL BODIES, AND OTHER MARKET AND COMPETITIVE CONDITIONS. HOLDERS OF CLAIMS AND INTERESTS ARE CAUTIONED THAT THE FORWARD-LOOKING STATEMENTS SPEAK AS OF THE DATE MADE AND ARE NOT GUARANTEES OF FUTURE PERFORMANCE. ACTUAL RESULTS OR DEVELOPMENTS MAY DIFFER MATERIALLY FROM THE EXPECTATIONS EXPRESSED OR IMPLIED IN THE FORWARD-LOOKING STATEMENTS, AND THE DEBTOR UNDERTAKES NO OBLIGATION TO UPDATE ANY SUCH STATEMENTS.

IX.

CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

The following discussion addresses certain United States federal income tax consequences of the Consummation of the Plan to U.S. Holders (defined below) and to the Debtor. This discussion is for informational purposes only and is not tax advice. This discussion is based upon the Internal Revenue Code of 1986, as amended (the "Tax Code"), existing and proposed regulations thereunder, current administrative rulings, and judicial decisions as in effect on the date hereof, all of which are subject to change, possibly retroactively. No rulings or determinations by the Internal Revenue Service have been obtained or sought by the Debtor with respect to the Plan. An opinion of counsel has not been obtained with respect to the tax aspects of the Plan. This discussion does not purport to address the federal income tax consequences of the Plan to particular classes of taxpayers (such as partnerships and partners therein, Non-US Holders (as defined below), S corporations, mutual funds, small business investment companies, regulated investment companies, broker-dealers, insurance companies, tax-exempt organizations and

financial institutions) or the state, local or foreign income and other tax consequences of the Plan.

For purposes of this summary, a “U.S. Holder” is a beneficial owner of a Claim or Interest that is (i) a citizen or individual resident of the United States, (ii) a corporation (or other entity treated as a corporation for United States federal income tax purposes) created or organized in the United States or under the laws of the United States or any political subdivision thereof, (iii) an estate the income of which is subject to United States federal income taxation regardless of its source, or (iv) a trust if: (i) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States fiduciaries have the authority to control all substantial decisions of the trust or (ii) the trust was in existence on August 20, 1996 and properly elected to be treated as a United States person. A “Non-U.S. Holder” means a Holder of a Claim or Interest that is not a U.S. Holder and is, for U.S. federal income tax purposes, an individual, corporation (or other entity treated as a corporation for U.S. federal income tax purposes), estate or trust.

If a partnership (or other entity treated as a partnership for U.S. federal income tax purposes) is a beneficial owner of a Claim or Interest, the tax treatment of a partner in such partnership will generally depend on the status of the partner and the activities of the partnership. Partners of partnerships holding Claims or Interests are encouraged to consult their independent tax advisors regarding the tax consequences to them of the Plan.

NO REPRESENTATIONS ARE MADE REGARDING THE PARTICULAR TAX CONSEQUENCES OF THE PLAN TO ANY HOLDER OF A CLAIM OR INTEREST. EACH HOLDER OF A CLAIM OR INTEREST IS STRONGLY URGED TO CONSULT A TAX ADVISOR REGARDING THE FEDERAL, STATE, LOCAL, FOREIGN AND OTHER TAX CONSEQUENCES OF THE TRANSACTIONS DESCRIBED HEREIN AND IN THE PLAN.

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

The following discusses certain U.S. federal income tax consequences of the transactions contemplated by the Plan to “U.S. Holders.” Generally, a Holder of a Claim will recognize gain or loss equal to the difference between the “amount realized” by such Holder in exchange for its Claim and such Holder’s adjusted tax basis in the Claim. The “amount realized” is equal to the sum of the Cash and the fair market value of any other consideration received under the Plan in respect of a Holder’s Claim. The tax basis of a Holder in a Claim will generally be equal to the Holder’s cost therefor.

The character of any recognized gain or loss (*e.g.*, ordinary income, or short-term or long-term capital gain or loss) will depend upon the status of the Holder, the origin of the Claim, nature of the Claim in the Holder’s hands, the purpose and circumstances of its acquisition, the Holder’s holding period of the Claim, and the extent to which the Holder previously claimed a deduction for the worthlessness of all or a portion of the Claim. Claims in Classes 3A, 3B, 4, 5, 6 and 7 are generally ordinary course claims and will likely be treated as ordinary income by most Holders. If the Claim is a capital asset in the Holder’s hands, any gain or loss realized will generally be characterized as capital gain or loss, and will constitute long-term capital gain or loss if the Holder has held such Claim for more than one year. There are limitations on the deduction of capital losses by both corporate and noncorporate taxpayers.

The Plan provides that to the extent that any Allowed Claim entitled to a distribution is comprised of indebtedness and accrued but unpaid interest, such distribution shall be allocated to the principal amount of the Claim first and then, to the extent the distribution exceeds the principal amount of the Claim, to the portion of such Claim representing accrued but unpaid interest. The IRS, however, could take the position that the distribution should be allocated first to interest and then to principal repayment. A Holder will generally recognize ordinary income to the extent that the amount of cash or property

received (or to be received) under the Plan is attributable to accrued but unpaid interest not previously included in income by such Holder. Holders previously required to include in their gross income any accrued but unpaid interest on an Allowed Claim may be entitled to recognize a deductible loss to the extent such interest is not satisfied under the Plan. **U.S. Holders should consult their own tax advisors regarding the proper allocation of the consideration received by them under the Plan between principal and accrued but untaxed interest.**

In the event of the subsequent disallowance of any Disputed General Unsecured Claim or the reallocation of undeliverable distributions, it is possible that a Holder of a previously Allowed Claim may receive additional distributions in respect of its Claim. Accordingly, it is possible that the recognition of any loss realized by a Holder with respect to an Allowed General Unsecured Claim may be deferred until all General Unsecured Claims are Allowed or Disallowed. Alternatively, it is possible that a Holder will have additional gains in respect of any additional distributions received. **Holders of Claims and Interests should consult their own tax advisors.**

A Holder of a Claim constituting any installment obligation for tax purposes may be required to currently recognize any gain remaining with respect to such obligation if, pursuant to the Plan, the obligation is considered to be satisfied at other than its face value, distributed, transmitted, sold or otherwise disposed of within the meaning of section 453B of the Tax Code. **Holders of Claims and Interests should consult their own tax advisors.**

A Holder of an Interest may be entitled to a worthless securities deduction under section 165(g) of the Tax Code. The rules governing the character, timing, and amount of this deduction depends upon the facts and circumstances of the Holder with respect to which a deduction is claimed. **Accordingly, Holders are urged to consult their tax advisors with respect to their ability to take such a deduction.**

The tax treatment of a Holder of an Allowed Claim or Interest will depend upon facts and circumstances that are specific to the nature of the Holder and its Claims or Interests. **Accordingly, Holders of Claims and Interests should consult their own tax advisors.**

Under backup withholding rules, a Holder may be subject to backup withholding with respect to payments made pursuant to the Plan unless such Holder (a) is a corporation or is otherwise exempt from backup withholding and, when required, demonstrates this fact or (b) provides a correct taxpayer identification and certifies under penalty of perjury that the taxpayer identification number is correct and that the Holder is not subject to backup withholding because of failure to report all dividend and interest income. Any amount withheld under these rules will be credited against the Holder's federal income tax liability. **Holders of Claims may be required to establish an exemption from backup withholding or to make arrangements with regard to payment thereof and should consult their own tax advisors.**

B. Federal Income Tax Consequences to the Debtor

The Debtor is a member of an affiliated group of corporations that files a consolidated federal income tax return with Klausner Holding USA, Inc. as the common parent (the "KHU Tax Group") or an entity disregarded as separate from its owner for U.S. federal income tax purposes whose business activities and operations are reflected on the consolidated U.S. federal income tax returns of the KHU Tax Group. The Debtors believed that, as of the Commencement Date, the KHU Tax Group had accumulated a large amount of consolidated net operating losses ("NOLs") and other tax attributes.

The KHU Tax Group's ability to utilize its NOLs and certain other tax attributes could be subject to limitation if the KHU Tax Group underwent or were to undergo an ownership change within the meaning of section 382 of the Tax Code after the Commencement Date. The Debtor believes that no

ownership change of the KHU Tax Group for section 382 purposes has occurred to date and expects that no such ownership change will occur prior to the liquidation of the Debtor as of the Effective Date.

The Debtor will generally realize cancellation of indebtedness (“COD”) income as a result of a Consummation of the Plan. Such amount will depend on a number of considerations including the value of consideration distributed to the Holders of Claims, the nature of the Claims and the amounts owed in respect thereof. COD income is, however, generally excluded from the gross income of a debtor if the discharge of indebtedness is granted by a bankruptcy court or pursuant to a plan approved by the bankruptcy court in a case under chapter 11 of the Bankruptcy Code. Such COD income would be excluded under the Tax Code and would reduce the Debtors’ tax attributes following the calculation of their tax liability for that year.

C. Withholding on Distribution and Information Reporting

All distributions to Holders of Allowed General Unsecured Claims under the Plan are subject to any applicable tax withholding, including employment tax withholding. Under U.S. federal income tax law, interest, dividends, and other reportable payments may, under certain circumstances, be subject to “backup withholding” at the then-applicable withholding rate (currently 24%). Backup withholding generally applies if the holder (i) fails to furnish its social security number or other taxpayer identification number, (ii) furnishes an incorrect taxpayer identification number, (iii) fails properly to report interest or dividends, or (iv) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the tax identification number provided is its correct number and that it is not subject to backup withholding. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax. Certain persons are exempt from backup withholding, including, in certain circumstances, corporations and financial institutions. **Holders of Allowed General Unsecured Claims are urged to consult their tax advisors regarding the Treasury Regulations governing backup withholding and whether the transactions contemplated by the Plan would be subject to these Treasury Regulations.**

In addition, a Holder of an Allowed General Unsecured Claim that is a Non-U.S. Holder may be subject to up to 30% withholding, depending on, among other things, the particular type of income and whether the type of income is subject to a lower treaty rate. As to certain Claims, it is possible that withholding may be required with respect to Distributions by the Debtor even if no withholding would have been required if payment was made prior to the Chapter 11 Case. A Non-U.S. Holder may also be subject to other adverse consequences in connection with the implementation of the Plan. As discussed above, the foregoing discussion of the U.S. federal income tax consequences of the Plan does not generally address the consequences to Non-U.S. Holders. **Non-U.S. Holders are urged to consult their tax advisors regarding potential withholding on Distributions by the Debtor or payments from the Plan Administrator.**

In addition, Treasury Regulations generally require disclosure by a taxpayer on its U.S. federal income tax return of certain types of transactions in which the taxpayer participated, including, among other types of transactions, certain transactions that result in the taxpayer’s claiming a loss in excess of specified thresholds. **Holders are urged to consult their tax advisors regarding these Treasury Regulations and whether the transactions contemplated by the Plan would be subject to these Treasury Regulations and require disclosure on the Holder’s tax returns.**

D. Importance of Obtaining Professional Tax Assistance

The foregoing is intended to be only a summary of certain of the U.S. federal income tax consequences of the Plan and is not a substitute for careful tax planning with a tax professional.

THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A HOLDER'S INDIVIDUAL CIRCUMSTANCES. ACCORDINGLY, HOLDERS ARE URGED TO CONSULT WITH THEIR TAX ADVISORS ABOUT THE FEDERAL, STATE, LOCAL, AND FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.

NO STATEMENT IN THIS DISCLOSURE STATEMENT SHOULD BE CONSTRUED AS LEGAL OR TAX ADVICE. THE DEBTOR AND ITS PROFESSIONALS DO NOT ASSUME ANY RESPONSIBILITY OR LIABILITY FOR THE TAX CONSEQUENCES THE HOLDER OF A CLAIM MAY INCUR AS A RESULT OF THE TREATMENT AFFORDED ITS CLAIM UNDER THE PLAN AND DO NOT REPRESENT WHETHER THERE COULD BE ADDITIONAL TAX EXPOSURE TO THEMSELVES OR THEIR NON-DEBTOR AFFILIATES AS A RESULT OF THE PLAN.

**X.
RECOMMENDATION**

Holders of Claims and Interests should not construe the contents of this Disclosure Statement as providing any legal, business, financial, or tax advice. Each such Holder should consult with his or her own legal, business, financial, and tax advisors as to any such matters concerning the Plan and the transactions contemplated thereby. However, the Debtor and the Creditors' Committee strongly recommend that all creditors receiving a Ballot vote in favor of the Plan. The Debtor and the Creditors' Committee believe that the Plan is in the best interests of creditors. The Plan as structured, among other things, allows creditors to participate in distributions believed to be in excess of those which would otherwise be available were the Chapter 11 Cases dismissed or converted under chapter 7 of the Bankruptcy Code, and minimizes delays in initiating recoveries to creditors.

**XI.
CONCLUSION**

For all of the reasons set forth in this Disclosure Statement, the Debtor and the Creditors' Committee believe that the Confirmation and Consummation of the Plan is preferable to all other alternatives. The Debtor and the Creditors' Committee urge all creditors entitled to vote, vote to accept the Plan to return their Ballots so that they will be received by **5:00 p.m. (Prevailing Eastern Time) on June 24, 2021.**

DATED: May 17, 2021

Klausner Lumber One LLC

/s/ Michael Freeman

By: Michael Freeman

Title: Chief Restructuring Officer

Official Committee of Unsecured Creditors

/s/ Ronald Matley

By: Ronald Matley

Title: Chairperson

EXHIBIT A

FIRST AMENDED JOINT CHAPTER 11 PLAN

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

Klausner Lumber One LLC,¹

Debtor.

)
) Chapter 11
)
) Case No. 20-11033 (KBO)
)
)
)

**FIRST AMENDED JOINT CHAPTER 11 PLAN FOR KLAUSNER LUMBER ONE LLC
PROPOSED BY THE DEBTOR AND THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS**

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Dated: May 17, 2021

¹ The last four digits of the Debtor's federal EIN are 9109. The Debtor's mailing address is Klausner Lumber One LLC, P.O. Box 878, Middleburg, VA 20118.

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INTRODUCTION

Capitalized terms used in this chapter 11 plan shall have the meanings set forth in Article I.A. The Proponents propose the Plan for the resolution of outstanding Claims against, and Interests in, the Debtor. Holders of Claims and Interests may refer to the Disclosure Statement for a discussion of the Debtor's history, business, assets, results of operations, and historical financial information, as well as a summary and description of the Plan. The Proponents are the proponents of the Plan within the meaning of section 1129 of the Bankruptcy Code.

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

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

A. *Defined Terms*

As used in the Plan, capitalized terms have the meanings set forth below.

1. “*Administrative Expense Claim*” means a Claim for costs and expenses of administration of the Debtor's Estate pursuant to sections 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code, including: (a) to the extent they meet the statutory requirements, the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; (b) Allowed Professional Fee Claims; and (c) all Allowed requests for compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Case pursuant to sections 503(b)(3), (4), and (5) of the Bankruptcy Code.

2. “*Administrative Expense Claims Bar Date*” means (i) October 30, 2020 at 5:00 p.m. for Administrative Expense Claims arising between the Petition Date and September 30, 2020 and (ii) the date that is thirty (30) days after the Effective Date or such other date ordered by the Bankruptcy Court for Administrative Expense Claims arising from October 1, 2020 through the Effective Date; *provided however*, that with respect to Professional Fee Claims, the Administrative Expenses Claim Bar Date shall be forty-five (45) days after the Effective Date.

3. “*Affiliate*” shall have the meaning set forth in section 101(2) of the Bankruptcy Code, and, for purposes of the Plan, shall include the Klausner Group.

4. “*Affiliate Secured Claim*” means a Secured Claim held or asserted by an Affiliate or an Insider, other than Florida Sawmills to the extent Florida Sawmills is determined to be an Affiliate or an Insider.

5. “*Affiliate Unsecured Claim*” means a General Unsecured Claim held or asserted by an Affiliate or an Insider, other than Florida Sawmills to the extent Florida Sawmills is determined to be an Affiliate or an Insider.

6. “*Allowed*” means, with respect to any Claim, except as otherwise provided herein: (a) a Claim that is evidenced by a Proof of Claim timely Filed before the applicable Bar Date (or for which Claim under the Plan, the Bankruptcy Code, or a Final Order of the Bankruptcy Court a Proof of Claim is not or shall not be required to be Filed); (b) a Claim that is listed in the Schedules as not

contingent, not unliquidated, and not disputed, and for which no Proof of Claim has been timely Filed; or (c) a Claim allowed pursuant to the Plan, any stipulation approved by the Bankruptcy Court, any contract, instrument, indenture, or other agreement entered into or assumed in connection with the Plan, or a Final Order of the Bankruptcy Court, including a Claim estimated pursuant to section 502(c) of the Bankruptcy Code; *provided, however*, that, with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that (i) no objection to the allowance of such Claim has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or (ii) if such an objection is so interposed, such Claim shall have been Allowed by a Final Order. Notwithstanding anything to the contrary herein, (x) no Claim of any Entity subject to section 502(d) of the Bankruptcy Code shall be deemed Allowed unless and until (aa) such Entity pays in full the amount that it owes to Debtor, or (bb) such Claim is allowed pursuant to a Final Order of the Bankruptcy Court; and (y) the DIP Lender shall not be required to file a Proof of Claim. “Allow” and “Allowing” shall have correlative meanings.

7. “*Allowed Unsecured Claim*” means an Allowed Claim in Class 3B (Non-WARN Act Class Settlement Claims – limited to that portion of an Allowed Non-WARN Act Settlement Claim, if any, that constitutes an Allowed General Unsecured Claim), Class 4 (FS Deficiency/Unsecured Claims), Class 5 (General Unsecured Claims), and Class 6 (Affiliate Unsecured Claim).

8. “*Approval Order*” shall have the meaning ascribed to that term in Section 1 of the WARN Act Class Settlement Agreement.

9. “*Bankruptcy Code*” means title 11 of the United States Code, as amended from time to time and as applicable to the Chapter 11 Case.

10. “*Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware, and, to the extent of any withdrawal of reference under 28 U.S.C. § 157 and/or the General Order of the District Court pursuant to section 151 of title 28 of the United States Code, the United States District Court for the District of Delaware.

11. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure, and the general, local, and chambers rules of the Bankruptcy Court, each as amended from time to time and as applicable to the Chapter 11 Case.

12. “*Bar Date*” means the dates established by the Bankruptcy Court by which Proofs of Claim must be Filed.

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

14. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

15. “*Causes of Action*” means any Claims, damages, remedies, causes of action, demands, rights, actions, suits, obligations, liabilities, accounts, defenses, offsets, powers, privileges, licenses, and franchises of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, matured or unmatured, suspected or unsuspected, in tort, law, equity, or otherwise. Causes of Action also includes: (a) all rights of setoff, counterclaim, or recoupment and claims on contracts or for breaches of duties imposed by law; (b) the right to object to or otherwise contest Claims or Interests; (c) claims pursuant to sections 362, 510, 542, 543, 544 through 550, or 553 of the Bankruptcy Code; and (d) claims and defenses such as fraud,

mistake, duress, and usury and any other defenses set forth in section 558 of the Bankruptcy Code.

16. “*Chapter 11 Case*” means the above-captioned chapter 11 case of the Debtor in the Bankruptcy Court under Case No. 20-11033.

17. “*Chief Restructuring Officer*” means Michael Freeman of Asgaard Capital LLC.

18. “*Claim*” shall have the meaning set forth in section 101(5) of the Bankruptcy Code, asserted against the Debtor.

19. “*Claims Objection Deadline*” means the deadline for objecting to a Claim, which shall be one hundred and twenty (120) days after the Effective Date; *provided, however*, that the Debtor or the Plan Administrator may seek extensions of this date from the Bankruptcy Court, with notice only to those parties entitled to notice in the Chapter 11 Case pursuant to Bankruptcy Rule 2002.

20. “*Claims Register*” means the official register of Claims maintained by the Notice and Claims Agent or the Bankruptcy Court.

21. “*Class*” means a category of Claims or Interests as designated in the Plan.

22. “*Class 4 Distribution Amount*” shall have the meaning proscribed in the Plan Support and Settlement Term Sheet attached hereto as Exhibit A.

23. “*Class 5 Distribution Amount*” shall have the meaning proscribed in the Plan Support and Settlement Term Sheet attached hereto as Exhibit A.

24. “*Class 6 Distribution Amount*” shall have the meaning proscribed in the Plan Support and Settlement Term Sheet attached hereto as Exhibit A.

25. “*Class Counsel*” shall have the meaning ascribed to that term in Section 2 of the WARN Act Class Settlement Agreement.

26. “*Class Counsel’s Fees and Expenses*” shall have the meaning ascribed to that term in Section 6 of the WARN Act Class Settlement Agreement.

27. “*Confirmation*” means entry of the Confirmation Order on the docket of the Chapter 11 Case, subject to the conditions set forth in the Plan, including the conditions precedent to Confirmation as specified in Article XI hereof (unless they have been waived in accordance with Article XI).

28. “*Confirmation Date*” means the date on which Confirmation occurred.

29. “*Confirmation Hearing*” means a hearing held before the Bankruptcy Court to consider Confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code.

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

31. “*Consummation*” means the occurrence of the Effective Date.

32. “*Creditor Releasing Party*” means (a) each Holder of a Claim that submitted a ballot to accept or reject the Plan and affirmatively opted in to being a Releasing Party by marking the box on its ballot designated for such purpose; (b) pursuant to the Plan Settlement, each Holder of Affiliate Secured

Claims, Affiliate Unsecured Claims, FS Secured Claims, and FS Deficiency/Unsecured Claims; and (c) each Holder of a Claim that is Unimpaired and presumed to accept the Plan and affirmatively opted in to being a Releasing Party by marking the box on its ballot designated for such purpose, in each case solely in such capacities.

33. “*Creditors’ Committee*” means the official committee of unsecured creditors appointed in the Chapter 11 Case.

34. “*Creditors’ Committee’s Professionals*” means (a) Faegre Drinker Biddle & Reath LLP; (b) Foley & Lardner LLP; (c) Morris James LLP; (d) Berkeley Research Group, LLC; and (e) any other Professional retained by the Creditors’ Committee, including each such Entities’ partners, current and former directors, managers, contractors, officers, equity holders, members, officers, principals, employees, attorneys, consultants, representatives, and other professionals, together with their respective successors and assigns.

35. “*Cure/Assumption Objection Deadline*” means the date that is seven (7) days after filing of the Schedule of Assumed Executory Contracts and Unexpired Leases with the Plan Supplement and service of the Cure Notice; *provided, however*, that if any Executory Contract or Unexpired Lease is added to the Schedule of Assumed Executory Contracts and Unexpired Leases after the filing of the initial Schedule of Assumed Executory Contracts and Unexpired Leases, or an Executory Contract or Unexpired Lease proposed to be assumed by the Debtor or Post-Confirmation Debtor is proposed to be assigned to a third party after the filing of the initial Schedule of Assumed Executory Contracts and Unexpired Leases, then the Cure/Assumption Objection Deadline with respect to such Executory Contract or Unexpired Lease shall be the later of (a) seven (7) days after service of the amended Schedule of Assumed Executory Contracts and Unexpired Leases with such modification and (b) the date of the scheduled Confirmation Hearing.

36. “*Cure Claim*” means a monetary Claim based upon the Debtor’s default(s) under any Executory Contract or Unexpired Lease at the time such contract or lease is assumed by the Debtor pursuant to section 365 of the Bankruptcy Code.

37. “*Cure Notice*” means a notice of a proposed amount to be paid on account of a Cure Claim in connection with an Executory Contract or Unexpired Lease to be assumed under the Plan pursuant to section 365 of the Bankruptcy Code, which notice shall include: (a) procedures for objecting to proposed assumptions of Executory Contracts and Unexpired Leases; (b) Cure Claims to be paid in connection therewith; and (c) procedures for resolution by the Bankruptcy Court of any related disputes.

38. “*D&O Liability Insurance Policies*” means all insurance policies for directors’, managers’ and officers’ liability (including employment practices liability and fiduciary liability) maintained by the Debtor prior to the Effective Date, including as such policies may extend to employees, and any such policies that have “tail” provisions.

39. “*Debtor*” means Klausner Lumber One LLC, the debtor and debtor-in-possession in the Chapter 11 Case.

40. “*Debtor’s Professionals*” means (a) the Chief Restructuring Officer; (b) Asgaard Capital LLC; (c) Cypress Holdings LLC; (d) Morris, Nichols, Arsht & Tunnell LLP; (e) Westernman Ball Ederer Miller Zucker & Sharfstein, LLP; (f) Fallace & Larkin, L.C.; (g) Curtis, Mallet-Prevost, Colt & Mosle LLP; (h) McCausland Keen & Buckman; (i) Shapiro Law; (j) Duane Morris LLP; (k) Donlin Recano & Company; and (l) any other Professional retained by the Debtor, including each such

Entities' partners, current and former directors, managers, contractors, officers, equity holders, members, officers, principals, employees, attorneys, consultants, representatives, and other professionals, together with their respective successors and assigns.

41. *"DIP Loan Documents"* means (a) the Financing Orders, (b) the *DIP Credit Facility Summary of Indicative Terms and Conditions Term Sheet – Klausner Lumber One LLC, dated April 29, 2020* by and among the Debtor and DIP Lender, and (c) the Term Loan Note by the Debtor in favor of the DIP Lender, all as amended, restated, supplemented, or otherwise modified from time to time.

42. *"DIP Lender"* means Big Shoulders Capital VI, LLC and CRG Acquisition, LLC, jointly, and together with their successors and assigns.

43. *"Disallowed"* means, with respect to any Claim, a Claim or any portion thereof that: (a) has been disallowed by a Final Order; (b) is listed in the Schedules as zero or as contingent, disputed, or unliquidated and as to which no Proof of Claim or request for payment of an Administrative Expense Claim has been timely Filed or deemed timely Filed with the Bankruptcy Court pursuant to the Bankruptcy Code, any Final Order of the Bankruptcy Court, or otherwise deemed timely Filed under applicable law or the Plan; (c) is not listed in the Schedules and as to which no Proof of Claim or request for payment of an Administrative Expense Claim has been timely Filed or deemed timely Filed with the Bankruptcy Court pursuant to the Bankruptcy Code, any Final Order of the Bankruptcy Court, or otherwise deemed timely Filed under applicable law or the Plan; (d) has been withdrawn by agreement of the Debtor and the Holder thereof; or (e) has been withdrawn by the Holder thereof.

44. *"Disclosure Statement"* means the disclosure statement for the Plan, including all exhibits and schedules and any amendments thereto, that is prepared and distributed in accordance with section 1125 of the Bankruptcy Code and Bankruptcy Rule 3018.

45. *"Disputed"* means a Claim that is not yet Allowed.

46. *"Distribution Account"* means one or more accounts (which may be "book entry" accounts) (a) into which shall be deposited all revenues and proceeds of all assets of the Debtor or the Post-Confirmation Debtor, as applicable, including proceeds of asset sales, and all Cash held by the Debtor; and (b) from which payments shall be made according to the priorities set forth in Article IV hereof and the other provisions of the Plan.

47. *"Distribution Proceeds"* means all Cash of the Debtor available on the Effective Date, after funding the Professional Fee Escrow Account and the Post-Confirmation Estate Reserve, and thereafter all Cash of the Post-Confirmation Estate from all sources, including the revenues and proceeds of all assets of the Debtor's Estate or the Post-Confirmation Estate, including, but not limited to, Causes of Action, as the case may be.

48. *"Distribution Record Date"* means the date for determining which Holders of Allowed Claims or Allowed Interests are eligible to receive distributions hereunder, which shall be (a) the date on which the Bankruptcy Court approves the Disclosure Statement or (b) such other date as designated in a Final Order of the Bankruptcy Court.

49. *"Effective Date"* means, with respect to the Plan, the date that is the first Business Day on which: (a) no stay of the Confirmation Order is in effect, and (b) all conditions precedent specified in Article X hereof have been satisfied or waived (in accordance with Article X hereof).

50. “Entity” shall have the meaning set forth in section 101(15) of the Bankruptcy Code.

51. “Estate” means the estate created for the Debtor in its Chapter 11 Case pursuant to section 541 of the Bankruptcy Code.

52. “Exculpated Parties” means, collectively, and in each case solely in its capacity as such: (a) the Debtor; (b) the Debtor’s current and former officers, directors and managers who served in such positions at any time on or after the Petition Date; (c) the Debtor’s Professionals; (d) the Post-Confirmation Debtor and the Plan Administrator; (e) the Creditors’ Committee and each of its members; (f) the Creditors’ Committee’s Professionals; and (g) with respect to each of the foregoing Entities and Persons, such Entities’ and Persons’ respective professionals, representatives, advisors, attorneys, financial advisors, accountants, investment bankers, employees, contractors, and consultants acting in such capacity. For the avoidance of doubt, no Exculpated Party shall be exculpated for any act or omission that occurred prior to the Petition Date.

53. “Executory Contract” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

54. “Federal Judgment Rate” means the federal judgment rate in effect as of the Petition Date, compounded annually.

55. “File,” “Filed,” or “Filing” means file, filed, or filing in the Chapter 11 Case with the Bankruptcy Court or, with respect to the filing of a Proof of Claim or proof of Interest, the Notice and Claims Agent.

56. “Final Order” means: (a) an order or judgment of the Bankruptcy Court, as entered on the docket in the Chapter 11 Case (or any related adversary proceeding or contested matter) or the docket of any other court of competent jurisdiction; or (b) an order or judgment of any other court having jurisdiction over any appeal from (or petition seeking certiorari or other review of) any order or judgment entered by the Bankruptcy Court (or any other court of competent jurisdiction, including in an appeal taken) in the Chapter 11 Case (or in any related adversary proceeding or contested matter), that has not been reversed, stayed, modified, or amended, and as to which the time to appeal, or seek certiorari or move for a new trial, reargument, or rehearing has expired according to applicable law and no appeal or petition for certiorari or other proceedings for a new trial, reargument, or rehearing has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be timely filed has been withdrawn or resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order, or has otherwise been dismissed with prejudice; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or the Local Bankruptcy Rules of the Bankruptcy Court, may be filed shall not prevent such order from being a Final Order.

57. “Financing Orders” means the (i) *Order (I) Authorizing the Debtor to Obtain Post-Petition Financing on an Interim Basis, Granting Senior Post-Petition Security Interests and According Superpriority Administrative Expense Status Pursuant to Section 364(c) and 364(d) of the Bankruptcy Code, (II) Authorizing the Use of Cash Collateral, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief* [D.I. 67], and (ii) the *Agreed Order (I) Authorizing the Debtor to Obtain Post-Petition Financing on a Final Basis, Granting Senior Post-Petition Security Interests and According Superpriority Administrative Expense Status Pursuant to Section 364(c) and 364(d) of the Bankruptcy Code, (II) Authorizing the Use of Cash Collateral, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief* [D.I. 136].

58. “*Florida Sawmills*” means Florida Sawmills, L.P.

59. “*Florida Sawmills Reserve*” means the segregated escrow account established with respect to the purported secured claims and liens of Florida Sawmills in the amount of \$10,410,000, with all purported encumbrances of Florida Sawmills to attach to such account with the same validity, force and effect as of the Petition Date subject to any claims and defenses of the Debtor and its bankruptcy estate thereto, until further order of the Bankruptcy Court, as set forth in the *Order (I) Approving APA, (II) Authorizing the Sale of Certain of the Debtor’s Assets Free and Clear of Certain Encumbrances, (III) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief* [D.I. 350].

60. “*FS Deficiency/Unsecured Claim*” means a Claim held or asserted by Florida Sawmills that is not Secured, and is neither a Subordinated Claim nor an Equity Interest.

61. “*FS Secured Claim*” means a Claim held or asserted by Florida Sawmills that is Secured.

62. “*General Unsecured Claim*” means any Claim other than: (a) Administrative Expense Claims; (b) Affiliate Secured Claims; (c) Affiliate Unsecured Claims; (d) FS Deficiency/Unsecured Claims; (e) FS Secured Claims; (f) Secured Claims; (g) Priority Claims; (h) Priority Tax Claims; (i) Priority Wage Claims; (j) Subordinated Claims; (k) WARN Act Class Settlement Claims; or (l) the Priority Wage Claim portion of Non-WARN Act Class Settlement Claims.

63. “*Governmental Unit*” shall have the meaning set forth in section 101(27) of the Bankruptcy Code.

64. “*Holder*” means an Entity holding a Claim or Interest, as applicable.

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

66. “*Indemnification Claimant*” shall have the meaning set forth in Article V.D. hereof.

67. “*Indemnified Persons*” means the Plan Administrator, his, her or its employees, officers, directors, agents, representatives, and professionals.

68. “*Insider*” shall have the meaning set forth in section 101(31) of the Bankruptcy Code.

69. “*Interest*” means any equity security (as defined in section 101(16) of the Bankruptcy Code) in the Debtor.

70. “*Interim Compensation Order*” means the order of the Bankruptcy Court establishing the procedures for interim compensation and reimbursement of expenses for professionals [Docket No. 132].

71. “*Judicial Code*” means title 28 of the United States Code, as amended from time to time and as applicable to the Chapter 11 Case.

72. “*Klausner Group*” means Klausner Trading International GmbH, Klausner Nordamerika Beteiligungs GmbH, ASC Alpha Betriebs, Verwaltungs-und Beteiligungs GmbH, Wien, Klausner Holz Thuringen GmbH, Klausner Holz Sachsen GmbH, Klausner Holz Niedersachsen GmbH,

Klausner Holding USA, Inc., and Klausner NMTC Leverage Company, LLC.

73. “*Lien*” shall have the meaning set forth in section 101(37) of the Bankruptcy Code.

74. “*Litigation Claims*” means all Causes of Action belonging to the Debtor’s Estate.

75. “*Manager Releasee*” means each and any of the Debtor’s current and former directors, officers and managers who served in such capacity on or after the Petition Date, including Nat Wasserstein of Lindenwood Associates LLC, the Debtor’s independent director who was retained after the Petition Date (but excluding the Debtor’s Chief Restructuring Officer, who is a Released Party and a Professional). For the avoidance of doubt, the term Manager Releasee shall not apply to the Debtor’s current and former directors (other than Nat Wasserstein of Lindenwood Associates LLC, the Debtor’s independent director), the officers and managers for actions taken prior to the Petition Date.

76. “*Net Distribution Proceeds*” means the Distribution Proceeds available for distribution after funding, reserving for or payment of all Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed FS Secured Claims, Allowed Affiliate Secured Claims, Allowed Other Secured Claims, Allowed Priority Claims, and Allowed WARN Act Class Settlement Claims, exclusive of any portion of such Allowed WARN Act Class Settlement Claims that constitutes an Allowed General Unsecured Claim.

77. “*Net WARN Act Class Settlement Amount*” means the WARN Settlement Amount less: (a) Class Counsel’s Fees and Expenses, and (b) the Service Payment.

78. “*Non-WARN Act Class Settlement Claim*” means any Claim of a WARN Act Class Claimant who has properly opted out of the WARN Act Class Settlement in accordance with the terms and conditions of the WARN Act Class Settlement Agreement.

79. “*Notice and Claims Agent*” means Donlin, Recano & Company.

80. “*Other Secured Claim*” means a Secured Claim that is not a FS Secured Claim or an Affiliate Secured Claim.

81. “*Person*” shall have the meaning set forth in section 101(41) of the Bankruptcy Code.

82. “*Petition Date*” means April 30, 2020.

83. “*Plan*” means the Plan, as it may be amended or supplemented from time to time, including all exhibits, schedules, supplements, appendices, annexes, and attachments thereto.

84. “*Plan Administrator*” means Berkley Research Group, LLC, by and through Jay Borow, the entity or individual to be retained to administer the Debtor’s Estate, as of the Effective Date or as soon as reasonably practicable thereafter, and as the fiduciary responsible for administering the Post-Confirmation Estate Assets, in accordance with Article VII.D hereof.

85. “*Plan Administrator Agreement*” means the agreement governing the terms and conditions of the employment of the Plan Administrator, dated as of the Effective Date, in the form included in the Plan Supplement.

86. “*Plan Documents*” means the Plan, the Disclosure Statement, the Plan Supplement, and the various agreements and other documents formalizing or implementing the Plan and the transactions

contemplated thereunder.

87. “*Plan Settlement*” means the global settlement reached among the Plan Settlement Parties as embodied in the Plan, including the Plan Support and Settlement Term Sheet, as described in Article IV(A)(2) hereof.

88. “*Plan Settlement Parties*” means the Debtor, the Creditors’ Committee, Florida Sawmills, and the Klausner Group.

89. “*Plan Supplement*” means the compilation of documents and forms of documents, schedules, and exhibits to the Plan, to be Filed by the Debtor no later than seven (7) days before the deadline for objecting to Confirmation of the Plan, or such later date as may be approved by the Bankruptcy Court on notice to parties in interest, and additional documents Filed with the Bankruptcy Court before the Effective Date as amendments to the Plan Supplement. The Plan Supplement shall include the following: (a) Schedule of Assumed Executory Contracts and Unexpired Leases; (b) the Plan Administrator Agreement; and (c) any and all other documentation necessary to effectuate the Plan or that is contemplated by the Plan. The Debtor, after consultation with the Creditors’ Committee, shall have the right to amend the documents contained in, and exhibits to, the Plan Supplement until the Effective Date, pursuant to section 1127 of the Bankruptcy Code.

90. “*Plan Support and Settlement Term Sheet*” means the Plan Support and Settlement Term Sheet annexed hereto as Exhibit A, which is incorporated into and is a part of the Plan as if set forth in full in the Plan.

91. “*Plan Transactions*” means the transactions contemplated to occur pursuant to the terms of the Plan.

92. “*Post-Confirmation Debtor*” means the Debtor immediately upon the Effective Date.

93. “*Post-Confirmation Estate*” means the Debtor’s Estate immediately upon the Effective Date.

94. “*Post-Confirmation Estate Assets*” means (a) as of the Effective Date, all (i) Cash and other assets of the Debtor held in the Post-Confirmation Estate comprised of (x) any and all Litigation Claims and rights and claims under the D&O Liability Insurance Policies, and (y) all other unencumbered assets of the Debtor’s Estate remaining after all payments have been made pursuant to the Plan, Confirmation Order, the Plan Administration Agreement, as applicable; (ii) such additional or different corpus, assets or investments, if any, as the Plan Administrator may from time to time acquire and/or hold and administer under the provisions of the Plan, and (iii) any and all dividends, rents, royalties, income, proceeds and other receipts of, from or attributable to the foregoing. For the avoidance of doubt, the Post-Confirmation Estate is the successor-in-interest to, and deemed a member at all relevant times of, the Debtor for purposes of the Post-Confirmation Estate Assets, including conferring derivative standing (as necessary) with respect to any of the Causes of Action.

95. “*Post-Confirmation Estate Reserve*” means an amount of Cash set aside from time to time by the Plan Administrator to fund the administration of the Plan and the wind up of the Debtor, including all actual and necessary costs and expenses to be incurred after the Effective Date in connection with the administration of the Plan at the direction of the Plan Administrator, including (a) the reasonable fees and expenses of the Plan Administrator and any professionals retained by the Plan Administrator, and the reasonable fees and expenses associated with administering, holding, selling, transferring and liquidating the Post-Confirmation Estate Assets, as well as the reasonable fees and

expenses associated with administering the Plan and the Wind Down as set forth in Article VII.O hereof, and (b) all U.S. Trustee fees, through entry of the Final Decree.

96. “*Prepetition Collateral*” shall have the meaning ascribed to it in the Prepetition Loan Documents.

97. “*Prepetition Loan Documents*” shall mean (a) the Construction Loan Agreement, dated as of November 26, 2012, by and between the Debtor and Florida Sawmills; (b) the Second Amended and Restated Promissory Note, dated as of January 23, 2014, by the Debtor in favor of Florida Sawmills; and (c) other agreements, modifications, documents, and instruments executed, delivered, and/or filed in connection with either of the foregoing.

98. “*Priority Claim*” means any Claim entitled to priority in right of payment under section 507(a) of the Bankruptcy Code, other than: (a) an Administrative Expense Claim, or (b) a Priority Tax Claim, to the extent such Claim has not already been paid during the Chapter 11 Case. Priority Claims include Claims arising under section 503(b)(9) of the Bankruptcy Code.

99. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

100. “*Priority Wage Claim*” means any Claim that is not a WARN Act Class Settlement Claim but is either: (a) a WARN Claim and/or (b) a Priority Claim entitled to priority in right of payment pursuant to Section 507(a)(4) or Section 507(a)(5) of the Bankruptcy Code; *provided, however*, that under no circumstances shall a Priority Wage Claim exceed the amount of \$13,650 per Claim.

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

102. “*Pro Rata Share*” means the proportional share that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims in that Class, or the proportional share that Allowed Claims in a particular Class bear to the aggregate amount of Allowed Claims in a particular Class and other Classes entitled to share in the same recovery as such Allowed Claim under the Plan.

103. “*Professional*” means an Entity retained pursuant to an order of the Bankruptcy Court in accordance with sections 327, 363 or 1103 of the Bankruptcy Code, and to be compensated for services rendered pursuant to sections 327, 328, 329, 330, 331, or 363 of the Bankruptcy Code.

104. “*Professional Fee Claims*” means all Administrative Expense Claims for the compensation of Professionals and the reimbursement of expenses incurred by such Professionals to the extent such fees and expenses have not been previously paid.

105. “*Professional Fee Escrow Account*” means an account in an amount equal to the total Professional Fee Reserve Amount to be funded by the Debtor on or before the Effective Date and held by a Person or Entity to be designated by the Debtor, after consultation with the Creditors’ Committee.

106. “*Professional Fee Reserve Amount*” means the aggregate amount of Professional Fee Claims that the Professionals estimate they have incurred and will incur in rendering services to the Debtor or the Creditors’ Committee prior to and as of the Effective Date and through the date on which

the Debtor shall be dissolved pursuant to Article IV.D hereof, which estimates Professionals shall deliver to the Debtor and the Creditors' Committee as set forth in Article II.C hereof.

107. *"Proof of Claim"* means a proof of Claim Filed with respect to the Debtor in the Chapter 11 Case.

108. *"Proponents"* means the proponents of the Plan, including the Debtor and the Creditors' Committee.

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

110. *"Rejected Executory Contracts and Unexpired Leases"* means all Executory Contracts of the Debtor not expressly set forth on the Schedule of Assumed Executory Contracts and Unexpired Leases.

111. *"Released Party"* means each of the following solely in their capacity as such: (a) the Debtor; (b) the DIP Lender; (c) the Creditors' Committee and each of its members; (d) the Debtor's Professionals; and (e) the Creditors' Committee's Professionals.

112. *"Releasing Party"* means, collectively, and in each case solely in its capacity as such: (a) the Debtor; (b) the Post-Confirmation Debtor and the Plan Administrator; (c) the DIP Lender; (d) the Creditors' Committee and each of its members; (e) each Creditor Releasing Party; and (f) any person or entity claiming by or through each of the foregoing Entities described in clauses (a) through (e), including such Entities' current and former affiliates, and such Entities' and such affiliates' partners, subsidiaries, predecessors, current and former directors, managers, officers, equity holders (regardless of whether such interests are held directly or indirectly, but excluding Holders of Interests), members, officers, principals, employees, agents, managed accounts or funds, advisors, attorneys, accountants, investment bankers, consultants, contractors, representatives, management companies, fund advisors, and other professionals, together with their respective successors and assigns.

113. *"Schedule of Assumed Executory Contracts and Unexpired Leases"* means the schedule (including any amendments or modifications thereto), if any, of the Executory Contracts and Unexpired Leases to be assumed or assumed and assigned by the Debtor or the Post-Confirmation Debtor, as applicable, pursuant to the Plan, as set forth in the Plan Supplement, as amended by the Debtor, after consultation with the Creditors' Committee, from time to time in accordance with the Plan, which shall be in form and substance acceptable to the Debtor and the Creditors' Committee.

114. *"Schedules"* means, collectively, the schedules of assets and liabilities and statement of financial affairs Filed by the Debtor pursuant to section 521 of the Bankruptcy Code and in substantial accordance with the Official Bankruptcy Forms, as such may have been amended, modified, or supplemented from time to time.

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

116. “*Secured Claim*” means any Secured Claim (including Secured Tax Claims).
117. “*Secured Tax Claim*” means any Secured Claim against the Debtor that, absent its secured status, would be entitled to priority in right of payment under section 507(a)(8) of the Bankruptcy Code (determined irrespective of time limitations), including any related Secured Claim for penalties.
118. “*Securities Act*” means the Securities Act of 1933, 15 U.S.C. §§ 77a–77aa, together with the rules and regulations promulgated thereunder, as amended from time to time.
119. “*Securities Exchange Act*” means the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a–78nn, as amended.
120. “*Security*” means a security as defined in section 2(a)(1) of the Securities Act.
121. “*Service Payment*” shall have the meaning ascribed to that term in Section 6 of the WARN Act Class Settlement Agreement.
122. “*Subordinated Claim*” means any Claim subject to subordination under section 510(b) of the Bankruptcy Code or as otherwise may be permitted under applicable law.
123. “*Unexpired Lease*” means a lease of nonresidential real property to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.
124. “*Unimpaired*” means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is unimpaired within the meaning of section 1124 of the Bankruptcy Code, including through payment in full in Cash.
125. “*U.S. Trustee*” means the Office of the United States Trustee for the District of Delaware.
126. “*Voting Deadline*” means the deadline to object to confirmation of the Plan, as may be set by the Debtor, after consultation with the Creditors’ Committee, or by order of the Bankruptcy Court.
127. “*WARN Act Claimants*” means all Persons listed on Exhibit A to the WARN Act Class Settlement Agreement.
128. “*WARN Act Class Member*” means any WARN Act Claimant who does not timely file a valid request to opt out of the WARN Act Class Settlement Agreement.
129. “*WARN Act Class Settlement Agreement*” shall mean that certain settlement agreement entered into by and among the Debtor and Plaintiff, Helmut Thomay, on behalf of himself and the WARN Act Claimants.
130. “*WARN Act Class Settlement Claim*” shall mean the Claim awarded to, collectively, the WARN Act Class Members in accordance with Paragraph 5 of the WARN Act Class Settlement Agreement in full and complete satisfaction of any and all WARN Claims held by the WARN Act Class Members.
131. “*WARN Back Pay*” shall have the meaning ascribed to that term in Section 8 of the

WARN Act Class Settlement Agreement.

132. “*WARN Claim*” means any Claim arising under or pursuant to the federal Worker Adjustment and Retraining Notification (WARN) Act that was filed by Helmut Thomay, on behalf of himself and the WARN Act Claimants, on or prior to the Bar Date.

133. “*WARN Pro Rata Share*” means, subject to the terms and provisions of the WARN Act Class Settlement Agreement, including without limitation, the tax provisions in Section 12 thereof, the Pro Rata Share attributable to the quotient of each individual Class Member’s WARN Back Pay, unpaid wages, accrued time off, and remitted fringe benefits amounts (“Total Claim”) over the aggregate Total Claim amount for all WARN Act Class Members.

134. “*WARN Settlement Amount*” shall have the meaning ascribed to the term “Settlement Amount” in Section 5 of the WARN Act Class Settlement Agreement.

135. “*Wind Down*” means the wind down and dissolution of the Debtor and its Estate on and following the Effective Date as set forth in Article VII.O hereof.

B. Rules of Interpretation

For purposes herein: (1) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (2) unless otherwise specified, any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (3) unless otherwise specified, any reference herein to an existing document, schedule, or exhibit, whether or not Filed, having been Filed or to be Filed shall mean that document, schedule, or exhibit as it may thereafter be amended, modified, or supplemented; (4) any reference to an Entity as a Holder of a Claim or Interest includes that Entity’s successors and assigns; (5) unless otherwise specified, all references herein to “Articles” are references to Articles hereof or hereto; (6) unless otherwise specified, all references herein to exhibits are references to exhibits in the Plan Supplement; (7) unless otherwise specified, the words “herein,” “hereof,” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (8) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (9) unless otherwise specified herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (10) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; (11) all references to docket numbers of documents Filed in the Chapter 11 Case are references to the docket numbers under the Bankruptcy Court’s CM/ECF system; (12) all references to statutes, regulations, orders, rules of courts, and the like shall mean as amended from time to time, and as applicable to the Chapter 11 Case, unless otherwise stated; (13) any immaterial effectuating provisions may be interpreted by the Debtor, the Creditors’ Committee, or the Post-Confirmation Debtor in such a manner that is consistent with the overall purpose and intent of the Plan, all without further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity; and (14) except as otherwise specifically provided in the Plan to the contrary, references in the Plan to the Debtor or to the Post-Confirmation Debtor shall mean the Debtor and the Post-Confirmation Debtor, as applicable, to the extent the context requires.

C. Computation of Time

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

D. Governing Law

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically stated herein, the laws of the State of Delaware, without giving effect to the principles of conflict of laws, shall govern the rights, obligations, construction, and implementation of the Plan, any agreements, documents, instruments, or contracts executed or entered into in connection with the Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control); *provided, however*, that corporate governance matters relating to the Debtor or the Post-Confirmation Debtor shall be governed by the laws of the state of incorporation or formation of such entity.

E. Reference to Monetary Figures

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

F. Controlling Document

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

**ARTICLE II.
ADMINISTRATIVE EXPENSE AND PRIORITY TAX CLAIMS**

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

A. Administrative Expense Claims

Requests for payment of Administrative Expense Claims must be Filed on or before the Administrative Expense Claims Bar Date. Except as otherwise ordered by the Bankruptcy Court, Holders of Administrative Expense Claims that are required to, but do not, File and serve a request for payment of such Administrative Expense Claims by such date shall be forever barred, estopped, and enjoined from asserting such Administrative Expense Claims against the Debtor or its property and such Administrative Expense Claims shall be deemed released against the Debtor as of the Effective Date. Objections to such requests, if any, must be Filed and served on the Post-Confirmation Debtor and the requesting party by the Claims Objection Deadline.

Except with respect to Administrative Expense Claims that (a) are Professional Fee Claims, (b) have already been paid during the Chapter 11 Case, or (c) for which the Holder of an Allowed Administrative Expense Claim has agreed to less favorable treatment, each Holder of an Allowed Administrative Expense Claim shall receive in full satisfaction of its Administrative Expense Claim, Cash equal to the amount of such Allowed Administrative Expense Claim either: (i) on the Effective Date; (ii) if the Administrative Expense Claim is not Allowed as of the Effective Date, thirty (30) days after the date on which an order allowing such Administrative Expense Claim becomes a Final Order, or as soon thereafter as reasonably practicable; or (iii) if the Allowed Administrative Expense Claim is based on a liability incurred by the Debtor in the ordinary course of its business after the Petition Date, pursuant to the terms and conditions of the particular transaction or agreement giving rise to such Allowed Administrative Expense Claim, without any further action by the Holders of such Allowed Administrative Expense Claim and without any further notice to, or action, order, or approval of, the Bankruptcy Court.

B. Priority Tax Claims

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of and in exchange for each Allowed Priority Tax Claim, each Holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code. For the avoidance of doubt, Holders of Allowed Priority Tax Claims will receive interest on such Allowed Priority Tax Claims after the Effective Date in accordance with sections 511 and 1129(a)(9)(C) of the Bankruptcy Code.

C. Professional Compensation

1. Final Fee Applications and Payment of Professional Fee Claims

All final requests for payment of Professional Fee Claims incurred during the period from the Petition Date through the Confirmation Date shall be Filed no later than forty-five (45) days after the Effective Date. All such final requests will be subject to approval by the Bankruptcy Court after notice and a hearing in accordance with the procedures established by the Bankruptcy Code, Bankruptcy Rules, and prior orders of the Bankruptcy Court, including the Interim Compensation Order, and once approved by the Bankruptcy Court, shall be paid within two (2) business days or as soon thereafter as reasonably practicable of such order from the Professional Fee Escrow Account in the full Allowed amount. To the extent that funds held in the Professional Fee Escrow Account are insufficient to satisfy the amount of Professional Fee Claims owing to the Professionals, such Professionals shall have an Allowed Administrative Expense Claim for any such deficiency, and the Debtor or the Plan Administrator, as applicable, shall pay the full unpaid amount of such Allowed Administrative Expense Claim in Cash.

2. Professional Fee Escrow Account

On or before the Effective Date, the Debtor shall establish and fund the Professional Fee Escrow Account with Cash equal to the Professional Fee Reserve Amount. The Professional Fee Escrow Account shall be maintained in trust solely for the Professionals. The amount of Professional Fee Claims owing to the Professionals shall be paid in Cash to such Professionals by the Debtor or the Plan Administrator, as applicable, within two (2) business days or as soon thereafter as reasonably practicable after such Professional Fee Claims are Allowed. When all Allowed amounts owing to the Professionals have been paid in full, any amount remaining in the Professional Fee Escrow Account shall promptly be paid to the Debtor or the Post-Confirmation Debtor, as applicable, without any further action or order of the Bankruptcy Court. If the Professional Fee Escrow Account is insufficient to fund the full Allowed

amounts of Professional Fee Claims, the remaining unpaid Allowed Professional Fee Claims will be paid from the Distribution Proceeds by the Plan Administrator.

3. Professional Fee Reserve Amount

Professionals shall reasonably estimate their unpaid Professional Fee Claims incurred in rendering services before and as of the Effective Date, and through the date on which the Debtor shall be dissolved pursuant to Article V.D hereof, and shall deliver such estimate to the Debtor no later than seven (7) business days after the Confirmation Date; *provided, however*, that such estimate shall not be deemed to limit the amount of the fees and expenses that are the subject of any Professional's final request for payment of Professional Fee Claims. If a Professional does not provide an estimate, the Debtor, after consultation with the Creditors' Committee, or the Plan Administrator, as applicable, may estimate the unpaid and unbilled fees and expenses of such Professional. The total amount estimated pursuant to this section shall comprise the Professional Fee Reserve Amount.

4. Post-Confirmation Date Fees and Expenses

Except as otherwise specifically provided in the Plan, from and after the Confirmation Date, the Debtor or the Plan Administrator, as applicable, shall, in the ordinary course of business and without any further notice to, or action, order, or approval of, the Bankruptcy Court, pay in Cash the reasonable and documented legal, professional, or other fees and expenses incurred by professionals providing services to the Debtor, the Creditors' Committee or the Plan Administrator, as applicable, after the Confirmation Date. Upon the Confirmation Date, any requirement that professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after the Confirmation Date shall terminate.

D. Statutory Fees

All fees due and payable pursuant to section 1930 of Title 28 of the United States Code and any interest thereon pursuant to section 3717 of Title 31 of the United States Code on or before the Effective Date shall be paid in full in Cash on the Effective Date or as soon as practicable thereafter by the Debtor or Post-Confirmation Debtor, as applicable. On and after the Effective Date, to the extent applicable, the Post-Confirmation Debtor shall pay any and all such fees and interest in full in Cash when due and payable and shall File with the Bankruptcy Court quarterly reports in a form reasonably acceptable to the U.S. Trustee. The Post-Confirmation Debtor shall remain obligated to pay quarterly fees and interest, if any, to the U.S. Trustee until the earliest of the Debtor's Chapter 11 Case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code. Notwithstanding anything in the Plan to the contrary, (i) the U.S. Trustee shall not be required to file any proof of claim for quarterly fees and any interest thereon; and (ii) the foregoing U.S. Trustee fees and any interest thereon shall not be deemed Priority Claims.

**ARTICLE III.
CLASSIFICATION AND TREATMENT OF CLAIMS AND
INTEREST**

A. Classification of Claims and Interests

Claims and Interests, except for Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth in this Article III. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such

other Classes. Except as otherwise provided in the Plan, a Claim or Interest also is classified in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim is an Allowed Claim in that Class and has not been paid, released, or otherwise satisfied before the Effective Date.

The classification of Claims and Interests for the Plan is as follows.

Class	Claims and Interests	Status	Voting Rights
Class 1A	FS Secured Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 1B	Affiliate Secured Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 1C	Other Secured Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 2	Priority Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 3A	WARN Act Class Settlement Claims	Impaired	Entitled to Vote
Class 3B	Non-WARN Act Class Settlement Claims	Impaired	Entitled to Vote
Class 4	FS Deficiency/ Unsecured Claim	Impaired	Entitled to Vote
Class 5	General Unsecured Claims	Impaired	Entitled to Vote
Class 6	Affiliate Unsecured Claims	Impaired	Entitled to Vote
Class 7	Subordinated Claims	Impaired	Entitled to Vote
Class 8	Interests	Impaired	Not Entitled to Vote (Deemed to Reject)

B. Treatment of Claims and Interests

Each Holder of an Allowed Claim or Allowed Interest, as applicable, shall receive under the Plan the treatment described below in full and final satisfaction, compromise, settlement, release, and discharge of, and in exchange for, such Holder's Allowed Claim or Allowed Interest, except to the extent that different treatment is agreed to by the Debtor and the Holder of such Allowed Claim or Allowed Interest. Unless otherwise indicated, the Holder of an Allowed Claim or Allowed Interest shall receive such treatment on the later of the Effective Date and the date such Holder's Claim or Interest becomes an Allowed Claim or Allowed Interest, or as soon as reasonably practicable thereafter. As discussed below, each Holder of an Allowed Unsecured Claim shall receive its Pro Rata Share of the Class 4 Distribution Amount, the Class 5 Distribution Amount, or the Class 6 Distribution Amount, as appropriate, from the Net Distribution Proceeds in accordance with the treatment provided for such Class described below.

1. Class 1A – FS Secured Claims

a. Classification: Class 1A consists of the FS Secured Claims against the Debtor.

- b. Treatment:* On or as soon as practicable after the Effective Date, each Holder of an Allowed FS Secured Claim shall receive on account of such Claim, except to the extent that any Holder of an Allowed FS Secured Claim agrees to less favorable treatment therefor, Cash equal to the amount of such Allowed FS Secured Claim.
 - c. Voting:* Class 1A is Unimpaired. Holders of FS Secured Claims are conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. Therefore, Holders of Claims in Class 1A are not entitled to vote to accept or reject the Plan.

2. Class 1B – Affiliate Secured Claims

- a. Classification:* Class 1B consists of the Affiliate Secured Claims against the Debtor.
- b. Treatment:* On or as soon as practicable after the Effective Date, each Holder of an Allowed Affiliate Secured Claim shall receive on account of such Claim at the Debtor's or Post-Confirmation Debtor's exclusive election, except to the extent that any Holder of an Allowed Affiliate Secured Claim agrees to less favorable treatment therefor, either: (i) Cash equal to the amount of such Allowed Affiliate Secured Claim; (ii) the property that serves as security for such Allowed Affiliate Secured Claim; or (iii) such other treatment that shall render such Allowed Affiliate Secured Claims Unimpaired pursuant to section 1124 of the Bankruptcy Code (which may include Reinstatement). The Debtor does not believe that there are any Claims that will be Allowed Claims within this Class.
- c. Voting:* Class 1B is Unimpaired. All Holders of Affiliate Secured Claims are conclusively be presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. Therefore, Holders of Claims in Class 1B are not entitled to vote to accept or reject the Plan.

3. Class 1C – Other Secured Claims

- a. Classification:* Class 1C consists of the Other Secured Claims against the Debtor.
- b. Treatment:* On or as soon as practicable after the Effective Date, each Holder of an Allowed Other Secured Claim shall receive on account of such Claim at the Debtor's or Post-Confirmation Debtor's exclusive election, except to the extent that any Holder of an Allowed Other Secured Claim agrees to less favorable treatment therefor, either: (i) Cash equal to the amount of such Allowed Other Secured Claim; (ii) the property that serves as security for such Allowed Other Secured Claim; or (iii) such other treatment that shall render such Allowed Other Secured Claims Unimpaired pursuant to section 1124 of the Bankruptcy Code (which may include Reinstatement). The Debtor does not believe that there are any Claims that will be Allowed Claims within this Class.
- c. Voting:* Class 1C is Unimpaired. All Holders of Other Secured Claims are conclusively be presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. Therefore, Holders of Claims in Class 1C are not entitled to

vote to accept or reject the Plan.

4. Class 2 – Priority Claims

- a. *Classification:* Class 2 consists of Priority Claims.
- b. *Treatment:* On or as soon as practicable after the Effective Date, each Holder of an Allowed Priority Claim shall receive on account thereof payment of the full amount of such Allowed Priority Claim in Cash or in the ordinary course of business as and when due, or otherwise receive treatment consistent with the provisions of section 1129(a) of the Bankruptcy Code, except to the extent the Holder of an Allowed Priority Claim agrees to less favorable treatment.
- c. *Voting:* Class 2 is Unimpaired. Holders of Priority Claims are conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. Therefore, Holders of Claims in Class 2 are not entitled to vote to accept or reject the Plan.

5. Class 3A – WARN Act Class Settlement Claims

- a. *Classification:* Class 3A consists of all of the Allowed WARN Act Class Settlement Claims of the WARN Act Class Members.
- b. *Treatment:* In full and complete satisfaction of its Claim, each Holder of an Allowed Warn Act Class Settlement Claim shall receive its WARN Act Pro Rata Share of the Net WARN Act Class Settlement Amount less any and all state, federal and/or other payroll tax withholdings, with such distribution to be paid as follows: (i) fifty percent (50%) of each Holder's WARN Act Pro Rata Share of the Net WARN Act Class Settlement Amount less any and all state, federal, and/or other payroll tax withholdings, to be paid on or as soon as practicable after the Effective Date; and (ii) the remaining fifty percent (50%) of each Holder's WARN Act Pro Rata Share of the Net WARN Act Class Settlement Amount less any and all state, federal, and/or other payroll tax withholdings, will be paid within one hundred and twenty (120) days following the initial distribution.
- c. *Voting:* Class 3A is Impaired. Holders of Allowed WARN Act Class Settlement Claims are entitled to vote to accept or reject the Plan.

6. Class 3B - Non-WARN Act Class Settlement Claims

- a. *Classification:* Class 3B consists of all Non-WARN Act Class Settlement Claims.
- b. *Treatment:* In full and complete satisfaction of its Claim, each Holder of an Allowed Non-Warn Act Class Settlement Claim shall receive a distribution consisting of (i) on account of its Allowed Priority Wage Claim, such Allowed Priority Wage Claim less any and all state, federal, and/or other payroll tax withholdings, with such distribution to be paid as follows: (x) thirty three and one-third percent (33.33%) of each Holder's Allowed WARN and/or Priority Wage Claim to be paid on or as soon practicable after the Effective Date; (y) an additional thirty three and one-third percent (33.33%) of each Holder's Allowed

Priority Wage Claim to be paid within one hundred and twenty (120) days following the initial distribution; and (z) a final distribution of thirty three and one-third percent (33.33%) of each Holder's Allowed Priority Wage Claim to be paid within one hundred and eighty (180) days following the initial distribution; and (ii) on account of any portion of such Allowed Claim that constitutes an Allowed General Unsecured Claim, on or as soon as practicable after the Effective Date, and from time to time when practicable thereafter, its Pro Rata Share of an amount equal to the Class 5 Distribution Amount, less (aa) any and all state, federal, and/or other payroll tax withholdings, and (bb) any amounts that the Plan Administrator in his, her, or its reasonable discretion determines to be necessary to be held to wind up the Debtor's affairs and administer the Post-Confirmation Debtor. For the avoidance of doubt, each Holder of an Allowed Non-Warn Act Class Settlement Claim shall receive its Pro Rata Share of the Net Distribution Proceeds along with other Holders of Allowed Unsecured Claims.

- c. *Voting:* Class 3B is Impaired. Holders of Allowed Non-WARN Act Class Settlement Claims are entitled to vote to accept or reject the Plan.

7. Class 4 – FS Deficiency/Unsecured Claims

- a. *Classification:* Class 4 consists of FS Deficiency/Unsecured Claims.
- b. *Treatment:* Pursuant to the Plan Settlement, on or after the Effective Date, and from time to time when practicable thereafter, each Holder of the Allowed FS Deficiency/Unsecured Claim shall receive its Pro Rata Share of the Class 4 Distribution Amount.
- c. *Voting:* Class 4 is Impaired. Holders of FS Deficiency/Unsecured Claims are entitled to vote to accept or reject the Plan.

8. Class 5 - General Unsecured Claims

- a. *Classification:* Class 5 consists of all other General Unsecured Claims.
- b. *Treatment:* Pursuant to the Plan Settlement, on or as soon as practicable after the Effective Date, and from time to time when practicable thereafter, each Holder of an Allowed General Unsecured Claim shall receive its Pro Rata Share of the Class 5 Distribution Amount.
- c. *Voting:* Class 5 is Impaired. Holders of Allowed General Unsecured Claims are entitled to vote to accept or reject the Plan.

9. Class 6 – Affiliate Unsecured Claims

- a. *Classification:* Class 6 consists of Affiliate Unsecured Claims.

- b. *Treatment:* Pursuant to the Plan Settlement, on or as soon as practicable after the Effective Date, and from time to time when practicable thereafter, each Holder of an Allowed Affiliate Unsecured Claim shall receive its Pro Rata Share of the Class 6 Distribution Amount.
- c. *Voting:* Class 6 is Impaired. Holders of Allowed Affiliate Unsecured Claims are entitled to vote to accept or reject the Plan.

10. Class 7 – Subordinated Claims

- a. *Classification:* Class 7 consists of all Subordinated Claims.
- b. *Treatment:* Each Holder of an Allowed Subordinated Claim will receive its Pro Rata Share of an amount equal to the Net Distribution Proceeds remaining after satisfaction in full of all Allowed Claims in all senior classes (*i.e.*, Classes 1, 2, 3, 4, 5, and 6).
- c. *Voting:* Class 7 is Impaired. Holders of Subordination Claims are entitled to vote to accept or reject the Plan.

11. Class 8 –Interests

- a. *Classification:* Class 8 consists of all Interests in the Debtor.
- b. *Treatment:* All Interests shall be canceled and extinguished and shall be of no further force or effect. No Holder of Interests shall receive or retain any property under the Plan on account of such Interest.
- c. *Voting:* Class 8 is Impaired. Holders of Interests in the Debtor are deemed to have rejected the Plan under section 1126(g) of the Bankruptcy Code. Therefore, Holders of Interests in Class 8 are not entitled to vote to accept or reject the Plan.

C. *Special Provision Governing Unimpaired Claims*

Except as otherwise specifically provided in the Plan, nothing under the Plan shall affect the Debtor's or the Post-Confirmation Debtor's rights in respect of any Unimpaired Claim, including all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claim.

D. *Confirmation Pursuant to Section 1129(a)(10) of the Bankruptcy Code*

Section 1129(a)(10) of the Bankruptcy Code shall be satisfied for purposes of Confirmation by acceptance of the Plan by at least one Impaired Class of Claims, determined without including any acceptance of the Plan by any Insider. If any Impaired Class of Claims entitled to vote shall not accept the Plan by the statutory majority required under section 1126(c) of the Bankruptcy Code, the Proponents reserve the right to modify the Plan in accordance with Article XI hereof, including but not limited to the treatment applicable to any Class of Claims to render such Class of Claims Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules.

*E. Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code
("Cram Down")*

With respect to any Impaired Class that does not accept the Plan or is deemed to have rejected the Plan pursuant to section 1126(f) of the Bankruptcy Code, the Debtor intends to request that the Bankruptcy Court "cram down" any such Class(es) and confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code.

F. Elimination of Vacant Classes

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

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

If a Class of Claims or Interests is eligible to vote and no Holder of an Allowed Claim or Allowed Interest in such Class votes to accept or reject the Plan, the Plan shall be presumed accepted by such Class.

H. Subordinated Claims and Interests

The allowance, classification, and treatment of all Allowed Claims and Allowed Interests and their respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtor or Post-Confirmation Debtor, as applicable, reserves the right to re-classify any Allowed Claim or Allowed Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

**ARTICLE IV.
MEANS FOR IMPLEMENTATION OF THE PLAN**

A. Settlements Implemented Under the Plan

1. General Settlement of Claims

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and as consideration for the classification, distributions, releases, and other benefits provided under the Plan, on the Effective Date, the provisions of the Plan shall constitute a good-faith compromise and settlement of all Claims, Interests, Causes of Action, and controversies released, settled, compromised, discharged, satisfied, or otherwise resolved pursuant to the Plan. The Plan shall be deemed a motion to approve the good-faith compromise and settlement of all such Claims, Interests, Causes of Action, and controversies pursuant to Bankruptcy Rule 9019. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of such compromise and settlement under section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, as well as a finding by the Bankruptcy Court that such settlement and compromise is fair, equitable, reasonable, and in the best interests of the Debtor and its Estate.

2. Global Plan Settlement

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, the Plan incorporates the “Plan Settlement,” which is a compromise and global settlement among the Plan Settlement Parties of numerous debtor-creditor issues designed to achieve an economic resolution of Claims against the Debtor, claims that may be asserted against Florida Sawmills and the Affiliates and an efficient resolution of the Chapter 11 Case. The Plan Settlement effects, among other things, the allowance, compromise, treatment and satisfaction of all Claims asserted or which may be asserted by Florida Sawmills and the Affiliates in the Chapter 11 Case, which collectively were asserted to be in the amount of approximately \$180 million. Confirmation of the Plan will constitute the Bankruptcy Court’s approval of the Plan Settlement under Bankruptcy Rule 9019 and section 1123 of the Bankruptcy Code and shall constitute a finding that the compromises and settlements proposed in the Plan Settlement are in the best interest of the Debtor, its estate, its creditors, and other parties-in-interest and are fair, equitable, and within the range of reasonableness. Each provision of the Plan Settlement is considered non-severable from each other and from the remaining terms of the Plan. The Plan Settlement also amicably resolves all disputes among the Plan Settlement Parties concerning alleged Claims in Class 1 (FS Secured Claims), Class 2 (Affiliate Secured Claims), Class 4 (FS Deficiency/Unsecured Claims), Class 6 (Affiliate Unsecured Claims), and Class 7 (Subordinated Claims), and the potential distributions to Holders of Allowed Claims in Class 5 (General Unsecured Claims).

The terms of the Plan Settlement are detailed in the Plan Support Settlement and Term Sheet (annexed at Exhibit A hereto), and include the following salient terms:

a. Payment of Net Distribution Proceeds.

In the event the Net Distribution Proceeds to be distributed under the Plan are \$30 million, the Settlement Parties agree to the following sharing of the available Net Distribution Proceeds between Classes 4, 5, and 6 pursuant to the Plan, subject to adjustment pursuant to Paragraphs 4 and 5 of the Plan Support and Settlement Term Sheet:

- i. Class 4 (FS Deficiency/Unsecured Claims) shall receive \$19 million of Net Distribution Proceeds (the “Class 4 Distribution Amount”) for distribution on account of the Allowed Florida Sawmills Claim (the sole Allowed Claim in Class 4).
- ii. Class 5 (General Unsecured Claims) shall receive \$7.2 million of Net Distribution Proceeds (the “Class 5 Distribution Amount”), for distribution Pro Rata on account of the Allowed Class 5 General Unsecured Claims.
- iii. Class 6 (Affiliate Unsecured Claims) shall receive \$3.8 million of Net Distribution Proceeds (the “Class 6 Distribution Amount”) for distribution on account of the Allowed Affiliate Claims, provided, however, that if the total amount of the Allowed Class 5 General Unsecured Claims is less than \$7.2 million (such that the distribution to Class 5 above results in 100% recovery to Allowed Claims in Class 5), then from the portion of the Class 5 Distribution Amount which exceeds the total amount of Allowed Class 5 General Unsecured Claims, (i) the first up to \$200,000 (that would have otherwise been distributed to Allowed Class 5 General Unsecured Claims), will be added to and become part of the Class 6 Distribution Amount and be distributed to the Affiliates to bring their total recovery to a possible maximum amount of \$4 million, and (ii) any excess amount above \$200,000 will be split equally (e.g., 50%/50%) between the Class 4 Distribution Amount and the Class 6 Distribution Amount

b. Net Distribution Proceeds in Excess of \$30 million

In the event that the Net Distribution Proceeds exceed \$30 million, the Class 4 Distribution Amount will be increased by the first additional \$1 million of Net Distribution Proceeds (*i.e.*, Net Distribution Proceeds between \$30 million and \$31 million) to a maximum possible amount of \$20 million. Thereafter, Net Distribution Proceeds in excess of \$31 million shall be split equally (*e.g.*, 33% to each Class) among the Class 4 Distribution Amount, the Class 5 Distribution Amount, and the Class 6 Distribution Amount until the Class 5 General Unsecured Claims are fully paid. If the Class 5 Distribution Amount exceeds the total amount of Allowed Class 5 General Unsecured Claims as a result of this paragraph, the excess shall be split equally among only the Class 4 Distribution Amount and the Class 6 Distribution Amount.

c. Net Distribution Proceeds Less than \$30 million

In the event that the Net Distributions Proceeds are less than \$30 million, the Parties agree that the Class 4 Distribution Amount, the Class 5 Distribution Amount, and the Class 6 Distribution Amount will be proportionally reduced in the ratio contemplated in Paragraph 3 hereof, such that the Class 4 Distribution Amount will be 63.33% of available Net Distribution Proceeds, the Class 5 Distribution Amount will be 24% of the available Net Distribution Proceeds, and the Class 6 Distribution Amount will be 12.67% of available Net Distribution Proceeds.

d. Allowance of Claims

- i. In full and complete settlement and satisfaction of the Florida Sawmills Claim, the Florida Sawmills Claim shall be an Allowed FS Deficiency/Unsecured Claim in Class 4 under the Plan in the amount of \$76,410,413.63; provided, however, in accordance with Paragraphs 3, 4 and 5 of the Plan Support and Settlement Term Sheet, the total distribution to Holders of Allowed Claims in Class 4 under the Plan shall be limited to the Class 4 Distribution Amount (*e.g.*, \$19 million if the Net Distribution Proceeds to be distributed under the Plan are \$30 million).
- ii. In full and complete settlement and satisfaction of the Affiliate Claims, (i) Claim 168, Claim 169, Claim 179, Claim 180, Claim 181, Claim 182, and Claim 194 shall be Allowed Affiliate Unsecured Claims in Class 6 under the Plan (collectively, the “Allowed Affiliate Class 6 Claims”) in the aggregate amount of \$65,972,334.79 (collectively, the “Aggregate Allowed Affiliate Class 6 Claim Amount”); provided, however, in accordance with Paragraphs 3, 4 and 5 above, the total distribution to Holders of Allowed Claims in Class 6 shall be limited to the Class 6 Distribution Amount (*e.g.*, \$3.8 million if the Net Distribution Proceeds to be distributed under the Plan are \$30 million); and (ii) Claim shall be an Allowed Subordinated Claims in Class 7 under the Plan in the aggregate amount of \$36,546,503.70; provided, however, the Holders of Allowed Claims in Class 7 shall receive no or zero (\$0.00) distributions under the Plan on account of such Allowed Subordinated Claims. The Affiliates shall designate in writing to the Debtor’s bankruptcy counsel no later than three (3) Business Days prior to the Effective Date the manner in which the Aggregate Allowed Affiliate Class 6 Claim Amount is allocated on account of the Allowed Affiliate Class 6 Claims. The Affiliates represent and warrant that the Affiliate Claims comprise all Claims filed against the Debtor by all Persons related to Alpha Privatstiftung, Fritz Klausner Holzindustrie GmbH, and Klausner Holzindustrie GmbH & Co. KG;

provided, however, if such Persons file Claims against the Debtor, such claims are waived and withdrawn, and shall not be Allowed.

e. Timing of Payments.

All Net Distribution Proceeds available for distribution on account of the Allowed Class 4 Claim (*i.e.*, the Florida Sawmills Claim), Allowed Class 5 Claims, and Allowed Class 6 Claims (*i.e.*, the Affiliate Claims) as of the Effective Date shall be distributed to Holders of such Allowed Claims on or as soon as practicable after the Effective Date in accordance with the Plan. Any Net Distribution Proceeds that are collected or otherwise become available for distribution after the Effective Date shall be distributed to the Holders of such Allowed Claims in accordance with the Plan from time to time when practicable thereafter.

f. Plan Settlement Releases.

Florida Sawmills and the Affiliates consent to the following releases that will become effective upon the occurrence of the Effective Date of the Plan:

- i. Florida Sawmills, on behalf of itself and its past and present partners (including limited partners), agents, employees, attorneys, predecessors, successors, administrators, trustees, representatives, investors and any assigns of each of the foregoing, and each of them (collectively, the “Florida Sawmills Releasing Parties”), fully releases, acquits and forever discharges (i) the Debtor, together with its past and present officers, including Michael Freeman of Asgaard Capital, LLC, the Debtor’s duly appointed Chief Restructuring Officer in the Chapter 11 Case (the “CRO”), directors, including Nat Wasserstein of Lindenwood Associates LLC (the “Independent Director”), the Debtor’s independent director who was retained after the Petition Date, and Freidrich Klausner and Leopold Stephan, in their capacity with the Affiliates, or otherwise, the Debtor’s Professionals, any plan administrator or liquidating trustee under the Plan, employees, agents, attorneys, predecessors, successors, administrators, insurers, representatives, and any assigns of each of the foregoing, (ii) the Committee and each of its members (solely in their capacity as members of the Committee), together with the Creditors’ Committee’s Professionals and any assigns of each of the foregoing, and (c) the Affiliates, together with their past, present, and future officers, directors, employees, agents, stockholders, attorneys, predecessors, successors, administrators, insurers, representatives, investors, and any assigns of each of the foregoing; and each of them (collectively, the “Florida Sawmills Releasees”), from any and all claims, demands, actions, causes of action, suits, obligations, liabilities, damages, debts, expenses, executions, costs, attorneys’ fees, injuries, controversies, and disputes of any kind or nature, whether known or unknown, foreseen or unforeseen, accrued or unaccrued, mature or unmatured, which Florida Sawmills or any of the Florida Sawmills Releasing Parties had, may have, or now has against any of the Florida Sawmills Releasees beginning at the beginning of the world and extending through the Effective Date, related in any way to the Disputes and/or the Chapter 11 Case (the “Florida Sawmills Released Claims”), provided that the foregoing release shall not limit or be deemed to limit Florida Sawmills’ rights to enforce this Settlement and the Plan in accordance with their terms.

- ii. The Affiliates, on behalf of themselves and their past and present officers, directors, employees, agents, stockholders, partners (including limited partners), members, attorneys, predecessors, successors, administrators, representatives, investors and any assigns of each of the foregoing, and each of them (collectively, the “Affiliate Releasing Parties”), fully release, acquit and forever discharge (i) the Debtor, together with its past and present officers, including the CRO, directors, including the Independent Director and Leopold Stephan, the Debtor’s Professionals (as defined in the Plan), any plan administrator or liquidating trustee under the Plan, employees, agents, attorneys, predecessors, successors, administrators, insurers, representatives, and any assigns of each of the foregoing, (ii) the Committee and each of its members (solely in their capacity as members of the Committee), together with the Creditors’ Committee’s Professionals (as defined in the Plan) and any assigns of each of the foregoing, and (iii) Florida Sawmills, together with its past, present, and future partners (including limited partners), agents, employees, attorneys, predecessors, successors, administrators, insurers, representatives, investors, and any assigns of each of the foregoing; and each of them (collectively, the “Affiliate Releasees”), from any and all claims, demands, actions, causes of action, suits, obligations, liabilities, damages, debts, expenses, executions, costs, attorneys’ fees, injuries, controversies, and disputes of any kind or nature, whether known or unknown, foreseen or unforeseen, accrued or unaccrued, mature or unmatured, which the Affiliates or any of the Affiliate Releasing Parties had, may have, or now has against any of the Affiliate Releasees beginning at the beginning of the world and extending through the Effective Date, related in any way to the Disputes and/or the Chapter 11 Case (the “Affiliate Released Claims”), provided that the foregoing release shall not limit or be deemed to limit the Affiliates’ rights to enforce this Settlement and the Plan in accordance with their terms.

- iii. The Debtor, on behalf of itself and its past and present officers, directors, employees, agents, attorneys, predecessors, successors, administrators, representatives and any assigns of each of the foregoing, and each of them (collectively, the “Debtor Releasing Parties”), fully releases, acquits and forever discharges (i) Florida Sawmills, together with its past, present, and future partners (including limited partners), agents, employees, attorneys, predecessors, successors, administrators, trustees, insurers, representatives, investors, and any assigns of each of the foregoing, (ii) the Committee and each of its members (solely in their capacity as members of the Committee), together with the Creditors’ Committee’s Professionals and any assigns of each of the foregoing, and (iii) the Affiliates, together with their past, present, and future officers, directors, employees, agents, stockholders, attorneys, predecessors, successors, administrators, insurers, representatives, investors, and any assigns of each of the foregoing; and each of them (collectively, the “Debtor Releasees”), from any and all claims, demands, actions, causes of action, suits, obligations, liabilities, damages, debts, expenses, executions, costs, attorneys’ fees, injuries, controversies, and disputes of any kind or nature, whether known or unknown, foreseen or unforeseen, accrued or unaccrued, mature or unmatured, which the Debtor or any of the Debtor Releasing Parties had, may have, or now has against any of the Debtor Releasees beginning at the beginning of the world and extending through the Effective Date, related in any way to the Disputes and/or the Chapter 11 Case (the “Debtor Released Claims”), provided that the foregoing

release shall not limit or be deemed to limit the Debtor's rights to enforce this Settlement and the Plan in accordance with their terms.

g. The failure of the Bankruptcy Court to confirm the Plan or for the Effective Date of the Plan to occur shall return the parties to the *status quo ante* and pending the occurrence of the Effective Date of the Plan, all parties' rights are expressly reserved and preserved; provided that upon the occurrence of the Effective Date of the Plan, the Plan Settlement (and other provisions of the Plan) shall be binding on all creditors and equity-holders of the Debtor. Debtor shall take all reasonable and necessary steps to seek confirmation of the Plan so that the Effective Date occurs as soon as reasonably practicable and, subject to the Bankruptcy Court's availability, within sixty (60) days from the date that the Disclosure Statement incorporating the terms of the Plan Support and Settlement Term Sheet is approved by the Bankruptcy Court.

B. Cancellation of Notes, Instruments, Certificates, and Other Documents

On the Effective Date, except as otherwise specifically provided for in the Plan, the obligations of the Debtor under any certificate, share, note, bond, indenture, purchase right, or other instrument or document, directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest or equity in the Debtor or any warrants, options, or other securities exercisable or exchangeable for, or convertible into, debt, equity, ownership, or profits interests in the Debtor giving rise to any Claim or Interest shall be canceled and deemed surrendered as to the Debtor and shall not have any continuing obligations thereunder.

C. Exemption from Certain Taxes and Fees

To the maximum extent permitted pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto, or the issuance, transfer or exchange of any security under the Plan shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, sale or use tax, mortgage recording tax, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents shall forgo the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents pursuant to such transfers of property without the payment of any such tax, recordation fee, or governmental assessment.

D. Effectuation of the Plan

The following provisions shall govern the effectuation of the Plan:

1. General.

On the Effective Date, the Plan Administrator shall assume control over the Post-Confirmation Estate and shall be authorized to continue the usual and ordinary operations of the Debtor in the ordinary course of the Debtor's business and the liquidation of the Post-Confirmation Estate in accordance with the terms hereof, and to spend funds of the Post-Confirmation Debtor and the Post-Confirmation Estate for such purpose.

2. Creation of Post-Confirmation Estate.

On the Effective Date, a Post-confirmation Estate will be created consisting of all assets of the Debtor, from which payment in connection with all remaining Allowed Administrative Expense Claims,

Allowed Priority Tax Claims, Allowed Secured Claims, Allowed Priority Claims, Allowed General Unsecured Claims, together with the actual and necessary costs and expenses to be incurred after the Effective Date identified in and to be paid from the Post-Confirmation Estate Reserve as set forth in the Plan.

3. Appointment of Plan Administrator.

The Plan Administrator will be appointed on the Effective Date pursuant to the Plan and Confirmation Order, and he/she will have the powers and responsibilities of a disbursing agent and plan administrator as set forth herein and in the Plan Administrator Agreement, and to manage and administer the Post-Confirmation Estate in accordance with the Plan.

4. Vesting of Estate Assets.

Except as otherwise provided in the Plan, on the Effective Date, all assets of the Debtor shall remain with and vest in the Post-Confirmation Estate under the control of the Plan Administrator for the purpose of liquidating the Estate, free and clear of all Liens, Claims, charges, or other encumbrances. On the Effective Date, the Florida Sawmills Reserve will be dissolved and such funds included in the Distribution Proceeds.

5. Sources of Consideration for Plan Distributions

The Post-Confirmation Debtor will fund distributions under the Plan with the Post-Confirmation Estate Assets and the Distribution Proceeds.

6. Plan Administrator Agreement

On or after the Confirmation Date, the Debtor and the Plan Administrator shall enter into the Plan Administrator Agreement.

7. Dissolution and Board of Directors

On the Effective Date and as applicable, the authority, power, and incumbency of the persons acting as directors, managers and/or officers of the Debtor shall be terminated and they shall be deemed to have resigned, solely in their capacities as such, and the Plan Administrator, or a duly authorized representative thereof, shall be appointed as the sole manager and sole officer of the Debtor, and shall succeed to the powers of the Debtor's directors, managers and officers.

Subject in all respects to the terms of the Plan, the Debtor shall be dissolved as soon as practicable on or after the Effective Date, but in no event later than the closing of the Chapter 11 Case.

8. Corporate Action

Upon the Effective Date, all actions contemplated under the Plan, regardless of whether taken before, on, or after the Effective Date, shall be deemed authorized and approved in all respects. All matters provided for in the Plan or deemed necessary or desirable by the Debtor before, on, or after the Effective Date involving the corporate structure of the Debtor or the Post-Confirmation Debtor, and any corporate action required by the Debtor or the Post-Confirmation Debtor in connection with the Plan or corporate structure of the Debtor or Post-Confirmation Debtor, shall be deemed to have occurred and shall be in effect on the Effective Date, without any requirement of further action by the security holders, directors, managers, or officers of the Debtor or the Post-Confirmation Debtor. Before, on, or after the

Effective Date, the appropriate officers of the Debtor (including the Chief Restructuring Officer) or the Post-Confirmation Debtor, as applicable, shall be authorized to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated under the Plan (or necessary or desirable to effect the transactions contemplated under the Plan) in the name of and on behalf of the Post-Confirmation Debtor. The authorizations and approvals contemplated by this Article IV.D shall be effective notwithstanding any requirements under any non-bankruptcy law.

**ARTICLE V.
TREATMENT OF EXECUTORY CONTRACTS AND
UNEXPIRED LEASES**

A. Assumption and Rejection of Executory Contracts and Unexpired Leases

On the Effective Date, except as otherwise provided in the Plan or otherwise agreed to by the Debtor and the counterparty to an Executory Contract or Unexpired Lease, all Executory Contracts or Unexpired Leases not previously assumed, assumed and assigned, or rejected in the Chapter 11 Case shall be deemed rejected, effective as of the Effective Date, in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, other than: (1) those that are identified on the Schedule of Assumed Executory Contracts and Unexpired Leases; (2) those that have been previously assumed or rejected by a Final Order; (3) those that are the subject of a motion to assume or reject Executory Contracts or Unexpired Leases that is pending on the Confirmation Date; (4) those that are subject to a motion to assume or reject an Executory Contract or Unexpired Lease pursuant to which the requested effective date of such assumption or rejection is after the Effective Date; or (5) to the extent they may be executory, the D&O Liability Insurance Policies (which shall be treated in accordance with the applicable provisions of Articles V and VI of the Plan regardless of whether they may be executory).

Except as otherwise provided in the Plan, the Debtor shall assume or assume and assign, as the case may be, Executory Contracts and Unexpired Leases set forth in the Schedules of Assumed Executory Contracts and Unexpired Leases. Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the assumption, assumption and assignment, or rejection of such Executory Contracts or Unexpired Leases as set forth in the Plan or the Schedule of Assumed Executory Contracts and Unexpired Leases, pursuant to sections 365(a) and 1123 of the Bankruptcy Code, except as otherwise provided in the Plan or the Confirmation Order. Unless otherwise indicated or agreed by the Debtor and the applicable contract counterparties, the assumption, assumption and assignment, or rejections of Executory Contracts and Unexpired Leases pursuant to the Plan are effective as of the Effective Date. Each Executory Contract or Unexpired Lease assumed pursuant to the Plan or by Bankruptcy Court order but not assigned to a third party before the Effective Date shall vest or re-vest, as applicable, in and be fully enforceable by the Post-Confirmation Debtor in accordance with its terms, except as such terms may have been modified by any order of the Bankruptcy Court authorizing and providing for its assumption under applicable bankruptcy or other federal law or as otherwise agreed by the Debtor and the applicable counterparty to the Executory Contract or Unexpired Lease. Notwithstanding anything to the contrary in the Plan, the Debtor and the Post-Confirmation Debtor reserve the right to alter, amend, modify, or supplement the Schedule of Assumed Executory Contract and Unexpired Leases at any time through and including thirty (30) days after the Effective Date.

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

Proofs of Claims with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, if any, must be Filed with the Bankruptcy Court within the latest to occur of: (1) thirty

(30) days after the date of entry of an order of the Bankruptcy Court (including the Confirmation Order) approving such rejection and (2) thirty (30) days after notice of any rejection that occurs after the Effective Date. **Any Holder of a Claim arising from the rejection of an Executory Contract or Unexpired Lease for which a Proof of Claim was not timely Filed shall not (a) be treated as a creditor with respect to such Claim, (b) be permitted to vote to accept or reject the Plan on account of any Claim arising from such rejection, or (c) participate in any distribution in the Chapter 11 Case on account of such Claim. Any Claims arising from the rejection of an Executory Contract or Unexpired Lease not Filed with the Bankruptcy Court within such time will be automatically Disallowed, forever barred from assertion, and shall not be enforceable against the Debtor, the Debtor's Estate, the Post-Confirmation Debtor, or the property for any of the foregoing without the need for any objection by the Debtor or the Post-Confirmation Debtor, as applicable, or further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity. Any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully compromised, settled, and released, notwithstanding anything in the Schedules or a Proof of Claim to the contrary.** Claims arising from the rejection of the Debtor's Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims and shall be treated in accordance with Article III.B.8 hereof.

Counterparties to Executory Contracts or Unexpired Leases shall be served with a notice substantially in the form approved by the Bankruptcy Court, pursuant to the order of the Bankruptcy Court approving the Disclosure Statement, as soon as reasonably practicable following entry of the Bankruptcy Court order approving the Disclosure Statement.

C. Cure of Defaults for Assumed, or Assumed and Assigned, Executory Contracts and Unexpired Leases

Any monetary default under an Executory Contract or Unexpired Lease to be assumed, or assumed and assigned, shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure Claim, as reflected on the Cure Notice or as otherwise agreed or determined by a Final Order of the Bankruptcy Court, in Cash on the Effective Date or as soon as reasonably practicable thereafter, subject to the limitations described below, or on such other terms as the parties to such Executory Contract or Unexpired Lease may otherwise agree. In the event of a dispute regarding: (1) the amount of any Cure Claim; (2) the ability of the Post-Confirmation Debtor or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assumed and assigned; or (3) any other matter pertaining to assumption or the assumption and assignment, the Cure Claims shall be paid following the entry of a Final Order resolving the dispute and approving the assumption or the assumption and assignment. Notwithstanding the foregoing, nothing herein shall prevent the Post-Confirmation Debtor from settling any Cure Claim without further notice to, or action, order, or approval of the Bankruptcy Court.

Unless otherwise provided by an order of the Bankruptcy Court, at least seven (7) days before the Voting Deadline, the Debtor shall distribute, or cause to be distributed, Cure Notices to the applicable counterparty to the Executory Contract or Unexpired Lease. **Any objection by a counterparty to an Executory Contract or Unexpired Lease to the proposed assumption, assumption and assignment, or related Cure Claim must be Filed by the Cure/Assumption Objection Deadline.** Any counterparty to an Executory Contract or Unexpired Lease that fails to timely object to the proposed assumption, assumption and assignment, or Cure Notice will be deemed to have consented to such assumption or assumption and assignment, or Cure Claim. To the extent that the Debtor seeks to assume and assign an Executory Contract or Unexpired Lease pursuant to the Plan, the Debtor will identify the assignee in the applicable Cure Notice and/or Schedule and provide "adequate assurance of future performance" for such

assignee (within the meaning of section 365 of the Bankruptcy Code) under the applicable Executory Contract or Unexpired Lease to be assumed and assigned.

Assumption or assumption and assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise, and the payment of the Cure Claim shall result in the full release and satisfaction of any Claims or defaults, whether monetary or non-monetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time before the date that the Debtor assumes or assumes and assigns such Executory Contract or Unexpired Lease. Any Proofs of Claim Filed with respect to an Executory Contract or Unexpired Lease that has been assumed or assumed and assigned as set forth herein shall be deemed Disallowed and expunged, without further notice to, or action, order, or approval of the Bankruptcy Court.

D. Indemnification Obligations

All indemnification obligations that arise after the Petition Date and exist as of or immediately prior to the Effective Date for the current and former directors, officers, managers, employees, attorneys, accountants, investment bankers, and other professionals of the Debtor, as applicable, shall be assumed by the Post-Confirmation Debtor to the same extent that such were obligations of the Debtor immediately before the Effective Date and shall remain in full force and effect after the Effective Date. Nothing in this section is intended to enlarge or reduce the rights of any party having or claiming rights of indemnification (an “Indemnification Claimant”), nor any party disputing any such rights or claims. Moreover, after the Effective Date, each Indemnification Claimant shall retain all rights to assert any and all rights of setoff against the Post-Confirmation Debtor, which rights are subject to Article IX.I. of the Plan, that such Indemnification Claimant had against the Debtor immediately prior to the Effective Date.

E. Director and Officer Liability Insurance

In accordance with Article VII.H of the Plan, upon the Effective Date, the Post-Confirmation Debtor shall be deemed to succeed to all of the Debtor’s rights and benefits under all D&O Liability Insurance Policies with respect to the Debtor’s present and former directors, managers, officers, and employees, and coverage for defense and indemnity under any of the D&O Liability Insurance Policies shall remain available to all individuals and entities covered thereby, including those within the definition of “Insured Person” in any of the D&O Liability Insurance Policies, subject in all respects to the terms and conditions of the D&O Liability Insurance Policies. From and after the Effective Date, neither the Plan Administrator nor the Post-Confirmation Debtor shall take any action to alter or modify in any way the D&O Liability Insurance Policies with respect to coverage for any claims insured thereunder. Entry of the Confirmation Order will constitute the Bankruptcy Court’s approval of the foregoing succession by the Post-Confirmation Debtor to the Debtor’s rights and benefits under each of the D&O Liability Insurance Policies.

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

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

Modifications, amendments, supplements, and restatements of prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith.

G. Reservation of Rights

Nothing in the Plan is intended to constitute a finding by the Bankruptcy Court or an admission by the Debtor that any agreement or contract is an Executory Contract or Unexpired Lease or that the Debtor or the Post-Confirmation Debtor has any liability thereunder, including, without limitation, the exclusion or inclusion of any contract or agreement on the Schedule of Assumed Executory Contracts and Unexpired Leases.

H. Nonoccurrence of Effective Date

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

I. Contracts and Leases Entered Into After the Petition Date

Contracts and leases entered into after the Petition Date by the Debtor, including any Assumed Executory Contracts or Unexpired Leases, will be performed by the Debtor or the Post-Confirmation Debtor, whichever is liable thereunder in the ordinary course of its business. Accordingly, any such contracts and leases (including any Assumed Executory Contracts or Unexpired Leases) that have not been rejected as of the Confirmation Date shall survive and remain unaffected by entry of the Confirmation Order.

**ARTICLE VI.
PROVISIONS GOVERNING DISTRIBUTIONS**

A. Timing and Calculation of Amounts to Be Distributed

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

B. Plan Administrator

Distributions under the Plan shall be made by the Plan Administrator.

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

1. Record Date for Distribution

On the Distribution Record Date, the Claims Register shall be closed, and the Post-Confirmation Debtor shall instead be authorized and entitled to recognize only those Holders listed on the Claims Register as of the close of business on the Distribution Record Date.

2. Delivery of Distributions

Except as otherwise provided in the Plan or in the WARN Act Class Settlement Agreement, distributions to Holders of Allowed Claims shall be made to Holders of record as of the Distribution Record Date by the Plan Administrator: (a) to the signatory set forth on any Proof of Claim Filed by such Holder or other representative identified therein (or at the last known addresses of such Holder if no Proof of Claim is Filed or if the Debtor has been notified in writing of a change of address); (b) at the addresses set forth in any written notices of address changes delivered to the Plan Administrator after the date of any related Proof of Claim; (c) at the addresses reflected in the Schedules if no Proof of Claim has been Filed and the Post-Confirmation Debtor has not received a written notice of a change of address; or (d) on any counsel that has appeared in the Chapter 11 Case on such Holder's behalf. Subject to this Article VI.C, distributions under the Plan on account of Allowed Claims shall not be subject to levy, garnishment, attachment, or like legal process, so that each Holder of an Allowed Claim shall have and receive the benefit of the distributions in the manner set forth in the Plan. The Debtor, the Plan Administrator, or the Post-Confirmation Debtor, as applicable, shall not incur any liability whatsoever on account of any distributions under the Plan except for gross negligence or willful misconduct.

3. Distribution

After funding of the Professional Fee Escrow Account in accordance with Article II.C.2 hereof, any funds in the Distribution Account shall be allocated and paid in the following priority (in each case on a Pro Rata basis): *first*, on account of all Secured Claims (subject to any carve outs for Allowed Administrative Expense Claims approved by order of the Bankruptcy Court during the Chapter 11 Case); *second*, on account of all Allowed Administrative Expenses Claims; *third*, on account of the Allowed Priority Claims including, without limitation the Allowed WARN Act Class Settlement Claims and the Allowed Non-WARN Act Class Settlement Claims (to the extent constituting Priority Claims); and *fourth*, on account of all Allowed Non-WARN Act Class Settlement Claims (to the extent constituting General Unsecured Claims), any Allowed FS Deficiency/Unsecured Claim, Allowed General Unsecured Claims, and Allowed Affiliate Unsecured Claims.

4. Minimum Distributions

Holders of Allowed Claims entitled to distributions of \$50 (whether Cash or otherwise) or less shall not receive distributions. Each such Claim shall be discharged and its Holder shall be forever barred pursuant to Article IX hereof from asserting that Claim against the Debtor or the Post-Confirmation Debtor, as applicable, or its property; *provided, however*, that distributions that would otherwise be made to such Holder shall carry over until the next date of a distribution to such Holders (on account of a Disputed Claim or otherwise) until the cumulative amount of Allowed Claims held by such Holder is more than \$50, at which time (if such occurs) such cumulative amount shall be paid to such Holder.

5. Undeliverable Distributions and Unclaimed Property

In the event that any distribution to any Holder is returned as undeliverable, no distribution to such Holder shall be made unless and until the Plan Administrator has determined the then-current address of such Holder, at which time such distribution shall be made to such Holder without interest; *provided, however*, that such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six (6) months from the Effective Date, except as may be provided otherwise in the WARN Act Class Settlement Agreement. After such date, all unclaimed property or interests in property shall revert to the Post-Confirmation Debtor, without need for a further order by the Bankruptcy Court (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary), and the Claim of any Holder to such property or Interest in property shall be discharged and forever barred, except as may be provided otherwise in the WARN Act Class Settlement Agreement.

D. Manner of Payment

Unless otherwise set forth herein, all distributions of Cash to the Holders of Allowed Claims under the Plan shall be made by the Plan Administrator. At the option of the Plan Administrator, any Cash payment to be made under the Plan may be made by check or wire transfer or as otherwise required or provided in applicable agreements.

E. Compliance with Tax and Other Legal Requirements

In connection with the Plan and the WARN Act Class Settlement Agreement, to the extent applicable, the Post-Confirmation Debtor shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Any taxes withheld and deposited with the appropriate Governmental Unit shall be treated as if distributed to the applicable Holder for purposes of determining the distributions to which such Holder is entitled to receive. Notwithstanding any provision in the Plan to the contrary, the Post-Confirmation Debtor shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including (1) liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, (2) withholding distributions pending receipt of information necessary to facilitate such distributions, (3) establishing any other mechanisms it believes are reasonable and appropriate, and (4) obtaining, if such information is not already in the possession of the Post-Confirmation Debtor, (a) in the case of a U.S. Holder, a properly executed Internal Revenue Service Form W-9, and (b) in the case of a non-U.S. Holder, a properly executed applicable Internal Revenue Service Form W-8 and any other forms required by any applicable law (or in each of the cases of clauses (a) and (b) above, such Holder otherwise establishes eligibility for an exemption). The Post-Confirmation Debtor reserves the right to allocate to the applicable Holders all distributions made under the Plan in compliance with applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

F. Allocations

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

G. No Post-petition Interest on Claims

Unless otherwise specifically provided for in an order of the Bankruptcy Court, the Plan, or the Confirmation Order or required by applicable bankruptcy law, post-petition interest shall not accrue or be paid on any Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any such Claim.

H. Setoffs and Recoupment

The Debtor or the Post-Confirmation Debtor, as applicable, may, but shall not be required to, set off against or recoup any payments or distributions to be made pursuant to the Plan in respect of any Claims of any nature whatsoever that the Debtor or the Post-Confirmation Debtor may have against the claimant, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Post-Confirmation Debtor, or their successors of any such Claim it may have against the Holder of such Claim.

I. Claims Paid or Payable by Third Parties

1. Claims Paid by Third Parties

To the extent that the Holder of an Allowed Claim receives payment in full on account of such Claim from a party that is not the Debtor or Post-Confirmation Debtor, such Claim shall be Disallowed without an objection having to be Filed and without any further notice to, or action, order, or approval of, the Bankruptcy Court. To the extent a Holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not the Debtor or Post-Confirmation Debtor on account of such Claim, such Holder shall, within fourteen (14) days of receipt thereof, repay or return the distribution to the Debtor or Post-Confirmation Debtor, to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan. The failure of such Holder to timely repay or return such distribution shall result in the Holder owing the Debtor annualized interest at the Federal Judgment Rate on such amount owed for each Business Day after the 14-day grace period specified above until the amount is repaid.

2. Claims Payable by Third Parties

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to the Debtor's insurance policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtor's insurers agrees to pay in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction or otherwise settled), then immediately upon such insurers' agreement, the applicable portion of such Claim shall be expunged without a Claims objection having to be Filed and without any further notice to, or action, order, or approval of the Bankruptcy Court.

3. Applicability of Insurance Policies

Except as otherwise provided in the Plan, payments to Holders of Claims by the Debtor's insurance carriers shall be in accordance with the provisions of any applicable insurance policy. Notwithstanding anything herein to the contrary, nothing shall constitute or be deemed a release, settlement, satisfaction, compromise, or waiver of any Cause of Action that the Debtor or any other Entity may hold against any other Entity, including insurers under any policies of insurance, including the D&O Liability Insurance Policies, or applicable indemnity, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

4. Provisions Regarding Vesting of Insurance Policies in Post-Confirmation Debtor

Notwithstanding anything to the contrary in the Plan Documents, the Confirmation Order, any bar date notice or claim objection, any other document related to any of the foregoing or any other prior order of the Bankruptcy Court (including, without limitation, any other provision that purports to be preemptory or supervening, grants an injunction, discharge or release, or requires a party to opt out of any releases), the Post-Confirmation Debtor shall succeed to all of the Debtor's rights and obligations under the D&O Liability Insurance Policies, which policies shall be enforceable by and against the Post-Confirmation Debtor.

**ARTICLE VII.
THE POST-CONFIRMATION ESTATE**

A. The Post-Confirmation Debtor

The Post-Confirmation Debtor shall be formed on the Effective Date and shall continue in existence for the benefit of the Holders of Allowed Claims in accordance with the terms hereof. The powers, authority, responsibilities, and duties of the Post-Confirmation Debtor and the Plan Administrator are set forth in and shall be governed by the Plan and the Plan Administrator Agreement.

B. Purpose of the Post-Confirmation Debtor

The Post-Confirmation Debtor shall be established pursuant to the Plan Administrator Agreement for the sole purpose of liquidating and administering the Post-Confirmation Estate Assets and making distributions on account thereof as provided for under the Plan. Pursuant to such purpose, the Post-Confirmation Debtor shall engage in (i) resolving Disputed Claims, (ii) prosecuting Causes of Action, (iii) pursuing any and all Post-Confirmation Estate Assets, (iv) making distributions on account of Allowed Claims as provided hereunder and in the Plan Administrator Agreement, (v) maximizing recovery of the Post-Confirmation Estate Assets, (vi) distributing the proceeds of the Post-Confirmation Estate Assets in accordance with the Plan and the Plan Administrator Agreement, (vii) establishing and funding the Distribution Account, and (viii) all other matters not expressly set forth herein, as may be reasonably necessary, in the opinion of the Plan Administrator, to effectuate the Plan and the terms of the Plan Administrator Agreement. As of the Effective Date, the Post-Confirmation Debtor, by and through the Plan Administrator, shall be authorized to act on behalf of the Debtor and, to the extent necessary, deemed to be substituted as the party-in-lieu of the Debtor in all matters, including (a) motions, contested matters, and adversary proceedings pending in the Bankruptcy Court, relating to the Post-Confirmation Debtor and/or Post-Confirmation Estate Assets, (b) any and all tax or regulatory filings, relating to the Post-Confirmation Debtor, and (c) all matters pending in any courts, tribunals, forums, or administrative proceedings outside of the Bankruptcy Court relating to the Post-Confirmation Debtor and/or Post-Confirmation Estate Assets, in each case without the need or requirement for the Post-Confirmation Debtor to file motions or substitutions of parties or counsel in each such matter.

C. Post-Confirmation Estate Assets

On the Effective Date, and in accordance with sections 1123 and 1141 of the Bankruptcy Code and pursuant to the terms of the Plan, all title and interest in all of the Post-Confirmation Estate Assets, as well as the rights and powers of the Debtor in such Post-Confirmation Estate Assets, shall automatically vest, transfer and be assigned in and to the Post-Confirmation Debtor, free and clear of all Claims and Interests, except as otherwise provided by Bankruptcy Court order, to be administered in accordance with the Plan. Notwithstanding the foregoing, for purposes of section 553 of the Bankruptcy Code, the transfer

of the Post-Confirmation Estate Assets to the Post-Confirmation Debtor shall not affect the mutuality of obligations which otherwise may have existed prior to the effectuation of such transfer. Such transfer shall be exempt from any stamp, real estate transfer, mortgage reporting, sales, use, or other similar tax, pursuant to section 1146(a) of the Bankruptcy Code.

The Debtor, the Plan Administrator, and any party under the control of such parties will execute any documents or other instruments and shall take all other steps as reasonably necessary to cause title to the Post-Confirmation Estate Assets to be transferred to the Post-Confirmation Debtor.

D. The Plan Administrator

The Plan Administrator shall be a Person or Entity mutually acceptable to the Debtor and the Creditors' Committee, whose appointment shall be approved by the Bankruptcy Court pursuant to the Confirmation Order. Subject to Bankruptcy Court approval, the initial Plan Administrator will be Berkley Research Group, LLC, by and through Jay Borow. Following appointment, the Plan Administrator shall act in accordance with the Plan and the Plan Administrator Agreement, and in such capacity shall have the same powers as the board of directors, managers and/or officers of the Debtor (and all bylaws, articles of incorporation, and related corporate documents are deemed amended by the Plan to permit and authorize the same). The Plan Administrator may be removed at any time by the Bankruptcy Court after notice and hearing and upon a showing of cause. In the event of resignation or removal, death or incapacity of the Plan Administrator, the Bankruptcy Court shall designate another Person or Entity to serve as Plan Administrator. Thereupon, the successor Plan Administrator shall become fully vested with all of the rights, powers, duties, and obligations of the predecessor; *provided, however*, that the Plan Administrator shall be deemed released from such position on the date the Chapter 11 Case is closed, and no successor thereto shall be designated. All documented and reasonable fees and expenses incurred by the Plan Administrator and its professionals (which the Plan Administrator may retain in accordance with Article VII.K hereof) following the Effective Date shall be paid from the Post-Confirmation Estate Assets as set forth in the Plan Administrator Agreement.

E. Vesting and Estate Assets in the Post-Confirmation Debtor

Pursuant to section 1141(b) of the Bankruptcy Code, the Post-Confirmation Estate Assets shall vest in the Post-Confirmation Debtor free and clear of all Liens, Claims, and Interests, except as otherwise specifically provided in the Plan or in the Confirmation Order; *provided, however*, that the Plan Administrator may abandon or otherwise not accept any non-Cash Post-Confirmation Estate Assets that the Plan Administrator believes, in good faith, have no value or are burdensome to the Post-Confirmation Debtor. Any non-Cash Post-Confirmation Estate Assets that the Plan Administrator so abandons or otherwise does not accept shall not be property of the Post-Confirmation Debtor.

F. Post-Confirmation Debtor Expenses

Subject to the provisions of the Plan Administrator Agreement, all costs, expenses, and obligations incurred by the Plan Administrator in administering the Plan, the Post-Confirmation Debtor, or in any manner connected, incidental, or related thereto, that results in distributions from the Post-Confirmation Debtor shall be charged against the Post-Confirmation Estate Assets remaining from in the hands of the Plan Administrator. Such costs, expenses, and obligations shall be paid in accordance with the Plan Administrator Agreement, which shall provide for an initial distribution to the Distribution Account to fund a prompt distribution to Holders of Allowed General Unsecured Claims and any other similarly situated creditors in accordance with Article III.B hereof.

G. *Role of the Plan Administrator*

1. Role of Plan Administrator. On the Effective Date, the Plan Administrator is deemed the representative of the Debtor's Estate under Section 1123(b)(3)(B) of the Bankruptcy Code, and has all rights associated therewith. Pursuant to the terms of Plan and the Plan Administrator Agreement, the Plan Administrator has all duties, powers, and standing authority necessary to implement the Plan and to administer and liquidate the assets of the Debtor's Estate and the Post-Confirmation Estate for the benefit of the Holders of Allowed Claims, and shall be entitled to indemnification and exculpation from the Debtor's Estate and the Post-Confirmation Estate.

2. Appointment of Plan Administrator. Effective immediately on the Effective Date, the Plan Administrator is designated, appointed and vested with full authority and control over the Post-Confirmation Estate Assets and to effectuate the distributions contemplated pursuant to the terms of the Plan. The Plan Administrator has the powers and responsibilities of a disbursing agent and trustee in all respects as it relates to all matters set forth in the Plan. All distributions under the Plan shall be made by the Plan Administrator, as disbursing agent, or by such other Person designated by the Plan Administrator to act as a disbursing agent.

3. Duties and Powers. As of the Effective Date, the Plan Administrator is the representative of and successor to the Debtor, and has the rights and powers provided in the Bankruptcy Code, in addition to any rights and powers granted herein and in the Confirmation Order. Without limiting the foregoing, the Plan Administrator is the successor-in-interest to the Debtor with respect to all interests constituting Post-Confirmation Estate Assets and with respect to the creditors holding Claims under the Plan. Plan Administrator shall act in a fiduciary capacity for the Holders of all Allowed Claims under the Plan. The Plan Administrator shall assume all of the responsibilities, duties and obligations of the Debtor's former officers, directors, managers or managing members that arise on or after the Effective Date, and is empowered and authorized to satisfy such responsibilities, duties and obligations without further corporate or limited liability company authority as may have been required prior to the Effective Date. The Plan Administrator will pay from the Post-Confirmation Estate Assets all ordinary and necessary costs of protecting, preserving, disposing, liquidating and realizing upon the Post-Confirmation Estate Assets. The Plan Administrator will liquidate and administer the Post-Confirmation Estate Assets, including making distributions therefrom, all in accordance with the terms of the Plan. Unless otherwise excused or exempted from doing so by the Bankruptcy Code, the Plan Administrator will abide by all laws, including tax laws. The Plan Administrator shall have sole and exclusive authority for the retention of professionals to assist in any manner on and after the Effective Date.

As of the Effective Date, the Plan Administrator has the power to take any and all actions which, in the business judgment of the Plan Administrator, are necessary or appropriate to fulfill the Plan Administrator's obligations under the Plan, including, but not limited to, each of the powers set forth below:

1. Receive, manage, invest, dispose, liquidate, supervise, control, exercise authority over, and protect the Post-Confirmation Estate Assets, including through the creation of reserves as provided for under the Plan or the Plan Administrator Agreement, and generally oversee and provide management of the affairs of the Post-Confirmation Debtor's Estate;
2. Pay all necessary expenses incurred in connection with the duties and responsibilities of the Plan Administrator under the Plan to the extent of available funds, including funds in the Post-Confirmation Estate Reserve;

3. File tax returns or other reports required by governmental entities and pay taxes or other liabilities incurred by the Debtor and Post-Confirmation Debtor to the extent payable consistent with the Plan, the Bankruptcy Code, or order of the Bankruptcy Court;
4. Retain and compensate, without further order of the Bankruptcy Court, the services of employees, professionals, and consultants to advise and assist in the administration, prosecution, and distribution of Post-Confirmation Estate Assets;
5. Calculate and implement distributions of Post-Confirmation Estate Assets;
6. Investigate, prosecute, compromise, and settle Causes of Action or other legal rights vested in the Post-Confirmation Debtor;
7. Object to Claims and address and resolve issues involving objections, reconciliation, and allowance of Claims;
8. Undertake all administrative functions necessary to implement the Plan and related to the Chapter 11 Case after the Effective Date;
9. Open bank accounts and any other depository or investment accounts deemed necessary in the Plan Administrator's sole discretion;
10. Execute any documents and take any actions necessary to bind the Post-Confirmation Debtor (or Debtor), as may be necessary, as determined in the Plan Administrator's sole discretion;
11. Take possession of (or exert dominion over) all books, records, and files (whether in hard copy or electronic form) of the Post-Confirmation Debtor and its Estate, and provide for the retention and storage of such books, records, and files until such time as the Plan Administrator determines that retention of same is no longer necessary or required;
12. At the Plan Administrator's sole discretion, invest Cash (including any earnings thereon or proceeds therefrom) as permitted by section 345 of the Bankruptcy Code or in other prudent investments;
13. At the Plan Administrator's sole discretion, purchase and carry all insurance policies and pay all insurance premiums and costs the Plan Administrator deems reasonably necessary or advisable, including, without limitation, purchasing any errors and omissions insurance with regard to any Losses (defined below) it may incur, arising out of or due to its actions or omissions, or consequences of such actions or omissions, other than as a result of fraud or willful misconduct, with respect to the implementation and administration of the Plan Administrator Agreement;
14. Abandon any Post-Confirmation Estate Assets; and
15. Take all other actions consistent with the provisions of the Plan, the Confirmation Order, and the Plan Administrator Agreement that the Plan Administrator deems reasonably necessary or desirable to administer the Post-Confirmation Debtor's Estate.

H. Prosecution and Resolution of Causes of Action

From and after the Effective Date, prosecution and settlement of all Causes of Action in the Post-Confirmation Estate shall be the sole responsibility of the Post-Confirmation Debtor and the Plan Administrator pursuant to the Plan and the Confirmation Order. From and after the Effective Date, the Post-Confirmation Debtor and the Plan Administrator shall have exclusive rights, powers, and interests of the Debtor and the Debtor's Estate to pursue, settle, or abandon such Causes of Action as the sole representative of the Debtor and the Debtor's Estate pursuant to section 1123(b)(3) of the Bankruptcy Code. Proceeds recovered from all Causes of Action will be deposited into the Distribution Account and will be distributed by the Plan Administrator to Holders of Allowed Claims in accordance with the provisions of the Plan. All Causes of Action that are not expressly released or waived under the Plan are reserved and preserved, transferred to and vest in the Post-Confirmation Debtor in accordance with the Plan. No Person may rely on the absence of a specific reference in the Plan, the Plan Administrator Agreement, or the Disclosure Statement to any Cause of Action against it as any indication that the Debtor or the Plan Administrator will not pursue any and all available Causes of Action against such Person. The Plan Administrator expressly reserves all Causes of Action, except for any Causes of Action against any Person that are expressly released or waived under the Plan. Therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of confirmation or consummation of the Plan. No claims or Causes of Action against the Released Parties that are waived, released, and discharged pursuant to the Plan shall be transferred to the Post-Confirmation Debtor.

Settlement by the Plan Administrator of any Cause of Action in the Post-Confirmation Estate shall not require notice of approval of the Bankruptcy Court and shall only require: (1) approval of the Plan Administrator in his, her, or its discretion if the amount claimed by the Post-Confirmation Debtor against a Person is less than two hundred fifty thousand dollars (\$250,000); and (2) approval of the Plan Administrator in his, her, or its discretion and approval of the Bankruptcy Court, upon notice and a hearing, if the amount claimed by the Post-Confirmation Debtor against a Person is unliquidated or equals or exceeds two hundred fifty thousand dollars (\$250,000).

I. Indemnification

Subject to the Bankruptcy Code, the Bankruptcy Rules and any prior orders of the Bankruptcy Court, the Post-Confirmation Debtor shall indemnify the Indemnified Persons for, and shall hold them harmless against, any loss, liability, damage, judgment, fine, penalty, claim, demand, settlement, cost, or expense (including, without limitation, the reasonable fees and expenses of their respective professionals) incurred without gross negligence, willful misconduct, or fraud on the part of the Indemnified Persons (which gross negligence, willful misconduct, or fraud, if any, must be determined by Final Order of a court of competent jurisdiction) for any action taken, suffered, or omitted to be taken by the Indemnified Persons in connection with the acceptance, administration, exercise, or performance of their duties under the Plan or the Plan Administrator Agreement, as applicable. An act or omission taken with the approval of the Bankruptcy Court will conclusively be deemed not to constitute gross negligence, willful misconduct, or fraud.

J. Term of the Post-Confirmation Debtor

The Plan Administrator shall be discharged and the Post-Confirmation Debtor shall be terminated, at such time as (1) all Disputed Claims have been resolved, (2) all of the Post-Confirmation Estate Assets have been liquidated or abandoned, (3) all duties and obligations of the Plan Administrator under the Plan Administrator Agreement have been fulfilled, (4) all distributions required to be made by

the Post-Confirmation Debtor under the Plan and the Plan Administrator Agreement have been made, and (5) the Debtor's Chapter 11 Case has been closed; *provided, however*, that in no event shall the Post-Confirmation Debtor be dissolved later than five (5) years from the Effective Date unless the Bankruptcy Court, upon motion within the six-month period prior to the fifth anniversary (or the end of any extension period approved by the Bankruptcy Court), determines that an extension is necessary to facilitate or complete the recovery and liquidation of the Post-Confirmation Estate Assets and/or distributions in accordance with the Plan.

K. Retention of Professionals by the Post-Confirmation Debtor

The Plan Administrator may, in connection with the performance of his, her, or its functions, in the Plan Administrator's sole and absolute discretion, retain, consult with, and compensate attorneys, accountants, advisors, or agents to assist in his, her, or its duties on such terms (including on a contingency or hourly basis) as he, she, or it deems reasonable and appropriate without Bankruptcy Court approval. The Plan Administrator may assert the reasonable reliance on the advice of counsel as a defense to any claim asserted against the Plan Administrator. Notwithstanding such authority, the Plan Administrator shall be under no obligation to consult with any such attorneys, accountants, advisors, or agents, and his, her, or its determination not to do so shall not result in the imposition of liability on the Plan Administrator or his, her, or its members unless such determination is based on willful misconduct, gross negligence, or fraud.

L. Conflicts Between the Plan Administrator Agreement and the Plan

In the event of any inconsistencies or conflict between the Plan Administrator Agreement and the Plan, the terms and provisions of the Plan shall control.

M. Wind Down

The Post-Confirmation Debtor, by and through the Plan Administrator, shall have the power and authority to take any action necessary to wind down and dissolve the Debtor/Post-Confirmation Debtor and, without further action under applicable law, regulation, order, or rule, including any action by the stockholders, members, board of directors, or board of managers of the Debtor.

As soon as practicable on or after the Effective Date, but in no event later than the closing of the Chapter 11 Case, the Post-Confirmation Debtor shall be responsible for the following: (1) to the extent applicable, file a certificate of dissolution or equivalent document, together with all other necessary corporate and company documents, to effect the dissolution of the Debtor under the applicable laws of its state of incorporation or formation; (2) to the extent applicable, complete and file any final or otherwise required federal, state, and local tax returns and pay any taxes required to be paid for the Debtor, and pursuant to section 505(b) of the Bankruptcy Code, request an expedited determination of any unpaid tax liability of the Debtor or its Estate for any tax incurred during the administration of the Debtor's Chapter 11 Case, as determined under applicable tax laws, and represent the interests and account of the Debtor or its Estate before any taxing authority in all matters, including, without limitation, any action, suit, proceeding, or audit; and (3) take such other actions and/or undertake administrative functions as the Plan Administrator and Post-Confirmation Debtor may reasonably determine to be necessary or desirable to carry out the purposes of the Plan. Any certificate of dissolution or equivalent document may be executed by the Post-Confirmation Debtor without need for any additional action or approval by any Person or Entity. From and after the Effective Date, except with respect to the Post-Confirmation Debtor as set forth herein, the Post-Confirmation Debtor (a) for all purposes shall be deemed to have withdrawn its business operations (if any) from any state in which the Debtor was previously conducting, or is registered or licensed to conduct, its business operations, and shall not be

required to file any document, pay any sum, or take any other action in order to effectuate such withdrawal, (b) shall be deemed to have canceled pursuant to the Plan all Interests, and (c) shall not be liable in any manner to any taxing authority for franchise, business, license, or similar taxes accruing on or after the Effective Date. Notwithstanding the Debtor's dissolution, the Debtor shall be deemed to remain intact solely with respect to the preparation, filing, review, and resolution of applications for Professional Fee Claims.

The filing of the final monthly report (for the month in which the Effective Date occurs) shall be the responsibility of the Debtor, and the filing of subsequent quarterly reports shall be the responsibility of the Plan Administrator.

For the avoidance of doubt, all reasonable expenses incurred by the Post-Confirmation Debtor in connection with the Wind Down shall be deemed Post-Confirmation Debtor Expenses and shall be paid by the Post-Confirmation Debtor, including, but not limited to the reasonable fees and expenses of the Debtor's Professionals retained by the Post-Confirmation Debtor; provided, however, that the Post-Confirmation Debtor shall provide the Plan Administrator with documentation for such expenses and the Plan Administrator shall have a ten (10) day calendar review period with respect thereto. If there is an objection by the Plan Administrator to any portion of the expenses during this time, the disputed portion of any such expenses will not be paid until the objection is resolved consensually or by the Bankruptcy Court. Additionally, as set forth in the Plan Administrator Agreement, Section 6.1 (Standard of Care; Exculpation), Section 6.2 (Indemnification) and Section 6.5 (No Liability for Good Faith Error of Judgment) shall apply to the Post-Confirmation Debtor and any of the Debtor's Professionals retained by the Post-Confirmation Debtor, as applicable, in connection with the Wind Down contemplated in this Section VII.P. When the Wind Down is complete, any *de minimus* funds remaining with the Post-Confirmation Debtor, may be donated by the Plan Administrator to a charity of its choosing.

ARTICLE VIII. PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED, AND DISPUTED CLAIMS

A. *Allowance of Claims*

After the Effective Date, the Post-Confirmation Debtor shall have and retain any and all rights and defenses the Debtor had with respect to any Claim immediately before the Effective Date. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Case before the Effective Date (including the Confirmation Order), no Claim shall become an Allowed Claim unless and until such Claim is deemed Allowed under the Plan or the Bankruptcy Code, or the Bankruptcy Court has entered a Final Order, including the Confirmation Order (when it becomes a Final Order) in the Chapter 11 Case allowing such Claim.

B. *Claims Administration Responsibilities*

Except as otherwise specifically provided in the Plan and notwithstanding any requirements that may be imposed pursuant to Bankruptcy Rule 9019, after the Effective Date, the Plan Administrator shall have the sole authority to File and prosecute objections to Claims on behalf of the Post-Confirmation Debtor, and the Plan Administrator shall have the sole authority, on behalf of the Post-Confirmation Debtor, to: (1) settle, compromise, withdraw, litigate to judgment, or otherwise resolve objections to any and all Claims, regardless of whether such Claims are in a Class or otherwise; (2) settle, compromise, or resolve any Disputed Claim without any further notice to, or action, order, or approval of, the Bankruptcy Court; and (3) administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to, or action, order, or approval of, the Bankruptcy Court; *provided, however,*

that nothing herein shall preclude the U.S. Trustee or other parties with requisite standing from objecting to any Claim. On and after the Effective Date, the Plan Administrator shall use commercially reasonable efforts to resolve Claims and advance the claims resolution process through estimation or otherwise.

C. Estimation of Claims

Before, on, or after the Effective Date, the Debtor or the Plan Administrator, as applicable, may (but is not required to) at any time request that the Bankruptcy Court estimate any Claim pursuant to applicable law, including pursuant to section 502(c) of the Bankruptcy Code, for any reason, regardless of whether any party previously has objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any such Claim, including during the litigation of any objection to any Claim or during the pendency of any appeal relating to such objection. Notwithstanding any provision in the Plan to the contrary, a Claim that has been expunged from the Claims Register, but that either is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any Claim, such estimated amount shall constitute a maximum limitation on such Claim for all purposes under the Plan (including for purposes of distributions and discharge) and may be used as evidence in any supplemental proceedings. The Debtor or the Plan Administrator, as applicable, may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim. Notwithstanding section 502(j) of the Bankruptcy Code, in no event shall any Holder of a Claim that has been estimated pursuant to section 502(c) of the Bankruptcy Code or otherwise be entitled to seek reconsideration of such estimation unless such Holder has Filed a motion requesting the right to seek such reconsideration on or before seven (7) days after the date on which such Claim is estimated. The foregoing Claims and objection, estimation, and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

D. Disputed Claims

On or after the Effective Date, the Plan Administrator shall retain funds for potential payment of Disputed Claims in the event such Disputed Claims, or the disputed portion thereof, is Allowed, in an amount or amounts as reasonably determined the Plan Administrator consistent with the Proof of Claim Filed by the applicable Holder of such Disputed Claim.

E. Adjustment to Claims Without Objection

Any Claim that has been paid or satisfied, or any Claim that has been amended or superseded, may be adjusted or expunged on the Claims Register by the Debtor or the Plan Administrator, as applicable, upon Filing a notice of satisfaction with the Bankruptcy Court. However, if the Holder of such Claim Files a timely objection to such notice of satisfaction, the status of the Claim will be determined by the Bankruptcy Court.

F. Time to File Objections to Claims

Any objections to Claims shall be Filed on or before the Claims Objection Deadline. If the Debtor or the Plan Administrator, as applicable, files a motion to extend the Claims Objection Deadline, the Claims Objection Deadline shall be automatically extended until the Bankruptcy Court acts on such motion, without the necessity for the entry of a bridge order.

G. Disallowance of Claims

Pursuant to section 502(d) of the Bankruptcy Code, any Claims held by Entities from which property is recoverable under section 542, 543, 550, or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code shall not be deemed Allowed. Holders of such Claims may not receive any distributions on account of such Claims until such time as (1) such Causes of Action against that Entity have been settled or a Bankruptcy Court order with respect thereto has been entered and all sums due, if any, to the Debtor by that Entity have been turned over or paid to the Debtor or the Plan Administrator, as applicable, or (2) such Claims are Allowed by a Final Order of the Bankruptcy Court. All Proofs of Claim Filed on account of an indemnification obligation shall be deemed satisfied and expunged from the Claims Register as of the Effective Date to the extent such indemnification obligation is assumed (or honored or reaffirmed, as the case may be) pursuant to the Plan, without any further notice to, or action, order, or approval of, the Bankruptcy Court.

Except as otherwise provided herein or as agreed to by the Debtor or the Plan Administrator, as applicable, any Claim that has been or is hereafter listed in the Schedules as contingent, unliquidated, or disputed, and for which no Proof of Claim or Interest is or has been timely Filed, is not considered Allowed and shall be expunged without further action by the Debtor or the Plan Administrator and without further notice to any party or action, approval, or order of the Bankruptcy Court, and Holders of such Claims may not receive any distributions on account of such Claims. A Proof of Claim Filed after the Bar Date shall not be Allowed for any purposes whatsoever absent entry of a Final Order allowing such late-Filed Claim.

H. Amendments to Claims

On or after the Effective Date, a Claim may not be Filed or amended without the prior authorization of the Bankruptcy Court or the Plan Administrator, and any such new or amended Claim Filed shall be deemed Disallowed in full and expunged without any further notice to, or action, order, or approval of, the Bankruptcy Court to the maximum extent provided by applicable law.

I. No Distributions Pending Allowance

If an objection to a Claim or portion thereof is Filed, no payment or distribution provided under the Plan shall be made on account of such Claim or portion thereof unless and until such Disputed Claim becomes an Allowed Claim, unless otherwise determined by the Plan Administrator on behalf of the Post-Confirmation Debtor.

J. Distributions After Allowance

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, distributions shall be made to the Holder of such Allowed Claim in accordance with the provisions of the Plan. As soon as reasonably practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, the Plan Administrator shall provide to the Holder of such Claim the distribution to which such Holder is entitled under the Plan as of the Effective Date, less any previous distributions (if any) that were made on account of the undisputed portion of such Claim, without any interest, dividends, or accruals to be paid on account of such Claim unless required under applicable bankruptcy law or as otherwise provided herein.

**ARTICLE IX.
RELEASE, INJUNCTION, EXCULPATION AND RELATED
PROVISIONS**

A. Compromise and Settlement of Claims, Interests, and Controversies

Pursuant to section 1123 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 and settlement of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have, or any distribution to be made on account of such Allowed Claim. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all 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 Debtor, its Estate, and Holders of Claims and Interests and is fair, equitable, and reasonable. In accordance with the provisions of the Plan, pursuant to Bankruptcy Rule 9019, without any further notice to, or action, order, or approval of, the Bankruptcy Court, after the Effective Date, the Plan Administrator for and on behalf of the Post-Confirmation Debtor may compromise and settle any Claims and Causes of Action against other Entities.

B. Term of Injunctions or Stays

Unless otherwise provided in the Plan or the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Case pursuant to section 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect through the Effective Date and shall continue in effect for the maximum time permitted by section 362 of the Bankruptcy Code. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

The Debtor shall not receive a "discharge" in violation of section 1141(d)(3) of the Bankruptcy Code; *provided, however*, that no Person or Entity may assert any Claim, seek or receive any payment from, or seek recourse against, the Estate, the Post-Confirmation Debtor, the Plan Administrator and/or their respective successors, assigns and/or property, except as expressly provided in the Plan.

C. Release of Liens

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

D. Release by the Debtor

Pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, on and after the Effective Date, each Released Party is deemed released and discharged by the Debtor, its Estate and the Post-Confirmation Debtor from any and all Causes of Action that the Debtor, its Estate or the Post-Confirmation Debtor has or 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 that any Holder of any Claim or Interest could have asserted on behalf of the Debtor, arising from the Petition Date through the Effective Date, including Causes of Action based on or relating to, or in any manner arising from, in whole or in part:

- (a) the Debtor, the Debtor's operations and restructuring efforts, and the formulation, preparation, dissemination, negotiation, or filing of the Plan Documents;
- (b) any Plan Document, contract, instrument, release, or other agreement or document (including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion) created or entered into in connection with the Disclosure Statement or the Plan;
- (c) the Chapter 11 Case, including without limitation, the management, administration and implementation thereof, the Plan, the Disclosure Statement, the WARN Act Class Settlement Agreement, the DIP Documents, the filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan or the distribution of property under the Plan or any other related agreement; or
- (d) the business or contractual arrangements between the Debtor and any Released Party, and any other act or omission, transaction, agreement, event, or other occurrence relating to any of the foregoing.

Notwithstanding anything to the contrary in the foregoing, these releases do not release any post-Effective Date obligations of any Entity under the Plan, any Plan Document, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases set forth above, which includes by reference each of the related provisions and definitions contained herein, *and further*, shall constitute the Bankruptcy Court's finding that the releases set forth above are: (a) in exchange for the good and valuable consideration provided by the Released Parties; (b) a good-faith settlement and compromise of the claims released by the releases set forth above; (c) in the best interests of the Debtor and all Holders of Claims and Interests; (d) fair, equitable, and reasonable; (e) given and made after reasonable investigation by the Debtor and after notice and opportunity for hearing; and (f) a bar to the Debtor, its Estate or the Plan Administrator for or on behalf of the Post-Confirmation Debtor asserting any claim released by the releases set forth above against any of the Released Parties.

E. Release by Holders of Claims or Interests

1. As of the Effective Date, each Releasing Party is deemed to have released and discharged the Debtor and all other Released Parties from any and all Causes of Action that such Entity has or would have been legally entitled to assert (whether individually or collectively), arising from the Petition Date through the Effective Date, including Causes of Action based on or relating to, or in any manner arising from, in whole or in part:

- (a) the Debtor, the Debtor's operations and restructuring efforts, and the formulation,

preparation, dissemination, negotiation, or filing of the Plan Documents;

- (b) any Plan Document, contract, instrument, release, or other agreement or document (including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion) created or entered into in connection with the Disclosure Statement or the Plan;
- (c) the Chapter 11 Case, including without limitation, the management, administration and implementation thereof, the Plan, the Disclosure Statement, the WARN Act Class Settlement Agreement, the DIP Documents, the filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan or the distribution of property under the Plan or any other related agreement; or
- (d) the business or contractual arrangements between the Debtor and any Released Party, and any other act or omission, transaction, agreement, event, or other occurrence relating to any of the foregoing.

2. Without limiting the preceding subsection E.1., as of the Effective Date, each Creditor Releasing Party is deemed to have released and discharged each Manager Releasee from any and all Causes of Action that such Entity has or would have been legally entitled to assert (whether individually or collectively), arising from the Petition Date through the Effective Date, including Causes of Action based on or relating to, or in any manner arising from, in whole or in part:

- (a) the Debtor, the Debtor's operations and restructuring efforts, and the formulation, preparation, dissemination, negotiation, or filing of the Plan Documents;
- (b) any Plan Document, contract, instrument, release, or other agreement or document (including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Manager Releasee on the Plan or the Confirmation Order in lieu of such legal opinion) created or entered into in connection with the Disclosure Statement or the Plan;
- (c) the Chapter 11 Case, including without limitation, the management, administration and implementation thereof, the Plan, the Disclosure Statement, the WARN Act Class Settlement Agreement, the DIP Documents, the filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan or the distribution of property under the Plan or any other related agreement; or
- (d) the business or contractual arrangements between the Debtor and any Manager Releasee, and any other act or omission, transaction, agreement, event, or other occurrence relating to any of the foregoing.

3. Notwithstanding anything to the contrary in the foregoing subsections D., E.1. and E.2, these releases do not release (a) any post-Effective Date obligations of any Entity under the Plan, any Plan Document, or any document, instrument, or agreement (including those set forth in

the Plan Supplement) executed to implement the Plan; or (b) subject to Article IX.F hereof, claims against any Exculpated Party related to any act or omission that is determined in a Final Order to have constituted actual fraud, willful misconduct, or gross negligence. For the avoidance of doubt, nothing in the Plan, the Plan Supplement, or the Confirmation Order shall preclude the Post-Confirmation Debtor, Plan Administrator, or other successors of the Debtor and its Estate, from seeking or obtaining any recovery from the D&O Liability Insurance Policies or other available insurance, subject to the provisions of any such insurance policies and applicable law. Furthermore, for the avoidance of doubt, the third-party releases set forth above in Section E.2 do not apply to any Manager Releasees (other than Nat Wasserstein of Lindenwood Associates LLC, the Debtor's independent director who was appointed post-petition) for any actions taken by prior to the Petition Date.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the third-party releases set forth above, which include by reference each of the related provisions and definitions contained herein and further shall constitute the Bankruptcy Court's finding that the third-party releases set forth above are: (i) given voluntarily; (ii) in exchange for the good and valuable consideration provided by the Released Parties and Manager Releasees; (iii) a good-faith settlement and compromise of the claims released by the Releasing Parties and Creditor Releasing Parties; (iv) in the best interests of the Debtor and all Holders of Claims and Interests; (v) fair, equitable, and reasonable; (vi) given and made after notice and opportunity for hearing; (vii) a bar to any of the Releasing Parties asserting any Claim released by the third-party releases set forth above against any of the Released Parties; and (viii) a bar to any of the Creditor Releasing Parties asserting any Claim released by the third-party releases set forth above against any of the Manager Releasees.

F. Exculpation

Except as otherwise specifically provided in the Plan, no Exculpated Party shall have or incur and each Exculpated Party is hereby released and exculpated from any Cause of Action or claim for any act or omission occurring from the Petition Date through the Effective Date in connection with, relating to, or arising out of, the Chapter 11 Case, including without limitation, the management, administration and implementation thereof, the Disclosure Statement, the Plan, the WARN Act Class Settlement Agreement, the DIP Documents, or any Plan Document, contract, instrument, release or other agreement or document (including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Exculpated Party on the Plan or the Confirmation Order in lieu of such legal opinion) created or entered into in connection with the Disclosure Statement or the Plan, the filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, or the distribution of property under the Plan or any other related agreement, except for claims related to any act or omission that is determined in a final order to have constituted actual fraud, willful misconduct, or gross negligence, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have, and upon closing of the Chapter 11 Case or the Effective Date shall be deemed to have, participated in good faith and in compliance with the applicable laws with regard to the solicitation and distribution of consideration pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan. For the avoidance of doubt, no Exculpated Party shall be exculpated for any act or omission that occurred prior to the Petition Date.

G. Injunction

Except with respect to the obligations arising under the Plan or the Confirmation Order, and except as otherwise expressly provided in the Plan or the Confirmation Order, all Entities that held, hold, or may hold Claims or Interests that have been released, discharged, or exculpated pursuant to the Plan, are permanently enjoined from and after the Effective Date, to the fullest extent consistent with section 362(b)(4) of the Bankruptcy Code, from taking any of the following actions against, as applicable, the Debtor or the Post-Confirmation Debtor, or the other Released Parties: (1) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests; (2) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such Claims or Interests; (3) creating, perfecting, or enforcing any Lien or encumbrance of any kind against such Entities or the property of such Entities on account of or in connection with or with respect to any such Claims or Interests; (4) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from such Entities or against the property of such Entities on account of, in connection with, or with respect to any such Claims or Interests unless such Entity has timely asserted such setoff right in a document Filed with the Bankruptcy Court explicitly preserving such setoff, and notwithstanding an indication of a Claim or Interest or otherwise that such Entity asserts, has, or intends to preserve, any right of setoff pursuant to applicable law or otherwise; and (5) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests released or settled pursuant to the Plan. For the avoidance of doubt and notwithstanding anything to the contrary in the Plan, the Debtor is not receiving a discharge under section 524(a) of the Bankruptcy Code and the injunction set forth herein shall, at least with respect to the Debtor, terminate upon the later of (a) distribution of all of the Debtor's property under the Plan, and (b) the closing of the Chapter 11 Case.

H. Protection Against Discriminatory Treatment

Consistent with section 525 of the Bankruptcy Code and the Supremacy Clause of the U.S. Constitution, all Entities, including Governmental Units, shall not discriminate against the Post-Confirmation Debtor or deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to or discriminate with respect to such a grant against the Post-Confirmation Debtor, or another Entity with whom the Post-Confirmation Debtor has been associated, solely because the Debtor has been a debtor under chapter 11 of the Bankruptcy Code, may have been insolvent before the commencement of the Chapter 11 Case (or during the Chapter 11 Case), or have not paid a debt that is dischargeable in the Chapter 11 Case.

I. Setoffs and Recoupment

In no event shall any Holder of a Claim or any Indemnification Claimant be entitled to set off or recoup against such Claim any claim, right, or Cause of Action of the Debtor or the Post-Confirmation Debtor, as applicable, unless such Holder actually has provided notice of such setoff or recoupment in writing to the Debtor on or before the Confirmation Date, which notice may be provided in a timely filed Proof of Claim.

J. Subordination Rights

Any distributions under the Plan shall be received and retained free from any obligations to hold or transfer the same to any other Holder and shall not be subject to levy, garnishment, attachment, or

other legal process by any Holder by reason of claimed contractual subordination rights. Any such subordination rights shall be waived, and the Confirmation Order shall constitute an injunction enjoining any Entity from enforcing or attempting to enforce any contractual, legal, or equitable subordination rights to property distributed under the Plan, in each case other than as provided in the Plan.

ARTICLE X.
CONDITIONS PRECEDENT TO CONFIRMATION AND
CONSUMMATION OF THE PLAN

A. Conditions Precedent to Confirmation

Unless waived pursuant to the provisions of this Article X, it shall be a condition to Confirmation that the Confirmation Order has been entered by the Bankruptcy Court and shall provide that:

- (1) the form of Confirmation Order is reasonably acceptable to the Proponents;
- (2) the Debtor and the Post-Confirmation Debtor are authorized to take all actions necessary or appropriate to enter into, implement and consummate the contracts, instruments, releases, leases, and other agreements or documents to be executed and/or delivered in connection with the Plan; and
- (3) the provisions of the Confirmation Order are non-severable and mutually dependent.

B. Conditions Precedent to the Effective Date

It shall be a condition to Consummation of the Plan that the following conditions shall have been satisfied (or waived pursuant to the provisions of this Article X):

- (1) the Confirmation Order shall not have been subject to any reversal, stay, modification, or vacatur;
- (2) all actions, documents, authorizations, consents, regulatory approvals, rulings, or agreements necessary to implement the Plan shall have been obtained, effected, or executed;
- (3) the Bankruptcy Court shall have entered the Approval Order approving the WARN Act Class Settlement Agreement;
- (4) all Allowed Professional Fee Claims approved by the Bankruptcy Court shall have been paid in full or amounts sufficient to pay such Allowed Professional Fee Claims after the Effective Date shall have been placed in the Professional Fee Escrow Account pending approval of the Professional Fee Claims by the Bankruptcy Court; and
- (5) The Plan Administrator has accepted his, her, or its engagement in writing.

C. Waiver of Conditions

The conditions to the Confirmation and the Effective Date of the Plan set forth in this Article X may be waived by the Debtor, after consultation with the Creditors' Committee, without notice, leave, or order of the Bankruptcy Court or any formal action other than proceedings to confirm or consummate the Plan.

D. Substantial Consummation

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

E. Effect of Nonoccurrence of Conditions to the Effective Date

If the Effective Date does not occur, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any Claims or Interests; (2) prejudice in any manner the rights of the Debtor, any Holders of a Claim or Interest, or any other Entity; or (3) constitute an admission, acknowledgment, offer, or undertaking by the Debtor, any Holders, or any other Entity in any respect.

**ARTICLE XI.
MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE
PLAN**

A. Modification and Amendments

Subject to the limitations contained in the Plan, the Debtor reserves the right to modify the Plan, including, but not limited to, by changing the treatment applicable to any Class of Claims. The Debtor further reserves the right to seek Confirmation of a modified Plan consistent with the Bankruptcy Code and, as appropriate, not resolicit votes on such modified Plan. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan, the Debtor or the Post-Confirmation Debtor, as applicable, expressly reserves their right to alter, amend, or modify materially the Plan, one or more times, after Confirmation and before the Effective Date, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan.

B. Effect of Confirmation on Modifications

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

C. Revocation or Withdrawal of the Plan

The Debtor reserves the right to revoke or withdraw the Plan before the Effective Date. If the Debtor revokes or withdraw the Plan, or if Confirmation and Consummation do not occur by July 30, 2021, or such later date as may be agreed to by the Debtor, after consultation with the Creditors’ Committee, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void; and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of the Debtor or any other Entity, including the Holders of Claims; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtor or any other Entity.

**ARTICLE XII.
RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over the Chapter 11 Case and all matters arising out of or related to the Chapter 11 Case and the Plan to the fullest lawful extent, including jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate, or establish the priority, Secured or unsecured status, or amount of any Claim, including the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the Secured or unsecured status, priority, amount, or allowance of Claims;
2. decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals;
3. resolve any matters related to: (a) the assumption or rejection of any Executory Contract or Unexpired Lease and to hear, determine, and, if necessary, liquidate, any Claims arising therefrom, including Claims related to the rejection of an Executory Contract or Unexpired Lease, Cure Claims pursuant to section 365 of the Bankruptcy Code, or any other matter related to such Executory Contract or Unexpired Lease; (b) the Post-Confirmation Debtor amending, modifying or supplementing, after the Effective Date, pursuant to Article V.A hereof, the Schedule of Assumed Executory Contracts and Unexpired Leases; and (c) any dispute regarding whether a contract or lease is or was executory or expired;
4. ensure that distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;
5. adjudicate, decide, or resolve any motions, adversary proceedings, contested, or litigated matters, and any other matters, and grant or deny any applications involving the Debtor that may be pending on the Effective Date;
6. adjudicate, decide, or resolve any and all matters related to Causes of Action;
7. adjudicate, decide, or resolve any and all matters related to sections 1141 and 1145 of the Bankruptcy Code;
8. adjudicate, decide, or resolve any and all matters regarding, pertaining or related to the WARN Act Class Settlement Agreement;
9. enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan or the Disclosure Statement;
10. enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;
11. resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with the Consummation, interpretation, or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;

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

13. resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the settlements, compromises, discharges, releases, injunctions, exculpations, and other provisions contained in Article IX hereof and enter such orders as may be necessary or appropriate to implement or enforce such releases, injunctions, and other provisions;

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

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

16. determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order, or the Plan Supplement;

17. adjudicate any and all disputes arising from or relating to distributions under the Plan or any transactions contemplated therein;

18. consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;

19. determine requests for the payment of Claims entitled to priority pursuant to section 507 of the Bankruptcy Code;

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

21. hear and determine all disputes involving the existence, nature, or scope of the release provisions set forth in the Plan, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee or retiree benefit program, regardless of whether such termination occurred before or after the Effective Date;

22. enforce all orders previously entered by the Bankruptcy Court in the Chapter 11 Case;

23. hear any other matter not inconsistent with the Bankruptcy Code;

24. enter an order closing the Chapter 11 Case; and

25. enforce the injunction, release, and exculpation provisions provided in Article IX hereof.

ARTICLE XIII. MISCELLANEOUS PROVISIONS

A. *Immediate Binding Effect*

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, on the Effective Date, the terms of the Plan, the final versions of the documents contained in the Plan Supplement, and the

Confirmation Order shall be immediately effective and enforceable and deemed binding upon the Post-Confirmation Debtor, any and all Holders of Claims or Interests (regardless of whether such Claims or Interests are deemed to have accepted or rejected the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, and injunctions described in the Plan, each Entity acquiring property under the Plan or the Confirmation Order, and any and all non-Debtor counterparties to Executory Contracts and Unexpired Leases with the Debtor. All Claims and debts shall be fixed, adjusted, or compromised, as applicable, pursuant to the Plan regardless of whether any Holder of a Claim or debt has voted on the Plan.

B. Additional Documents

On or before the Effective Date, the Debtor may File with the Bankruptcy Court such agreements and other documents as may be necessary or advisable to effectuate and further evidence the terms and conditions of the Plan. The Debtor or the Plan Administrator, as applicable, all Holders of Claims and Interests receiving distributions pursuant to the Plan, and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

C. Dissolution of the Creditors' Committee

On the Effective Date, the Creditors' Committee shall dissolve automatically and the members thereof shall be released and discharged from all rights, duties, responsibilities, and liabilities arising from, or related to, the Chapter 11 Case and under the Bankruptcy Code, except for the limited purpose of prosecuting requests for payment of Professional Fee Claims for services and reimbursement of expenses incurred prior to the Effective Date by the Creditors' Committee and its Professionals. After the Effective Date, the Post-Confirmation Debtor shall no longer be responsible for paying any fees or expenses incurred by the members of or advisors to the Creditors' Committee after the Effective Date.

D. Reservation of Rights

Before the Effective Date, neither the Plan, any statement or provision contained in the Plan, nor any action taken or not taken by the Debtor with respect to the Plan, the Disclosure Statement, the Confirmation Order, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of the Debtor or the Post-Confirmation Debtor with respect to any Claims or Interests.

E. Successors and Assigns

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

F. Service of Documents

All notices, requests, and demands to or upon the Debtor or the Post-Confirmation Debtor to be effective shall be in writing (including by facsimile transmission), with an electronic copy delivered to the recipients listed email address, and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

If to the Debtor, to:

Klausner Lumber One LLC
c/o Asgaard Capital LLC
1934 Old Gallows Road, Suite 350
Vienna, VA 22182
Attn.: Michael Freeman, CRO
Email: mfreeman@asgaardcapital.com

With a copy to Charles Reardon at creardon@asgaardcapital.com

And with copies to:

Westerman Ball Ederer Miller Zucker & Sharfstein, LLP
1201 RXR Plaza
Uniondale, NY 11556
Attn.: Thomas A. Draghi
Email: tdraghi@westermanllp.com
Attn.: Alison M. Ladd
Email: aladd@westermanllp.com

- and -

Morris, Nichols, Arsht & Tunnell LLP
1201 North Market Street, 16th Floor
P.O. Box 1347
Wilmington, DE 19899
Attn.: Eric Schwartz
Email: eschwartz@mnat.com
Attn.: Daniel B. Butz
Email: dbutz@mnat.com

If to the Plan Administrator:

Berkeley Research Group, LLC,
by and through Jay Borow, as Plan Administrator
810 7th Avenue, 41st Floor
New York, New York 10019
Email: jborow@thinkbrg.com

with copies to:

Faegre Drinker Biddle & Reath LLP
1177 Avenue of the Americas, 41st Floor
New York, NY 10036
Attn: Richard J. Bernard
Email: Richard.Bernard@faegredrinker.com

-and-

Foley & Lardner LLP
90 Park Avenue
New York, NY 10016
Attn.: Alissa M. Nann
Email: anann@foley.com

- and -

Morris James LLP
500 Delaware Avenue, Ste. 1500
Wilmington, DE 19801
Attn.: Eric J. Monzo
Email: emonzo@morrisjames.com
Attn.: Brya M Keilson
Email: bkeilson@morrisjames.com

After the Effective Date, the Plan Administrator shall have the authority to send a notice to parties in interest providing that, to continue to receive documents pursuant to Bankruptcy Rule 2002, such party must File a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Plan Administrator is authorized to limit the list of Entities or parties in interest receiving documents pursuant to Bankruptcy Rule 2002 to (1) those Entities who have Filed such renewed requests; (2) Entities whose rights are affected by such documents; and (3) the U.S. Trustee.

G. Entire Agreement

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

H. Exhibits

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are Filed, copies of such exhibits and documents shall be available for free at <https://www.donlinrecano.com/Clients/klo/Index> or for a fee via PACER at: <https://www.pacer.gov>.

I. Non-severability of Plan Provisions

If, before Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall 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: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the Debtor's or the Post-Confirmation Debtor's consent, as applicable; and (3) non-severable and mutually dependent.

J. Votes Solicited in Good Faith

Upon entry of the Confirmation Order, the Debtor shall be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code, and, pursuant to section 1125(e) of the Bankruptcy Code, the Debtor and its respective Affiliates, agents, representatives, members, principals, shareholders, officers, directors, managers, employees, advisors, and attorneys shall be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale, and purchase of Securities offered and sold under the Plan, and, therefore, neither any of such parties or individuals nor the Post-Confirmation Debtor, as applicable, shall have any liability for the violation of any applicable law (including the Securities Act), rule, or regulation governing the solicitation of votes on the Plan or the offer, issuance, sale, or purchase of the Securities offered and sold under the Plan.

K. Waiver or Estoppel

Each Holder of a Claim or Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Interest should be Allowed in a certain amount, in a certain priority, Secured, or not subordinated by virtue of an agreement made with the Debtor or its counsel, or any other Entity, if such agreement was not disclosed in the Plan, the Disclosure Statement, or papers Filed before the Confirmation Date.

Dated: May 17, 2021

Klausner Lumber One LLC

/s/ Michael Freeman

By: Michael Freeman

Title: Chief Restructuring Officer

Official Committee of Unsecured Creditors

/s/ Ronald Matley

By: Ronald Matley

Title: Chairperson

EXHIBIT A
Settlement Term Sheet

**In re Klausner Lumber One LLC
Case No. 20-11033 (KBO)**

Plan Support and Settlement Term Sheet

On April 14, 16, 20 and 23, 2021, (a) the above-referenced debtor and debtor-in-possession (the “Debtor”), (b) the Official Committee of Unsecured Creditors (the “Committee”); (c) Florida Sawmills, L.P. (“Florida Sawmills”); and (d) Klausner Trading International GmbH (“KTI”), Klausner Nordamerika Beteiligungs GmbH (“KNB”), ASC Alpha Betriebs, Verwaltungs-und Beteiligungs GmbH, Wien (“ASC Alpha”), Klausner Holz Thuringen GmbH (“KHT”), Klausner Holz Sachsen GmbH (“KHS”), Klausner Holz Niedersachsen GmbH (“KHN”), Klausner Holding USA, Inc. (“KHU”) and Klausner NMTC Leverage Company, LLC (“KNMTC”, together with KTI, KNB, ASC Alpha, KHT, KHS, KHN and KHU, the “Affiliates”,¹ and together with the Debtor, the Committee and Florida Sawmills, the “Parties”), participated in several mediation conferences (collectively, the “Mediation”) regarding (i) the resolution of various claims asserted by Florida Sawmills and the Affiliates against the Debtor and (ii) the treatment of these and other general unsecured claims under the *Joint Chapter 11 Plan for Klausner Lumber One LLC Proposed by the Debtor and the Official Committee of Unsecured Creditors* (Dkt. No. 767) (as amended, supplemented and/or modified, the “Plan”). As a result of the Mediation, the Parties have agreed to settle, in full, and otherwise resolve all matters set forth herein, for good and valuable consideration (the “Settlement”), which Settlement will be implemented in and through the Plan as revised to incorporate the Settlement.

¹ The use of the term “Affiliates” herein does not constitute an admission by any of the Parties that any of these defined entities are actually “affiliates” or “insiders” of the Debtor, as such terms are defined in Bankruptcy Code sections 101(2) or 101(31), respectively.

Recitals

WHEREAS, on April 30, 2020 (the “Petition Date”), the Debtor commenced with the Bankruptcy Court a voluntary case under chapter 11 of title 11 of the United States Code (the “Chapter 11 Case”).

WHEREAS, on May 21, 2020, the United States Trustee for the District of Delaware appointed the five (5) member Committee in the Chapter 11 Case, pursuant to section 1102(a)(1) of the Bankruptcy Code [Dkt. No. 82].

WHEREAS, on October 28, 2020, KTI filed proof of claim number 168 (“Claim 168”) in the Chapter 11 Case. On February 16, 2021, the Committee filed its objection to Claim 168 [Dkt. No. 709].

WHEREAS, on October 28, 2020, KNB filed proof of claim number 169 (“Claim 169”) in the Chapter 11 Case. On February 16, 2021, the Committee filed its objection to Claim 169 [Dkt. No. 710].

WHEREAS, on October 30, 2020, ASC Alpha filed proof of claim number 179 (“Claim 179”) in the Chapter 11 Case. On February 16, 2021, the Committee filed its objection to Claim 179 [Dkt. No. 711].

WHEREAS, on October 30, 2020, KHT filed proof of claim number 180 (“Claim 180”) in the Chapter 11 Case. On February 16, 2021, the Committee filed its objection to Claim 180 [Dkt. No. 720].

WHEREAS, on October 30, 2020, KHS filed proof of claim number 181 (“Claim 181”) in the Chapter 11 Case. On February 16, 2021, the Committee filed its objection to Claim 181 [Dkt. No. 712].

WHEREAS, on October 30, 2020, KHN filed proof of claim number 182 (“Claim 182”) in the Chapter 11 Case. On February 16, 2021, the Committee filed its objection to Claim 182 [Dkt.

No. 713].

WHEREAS, on December 23, 2020, KHU filed proof of claim number 193 (“Claim 193”) in the Chapter 11 Case, amending and superseding proof of claim number 183. On February 16, 2021, the Committee filed its objection to Claim 193 [Dkt. No. 715].

WHEREAS, on December 27, 2020, KNMTC filed proof of claim number 194 (“Claim 194,” and with Claim 168, Claim 169, Claim 179, Claim 180, Claim 181, Claim 182, and Claim 193, the “Affiliate Claims”) in the Chapter 11 Case, amending and superseding proof of claim number 184. On February 16, 2021, the Committee filed its objection to Claim 194 [Dkt. No. 716].

WHEREAS, on January 15, 2021, Florida Sawmills filed proof of claim number 195 (“Claim 195” or the “Florida Sawmills Claim”) in the Chapter 11 Case. On February 16, 2021, the Committee filed its objection to Claim 195 [Dkt. No. 717].

WHEREAS, the Affiliate Claims and the Florida Sawmills Claim (collectively, the “Claims”) aggregate nearly \$200 million in alleged secured and unsecured claims in the Chapter 11 Case by parties that are alleged to be insiders, former insiders, or related to insiders of the Debtor.

WHEREAS, disputes have arisen among the Parties related to the proposed allowance and treatment of the Claims under the Plan, the terms of the Plan, and the Chapter 11 Case generally (collectively, the “Disputes”).

WHEREAS, in an effort to avoid the expense, uncertainty and delay inherent in litigation, the Parties have agreed to this Settlement to resolve their Disputes and the Claims pursuant to the terms, conditions, and restrictions contained in this Settlement which shall be implemented in and through the Plan.

Settlement

NOW, THEREFORE, the Parties, in consideration of the recitals, promises, mutual covenants, representations, warranties, conditions, obligations, and releases contained herein and other valuable consideration, the sufficiency of which are hereby acknowledged, hereby stipulate and agree as follows:

1. The recitals set forth above are incorporated by reference and are deemed true and correct for purposes of this Settlement only.

2. Net Distribution Proceeds.² For purposes of this Settlement and the Plan, the term Net Distribution Proceeds shall mean the Distribution Proceeds³ available for distribution on account of the Affiliate Claims, the Florida Sawmills Claim and all Class 5 General Unsecured Claims that are “Allowed” as defined in the Plan (including to the extent Allowed herein), after funding, reserving for, or payment of all Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Other Secured Claims, Allowed Priority Claims, and Allowed WARN Act Class Settlement Claims (exclusive of any portion of such Allowed WARN Act Class Settlement Claims that constitutes an Allowed General Unsecured Claim in Class 5) available in the estate upon the Effective Date.

3. Payment of Net Distribution Proceeds. In the event the Net Distribution Proceeds to be distributed under the Plan are \$30 million,⁴ the Parties agree to the following sharing of the

² All capitalized terms used herein shall have the same meanings ascribed to them in the Plan.

³ The Plan defines “*Distribution Proceeds*” as “all Cash of the Debtor available on the Effective Date, after funding the Professional Fee Escrow Account and the Post-Confirmation Estate Reserve, and thereafter all Cash of the Post-Confirmation Estate from all sources, including the revenues and proceeds of all assets of the Debtor’s Estate or the Post-Confirmation Estate, including, but not limited to, Causes of Action, as the case may be.”

⁴ Upon information and belief, it is estimated that there should be approximately \$30 million in Net Distribution Proceeds available for distribution.

available Net Distribution Proceeds between Classes 4, 5, and 6 pursuant to the Plan, subject to adjustment pursuant to Paragraphs 4 and 5 below:

- a. Class 4 (FS Deficiency/Unsecured Claims) shall receive \$19 million of Net Distribution Proceeds (the “Class 4 Distribution Amount”) for distribution on account of the Allowed Florida Sawmills Claim (the sole Allowed Claim in Class 4).
- b. Class 5 (General Unsecured Claims) shall receive \$7.2 million of Net Distribution Proceeds (the “Class 5 Distribution Amount”), for distribution Pro Rata on account of the Allowed Class 5 General Unsecured Claims.
- c. Class 6 (Affiliate Unsecured Claims) shall receive \$3.8 million of Net Distribution Proceeds (the “Class 6 Distribution Amount”) for distribution on account of the Allowed Affiliate Claims, provided, however, that if the total amount of the Allowed Class 5 General Unsecured Claims is less than \$7.2 million (such that the distribution in clause b. above results in 100% recovery to Allowed Claims in Class 5), then the portion of the Class 5 Distribution Amount which exceeds the total amount of Allowed Class 5 General Unsecured Claims, (i) the first up to \$200,000 (that would have otherwise been distributed to Allowed Class 5 General Unsecured Claims), will be added to and become part of the Class 6 Distribution Amount and be distributed to the Affiliates to bring their total recovery to a possible maximum amount of \$4 million, and (ii) any excess amount above \$200,000 will be split equally (e.g., 50%/50%) between the Class 4 Distribution Amount and the Class 6 Distribution Amount.

4. Net Distribution Proceeds in Excess of \$30 million. In the event the Net Distribution Proceeds exceed \$30 million, the Class 4 Distribution Amount will be increased by the first additional \$1 million of Net Distribution Proceeds (*i.e.*, Net Distribution Proceeds between \$30 million and \$31 million) to a maximum possible amount of \$20 million. Thereafter, Net Distribution Proceeds in excess of \$31 million shall be split equally (e.g., 33.3% to each Class) among the Class 4 Distribution Amount, the Class 5 Distribution Amount, and the Class 6 Distribution Amount until the Class 5 General Unsecured Claims are fully paid. If the Class 5 Distribution Amount exceeds the total amount of Allowed Class 5 General Unsecured Claims as a result of this paragraph, the excess shall be split equally among only the Class 4 Distribution Amount and the Class 6 Distribution Amount.

5. Net Distribution Proceeds less than \$30 million. In the event that the Net Distributions Proceeds are less than \$30 million, the Parties agree that the Class 4 Distribution Amount, the Class 5 Distribution Amount, and the Class 6 Distribution Amount will be proportionally reduced in the ratio contemplated in Paragraph 3 hereof, such that the Class 4 Distribution Amount will be 63.33% of available Net Distribution Proceeds, the Class 5 Distribution Amount will be 24% of the available Net Distribution Proceeds, and the Class 6 Distribution Amount will be 12.67% of available Net Distribution Proceeds.

6. Cooperation by Florida Sawmills and Affiliates. Florida Sawmills and the Affiliates agree to cooperate with the Debtor, Committee and Plan Administrator (as applicable) to assist with the prosecution of (a) objections to claims filed against the Debtor (excluding the Florida Sawmills Claim and the Affiliate Claims), (b) adversary proceedings commenced by the Debtor, Committee or Plan Administrator for the benefit of the Debtor's estate, and (c) claims filed by the Debtor against Klausner Lumber Two, LLC, including but not limited to by providing documents and information in their possession or control relating to such claims and adversary proceedings.

7. Allowance of Claims.

a. In full and complete settlement and satisfaction of the Florida Sawmills Claim, the Florida Sawmills Claim shall be an Allowed FS Deficiency/Unsecured Claim in Class 4 under the Plan in the amount of \$76,410,413.63; provided, however, in accordance with Paragraphs 3, 4 and 5 above, the total distribution to Holders of Allowed Claims in Class 4 under the Plan shall be limited to the Class 4 Distribution Amount (*e.g.*, \$19 million if the Net Distribution Proceeds to be distributed under the Plan are \$30 million).

b. In full and complete settlement and satisfaction of the Affiliate Claims, (i) Claim 168, Claim 169, Claim 179, Claim 180, Claim 181, Claim 182, and Claim 194 shall be Allowed Affiliate Unsecured Claims in Class 6 under the Plan (collectively, the "Allowed Affiliate Class 6

Claims”) in the aggregate amount of \$65,972,334.79 (collectively, the “Aggregate Allowed Affiliate Class 6 Claim Amount”); provided, however, in accordance with Paragraphs 3, 4 and 5 above, the total distribution to Holders of Allowed Claims in Class 6 shall be limited to the Class 6 Distribution Amount (*e.g.*, \$3.8 million if the Net Distribution Proceeds to be distributed under the Plan are \$30 million); and (ii) Claim 193 shall be an Allowed Subordinated Claims in Class 7 under the Plan in the aggregate amount of \$36,546,503.70; provided, however, the Holders of Allowed Claims in Class 7 shall receive no or zero (\$0.00) distributions under the Plan on account of such Allowed Subordinated Claims. The Affiliates shall designate in writing to the Debtor’s bankruptcy counsel no later than three (3) Business Days prior to the Effective Date the manner in which the Aggregate Allowed Affiliate Class 6 Claim Amount is allocated on account of the Allowed Affiliate Class 6 Claims. The Affiliates represent and warrant that the Affiliate Claims comprise all Claims filed against the Debtor by all Persons related to Alpha Privatstiftung, Fritz Klausner Holzindustrie GmbH, and Klausner Holzindustrie GmbH & Co. KG; provided, however, if such Persons file Claims against the Debtor, such claims are waived and withdrawn, and shall not be Allowed.

8. Timing of Payments. All Net Distribution Proceeds available for distribution on account of the Allowed Class 4 Claim (*i.e.*, the Florida Sawmills Claim), Allowed Class 5 Claims, and Allowed Class 6 Claims (*i.e.*, the Affiliate Claims) as of the Effective Date shall be distributed to Holders of such Allowed Claims on or as soon as practicable after the Effective Date in accordance with the Plan. Any Net Distribution Proceeds that are collected or otherwise become available for distribution after the Effective Date shall be distributed to the Holders of such Allowed Claims in accordance with the Plan from time to time when practicable thereafter.

9. Plan Modifications. The Plan shall be modified and/or amended to incorporate the terms of this Settlement including, *inter alia*, (a) modified treatment for the Allowed Claims held by Florida Sawmills and the Affiliates to effectuate the agreed distributions set forth above and (b)

the releases set forth in paragraph 11, below. The Debtor and the Committee shall submit Plan modifications and/or amendments consistent with the terms set forth herein that shall be Reasonably Acceptable to the Parties. For purposes of this Term Sheet, “Reasonably Acceptable” shall mean acceptable to each of the Parties, in such entity’s reasonable discretion; provided, that, any documentation or matter consistent with this Term Sheet shall be deemed Reasonably Acceptable.

10. The Plan shall be modified to provide for a “Global Plan Settlement”. The Plan shall include language which provides that, pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, the Plan incorporates the Settlement set forth above, which is a comprise and settlement of numerous debtor-creditor issues designed to achieve an economic resolution of Claims against the Debtor, claims that may be asserted against Florida Sawmills and the Affiliates, and an efficient resolution of this Chapter 11 Case. Confirmation of the Plan will constitute the Bankruptcy Court’s approval of this Settlement under Bankruptcy Rule 9019 and section 1123 of the Bankruptcy Code and shall constitute a finding that the compromises and settlements proposed herein are in the best interest of the Debtor, its estate, its creditors, and other parties-in-interest and are fair, equitable, and within the range of reasonableness. Each provision of this Settlement is considered non-servable from each other and from the remaining terms of the Plan. The failure of the Bankruptcy Court to confirm the Plan or for the Effective Date of the Plan to occur shall return the parties to the *status quo ante* and pending the occurrence of the Effective Date of the Plan, all parties’ rights are expressly reserved and preserved; provided that upon the occurrence of the Effective Date of the Plan, the Plan Settlement (and other provisions of the Plan) shall be binding on all creditors and equity-holders of the Debtor. Debtor shall take all reasonable and necessary steps to seek confirmation of the Plan so that the Effective Date occurs as soon as reasonably practicable and, subject to the Bankruptcy Court’s availability, within sixty (60) days from the date

that the Disclosure Statement incorporating the terms of this Plan Support and Settlement Term Sheet is approved by the Bankruptcy Court.

11. Plan Support. Florida Sawmills and the Affiliates shall take all reasonable steps to support the Plan, as modified and/or amended consistent with the terms hereof, including (a) timely voting to accept such Plan and (b) not opposing, through objection or otherwise, confirmation of such Plan or the approval of any disclosure statement submitted in connection therewith.

12. Releases. Florida Sawmills and the Affiliates consent to the following releases that will be incorporated into the Plan and become effective upon the occurrence of the Effective Date of the Plan:

a. Florida Sawmills, on behalf of itself and its past and present partners (including limited partners), agents, employees, attorneys, predecessors, successors, administrators, trustees, representatives, investors and any assigns of each of the foregoing, and each of them (collectively, the “Florida Sawmills Releasing Parties”), fully releases, acquits and forever discharges (i) the Debtor, together with its past and present officers, including Michael Freeman of Asgaard Capital, LLC, the Debtor’s duly appointed Chief Restructuring Officer in the Chapter 11 Case (the “CRO”), directors, including Nat Wasserstein of Lindenwood Associates LLC (the “Independent Director”), the Debtor’s independent director who was retained after the Petition Date, and Freidrich Klausner and Leopold Stephan, in their capacity with the Affiliates, or otherwise, the Debtor’s Professionals, any plan administrator or liquidating trustee under the Plan, employees, agents, attorneys, predecessors, successors, administrators, insurers, representatives, and any assigns of each of the foregoing, (ii) the Committee and each of its members (solely in their capacity as members of the Committee), together with the Creditors’ Committee’s Professionals and any assigns of each of the foregoing, and (c) the Affiliates, together with their past, present, and future officers, directors, employees, agents, stockholders, attorneys, predecessors, successors, administrators, insurers, representatives, investors, and any assigns of

each of the foregoing; and each of them (collectively, the “Florida Sawmills Releasees”), from any and all claims, demands, actions, causes of action, suits, obligations, liabilities, damages, debts, expenses, executions, costs, attorneys’ fees, injuries, controversies, and disputes of any kind or nature, whether known or unknown, foreseen or unforeseen, accrued or unaccrued, mature or unmatured, which Florida Sawmills or any of the Florida Sawmills Releasing Parties had, may have, or now has against any of the Florida Sawmills Releasees beginning at the beginning of the world and extending through the Effective Date, related in any way to the Disputes and/or the Chapter 11 Case (the “Florida Sawmills Released Claims”), provided that the foregoing release shall not limit or be deemed to limit Florida Sawmills’ rights to enforce this Settlement and the Plan in accordance with their terms.

b. The Affiliates, on behalf of themselves and their past and present officers, directors, employees, agents, stockholders, partners (including limited partners), members, attorneys, predecessors, successors, administrators, representatives, investors and any assigns of each of the foregoing, and each of them (collectively, the “Affiliate Releasing Parties”), fully release, acquit and forever discharge (i) the Debtor, together with its past and present officers, including the CRO, directors, including the Independent Director and Leopold Stephan, the Debtor’s Professionals (as defined in the Plan), any plan administrator or liquidating trustee under the Plan, employees, agents, attorneys, predecessors, successors, administrators, insurers, representatives, and any assigns of each of the foregoing, (ii) the Committee and each of its members (solely in their capacity as members of the Committee), together with the Creditors’ Committee’s Professionals (as defined in the Plan) and any assigns of each of the foregoing, and (iii) Florida Sawmills, together with its past, present, and future partners (including limited partners), agents, employees, attorneys, predecessors, successors, administrators, insurers, representatives, investors, and any assigns of each of the foregoing; and each of them (collectively, the “Affiliate Releasees”), from any and all claims, demands, actions, causes of action, suits,

obligations, liabilities, damages, debts, expenses, executions, costs, attorneys' fees, injuries, controversies, and disputes of any kind or nature, whether known or unknown, foreseen or unforeseen, accrued or unaccrued, mature or unmatured, which the Affiliates or any of the Affiliate Releasing Parties had, may have, or now has against any of the Affiliate Releasees beginning at the beginning of the world and extending through the Effective Date, related in any way to the Disputes and/or the Chapter 11 Case (the "Affiliate Released Claims"), provided that the foregoing release shall not limit or be deemed to limit the Affiliates' rights to enforce this Settlement and the Plan in accordance with their terms.

c. The Debtor, on behalf of itself and its past and present officers, directors, employees, agents, attorneys, predecessors, successors, administrators, representatives and any assigns of each of the foregoing, and each of them (collectively, the "Debtor Releasing Parties"), fully releases, acquits and forever discharges (i) Florida Sawmills, together with its past, present, and future partners (including limited partners), agents, employees, attorneys, predecessors, successors, administrators, trustees, insurers, representatives, investors, and any assigns of each of the foregoing, (ii) the Committee and each of its members (solely in their capacity as members of the Committee), together with the Creditors' Committee's Professionals and any assigns of each of the foregoing, and (iii) the Affiliates, together with their past, present, and future officers, directors, employees, agents, stockholders, attorneys, predecessors, successors, administrators, insurers, representatives, investors, and any assigns of each of the foregoing; and each of them (collectively, the "Debtor Releasees"), from any and all claims, demands, actions, causes of action, suits, obligations, liabilities, damages, debts, expenses, executions, costs, attorneys' fees, injuries, controversies, and disputes of any kind or nature, whether known or unknown, foreseen or unforeseen, accrued or unaccrued, mature or unmatured, which the Debtor or any of the Debtor Releasing Parties had, may have, or now has against any of the Debtor Releasees beginning at the beginning of the world and extending through the Effective Date, related in any way to the

Disputes and/or the Chapter 11 Case (the “Debtor Released Claims”), provided that the foregoing release shall not limit or be deemed to limit the Debtor’s rights to enforce this Settlement and the Plan in accordance with their terms.

13. Compromise. The Parties acknowledge that this Settlement is a compromise of all claims and disputes among the Parties and that no Party admits, and in fact each expressly denies, any liability on its part or the nature or status of such disputed claims.

14. Severability. The invalidity of any clause, part or provision of Paragraphs 12 thru and including Paragraph 22 of this Settlement shall not affect the validity of the remaining portions hereof.

15. Warranties. Each person signing this Settlement represents and warrants that he/she has been duly authorized and has the requisite authority to execute and deliver this Settlement on behalf of such Party, to bind his or her respective client or clients to the terms and conditions of this Settlement, and to act with respect to the rights and claims that are being altered or otherwise affected by this Settlement.

16. No Reliance. The Parties represent and acknowledge that, in executing this Settlement, they do not rely upon and have not relied upon any representation or statement made by any Party or any of their agents, shareholders, representatives or attorneys, with regard to the subject matter, basis or effect of this Settlement or otherwise, other than as specifically stated in this Settlement.

17. The Parties further declare that, in making this Settlement, they are relying entirely upon their own judgment, beliefs and interest, and the advice of their counsel (for whose expense each shall be solely responsible), and that they have had a reasonable period of time to consider this Settlement.

18. Each Party agrees and acknowledges that (a) it has reviewed this Settlement with the benefit of assistance from its counsel, and that it fully understands and voluntarily accepts all

the provisions contained in this Settlement, and (b) this Settlement was the product of negotiations between the Parties and that any rule of construction that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Settlement.

19. Entire Agreement. The Parties agree and acknowledge that there are no terms or provisions of this Settlement other than those expressly stated in this agreement and applicable provisions in the Plan.

20. Modifications. No modification of this Settlement shall be binding or enforceable unless in writing and signed by the Parties.

21. Successors. This Settlement shall be binding upon and inure to the benefit of the Parties, their respective heirs, executors, successors, administrators and assigns.

22. Governing Law and Forum. This Settlement shall be construed and enforced in accordance with the provisions of the Bankruptcy Code and, where not inconsistent, the laws of the State of Delaware without regard to the conflicts of laws or principles thereof. The Parties acknowledge and agree that the Bankruptcy Court shall have exclusive jurisdiction to hear and determine any claims or disputes between the Parties with respect to this Settlement.

23. Counterparts. This Settlement may be executed in an original or in one or more counterparts, including by facsimile and/or electronic mail, each of which shall be deemed a duplicate original, but all of which together constitute one and the same instrument.

AGREED TO BY AND BETWEEN:

KLAUSNER LUMBER ONE LLC

By: _____

Name: Michael Freeman

Title: Chief Restructuring Officer

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS

By: _____

Name: Ronald Matley, Sunbelt Rentals, Inc.

Title: Chairperson

FLORIDA SAWMILLS, LP

By: _____

Name: Rosa I. Rodriguez

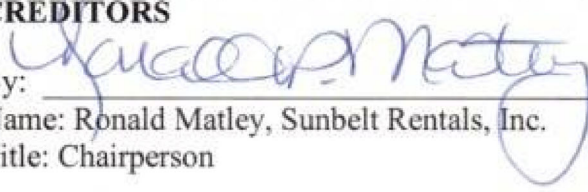
Title: Receiver for Florida Entrepreneur, LLC, the General Partner of Florida Sawmills, LP

AGREED TO BY AND BETWEEN:

KLAUSNER LUMBER ONE LLC

By: _____
Name: Michael Freeman
Title: Chief Restructuring Officer

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS

By:  _____
Name: Ronald Matley, Sunbelt Rentals, Inc.
Title: Chairperson

FLORIDA SAWMILLS, LP

By: _____
Name: Rosa I. Rodriguez
Title: Receiver for Florida Entrepreneur, LLC, the General Partner of Florida Sawmills, LP

AGREED TO BY AND BETWEEN:

KLAUSNER LUMBER ONE LLC

By:

Name: Michael Freeman
Title: Chief Restructuring Officer

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS

By:

Name: Ronald Matley, Sunbelt Rentals, Inc.
Title: Chairperson

FLORIDA SAWMILLS, LP

By:


Name: Rosa I. Rodriguez
Title: Receiver for Florida Entrepreneur, LLC, the
General Partner of Florida Sawmills, LP

**KLAUSNER TRADING INTERNATIONAL GMBH
KLAUSNER NORDAMERIKA BETEILIGUNGS
GMBH, ASC ALPHA BETRIEBS, VERWALTUNGS-
UND BETEILIGUNGS GMBH, WIEN, KLAUSNER
HOLZ THURINGEN GMBH, KLAUSNER HOLZ
SACHSEN GMBH, KLAUSNER HOLZ
NIEDERSACHSEN GMBH, KLAUSNER HOLDING
USA, INC. AND KLAUSNER NMTC LEVERAGE
COMPANY, LLC**

By: 
Name: Friedrich Klausner
Title: Managing Director

**KLAUSNER NORDAMERIKA BETEILIGUNGS
GMBH, ASC ALPHA BETRIEBS, VERWALTUNGS-
UND BETEILIGUNGS GMBH, WIEN, KLAUSNER
HOLZ THURINGEN GMBH, KLAUSNER HOLZ
SACHSEN GMBH, KLAUSNER HOLZ
NIEDERSACHSEN GMBH, KLAUSNER HOLDING
USA, INC. AND KLAUSNER NMTC LEVERAGE
COMPANY, LLC**

By: 
Name: Friedrich Klausner
Title: Managing Director

~~KLAUSNER TRADING INTERNATIONAL GMBH~~
~~KLAUSNER NORDAMERIKA BETEILIGUNGS~~
~~GMBH, ASC ALPHA BETRIEBS, VERWALTUNGS-~~
~~UND BETEILIGUNGS GMBH, WIEN, KLAUSNER~~
~~HOLZ THURINGEN GMBH, KLAUSNER HOLZ~~
~~SACHSEN GMBH, KLAUSNER HOLZ~~
~~NIEDERSACHSEN GMBH, KLAUSNER HOLDING~~
~~USA, INC. AND KLAUSNER NMTC LEVERAGE~~
~~COMPANY, LLC~~

By: _____
Name: Leopold Stephan
Title: CEO

KLAUSNER NORDAMERIKA BETEILIGUNGS
GMBH, ASC ALPHA BETRIEBS, VERWALTUNGS-
UND BETEILIGUNGS GMBH, WIEN, KLAUSNER
HOLZ THURINGEN GMBH, KLAUSNER HOLZ
SACHSEN GMBH, KLAUSNER HOLZ
NIEDERSACHSEN GMBH, KLAUSNER HOLDING
USA, INC. AND KLAUSNER NMTC LEVERAGE
COMPANY, LLC

By: _____
Name:
Title:

EXHIBIT B**DISTRIBUTION SUMMARY**

<u>Description Under the Plan</u>	<u>Undisputed Claims \$</u>	<u>Disputed Claims \$</u>	<u>Estimate of Allowed Claims \$</u>	<u>Estimated Recovery % of Allowed Claims</u>	<u>Impaired</u>
Class 1A -- FS Secured Claims	0	0	0	100%	No
Class 1B -- Affiliate Secured Claims	0	0	0	100%	No
Class 1C -- Other Secured Claims	0	300,478	0	100%	No
Class 2 -- Priority Claims	0	0	0	100%	No
Class 3A -- WARN Act Class Settlement Claims	1,530,141	0	1,530,141	100%	Yes
Class 3B -- Non-WARN Act Class Settlement Claims	0	0	0	100% of Allowed Priority Wage Claim	Yes
Class 4 -- FS Unsecured and Deficiency Claims	76,410,413.63	0	76,410,413.63	24.9%	Yes
Class 5 -- General Unsecured Claims	\$4,500,000.00	\$7,900,000.00	\$6.3 - \$12.4 million	58.1%– 100%	Yes
Class 6 -- Affiliate Unsecured Claims	\$65,972,334.79	0	\$65,972,334.79	5.8%	Yes
Class 7 -- Subordinated Claims	\$36,546,503.70	0	\$36,546,503.70	0%	Yes
Class 8 -- Interests	0	0	0	0%	Yes

Description Under the Plan	Notes
Class 1A -- FS Secured Claims	<i>See Plan Support Settlement and Term Sheet; Proponents do not believe that any Claims fall within this Class.</i>
Class 1B -- Affiliate Secured Claims	<i>See Plan Support Settlement and Term Sheet; Proponents do not believe that any Claims fall within this Class.</i>
Class 1C -- Other Secured Claims	The asserted claims in this Class were filed by WW Gay Fire Systems, Genesis Timber and VW Credit. Proponents do not believe that there are any valid Secured Claims in this Class; therefore, each such Claim is treated as being reclassified as a General Unsecured Claim in this analysis.
Class 2 -- Priority Claims	Proponents do not believe that any Claims fall within this Class.
Class 3A -- WARN Act Class Settlement Claims	The amount shown here is based on the proposed WARN Act Settlement, which is subject to Court approval.
Class 3B -- Non-WARN Act Class Settlement Claims	If any claimants were to opt out of the proposed WARN Act Settlement, their Claims would automatically transfer into this Class.
Class 4 -- FS Unsecured and Deficiency Claims	<i>See Plan Support Settlement and Term Sheet.</i>
Class 5 -- General Unsecured Claims	This Class consists of filed Unsecured Claims and the reclassified, Unsecured Deficiency Claims from Class 1C. Claims falling in this Class include, among others, trade Claims, MMH's Claims as well as the Claims filed by Scharpenack and Deloitte.
Class 6 -- Affiliate Unsecured Claims	<i>See Plan Support Settlement and Term Sheet.</i>
Class 7 -- Subordinated Claims	<i>See Plan Support Settlement and Term Sheet.</i>
Class 8 -- Interests	