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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION**  
[www.flsb.uscourts.gov](http://www.flsb.uscourts.gov)

\_\_\_\_\_  
In re: ) Chapter 11 Cases  
 ) Case No. 08-10928-JKO  
TOUSA, INC., *et al.*, ) Jointly Administered  
 )  
Debtors. )  
\_\_\_\_\_ )

**FIRST AMENDED JOINT PLAN OF TOUSA, INC. AND ITS AFFILIATED DEBTORS  
AND DEBTORS IN POSSESSION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

**APRIL 17, 2009 VERSION OF PROPOSED PLAN**

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Dated: **APRIL 17, 2009**



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**FIRST AMENDED JOINT PLAN OF TOUSA, INC. AND ITS AFFILIATED DEBTORS  
AND DEBTORS IN POSSESSION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

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TOUSA, Inc. and its affiliated debtors and debtors in possession in the above-captioned chapter 11 cases hereby respectfully propose the following first amended joint plan under chapter 11 of the Bankruptcy Code:

**ARTICLE I.**

**RULES OF INTERPRETATION, COMPUTATION OF TIME,  
GOVERNING LAW AND DEFINED TERMS**

*A. Rules of Interpretation, Computation of Time and Governing Law*

1. For purposes of this document: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been filed or to be filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented; (d) unless otherwise specified, all references herein to "Articles" are references to Articles hereof or hereto; (e) unless otherwise stated, the words "herein," "hereof" and "hereto" refer to the Plan in its entirety rather than to a particular portion of the Plan; (f) 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 hereof; (g) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (h) any term used in capitalized form herein that is not otherwise defined, but that is used in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

2. Except to the extent that the Bankruptcy Code or Bankruptcy Rules apply, and subject to the provisions of any contract, lease, instrument, release, indenture or other agreement or document entered into expressly in connection herewith, the rights and obligations arising hereunder shall be governed by, and construed and enforced in accordance with, the laws of the state of New York, without giving effect to the principles of conflict of laws thereof.

*B. Defined Terms*

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. "2007 Federal Tax Refund" means the Debtors' Federal Tax Refund of approximately \$207,000,000.

2. "7.5% Senior Subordinated Notes" means the 7.5% Senior Subordinated Notes issued by TOUSA, Inc. due March 15, 2011 and the 7.5% Senior Subordinated Notes issued by TOUSA, Inc. due March 15, 2015.

3. "8.25% Senior Notes" means the 8.25% Senior Notes issued by TOUSA, Inc. due April 1, 2011.

4. "9.0% Senior Notes" means the 9.0% Senior Notes issued by TOUSA, Inc. due July 1, 2010.

5. "10.375% Senior Subordinated Notes" means the 10.375% Senior Subordinated Notes issued by TOUSA, Inc. due July 1, 2012.

6. “*Accrued Professional Compensation*” means, at any given moment, all accrued, contingent and/or unpaid fees and expenses (including, without limitation, success fees) for legal, financial advisory, accounting and other services and reimbursement of expenses that are awardable and allowable under sections 328, 330(a) or 331 of the Bankruptcy Code and were rendered before the Effective Date by any Retained Professional in the Chapter 11 Cases, or that are awardable and allowable under section 503 of the Bankruptcy Code, that the Bankruptcy Court has not denied by a Final Order, all to the extent that any such fees and expenses have not been previously paid (regardless of whether a fee application has been filed for any such amount). To the extent that the Bankruptcy Court or any higher court denies or reduces by a Final Order any amount of a professional’s fees or expenses, then those reduced or denied amounts shall no longer constitute Accrued Professional Compensation.

7. “*Administrative Claim*” means any Claim for costs and expenses of administration of the Estates under sections 503(b), 507(b) or 1114(e)(2) of the Bankruptcy Code, including, without limitation: (a) the actual and necessary costs and expenses, incurred after the applicable Commencement Date, of preserving the respective Estates and operating the businesses of the Debtors; (b) Allowed Professional Compensation; (c) all U.S. Trustee Fees; (d) Allowed reimbursable expenses of Committee Members; and (e) Allowed claims under section 503(b)(9) of the Bankruptcy Code.

8. “*Administrative Claims Bar Date*” shall have the meaning set forth in Article II.A.2 hereof.

9. “*Affiliate*” means Alliance Insurance and Information Services, LLC; Centex/TOUSA at Wellington, LLC; Cibola Vista Community Development LLC; Community Title Services of Nevada, LLC; CP Red Oak Management, LLC; CP Red Oak Partners, Ltd.; Engle Homes Nevada, LLC; Engle Homes Reinsurance Limited; Engle/Sunbelt Holdings, LLC; Engle/Sunbelt LLC; HM Villas at Tremont, Ltd.; HM Villas GP, LLC; HomePartners Title Services, L.L.C.; Laurel Highland, LLC; LH-EH Layton Lakes Estates, L.L.C.; MFS Title of Florida, Ltd.; Newmark/Bufington Brushy Creek, L.P.; Newmark/Castletop Brushy Creek, L.P.; Newmark/Lennar Central Texas, L.P.; Preferred Home Mortgage Company; R.R. Houston Developers, L.L.C.; R.R. Houston Development, L.P.; R.R. Houston Investment, L.P.; R.R. Houston Investors, L.L.C.; SC Development Enterprises, LLC; Technical Olympic S.A.; Technical Olympic Services, Inc.; The Century Title Agency, Ltd.; TOUSA Nevada, LLC; TOUSA/Kolter Holdings, LLC; TOUSA/Kolter, LLC; TOUSA-Hearthstone Lake Webster, LLC; Universal Land Title Investment #1, L.L.C.; Universal Land Title Investment #2; Universal Land Title Investment #3, L.L.C.; Universal Land Title Investment #4,, L.L.C.; Universal Land Title of Colorado, Inc.; Universal Land Title of Maryland, LLC; Universal Land Title of Nashville, LLC; Universal Land Title of North Texas, LLC; Universal Land Title of South Florida, Ltd.; Universal Land Title of Texas, Inc.; Universal Land Title of the Palm Beaches, Ltd.; Universal Land Title of Virginia, L.L.C.; Universal Land Title, Inc.; and Waterview JV Partners.

10. “*Allowed*” means an Allowed Claim in a particular Class or specified category.

11. “*Allowed Claim*” means any Claim, other than a Disputed Claim, (a) with respect to which proof of such claim was timely and properly filed, or if no proof of claim was timely and properly filed, which is listed by any of the Debtors on their respective Schedules as liquidated in amount and not disputed or contingent, and in either case, (i) as to which no objection motion or adversary proceeding concerning the allowance thereof or request for estimation has been interposed on or before the Effective Date or the expiration of such other applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules or order of the Bankruptcy Court or (ii) to the extent any objection, motion or adversary proceeding concerning the allowance thereof or request for estimation interposed in accordance with clause (i) has been determined by a Final Order in favor of the holder of such Claim; or (b) to the extent allowed by a Final Order or the provisions of the Plan.

12. “*Allowed Professional Compensation*” means all Accrued Professional Compensation allowed or awarded from time to time by an order of the Bankruptcy Court or any other court of competent jurisdiction.

13. “*Ballots*” means the ballots accompanying the Disclosure Statement upon which holders of impaired Claims entitled to vote shall, among other things, indicate their acceptance or rejection of the Plan in accordance with the procedures governing the solicitation process.

14. “*Bankruptcy Code*” means title 11 of the United States Code.

15. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Southern District of Florida, Fort Lauderdale Division, having jurisdiction over the Chapter 11 Cases and, to the extent of any withdrawal of the reference under section 157 of title 28 of the United States Code and the Order of the United States District Court for the Southern District of Florida pursuant to section 157(a) of title 28 of the United States Code.

16. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure promulgated under 28 U.S.C. § 2075 and the general, local and chambers rules of the Bankruptcy Court.

17. “*Beacon Hill Bar Date*” means October 22, 2008.

18. “*Beacon Hill Governmental Bar Date*” means January 26, 2009.

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

20. “*Cash*” means the legal tender of the United States of America or the equivalent thereof, including, without limitation, bank deposits, checks and cash equivalents.

21. “*Cash Collateral*” shall have the meaning set forth in section 363(a) of the Bankruptcy Code and including any and all prepetition and, subject to section 552 of the Bankruptcy Code, postpetition proceeds of the Prepetition Collateral, as defined in the Cash Collateral Order.

22. “*Cash Collateral Order*” means the Stipulated Final Order (I) Authorizing Limited Use of Cash Collateral Pursuant to Sections 105, 361, and 363 of the Bankruptcy Code, And (II) Granting Replacement Liens, Adequate Protection and Super Priority Administrative Expense Priority to Secured Lenders, dated June 20, 2008 [D.E. #1226] and as extended by subsequent orders of the Bankruptcy Court [D.E #s 1226, 2402].

23. “*Causes of Action*” shall mean all actions, causes of action, Claims, liabilities, obligations, rights, suits, debts, damages, judgments, remedies, demands, setoffs, defenses, recoupments, crossclaims, counterclaims, third-party claims, indemnity claims, contribution claims or any other claims disputed or undisputed, suspected or unsuspected, foreseen or unforeseen, direct or indirect/derivative, choate or inchoate, existing or hereafter arising, in law, equity or otherwise, based on whole or in part upon any act or omission or other event.

24. “*Chapter 11 Cases*” means (a) when used with reference to a particular Debtor, the case pending for that Debtor under chapter 11 of the Bankruptcy Code in the Bankruptcy Court and (b) when used with reference to all Debtors, the above-captioned chapter 11 cases pending for the Debtors in the Bankruptcy Court, which are being jointly administered under case number 08-10928-JKO.

25. “*Claims Bar Date*” means, as applicable, (a) May 19, 2008, (b) the Government Bar Date, (c) the Beacon Hill Bar Date, (e) the Beacon Hill Governmental Bar Date or (e) such other period of limitation as may be specifically fixed by an order of the Bankruptcy Court for the filing of certain Claims.

26. “*Claims Objection Deadline*” means, for each Claim, the Confirmation Date, unless otherwise ordered by the Bankruptcy Court.

27. “*Claims Register*” means the official register of Claims maintained by the Voting and Claims Agent.

28. “*Class*” means a category of holders of Claims or Equity Interests, as set forth in Article III hereof, pursuant to section 1122(a) of the Bankruptcy Code.

29. “*Commencement Date*” means the date on which each of the Debtors commenced its Chapter 11 Case.

30. “*Commission*” means the United States Securities and Exchange Commission.

31. “*Committee*” means the statutory committee of unsecured creditors of the Debtors appointed by the U.S. Trustee in the Chapter 11 Cases on February 13, 2008, pursuant to section 1102 of the Bankruptcy Code, as such committee membership may be amended by the U.S. Trustee from time to time.

32. “*Committee Action*” means the adversary proceeding [Adv. Case. No. 08-01435] commenced by the Committee against the First Lien Revolver Lenders, the First Lien Term Lenders, the Second Lien Lenders and certain other parties, as such complaint and the parties thereto may be amended from time to time and any other avoidance or equitable subordination or recovery actions under sections 105, 502(d), 510, 542 through 551, and 553 of the Bankruptcy Code or otherwise relating to challenging the validity of or arising from the First Lien Revolver Claims, the First Lien Term Claims or the Second Lien Claims including Claims and Causes of Action in connection with such adversary proceeding.

33. “*Committee Members*” means the members of the Committee appointed by the Office of the U.S. Trustee or by order of the Bankruptcy Court, as such appointment may be in effect or modified from time to time.

34. “*Confirmation*” means the entry of the Confirmation Order on the docket of the Chapter 11 Cases.

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

36. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court to consider confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be continued from time to time.

37. “*Confirmation Order*” means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code, as such order may be amended from time to time.

38. “*Cure Claim*” means a Claim based upon a monetary default by any Debtor under an Executory Contract or Unexpired Lease at the time such contract or lease is assumed by the Debtors under section 365 of the Bankruptcy Code.

39. “*D&O Liability Insurance Policies*” means all insurance policies for directors and officers’ liability maintained by the Debtors as of the applicable Commencement Date.

40. “*Debtor*” means one of the Debtors, in its individual capacity as a debtor in these Chapter 11 Cases.

41. “*Debtors*” means, collectively: TOUSA, Inc.; Beacon Hill at Mountain’s Edge, LLC; Engle Homes Commercial Construction, LLC; Engle Homes Delaware, Inc.; Engle Homes Residential Construction, L.L.C.; Engle Sierra Verde P4, LLC; Engle Sierra Verde P5, LLC; Engle/Gilligan LLC; Engle/James LLC; LB/TE #1, LLC; Lorton South Condominium, LLC; McKay Landing LLC; Newmark Homes Business Trust; Newmark Homes Purchasing, L.P.; Newmark Homes, L.L.C.; Newmark Homes, L.P.; Preferred Builders Realty, Inc.; Reflection Key, LLC; Silverlake Interests, L.L.C.; TOI, LLC; TOUSA Associates Services Company; TOUSA Delaware, Inc.; TOUSA Funding, LLC; TOUSA Homes Arizona, LLC; TOUSA Homes Colorado, LLC; TOUSA Homes Florida, L.P.; TOUSA Homes Investment #1, Inc.; TOUSA Homes Investment #2, Inc.; TOUSA Homes Investment #2, LLC; TOUSA Homes Mid-Atlantic Holding, LLC; TOUSA Homes Mid-Atlantic, LLC; TOUSA Homes Nevada, LLC; TOUSA Homes, Inc.; TOUSA Homes, L.P.; TOUSA Investment #2, Inc.; TOUSA Mid-Atlantic Investment, LLC; TOUSA Realty, Inc.; TOUSA, LLC; and TOUSA/West Holdings, Inc.

42. “*Debtors in Possession*” means, collectively, the Debtors, as debtors and debtors in possession in these Chapter 11 Cases.

43. “*Disclosure Statement*” means the *Disclosure Statement for First Amended Joint Plan of Reorganization of TOUSA, Inc. and Its Affiliated Debtors and Debtors in Possession Under Chapter 11 of the Bankruptcy Code* dated April 17, 2009, as amended, supplemented or modified from time to time, including all exhibits and schedules thereto and references therein that relate to the Plan, that is prepared and distributed in accordance with the Bankruptcy Code, Bankruptcy Rules and any other applicable law.



44. “*Disputed Claim*” means any Claim that is not yet Allowed or Provisionally Allowed.
45. “*Distribution Agent*” means any Entity or Entities chosen by the Debtors, which Entities may include, without limitation, the Voting and Claims Agent, the Securities Voting Agent and the Indenture Trustees, to make or to facilitate distributions required by the Plan.
46. “*Distribution Date*” means any of the Initial Distribution Date or the Periodic Distribution Dates.
47. “*Distribution Record Date*” means the date for determining which holders of Claims are eligible to receive distributions hereunder, which shall be the Confirmation Date.
48. “*Effective Date*” means the day selected by the Debtors that is no earlier than the first Business Day after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect; and (b) all conditions specified in Article VII hereof have been satisfied or waived.
49. “*Encumbered Assets*” means any of the Debtors’ assets encumbered by the liens securing the First Lien Revolving Credit Agreement, the First Lien Term Credit Agreement and the Second Lien Credit Agreement.
50. “*Equity Interest*” means any share of common stock, preferred stock or other instrument evidencing an ownership interest in any of the Debtors, whether or not transferable, issued and outstanding immediately before the Effective Date, and any option, warrant or right, contractual or otherwise, to acquire any such interest in a Debtor that existed immediately before the Effective Date.
51. “*Estate*” means, as to each Debtor, the estate created for the Debtor in its Chapter 11 Case pursuant to section 541 of the Bankruptcy Code.
52. “*Excluded Claims*” means (a) the Operating Causes of Action and (b) any Causes of Action released in accordance with Article VIII of the Plan.
53. “*Exculpated Parties*” means, collectively: (a) the current and former members of the Committee and the advisors and attorneys for the Committee, in each case, in their capacity as such, (b) the First Lien Agents, and the advisors and professionals to the First Lien Revolver Lenders and First Lien Term Lenders and all other holders of the First Lien Revolver Claims and First Lien Term Loan Claims , in each case in their capacity as agents, professionals and advisors, (c) the Second Lien Agent, and the advisors and professionals to the Second Lien Term Lenders and all other holders of the Second Lien Claims, in each case in their capacity as agent, professionals and advisors and (d) the Debtors’ agents, advisors and professionals employed as of the Petition Date or retained or employed during the Chapter 11 Cases, in each case in their capacity as such, except solely to the extent that any such agent, advisor or professional has executed a tolling agreement with the Debtors preserving the Debtors’ rights to pursue certain causes of action.
54. “*Exculpation*” shall have the meaning set forth in Article VIII.C hereof.
55. “*Executory Contract*” means a contract to which one or more of the Debtors is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.
56. “*Fee Funding Reserve*” means the account which shall be created and funded by the Debtors before the Effective Date and which shall contain, subject to a cap as specified further herein, funding necessary for payment of the fees and expenses incurred by the (a) First Lien Revolver Agent and Lenders, (b) First Lien Term Agent and Lenders and (c) Second Lien Agent and Lenders in connection with their defense of the Committee Action, all consistent with Article V.B.21 hereof.
57. “*Final Order*” means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction with respect to the subject matter, as entered on the docket in any Chapter 11 Case or the docket of any court of competent jurisdiction, 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 and no appeal or petition for certiorari or other proceeding for a new trial, reargument or rehearing has been timely made, or as to which any right to appeal, petition for certiorari, reargue, or rehear shall have been waived in writing in form and substance satisfactory to the Debtors or, on and after the Effective Date, the Plan Administrator, or as to which any appeal that

has been taken or any petition for certiorari that has been 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 otherwise shall have been dismissed with prejudice.

58. “*First Lien Revolver*” means the first lien revolving credit facility provided pursuant to the First Lien Revolving Credit Agreement.

59. “*First Lien Revolver Agent*” means Citicorp North America, Inc., in its capacity as administrative agent, or any successor agent, under the First Lien Revolving Credit Agreement.

60. “*First Lien Revolver Claims*” means all Claims derived from or based upon the First Lien Revolving Credit Agreement, including default interest, the reasonable and documented out-of-pocket fees and expenses of the First Lien Revolver Agent and its advisors and contingent and unliquidated Claims arising under the First Lien Revolving Credit Facility, all to the extent not previously paid by the Debtors.

61. “*First Lien Revolver Lenders*” means those lenders party to the First Lien Revolving Credit Agreement from time to time.

62. “*First Lien Revolving Credit Agreement*” means the Second Amended and Restated Revolving Credit Agreement dated July 31, 2007, among TOUSA, Inc. as borrower, the Subsidiary Debtors (excluding Beacon Hill at Mountain’s Edge, LLC), as Subsidiary Borrowers, Citicorp North America, Inc., as Administrative Agent, and the banks, financial institutions and other lenders party thereto from time to time and the other credit documents referenced therein.

63. “*First Lien Term Agent*” means Citicorp North America, Inc., in its capacity as administrative agent, or any successor agent, under the First Lien Term Credit Agreement.

64. “*First Lien Term Credit Agreement*” means the Credit Agreement dated July 31, 2007, among TOUSA, Inc. as administrative borrower, the Subsidiary Debtors (excluding Beacon Hill at Mountain’s Edge, LLC), as Subsidiary Borrowers, Citicorp North America, Inc., as Administrative Agent, and the banks, financial institutions and other lenders party thereto from time to time and the other credit documents referenced therein.

65. “*First Lien Term Lenders*” means those lenders party to the First Lien Term Credit Agreement from time to time.

66. “*First Lien Term Loan*” means the \$200,000,000 first lien term loan provided pursuant to the First Lien Term Credit Agreement.

67. “*First Lien Term Loan Claims*” means any Claim derived from or based upon the First Lien Term Credit Agreement including default interest and the reasonable and documented out-of-pocket fees and expenses of the First Lien Agent and its advisors and contingent and unliquidated Claims arising under the First Lien Term Credit Agreement, all to the extent not previously paid by the Debtors.

68. “*General Unsecured Claim*” means any unsecured Claim against any Debtor, including any Intercompany Claim or deficiency claim of any secured creditor (including the First Lien Revolver Lenders, the First Lien Term Lenders and the Second Lien Lenders to the extent the Committee is successful in the prosecution of the Litigation Trust Causes of Action and any claim of any such secured creditor that is Allowed or Provisionally Allowed, but rendered unsecured as a result of the Litigation Trust Causes of Action), that is not a Priority Tax Claim, Administrative Claim, Accrued Professional Compensation Claim, Senior Note Claim, Subordinated Note Claim, PIK Note Claim or Other Priority Claim.

69. “*Government Bar Date*” means July 28, 2008.

70. “*Indenture Trustees*” mean, collectively, the Indenture Trustees for each of the series of Senior Notes, Subordinated Notes and PIK Notes.

71. “*Initial Administrative Claims Bar Date*” means \_\_\_\_\_, 2009, the date specifically fixed by order of the Bankruptcy Court for the filing of Administrative Claims arising before April 30, 2009.

72. “*Initial Distribution Date*” means the date occurring as soon as reasonably practicable after the Effective Date when distributions under the Plan shall commence.

73. “*Initial Trust Termination Date*” means a date that is the fifth anniversary of the Effective Date.

74. “*Intercompany Claim*” means [any Claim of a Debtor against another Debtor].

75. “*Intercreditor Agreement*” means the intercreditor agreement among the First Lien Revolver Agent, the First Lien Term Agent and the Second Lien Agent, dated as of July 31, 2007.

76. “*July Recapitalization*” means the Debtors’ recapitalization transactions as effectuated on July 31, 2007.

77. “*Lien*” has the meaning set forth in section 101(37) of the Bankruptcy Code; *provided, however*, that any lien avoided in accordance with sections 544, 545, 547, 548 or 549 of the Bankruptcy Code shall not constitute a Lien.

78. “*Litigation Trust*” means the trust to be created on the Effective Date for the pursuit of the Litigation Trust Causes of Action in accordance with the provisions of the Litigation Trust Agreement.

79. “*Litigation Trust Agreement*” means the trust agreement to be filed as part of the Plan Supplement, which will, among other things: (a) establish and govern the Litigation Trust; (b) set forth the respective powers, duties and responsibilities of the Litigation Trustee and the Litigation Trust Committee; and (c) provide for distribution of Litigation Trust Recovery Proceeds, if any, to the Litigation Trust Beneficiaries.

80. “*Litigation Trust Assets*” means the (a) Litigation Trust Causes of Action, (b) Litigation Trust Loan and (c) Net Proceeds derived from the monetization of the unencumbered assets of the Debtors, if any.

81. “*Litigation Trust Beneficiaries*” means the holders of Allowed or Provisionally Allowed Class 5A, 5B, 5C and 5D Claims against the Debtors.

82. “*Litigation Trust Causes of Action*” means Claims or Causes of Action raised by or on behalf of any of the Debtors, including (i) the Committee Action; (ii) the TOI Causes of Action except to the extent such causes of action are encumbered by the First Lien Revolving Loan, the First Lien Term Loan and the Second Lien Term Loan; and (iii) any claims or Causes of Action against (x) the Transeastern Lenders or (y) related to the July Recapitalization, except those Claims or Causes of Action released pursuant to the provisions of the Plan or that would be covered by insurance if not transferred to the Litigation Trust. For the avoidance of doubt, the Litigation Trust Causes of Action shall not include the Excluded Claims.

83. “*Litigation Trust Committee*” means the committee to be appointed in accordance with, and to exercise the duties set forth in, the Litigation Trust Agreement, which duties shall be in the nature of and/or include advising with respect to the actions of the Litigation Trustee and administration of the Litigation Trust, removal of the Litigation Trustee and determining whether an Entity is a permissible defendant. The Litigation Trust Committee shall consist of three members, to be appointed by the Committee and to be identified in the Plan Supplement; *provided, however*, that if the Committee does not provide the Debtors with the names of the Litigation Trust Committee members five days before the date for filing the Plan Supplement, the Debtors shall appoint the members of the Litigation Trust Committee.

84. “*Litigation Trust Distributions*” means distributions of Litigation Trust Recovery Proceeds pursuant to the Litigation Trust Agreement as may be authorized from time to time by the Litigation Trust Committee.

85. “*Litigation Trustee*” means the Person to be designated by the Committee, identified in the Plan Supplement and retained as of the Effective Date, as the employee or fiduciary responsible for implementing the applicable provisions of the Plan relating to the Litigation Trust in accordance with the Litigation Trust Agreement;

*provided, however*, that if the Committee does not provide the Debtors with the name of the Litigation Trustee five days before the date for filing the Plan Supplement, the Debtors shall appoint the Litigation Trustee.

86. “*Litigation Trust Interests*” means the beneficial interests in the Litigation Trust that shall entitle the holder thereof to receive, on a Pro Rata basis, its Litigation Trust Recovery Proceeds, which interests shall be issued in 38 series corresponding to the 38 Debtors, including TOUSA, Inc. For each of the series of the Litigation Trust Interests, there will be the following subseries: (a) Senior Note Claims -- subseries A; (b) General Unsecured Claims -- subseries B; (c) Subordinated Note Claims -- subseries C; and (d) PIK Note Claims -- subseries D.

87. “*Litigation Trust Loan*” means a Cash loan to the Litigation Trust in an amount of \$7 million to be funded by the Debtors on the Effective Date on the terms specified in the Litigation Trust Agreement and to be repaid to the Post-Effective Date Debtors, and paid into the Proceeds Account, with first priority out of any Litigation Trust Recovery Proceeds.

88. “*Litigation Trust Recovery Proceeds*” means the proceeds of the Litigation Trust Assets as recovered by the Litigation Trust, net of direct expenses of the recovery thereof (*e.g.*, the fees, expenses and costs of the subject litigation and collection, including repayment of the Litigation Trust Loan and all expenses paid in connection with the Litigation Trust Causes of Action before the Confirmation Date). Specifically, the Litigation Trust Recovery Proceeds include the proceeds of any recovery on account of the Litigation Trust Causes of Action, including if so determined by the Bankruptcy Court, the transfer to the Litigation Trust of all or a portion of the Net Proceeds.

89. “*Net Proceeds*” means the proceeds derived from the sale of the Debtors’ assets less any costs related to such sale, whether those costs are subtracted from the proceeds at the time of or after the closing of such sale.

90. “*Objection to Bank Claims*” means those objections to the allowance, priority and/or validity of the Claims arising under or related to First Lien Revolving Credit Agreement, First Lien Term Credit Agreement or Second Lien Credit Agreement filed on or before the Effective Date, including, without limitation, the Amended and Restated Objection to Claims of Debtors’ Pre-Petition Lenders filed by Aurelius Capital Master, Ltd., Aurelius Capital Partners, LP, GSO Special Situations Fund, L.P., GSO Special Situations Overseas Master Fund, Ltd., GSO Credit Opportunities Fund (Helios), L.P., and Carlyle Strategic Partners (collectively, the “Noteholders”), dated July 24, 2008 and the Objection to Claims of Debtors’ Pre-Petition Lenders filed by the Noteholders, dated January 30, 2008.

91. “*Operating Causes of Action*” means (a) all Causes of Action arising from or related to the Debtors’ operations in the ordinary course of business with respect to optioning, buying or selling land, developing homes, entering into, maintaining and terminating employment relationships, procuring goods and services with respect to the Debtors’ homebuilding activities, procuring and maintaining surety bonds and insurance with respect to customer claims, leasing office space and model homes, entering into and acting as a member of and terminating joint ventures (all such activities, including entering into contracts related to any of the foregoing, the Operating Activities”) and (b) all Causes of Action arising under chapter 5 of the Bankruptcy Code and arising from or related to the Operating Activities. For the avoidance of doubt, the Operating Causes of Action shall exclude the Committee Action.

92. “*Ordinary Course Professionals Order*” means the *Order Authorizing the Debtors’ Retention and Compensation of Certain Professionals Utilized in the Ordinary Course of Business*, entered by the Bankruptcy Court on February 4, 2008 [D.E. #148], as amended from time to time.

93. “*Other Priority Claim*” means any Claim accorded priority in right of payment under section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim.

94. “*Other Secured Claim*” means any secured Claim, other than a First Lien Revolver Claim, First Lien Term Loan Claim or Second Lien Claim.

95. “*Oversight Committee*” means the committee established to oversee certain actions of the Plan Administrator as described in Article V.B.10 hereof. The Oversight Committee shall consist of three members, with

the (i) the First Lien Agent, (ii) the Second Lien Agent and (iii) the Committee each appointing one representative to serve as a member of the Oversight Committee, which members shall be identified in the Plan Supplement.

96. “*Oversight Procedures*” means the procedures, attached hereto as Exhibit A by which the Oversight Committee may review and object to certain of the Plan Administrator’s actions, as set forth in Article V.B.10 hereof.

97. “*Periodic Distribution Date*” means, unless otherwise ordered by the Bankruptcy Court, the first Business Day that is 120 days after the Distribution Date, and for the first year thereafter, the first Business Day that is 120 days after the immediately preceding Periodic Distribution Date. After one year following the Distribution Date, the Periodic Distribution Date will occur on the first Business Day that is 180 days after the immediately preceding Periodic Distribution Date.

98. “*PIK Election Notes*” means the 14.75% Senior Subordinated PIK Election Notes, issued by TOUSA, Inc., due July 1, 2015.

99. “*PIK Note Claim*” means any Claim other than a Claim subordinated pursuant to section 510(b) of the Bankruptcy Code derived from or based upon the PIK Election Notes.

100. “*PIK Notes Indenture*” means the indenture for the PIK Election Notes.

101. “*Plan*” means this *First Amended Joint Plan of TOUSA, Inc. and Its Affiliated Debtors and Debtors In Possession Under Chapter 11 of the Bankruptcy Code* dated April 17, 2009, as it may be amended, supplemented or modified from time to time, including, without limitation, by the Plan Supplement, which is incorporated herein by reference.

102. “*Plan Administrator*” means the Person to be designated by the Debtors, identified in the Plan Supplement and retained as of the Effective Date, as the employee or fiduciary responsible for implementing the applicable provisions of the Plan.

103. “*Plan Agreement Parties*” shall have the meaning set forth in Article VIII.B.2 hereof.

104. “*Plan Documents*” means the documents contained in the Plan Supplement.

105. “*Plan Releasees*” shall have the meaning set forth in Article VIII.B.1 hereof.

106. “*Plan Supplement*” means the compilation of documents and forms of documents, schedules and exhibits to be filed no later than ten Business Days before the Voting Deadline, as such compilation may be amended, supplemented or modified from time to time in accordance with the terms hereof and the Bankruptcy Code and the Bankruptcy Rules. The Plan Supplement shall include, without limitation, the following documents: (a) new organizational documents for the Post-Effective Date Debtors; (b) the list of Executory Contracts and Unexpired Leases to be assumed and the proposed Cure Amount; (c) the document governing the role and relationship between the Post-Effective Date Debtors and the Plan Administrator; (d) the Litigation Trust Agreement; (e) the agreement or agreements establishing the Proceeds Account; and (f) the designation of the (i) Litigation Trustee, (ii) Litigation Trust Committee, (iii) the Plan Administrator and (iv) the Oversight Committee. The Debtors will file the Plan Supplement, but shall not be required to serve the Plan Supplement, except that any exhibit relating to Cure Claims or another equivalent document detailing Cure Claim information will be served (at least in relevant part) on the non-Debtor counterparties to contracts or leases to be assumed and the Debtors will serve the Plan Supplement on the U.S. Trustee and counsel to the Committee, the First Lien Revolver Agent, the First Lien Term Agent, the Second Lien Agent.

107. “*Post-Effective Date Debtors*” means the Debtors or any successor thereto, by merger, consolidation or otherwise, on or after the Effective Date.

108. “*Prepetition Collateral*” means all “Collateral,” as that term is defined in the First Lien Revolving Credit Agreement, the First Lien Term Loan Credit Agreement and Second Lien Credit Agreement, that existed as of the Commencement Date and all prepetition and, subject to section 552 of the Bankruptcy Code, postpetition proceeds, products, offspring, rents and profits thereof.

109. “*Priority Tax Claim*” means any Claim of a governmental unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

110. “*Proceeds Account*” means the escrow or escrows which shall be created to hold, pending the resolution of the Committee Action, the Net Proceeds of the monetization of the Debtors’ assets above a Cash threshold of \$20 million.

111. “*Proof of Claim*” means a proof of claim filed against any of the Debtors in the Chapter 11 Cases.

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

113. “*Provisionally Allowed*” means, with respect to the First Lien Revolver Claims, the First Lien Term Loan Claims and the Second Lien Claims, Allowed solely for the purposes of escrowing distributions under, and voting on, the Plan subject, at all times, to the provisions of this Plan, including Article V.D and Article VIII.F.

114. “*Retained Professional*” means any Entity: (a) employed in these Chapter 11 Cases pursuant to a Final Order in accordance with sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered before the Effective Date, pursuant to sections 327, 328, 329, 330 or 331 of the Bankruptcy Code; or (b) for which compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code, but not including those Entities whose compensation or reimbursement is allowed pursuant to Article II.A.3 hereof.

115. “*Retained Professionals Fee Account*” shall have the meaning set forth in Article V.B.21.

116. “*Schedules*” mean, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases and statements of financial affairs filed by the Debtors pursuant to section 521 of the Bankruptcy Code and in substantial accordance with the Official Bankruptcy Forms, as such schedules may have been amended, modified or supplemented from time to time.

117. “*Secondary Liability Claim*” means any Claim that arises from a Debtor being liable as a guarantor of, or otherwise being jointly, severally or secondarily liable for, any contractual, tort or other obligation of another Debtor, including, without limitation, any Claim based on: (a) guaranties of collection, payment or performance; (b) indemnity bonds, obligations to indemnify or obligations to hold harmless; (c) performance bonds; (d) contingent liabilities arising out of contractual obligations or out of undertakings (including any assignment or other transfer) with respect to leases, operating agreements or other similar obligations made or given by a Debtor relating to the obligations or performance of another Debtor; (e) vicarious liability; (f) liabilities arising out of piercing the corporate veil, alter ego liability or similar legal theories; or (g) any other joint or several liability that any Debtor may have in respect of any obligation of another Debtor that is the basis of a Claim.

118. “*Second Lien Agent*” means Wells Fargo Bank, N.A., as successor to Citicorp North America, Inc., in its capacity as administrative agent under the Second Lien Credit Agreement, and any of its successors or assigns.

119. “*Second Lien Claims*” means all Claims derived from or based upon the Second Lien Credit Agreement, including default interest and the reasonable and documented out-of-pocket fees and expenses of the Second Lien Agent and the Second Lien Restricted Lenders and their respective advisors and contingent and unliquidated Claims arising under the Second Lien Credit Agreement, all to the extent not previously paid by the Debtors.

120. “*Second Lien Credit Agreement*” means the Second Lien Term Loan Credit Agreement dated July 31, 2007, among TOUSA, Inc., as borrower, the Subsidiary Debtors (excluding Beacon Hill at Mountain’s Edge, LLC), as Subsidiary Borrowers, Citicorp North America, Inc. as Administrative Agent, and the banks,

financial institutions and other lenders party thereto from time to time and the other credit documents referenced therein.

121. “*Second Lien Lenders*” means those lenders party to the Second Lien Credit Agreement from time to time.

122. “*Second Lien Restricted Lenders*” means those holders of a majority in principal amount of the Second Lien Claims who have agreed to receive confidential information from the Debtors pursuant to the confidentiality provisions of the Second Lien Credit Agreement.

123. “*Second Lien Term Loan*” means the \$300,000,000 second lien term loan plus accrued payment-in-kind interest provided under the Second Lien Credit Agreement.

124. “*Securities Voting Agent*” means, Financial Balloting Group, the agent for the Debtors retained to facilitate voting of claims based on publicly-traded securities.

125. “*Senior Debt*” shall have the meaning given to such term under the Subordinated Notes Indentures and the PIK Note Indenture, as the case may be.

126. “*Senior Note Claim*” means any Claim other than a Claim subordinated pursuant to section 510(b) of the Bankruptcy Code derived from or based upon the Senior Notes.

127. “*Senior Note Indentures*” means, collectively, the indentures for each of the series of Senior Notes.

128. “*Senior Notes*” means the 9.0% Senior Notes and the 8.25% Senior Notes.

129. “*Subordinated Note Claim*” means any Claim other than a Claim subordinated pursuant to section 510(b) of the Bankruptcy Code derived from or based upon the Subordinated Notes.

130. “*Subordinated Notes*” means the 7.5% Senior Subordinated Notes and the 10.375% Senior Subordinated Notes.

131. “*Subordinated Note Indentures*” means, collectively, the indentures for each of the series of Subordinated Notes.

132. “*Subsidiary Debtors*” means each of the Debtors excluding TOUSA, Inc.

133. “*TOI Causes of Action*” means any Cause of Action that is owned in part or in whole by TOUSA, Inc., except the Operating Causes of Action.

134. “*Tort Claim*” means any Claim that has not been settled, compromised or otherwise resolved that: (a) arises out of allegations of personal injury, wrongful death, property damage, products liability or similar legal theories of recovery; or (b) arises under any federal, state or local statute, rule, regulation or ordinance governing, regulating or relating to protection of human health, safety or the environment.

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

136. “*U.S. Trustee*” means the United States Trustee for the Southern District of Florida.

137. “*U.S. Trustee Fees*” means the fees due to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6).

138. “*Voting and Claims Agent*” means Kurtzman Carson Consultants LLC, in its capacity as notice, claims and balloting agent for the Debtors pursuant to the *Order Authorizing the Employment and Retention of Kurtzman Carson Consultants LLC as Notice, Claims and Balloting Agent for the Debtors and Debtors in Possession*, which was entered by the Bankruptcy Court on January 31, 2008 [D.E. #102].

139. “*Voting Classes*” means, collectively, Classes 1A, 1B, 2, 3, 5A, 5B, 5C, 5D and 5E for each of the Debtors.

140. “*Voting Deadline*” means June 17, 2009, which is the date by which all Ballots must be received by the Voting and Claims Agent in accordance with the Disclosure Statement Order.

141. “*Voting Record Date*” means May 14, 2009 the date established as the voting record date in the Disclosure Statement Order.

## ARTICLE II.

### ADMINISTRATIVE CLAIMS AND PRIORITY TAX CLAIMS

#### A. *Administrative Claims*

##### 1. Payment of Administrative Claims

Except to the extent that any entity entitled to a payment of any Allowed Administrative Claim otherwise agrees, each holder of an Allowed Administrative Claim shall be paid the full unpaid amount of such Claim in Cash (a) on the Distribution Date; (b) if such Claim is Allowed after the Distribution Date, on or as soon as reasonably practicable after the date such Claim is Allowed; or (c) upon such other terms as may be agreed upon by such holder and the Debtors, the Post-Effective Date Debtors, the Plan Administrator or otherwise determined by order of the Bankruptcy Court.

##### 2. Bar Date for Administrative Claims

###### (a) Bar Date for Administrative Claims

Except as otherwise provided in this Article II.A, unless previously filed pursuant to the Initial Administrative Claims Bar Date, requests for payment of Administrative Claims must be filed and served on the Plan Administrator pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order no later than 60 days after the Effective Date (the “Final Administrative Claims Bar Date”). Holders of Administrative Claims that are required to, but do not, file and serve a request for payment of such Administrative Claims by the applicable Administrative Claims Bar Date shall be forever barred, estopped and enjoined from asserting such Administrative Claims against the Debtors or their property and such Administrative Claims shall be deemed discharged as of the Effective Date. Objections to such requests, if any, must be filed and served on the Plan Administrator and the requesting party no later than 20 days after the Effective Date.

##### 3. Professional Compensation

Retained Professionals or other Entities asserting a claim for Accrued Professional Compensation must file and serve on the Plan Administrator, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court an application for final allowance of such claim no later than 45 days after the Effective Date; *provided* that the Plan Administrator shall pay Retained Professionals or other Entities in the ordinary course of business for any work performed after the Effective Date; and *provided, further*, that any professional who may receive compensation or reimbursement of expenses pursuant to the Ordinary Course Professionals Order may continue to receive such compensation and reimbursement of expenses for services rendered before the Effective Date, without further Bankruptcy Court order, pursuant to the Ordinary Course Professionals Order, unless otherwise ordered by the Bankruptcy Court. Objections to any claim for Accrued Professional Compensation must be filed and served on the Plan Administrator and the requesting party no later than 75 days after the Effective Date. To the extent necessary, the Confirmation Order shall amend and supersede any previously entered order of the Bankruptcy Court regarding the payment claims for Accrued Professional Compensation. Each holder of a Claim for Allowed Professional Compensation shall be paid by the Plan Administrator in Cash from the Retained Professionals Fee Account or from the Proceeds Account.



*B. Priority Tax Claims*

Each holder of an Allowed Priority Tax Claim shall receive, on the Distribution Date or such later date as such Allowed Priority Tax Claim becomes due and payable, at the option of the Plan Administrator, one of the following treatments on account of such Claim: (1) Cash in an amount equal to the amount of such Allowed Priority Tax Claim; (2) Cash in an aggregate amount of such Allowed Priority Claim payable in installment payments over a period of not more than five years after the applicable Commencement Date, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code; or (3) such other treatment as may be agreed to by such holder and the Debtors or the Plan Administrator or otherwise determined upon an order of the Bankruptcy Court.

*C. Statutory Fees*

On the Distribution Date, the Plan Administrator shall pay, in full in Cash, any U.S. Trustee Fees due at the time of Confirmation. On and after the Confirmation Date, the Plan Administrator shall pay the applicable U.S. Trustee Fees until the entry of a final decree in each such Debtor's Chapter 11 Case or until such Chapter 11 Case is converted or dismissed; *provided, however*, that in the event sufficient funds are not available at any Debtor Estate at the conclusion of its Chapter 11 Case to pay U.S. Trustee Fees that are due and owing, any such fees shall be funded from the Cash held in the Proceeds Account.

*D. Cure Claims*

Requests for payment of Cure Claims must be filed and served, and will be treated, in accordance with the provisions of Article VI.C.1 hereof.

**ARTICLE III.**

**CLASSIFICATION OF CLAIMS AND INTERESTS IN THE DEBTORS**

*A. Classification of Claims and Interests.*

Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of Classes of Claims against and Interests in each of the Debtors. A Claim or Interest is placed in a particular Class for the purposes of voting on the Plan and receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim, Provisionally Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been paid, released, withdrawn, or otherwise settled before the Effective Date. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, Priority Tax Claims and statutory fees payable pursuant to section 1930 of title 28 of the United States Code have not been classified.

*B. Summary*

A summary of the classification and treatment of Claims and Equity Interests for each of the 39 Debtors is attached hereto as Exhibit B.

C. *Classes with Respect to all Debtors*

This Plan includes separate plans of reorganization for each of the Debtors. Each such separate plan shall have an identical set of classifications for Claims against and Interests in the applicable Debtor, and the plan treatment of similarly classified claims shall be the same for each of the Debtors, all as specified below.

1. Class – 1—First Lien Claims

(a) Class 1A —First Lien Revolver Claims

- (i) *Classification:* Class 1A for each of the Debtors consists of First Lien Revolver Claims against such Debtor.
- (ii) *Allowance:* The First Lien Revolver Claims shall be Provisionally Allowed in the amount of \$[214,091,452.48],<sup>1</sup> plus (x) unpaid reasonable and documented out-of-pocket fees and expenses of the First Lien Revolver Agent through and including the Effective Date and (y) contingent and unliquidated Claims arising under the First Lien Revolving Credit Facility.
- (iii) *Treatment:* Holders of Provisionally Allowed Claims in Class 1A for each of the Debtors shall receive, in full and final satisfaction of their Claims, (x) a Pro Rata share (determined with reference to all Allowed Class 1 Claims against the applicable Debtor) of all encumbered Net Proceeds available for distribution by the Plan Administrator upon liquidation of all encumbered assets of such Debtor, if any, which Net Proceeds (i) will be held in the Proceeds Account pending a determination by the Bankruptcy Court resolving the Committee Action and any objection to Class 1A Claims asserted by a Debtor on account of the First Lien Revolver Claims against each Debtor and (ii) will be released from escrow following such determination and distributed in accordance with Article V.D hereof; and

(y) on or as soon as reasonably practicable after the Effective Date, an amount equal to \$[1] million will be placed into a reserve account (the “Revolver Fee Reserve”) as provided in Article V.B.21 hereof for reimbursement of reasonable and documented actual out-of-pocket fees and expenses for the defense of the Committee Action, as provided for in the First Lien Revolving Credit Agreement. The funds held in the Revolver Fee Reserve shall be distributed as follows: (1) if the holders of Provisionally Allowed Claims in Class 1A vote to accept the Plan, such holders are permitted to access the amount held in the Revolver Fee Reserve before determination by the Bankruptcy Court resolving the Committee Action and any objection to Class 1A Claims asserted by a Debtor on account of the First Lien Revolver Claims against each Debtor and (2) if the holders of Provisionally Allowed Claims in Class 1A vote to reject the Plan, the amount held in the Revolver Fee Reserve will be held in such reserve pending a determination by the Bankruptcy Court resolving the Committee Action and any objection to Class 1A Claims asserted by a Debtor on account of the First Lien Revolver Claims against each Debtor.

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<sup>1</sup> This number is based on a calculation as of March 31, 2009 and is subject to change based on outstanding amounts as of the actual date of the Debtors’ emergence from chapter 11.

(iv) *Voting:* Class 1A for each of the Debtors is impaired, and holders of Class 1A Claims for each of the Debtors are entitled to vote to accept or reject the Plan.

(b) Class 1B —First Lien Term Loan Claims

(i) *Classification:* Class 1B for each of the Debtors shall consist of the First Lien Term Loan Claims against such Debtor.

(ii) *Allowance:* The First Lien Term Loan Claims shall be Provisionally Allowed in the amount of \$[135,977,236.61],<sup>2</sup> plus (x) unpaid reasonable and documented out-of-pocket fees and expenses of the First Lien Term Agent through and including the Effective Date, and (y) contingent and unliquidated Claims arising under the First Lien Term Credit Agreement.

(iii) *Treatment:* Holders of Allowed Claims in Class 1B for each of the Debtors shall receive, in full and final satisfaction of their Claims, (x) a Pro Rata share (determined with reference to all Allowed Class 1 Claims against the applicable Debtor) of all encumbered Net Proceeds available for distribution by the Plan Administrator upon liquidation of all encumbered assets of such Debtor, if any, which Net Proceeds (i) will be held in the Proceeds Account pending a determination by the Bankruptcy Court resolving the Committee Action and any objection to Class 1B Claims asserted by a Debtor on account of the First Lien Term Loan Claims against each Debtor and (ii) will be released from escrow following such determination and distributed in accordance with Article V.D hereof; and

(y) on or as soon as reasonably practicable after the Effective Date, an amount equal to \$[3] million will be placed into a reserve account (the “Term Fee Reserve”) as provided in Article V.B.21 hereof for reimbursement of reasonable and documented out-of-pocket fees and expenses for the defense of the Committee Action, as provided for in the First Lien Term Credit Agreement. The funds held in the Term Fee Reserve shall be distributed as follows: (1) if the holders of Provisionally Allowed Claims in Class 1B vote to accept the Plan, such holders are permitted to access the amount held in the Term Fee Reserve before determination by the Bankruptcy Court resolving the Committee Action and any objection to Class 1B Claims asserted by a Debtor on account of the First Lien Term Loan Claims against each Debtor and (2) if the holders of Provisionally Allowed Claims in Class 1B vote to reject the Plan, the amount held in the Term Fee Reserve will be held in such reserve pending a determination by the Bankruptcy Court resolving the Committee Action and any objection to Class 1B Claims asserted by a Debtor on account of the First Lien Term Loan Claims against each Debtor.

(iv) *Voting:* Class 1B for each of the Debtors is impaired, and holders of Class 1B Claims are entitled to vote to accept or reject the Plan.

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<sup>2</sup> This number is based on a calculation as of March 31, 2009 and is subject to change based on outstanding amounts as of the actual date of the Debtors’ emergence from chapter 11.

2. Class – 2—Second Lien Claims

- (a) *Classification:* Class 2 for each of the Debtors shall consist of Second Lien Claims against such Debtor.
- (b) *Allowance:* The Second Lien Claims shall be Provisionally Allowed in the amount of \$[367,415,973.43],<sup>3</sup> plus (i) unpaid reasonable and documented out-of-pocket fees and expenses of the Second Lien Agent and the Second Lien Restricted Lenders through and including the Effective Date and (ii) contingent and unliquidated Claims arising under the Second Lien Credit Agreement.
- (c) *Treatment:* Holders of Provisionally Allowed Claims in Class 2 for each of the Debtors shall receive, in full and final satisfaction of their Claims, (i) a Pro Rata share (determined with reference to all Allowed Class 2 Claims against the applicable Debtor) of all encumbered Net Proceeds available for distribution by the Plan Administrator upon liquidation of all encumbered assets of such Debtor, if any, which Net Proceeds (i) will be held in the Proceeds Account pending a determination by [Final Order of] the Bankruptcy Court resolving the Committee Action and any objection to Class 2 Claims asserted by a Debtor on account of the Second Lien Claims against each Debtor and (ii) will be released from escrow following such determination and distributed in accordance with Article V.D hereof;
- (ii) a on or as soon as reasonably practicable after the Effective Date, an amount equal to up to \$[4] million will be placed into a reserve account (the “Second Lien Fee Reserve”) as provided in Article V.B.21 hereof for reimbursement of reasonable and documented out-of-pocket fees and expenses for the defense of the Committee Action, as provided for in the Second Lien Credit Agreement. The funds held in the Second Lien Fee Reserve shall be distributed as follows: (1) if the holders of Provisionally Allowed Claims in Class 2 vote to accept the Plan, such holders are permitted to access the amount held in the Second Lien Fee Reserve before determination by the Bankruptcy Court resolving the Committee Action and any objection to Class 2 Claims asserted by a Debtor on account of the Second Lien Claims against each Debtor and (2) if the holders of Provisionally Allowed Claims in Class 2 vote to reject the Plan, the amount held in the Second Lien Fee Reserve will be held in such reserve pending a determination by the Bankruptcy Court resolving the Committee Action and any objection to Class 2 Claims asserted by a Debtor on account of the Second Lien Claims against each Debtor; and
- (iii) Any distribution in satisfaction of the Second Lien Claims is subject to section 5.5 of the Intercreditor Agreement.
- (d) *Voting:* Class 2 for each of the Debtors is impaired, and holders of Claims in Class 2 for each of the Debtors are entitled to vote to accept or reject the Plan.

3. Class – 3—Other Secured Claims

- (a) *Classification:* Class 3 for each of the Debtors shall consist of the Other Secured Claims against such Debtor.
- (b) *Treatment:* On or as soon as reasonably practicable after the Initial Distribution Date, holders of Allowed Claims in Class 3 for each of the Debtors, in full and final satisfaction of such Allowed Other Secured Claims secured by valid Liens on the Debtor’s property

<sup>3</sup> This number is based on a calculation as of March 31, 2009 and is subject to change based on outstanding amounts as of the actual date of the Debtors’ emergence from chapter 11.

shall receive, to the extent not previously paid pursuant to an order of the Bankruptcy Court authorizing payment of Lien Claims during the Chapter 11 Cases, one of the following treatments on account of such Claim, determined at the option of the Plan Administrator: (i) payment, on the later of the Distribution Date or as soon as practicable after a particular Claim becomes Allowed, of the Allowed Claims in Class 3 for each of the Debtors in full in Cash, (ii) deliver the collateral securing such Allowed Other Secured Claim to the secured creditor or (iii) such other treatment as may be agreed to by the Plan Administrator and such holder.

- (c) *Voting:* Class 3 for each of the Debtors is impaired, and holders of Claims in Class 3 for each of the Debtors are entitled to vote to accept or reject the Plan.

4. Class – 4—Other Priority Claims

- (a) *Classification:* Class 4 for each of the Debtors shall consist of the Other Priority Claims against such Debtor.
- (b) *Treatment:* The legal, equitable and contractual rights of the holders of Allowed Claims in Class 4 for each of the Debtors are unaltered. Each holder of an Allowed Claim in Class 4 for each of the Debtors shall receive on or as soon as reasonably practicable after the Initial Distribution Date, in full and final satisfaction of their Claims, one of the following treatments on account of the Claim, determined at the option of the Plan Administrator: (i) payment of the Allowed Claim in full in Cash on the later of the Distribution Date or as soon as practicable after such claim becomes Allowed or (ii) such other treatment as may be agreed to by the Plan Administrator and the holder of the Claim.
- (c) *Voting:* Class 4 for each of the Debtors is an unimpaired class, and the holders of Claims in Class 4 for each of the Debtors are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code, and the holders of Claims in Class 4 for each of the Debtors are not entitled to vote to accept or reject the Plan.

5. Class – 5—Unsecured Claims

(a) Class – 5A— Senior Note Claims

- (i) *Classification:* Class 5A for each of the Debtors shall consist of the Senior Note Claims against such Debtor. For the avoidance of doubt, to the extent there is no holder of a Class 5A Claim against a Debtor, there shall be no Class 5A for such Debtor.
- (ii) *Allowance:* The Senior Note Claims shall be an Allowed Claim in the amount of \$573,518,195.00 plus interest and reasonable and documented out-of-pocket fees and expenses, if any, of the applicable Indenture Trustees. This Allowed Claim will be asserted against every Debtor, excluding Beacon Hill at Mountain's Edge, LLC.
- (iii) *Treatment:* Each holder of an Allowed Claim in Class 5A for each of the Debtors shall receive, in full and final satisfaction of such Claim, on the Effective Date, its Pro Rata Share (calculated with reference to all Allowed Class 5A Claims against the applicable Debtor) of subseries A of the series of Litigation Trust Interests for the applicable Debtor.
- (iv) *Voting:* Class 5A for each of the Debtors is impaired, and holders of Claims in Class 5A for each of the Debtors are entitled to vote to accept or reject the Plan.

(b) Class – 5B— General Unsecured Claims

- (i) *Classification:* Class 5B for each of the Debtors shall consist of General Unsecured Claims against such Debtor.
- (ii) *Treatment:* Each holder of an Allowed Claim in Class 5B for each of the Debtors shall receive, in full and final satisfaction of such Claim, on the Effective Date, its Pro Rata Share (calculated with reference to all Allowed Class 5B Claims against the applicable Debtor) of subseries B of the series of Litigation Trust Interests for the applicable Debtor.
- (iii) *Voting:* Class 5B for each of the Debtors is impaired, and holders of Claims in Class 5B for each of the Debtors are entitled to vote to accept or reject the Plan.

(c) Class – 5C —Subordinated Note Claims

- (i) *Classification:* Class 5C for each of the Debtors shall consist of the Subordinated Note Claims against such Debtor. For the avoidance of doubt, to the extent there is no holder of a Class 5C Claim against a Debtor, there shall be no Class 5C for such Debtor.
- (ii) *Allowance:* The Subordinated Note Claims shall be an Allowed Claim in the amount of \$554,371,093.00 plus interest and reasonable and documented out-of-pocket fees and expenses, if any, of the applicable Indenture Trustees. This Allowed Claim will be asserted against every Debtor, excluding Beacon Hill at Mountain’s Edge, LLC.
- (iii) *Treatment:* Each holder of an Allowed Claim in Class 5C for each of the Debtors shall receive, in full and final satisfaction of such Claim, on the Effective Date, its Pro Rata Share (calculated with reference to all Allowed Class 5C Claims against the applicable Debtor) of subseries C of the series of Litigation Trust Interests for the applicable Debtor, all *provided* that any distribution in satisfaction of the Subordinated Note Claims is subject to the subordination provisions of Articles 11 and 12 of the Subordinated Notes Indentures and it is anticipated that the Indenture Trustees will handle distributions accordingly, and any distribution in satisfaction of Subordinated Note Claims will ultimately be paid to holders of Senior Debt in accordance with Article V.B.15(d) hereof.
- (iv) *Voting:* Class 5C for each of the Debtors is impaired, and holders of Claims in 5C for each of the Debtors are entitled to vote to accept or reject the Plan.

(d) Class – 5D— PIK Note Claims

- (i) *Classification:* Class 5D for each of the Debtors shall consist of the PIK Note Claims against such Debtor. For the avoidance of doubt, to the extent there is no holder of a Class 5D Claim against a Debtor, there shall be no Class 5D for such Debtor.
- (ii) *Allowance:* The PIK Note Claim shall be Provisionally Allowed in the amount of \$23,797,942.00, plus reasonable and documented out-of-pocket fees and expenses, if any, of the applicable Indenture Trustees, which Provisionally Allowed Claims shall be subject to treatment as set forth below. This Provisionally Allowed Claim will be asserted against every Debtor, excluding Beacon Hill at Mountain’s Edge, LLC.
- (iii) *Treatment:* (x) On the Distribution Date, each holder of a Provisionally Allowed

Class 5D Claim against the applicable Debtor shall receive, in full and final satisfaction of such claim, its Pro Rata Share (calculated with reference to all Allowed Class 5D Claims against the applicable Debtor) of subseries D of the series of Litigation Trust Interests for the applicable Debtor subject to disgorgement. Any distribution in satisfaction of PIK Note Claims is subject to the subordination provisions of Articles 11 and 12 of the PIK Notes Indenture; it is anticipated that the Indenture Trustees will handle distributions accordingly, and any distribution in satisfaction of PIK Note Claims will ultimately be paid to holders of Senior Debt in accordance with Article V.B.15(d) hereof; and

(y) all payments to holders of PIK Note Claims shall be held in escrow by the Litigation Trustee pending the outcome of the Committee Action, and shall be paid to the holders of PIK Note Claims or the holders of Senior Debt in accordance with the subordination procedure set forth in Article V.B.15(d) hereof and/or the Litigation Trust, as appropriate, as determined by order of the Bankruptcy Court at the conclusion of such litigation.

(iv) *Voting:* Class 5D for each of the Debtors is impaired, and holders of Claims in Class 5D for each of the Debtors are entitled to vote to accept or reject the Plan.

6. Class – 6— Claims Against the Debtors Subordinated Pursuant To Section 510 of the Bankruptcy Code

- (a) *Classification:* Class 6 for each of the Debtors shall consist of all Claims against such Debtor that are subordinated pursuant to section 510 of the Bankruptcy Code.
- (b) *Treatment:* There shall be no distribution to the holders of Claims in Class 6 for each of the Debtors.
- (c) *Voting:* Class 6 for each of the Debtors is impaired, and holders of Class 6 Claims are conclusively deemed to reject the Plan, and holders of Class 6 Claims are not entitled to vote to accept or reject the Plan.

7. Class – 7— Equity Interests in each of the Debtors.

- (a) *Classification:* Class 7 for each of the Debtors shall consist of all Equity Interests in each of the Debtors.
- (b) *Treatment:* On the Effective Date, all Class 7 Equity Interests in each of the Debtors shall be cancelled and shall be of no further force and effect, whether surrendered for cancellation or otherwise, and there shall be no distribution to the holders of Claims in Class 7 Equity Interests.
- (c) *Voting:* Class 7 for each of the Debtors is impaired, and holders of Class 7 Equity Interests are conclusively deemed to reject the Plan, and holders of Class 7 Equity Interests are not entitled to vote to accept or reject the Plan.

**ARTICLE IV.**

**ACCEPTANCE OR REJECTION OF EACH PLAN**

A. *Presumed Acceptance of Each Plan*

Class 4 for each of the Debtors is unimpaired under each applicable Plan and is, therefore, presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

*B. Voting Classes*

Each holder of an Allowed Claim or a Provisionally Allowed Claim as of the Voting Record Date in each of the Voting Classes shall be entitled to vote to accept or reject the applicable Plan.

*C. Acceptance Requirements*

Pursuant to section 1126(c) of the Bankruptcy Code and except as otherwise provided in section 1126(e) of the Bankruptcy Code, an impaired class of Claims has accepted the applicable Plan if the holders of at least two-thirds in dollar amount and more than one-half in number of the Allowed Claims in such Class actually voting have voted to accept the applicable Plan. There are no impaired classes of Interests entitled to vote on the applicable Plan.

*D. Presumed Rejection of Plan*

Classes 6 and 7 are impaired and shall receive no distribution under their applicable Plan on account of their Claims or Interests. Those Classes are, therefore, presumed to have rejected their applicable Plan pursuant to section 1126(g) of the Bankruptcy Code.

*E. Nonconsensual Confirmation*

The Debtors request confirmation of each Plan under section 1129(b) of the Bankruptcy Code with respect to any impaired class that does not accept its applicable Plan pursuant to section 1126 of the Bankruptcy Code. The Debtors reserve the right to modify the Plan or revoke the Plan as to a specific Debtor in accordance with Article XI.B and Article XI.C hereof to the extent, if any, that confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification or the Debtors determine that revocation of such plan is appropriate.

**ARTICLE V.**

**MEANS FOR IMPLEMENTATION OF THE JOINT PLAN**

*A. Overview of Means for Implementation.*

1. Overview of the Transaction

The Plan provides for the orderly monetization of the Debtors' assets over the course of approximately [24] months following the Effective Date (the "Implementation Term"). The proceeds from the sale of any of the Debtors' assets shall be placed into escrow for distribution in accordance with the terms and provisions of the Plan upon the resolution of the Committee Action. The Plan Administrator shall be appointed to administer the Plan and to facilitate the monetization of the Debtors' assets subject to the oversight of the Bankruptcy Court or the Oversight Committee, as applicable, and as set forth herein.

2. Formation of Litigation Trust

On the Effective Date, the Litigation Trust Assets shall be transferred to the Litigation Trust on the terms and conditions set forth herein and the Litigation Trust Agreement, and the Litigation Trust Interests shall be distributed to holders of Allowed Claims or placed into escrow as set forth in Article V.C hereof; *provided, however* that the Litigation Trust shall not pursue any Claims or Causes of Action that have been released under the Plan.

3. D&O Liability Policy

The Debtors' tail coverage under its D&O Liability Insurance Policies shall remain in full force and effect after the Effective Date for the term thereof.

4. Restructuring

Prior to, on or after the Effective Date, the Debtors or Post-Effective Date Debtors, as applicable, shall be authorized to take all actions as may be necessary or appropriate to effect any transaction described in, approved by,



contemplated by or necessary to effectuate, the Plan (the “Restructuring Transactions”). The Restructuring Transactions may include one or more mergers, consolidations, restructurings, conversions, dissolutions, transfers or liquidations as may be determined by the Debtors or Post-Effective Date Debtors to be necessary or appropriate. The actions to effect the Restructuring Transactions may include:

the conversion of any Debtor or Post-Effective Date Debtor to a limited liability company;

the execution and delivery of appropriate agreements or other documents of merger, consolidation, restructuring, conversion, disposition, transfer, dissolution or liquidation containing terms that are consistent with the terms of the Plan and that satisfy the applicable requirements of applicable state law and any other terms to which the applicable Debtor or Post-Effective Date Debtor may agree;

the filing of appropriate certificates of incorporation, articles of formation, reincorporation, merger, consolidation, conversion or dissolution on terms consistent with the terms of the Plan pursuant to applicable state law; and

all other actions that the Debtors or Post-Effective Date Debtors determine to be necessary or appropriate, including making filings or recordings that may be required by applicable state law in connection with a Restructuring Transaction.

*B. Post-Effective Date Means for Implementation of the Plan*

1. Corporate Existence

Each Debtor shall continue to exist after the Effective Date as a separate corporate entity, limited liability company or limited partnership, with all the powers of a corporation, limited liability company or limited partnership pursuant to the applicable law in the jurisdiction in which each applicable Debtor is incorporated or formed and pursuant to the respective certificate of incorporation and bylaws (or other formation documents in the case of a limited liability company) in effect before the Effective Date, except to the extent such certificate of incorporation or bylaws (or other formation documents in the case of a limited liability company or limited partnership) are amended by the Plan or otherwise, and to the extent such documents are amended, such documents are deemed to be authorized pursuant hereto and without the need for any other approvals, authorizations, actions or consents.

On the Effective Date, the authority, power and incumbency of the persons acting as directors and officers of each of the Debtors’ shall be terminated and such directors and officers shall be deemed to have resigned or been removed without cause. The Plan Administrator shall be appointed as and become, and shall succeed to such powers as would have been applicable to, each of the Debtors’ directors and officers, as described in more detail below. The charter and by-laws of each of the Debtors shall be amended and restated as necessary to satisfy the provisions of this Plan and the Bankruptcy Code and shall be amended to, among other things: (a) authorize one (1) share of new common stock, \$0.01 par value per share, of each of the Debtors (b) provide, pursuant to section 1123(a)(6) of the Bankruptcy Code, for a provision prohibiting the issuance of non-voting equity securities, and (c) limit the activities of each of the Debtors to matters related to the implementation of this Plan. The share of new common stock of the Post-Effective Debtor shall be issued to a segregated account created before or on the Effective Date by the Debtors, which share of common stock shall be [cancelled at the end of the Implementation Term] [NOTE: Treatment to conform to treatment of land at the end of the Implementation Term]. Additionally, each of the Debtors shall be permitted, on or after the Effective Date, to change its corporate structure as necessary to become an LLC either by merger or by election.

After the Effective Date, the Plan Administrator may decide, in its sole discretion, to maintain the corporate existence of each Post-Effective Date Debtor until such time as all aspects of the Plan pertaining to such Post-Effective Date Debtor have been completed (*provided, however,* that the Post-Effective Date Debtors shall conduct no business except as necessary or appropriate to implement the Plan). At such time as the Plan Administrator considers appropriate and consistent with the implementation of the Plan pertaining to each Post-Effective Date Debtor, it shall dissolve such Post-Effective Date Debtor and complete the winding up thereof in accordance with applicable law. In connection with the liquidation of each Post-Effective Date Debtor, the Plan Administrator shall act as liquidating agent for such Post-Effective Date Debtor. As soon as practicable after all aspects of the Plan

pertaining to each Post-Effective Date Debtor have been completed, each Post-Effective Date Debtor shall be dissolved and wound up in accordance with applicable law.

2. Vesting of Assets

Pursuant to section 1141(b) and (c) of the Bankruptcy Code, except as otherwise provided herein or in any agreement, instrument or other document relating thereto, on or after the Effective Date, all property of each Estate and any property acquired by any of the Debtors pursuant hereto shall vest in each respective Post-Effective Date Debtor and shall be monetized and distributed by the Plan Administrator under the terms of this Plan and the Confirmation Order.

3. Duties and Powers of the Plan Administrator

(a) Authority

The Confirmation Order shall name the Plan Administrator (as designated by the Debtors) to work together with any representatives and professionals he or she may retain to implement the terms of the Plan. The duties and powers of the Plan Administrator shall include all powers necessary to implement the Plan with respect to all Debtors and administer and monetize the assets of the Debtors, including, without limitation, the duties and powers listed herein.

(b) Claims and Causes of Action

The Plan Administrator may object to, seek to subordinate, compromise or settle any and all Claims against the Debtors and Causes of Action of the Debtors, including the Operating Causes of Action, that have not already been Allowed or Provisionally Allowed as of the Effective Date, except the Objection to Bank Claims and the Litigation Trust Causes of Action, which shall be adjudicated solely by the Litigation Trust.

(c) Retention of Professionals

The Plan Administrator may retain professionals to assist it in performing its duties hereunder.

(d) Agreements

The Plan Administrator may enter into any agreement or execute any document required by or consistent with the Plan and perform all of the Debtors' obligations thereunder.

(e) Reasonable Fees and Expenses

The Plan Administrator may incur any reasonable and necessary expenses in connection with the performance of its duties under the Plan, including in connection with retaining professionals and/or entering into agreements pursuant to subsections (c) and (d), above. Any proceeds generated from the sale of the Debtors' assets available for distribution from the Proceeds Account to holders of Allowed Claims and/or Provisionally Allowed Claims against the Debtors shall first be distributed to the Plan Administrator in satisfaction of any expenses incurred in connection with this provision.

(f) Other Actions

The Plan Administrator may take all other actions not inconsistent with the provisions of the Plan, which the Plan Administrator deems reasonably necessary or desirable with respect to administering the Plan.

4. Closing of the Debtors' Chapter 11 Cases

When all Disputed Claims filed against a Debtor have become Allowed Claims or have been disallowed by Final Order, and all appropriate distributions have been made pursuant to the Plan, the Plan Administrator shall seek authority from the Bankruptcy Court to close such Debtor's Chapter 11 Case in accordance with the Bankruptcy Code and the Bankruptcy Rules.

5. Method of Distribution Under the Plan

Distributions to holders of Allowed Claims and Provisionally Allowed Claims against the Debtors shall be made by the Plan Administrator in accordance with the terms of the Plan on the first Distribution Date after which funds have become available.

6. Monetization of Assets

The Plan Administrator shall, in an expeditious but orderly manner, monetize and convert the Debtors' assets to Cash and make timely distributions to the Proceeds Account and not unduly prolong the duration of the Post-Effective Date Debtors. In so doing, the Plan Administrator shall exercise its reasonable business judgment in monetizing the assets of the Post-Effective Date Debtors to maximize recoveries. The monetization of the Debtors' assets may be accomplished through the sale of such assets (in whole or in combination) all as the Plan Administrator may determine is in the best interests of the holders of Claims against the Debtors and all in accordance with the Debtors' revised business plan as presented to its creditor constituencies on February 5, 2009; *provided, however* that such actions shall be subject to the Oversight Procedures as described further herein. The Plan Administrator shall have no liability to any of the Debtors, their Estates, their creditors, the Committee, its members or any other party for the outcome of its decisions in this regard.

In connection with the monetization of each Post-Effective Date Debtor's assets, the Plan Administrator shall maintain individual ledgers for each Debtor, which shall include a record of the purchase price for each sale of such Post-Effective Date Debtor's assets and any costs or expenses associated with that sale. The Net Proceeds of such sales will be placed in the Proceeds Account.

If, at the end of the Implementation Term, any of the Debtors' Assets remain unsold (the "Unsold Assets"), the Plan Administrator shall submit a motion to the Bankruptcy Court, on notice to: (a) the U.S. Trustee, (b) counsel to the First Lien Agent, (c) counsel to the Second Lien Agent, (d) the Oversight Committee and (e) the Litigation Trustee (collectively, the "Notice Parties"), which shall set forth the Plan Administrator's proposed treatment of the Unsold Assets. If any of the Notice Parties object, the Bankruptcy Court shall schedule a hearing with respect to the motion.

7. Books and Records

The Debtors' books and records shall be maintained by the Plan Administrator. The Plan Administrator shall maintain a separate record of the Net Proceeds derived from each Debtor and any costs associated with the sale of that Debtor's assets. After the Effective Date, the Plan Administrator shall make available (and make available for copying) to the Litigation Trustee, on a reasonable basis and subject to appropriate confidentiality restrictions the books and records of each Post-Effective Date Debtor.

8. Reporting Duties

The Plan Administrator shall be responsible for filing informational returns on behalf of the Post-Effective Date Debtors and paying any tax liability of the Debtors and Post-Effective Date Debtors. Additionally, the Plan Administrator shall file (or cause to be filed) any other statements, returns or disclosures relating to the Debtors or Post-Effective Debtors that are required by any governmental unit or applicable law.

9. Tax Obligations

The Plan Administrator shall have the powers of administration regarding all of the Debtors and Post-Effective Date Debtors tax obligations, including filing of returns. The Plan Administrator shall (i) endeavor to complete and file within ninety (90) days after the dissolution of each Post-Effective Date Debtor's final federal, state and local tax returns, (ii) request, if necessary, an expedited determination of any unpaid tax liability of the Debtors or their Estates under Bankruptcy Code section 507(b) for all taxable periods of the Debtors ending after the Applicable Commencement Date through the dissolution of the Post-Effective Date Debtors as determined under applicable tax laws and (iii) represent the interest and account of the Post-Effective Date Debtors or their Estate before any taxing authority in all matters including, without limitation, any action, suit, proceeding or audit.

10. Oversight of the Plan Administrator

The Plan Administrator shall be subject to the oversight of the Bankruptcy Court or the Oversight Committee as applicable.

(a) Oversight by the Bankruptcy Court

In addition to the general retention of jurisdiction as set forth in Article X, below, the Bankruptcy Court shall oversee the actions of the Plan Administrator related to responding to discovery requests or other information or requests related to the Committee Action.

(b) Oversight by the Oversight Committee

The Oversight Committee shall oversee the following actions of the Plan Administrator: (i) monetization of the Debtors' assets, (ii) prosecution and settlement of the Operating Causes of Action, (iii) prosecution and settlement of objections to Claims against the Debtors that have not been allowed or Provisionally Allowed as of the Effective Date and (iv) any other transaction that would involve incurring a cost of \$[250,000] or more (collectively, the "Notice Actions").

(i) Oversight Procedures

The Oversight Committee will receive an opportunity to review and object to the Notice Actions in accordance with the provisions attached hereto as Exhibit A.

(ii) Fees and Expenses of the Oversight Committee

The Oversight Committee shall be permitted to retain one law firm as counsel to the Oversight Committee and one financial advisor to the Oversight Committee (the "Oversight Committee Professionals"), whose reasonable fees and expenses shall be paid from the Net Proceeds in the Proceeds Account (subject to a monthly cap, in the case of the financial advisor, of \$[25,000]). The Oversight Committee Professionals shall represent the interests of the Oversight Committee as a whole and shall take action only at the direction of a majority of the Oversight Committee members. In addition to the Oversight Committee Professionals, each member of the Oversight Committee may retain its own professionals, at the sole expense of such Oversight Committee member; *provided, however*, that nothing herein or in the Confirmation Order shall preclude such Oversight Committee member from seeking payment of the fees of any such individually retained professional from one or more of the Debtors' estates at the conclusion of the Implementation Term upon establishment of the same factual showing that would be required for approval of an administrative expense under section 503(b) of the Bankruptcy Code. Additionally, the Oversight Committee or any of its members may, with the consent of the Litigation Trustee, access funding or proceeds available to the Litigation Trust to reimburse fees or expenses incurred by its professionals.

11. Single Satisfaction

(a)

Holders of Allowed Secondary Liability Claims may assert such claims against each Debtor obligated with respect to such claim, and such claims shall be entitled to share in the recovery provided for the applicable class of claims against each obligated Debtor based upon the full Allowed amount of the Secondary Liability Claim.

(b)

Notwithstanding Article V.B.11(a), above, in no case (including with respect to Allowed First Lien Term Claims, Allowed First Lien Revolver Claims, Allowed Second Lien Claims, Allowed Senior Note Claims, Allowed Subordinated Note Claims and Allowed PIK Note Claims) shall the aggregate value of all property received or retained under the plan on account of (i) any Allowed Claim and (ii) all Allowed Secondary Liability Claims associated with such Allowed Claim (the "Aggregate Recovery") exceed 100% of the underlying Allowed Claim. In the event that any creditor's Aggregate Recovery would exceed 100% of its Allowed Claim but for application of this Article V.B.11, then the distribution to such creditor by each obligated Debtor shall be reduced by multiplying the unadjusted distribution that would have been received from that Debtor absent this Article V.B.11 by the ratio of

the Allowed Claim to the unadjusted Aggregate Recovery that would be received on account of such Allowed Claim absent this Article V.B.11, as follows:

adjusted distribution = unadjusted distribution \* (Allowed Claim / unadjusted Aggregate Recovery).

12. Postpetition Intercompany Claims

Notwithstanding anything herein to the contrary, to the extent it is determined by Final Order that all or a portion of the First Lien Revolver Claims, First Lien Term Loan Claims or Second Lien Claims against any Debtor that has transferred or transfers property (including Cash and Cash Collateral) (the "Transferring Debtor") from and after the Commencement Date to or for the benefit of any other Debtor are avoided, no provision of the Plan shall impair or otherwise prejudice the ability of the Bankruptcy Court to fashion a legal or equitable remedy to ensure that the position of the First Lien Revolver Lenders, the First Lien Term Loan Lenders or the Second Lien Lenders is neither improperly enhanced nor impaired by such Transferring Debtor's transfer and that neither the Transferring Debtor and its creditors nor the First Lien Revolver Lenders, the First Lien Term Loan Lenders or the Second Lien Lenders are prejudiced by such transfer and, upon either occurrence, the Bankruptcy Court shall fashion such a remedy. To the extent it is determined that all or a portion of the 2007 Federal Tax Refund is, whether by operation of any applicable tax allocation agreements among the Debtors (including any predecessor thereof), the Internal Revenue Code, Treasury Regulations, or otherwise, property of the estate of one or more of the Debtors other than, or in addition to, TOUSA, Inc., the Bankruptcy Court shall fashion a legal or equitable remedy to ensure that the 2007 Federal Tax Refund is transferred in such a manner that the creditors of one Debtor are not inappropriately advantaged over the creditors of another Debtor to the extent that all or a portion of the 2007 Federal Tax Refund is property of such other Debtor's estate.

13. Distributions for Claims Allowed as of the Effective Date

Except as otherwise provided in the Plan, a Final Order or as agreed to by the relevant parties, the Plan Administrator shall make initial distributions under the Plan on account of Claims Allowed before the Effective Date on or as soon as practicable after the Distribution Date.

14. Distributions on Account of Claims Allowed After the Effective Date

(a) Payments and Distributions on Disputed Claims.

Except as otherwise provided in the Plan, a Final Order or as agreed to by the relevant parties, distributions under the Plan on account of a Disputed Claim that becomes an Allowed Claim after the Effective Date shall be made on the Periodic Distribution Date that is at least 30 days after the Disputed Claim becomes an Allowed Claim, unless otherwise agreed by the Plan Administrator and the holder of such Disputed Claim.

(b) Special Rules for Distributions to Holders of Disputed Claims.

Notwithstanding any provision otherwise in the Plan and except as otherwise agreed to by the relevant parties, no partial payments and no partial distributions shall be made with respect to a Disputed Claim until all disputes in connection with such Disputed Claim have been resolved by settlement or Final Order. In the event that there are Disputed Claims requiring adjudication and resolution, the Plan Administrator shall establish appropriate reserves for potential payment of such Claims pursuant to Articles V.B.14(d) and (e) hereof.

(c) Special Rules for Claims Arising Under Section 502(h) of the Bankruptcy Code.

Notwithstanding anything contained herein to the contrary, Claims that arise under section 502(h) of the Bankruptcy Code shall be deemed timely despite filing such Claims after any otherwise applicable Claims Bar Date, *provided, however*, that such Claims must be filed against the applicable Debtor(s) no later than thirty (30) days after entry of a Final Order for recovery of property under sections 522, 550 or 553 of the Bankruptcy Code.

- (d) Reserve for Disputed Claims Other Than General Unsecured Claims and Claims Arising Under Section 502(h) of the Bankruptcy Code.

- (i) Deposit of Cash on the Effective Date

On the Effective Date (or as soon thereafter as is reasonably practicable), the Plan Administrator shall deposit Cash in the Disputed Claim Reserve for each Debtor that would have been distributed to the holders of Disputed Claims (other than Intercompany Claims, Disputed General Unsecured Claims and 502(h) Claims) if such Disputed Claims had been Allowed Claims on the Effective Date. This amount will be determined based on the lesser of (a) the asserted amount of the Disputed Claim filed with the Bankruptcy Court (if no proof of such Claim was filed) scheduled by the Debtors, (b) the amount, if any, estimated by the Bankruptcy Court pursuant to section 502(c) of the Bankruptcy Code or (c) the amount otherwise agreed to by the Debtors and the holder of such Disputed Claim.

- (ii) Distribution After Allowance

The Plan Administrator shall make a distribution from the Disputed Claims Reserve to the holder of any Disputed Claim (other than a General Unsecured Claim or 502(h) Claim) that has become an Allowed Claim, as soon as is practicable after the end of the calendar month in which such Disputed Claim becomes an Allowed Claim, in an amount equal to the distribution that would have been payable with respect to such Claim if it had been an Allowed Claim on the Effective Date.

- (iii) Distributions After Disallowance

If a Disputed Claim is disallowed, in whole or in part, the Plan Administrator shall on a monthly basis (and in no event later than the fifth (5th) Business Day after the end of each calendar month) distribute the Cash reserved in respect of such disallowed Disputed Claim against (x) any Subsidiary Debtor to Plan Administrator for distribution to the General Unsecured Creditors of such Debtor in accordance with the terms of Article III hereof or (y) TOUSA, Inc. to the Plan Administrator for distribution to the General Unsecured Creditors of TOUSA, Inc. in accordance with the terms of Article III hereof.

- (iv) Property Held in the Disputed Claims Reserve

- (a) Distributions

Cash held in the Disputed Claim Reserve will (i) be, deposited and held in trust, pending distribution by the Plan Administrator for the benefit of holders of Allowed Claims (other than Allowed General Unsecured Claims and Allowed 502(h) Claims), (ii) be accounted for separately and (iii) not constitute property of the Post-Effective Date Debtors.

- (b) Recourse

Each holder of a Disputed Claim that ultimately becomes an Allowed Claim will have recourse only to the Cash and their proportionate share of the proceeds from the investment of Cash, if any, held in the Disputed Claim Reserve for satisfaction of the Distributions to which holders of Allowed Claims are entitled under the Plan, and not to any Post-Effective Date Debtor, its property or any assets previously distributed on account of any Allowed Claim.

- (e) Reserve for Disputed General Unsecured Claims and Claims Arising Under Section 502(h) of the Bankruptcy Code.

- (i) Deposit of Litigation Trust Interests on the Effective Date

On the Effective Date (or as soon thereafter as is reasonably practicable), the Plan Administrator shall deposit in the Disputed General Unsecured Claim Reserve for each Debtor the amount of such Debtor's series of Litigation Trust Interests, or, as applicable, the amount of such Debtor's Litigation Trust Recovery Proceeds that would have been distributed to the holders of Disputed General Unsecured Claims if such Disputed General

Unsecured Claims had been Allowed Claims on the Effective Date. This amount will be determined based on the lesser of (a) the asserted amount of the Disputed General Unsecured Claims filed with the Bankruptcy Court, or (if no proof of such Claim was filed) scheduled by the Debtors, (b) the amount, if any, estimated by the Bankruptcy Court pursuant to section 502(c) of the Bankruptcy Code or (c) the amount otherwise agreed to by the Debtors and the holder of such Disputed General Unsecured Claims.

(ii) Distributions After Allowance

The Plan Administrator or Distribution Agent shall make a distribution from the Disputed General Unsecured Claim Reserve to the holder of any Disputed General Unsecured Claim as soon as practicable after such Disputed Claim has become an Allowed Claim, of the Litigation Trust Interests or, as applicable, the Litigation Trust Recovery Proceeds that such holder would have received on account of such Claim if such Claim had been an Allowed Claim on the Effective Date.

(iii) Distributions After Disallowance

If a Disputed General Unsecured Claim is disallowed, in whole or in part, prior to any distribution of Litigation Trust Recovery Proceeds, the Litigation Trust Interests reserved on account of such claim shall be cancelled. To the extent that Disputed General Unsecured Claims are disallowed, in whole or in part, after distributions of Litigation Trust Recovery Proceeds have begun, then the Plan Administrator shall on a quarterly basis distribute the Litigation Trust Recovery Proceeds reserved in respect of such disallowed Disputed General Unsecured Claims to holders of Allowed Unsecured Claims in a manner designed to ensure that the holders of Allowed Unsecured Claims receive the same Pro Rata share of the Litigation Trust Recovery Proceeds.

(iv) Property Held in the Disputed Claims Reserve

(a) Recourse

Each holder of an Allowed General Unsecured Claim (or a Disputed General Unsecured Claim that ultimately becomes an Allowed General Unsecured Claim) will have recourse only to the undistributed Litigation Trust Interests, or as applicable, the Litigation Trust Recovery Proceeds held in the Disputed General Unsecured Claims Reserve for satisfaction of the Distributions to which holders of Allowed General Unsecured Claims are entitled under the Plan, and not to any Post-Effective Date Debtor, their property or any assets previously distributed on account of any Allowed Claim.

(v) Claims Arising Under Section 502(h) of the Bankruptcy Code

To the extent that the Committee Action is successful, all rights, if any of the defendants therein to assert a Claim pursuant to section 502(h) of the Bankruptcy Code are expressly preserved and the Bankruptcy Court will fashion an appropriate remedy to provide for distribution on account of such 502(h) Claims in the same percentage recovery as the distribution to holders of General Unsecured Claims against the applicable Debtor.

15. Delivery of Distributions; Undeliverable or Unclaimed Distributions

(a) Record Date for Distributions

On the Distribution Record Date, the Claims Register shall be closed and any party responsible for making distributions shall instead be authorized and entitled to recognize only those holders of Claims listed on the Claims Register as of the close of business on the Distribution Record Date. If a trade Claim is transferred 20 or fewer days before the Distribution Record Date, the Distribution Agent shall make distributions to the transferee only to the extent practical and, in any event, only if the relevant transfer form contains an unconditional and explicit certification and waiver of any objection to the transfer by the transferor.

(b) Delivery of Distributions in General

Except as otherwise provided herein, the Plan Administrator shall make distributions to holders of Allowed Claims, including funds provided to the Plan Administrator for distribution in accordance with the Litigation Trust

at the address for each such holder as indicated on the Debtors' records as of the date of any such distribution; provided, however, that the manner of such distributions shall be determined at the discretion of the Plan Administrator; and provided further, that the address for each holder of an Allowed Claim shall be deemed to be the address set forth in any Proof of Claim filed by that holder.

(c) Delivery of Distributions to the Holders of First Lien Revolver Claims, First Lien Term Loan Claims and Second Lien Claims

All distributions to holders of First Lien Revolver Claims, First Lien Term Loan Claims and Second Lien Claims shall be deemed completed when made to the applicable Agent for each of the First Lien Revolving Credit Agreement, First Lien Term Loan Credit Agreement and Second Lien Credit Agreement (collectively, the "Secured Credit Agreements"). Notwithstanding any provisions herein to the contrary, the Secured Credit Agreements shall continue in effect to the extent necessary to allow the applicable agents to receive and make distributions pursuant to this Plan.

(d) Delivery of Distributions to the Holders of Senior Note Claims, Subordinated Note Claims and PIK Note Claims

All distributions to holders of Senior Note Claims, Subordinated Note Claims and PIK Note Claims shall be governed by the Senior Note Indentures, the Subordinated Note Indentures or the PIK Notes Indenture, respectively, and shall be deemed completed when made to the applicable Indenture Trustee as set forth in the paragraph below. Notwithstanding any provisions herein to the contrary, the Senior Note Indentures, the Subordinated Note Indentures and the PIK Notes Indenture shall continue in effect to the extent necessary to (a) allow the applicable Indenture Trustees to receive and make distributions pursuant to this Plan, (b) exercise their respective charging liens against any such distributions and (c) seek compensation and reimbursement for any fees and expenses incurred in making such distributions.

For the avoidance of doubt, the Distribution Agent for each Debtor shall give effect to the provisions of Articles 11 and 12 of the Subordinated Note Indentures and Articles 11 and 12 of the PIK Notes Indenture such that all distributions made pursuant to the Plan in satisfaction of the Subordinated Note Claims and PIK Note Claims shall be made to the holders of Senior Debt, unless and until such time as the holders of Senior Debt have been paid in full in accordance with Articles 11 and 12 of the Subordinated Notes Indentures and the PIK Notes Indenture. If, the aggregate value received by the holders of Senior Debt results in payment in full of such Senior Debt to the extent required by the Subordinated Note Indentures and the PIK Notes Indenture, then the holders of Subordinated Note Claims and PIK Note Claims shall receive any remaining distribution, including proceeds, if any, from the Litigation Trust Causes of Action, otherwise allocable to the holders of Subordinated Note Claims and PIK Note Claims pursuant to the Plan. All distributions on account of Subordinated Note Claims and the PIK Note Claims shall be held in escrow to be released in accordance with an order of the Bankruptcy Court after a determination has been made by Final Order regarding the Litigation Trust Causes of Action.

(e) Timing and Calculation of Amounts to Be Distributed

Except as otherwise expressly provided herein, holders of Claims shall not be entitled to interest, dividends or accruals on the distributions provided for herein, regardless of whether such distributions are delivered on or at any time after the Effective Date.

(f) Distributions by Distribution Agents

Each of the Debtors and the Plan Administrator shall have the authority, in its sole discretion, to enter into agreements with one or more Distribution Agents to facilitate the distributions required hereunder. As a condition to serving as a Distribution Agent, a Distribution Agent must (a) affirm its obligation to facilitate the prompt distribution of any documents, (b) affirm its obligation to facilitate the prompt distribution of any recoveries or distributions required hereunder and (c) waive any right or ability to setoff, deduct from or assert any lien or encumbrance against the distributions required hereunder that are to be distributed by such Distribution Agent; provided, however, that the Indenture Trustees shall retain the right to set off against the distributions required hereunder. The Debtors and Plan Administrator may pay to the Distribution Agents all reasonable and documented fees and expenses of the Distribution Agents without the need for any approvals, authorizations, actions or consents.



## (g) Setoffs and Withholdings

The Plan Administrator or Distribution Agent may withhold (but not, except as set forth below, set off) from the distribution called for on account of any Allowed Claim an amount equal in value to any claims, rights and Causes of Action of any nature that the distributing Debtor may hold against the holder of that Claim. To the extent that the value of the Debtor's claim, rights or Cause of Action against a particular claimant is undisputed, resolved by settlement or has been adjudicated by Final Order of any court, the Plan Administrator may set off that value against distributions that would otherwise become due to such claimant. Neither the failure to effect such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors or the Post-Effective Date Debtors of any claims, rights or Causes of Action that the Debtors or the Post-Effective Date Debtors may possess against any claimant.

## (h) Minimum Distributions

Notwithstanding anything herein to the contrary, the Plan Administrator or Distribution Agents shall be required to make distributions or payments of less than \$1,000 (whether Cash or otherwise) and shall not be required to make partial distributions or payments of fractions of dollars.

## (i) Undeliverable Distributions

## (i) Holding of Certain Undeliverable Distributions

If any distribution to a holder of an Allowed Claim made in accordance herewith is returned to the Plan Administrator (or its Distribution Agent) as undeliverable, no further distributions shall be made to such holder unless and until the Post-Effective Date Debtors (or their Distribution Agent) are notified in writing of such holder's then current address, at which time all currently due missed distributions shall be made to such holder on the next Periodic Distribution Date. Undeliverable distributions shall remain in the possession of the Post-Effective Date Debtors, subject to Article V.B.15(i)(ii) hereof, until such time as any such distributions become deliverable. Undeliverable distributions shall not be entitled to any interest, dividends or other accruals of any kind. No later than 90 days after the Effective Date, the Plan Administrator shall file with the Bankruptcy Court a list of the holders of undeliverable distributions, together with the date on which such distribution was attempted (the "Undeliverable Distribution Register"). Each such list shall be maintained and updated (to the extent of any changes) quarterly by the Plan Administrator for as long as the applicable Chapter 11 Case stays open. Nothing contained herein shall require the Plan Administrator to attempt to locate any holder of an Allowed Claim.

## (ii) Failure to Claim Undeliverable Distributions

Each holder of an Allowed Claim that is listed in the Undeliverable Distribution Register shall be responsible for providing the Plan Administrator or Distribution Agent with a current, verifiable address for mailing of distributions on or before the latest of (x) one year after the Effective Date, (y) 60 days after the attempted delivery of the undeliverable distribution and (z) 180 days after the date the holder's Claim becomes an Allowed Claim. If a holder of an Allowed Claim listed in the Undeliverable Distribution Register does not provide a current, verifiable address within the time period set forth above, that holder shall be discharged and shall be forever barred, estopped and enjoined from asserting its Claim against the Debtors or their property. In such cases, the Undeliverable Distribution will be deemed unclaimed property under section 347(b) of the Bankruptcy Code and will be redistributed to other creditors in accordance with the applicable Debtor's Plan.

## (iii) Failure to Present Checks

Checks issued by the Distribution Agent on account of Allowed Claims shall be null and void if not negotiated within 120 days after the issuance of such check. In an effort to ensure that all holders of Allowed Claims receive their allocated distributions, no later than 120 days after the issuance of such checks, the Post-Effective Date Debtors shall file with the Bankruptcy Court a list of the holders of any un-negotiated checks. Each such list shall be maintained and updated (to the extent of any changes) quarterly by the Plan Administrator for as long as the applicable Chapter 11 Case stays open. Requests for reissuance of any check shall be made directly to the Distribution Agent by the holder of the relevant Allowed Claim with respect to which such check originally was issued. If any holder of an Allowed Claim holding an un-negotiated check does not request reissuance of that check

within 180 days after the date of the check was mailed or otherwise delivered to the holder, that Allowed Claim shall be discharged and the holder thereof shall be forever barred, estopped and enjoined from asserting any Claim against any of the Post-Effective Date Debtors or their property. In such cases, any Cash held for payment on account of such Claims shall be property of the Post-Effective Date Debtors, free of any Claims of such holder with respect thereto. Nothing contained herein shall require the Post-Effective Date Debtors to attempt to locate any holder of an Allowed Claim.

16. Compliance with Tax Requirements/Allocations

In connection with the Plan, to the extent applicable, the Plan Administrator shall comply with all tax withholding and reporting requirements imposed on it by any governmental unit, and all distributions pursuant hereto shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Plan Administrator and the Distribution Agent shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions or establishing any other mechanisms they believe are reasonable and appropriate. The Debtors reserve the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support and other spousal awards, liens and encumbrances.

For tax purposes, distributions in full or partial satisfaction of Allowed Claims shall be allocated first to the principal amount of Allowed Claims, with any excess allocated to unpaid interest that accrued on such Claims.

17. Surrender of Cancelled Instruments or Securities

As a condition precedent to receiving any distribution on account of its Allowed Claim, each record holder of a Senior Note Claim, a Subordinated Note Claim or a PIK Note Claim shall be deemed to have surrendered the certificates or other documentation underlying each such Claim, and all such surrendered certificates and other documentations shall be deemed to be canceled pursuant to this Article V.B.17, except to the extent otherwise provided herein. The Indenture Trustees may (but shall not be required to) request that registered holders of the Senior Notes, Subordinated Notes or the PIK Election Notes surrender their notes for cancellation.

18. Resolution of Disputed Claims

(a) Allowance of Claims

After the Effective Date, the Post-Effective Date Debtors and the Plan Administrator shall have and shall retain any and all rights and defenses that the Debtors had with respect to any Claim, except with respect to any Claim deemed Allowed or Provisionally Allowed under the Plan. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Cases before the Effective Date (including, without limitation, 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, without limitation, the Confirmation Order, in the Chapter 11 Cases allowing such Claim.

(b) No Distributions Pending Allowance

Notwithstanding any other provision hereof, if any portion of a Claim is a Disputed Claim, no payment or distribution provided hereunder shall be made on account of such Claim unless and until such Disputed Claim becomes an Allowed Claim. Holders of Disputed Claims shall not be entitled to interest if such Disputed Claim becomes an Allowed Claim except to the extent such holder is entitled to interest under the Plan as a holder of an Allowed Claim.

(c) Prosecution of Objections to Claims Against the Debtors

After the Confirmation Date but before the Effective Date, the Debtors, and after the Effective Date, the Plan Administrator shall have the exclusive authority to file objections to Claims, settle, compromise, withdraw or litigate to judgment objections to any and all Claims, regardless of whether such Claims are in a Class or otherwise;

*provided, however*, that this provision shall not apply to the Objection to Bank Claims or the Litigation Trust Causes of Action and all objections to the First Lien Revolver Claims, the First Lien Term Loan Claims and the Second Lien Claims (including the Objection to Bank Claims) shall be resolved through litigation of the Litigation Trust Causes of Action. From and after the Effective Date, the Plan Administrator may settle or compromise any Disputed Claim without any further notice to or action, order or approval of the Bankruptcy Court. The Plan Administrator shall have the sole authority to 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. With respect to all Tort Claims, an objection is deemed to have been filed timely, thus making each such Claim a Disputed Claim as of the Claims Objection Deadline. Each such Tort Claim shall remain a Disputed Claim unless and until it becomes an Allowed Claim.

(d) Claims Estimation

After the Confirmation Date, but before the Effective Date, the Debtors, and after the Effective Date, the Plan Administrator may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Provisionally Allowed Claim pursuant to applicable law and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, regardless of whether the Debtors or the Post-Effective Date Debtors have previously 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 Disputed Claim, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or during the pendency of any appeal relating to any such objection. Notwithstanding any provision otherwise in the Plan, a Claim that has been expunged from the Claims Register but that 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 Disputed Claim, contingent Claim or unliquidated Claim, that estimated amount shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim for all purposes under the Plan, including for purposes of distributions, and the Plan Administrator may elect to pursue additional objections to the ultimate distribution on such Claim. If the estimated amount constitutes a maximum limitation on such Claim, the Debtors or the Plan Administrator may elect to pursue any supplemental proceedings to object to any ultimate distribution on account of 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 20 days after the date on which such Claim is estimated. All of the aforementioned 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.

(e) Expungement or Adjustment to Claims Without Objection

Any Claim that has been paid, satisfied or superseded may be expunged on the Claims Register by the Plan Administrator, and any Claim that has been amended may be adjusted thereon by the Plan Administrator, in both cases without a claims objection having to be filed and without any further notice to or action, order or approval of the Bankruptcy Court. Beginning on the end of the first full calendar quarter that is at least 90 days after the Effective Date, the Plan Administrator shall file every calendar quarter a list of all Claims or Interests that have been paid, satisfied, superseded or amended during such prior calendar quarter.

(f) Deadline to File Objections to Claims

Any objections to Claims shall be filed no later than the Claims Objection Deadline.

19. Disallowance of Claims

All Claims of any Entity from which property is sought by the Debtors, the Plan Administrator or the Litigation Trust, under section 542, 543, 550 or 553 of the Bankruptcy Code or that the Debtors, the Post-Effective Date Debtors or the Litigation Trust allege is a transferee of a transfer that is avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549 or 724(a) of the Bankruptcy Code shall be disallowed if (a) the Entity, on the one hand, and the Debtors, the Plan Administrator or the Litigation Trust, or, on the other hand, agree or the Bankruptcy Court has determined by Final Order that such Entity or transferee is liable to turnover any property or monies under any of

the aforementioned sections of the Bankruptcy Code and (b) such Entity or transferee has failed to turn over such property by the date set forth in such agreement or Final Order.

**EXCEPT AS OTHERWISE AGREED, ANY AND ALL PROOFS OF CLAIM FILED AFTER THE APPLICABLE CLAIMS BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM IS DEEMED TIMELY FILED BY A BANKRUPTCY COURT ORDER ON OR BEFORE THE LATER OF (a) THE CONFIRMATION HEARING AND (b) 45 DAYS AFTER THE APPLICABLE BAR DATE.**

20. Employment Agreements

The Post-Effective Date Debtors may enter into employment agreements with certain individuals in the Debtors' Senior Management on or immediately after the Effective Date. The terms of such agreements, if any, will be included in the Plan Supplement.

21. Creation of Retained Professionals Fee Account and Fee Funding Reserve

(a) Retained Professionals Fee Account

The Professional Fee Escrow established pursuant to paragraph 14 of the Cash Collateral Order shall ride through and on the Effective Date, the Post-Effective Date Debtors shall fund, to the extent the amount in the Professional Fee Escrow does not cover the total amount of Accrued Professional Compensation, such account in the full amount of the Accrued Professional Compensation solely for the purpose of paying the Allowed Professional Compensation (the "Retained Professionals Fee Account").

(b) Fee Funding Reserve

On the Effective Date, the Post-Effective Date Debtors shall establish a segregated account, funded in the aggregate amount of the Revolver Fee Reserve, the Term Fee Reserve and the Second Lien Fee Reserve solely for the purpose of paying the actual out-of-pocket fees and expenses incurred in connection with the defense of the Committee Action and as provided for under the First Lien Revolving Credit Agreement, First Lien Term Loan Credit Agreement and Second Lien Credit Agreement and in accordance with Article III hereof.

22. Effectuating Documents; Further Transactions; Exemption from Certain Transfer Taxes

The Debtors or the Plan Administrator may take all actions to execute, deliver, file or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of the Plan, including, without limitation, the distribution of the securities to be issued pursuant hereto without the need for any approvals, authorizations, actions or consents except for those expressly required pursuant hereto. The secretary and any assistant secretary of each Debtor shall be authorized to certify or attest to any of the foregoing actions.

Before, on or after the Effective Date (as appropriate), all matters provided for pursuant to the Plan that would otherwise require approval of the shareholders, directors or members of the Debtors shall be deemed to have been so approved and shall be in effect before, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the shareholders, directors, managers or partners of the Debtors, or the need for any approvals, authorizations, actions or consents.

Pursuant to section 1146(a) of the Bankruptcy Code, any post-Confirmation Date transfer from a Debtor to any person pursuant to, in contemplation of, or in connection with the Plan or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtors; (b) the creation, modification, consolidation, or recording of any mortgage, deed of trust, or other security interest; (c) the making, assignment, or recording of any lease or sublease; or (d) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale,

assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, or other similar tax or governmental assessment, in each case to the extent permitted by applicable law, and the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all documents necessary to evidence and implement the provisions of and the distributions to be made under the Plan, including the transfer of the Litigation Trust Causes of Action to the Litigation Trust and (ii) any sale or other transfer of the Debtors' assets in connection with the orderly liquidation of such assets, as contemplated by the Plan.

23. Cancellation of Notes and Equity Interests

On the Effective Date, except to the extent otherwise provided herein, all notes, stock, instruments, certificates and other documents evidencing the Senior Notes, the Subordinated Notes, the PIK Election Notes and Equity Interests in the Debtors shall be cancelled, and the obligations of the Debtors thereunder or in any way related thereto shall be fully released and discharged. On the Effective Date, except to the extent otherwise provided herein, any indenture relating to any of the foregoing, including, without limitation, the Senior Note Indentures, the Subordinated Note Indentures and the PIK Notes Indenture shall be cancelled, as permitted by section 1123(a)(5)(F) of the Bankruptcy Code, and the obligations of the Debtors thereunder shall be fully released and discharged. Notwithstanding the provisions hereof, the Subordinated Note Indentures, the Senior Note Indentures and the PIK Notes Indenture shall continue in effect solely for the purposes of: (a) allowing holders of the Senior Note Claims, the Subordinated Note Claims and the PIK Note Claims to receive distributions under the Plan; (b) allowing holders of Senior Debt to enforce the subordination provisions in Articles 11 and 12 of the Subordinated Note Indentures and the PIK Notes Indenture; and (c) allowing and preserving the rights of the Indenture Trustees to (i) make distributions in satisfaction of Allowed Senior Note Claims, Allowed Subordinated Note Claims and Provisionally Allowed PIK Note Claims, (ii) exercise their respective charging liens against any such distributions and (iii) seek compensation and reimbursement for any reasonable and documented fees and expenses incurred in making such distributions.

24. Discharge of Obligations Under the First Lien Revolving Credit Agreement, First Lien Term Credit Agreement and Second Lien Credit Agreement

On the Effective Date, except to the extent otherwise provided herein, the Debtors' obligations under the First Lien Revolving Credit Agreement, the First Lien Term Credit Agreement and the Second Lien Credit Agreement shall be fully released and discharged except that such agreements shall continue in full force and effect solely to permit the relevant agents to make distributions of plan consideration to the lenders under the credit agreements.

C. *The Litigation Trust*

1. Generally

The powers, authority, responsibilities and duties of the Litigation Trust, the Litigation Trustee and the Litigation Trust Committee are set forth in and shall be governed by the Litigation Trust Agreement. The Committee (or, if the Committee fails to make a timely appointment, the Debtor) shall appoint the initial Litigation Trustee, which appointment will be disclosed in the Plan Supplement. In the event the Litigation Trustee dies, is terminated or resigns for any reason, the Litigation Trust Committee shall designate a successor. The salient terms of the Litigation Trustee's employment, including the Litigation Trustee's duties and compensation, to the extent not set forth in the Plan, shall be set forth in the Litigation Trust Agreement or the Confirmation Order. The Litigation Trust Agreement shall contain provisions customary to trust agreements utilized in comparable circumstances, including, without limitation, any and all provisions necessary to ensure the continued treatment of the Litigation Trust as a grantor trust and the Litigation Trust Beneficiaries as the grantors and owners thereof for federal income tax purposes. The Litigation Trust and the Litigation Trustee shall be bound by the Plan and shall not challenge any provision of the Plan; *provided, however*, that the Litigation Trust and the Litigation Trustee may seek clarification from the Bankruptcy Court with respect to any ambiguity in the Plan or Litigation Trust Agreement.

2. Purpose and Establishment of the Litigation Trust

On the Effective Date, the Litigation Trust shall be established for the primary business of prosecuting the Litigation Trust Causes of Action with no objective to continue or engage in the conduct of a trade or any other business, except to the extent reasonably necessary to, and consistent with, the purpose of the Litigation Trust. Upon the transfer by the Debtors, as applicable, of the Litigation Trust Assets to the Litigation Trust, the Debtors or the Post-Effective Date Debtors, as applicable, will have no reversionary or further interest in or with respect to the Litigation Trust Assets or the Litigation Trust, except for the obligation to repay the Litigation Trust Loan, if any, pursuant to Article V.C.8. For all federal income tax purposes, the Litigation Trust Beneficiaries will be treated as grantors and owners thereof and it is intended that the Litigation Trust be classified as a liquidating trust under section 301.7701-4 of the Treasury Regulations and that such trust is owned by the Litigation Trust Beneficiaries. Accordingly, for federal income tax purposes, it is intended that the Litigation Trust Beneficiaries be treated as if they had received a distribution of an undivided interest in the Litigation Trust Assets and then contributed such interests to the Litigation Trust. The Litigation Trust shall, in an expeditious, but prudent, reasonable and orderly manner, liquidate the Litigation Trust Assets, make timely distributions, if any, to Litigation Trust Beneficiaries pursuant to the Plan and the Litigation Trust Agreement and not unduly prolong its duration. The Litigation Trust shall not be deemed a successor in interest of the Debtors for any purpose other than as specifically set forth herein or in the Litigation Trust Agreement. The Litigation Trust is intended to qualify as a “grantor trust” for federal income tax purposes with the Litigation Trust Beneficiaries treated as grantors and owners of the trust.

On the Effective Date, the Plan Administrator, on behalf of the Litigation Trust Beneficiaries, shall execute the Litigation Trust Agreement and shall take all other steps necessary to establish the Litigation Trust pursuant to the Litigation Trust Agreement and consistent with the Plan. On the Effective Date, and in accordance with and pursuant to the terms of the Plan, each of the Debtors shall transfer, assign and deliver to the Litigation Trust all of their rights, title and interests in all of the Litigation Trust Assets notwithstanding any prohibition of assignability under non-bankruptcy law. In connection with the transfer of such assets, any attorney client privilege, work product privilege, or other privilege or immunity attaching to any documents or communications (whether written or oral) transferred to the Litigation Trust shall vest in the Litigation Trust and its representatives, and the Debtors and the Litigation Trust are authorized to take all necessary actions to effectuate the transfer of such privileges. The Litigation Trust shall agree to accept and hold the Litigation Trust Assets in the Litigation Trust for the benefit of the Litigation Trust Beneficiaries, subject to the terms of the Plan and the Litigation Trust Agreement. All parties (including the Debtors, the Litigation Trustee and the Litigation Trust Beneficiaries) shall execute any documents or other instruments as necessary to cause title to the Litigation Trust Assets to be transferred to the Litigation Trust, which documents and instruments shall be subject in form and substance to the prior reasonable approval of the Debtors and the Committee.

3. Prosecution of Litigation Trust Causes of Action

Litigation Trust Causes of Action may only be prosecuted or settled by the Litigation Trust. The Post-Effective Date Debtors may not prosecute or settle any Litigation Trust Causes of Action.

4. Ownership and Shares of the Litigation Trust Causes of Action

Based upon the outcome of, and factual findings in, the Litigation Trust Causes of Action, including the TOI Causes of Action, the Litigation Trustee shall determine each Debtor’s ownership and share, if any, in the Litigation Trust Recovery Proceeds, (the “Litigation Trust Recovery Shares”) and shall distribute such Litigation Trust Recovery Shares to the Plan Administrator or Distribution Agent for distribution to creditors of each such Debtor on account of the applicable series and subseries of Litigation Trust Interests in accordance with the Plan; *provided, however*, that the Litigation Trustee shall first, with the consent of the Litigation Trust Committee and on notice to: (a) the U.S. Trustee, (b) the Bankruptcy Court, (c) the Plan Administrator or Distribution Agent, (d) the Plan Administrator, (e) counsel to the Second Lien Agent and the Second Lien Restricted Lenders, (f) counsel to the First Lien Term and Revolver Agents and (g) any Person who filed notice of appearance or request for notice specifically with respect to the Litigation Trust Causes of Action, (i) file a motion with the Bankruptcy Court seeking approval of the proposed distribution of the Litigation Trust Recovery Shares or (ii) otherwise obtain a Final Order or judgment of the Bankruptcy Court determining the appropriate distribution of such Litigation Trust Recovery Shares prior to making any such distribution thereof.

5. Distributions; Withholding

The Litigation Trust shall make distributions, if any, to the Litigation Trust Beneficiaries in accordance with the terms of the Litigation Trust Agreement and the Plan. The Litigation Trust Committee may authorize the Litigation Trust to retain Litigation Trust Recovery Proceeds to fund additional litigation with respect to Litigation Trust Causes of Action, but only after having repaid the Litigation Trust Loan and all costs of the prosecution of the Litigation Trust Causes of Action incurred by the Debtors' estates before the Effective Date. The Litigation Trust may withhold from amounts otherwise distributable to any Entity any and all amounts required by the Litigation Trust Agreement, any law, regulation, rule, ruling, directive, treaty or other governmental requirement.

6. Appointment of the Litigation Trustee

On the Effective Date and in compliance with the provisions of the Plan and the Litigation Trust Agreement, the Person set forth in the Plan Supplement will be appointed Litigation Trustee in accordance with the Litigation Trust Agreement and, thereafter, any successor Litigation Trustee shall be appointed and serve in accordance with the Litigation Trust Agreement. The Litigation Trustee or any successor thereto will administer the Litigation Trust in accordance with the Litigation Trust Agreement.

7. Funding Expenses of the Litigation Trust

All fees, expenses and costs of the Litigation Trust, including, without limitation, fees and expenses incurred by professionals retained by the Litigation Trustee (in accordance with the terms and conditions set forth in the Litigation Trust Agreement) shall be paid by the Litigation Trust, and none of the defendants, the Plan Administrator or the Post-Effective Date Debtors shall be responsible for any fees, expenses and costs of the Litigation Trust.

8. The Litigation Trust Loan

On the Effective Date, the Plan Administrator shall transfer Cash in an amount of \$[7] million, to be loaned to the Litigation Trust on the terms to be specified in the Litigation Trust Agreement; *provided, however*, that the Litigation Trust Loan shall be reduced by any amount the Litigation Trust receives pursuant to any settlement of the Litigation Trust Causes of Action prior to the Effective Date (and the proceeds of any such settlement shall be funded into the Litigation Trust on the Effective Date). Any Litigation Trust Recovery Proceeds received shall be used to repay the Litigation Trust Loan before making any distribution to Litigation Trust Beneficiaries or funding any other costs of the Litigation Trust. In the event that the Litigation Trust receives Litigation Trust Recovery Proceeds in a form other than Cash, the Litigation Trust shall transfer Litigation Trust Recovery Proceeds having a fair market value equal to all amounts then due with respect to the Litigation Trust Loan to the Proceeds Account. "Fair Market Value" shall be determined in good faith by the Litigation Trust Committee, subject to the approval of the Bankruptcy Court.

9. Termination of the Litigation Trust

The Litigation Trust shall terminate as soon as practicable, but in no event later than the fifth anniversary of the Effective Date; *provided* that, on or later than the date that is six months before the Initial Trust Termination Date, the Bankruptcy Court, upon motion by a party in interest, may extend the term of the Litigation Trust for a finite period (any such extension representing an "Extended Trust Termination Date") if such an extension is necessary to complete any pending litigation or any distribution required under the Litigation Trust Agreement. Notwithstanding the foregoing, multiple extensions may be obtained so long as Bankruptcy Court approval is obtained no more than six months before the expiration of each Extended Trust Termination Date.

10. Litigation Trust Committee

Membership, duties, responsibilities and powers of the Litigation Trust Committee shall be as set forth in the Litigation Trust Agreement.

11. Transferability of the Litigation Trust Interests

The Litigation Trust Interests will not be transferable.

*D. Conditions for Release from Escrow*

All of the Net Proceeds derived from the monetization of the Debtors' assets shall be held in the Proceeds Account pending a resolution of the Committee Action. The Proceeds Account shall be monitored, maintained and administered by the Plan Administrator.

Upon entry of an order or judgment by the Bankruptcy Court resolving the Committee Action (except to the extent such order or judgment is stayed pending appeal), all, or a portion, of (i) the Net Proceeds (a) shall be distributed to holders of Allowed First Lien Revolver Claims, First Lien Term Loan Claims or Second Lien Claims, as applicable, in accordance with Article III hereof, if and to the extent so ordered by the Bankruptcy Court and/or (b) shall be distributed to holders of Litigation Trust Interests in accordance with Article III hereof, if so and to the extent ordered by the Bankruptcy Court, as applicable and necessary to effectuate a complete remedy. Any such order shall give effect to the priorities of payment as provided under the Intercreditor Agreement.

**ARTICLE VI.**

**TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

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

1. Rejection of Executory Contracts and Unexpired Leases

Each Executory Contract or Unexpired Lease shall be deemed automatically rejected in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code as of the Effective Date, unless any such Executory Contract or Unexpired Lease:

- (a) has been previously assumed by the Debtors by Final Order of the Bankruptcy Court;
- (b) has been assumed by the Debtors by order of the Bankruptcy Court as of the Effective Date, which order becomes a Final Order after the Effective Date;
- (c) is the subject of a motion to assume or reject pending as of the Effective Date;
- (d) is listed on the schedule of "Assumed Executory Contracts and Unexpired Leases" in the Plan Supplement; or
- (e) is otherwise assumed pursuant to the terms herein.

The Confirmation Order shall constitute an order of the Bankruptcy Court approving such rejections pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date. Non-Debtor parties to Executory Contracts or Unexpired Leases that are deemed rejected as of the Effective Date shall have the right to assert any Claim on account of the rejection of such Executory Contracts or Unexpired Leases, including under section 503 of the Bankruptcy Code; *provided* that such Claims must be filed in accordance with the procedures set forth in Article VI.B hereof. The Debtors reserve the right to amend the schedule of Assumed Executory Contracts and Unexpired Leases and Rejected Executory Contracts and Unexpired Leases at any time before the Effective Date.

The Debtors are deemed to have abandoned any furniture, fixtures, equipment, inventory and other personal property located at the premises of Unexpired Leases of nonresidential real property (as such term is used in section 365 of the Bankruptcy Code) for which the rejection is first effective on or after the Effective Date, as of the later of (i) the Effective Date, (ii) the effective date of rejection and (iii) the date the Debtors have turned over possession of such premises to the respective landlord. The Debtors shall have no administrative expense liability to any of their landlords for rental charges or occupancy of the leased premises after such abandonment by virtue of the continued presence at such premises of such abandoned property. Landlords at premises with such abandoned property may, in their sole discretion and without further notice, dispose of such abandoned property without liability to the Debtors or any non-Debtor third party claiming any interest in such property (including any First Lien Revolver Claims, First Lien Term Loan Claims, Second Lien Claims or Other Secured Claim) and, to the extent applicable, the automatic stay shall be modified to allow such disposition. The Debtors shall endeavor to provide



such third parties prior, specific, reasonable notice that they must retrieve the property in which they claim an interest before or upon such abandonment or such property shall be deemed so abandoned without further notice to or action, order or approval of the Bankruptcy Court and such landlords or their designee shall be free to dispose of same without liability or recourse to such landlords. Notwithstanding the Debtors' required efforts to provide prior, specific, reasonable notice to such third parties, the Plan and any notices of the Effective Date shall be deemed sufficient notice to such third parties to effectuate such abandonment and enable landlords to dispose of such abandoned property without liability or recourse.

The right of any party in interest to assert a Claim against the Debtors' Estates for costs associated with the removal or disposition of such abandoned property is fully preserved; *provided* that any such Claim must be filed by the applicable Claims Bar Date and otherwise in accordance herewith; *provided, further*, that the rights of all parties, including the Debtors, to contest any such Claim shall be fully preserved.

2. Assumption of Executory Contracts and Unexpired Leases

On the Effective Date, the Debtors shall assume all of the Executory Contracts and Unexpired Leases listed on the schedule of "Assumed Executory Contracts and Unexpired Leases" in the Plan Supplement.

3. Approval of Assumptions

The Confirmation Order shall constitute an order of the Bankruptcy Court approving the assumptions described in this Article VI pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date. Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed assumption of such Executory Contract or Unexpired Lease, including objecting to the cure amount designated by the Debtors as payable in connection with such assumption, will be deemed to have consented to such assumption and agreed to the specified Cure Claim amount.

*B. Claims on Account of the Rejection of Executory Contracts or Unexpired Leases*

All Proofs of Claim arising from the rejection of Executory Contracts or Unexpired Leases must be filed, according to the procedures established for the filing of proofs of claim in the *Order (A) Setting Bar Dates for Filing Proofs of Claim (B) Approving the Form and Manner for Filing Proofs of Claim and (C) Approving Notice Thereof* dated March 17, 2008 [D.E. #614], with the Voting and Claims Agent on or before the later of

1. the applicable Claims Bar Date; and
2. 30 days after the effective date of the rejection of such Executory Contract or Unexpired Lease.

Any Entity that is required to file a Proof of Claim arising from the rejection of an Executory Contract or an Unexpired Lease that fails to timely do so shall be forever barred, estopped and enjoined from asserting such Claim, and such Claim shall not be enforceable, against any Debtor or any Post-Effective Date Debtor or their Estates and property, and the Debtors or the Post-Effective Date Debtors and their Estates and property shall be forever discharged from any and all indebtedness and liability with respect to such Claim unless otherwise ordered by the Bankruptcy Court or as otherwise provided herein. All such Claims shall, as of the Effective Date, be subject to the permanent injunction set forth in Article VIII.G hereof.

**YOUR EXECUTORY CONTRACT OR UNEXPIRED LEASE IS AUTOMATICALLY REJECTED AS OF THE EFFECTIVE DATE, UNLESS YOUR EXECUTORY CONTRACT OR UNEXPIRED LEASE: (A) WAS PREVIOUSLY ASSUMED BY THE DEBTORS BY FINAL ORDER OF THE BANKRUPTCY COURT; (B) WAS ASSUMED BY THE DEBTORS BY ORDER OF THE BANKRUPTCY COURT AS OF THE EFFECTIVE DATE, WHICH ORDER BECOMES A FINAL ORDER AFTER THE EFFECTIVE DATE; (C) IS THE SUBJECT OF A MOTION TO ASSUME OR REJECT PENDING ON OR BEFORE THE EFFECTIVE DATE; (D) IS LISTED ON THE SCHEDULE OF "ASSUMED CONTRACTS AND UNEXPIRED LEASES" IN THE PLAN SUPPLEMENT; OR (E) IS OTHERWISE ASSUMED PURSUANT TO THE TERMS HEREIN.**

**THE BAR DATE FOR FILING CLAIMS BASED ON REJECTION OF EXECUTORY CONTRACTS OR UNEXPIRED LEASES IS THE LATER OF: (A) THE APPLICABLE CLAIMS BAR DATE AND (B) 30 DAYS AFTER THE EFFECTIVE DATE OF THE REJECTION OF SUCH EXECUTORY CONTRACT OR UNEXPIRED LEASE. A NOTICE OF THE EFFECTIVE DATE OF THE PLAN, INCLUDING NOTICE REGARDING THE REJECTION OF EXECUTORY CONTRACTS OR UNEXPIRED LEASES, WILL BE SENT TO ALL KNOWN CREDITORS.**

C. *Procedures for Counterparties to Executory Contracts and Unexpired Leases Assumed Pursuant to the Plan*

**A NOTICE OF THE EFFECTIVE DATE OF THE PLAN, INCLUDING NOTICE REGARDING THE ASSUMPTION OR ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS OR UNEXPIRED LEASES, WILL BE SENT TO ALL KNOWN CREDITORS.** For known non-Debtor parties to Executory Contracts and Unexpired Leases assumed or assumed and assigned pursuant to the Plan, such notice or separate notices will be sent on or as soon as practicable after the Effective Date notifying such Entities regarding the Executory Contracts and Unexpired Leases to which it is a counterparty that have been assumed or assumed and assigned pursuant to the Plan.

1. Executory Contracts and Unexpired Leases, Other than Unexpired Leases of Nonresidential Real Property, Assumed Pursuant to the Plan

Any monetary defaults under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the default amount in Cash on the Effective Date or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute regarding (a) the amount of any payments to cure such a default, (b) the ability of a Post-Effective Date Debtor or any assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed or (c) any other matter pertaining to assumption, the cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order or orders resolving the dispute and approving the assumption. At least 20 days prior to the Confirmation Hearing, the Debtors shall provide for notices of proposed assumption and proposed cure amounts to be sent to applicable third parties and for procedures for objecting thereto and resolution of disputes by the Bankruptcy Court. Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assumption or related cure amount must be filed, served and actually received by the Debtors at least 10 days prior to the Confirmation Hearing. Any counterparty to an Executory Contract and Unexpired Lease that fails to object timely to the proposed assumption or cure amount will be deemed to have assented to such matters.

**ARTICLE VII.**

**CONDITIONS PRECEDENT TO THE EFFECTIVE DATE**

It shall be a condition to the Effective Date that the following conditions shall have been satisfied or waived pursuant to the provisions of Article VII.A hereof.

1. The Confirmation Order shall have been entered and become a Final Order in a form and in substance reasonably satisfactory to the Debtors. The Confirmation Order shall provide that, among other things, (i) the Debtors or the Post-Effective Date Debtors, as appropriate, are authorized and directed to take all actions necessary or appropriate to consummate the Plan, including, without limitation, entering into, implementing and consummating the contracts, instruments, releases, leases, indentures and other agreements or documents created in connection with or described in the Plan.

2. All documents and agreements necessary to implement the Plan, shall have (a) all conditions precedent to such documents and agreements satisfied or waived pursuant to the terms of such documents or agreements, (b) been tendered for delivery and (c) been effected or executed.

3. All actions, documents, certificates and agreements necessary to implement this Plan shall have been effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws.

4. The Litigation Trust is established and funded in accordance with the provisions hereof and the Litigation Trust Agreement.

5. The Confirmation Order shall be in form and substance reasonably acceptable to the Debtors and shall approve the Debtors' consummation of the Plan and entry into and performance under related agreements, including the Plan Documents.

A. *Waiver of Conditions*

The conditions to confirmation of the Plan and to the Effective Date set forth in this Article VII may be waived by the Debtors without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or consummate the Plan.

B. *Effect of Non-Occurrence 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 by or Claims against or Equity Interests in the Debtors; (2) prejudice in any manner the rights of the Debtors, any holders or any other Entity; or (3) constitute an admission, acknowledgment, offer or undertaking by the Debtors, any holders or any other Entity in any respect.

**ARTICLE VIII.**

**SETTLEMENT, RELEASE, INJUNCTION AND RELATED PROVISIONS**

A. *Compromise and Settlement*

Notwithstanding anything contained herein to the contrary, subject to the Litigation Trust Causes of Action, the allowance, classification and treatment of all Allowed Claims and Provisionally Allowed Claims and their respective distributions and treatments hereunder takes into account and conforms to the relative priority and rights of the Claims and the Equity 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) and (c) of the Bankruptcy Code or otherwise. As of the Effective Date, any and all such rights described in the preceding sentence are settled, compromised and released pursuant hereto. The Confirmation Order will constitute the Bankruptcy Court's finding and determination that the settlements reflected in the Plan are (a) in the best interests of the Debtors, their estates and all holders of Claims, (b) fair, equitable and reasonable, (c) made in good faith and (d) approved by the Bankruptcy Court pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019. In addition, the allowance, classification and treatment of Allowed Claims and Provisionally Allowed Claims take into account any Causes of Action, whether under the Bankruptcy Code or otherwise under applicable non-bankruptcy law, that may exist: (i) between the Debtors, on the one hand, and the Plan Releasees, on the other (to the extent set forth in Article VIII.B.1 hereof); and (ii) between and among the Plan Agreement Parties (to the extent set forth in Article VIII.B.2 hereof); and, as of the Effective Date, any and all such Causes of Action are settled, compromised and released to the extent set forth in this Plan. The Confirmation Order shall approve the releases by all Entities of all such contractual, legal and equitable subordination rights or Causes of Action that are satisfied, compromised and settled pursuant hereto. Nothing in this Article VIII.A shall compromise or settle in any way whatsoever, any Litigation Trust Causes of Action except as expressly set forth herein or in the Confirmation Order, the TOI Causes of Action or the Objection to Bank Claims. Further, this paragraph is specifically limited by Article VIII.F hereof.

*B. Debtor Releases and other Agreements*

1. Creditors, Agents, Advisors and Professionals.

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtors, their estates and the Post Effective Date Debtors will be deemed to forever release, waive and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action and liabilities whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act, omission, transaction, event or other occurrence taking place on or prior to Effective Date in any way relating to the Debtors, the chapter 11 cases, the Plan, or the Disclosure Statement, that could have been asserted at any time, past or present or future by or on behalf of the Debtors or their estates against (a) the current and former members of the Committee and the advisors and attorneys for the Committee, in each case, in their capacity as such, (b) the First Lien Agents, and the advisors and professionals to the First Lien Revolver Lenders and First Lien Term Lenders and all other holders of the First Lien Revolver Claims and First Lien Term Loan Claims, in each case in their capacity as agents, professionals and advisors, (c) the Second Lien Agent, and the advisors and professionals to the Second Lien Lenders and all other holders of the Second Lien Claims, in each case in their capacity as agent, professionals and advisors and (d) the Debtors' agents, advisors and professionals employed as of the Petition Date or retained or employed during the Chapter 11 Cases, in each case in their capacity as such, except solely to the extent that any such agent, advisor or professional has executed a tolling agreement with the Debtors preserving the Debtors' rights to pursue certain causes of action (the "Identified Actions") (all parties identified in subsections (a) through (d), above, the "Plan Releases").

2. Representatives, Directors and Officers.

In addition, as of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtors, their estates and the Post Effective Date Debtors will agree, and the terms of the Litigation Trust Agreement (the "Agreeing Parties") will provide, that none of the Debtors, their estates, the Post-Effective Date Debtors or the Litigation Trust will pursue any claim, obligation, suit, judgment, damages, demand, debt, right or other cause of action, whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, against any of the current or former representatives, directors, and officers of the Debtors (together with the Agreeing Parties, the "Plan Agreement Parties") to the extent that such claim exceeds the available insurance proceeds (taking into account payment of defense costs and other obligations) under any applicable D&O Liability Insurance Policy.

*C. Exculpation*

The Exculpated Parties shall neither have, nor incur any liability to any entity for any prepetition or postpetition act taken or omitted to be taken in connection with, or related to formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the consummation of the Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors; *provided, however*, that the foregoing exculpation shall have no effect on the liability of any entity that results from any such act or omission that is determined in a Final Order to have constituted gross negligence or willful misconduct; *provided further*, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her or its duties pursuant to, or in connection with, the Plan; *provided still further*, that the foregoing exculpation shall not apply to any contingent Claims or to any Causes of Action that is (i) expressly set forth in and preserved in the Litigation Trust (ii) constitutes all or part of a Defensive Claim (solely to the extent required for defense of a Litigation Trust Cause of Action) and (iii) is expressly set forth in and preserved by the Plan, any Plan Supplement or related documents.

*D. Discharge of the Company*

Except as otherwise provided herein, on the Effective Date and effective as of the Effective Date: (a) the rights afforded in the Plan and the Litigation Trust and the treatment of all claims and Equity Interests herein shall be in exchange for and in complete satisfaction, discharge and release of all claims and Equity Interests of any

nature whatsoever, including any interest accrued on such claims from and after the petition date, against the Debtors, or any of their assets, property or estates; (b) subject to applicable law, the Plan shall bind all holders of claims and Equity Interests, notwithstanding whether any such holders failed to vote to accept or reject the Plan or voted to reject the Plan; (c) all claims against and Equity Interests in the Debtors shall be satisfied, discharged and released in full or cancelled as provided in the Plan, and the Debtors' liability with respect thereto shall be extinguished completely, including, without limitation, any liability of the kind specified under section 502(g) of the Bankruptcy Code; and (d) all entities shall be precluded from asserting against any of the Debtors, the Debtors' estates, the Post-Effective Date Debtors, each of their successors and assigns and each of their assets and properties, including without limitation the Litigation Trust Assets and the Proceeds Account, any other claims or Equity Interests based upon any documents, instruments or any act or omission, transaction or other activity of any kind or nature that occurred before the Effective Date.

*E. Preservation of Rights and Causes of Action*

1. Maintenance of Causes of Action

Except as otherwise provided in the Plan or Confirmation Order, after the Effective Date, the Post-Effective Date Debtors, with respect to Operating Causes of Action shall retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Operating Causes of Action, whether existing as of the applicable Commencement Date or thereafter arising, including those Causes of Action arising after the Effective Date, in any court or other tribunal including, without limitation, in an adversary proceeding filed in one or more of the Chapter 11 Cases.

2. Preservation of All Causes of Action Not Expressly Settled or Released by the Debtors

Unless a claim or Cause of Action against a holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order (including, without limitation, the Confirmation Order), such Claim or Cause of Action for later adjudication by the Debtors, the Plan Administrator, the Post-Effective Date Debtors or the Litigation Trust (are expressly required including, without limitation, Claims and Causes of Action not specifically identified on Exhibit G of the Disclosure Statement or of which the Debtors may presently be unaware or which may arise or exist by reason of additional facts or circumstances unknown to the Debtors at this time or facts or circumstances that may change or be different from those the Debtors now believe to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or *laches* shall apply to such Claims or Causes of Action upon or after the confirmation or Effective Date of the Plan based on the Disclosure Statement, the Plan or the Confirmation Order, except where such Claims or Causes of Action have been expressly released in the Plan (including, without limitation, and for the avoidance of doubt, the Debtor Release contained in Article VIII.B hereof) or any other Final Order (including, without limitation, the Confirmation Order). In addition, the Debtors, the Post-Effective Date Debtors and the Litigation Trust expressly reserve the right to pursue or adopt any claims alleged in any lawsuit in which the Debtors are a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits.

*F. Preservation of Rights and Causes of Action Not Settled or Released by the Creditors*

Unless a claim or Cause of Action held by a holder of a Claim against a non-Debtor party is waived, relinquished, released, compromised or settled in the Plan or any Final Order (including, without limitation, the Confirmation Order), the holders of such Claims expressly reserve such claim or Cause of Action for later adjudication by such holder of a Claim except for the Litigation Trust Causes of Action and the Objection to Bank Claims, which shall be adjudicated solely by the Litigation Trust. The foregoing reservation of claims or Causes of Action includes, without limitation, Claims and Causes of Action not specifically identified or of which the holder of such Claim may presently be unaware or which may arise or exist by reason of additional facts or circumstances unknown to the holder of such Claim at this time or facts or circumstances that may change or be different from those the holder of such Claim now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or *laches* shall apply to such Claims or Causes of Action upon or after the confirmation or Effective Date of the Plan based on the Disclosure Statement, the Plan or the Confirmation Order,

except where such Claims or Causes of Action have been expressly released in the Plan or any other Final Order (including, without limitation, the Confirmation Order).

Without limiting the generality of the foregoing, the treatment and structure of the Plan as 39 separate chapter 11 plans (and the treatment of intercompany claims under such plans) shall not impair, prejudice, preclude or in any way adversely affect the ability of any defendant in the Litigation Trust Causes of Action to assert (or the Litigation Trustee to contest) any theory, claim or defense based in sole or in part upon (a) a unity of interest or indirect benefits theory, (b) veil piercing or alter ego, (c) substantive consolidation, or (d) any similar theory under any legal or equitable doctrine under any applicable law, all except to the extent that the Bankruptcy Court is required to rule upon any such theory, claim or defense in order to confirm the Plan. Any vote in favor of the Plan by any Class or any individual defendant in the Litigation Trust Causes of Action is an accommodation to the Debtors and the other parties-in-interest to expedite confirmation of the Plan and such accommodation shall not be construed, deemed or interpreted as a waiver of any of the foregoing claims/theories/defenses.

The terms of this Plan and the Confirmation Order shall not have the effect of (a) creating or eliminating any right to a trial by jury or otherwise for any claim or Cause of Action asserted in any of the Litigation Trust Causes of Action, including the Committee Action or the Objection to Bank Claims, (b) impairing or prejudicing in any respect the right of (i) a holder of a Second Lien Claim to assert solely on a defensive basis and not for any affirmative recovery against any Debtor, any Defensive Claims, (ii) the Litigation Trustee to assert and prosecute the Litigation Trust Causes Of Action or (iii) any of the parties who have filed an Objection to Bank Claims to assert and prosecute such Objection to Bank Claims.

#### G. *Injunction*

From and after the Effective Date, all Entities are permanently enjoined from commencing or continuing in any manner, any cause of action released pursuant to the Plan or the Confirmation Order.

From and after the Effective Date, to the extent of the releases and exculpation granted in Article VIII hereof, the releasing parties shall be permanently enjoined from commencing or continuing in any manner against Plan Releasees and the Exculpated Parties and their assets and properties, as the case may be, any suit, action or other proceeding, on account of or respecting any claim, demand, liability, obligation, debt, right, cause of action, interest or remedy released or to be released pursuant to Article VIII hereof.

Except as otherwise expressly provided for herein or in obligations issued pursuant hereto, from and after the Effective Date, all Entities shall be precluded from asserting against the debtors, the debtors in possession, the debtors' estates, any of their successors and assigns, and each of their respective current and former members (including *ex officio* members), officers, directors, employees, partners, attorneys, financial advisors, accountants, managed funds, investment bankers, investment advisors, actuaries, professionals, agents, affiliates and representatives (each of the foregoing in its individual capacity as such), and their assets and properties, any other claims or Equity Interests based upon any documents, instruments, or any act or omission, transaction or other activity of any kind or nature that occurred before the Effective Date.

The rights afforded in the Plan and the treatment of all claims and Equity Interests herein shall be in exchange for and in complete satisfaction of claims and Equity Interests of any nature whatsoever, including, without limitation, any interest accrued on claims from and after the Applicable Commencement Date, against the Debtors or any of their assets, property or estates. On the Effective Date, all such claims against the Debtors shall be fully released and discharged, and the Equity Interests shall be cancelled.

Except as otherwise expressly provided for herein or in obligations issued pursuant hereto from and after the Effective Date, all claims against in the Debtors shall be fully released and discharged, and the Equity Interests shall be cancelled, and the Debtors' liability with respect thereto shall be extinguished completely, including, without limitation, any liability of the kind specified under section 502(g) of the bankruptcy code.

All entities shall be precluded from asserting against the Debtors, the Debtors' Estates, the Post-Effective Date Debtors, each of their respective successors and assigns, and each of their assets and properties, any other claims or equity interests based upon any documents, instruments or any act or omission, transaction or other activity of any kind or nature that occurred before the Effective Date.

**ARTICLE IX.**

**BINDING NATURE OF PLAN**

THIS PLAN SHALL BIND ALL HOLDERS OF CLAIMS AND EQUITY INTERESTS, NOTWITHSTANDING WHETHER ANY SUCH HOLDERS FAILED TO VOTE TO ACCEPT OR REJECT THE PLAN OR VOTED TO REJECT THE PLAN.

**ARTICLE X.**

**RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain the maximum legally permissible jurisdiction over the Chapter 11 Cases and all Entities with respect to all matters related to the Chapter 11 Cases, the Debtors and the Plan, including, without limitation, jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim, including, without limitation, the resolution of any request for payment of any Administrative Claim, the resolution of any and all objections to the allowance or priority of any Claim and the resolution of any and all issues related to the release of Liens upon payment of a secured Claim;
2. grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Confirmation Date;
3. resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, those matters related to any amendment to the Plan after the Effective Date to add Executory Contracts or Unexpired Leases to the list of Executory Contracts and Unexpired Leases to be assumed;
4. ensure that distributions to holders of Allowed Claims or Provisionally Allowed Claims are accomplished pursuant to the provisions of the Plan;
5. decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action that are pending as of the date hereof or that may be commenced in the future, and grant or deny any applications involving a Debtor that may be pending on the Effective Date or instituted by the Post-Effective Date Debtors after the Effective Date, *provided* that the Post-Effective Date Debtors shall reserve the right to commence actions in all appropriate fora and jurisdictions;
6. enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all other contracts, instruments, releases, indentures and other agreements or documents adopted in connection with the Plan, the Plan Supplement or the Disclosure Statement;
7. resolve any cases, controversies, suits or disputes that may arise in connection with the Effective Date, interpretation or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;
8. hear and determine all Causes of Action that are pending as of the date hereof or that may be commenced in the future, including but not limited to the Litigation Trust Causes of Action;
9. issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with the Effective Date or enforcement of the Plan, except as otherwise provided in the Plan;
10. resolve any ambiguities between the Litigation Trust Agreement and the Plan;
11. resolve any dispute related to any Unsold Assets in accordance with Article V.B.6 hereof;

12. interpret and enforce the Oversight Procedures;
13. resolve any dispute relating to the Notice Actions;
14. enforce Article V.B.10 hereof;
15. enforce Article V.C.4 hereof;
16. enforce Article VIII.A, Article VIII.B, Article VIII.C, Article VIII.D, Article VIII.E, Article VIII.F and Article VIII.G hereof;
17. enforce the injunction set forth in Article VIII.G hereof;
18. order release of the Net Proceeds held in escrow pursuant to Article V.D;
19. resolve any cases, controversies, suits or disputes with respect to the Debtor Release, the Exculpation and other provisions contained in Article VIII hereof and enter such orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;
20. enter and implement such orders or take such other actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;
21. resolve any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document adopted in connection with the Plan or the Disclosure Statement; and
22. enter an order concluding any or all of the Chapter 11 Cases.

## **ARTICLE XI.**

### **MISCELLANEOUS PROVISIONS**

#### *A. Dissolution of Committee*

After the Effective Date, the Committee shall dissolve with respect to the Debtors and its respective members shall be released and discharged from all further authority, duties, responsibilities and obligations relating to the Chapter 11 Cases; *provided, however*, that the Committee and its Retained Professionals shall be retained with respect to (1) applications filed pursuant to sections 330 and 331 of the Bankruptcy Code, (2) motions seeking the enforcement of the provisions of the Plan and the transactions contemplated hereunder or the Confirmation Order and (3) pending appeals and related proceedings. Such Committee dissolution, release and discharge shall take place after the Effective Date upon the filing by the Committee of a notice of such dissolution, release and discharge, which notice shall be filed no later than the latest of: (i) 30 days after the Effective Date; (ii) 30 days after any appeal of the Confirmation Order pending after the Effective Date terminates or is denied; and (iii) such other date as may be set by the Bankruptcy Court for cause.

#### *B. Modification of Plan*

Effective as of the date hereof and subject to the limitations and rights contained in the Plan: (a) the Debtors reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan before the entry of the Confirmation Order; and (b) after the entry of the Confirmation Order, the Debtors or the Post-Effective Date Debtors, as applicable, may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

#### *C. Revocation of Plan*

The Debtors reserve the right to revoke or withdraw the Plan before the Confirmation Date and to file subsequent chapter 11 plans. In addition, the Debtors reserve the right to seek confirmation of some, but not all of



the chapter 11 Plans for TOUSA, Inc., the Subsidiary Debtors and Beacon Hill at Mountain's Edge, LLC. If the Debtors revoke or withdraw one or more of the Plans, or if confirmation or the Effective Date does not occur, then: (1) the applicable Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the applicable Plan, assumption or rejection of Executory Contracts or Unexpired Leases effected by the applicable Plan and any document or agreement executed pursuant hereto shall be deemed null and void; and (3) nothing contained in the applicable Plan shall: (a) constitute a waiver or release of any Claims by or against such Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtors or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtors or any other Entity.

*D. Successors and Assigns*

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

*E. Reservation of Rights*

Except as expressly set forth herein, the Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order. Neither the filing of the Plan, any statement or provision contained herein, nor the taking of any action by a Debtor or any other Entity with respect to the Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) any Debtor with respect to the holders of Claims or Equity Interests or any other Entity; or (2) any holder of a Claim or an Equity Interest or any other Entity before the Effective Date.

*F. Section 1146 Exemption*

Pursuant to section 1146(a) of the Bankruptcy Code, any post-Confirmation Date transfer from a Debtor to any person pursuant to, in contemplation of, or in connection with the Plan or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtors; (b) the creation, modification, consolidation, or recording of any mortgage, deed of trust, or other security interest; (c) the making, assignment, or recording of any lease or sublease; or (d) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, or other similar tax or governmental assessment, in each case to the extent permitted by applicable law, and the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all documents necessary to evidence and implement the provisions of and the distributions to be made under the Plan, including the transfer of the Litigation Trust Causes of Action to the Litigation Trust and (ii) any sale or other transfer of the Debtors' assets in connection with the orderly liquidation of such assets, as contemplated by the Plan.

*G. Further Assurances*

The Debtors or the Post-Effective Date Debtors, as applicable, all holders of Claims receiving distributions hereunder and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan or the Confirmation Order.

*H. Severability*

If, before confirmation of this Plan, any term or provision hereof 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 then will be applicable as altered or interpreted, provided that any such alteration or interpretation must be in form and substance reasonably acceptable to the Debtors; provided, further, that the Debtors may seek an expedited hearing before the Bankruptcy

Court to address any objection to any such alteration or interpretation of the foregoing. Notwithstanding any such order by the Bankruptcy Court, alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect. 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 valid and enforceable pursuant to its terms.

*I. Service of Documents*

Any pleading, notice or other document required by the Plan to be served on or delivered to the Debtors shall be sent by overnight mail to:

TOUSA, Inc.  
Attn: Paul Berkowitz and Sorana Georgescu  
4000 Hollywood Boulevard  
Suite 400N  
Hollywood, Florida 33021

**with copies to:**

Kirkland & Ellis LLP  
Citigroup Center  
153 East 53rd Street  
New York, New York 10022  
Attn: Paul M. Basta, M. Natasha Labovitz and Ashleigh L. Blaylock

and

Berger Singerman, P.A.  
200 South Biscayne Boulevard, Suite 1000  
Miami, Florida 33131  
Attn: Paul Steven Singerman and Douglas Bates

*J. Filing of Additional Documents*

On or before the Effective Date, the Debtors may file with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.



TOUSA Delaware, Inc.

By:  /s/  
Its:  [TITLE]

TOUSA Homes Arizona, LLC

By:  /s/  
Its:  [TITLE]

TOUSA Homes Florida, L.P.

By:  /s/  
Its:  [TITLE]

TOUSA Homes Investment #2, Inc.

By:  /s/  
Its:  [TITLE]

TOUSA Homes Mid-Atlantic Holding, LLC

By:  /s/  
Its:  [TITLE]

TOUSA Homes Nevada, LLC

By:  /s/  
Its:  [TITLE]

TOUSA Homes, L.P

By:  /s/  
Its:  [TITLE]

TOUSA Realty, Inc.

By:  /s/  
Its:  [TITLE]

TOUSA/West Holdings, Inc.

By:  /s/  
Its:  [TITLE]

TOUSA Funding, LLC

By:  /s/  
Its:  [TITLE]

TOUSA Homes Colorado, LLC

By:  /s/  
Its:  [TITLE]

TOUSA Homes Investment #1, Inc.

By:  /s/  
Its:  [TITLE]

TOUSA Homes Investment #2, LLC

By:  /s/  
Its:  [TITLE]

TOUSA Homes Mid-Atlantic, LLC

By:  /s/  
Its:  [TITLE]

TOUSA Homes, Inc.

By:  /s/  
Its:  [TITLE]

TOUSA Mid-Atlantic Investment, LLC

By:  /s/  
Its:  [TITLE]

TOUSA, LLC

By:  /s/  
Its:  [TITLE]

Prepared and submitted by:

**BERGER SINGERMAN, P.A.**

Paul Steven Singerman (Florida Bar No. 378860)  
200 South Biscayne Boulevard, Suite 1000  
Miami, FL 33131  
Telephone: (305) 755-9500  
Facsimile: (305) 714-4340

-and-

**KIRKLAND & ELLIS LLP**

Richard M. Cieri (New York Bar No. 420712)  
Paul M. Basta (New York Bar No. 2568046)  
M. Natasha Labovitz (New York Bar No. 2813251)  
Joshua A. Sussberg (New York Bar. No. 4216453)  
Citigroup Center  
153 East 53rd Street  
New York, NY 10022  
Telephone: (212) 446-4800  
Facsimile: (212) 446-4900

*Co-Counsel to the Debtors*

**Exhibit A**

**Oversight Procedures**

**POST-CONFIRMATION CORPORATE GOVERNANCE AND STRUCTURE OUTLINE**

**A. Oversight Responsibilities: the Plan Administrator shall be subject to the oversight of the Oversight Committee or the Bankruptcy Court as described below.**

- (i) The Oversight Committee shall oversee the following duties of the Plan Administrator (pursuant to procedures and with limitations described in section E):
  1. Monetizing the Debtors' assets and the incurrence of any expense outside the ordinary course of business (*i.e.*, not related to the build-out and sale of construction in progress ("CIP") or the sale or maintenance of lots) of more than \$500,000;
  2. Prosecuting operational causes of action, and
  3. Prosecuting claims objections.
- (ii) The Bankruptcy Court shall oversee the following duties of the Plan Administrator:
  1. Responding to discovery requests and taking other actions related to the Committee Action; and
    - This oversight will take the form of periodic reporting requirements to the Bankruptcy Court, and any such other actions or reporting as the Bankruptcy Court may require at periodic status conferences scheduled in connection with the litigation.
  2. Reviewing other issues and questions that may arise in connection with administration of the Plan.

**B. Oversight Procedures: the Oversight Committee shall have the opportunity to review and object to designated proposed actions by the Plan Administrator using procedures similar to the bulk sales and land take-down procedures approved in the chapter 11 cases.**

- (i) Notice Procedures:
  1. Each member of the Oversight Committee shall receive notice of the salient terms of the proposed asset sale, incurrence of expense, settlement of claims objections, or settlement of an operational cause of action, as applicable.
  2. Each member of the Oversight Committee shall have the opportunity to object to the proposed action.

**POST-CONFIRMATION CORPORATE GOVERNANCE AND STRUCTURE OUTLINE**

3. Upon receiving an objection from any member of the Oversight Committee, the Plan Administrator shall work with that member to address and resolve the objection.
  - (a) If resolving an objection results in a material change to the proposed action, the action shall be re-noticed and the Oversight Committee shall have a new (abbreviated) review and objection period.
4. If an objection cannot be resolved, then the procedures will provide for an expedited means for Bankruptcy Court review of the issue.
  - (ii) Notice Thresholds:
    1. For each proposed asset sale in excess of \$5,000,000, or for any asset sale in which the consideration is not 100% cash, the members of the Oversight Committee shall receive notices setting forth the salient information and terms of the sale. For the avoidance of doubt, notices shall not be provided (pursuant to the current bulk land sale procedures or otherwise) for any asset sale that is less than \$5,000,000.
    2. For each incurrence of any expense outside the ordinary course of business (*i.e.*, not related to the build-out and sale of CIP or the sale or maintenance of lots) of more than \$500,000, the members of the Oversight Committee shall receive notices setting forth the salient information and terms of the transaction.
    3. All proposed settlements of Claims Objections shall be noticed to the members of the Oversight Committee (in accordance with the Claims Procedures Order).
    4. For each proposed settlement of an Operating Cause of Action in excess of \$150,000 the members of the Oversight Committee shall receive notices setting forth the salient information and terms of the settlement.



**Exhibit B**

**Summary of Classes and Voting Rights**

<b>Debtor</b>	<b>Class</b>	<b>Claim</b>	<b>Status</b>	<b>Voting Rights</b>
Tousa, Inc.	1A	First Lien Revolver Claims	Impaired	Yes
Tousa, Inc.	1B	First Lien Term Loan Claims	Impaired	Yes
Tousa, Inc.	2	Second Lien Claims	Impaired	Yes
Tousa, Inc.	3	Other Secured Claims	Impaired	Yes
Tousa, Inc.	4	Other Priority Claims	Unimpaired	No
Tousa, Inc.	5A	Senior Note Claims	Impaired	Yes
Tousa, Inc.	5B	General Unsecured Claims	Impaired	Yes
Tousa, Inc.	5C	Subordinated Note Claims	Impaired	Yes
Tousa, Inc.	5D	PIK Note Claims	Impaired	Yes
		Claims Against the Debtors		
Tousa, Inc.	6	Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Tousa, Inc.	7	Equity Interests in Tousa, Inc.	Impaired	No
Engle Homes Commercial Construction, LLC	1A	First Lien Revolver Claims	Impaired	Yes
Engle Homes Commercial Construction, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
Engle Homes Commercial Construction, LLC	2	Second Lien Claims	Impaired	Yes
Engle Homes Commercial Construction, LLC	3	Other Secured Claims	Impaired	Yes
Engle Homes Commercial Construction, LLC	4	Other Priority Claims	Unimpaired	No
Engle Homes Commercial Construction, LLC	5A	Senior Note Claims	Impaired	Yes
Engle Homes Commercial Construction, LLC	5B	General Unsecured Claims	Impaired	Yes
Engle Homes Commercial Construction, LLC	5C	Subordinated Note Claims	Impaired	Yes
Engle Homes Commercial Construction, LLC	5D	PIK Note Claims	Impaired	Yes
		Claims Against the Debtors		
Engle Homes Commercial Construction, LLC	6	Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Engle Homes Commercial Construction, LLC	7	Equity Interests in Engle Homes Commercial Construction, LLC	Impaired	No
Engle Homes Delaware, Inc.	1A	First Lien Revolver Claims	Impaired	Yes
Engle Homes Delaware, Inc.	1B	First Lien Term Loan Claims	Impaired	Yes

Engle Homes Delaware, Inc.	2	Second Lien Claims	Impaired	Yes
Engle Homes Delaware, Inc.	3	Other Secured Claims	Impaired	Yes
Engle Homes Delaware, Inc.	4	Other Priority Claims	Unimpaired	No
Engle Homes Delaware, Inc.	5A	Senior Note Claims	Impaired	Yes
Engle Homes Delaware, Inc.	5B	General Unsecured Claims	Impaired	Yes
Engle Homes Delaware, Inc.	5C	Subordinated Note Claims	Impaired	Yes
Engle Homes Delaware, Inc.	5D	PIK Note Claims	Impaired	Yes
Engle Homes Delaware, Inc.	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Engle Homes Delaware, Inc.	7	Equity Interests in Engle Homes Delaware, Inc.	Impaired	No
Engle Homes Residential Construction, LLC	1A	First Lien Revolver Claims	Impaired	Yes
Engle Homes Residential Construction, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
Engle Homes Residential Construction, LLC	2	Second Lien Claims	Impaired	Yes
Engle Homes Residential Construction, LLC	3	Other Secured Claims	Impaired	Yes
Engle Homes Residential Construction, LLC	4	Other Priority Claims	Unimpaired	No
Engle Homes Residential Construction, LLC	5A	Senior Note Claims	Impaired	Yes
Engle Homes Residential Construction, LLC	5B	General Unsecured Claims	Impaired	Yes
Engle Homes Residential Construction, LLC	5C	Subordinated Note Claims	Impaired	Yes
Engle Homes Residential Construction, LLC	5D	PIK Note Claims	Impaired	Yes
Engle Homes Residential Construction, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Engle Homes Residential Construction, LLC	7	Equity Interests in Engle Homes Residential Construction, LLC	Impaired	No

Engle Sierra Verde P4, LLC	1A	First Lien Revolver Claims	Impaired	Yes
Engle Sierra Verde P4, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
Engle Sierra Verde P4, LLC	2	Second Lien Claims	Impaired	Yes
Engle Sierra Verde P4, LLC	3	Other Secured Claims	Impaired	Yes
Engle Sierra Verde P4, LLC	4	Other Priority Claims	Unimpaired	No
Engle Sierra Verde P4, LLC	5A	Senior Note Claims	Impaired	Yes
Engle Sierra Verde P4, LLC	5B	General Unsecured Claims	Impaired	Yes
Engle Sierra Verde P4, LLC	5C	Subordinated Note Claims	Impaired	Yes
Engle Sierra Verde P4, LLC	5D	PIK Note Claims	Impaired	Yes
Engle Sierra Verde P4, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Engle Sierra Verde P4, LLC	7	Equity Interests in Engle Sierra Verde P4, LLC	Impaired	No
Engle Sierra Verde P5, LLC	1A	First Lien Revolver Claims	Impaired	Yes
Engle Sierra Verde P5, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
Engle Sierra Verde P5, LLC	2	Second Lien Claims	Impaired	Yes
Engle Sierra Verde P5, LLC	3	Other Secured Claims	Impaired	Yes
Engle Sierra Verde P5, LLC	4	Other Priority Claims	Unimpaired	No
Engle Sierra Verde P5, LLC	5A	Senior Note Claims	Impaired	Yes
Engle Sierra Verde P5, LLC	5B	General Unsecured Claims	Impaired	Yes
Engle Sierra Verde P5, LLC	5C	Subordinated Note Claims	Impaired	Yes
Engle Sierra Verde P5, LLC	5D	PIK Note Claims	Impaired	Yes
Engle Sierra Verde P5, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Engle Sierra Verde P5, LLC	7	Equity Interests in Engle Sierra Verde P5, LLC	Impaired	No
Engle/Gilligan, LLC	1A	First Lien Revolver Claims	Impaired	Yes
Engle/Gilligan, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
Engle/Gilligan, LLC	2	Second Lien Claims	Impaired	Yes
Engle/Gilligan, LLC	3	Other Secured Claims	Impaired	Yes
Engle/Gilligan, LLC	4	Other Priority Claims	Unimpaired	No
Engle/Gilligan, LLC	5A	Senior Note Claims	Impaired	Yes

Engle/Gilligan, LLC	5B	General Unsecured Claims	Impaired	Yes
Engle/Gilligan, LLC	5C	Subordinated Note Claims	Impaired	Yes
Engle/Gilligan, LLC	5D	PIK Note Claims	Impaired	Yes
		Claims Against the Debtors		
Engle/Gilligan, LLC	6	Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
		Equity Interests in Engle/Gilligan, LLC	Impaired	No
Engle/James, LLC	1A	First Lien Revolver Claims	Impaired	Yes
Engle/James, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
Engle/James, LLC	2	Second Lien Claims	Impaired	Yes
Engle/James, LLC	3	Other Secured Claims	Impaired	Yes
Engle/James, LLC	4	Other Priority Claims	Unimpaired	No
Engle/James, LLC	5A	Senior Note Claims	Impaired	Yes
Engle/James, LLC	5B	General Unsecured Claims	Impaired	Yes
Engle/James, LLC	5C	Subordinated Note Claims	Impaired	Yes
Engle/James, LLC	5D	PIK Note the Claims	Impaired	Yes
		Claims Against the Debtors		
Engle/James, LLC	6	Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
		Equity Interests in Engle/James, LLC	Impaired	No
LB/TE #1, LLC	1A	First Lien Revolver Claims	Impaired	Yes
LB/TE #1, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
LB/TE #1, LLC	2	Second Lien Claims	Impaired	Yes
LB/TE #1, LLC	3	Other Secured Claims	Impaired	Yes
LB/TE #1, LLC	4	Other Priority Claims	Unimpaired	No
LB/TE #1, LLC	5A	Senior Note Claims	Impaired	Yes
LB/TE #1, LLC	5B	General Unsecured Claims	Impaired	Yes
LB/TE #1, LLC	5C	Subordinated Note Claims	Impaired	Yes
LB/TE #1, LLC	5D	PIK Note Claims	Impaired	Yes
		Claims Against the Debtors		
LB/TE #1, LLC	6	Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
		Equity Interests in LB/TE #1, LLC	Impaired	No
Lorton South Condominium, LLC	1A	First Lien Revolver Claims	Impaired	Yes
Lorton South Condominium, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
Lorton South Condominium, LLC	2	Second Lien Claims	Impaired	Yes
Lorton South Condominium, LLC	3	Other Secured Claims	Impaired	Yes
Lorton South Condominium, LLC	4	Other Priority Claims	Unimpaired	No
Lorton South Condominium, LLC	5A	Senior Note Claims	Impaired	Yes
Lorton South Condominium, LLC	5B	General Unsecured Claims	Impaired	Yes
Lorton South	5C	Subordinated Note Claims	Impaired	Yes

Lorton South Condominium, LLC	5D	PIK Note Claims	Impaired	Yes
Lorton South Condominium, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Lorton South Condominium, LLC	7	Equity Interests in Lorton South Condominium, LLC	Impaired	No
McKay Landing, LLC	1A	First Lien Revolver Claims	Impaired	Yes
McKay Landing, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
McKay Landing, LLC	2	Second Lien Claims	Impaired	Yes
McKay Landing, LLC	3	Other Secured Claims	Impaired	Yes
McKay Landing, LLC	4	Other Priority Claims	Unimpaired	No
McKay Landing, LLC	5A	Senior Note Claims	Impaired	Yes
McKay Landing, LLC	5B	General Unsecured Claims	Impaired	Yes
McKay Landing, LLC	5C	Subordinated Note Claims	Impaired	Yes
McKay Landing, LLC	5D	PIK Note Claims	Impaired	Yes
McKay Landing, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
McKay Landing, LLC	7	Equity Interests in McKay Landing, LLC	Impaired	No
Newmark Homes Business Trust	1A	First Lien Revolver Claims	Impaired	Yes
Newmark Homes Business Trust	1B	First Lien Term Loan Claims	Impaired	Yes
Newmark Homes Business Trust	2	Second Lien Claims	Impaired	Yes
Newmark Homes Business Trust	3	Other Secured Claims	Impaired	Yes
Newmark Homes Business Trust	4	Other Priority Claims	Unimpaired	No
Newmark Homes Business Trust	5A	Senior Note Claims	Impaired	Yes
Newmark Homes Business Trust	5B	General Unsecured Claims	Impaired	Yes
Newmark Homes Business Trust	5C	Subordinated Note Claims	Impaired	Yes
Newmark Homes Business Trust	5D	PIK Note Claims	Impaired	Yes
Newmark Homes Business Trust	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Newmark Homes Business Trust	7	Equity Interests in Newmark Homes Business Trust	Impaired	No
Newmark Homes Purchasing, LP	1A	First Lien Revolver Claims	Impaired	Yes
Newmark Homes Purchasing, LP	1B	First Lien Term Loan Claims	Impaired	Yes
Newmark Homes	2	Second Lien Claims	Impaired	Yes

Purchasing, LP Newmark Homes Purchasing, LP	3	Other Secured Claims	Impaired	Yes
Newmark Homes Purchasing, LP	4	Other Priority Claims	Unimpaired	No
Newmark Homes Purchasing, LP	5A	Senior Note Claims	Impaired	Yes
Newmark Homes Purchasing, LP	5B	General Unsecured Claims	Impaired	Yes
Newmark Homes Purchasing, LP	5C	Subordinated Note Claims	Impaired	Yes
Newmark Homes Purchasing, LP	5D	PIK Note Claims	Impaired	Yes
Newmark Homes Purchasing, LP	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Newmark Homes Purchasing, LP	7	Equity Interests in Newmark Homes Purchasing, LP	Impaired	No
Newmark Homes, LLC	1A	First Lien Revolver Claims	Impaired	Yes
Newmark Homes, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
Newmark Homes, LLC	2	Second Lien Claims	Impaired	Yes
Newmark Homes, LLC	3	Other Secured Claims	Impaired	Yes
Newmark Homes, LLC	4	Other Priority Claims	Unimpaired	No
Newmark Homes, LLC	5A	Senior Note Claims	Impaired	Yes
Newmark Homes, LLC	5B	General Unsecured Claims	Impaired	Yes
Newmark Homes, LLC	5C	Subordinated Note Claims	Impaired	Yes
Newmark Homes, LLC	5D	PIK Note Claims	Impaired	Yes
Newmark Homes, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Newmark Homes, LLC	7	Equity Interests in Newmark Homes, LLC	Impaired	No
Newmark Homes, LP	1A	First Lien Revolver Claims	Impaired	Yes
Newmark Homes, LP	1B	First Lien Term Loan Claims	Impaired	Yes
Newmark Homes, LP	2	Second Lien Claims	Impaired	Yes
Newmark Homes, LP	3	Other Secured Claims	Impaired	Yes
Newmark Homes, LP	4	Other Priority Claims	Unimpaired	No
Newmark Homes, LP	5A	Senior Note Claims	Impaired	Yes
Newmark Homes, LP	5B	General Unsecured Claims	Impaired	Yes
Newmark Homes, LP	5C	Subordinated Note Claims	Impaired	Yes
Newmark Homes, LP	5D	PIK Note Claims	Impaired	Yes
Newmark Homes, LP	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Newmark Homes, LP	7	Equity Interests in Newmark Homes, LP	Impaired	No
Preferred Builders Realty, Inc.	1A	First Lien Revolver Claims	Impaired	Yes
Preferred Builders Realty, Inc.	1B	First Lien Term Loan Claims	Impaired	Yes

Preferred Builders Realty, Inc.	2	Second Lien Claims	Impaired	Yes
Preferred Builders Realty, Inc.	3	Other Secured Claims	Impaired	Yes
Preferred Builders Realty, Inc.	4	Other Priority Claims	Unimpaired	No
Preferred Builders Realty, Inc.	5A	Senior Note Claims	Impaired	Yes
Preferred Builders Realty, Inc.	5B	General Unsecured Claims	Impaired	Yes
Preferred Builders Realty, Inc.	5C	Subordinated Note Claims	Impaired	Yes
Preferred Builders Realty, Inc.	5D	PIK Note Claims	Impaired	Yes
Preferred Builders Realty, Inc.	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Preferred Builders Realty, Inc.	7	Equity Interests in Preferred Builders Realty, Inc.	Impaired	No
Reflection Key, LLC	1A	First Lien Revolver Claims	Impaired	Yes
Reflection Key, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
Reflection Key, LLC	2	Second Lien Claims	Impaired	Yes
Reflection Key, LLC	3	Other Secured Claims	Impaired	Yes
Reflection Key, LLC	4	Other Priority Claims	Unimpaired	No
Reflection Key, LLC	5A	Senior Note Claims	Impaired	Yes
Reflection Key, LLC	5B	General Unsecured Claims	Impaired	Yes
Reflection Key, LLC	5C	Subordinated Note Claims	Impaired	Yes
Reflection Key, LLC	5D	PIK Note Claims	Impaired	Yes
Reflection Key, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Reflection Key, LLC	7	Equity Interests in Reflection Key, LLC	Impaired	No
Silverlake Interests, LLC	1A	First Lien Revolver Claims	Impaired	Yes
Silverlake Interests, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
Silverlake Interests, LLC	2	Second Lien Claims	Impaired	Yes
Silverlake Interests, LLC	3	Other Secured Claims	Impaired	Yes
Silverlake Interests, LLC	4	Other Priority Claims	Unimpaired	No
Silverlake Interests, LLC	5A	Senior Note Claims	Impaired	Yes
Silverlake Interests, LLC	5B	General Unsecured Claims	Impaired	Yes
Silverlake Interests, LLC	5C	Subordinated Note Claims	Impaired	Yes
Silverlake Interests, LLC	5D	PIK Note Claims	Impaired	Yes



Silverlake Interests, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Silverlake Interests, LLC	7	Equity Interests in Silverlake Interests, LLC	Impaired	No
TOI, LLC	1A	First Lien Revolver Claims	Impaired	Yes
TOI, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
TOI, LLC	2	Second Lien Claims	Impaired	Yes
TOI, LLC	3	Other Secured Claims	Impaired	Yes
TOI, LLC	4	Other Priority Claims	Unimpaired	No
TOI, LLC	5A	Senior Note Claims	Impaired	Yes
TOI, LLC	5B	General Unsecured Claims	Impaired	Yes
TOI, LLC	5C	Subordinated Note Claims	Impaired	Yes
TOI, LLC	5D	PIK Note Claims	Impaired	Yes
TOI, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOI, LLC	7	Equity Interests in TOI, LLC	Impaired	No
TOUSA Associates Services Company	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Associates Services Company	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Associates Services Company	2	Second Lien Claims	Impaired	Yes
TOUSA Associates Services Company	3	Other Secured Claims	Impaired	Yes
TOUSA Associates Services Company	4	Other Priority Claims	Unimpaired	No
TOUSA Associates Services Company	5A	Senior Note Claims	Impaired	Yes
TOUSA Associates Services Company	5B	General Unsecured Claims	Impaired	Yes
TOUSA Associates Services Company	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Associates Services Company	5D	PIK Note Claims	Impaired	Yes
TOUSA Associates Services Company	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Associates Services Company	7	Equity Interests in TOUSA Associates Services Company	Impaired	No
TOUSA Delaware, Inc.	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Delaware, Inc.	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Delaware, Inc.	2	Second Lien Claims	Impaired	Yes
TOUSA Delaware, Inc.	3	Other Secured Claims	Impaired	Yes
TOUSA Delaware, Inc.	4	Other Priority Claims	Unimpaired	No
TOUSA Delaware, Inc.	5A	Senior Note Claims	Impaired	Yes
TOUSA Delaware, Inc.	5B	General Unsecured Claims	Impaired	Yes
TOUSA Delaware, Inc.	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Delaware, Inc.	5D	PIK Note Claims	Impaired	Yes

TOUSA Delaware, Inc.	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Delaware, Inc.	7	Equity Interests in TOUSA Delaware, Inc.	Impaired	No
TOUSA Funding, LLC	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Funding, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Funding, LLC	2	Second Lien Claims	Impaired	Yes
TOUSA Funding, LLC	3	Other Secured Claims	Impaired	Yes
TOUSA Funding, LLC	4	Other Priority Claims	Unimpaired	No
TOUSA Funding, LLC	5A	Senior Note Claims	Impaired	Yes
TOUSA Funding, LLC	5B	General Unsecured Claims	Impaired	Yes
TOUSA Funding, LLC	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Funding, LLC	5D	PIK Note Claims	Impaired	Yes
TOUSA Funding, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Funding, LLC	7	Equity Interests in TOUSA Funding, LLC	Impaired	No
TOUSA Homes Arizona, LLC	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Homes Arizona, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Homes Arizona, LLC	2	Second Lien Claims	Impaired	Yes
TOUSA Homes Arizona, LLC	3	Other Secured Claims	Impaired	Yes
TOUSA Homes Arizona, LLC	4	Other Priority Claims	Unimpaired	No
TOUSA Homes Arizona, LLC	5A	Senior Note Claims	Impaired	Yes
TOUSA Homes Arizona, LLC	5B	General Unsecured Claims	Impaired	Yes
TOUSA Homes Arizona, LLC	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Homes Arizona, LLC	5D	PIK Note Claims	Impaired	Yes
TOUSA Homes Arizona, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Homes Arizona, LLC	7	Equity Interests in TOUSA Homes Arizona, LLC	Impaired	No
TOUSA Homes Colorado, LLC	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Homes Colorado, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Homes Colorado, LLC	2	Second Lien Claims	Impaired	Yes
TOUSA Homes Colorado, LLC	3	Other Secured Claims	Impaired	Yes

TOUSA Homes Colorado, LLC	4	Other Priority Claims	Unimpaired	No
TOUSA Homes Colorado, LLC	5A	Senior Note Claims	Impaired	Yes
TOUSA Homes Colorado, LLC	5B	General Unsecured Claims	Impaired	Yes
TOUSA Homes Colorado, LLC	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Homes Colorado, LLC	5D	PIK Note Claims	Impaired	Yes
TOUSA Homes Colorado, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Homes Colorado, LLC	7	Equity Interests in TOUSA Homes Colorado, LLC	Impaired	No
TOUSA Homes Florida, LP	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Homes Florida, LP	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Homes Florida, LP	2	Second Lien Claims	Impaired	Yes
TOUSA Homes Florida, LP	3	Other Secured Claims	Impaired	Yes
TOUSA Homes Florida, LP	4	Other Priority Claims	Unimpaired	No
TOUSA Homes Florida, LP	5A	Senior Note Claims	Impaired	Yes
TOUSA Homes Florida, LP	5B	General Unsecured Claims	Impaired	Yes
TOUSA Homes Florida, LP	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Homes Florida, LP	5D	PIK Note Claims	Impaired	Yes
TOUSA Homes Florida, LP	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Homes Florida, LP	7	Equity Interests in TOUSA Homes Florida, LP	Impaired	No
TOUSA Homes Investment #1, Inc.	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Homes Investment #1, Inc.	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Homes Investment #1, Inc.	2	Second Lien Claims	Impaired	Yes
TOUSA Homes Investment #1, Inc.	3	Other Secured Claims	Impaired	Yes
TOUSA Homes Investment #1, Inc.	4	Other Priority Claims	Unimpaired	No
TOUSA Homes Investment #1, Inc.	5A	Senior Note Claims	Impaired	Yes
TOUSA Homes Investment #1, Inc.	5B	General Unsecured Claims	Impaired	Yes

TOUSA Homes Investment #1, Inc.	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Homes Investment #1, Inc.	5D	PIK Note Claims	Impaired	Yes
TOUSA Homes Investment #1, Inc.	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Homes Investment #1, Inc.	7	Equity Interests in TOUSA Homes Investment #1, Inc.	Impaired	No
TOUSA Homes Investment #2, Inc.	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Homes Investment #2, Inc.	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Homes Investment #2, Inc.	2	Second Lien Claims	Impaired	Yes
TOUSA Homes Investment #2, Inc.	3	Other Secured Claims	Impaired	Yes
TOUSA Homes Investment #2, Inc.	4	Other Priority Claims	Unimpaired	No
TOUSA Homes Investment #2, Inc.	5A	Senior Note Claims	Impaired	Yes
TOUSA Homes Investment #2, Inc.	5B	General Unsecured Claims	Impaired	Yes
TOUSA Homes Investment #2, Inc.	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Homes Investment #2, Inc.	5D	PIK Note Claims	Impaired	Yes
TOUSA Homes Investment #2, Inc.	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Homes Investment #2, Inc.	7	Equity Interests in TOUSA Homes Investment #2, Inc.	Impaired	No
TOUSA Homes Investment #2, LLC	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Homes Investment #2, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Homes Investment #2, LLC	2	Second Lien Claims	Impaired	Yes
TOUSA Homes Investment #2, LLC	3	Other Secured Claims	Impaired	Yes
TOUSA Homes Investment #2, LLC	4	Other Priority Claims	Unimpaired	No
TOUSA Homes Investment #2, LLC	5A	Senior Note Claims	Impaired	Yes
TOUSA Homes Investment #2, LLC	5B	General Unsecured Claims	Impaired	Yes
TOUSA Homes Investment #2, LLC	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Homes Investment #2, LLC	5D	PIK Note Claims	Impaired	Yes

TOUSA Homes Investment #2, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Homes Investment #2, LLC	7	Equity Interests in TOUSA Homes Investment #2, LLC	Impaired	No
TOUSA Homes Mid-Atlantic Holding, LLC	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic Holding, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic Holding, LLC	2	Second Lien Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic Holding, LLC	3	Other Secured Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic Holding, LLC	4	Other Priority Claims	Unimpaired	No
TOUSA Homes Mid-Atlantic Holding, LLC	5A	Senior Note Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic Holding, LLC	5B	General Unsecured Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic Holding, LLC	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic Holding, LLC	5D	PIK Note Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic Holding, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Homes Mid-Atlantic Holding, LLC	7	Equity Interests in TOUSA Homes Mid-Atlantic Holding, LLC	Impaired	No
TOUSA Homes Mid-Atlantic, LLC	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic, LLC	2	Second Lien Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic, LLC	3	Other Secured Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic, LLC	4	Other Priority Claims	Unimpaired	No
TOUSA Homes Mid-Atlantic, LLC	5A	Senior Note Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic, LLC	5B	General Unsecured Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic, LLC	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic, LLC	5D	PIK Note Claims	Impaired	Yes
TOUSA Homes Mid-Atlantic, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No

TOUSA Homes Mid-Atlantic, LLC	7	Equity Interests in TOUSA Homes Mid-Atlantic, LLC	Impaired	No
TOUSA Homes Nevada, LLC	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Homes Nevada, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Homes Nevada, LLC	2	Second Lien Claims	Impaired	Yes
TOUSA Homes Nevada, LLC	3	Other Secured Claims	Impaired	Yes
TOUSA Homes Nevada, LLC	4	Other Priority Claims	Unimpaired	No
TOUSA Homes Nevada, LLC	5A	Senior Note Claims	Impaired	Yes
TOUSA Homes Nevada, LLC	5B	General Unsecured Claims	Impaired	Yes
TOUSA Homes Nevada, LLC	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Homes Nevada, LLC	5D	PIK Note Claims	Impaired	Yes
TOUSA Homes Nevada, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Homes Nevada, LLC	7	Equity Interests in TOUSA Homes Nevada, LLC	Impaired	No
TOUSA Homes, Inc.	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Homes, Inc.	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Homes, Inc.	2	Second Lien Claims	Impaired	Yes
TOUSA Homes, Inc.	3	Other Secured Claims	Impaired	Yes
TOUSA Homes, Inc.	4	Other Priority Claims	Unimpaired	No
TOUSA Homes, Inc.	5A	Senior Note Claims	Impaired	Yes
TOUSA Homes, Inc.	5B	General Unsecured Claims	Impaired	Yes
TOUSA Homes, Inc.	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Homes, Inc.	5D	PIK Note Claims	Impaired	Yes
TOUSA Homes, Inc.	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Homes, Inc.	7	Equity Interests in TOUSA Homes, Inc.	Impaired	No
TOUSA Homes, LP	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Homes, LP	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Homes, LP	2	Second Lien Claims	Impaired	Yes
TOUSA Homes, LP	3	Other Secured Claims	Impaired	Yes
TOUSA Homes, LP	4	Other Priority Claims	Unimpaired	No
TOUSA Homes, LP	5A	Senior Note Claims	Impaired	Yes
TOUSA Homes, LP	5B	General Unsecured Claims	Impaired	Yes
TOUSA Homes, LP	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Homes, LP	5D	PIK Note Claims	Impaired	Yes

TOUSA Homes, LP	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Homes, LP	7	Equity Interests in TOUSA Homes, LP	Impaired	No
TOUSA Investment #2, Inc.	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Investment #2, Inc.	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Investment #2, Inc.	2	Second Lien Claims	Impaired	Yes
TOUSA Investment #2, Inc.	3	Other Secured Claims	Impaired	Yes
TOUSA Investment #2, Inc.	4	Other Priority Claims	Unimpaired	No
TOUSA Investment #2, Inc.	5A	Senior Note Claims	Impaired	Yes
TOUSA Investment #2, Inc.	5B	General Unsecured Claims	Impaired	Yes
TOUSA Investment #2, Inc.	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Investment #2, Inc.	5D	PIK Note Claims	Impaired	Yes
TOUSA Investment #2, Inc.	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Investment #2, Inc.	7	Equity Interests in TOUSA Investment #2, Inc.	Impaired	No
TOUSA Mid-Atlantic Investment, LLC	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Mid-Atlantic Investment, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Mid-Atlantic Investment, LLC	2	Second Lien Claims	Impaired	Yes
TOUSA Mid-Atlantic Investment, LLC	3	Other Secured Claims	Impaired	Yes
TOUSA Mid-Atlantic Investment, LLC	4	Other Priority Claims	Unimpaired	No
TOUSA Mid-Atlantic Investment, LLC	5A	Senior Note Claims	Impaired	Yes
TOUSA Mid-Atlantic Investment, LLC	5B	General Unsecured Claims	Impaired	Yes
TOUSA Mid-Atlantic Investment, LLC	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Mid-Atlantic Investment, LLC	5D	PIK Note Claims	Impaired	Yes
TOUSA Mid-Atlantic Investment, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
TOUSA Mid-Atlantic Investment, LLC	7	Equity Interests in TOUSA Mid-Atlantic Investment, LLC	Impaired	No

TOUSA Realty, Inc.	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA Realty, Inc.	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA Realty, Inc.	2	Second Lien Claims	Impaired	Yes
TOUSA Realty, Inc.	3	Other Secured Claims	Impaired	Yes
TOUSA Realty, Inc.	4	Other Priority Claims	Unimpaired	No
TOUSA Realty, Inc.	5A	Senior Note Claims	Impaired	Yes
TOUSA Realty, Inc.	5B	General Unsecured Claims	Impaired	Yes
TOUSA Realty, Inc.	5C	Subordinated Note Claims	Impaired	Yes
TOUSA Realty, Inc.	5D	PIK Note Claims	Impaired	Yes
		Claims Against the Debtors		
TOUSA Realty, Inc.	6	Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
		Equity Interests in TOUSA Realty, Inc.		
TOUSA Realty, Inc.	7		Impaired	No
TOUSA, LLC	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA, LLC	2	Second Lien Claims	Impaired	Yes
TOUSA, LLC	3	Other Secured Claims	Impaired	Yes
TOUSA, LLC	4	Other Priority Claims	Unimpaired	No
TOUSA, LLC	5A	Senior Note Claims	Impaired	Yes
TOUSA, LLC	5B	General Unsecured Claims	Impaired	Yes
TOUSA, LLC	5C	Subordinated Note Claims	Impaired	Yes
TOUSA, LLC	5D	PIK Note Claims	Impaired	Yes
		Claims Against the Debtors		
TOUSA, LLC	6	Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
		Equity Interests in TOUSA, LLC		
TOUSA, LLC	7		Impaired	No
TOUSA/West Holdings, Inc.	1A	First Lien Revolver Claims	Impaired	Yes
TOUSA/West Holdings, Inc.	1B	First Lien Term Loan Claims	Impaired	Yes
TOUSA/West Holdings, Inc.	2	Second Lien Claims	Impaired	Yes
TOUSA/West Holdings, Inc.	3	Other Secured Claims	Impaired	Yes
TOUSA/West Holdings, Inc.	4	Other Priority Claims	Unimpaired	No
TOUSA/West Holdings, Inc.	5A	Senior Note Claims	Impaired	Yes
TOUSA/West Holdings, Inc.	5B	General Unsecured Claims	Impaired	Yes
TOUSA/West Holdings, Inc.	5C	Subordinated Note Claims	Impaired	Yes
TOUSA/West Holdings, Inc.	5D	PIK Note Claims	Impaired	Yes
		Claims Against the Debtors		
TOUSA/West Holdings, Inc.	6	Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No



TOUSA/West Holdings, Inc.	7	Equity Interests in TOUSA/West Holdings, Inc.	Impaired	No
Beacon Hill at Mountain's Edge, LLC	1A	First Lien Revolver Claims	Impaired	Yes
Beacon Hill at Mountain's Edge, LLC	1B	First Lien Term Loan Claims	Impaired	Yes
Beacon Hill at Mountain's Edge, LLC	2	Second Lien Claims	Impaired	Yes
Beacon Hill at Mountain's Edge, LLC	3	Other Secured Claims	Impaired	Yes
Beacon Hill at Mountain's Edge, LLC	4	Other Priority Claims	Unimpaired	No
Beacon Hill at Mountain's Edge, LLC	5B	General Unsecured Claims	Impaired	Yes
Beacon Hill at Mountain's Edge, LLC	6	Claims Against the Debtors Subordinated Pursuant to Section 510 of the Bankruptcy Code	Impaired	No
Beacon Hill at Mountain's Edge, LLC	7	Equity Interests in Beacon Hill at Mountain's Edge, LLC	Impaired	No