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7
 8 UNITED STATES BANKRUPTCY COURT
 9 EASTERN DISTRICT OF CALIFORNIA
 10 SACRAMENTO DIVISION

11 In re:
 12 NATIONS FIRST CAPITAL, LLC,
 13 Debtor.
 14 Tax ID #46-2217681

Case No. 18-20668 C-11
 Chapter 11
 DCN: FWP-10
Disclosure Statement Approval Hearing:
 Date: July 10, 2018
 Time: 10:30 a.m.
 Judge: Hon. Christopher M. Klein
 Courtroom: 35, Department C

18 [PROPOSED] DISCLOSURE STATEMENT TO
 19 DEBTOR’S PLAN OF REORGANIZATION (dated June 5, 2018)

20
 21 **THIS DISCLOSURE STATEMENT HAS NOT YET BEEN APPROVED**
 22 **BY THE BANKRUPTCY COURT AS CONTAINING ADEQUATE**
 23 **INFORMATION WITHIN THE MEANING OF BANKRUPTCY CODE**
 24 **§ 1125. IF YOU HAVE REQUESTED AND RECEIVED A COPY OF THE**
 25 **DISCLOSURE STATEMENT IN CONNECTION WITH THE COURT’S**
 26 **HEARING TO CONSIDER APPROVAL OF THE DISCLOSURE**
 27 **STATEMENT, NOTHING CONTAINED HEREIN IS OR WILL BE**
 28 **DEEMED A SOLICITATION OF ACCEPTANCE OF THE PLAN OF**
REORGANIZATION FILED BY THE DEBTOR.

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1 **INTRODUCTION**

2 On February 7, 2018, Nations First Capital LLC (dba Go Capital) (the “Debtor”)¹ filed a
3 voluntary petition under Chapter 11 of the Bankruptcy Code. The Debtor has proposed a plan of
4 reorganization (the “Plan”) pursuant to Bankruptcy Code section 1121. The Plan is designed, in
5 large part, to effectuate a restructuring of seventy-nine subordinated, unsecured promissory notes
6 held by fifty-three separate lenders of the Debtor (“Subordinated Debt Holders” or “SDH”),
7 realize on the value of the Debtor’s business and assets, provide for the development and growth
8 of a repayment stream from a non-debtor entity, and to distribute the proceeds generated from the
9 Debtor and the non-debtor third party revenue stream consistent with the requirements of the
10 Bankruptcy Code and any orders of the Bankruptcy Court previously entered in the case.

11 Generally, the issues in this case are: (i) to preserve the Debtor’s ability to capture the
12 value in a portfolio of semi-truck and trailer leases (“Lease Portfolio”) originated by the Debtor,
13 and in which the Debtor has a residual interest after satisfaction of the current lien, as more fully
14 described below, against such Lease Portfolio; and (ii) to allow a period of time for the
15 development and growth of an alternative revenue stream from a non-debtor entity, TopMark
16 Funding LLC (“TopMark”), which revenue stream will be used to help repay creditors. The
17 TopMark revenue stream will help pay Creditors in two ways: (i) first, that revenue stream will
18 provide a means for the Debtor’s parent, Rapid Investments LLC (“Rapid”), to repay the Rapid
19 Obligation to the Debtor, which repayment will inure to the benefit of all creditors of the Debtor,
20 and which in the absence of such revenue stream Rapid would be unable to pay; and (ii) once the
21 Rapid Obligation is satisfied, the TopMark revenue stream will provide additional payments to
22 the Creditors who vote in favor of the Plan.

23 With respect to the Debtor’s business and assets, the Plan contemplates distributing the
24 proceeds realized from the Debtor’s business, including the payments it receives on the Rapid
25 Obligation, and from the Lease Portfolio over a five year period to repay Allowed Claims against
26 the Debtor on a pro rata basis consistent with the requirements of the Bankruptcy Code. The

27 _____
28 ¹ For convenience, a number of capitalized terms are defined herein. However, any capitalized
term not defined herein is as defined in the Plan.

1 Debtor does not believe that the proceeds solely from the Debtor's business and assets will be
2 sufficient to pay all Allowed Claims against the Debtor in full.

3 However, for those Creditors voting in favor of the Plan, the Plan contemplates the
4 repayment of 100% of Allowed Claims against the Debtor of those Creditors by December 31,
5 2023. The full repayment of those Creditors would be made possible through the revenue stream
6 generated by TopMark and distributed to Rapid ("TopMark Distributions"). Once the Rapid
7 Obligation has been satisfied (and the proceeds from the satisfaction of such obligation paid out
8 to all creditors), Rapid will then distribute, in accordance with the terms of the Plan, such
9 TopMark Distributions to Creditors who voted in favor of the Plan until such Creditors are paid in
10 full ("Rapid Payments"). It is important to note that Rapid has no independent ability to pay the
11 Rapid Obligation or to make the Rapid Payments in the absence of the TopMark Distributions.
12 Furthermore, it is important to note that the generation of the TopMark Distributions is wholly
13 dependent upon current ownership's success in executing to the TopMark Business Plan. To that
14 end, the Plan provides for a Post Confirmation Advisory Board ("PCAB") to monitor the
15 management of TopMark and the resulting TopMark Distributions and Rapid Payments. The
16 TopMark Business Plan is attached hereto as Exhibit "1" and the composition, amount and
17 schedule of the TopMark Distributions, and ultimately the Rapid Payments, resulting therefrom
18 are more fully discussed below.

19 The equity membership interests in the Debtor are retained by the current owner, Rapid,
20 but those Subordinated Debt Holders voting in favor of the Plan will be afforded an opportunity,
21 but not the obligation, to participate in such equity ownership through a Conversion Right on a
22 discounted basis. Further, those Subordinated Debt Holders voting in favor of the Plan will
23 receive the right to an additional distribution, in excess of their Allowed SD Claim amount, to the
24 extent any Liquidity Event produces any net proceeds for Rapid on a sale or disposition of the
25 Debtor, TopMark or Rapid.

26 All of the foregoing sources of recovery for Creditors, and in particular the Rapid
27 Payments, are wholly dependent upon the complete and undivided focus of the current ownership
28 to oversee the Reorganized Debtor's management of the Lease Portfolio and to execute to the

1 TopMark Business Plan. Further, the source of the vast majority of repayment of creditors is
2 critically dependent upon the successful execution of the TopMark Business Plan to fund the
3 TopMark Distributions and thus the Rapid Payments over the next six years. The current
4 ownership must be sufficiently incentivized to undertake a six year commitment to work for the
5 benefit of the creditors in order to achieve that success. Thus, for Subordinated Debt Holders
6 voting in favor of the Plan, the Plan provides for mutual releases between the Debtor, current
7 ownership, and such Subordinated Debt Holders, whereby such creditors will release any claims
8 outside of the Plan in exchange for their treatment under the Plan and the Debtor and current
9 ownership will release any Claims against such Subordinated Debt Holders. The primary effect
10 of such releases will be a release of personal guaranties provided to certain, but not all,
11 Subordinated Debt Holders. These mutual releases shall have a delayed effective date to ensure
12 that the development of TopMark is substantially achieved and the requisite Plan payments are
13 being substantially performed prior to the relinquishment of any rights, as determined by the
14 PCAB. The contemplated releases cannot be unilaterally imposed under the Plan, but in the
15 absence of such releases, the ability and incentive of current ownership to perform under the Plan
16 will be eradicated and the two sources of repayment under the Plan will very likely fail, resulting
17 in a projected zero return to creditors.

18 The Plan provides for the Reorganized Debtor to administer the case to a conclusion. In
19 the event there are any disputed Claims, the Reorganized Debtor shall object to such claims,
20 obtain court orders regarding the validity and priority of Claims, and distribute the Plan funds in
21 accordance with the validity and priority of the Claims as determined by the Court, and subject to
22 the oversight of the PCAB.

23 The Debtor strongly encourages you to vote to accept the Plan. The Plan preserves the
24 Reorganized Debtor's ability to realize the maximum recovery from the operations and assets of
25 the Debtor's Estate and the distribution of the net proceeds therefrom to all holders of Allowed
26 Claims, and, for those creditors voting in favor of the Plan, the Plan provides significant
27 additional value in the distribution of the Rapid Payments, the Liquidity Event Distribution and
28 the granting of the Conversion Right. This outcome, whether derived from just preserving and

1 maximizing the residual value in the Lease Portfolio through the Reorganized Debtor's active
2 servicing and portfolio management, or the significantly enhanced return derived from the non-
3 debtor revenue stream generated by TopMark, is vastly superior to the outcome that would occur
4 in a chapter 7 case. If the Plan is not confirmed, it is very likely the Case would be converted to a
5 chapter 7 case at likely substantial additional cost to the Estate and the loss of not only the entire
6 value in the Debtor's Lease Portfolio, but also the failure of the TopMark Business Plan, and the
7 resultant loss of the possibility of repayment of the Rapid Obligation and the Rapid Payments
8 funded by the TopMark Distributions. Under the Plan, the Debtor's experience, knowledge and
9 expertise will be utilized for the benefit of all parties to maximize the value of the Lease Portfolio
10 and the Rapid Payments. For this reason, the Debtor believes that the distribution to creditors
11 will be far greater under the Plan than in a chapter 7 case. In addition, conversion of the Case to
12 chapter 7 would add an additional layer of administrative expenses from the chapter 7 case that
13 does not already exist, which would further diminish the funds available for distribution to
14 creditors, if any. Moreover, the Plan provides the maximum flexibility for the efficient
15 management of the Estate post-confirmation that would not be available in a chapter 7 case.

16 **Please timely submit your Ballot to vote to ACCEPT the Plan.**

17 **A. Limited Representation**

18 This Disclosure Statement is submitted in accordance with Bankruptcy Code section 1125
19 to solicit acceptances of the Plan from holders of certain Claims. The Court must approve the
20 Disclosure Statement as containing information of a kind, and in sufficient detail, which is
21 adequate to enable you to make an informed judgment whether to vote to accept or to reject the
22 Plan. This Disclosure Statement will be used to solicit acceptances of the Plan only after the
23 Court enters an order approving it.

24 In determining whether the Plan should be confirmed, the Court will consider whether the
25 Plan satisfies the requirements of the Bankruptcy Code, including whether it is feasible, and
26 whether it is in the best interests of the holders of Claims. The Court also will receive and
27 consider a Ballot report prepared by the Debtor concerning the votes for acceptance or rejection
28 of the Plan by parties entitled to vote. Only holders of Allowed Claims that are impaired under

1 the Plan will be allowed to vote to approve or reject the Plan.

2 THIS DISCLOSURE STATEMENT IS NOT THE PLAN. THIS DISCLOSURE
3 STATEMENT, TOGETHER WITH THE PLAN, SHOULD BE READ
4 COMPLETELY. FOR THE CONVENIENCE OF PARTIES, THE PLAN IS
5 SUMMARIZED IN THIS DISCLOSURE STATEMENT, BUT ALL
6 SUMMARIES AND OTHER STATEMENTS REGARDING THE PLAN ARE
7 QUALIFIED IN THEIR ENTIRETY BY THE PLAN ITSELF, WHICH IS
8 CONTROLLING IN THE EVENT OF ANY INCONSISTENCY.

9 The Court will hold a hearing on confirmation of the Plan. The date and time of the
10 hearing will be fixed by order of the Court and will be noticed to Creditors and other parties
11 entitled to notice under the Bankruptcy Code and Rules after the Disclosure Statement is
12 approved. The Confirmation hearing may be adjourned from time to time without further written
13 notice.

14 Information contained in this Disclosure Statement was obtained from knowledgeable
15 personnel at the Debtor or from its records. Financial information developed for purposes of this
16 Disclosure Statement was developed by personnel at the Debtor. Certain materials contained in
17 this Disclosure Statement are taken directly from other, readily accessible documents and
18 pleadings or are digests of other documents. While every effort was made to retain the meaning
19 of such documents, you are urged to rely upon the contents of such documents only after a
20 thorough review of the documents themselves. For example, all pleadings filed by the Debtor in
21 the Case have been posted on counsel for the Debtor's webpage at www.ffwplaw.com on the
22 Cases page in the folder entitled Nations First Capital.

23 NO REPRESENTATIONS OR ASSURANCES CONCERNING THE DEBTOR,
24 INCLUDING, WITHOUT LIMITATION, ITS OPERATIONS, THE VALUE OF
25 ASSETS, OR THE FUTURE OF THE DEBTOR ARE AUTHORIZED BY THE
26 DEBTOR OTHER THAN AS SET FORTH IN THIS DISCLOSURE
27 STATEMENT.

28 THIS IS A SOLICITATION BY THE DEBTOR ONLY AND IT IS NOT A
SOLICITATION BY THE DEBTOR'S ATTORNEYS OR ANY OTHER
PROFESSIONALS EMPLOYED BY THE DEBTOR. THE
REPRESENTATIONS MADE HEREIN ARE THOSE OF THE DEBTOR AND
NOT OF THE DEBTOR'S ATTORNEYS OR ANY OTHER PROFESSIONAL.

REASONABLE EFFORTS HAVE BEEN MADE TO ACCURATELY
PREPARE ALL UNAUDITED FINANCIAL STATEMENTS WHICH MAY BE
CONTAINED IN THIS DISCLOSURE STATEMENT FROM THE
INFORMATION AVAILABLE TO THE DEBTOR. HOWEVER, AS TO ALL
SUCH FINANCIAL STATEMENTS, THE DEBTOR IS UNABLE TO

1 WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED
2 THEREIN IS WITHOUT ERROR.

3 APPROVAL BY THE BANKRUPTCY COURT OF THIS DISCLOSURE
4 STATEMENT DOES NOT CONSTITUTE CERTIFICATION BY THE COURT
5 THAT THIS DISCLOSURE STATEMENT IS ERROR FREE.

6 Unless this Disclosure Statement expressly states otherwise, all terms defined in the Plan
7 will have the same meaning when used in this Disclosure Statement. In addition, unless
8 otherwise stated, terms defined in the Bankruptcy Code, the Federal Rules of Bankruptcy
9 Procedure, or the Local Rules of the Court will have the same meanings when used in this
10 Disclosure Statement. Defined terms in this Disclosure Statement are solely for convenience; and
11 the Debtor does not intend to change the definitions of those terms from the Plan or from the
12 otherwise applicable sources. Furthermore, in the event of any inconsistency between the Plan
13 and this Disclosure Statement, the Plan will control. Any exhibits filed and served in support of
14 this Disclosure Statement are incorporated into and are a part of this Disclosure Statement. All
15 references to the Bankruptcy Code are to the United Bankruptcy Code, 11 U.S.C. Sections 101 *et*

16 **B. Voting Procedures**

17 If you are the holder of a Claim that is “impaired” under the Plan, it is important that you
18 vote. In that regard, acceptances of the Plan are sought only from those holders of Claims whose
19 Claims are “impaired” by the Plan and who are not deemed to have accepted or rejected the Plan.
20 Specifically, acceptances are solicited only from those Creditors and parties in interest whose
21 legal, equitable, or contractual rights are altered by the Plan or who will not receive under the
22 Plan the full amounts of their Allowed Claims in cash on the Effective Date of the Plan or as soon
23 thereafter as practicable. Holders of Claims which are not impaired under the Plan are deemed to
24 have accepted the Plan. See Bankruptcy Code § 1126(f). Conversely, acceptances need not be
25 solicited from the holder of Claims or Interests who will receive nothing under the Plan because
26 they are deemed to have rejected the Plan. See Bankruptcy Code § 1126(g).

27 In order for a Class of Claims to vote to accept the Plan, votes representing at least two-
28 thirds in amount of all claims in that Class, and more than one-half in number in that Class must

1 be cast accepting their treatment under the Plan. As more fully described below, the Debtor is
 2 seeking acceptances from holders of Allowed Claims in the following Classes (reserving the right
 3 to supplement as to any other impaired Class(es) of Claims, if any):

| Class | Description | Status |
|----------|--|-----------------------------|
| Class 2 | Secured Claim of Stephan Lang Family Trust Dated September 9, 1985 | Impaired – Entitled to Vote |
| Class 3 | Administrative Convenience Class Claims (Claims \$1,000 or less or willing to reduce their Allowed Claim to that amount) | Impaired – Entitled to Vote |
| Class 4A | General Unsecured Non-SDH Creditors | Impaired – Entitled to Vote |
| Class 4B | SDH General Unsecured Claims holding No Personal Guaranty | Impaired – Entitled to Vote |
| Class 4C | SDH General Unsecured Claims holding a Two Party Guaranty | Impaired – Entitled to Vote |
| Class 4D | SDH General Unsecured Claims holding a Three Party Guaranty | Impaired – Entitled to Vote |

13 The following Classes of Claims or Interests are not impaired under the Plan or are
 14 otherwise prohibited by the Bankruptcy Code from voting on the Plan for the reason indicated:

| Class | Description | Status |
|--------------|------------------------------------|-------------------------------|
| Unclassified | Administrative Claims | Unimpaired – Deemed to Accept |
| Unclassified | Professional Claims | Unimpaired – Deemed to Accept |
| Unclassified | Pre-Petition Tax Claims | Unimpaired – Deemed to Accept |
| Class 1A | Priority Employee Unsecured Claims | Unimpaired – Deemed to Accept |
| Class 1B | Other Priority Unsecured Claims | Unimpaired – Deemed to Accept |
| Class 5 | Members of the Debtor | Unimpaired – Deemed to Accept |

22 The specific treatment of each Class under the Plan is set forth in the Plan and merely is
 23 summarized in Article VI of this Disclosure Statement. Bankruptcy Code section 1129(b)
 24 provides that, if the Plan is rejected by one or more impaired Classes of Claims, the Plan
 25 nevertheless may be confirmed by the Bankruptcy Court, if: (i) the Bankruptcy Court determines
 26 that the Plan does not discriminate unfairly and is fair and equitable with respect to the rejecting
 27 Class(es) of Claims that are impaired under the Plan; and (ii) at least one Class of impaired
 28 Claims voted to accept the Plan. The Debtor seeks to confirm the Plan under the provisions of

1 Bankruptcy Code section 1129(b) in the event that becomes necessary.

2 A VOTE FOR ACCEPTANCE OF THE PLAN BY THOSE HOLDERS OF
3 CLAIMS WHO ARE ENTITLED TO VOTE IS MOST IMPORTANT. THE
4 DEBTOR RECOMMENDS THAT THE HOLDERS OF ALLOWED CLAIMS
5 VOTE IN FAVOR OF THE PLAN.

6 Unless otherwise expressly stated, portions of this Disclosure Statement describing the
7 Debtor have not been subject to a certified audit, but have been prepared from the information
8 compiled by the Debtor from the records maintained in the ordinary course of its business. Every
9 effort has been made to be as accurate as possible in the preparation of this Disclosure Statement.

10 **II. OVERVIEW OF THE PLAN**

11 **A. General Structure of and Means for Implementation of the Plan**

12 The Plan is designed, in large part, to effectuate a restructuring of seventy-nine
13 subordinated, unsecured promissory notes held by fifty-three separate lenders of the Debtor
14 (“Subordinated Debt Holders” or “SDH”),² realize on the value of the Debtor’s business and
15 assets, provide for a repayment stream from TopMark, a non-debtor entity, to fund the repayment
16 of the Rapid Obligation and fund the Rapid Payments required under the Plan, and to distribute
17 the proceeds generated from the Debtor and the Rapid Payments consistent with the requirements
18 of the Bankruptcy Code and any orders of the Bankruptcy Court previously entered in the case.

19 On the Effective Date of the Plan or as soon thereafter as practicable, the Reorganized
20 Debtor shall use cash on hand generated by the Lease Portfolio or funds received on account of
21 the Rapid Obligation to pay in full all unclassified Claims and all Allowed Claims in Classes 1A
22 and 1B (Priority Claims), if any. Further, the Reorganized Debtor shall use funds received on
23 account of the Rapid Obligation to pay in full all Administrative Convenience Claims, as
24 provided for in the Plan. The Reorganized Debtor shall continue to service and manage the Lease
25 Portfolio in a prudent and businesslike manner after the Effective Date.

26 The Debtor anticipates that the full collection of the monthly payments generated by the

27 ² A number of SDHs hold more than one promissory note and a number of SDHs hold notes in
28 different capacities, and are thus considered distinct lenders. For example, some SDH may hold a
note in their individual capacity, and hold an additional note through their IRA. In those
instances, those notes are considered to be held by two distinct lenders. The SDH group is
comprised of 42 individuals holding, directly or indirectly, 79 separate notes.

1 Lease Portfolio shall occur over a period of approximately sixty months following confirmation.³
2 During the first approximately thirty-one months of that period, all collection proceeds from the
3 Lease Portfolio (net of a servicer fee and servicing expenses), will be applied to the current senior
4 secured KLS Debt until such debt is satisfied.⁴ The balance of collections from the Lease
5 Portfolio after retirement of the KLS Debt will flow to the Reorganized Debtor and will be
6 applied, as Debtor Sourced Funds, to the retirement of Allowed Claims in the order of priority
7 and on the terms set forth in the Plan.

8 Contemporaneously with the foregoing activities of the Reorganized Debtor, the Debtor's
9 current ownership will build and scale TopMark, a non-debtor entity, in accordance with the
10 TopMark Business Plan. As more fully discussed below and as more fully set forth in the
11 TopMark Business Plan, it is contemplated that TopMark will be scaled to a size sufficient to
12 generate revenue that will fund the TopMark Distributions to Rapid, in accordance with the terms
13 of the Plan, in order to enable Rapid to: (i) satisfy the Rapid Obligation in full; and (ii) fund the
14 Rapid Payments.

15 While the Rapid Payments will eventually form the basis of the vast bulk of the repayment
16 under the Plan for those Creditors who voted in favor of the Plan, the revenue currently generated
17 by TopMark is not sufficient to fund the TopMark Distributions, and thus insufficient to satisfy
18 the Rapid Obligation or fund the Rapid Payments at this point. The TopMark Business Plan
19 requires a steady growth trajectory through January 2019 in order to generate the level of net
20 earnings required to commence making the TopMark Distributions, which will in turn satisfy the
21 Rapid Obligation and ultimately fund the Rapid Payments. The continued growth of TopMark
22 thereafter is anticipated in order to accelerate payments to Creditors who voted in favor of the

23 _____
24 ³ All estimates and/or projections of the collections from the Lease Portfolio are based upon the
25 Debtor's best estimates and rely heavily on the past performance of the Lease Portfolio in
26 predicting the future performance. However, there are no assurances that the future performance
27 of the Lease Portfolio will follow past performance.

28 ⁴ The Debtor's Lease Portfolio is held in a non-debtor entity - Go Capital Funding 2014-1 LLC
("GCF"), a special purpose entity organized under the laws of the state of Delaware. KLS
Diversified Master Fund, L.P. ("KLS") holds a first priority lien against the Lease Portfolio that
secures its debt in the approximate amount of \$42 million, as of February 7, 2018 ("KLS Debt").
The KLS Debt must be satisfied in full, through the orderly liquidation of the Lease Portfolio,
before the Debtor can realize any residual value in the Lease Portfolio.

1 Plan.

2 Concurrent with the confirmation of the Plan, but not later than the Effective Date, the
3 Creditors Committee shall establish a Post Confirmation Advisory Board (“PCAB”), comprised
4 of five (5) Subordinated Debt Holders currently serving on the Committee. The PCAB shall: (i)
5 act as a monitor of the post-confirmation operations of the Debtor, TopMark, Rapid and the
6 Portfolio Business, including but not limited to, any contributions to and disbursements from the
7 Portfolio Business Funding Account and/or the disposition of excess undeployed cash in the
8 Portfolio Business; (ii) monitor and verify the calculation of payments due under the Plan; and
9 (iii) have the exclusive authority to make any requisite determinations regarding the Forbearance
10 Period and the Forborne Releases, as provided for in the Plan. The Creditors Committee shall
11 terminate upon the Effective Date of the Plan.

12 As more fully discussed in Sections 6.16, 6.17, 6.18, 6.19 and 6.20 of the Plan, it is
13 anticipated that, in exchange for generating the revenue stream from TopMark, the current owners
14 will be released from certain personal guaranties upon reaching certain milestones under the
15 Plan.⁵ In summary, if all payments required under the Plan are made to SDH, then the release of
16 all personal guaranties held by SDHs who vote in favor of the Plan shall become effective after
17 the 24th month following the Effective Date of the Plan. The Plan provides for an additional
18 twelve (12) month delay in the effectiveness of such releases if at least 90% in amount of the
19 required Plan payments are made such that the releases would become effective after the 36th
20 month following the Effective Date of the Plan. If less than 90% in amount of the required Plan
21 payments are made then the releases would become effective upon a determination by the PCAB
22 under the provisions of Section 6.19 of the Plan, but not earlier than the 36th month following the
23 Effective Date of the Plan. The Committee has reviewed the financial status of each of the
24 individual guarantors and has determined that the collective return under a prosecution of the
25 personal guaranties is negligible.⁶

26 ⁵ Of the 79 Subordinated Debt Notes, 23 in number and approximately \$9.9 million in amount
27 are subject to Three Party Guaranties, 30 in number and approximately \$16.3 million in amount
28 are subject to Two Party Guaranties, and 26 in number and approximately \$6.6 million in amount
are not subject to any personal guaranties.

⁶ A liquidation analysis with respect to the individual financial status of the guarantors has been

1 Initially, all TopMark Distributions generated by TopMark will flow to the Reorganized
2 Debtor until the Rapid Obligation has been satisfied in full. The Debtor anticipates that the full
3 repayment of the Rapid Obligation shall occur over a period of approximately twenty-two months
4 and, dependent upon the financial performance of TopMark, it is estimated that the Rapid
5 Obligation will be repaid in full in or about October, 2020. Those payments will be considered
6 Debtor Sourced Funds and will be distributed as such on a monthly basis to the Creditors of the
7 Debtor holding Allowed Claims on a pro rata basis, pursuant to the terms of the Plan.

8 After the payment in full of the Rapid Obligation, the balance of the Rapid Payments will
9 be distributed only to those Creditors who voted in favor of the Plan. The Rapid Payments will
10 consist of two periodic components: (i) a fixed monthly payment in the amounts and on the dates
11 set forth in the Rapid Payment Schedule (Attached hereto as Exhibit "2" is the projected Rapid
12 Payment Schedule based on the current projections set forth in the TopMark Business Plan.); and
13 (ii) an Additional Payment that is wholly contingent in nature. The Additional Payment portion
14 of the Rapid Payments, if any, will be made on a calendar quarter basis and is comprised of: (i) an
15 "Earnings Split" component; (ii) an "Excess Cash" component; and (iii) a "Portfolio Business
16 Split" component. The timing and amount of the Additional Payment portion of the Rapid
17 Payments is entirely contingent and dependent upon the financial performance of TopMark and
18 the ability of TopMark to fund such portions as part of the TopMark Distribution. Specifically, at
19 the end of each calendar quarter, TopMark will include, as part of its periodic TopMark
20 Distribution to Rapid, an Earnings Split component calculated as the balance of 50.00% of the
21 levered after tax free cash flow of TopMark (calculated as set forth in the Plan, and specifically as
22 set forth in Exhibit 2 to the Plan), based on the financial performance of TopMark in the previous
23 quarter, after deduction of any other TopMark Distributions made during that calendar quarter.
24 TopMark will also include in such periodic TopMark Distribution to Rapid, an Excess Cash
25 amount calculated as any cash balance, on the date of the quarterly TopMark Distribution, in
26 excess of the amount derived from the Excess Cash calculation. Finally, at the end of each

27
28 provided to the Committee and shall be made available upon request by any of the applicable
Subordinated Debt Holders.

1 calendar quarter, to the extent there has been the establishment of any Portfolio Business,
2 TopMark (or the Portfolio Business, as the case may be) will include, as part of its periodic
3 TopMark Distribution to Rapid, a Portfolio Business Split component calculated as 50.00% of the
4 levered after tax free cash flow (calculated as set forth in the Plan, and specifically as set forth in
5 Exhibit 2 to the Plan) of the Portfolio Business as if such earnings had been consolidated with
6 those of TopMark based on the financial performance of any Portfolio Business in the previous
7 quarter. The current TopMark Business Plan does not project any Additional Payments during
8 the course of the scheduled Rapid Payments. To the extent there are any Additional Payments,
9 they will be the result of one or more of the payment accelerants discussed below.

10 It is anticipated that any Additional Payments, even if generated as discussed below,
11 would not likely be sufficient to provide for full repayment all applicable Allowed Claims over
12 the course of the Rapid Payment Schedule. Accordingly, to the extent the sum of the Rapid
13 Payments is not sufficient to repay in full the Allowed Claims of those holders who voted in favor
14 of the Plan by December 31, 2023, Rapid shall make a Balloon Payment of the aggregate amount
15 of the then outstanding balance of any such Allowed Claims. To the extent a Balloon Payment is
16 required on or before December 31, 2023 to fully repay such Allowed Claims, the Debtor
17 anticipates that such payment will be made by Rapid from either: (i) the distribution to Rapid of
18 the cash balance held at TopMark, (ii) a refinancing of any such Balloon Payment obligation with
19 a third party credit provider; (iii) the proceeds realized from the whole or partial sale of the
20 Debtor, TopMark or Rapid, or a combination of such sales; or (iv) a combination of the foregoing
21 sources.

22 The Reorganized Debtor shall object to Claims as necessary to determine the validity and
23 priority of all Claims. As funds become available that are not necessary to fund ongoing
24 expenses, the Reorganized Debtor may make additional distributions to Claim holders with
25 Allowed Claims in the order of priority and pursuant to the terms set forth in the Plan, which
26 follows the priority scheme set forth in and required by the Bankruptcy Code.

27 The Reorganized Debtor also will review all filed Claims, and if necessary, object to those
28 Claims as required by the Bankruptcy Code, Rules or Local Rules. The Reorganized Debtor also

1 will review all pre-Petition Date transactions to determine whether any are avoidable under the
 2 Bankruptcy Code as preferential, fraudulent or otherwise avoidable transfers that are appropriate
 3 to pursue. All parties who have received transfers from the Debtor, including without limitation
 4 those listed in the Debtor's statement of financial affairs as recipients of transfers within two
 5 years of the Petition Date, are hereby disclosed as potential targets for the recovery of such
 6 transfers to the extent such transfers, or any other transfers, are avoidable under the Bankruptcy
 7 Code or other applicable law. When the Case is fully administered and the Reorganized Debtor
 8 has no other duties under the Plan, the Plan will be completed. Nothing in the Plan affects the
 9 Reorganized Debtor's duties to comply with applicable non-bankruptcy law, if any, to wind up its
 10 affairs.

11 **B. Debtor's Assets and Liabilities and Estimated Distribution To Creditors**

12 The following is a summary of the assets, likely valid claims, and projected (not
 13 guaranteed) recoveries for each Class of holders of Allowed Claims or Interests under the Plan:

| Assets | Estimated Range of Value | |
|---|--------------------------|-----------------|
| | Low | High |
| 1. Estimated cash at projected Effective Date of approximately September 30, 2018 | \$0 | \$100,000 |
| 2. Estimated residual value of the Lease Portfolio after satisfaction of KLS Debt | \$0 | \$6.0 million |
| 3. Estimated value of Lease Deficiencies (not included in the valuation of the Lease Portfolio) | \$0 | \$2.0 million |
| 4. Estimated residual value of leases not included in the Lease Portfolio and other personal property | \$0 | \$500,000 |
| 3. Rapid Obligation | \$0 | \$3,755,583 |
| Total estimated range of values: | \$0 | \$12.36 million |

23 The estimated value of the Lease Portfolio is based on the best information available from
 24 the Debtor's management at this time and is based on the application of the Debtor's historical
 25 loss curves and default rates to the Lease Portfolio in order to estimate the value range of the
 26 Debtor's residual interest in the Lease Portfolio. However, the Debtor cannot predict whether
 27 such historical performance will be replicated over the next five years as such performance is
 28 predicated on a number of outside factors, including the management of the servicing of the

1 Lease Portfolio, the general economic outlook and its effect on the trucking industry. Further, the
2 Debtor cannot predict what effect any actions that may be taken by KLS will have on the
3 performance of the Lease Portfolio, including an unwillingness of KLS to provide an adequate
4 servicing fee or efforts by KLS to force the early liquidation of the Lease Portfolio. For example,
5 if the Debtor is unable to service and manage the Lease Portfolio in accordance with past
6 practices, either because the servicing is transferred to another servicer or the servicer fee is
7 inadequate, it is likely that the residual value realized by the Debtor will drop to zero. Therefore,
8 while it is relatively simple to calculate the low (\$0) and high (\$6.0 million) values for the Lease
9 Portfolio, the Debtor's best estimate of the most likely value, assuming the Debtor is provided the
10 unfettered opportunity to service and manage the Lease Portfolio, would be at the approximate
11 mid-point of values, or approximately \$3.0 million.

12 The Debtor's estimate of the collection value of the Lease Deficiencies is based on the
13 Debtor's best estimate of such value. While the Debtor does not have historical data to support a
14 detailed analysis of the value, the fact that the Lease Deficiencies are owed by the Debtor's
15 typical lessee base of subprime credit customers would suggest that the value of the Lease
16 Deficiencies would be minimal. Further, the collection of the Lease Deficiencies is an expensive
17 proposition requiring dedicated personnel and there are no assurances that such efforts can be
18 funded with the limited resources of the Debtor, nor that such efforts will ultimately prove to be
19 cost effective. Based on these uncertainties, the Debtor believes that the actual realized value of
20 the Lease Deficiencies will not be a material amount in this case.

21 The Debtor's estimate of the residual value of the leases that are not included in the Lease
22 Portfolio is based on Debtor's best estimate of the performance of that small number of leases in
23 this category of assets. While the Debtor believes such leases will collect as contracted and thus
24 produce the anticipated residual value, the actual performance, whether in full or at zero, is not a
25 material amount in this case. In addition, there is some personal property owned by the Debtor,
26 consisting of general office FF&E, computers, monitors and associated office related property.
27 The Debtor believes that the value of such personal property will not be a material amount in this
28 case.

1 The Debtor’s estimate of the value of the Rapid Obligation is based on the ability of
 2 TopMark to generate the TopMark distributions sufficient to fund the repayment of the Rapid
 3 Obligation by Rapid. Rapid has no independent ability to repay the Rapid Obligation other than
 4 from its receipt of TopMark Distributions. While the Debtor believes that the TopMark
 5 Distributions will be sufficient to pay the Rapid Obligation in full, and thus the value of the Rapid
 6 Obligation to the Debtor is \$3,755,583, the actual value will be dependent upon the financial
 7 performance of TopMark.

8 The Debtor does not believe that it has any Avoidance Actions against any party worth
 9 pursuing in a cost effective manner, but nonetheless preserves the right to pursue any and all
 10 Avoidance Actions under the Plan. Further, the Debtor does not believe that it has any Other
 11 Causes of Action against any party worth pursuing, but nonetheless preserves the right to pursue
 12 any and all Other Causes of Action under the Plan.

13 The following chart shows the estimated amount of claims by category according to the
 14 Debtor’s records. This chart only is the Debtor’s position and best estimate of claims and does
 15 not contain all filed claims.

| Estimated Amounts of Potentially Valid Claims According to the Debtor | |
|--|---------------------|
| 1. Secured | \$250,000 |
| 2. Priority unsecured | \$0 |
| 3. Administrative Convenience Class | \$50,000 |
| 4. Unsecured Non Sub-Debt Creditor Claims | \$1,080,000 |
| 5. Unsecured General Sub Debt Creditor Claims (No PGs) | \$6,615,247 |
| 6. Unsecured General Sub Debt Creditor Claims (Two Party PGs) | \$16,278,969 |
| 7. Unsecured General Sub Debt Creditor Claims (Three Party PGs) | \$9,896,169 |
| Total | \$34,170,385 |

24
 25 In the Debtor’s opinion, based on legal analysis performed prior to and subsequent to the
 26 Petition Date, the above chart lists the approximate amount of the valid Claims against the estate.
 27 Claims in different amounts and claiming different priorities may be filed in the case. Further,
 28 Claims may shift into different classes based on elections made by specific Creditors or

1 objections to Claims filed by the Debtor.

2 Potential Recovery from Debtor Sourced Funds

3 The totality of the value in the Debtor's estate is comprised of the Debtor Sourced Funds
4 and, as such, all Holders of Allowed Claims against the Debtor's Estate are entitled to their
5 applicable pro-rata share of the Debtor Sourced Funds, regardless of whether or not they vote in
6 favor of the Plan. The only assets of value of any significance included in the Debtor's Estate
7 are: (i) the value of the Debtor's residual interest in the Lease Portfolio; and (ii) the collection of
8 the Rapid Obligation, assuming TopMark can generate the TopMark Distributions. To the best of
9 the Debtor's ability to estimate, if the Debtor was able to service and manage the Lease Portfolio
10 in accordance with past practices and the Lease Portfolio collected out exactly as predicted by
11 reference to historical loss curves and default rates, and TopMark was able to generate the
12 TopMark Distributions sufficient to repay the Rapid Obligation in full, the value of such assets
13 and thus the amount available for distribution (less 5.0% for administrative expenses of the
14 bankruptcy case) to the Debtor's estimated Allowed Claims as set forth above would result in: (i)
15 a payment in full of the SLFT Secured Claim; and (ii) a pro rata distribution for Allowed
16 Unsecured Claims of approximately 26.6%. However, if the Lease Portfolio does not generate
17 value and the only significant asset in the Debtor's Estate was the Rapid Obligation, then the
18 distribution to the SLFT Secured Claim would be zero as its collateral recourse is limited to the
19 proceeds of the residual value in the Lease Portfolio and the pro rata distribution for Allowed
20 Unsecured Claims would drop to approximately 10.5%. Finally, at the low point of the potential
21 valuation of the Lease Portfolio at \$0 and in the event TopMark is unable to generate the
22 TopMark Distributions, the distribution to both the SLFT Secured Claim and the pro rata
23 distribution for Allowed Unsecured Claims would be zero percent (0.00%).

24 The most current financial information regarding the Debtor Sourced Funds can be
25 obtained by reviewing the Debtor's latest monthly operating reports filed with the Court and
26 posted on Debtor's counsel's website.

27 Potential Recovery from Rapid Payments

28 In addition to the distribution of the Debtor Sourced Funds calculated above, those

1 Creditors who vote in favor of the Plan will also be entitled to their applicable pro rata share of
2 the Rapid Payments. Because the Rapid Payments are funded by a non-Debtor entity and would
3 occur only after the repayment of the Rapid Obligation in full, they are not included in the
4 calculation of the Debtor's assets above, nor in the distribution of the Debtor's assets.

5 It is important to note that Rapid has no ability to fund any of the Rapid Payments (or to
6 repay the Rapid Obligation, for that matter) in the absence of the TopMark Distributions and,
7 consequently, to the extent Rapid does not receive the TopMark Distributions in sufficient
8 amounts to fund the Rapid Payment, the Rapid Payments have no value.

9 The value of the TopMark Distributions is a function of, and is wholly dependent upon,
10 the financial performance of TopMark. Attached hereto as Exhibit "1" is the TopMark Business
11 Plan that sets forth the best estimate of the TopMark Managers with respect to the projected
12 financial performance of TopMark from January 1, 2018 through December 31, 2023. As more
13 fully set forth in the TopMark Business Plan, the TopMark Managers cannot predict the actual
14 financial performance that will occur with respect to TopMark. However, if TopMark can
15 execute to the TopMark Business Plan, it will generate the TopMark Distributions set forth on the
16 Rapid Payment Schedule, which amounts will be sufficient for Rapid to satisfy the Rapid
17 Obligation and to make the Rapid Payments.

18 The aggregate value of the TopMark Distributions, and in turn the Rapid Payments, is
19 expected to be the amount required to retire the Allowed Claims of creditors who voted for the
20 Plan in full, less any amount realized by such Creditors from the Debtor Sourced Funds. Thus, to
21 the extent any amounts are distributed from the Debtor Sourced Funds, the aggregate value of the
22 Rapid Payments would be reduced to the amount necessary to pay the balance of the Allowed
23 Claims of creditors who voted for the Plan in full. Thus, if there is no distribution of Debtor
24 Sourced Funds other than the Rapid Obligation and the Creditors holding all of the Allowed
25 Claims vote in favor of the Plan, then the value of the Rapid Payments, including any Balloon
26 Payment required on December 31, 2023, will be approximately \$28.4 million (i.e., \$32.2 million
27 LESS the Rapid Obligation of \$3,755,583).⁷

28 ⁷ Pursuant to the terms of the Plan, the SD Claims are interest bearing claims, so the aggregate

1 The breakdown of the value of the TopMark Distributions, and in turn the Rapid
2 Payments, is as follows: (i) Amortization Payments which, over the course of the TopMark
3 Business Plan, are projected to total approximately \$9.669 million (i.e., \$13.425 million less the
4 Rapid Obligation of \$3,755,583); (ii) Additional Payments that would be made based on the
5 projected TopMark Business Plan are currently zero, based on a projected total of \$0 in projected
6 Earnings Split payments and \$0 in projected Excess Cash payments. There are no projected
7 payments on account of the Portfolio Business Split as no such Portfolio Business is currently
8 projected as part of the TopMark Business Plan. The projected Balloon Payment would thus be
9 approximately \$18.75 million.⁸ The projected cash balance of TopMark on December 31, 2023 is
10 \$2.9 million. The projected enterprise value of TopMark on December 31, 2023, based on a
11 conservative “8X earnings multiple” applied to the three year average results of the TopMark
12 Business Plan for 2021-23, is approximately \$35.0 million, which amount would be sufficient to
13 satisfy the Balloon Payment if a sale of TopMark was required to fund such Balloon Payment.
14 The valuation of TopMark is based upon the ability of the current owners to execute to the
15 TopMark Business Plan, which would demonstrate, at a December 31, 2023 valuation date, a
16 steady state business model that had produced after tax earnings in 2021, 2022 and 2023 of
17 \$3,846,627, \$4,390,867 and \$4,886,924, respectively, which earnings reflect a percentage of
18 revenues for such years of 23.5%, 25.7% and 27.5%, respectively. Thus, current ownership
19 believes that the terminal valuation of TopMark is conservatively estimated if the financial
20 performance projected in the TopMark Business Plan is achieved.

21 Based on the foregoing projections and estimates, it is estimated that the Allowed Claims
22 of Creditors who vote in favor of the Plan will be paid in full by December 31, 2023.

23 The primary assumptions made in formulating the estimates in the above charts are as
24 follows: (a) the claim amounts are based on the Debtor’s estimation of the likely outcome of
25 amount of the Rapid Payments exceeds the amount of the Allowed Claims at the Petition Date
26 and in the chart above.

27 ⁸ Because the amount of the Balloon Payment could be affected by the distribution of the Debtor
28 Sourced Funds and by the timing and amount of the projected Additional Payments due to, inter
alia, the avoidance of interest accrual, the Debtor is unable to estimate the exact amount of the
projected Balloon Payment.

1 valid claims and a legal analysis performed to determine the validity and priority of claims;
2 (b) the amounts are the best estimates available, however, the amounts due as of the Petition Date
3 remain in the process of refinement and confirmation; (c) the high valuation scenario assumes:
4 (i) the performance of the Lease Portfolio follows historical performance and the Debtor is
5 provided the unfettered opportunity to service and manage the Lease Portfolio; (ii) with respect to
6 the repayment of the Rapid Obligation, that the TopMark entity performs at a level at or better
7 than the TopMark Business Plan; (iii) with respect to the valuation of the Rapid Payments, that
8 the TopMark entity performs at a level at or better than the TopMark Business Plan; and (iv) that,
9 with respect to the Balloon Payment, a valuation of eight times after tax earnings is achievable in
10 a sale transaction; (d) no trustee is appointed and the Case is not converted to chapter 7; (e) the
11 list of assets is a general description of the major asset categories and nothing herein limits the
12 potential assets of the estate in any way; and (f) the Debtor may have other assets, including
13 without limitation, net operating losses and causes of action the value of which is uncertain at this
14 time. While the Plan contemplates a full recovery to creditors who vote in favor of the Plan (and
15 are thus entitled to the distributions from the Rapid Payments), the Plan does not guarantee any
16 specific amount or percentage of recovery to creditors.

17 The Debtor's membership interests are held 100.0% by Rapid. Rapid's membership
18 interests are held by James Daniel Summers (45.005%). Evan B. Lang (45.005%) and Robert W.
19 Pitts (9.990%). Under the terms of the Plan, Rapid will retain its membership interest.

20 **III. HISTORY OF NATIONS FIRST CAPITAL**

21 **A. Description of the Debtor's Business**

22 The Debtor, Nations First Capital, LLC dba Go Capital, is a specialty finance company
23 focused on providing equipment leases for Class 8 commercial tractors (commonly known as
24 semi-trucks) and trailers across the United States. The Debtor was founded in February 2013 by
25 commercial equipment leasing veterans James Daniel Summers ("Summers") and Evan B. Lang
26 ("Lang"), whose goal was to establish a best-in-class specialty finance company dedicated to
27 the trucking industry. The Debtor was originally headquartered in Irvine, CA, and in 2014
28 commenced moving its operations center to Roseville, CA. In 2017, the Debtor completed the

1 move of its operations and administrative staff, and changed its headquarters, to Roseville.

2 The Managing Directors:

3 Mr. Summers and Mr. Lang have acted, and continue to act, as the Managing Directors of
4 the Debtor, as well as the Managing Directors of Rapid and TopMark.

5 Mr. Summers has 15 years of leasing experience and 12 years of executive management
6 experience. At Go Capital, Mr. Summers serves as one of two Managing Directors, jointly
7 responsible for the Company's strategy and planning, as well as for the leadership, oversight and
8 direction of the Executive Management team. Specific areas of Mr. Summers operational
9 expertise include underwriting, accounting, finance, marketing, sales, operations, technology,
10 remarketing, portfolio management, recruiting and human resources. Mr. Summers began his
11 equipment finance career at Balboa Capital, where he gained experience in sales and finance
12 functions. Following Balboa Capital Mr. Summers worked for 4 years with Mr. Lang on the
13 Executive team of Nationwide Funding, LLC as CFO and COO. Immediately, prior to starting
14 the Company, Mr. Summers served for 4 years as CFO of EagleRider Motorcycles, a Harley-
15 Davidson motorcycle rental company. As part of his role as CFO at EagleRider, Mr. Summers
16 oversaw \$50 Million in credit facilities, the finance aspects of their retail motorcycle dealerships,
17 and managed an internal sub-prime portfolio through EagleRider Finance, LLC. Mr. Summers
18 holds a B.S. from Babson College.

19 Mr. Lang has 17 years of leasing experience and 19 years of executive management
20 experience. At Go Capital, Mr. Lang serves as one of two Managing Directors, jointly responsible
21 for the Company's strategy and planning, as well as for the leadership, oversight and direction of
22 the Executive Management team. Specific areas of Mr. Lang's operational expertise include
23 operations, process planning, system planning, product planning, underwriting, sales, team
24 building, collections, and portfolio management.

25 Prior to founding Go Capital, Mr. Lang founded and served as President of Nationwide
26 Funding, LLC ("Nationwide"), a lease brokerage firm in Irvine, CA, which he founded in 1998
27 and sold in July of 2008. Prior to the sale, Nationwide Funding, LLC employed a team of
28 approximately 120 employees, was a top originator in the broker space and was funding up to \$5

1 Million a month in new transactions. Mr. Lang holds a B.A. from the University of California,
2 Los Angeles.

3 In summary, the Debtor's business involved the origination and funding of leases for
4 semi-trucks and trailers across the United States to owner/operator and small fleet long haul
5 truckers with sub-prime credit. From February 2013 to December of 2017, the Debtor originated
6 and funded 4,385 leases with a lease inception value of over \$113.6 million.

7 The Debtor's Lease Portfolio:

8 The Debtor's Lease Portfolio is comprised of high yielding semi-trucks and trailer
9 equipment leases with sub-prime credit customers who do not have access to traditional vehicle
10 financing options through banks. To mitigate the risk of lending to customers in the lower credit
11 sphere, the Debtor relied on both collateral-based and cash flow-based underwriting. The
12 company placed heavy emphasis on its internal evaluation of the underlying assets' resale value
13 and advanced conservatively against such value. Estimated resale values are conservative
14 estimates based on actual auction results during the past 6 months and on values reported by
15 Black Book. The Debtor utilizes GPS technology to track and recover all leased vehicles. There
16 is a relatively liquid auction market available in which to dispose of vehicles quickly at
17 predictable prices. Additionally, the equipment in Debtor's Lease Portfolio is seasoned and as
18 such is not expected to depreciate significantly over the lease term. As a result, in the event of a
19 customer default, the Debtor is in a position to recover significant value through asset
20 repossession and resale. The Debtor also places heavy emphasis on the customer's future cash
21 flows that will be generated by the addition of the vehicle. Underwriting involves verification of
22 the terms of the customer's contract with their carrier and validation that a contract does exist and
23 that the revenues anticipated by such are sufficient to provide for payment on the lease.

24 The KLS Debt

25 In August of 2014, the Debtor obtained a lending facility placed through Guggenheim
26 Partners LLC ("Guggenheim") whereby a bond issuer, KLS Diversified Asset Management LLP
27 ("KLS"), agreed to enter into a series of bond issuances that would essentially fund the Debtor's
28 Lease Portfolio operations through a special purpose entity, Go Capital Funding 2014-1 LLC

1 (“GCF”). The funds advanced by KLS are referred to as the KLS Debt. As is typical in this type
2 of lending facility, the KLS Debt was advanced through GCF and all of the collateral securing the
3 KLS Debt, including the assets funded under the Leases (e.g., the semi-trucks) and all Lease
4 payments pursuant to the Leases, was held at GCF. Thus, the direct asset value of the Lease
5 Portfolio is not an asset of the Debtor’s bankruptcy Estate, but the residual value in such Lease
6 Portfolio (i.e., the value realized after repayment of the KLS Debt) is an asset, and the primary
7 asset, of the Debtor’s Estate.

8 As of May 31, 2018, the active Lease Portfolio consisted of 1,307 active leases. As set
9 forth in the Current Status of the Debtor section below, the Debtor is not originating any new or
10 additional leases to be placed in the Lease Portfolio.

11 As discussed above, the estimated value of the Lease Portfolio is based on the best
12 information available from the Debtor’s management at this time and is based on the application
13 of the Debtor’s historical loss curves and default rates to the Lease Portfolio in order to estimate
14 the value range of the Debtor’s residual interest in the Lease Portfolio. However, the Debtor
15 cannot predict whether such historical performance will be replicated over the next five years as
16 such performance is predicated on a number of outside factors, including the management of the
17 servicing of the Lease Portfolio, the general economic outlook and its effect on the trucking
18 industry. Further, the Debtor cannot predict what effect any actions that may be taken by KLS
19 will have on the performance of the Lease Portfolio, including an unwillingness of KLS to
20 provide an adequate servicing fee or efforts by KLS to force the early liquidation of the Lease
21 Portfolio.

22 The KLS Deficiency Claim

23 As provided for in the lending facility underlying the KLS Debt, GCF, the bankruptcy
24 remote entity formed for purposes of the effectuating the KLS Debt, had a recourse right against
25 the Debtor equal to 10.00% of the maximum outstanding amount of the KLS Debt (the “Recourse
26 Limit”). In other words, under certain circumstances, the Debtor was obligated to repurchase or
27 substitute underlying contracts (i.e., semi-truck leases entered into by the Debtor’s customers) in
28 the event such lessors defaulted on those leases, up to the Recourse Limit. Over the course of the

1 KLS lending facility, the Debtor repurchased or substituted new leases in place of defaulted
2 leases on an ongoing basis. The Debtor believes that such repurchases and substitutions will
3 exceed the Recourse Limit of \$4.7 million (i.e., 10.00% of the maximum outstanding amount of
4 \$47 million). While such claim was scheduled as a disputed, contingent, unliquidated claim at its
5 maximum amount of \$4.7 million for purposes of the Debtor's Schedules, it is the Debtor's
6 position that such claim has been satisfied in full. For purposes of the Plan, the KLS Deficiency
7 Claim will be valued at \$0.

8 Refinance Efforts Regarding the KLS Debt

9 As the KLS Debt facility approached its credit limit of \$47 million in late 2016, the
10 Debtor commenced a search for a replacement lending facility that could satisfy the KLS Debt
11 (i.e., refinance the KLS Debt) in full and provide for additional portfolio funding capacity. After
12 exploring its refinance options with Guggenheim, the Debtor was advised that it would be
13 beneficial, in terms of attracting the types of institutional lenders that would allow the Debtor to
14 realize the best possible interest rate on its new lending facility, to raise an equity component to
15 complement the refinance efforts. To that end, the Debtor retained B. Riley & Co. to act as its
16 investment banker for the purpose of raising equity capital and ultimately placing a new lending
17 facility with an institutional lender. After several months of this process, it was determined that
18 the equity/debt raise involved a "chicken-and-egg" issue – the equity providers were looking for a
19 refinancing commitment prior to investing on an equity basis, and the low interest rate
20 institutional lenders were looking for an equity investment prior to their committing to a low
21 interest rate lending facility.

22 Accordingly, the Debtor made the decision to proceed with obtaining the lending facility
23 through non-institutional lenders and then seek equity after the Lease Portfolio refinancing was
24 completed.

25 In June of 2017, after extensive negotiations and due diligence on the lender's part, the
26 Debtor consummated a comprehensive term sheet with Monroe Capital ("Monroe") as senior
27 lender for a \$80 million lending facility, with the ability to increase such lending facility to \$125
28 million. The term sheet detailed all material aspects of the proposed lending facility, including

1 advance rate, borrowing base formulas, financial and lending covenants and formation of the
2 bankruptcy remote entity.

3 The term sheet also required the placement of 12.5% of the lending facility with a junior
4 lender, and the Debtor re-engaged Guggenheim (and continued to use B. Riley & Co.) to place
5 such junior portion. After a number of junior providers failed to reach agreement with Monroe
6 (the junior providers wanted to participate with Monroe in the senior portion of the lending
7 facility), it was determined that KLS would act as the junior lender. Based on KLS's willingness
8 to participate in the new lending facility, the Debtor formed the required special purpose entity
9 and prepared all the requisite transactional documentation. However, based on certain deal
10 conditions imposed by KLS at the eleventh hour, Monroe ultimately determined not to participate
11 in the lending facility if KLS was involved.

12 After Monroe declined to provide the lending facility, the Debtor turned to Hovde Group,
13 a boutique investment banking firm concentrated on the specialty finance market. While Hovde
14 was able to engage several senior lenders in discussions, due diligence, negotiations and
15 ultimately several term sheets, it became apparent in January of 2018 that a lending facility could
16 not be secured in the time frame necessitated by the Debtor's dire cash position. Consequently,
17 the Debtor commenced its bankruptcy proceeding in order to maximize the opportunity for
18 recovery to creditors.

19 Buyout of FPH Partners Interest in the Debtor

20 In or about January of 2016, Rapid and FPH Capital Partners LLC ("FPH"), the then other
21 50% holder of membership interests in the Debtor, commenced discussion on a buy out of their
22 respective interests. Those discussions culminated in Rapid purchasing the membership interest
23 of FPH for \$3.50 million on February 16, 2016. The consideration for the purchase of the
24 membership interest was a promissory note for \$1,750,000 ("FPH Note") and a cash payment of
25 \$1,746,500.⁹

26 Between February of 2016 and the Petition Date, Rapid made 23 monthly payments on the

27 ⁹ The purchase of the membership interest was actually completed in two tranches. FPH retained
28 a 0.10% interest in the Debtor until June of 2017, when Rapid completed the purchase of the last
0.10% membership interest with a \$3,500 cash payment.

1 FPH Note of principal and interest totaling \$64,554.57 each in partial satisfaction of the purchase
2 of the FPH membership interest, leaving a balance due as of February 7, 2018 of \$439,062. On
3 March 8, 2018, Rapid and FPH, along with Summers and Lang, as guarantors on the FPH Note,
4 entered into a Forbearance and Modification Agreement and Release whereby the monthly
5 payments on the FPH Note were lowered and amortized out through August 2019. Because the
6 only source for the repayment of the FPH Note is funds submitted to Rapid from TopMark, the
7 lowered payment structure is critical to the ongoing operation of TopMark and will allow
8 TopMark to operate for the ultimate benefit of Creditors of the Debtor's Estate. In the absence of
9 the modification to the FPH Note, it is likely that TopMark could not generate sufficient
10 distributions to Rapid to service the FPH Note and that Rapid would default on the FPH Note and
11 that FPH would exercise its legal remedies, including exercising on a pledge of 50% of the
12 TopMark and Nations First Capital, LLC dba Go Capital membership interests, which would
13 have a catastrophic effect on the Plan.

14 The Rapid Obligation

15 In order to fund the membership purchase transaction of the FPH interest, Rapid borrowed
16 funds on a general unsecured basis. These obligations were subsequently moved to the Debtor on
17 March 1, 2016 and the Debtor issued additional monthly advances to Rapid which Rapid used to
18 service the FPH Note. The total amount Rapid became obligated to the Debtor for was
19 \$3,755,583 (the "Rapid Obligation"). The Rapid Obligation includes the \$1,746,500 in cash used
20 as the part of the purchase of the FPH membership interests and the ongoing monthly payments
21 on the FPH Note referenced above totaling \$1,485,755, as well as the reconciliation of several
22 inter-company accounts totaling \$632,550. This balance was composed of the payoff of a
23 \$125,000 note due from FPH to the Debtor which was part of the consideration of the buyout and
24 \$507,550 of fees and interest Rapid incurred in sourcing the funds used to effectuate the
25 onboarding and access to approximately \$8,500,000 in sub-debt for the benefit of both the Debtor
26 and Rapid. The proceeds of this \$8,500,000 in sub-debt were used for the buyout with the
27 balance being consumed in the operations of the Debtor.

28 The Rapid Obligation will be repaid to the Debtor by Rapid over the course of several

1 years following the Effective Date. Such repayment will be funded by the TopMark Distributions
2 starting in January 2019 and continuing through approximately October, 2020, at which point the
3 Rapid Obligation will be paid in full. The repayment of the Rapid Obligation in full will be
4 dependent on the execution to the TopMark Business Plan and the adherence to the payment
5 schedule set forth therein.

6 The totality of the payments made in satisfaction of the Rapid Obligation will inure to the
7 benefit of all Creditors of the Debtor as such payments fall within the definition of Debtor
8 Sourced Funds. Thus, the funds will be distributed as Debtor Sourced Funds, pursuant to the
9 terms of the Plan. The existence, or repayment in full, of the Rapid Obligation does not impact
10 the amount of funds available to distribute to Creditors as such funds ultimately would be
11 distributed either as Debtor Sourced Funds or as Rapid Payments.

12 **B. Current Status of Debtor and TopMark Funding LLC**

13 **The Debtor**

14 The current status of the Debtor is relatively simple – it is operating as a single purpose
15 servicing and portfolio management entity to preserve the maximum residual value in the Lease
16 Portfolio. The Debtor has terminated all employees that are not critical to that servicing and
17 portfolio management function. The remaining employees are essential to preserving the
18 maximum value of the Lease Portfolio because the nature of the leases underlying the Lease
19 Portfolio, specifically, subprime credit customers, require that the servicing and management of
20 the Lease Portfolio be conducted at a very “high touch” level. The Debtor has developed its
21 servicing processes and procedures through its experience with its particular customer base over
22 the course of the last four plus years of portfolio management. For example, the Debtor has
23 learned that the lessees must be contacted personally virtually each month to ensure their
24 upcoming lease payment is at the center of their attention as there is a very strong “out-of-sight,
25 out-of-mind” mentality regarding monthly obligations for the lessees.

26 The Debtor’s current employees are critical to this “high touch” effort as they are highly
27 skilled in addressing and navigating the many payment challenges associated with the subprime
28 credit customer and, more importantly, the challenges specific to the owner operator trucking

1 industry. In the absence of an effective “high touch” servicing of the Lease Portfolio, the
2 collections for the Lease Portfolio will drop precipitously, resulting in the diminishment, or even
3 loss entirely, of the value of the Debtor’s residual interest in the Lease Portfolio – to the extreme
4 detriment of all creditors

5 Because the Lease Portfolio has entered run -off status, the monthly cash flow of the
6 Debtor has been virtually eliminated.¹⁰ The expense associated with the servicing and portfolio
7 management functions is covered by the Debtor’s receipt from KLS of a servicer fee and the
8 reimbursement of out of pocket expenses incurred in performing the activities associated with the
9 lease assets such as repossession of trucks, rehabilitation and disposition of trucks coming off
10 lease, replacement/maintenance of GPS units and similar Lease Portfolio related items. The
11 servicer fee is currently set at 2.5% of the Lease Portfolio balance per the Servicing Agreement
12 and has been temporarily increased to 4.0% of the Lease Portfolio balance per an amendment to
13 that agreement. The Debtor is working with KLS to increase the servicer fee to 4.0% for the
14 balance of the facility to insurance maximum effort to collect on the Lease Portfolio. The Debtor
15 also generates a small cash flow of approximately \$5 - \$10K per month from the collection of
16 residual payments on leases that were not deposited into the Lease Portfolio. In essence, the
17 current operations of the Debtor are at a cash- flow neutral level.

18 The Debtor has 14 employees currently working on portfolio management tasks, which
19 include servicing and managing the Lease Portfolio, and performing various tasks ancillary to
20 portfolio management such as recovery and disposition of repossessed collateral from terminated
21 leases as well as accounting and reporting on the Lease Portfolio.

22 The Debtor will continue to operate in this fashion throughout the Case and during the
23 Post-Confirmation period until the Lease Portfolio has been completely run off. The Debtor
24 believes that its current operations are structured to maximize the opportunity for the recovery of
25 Debtor Sourced Funds from the Lease Portfolio in the most cost efficient manner possible.

26 _____
27 ¹⁰ In “run-off” status, all of the monthly cash receipts generated by the Lease Portfolio are
28 “captured” by KLS and used to amortize the KLS Debt (after payment of the interest due on the
KLS Debt). While this status has the benefit of quickly reducing the KLS Debt balance, the
obvious and immediate difficulty for the Debtor is the loss of its cash flow to operate.

TopMark Funding LLC

History

TopMark Funding LLC is a separate entity from the Debtor and was formed in January, 2015. TopMark was formed for the purpose of developing a broker based outlet for lease transactions generated by the Debtor, but which transactions did not fit into the Debtor's underwriting model. Specifically, the Debtor would refer to TopMark those lease transactions for which the credit profile of the lessee was above the subprime spectrum served by the Debtor. As the Debtor was not actively marketing to those customers, transactions generated in that space by the Debtor were the exception rather than the rule. In addition to servicing a different credit spectrum than the Debtor, TopMark also originated leases for construction equipment and vehicles, and thus was not entirely focused on the semi-truck and trailer space. Between January 2015 and December 2017, the Debtor referred 378 lease transactions to TopMark, which constituted 38.6% of TopMark's total business by volume over such period.

Since January of 2016, the day-to-day operations of TopMark have been managed by Nick McClaskey, out of TopMark's Irvine offices. In May of 2016, McClaskey became an equity owner of TopMark and currently holds 5.00% of the membership interests of TopMark with Rapid holding the remaining 95.0%. Since inception, TopMark has been managed by Summers and Lang as Managing Directors. In January of 2018, McClaskey relocated to the Roseville office of TopMark and will help run the day-to-day operations from that location. TopMark also maintains an office in Irvine, California to serve the robust Orange County lease market.

TopMark 2.0

In the fourth quarter of 2017, in an effort to address the cash flow issues of the Debtor and in response to the need for a substantially more robust version of TopMark, the Debtor terminated 53 employees ultimately representing all of its lease origination staff. TopMark hired 39 of those employees. This group formed the nucleus of the TopMark lease origination staff and will provide the foundation for the requisite growth set forth in the TopMark Business Plan. All administrative staff of the Debtor not directly associated with the servicing and management of the Lease Portfolio has been moved to the TopMark entity. This transition accomplished both a

1 much needed reduction in cash expense at the Debtor, but also provides TopMark with the
2 administrative infrastructure necessary for execution to the TopMark Business Plan.

3 A comprehensive discussion of the TopMark Business Plan and the growth strategies
4 underlying TopMark, as well as the financial projections for the years 2018 through 2023, are
5 attached hereto as Exhibit “1”.

6 The comparison of the monthly financial performance of TopMark versus the projections
7 set forth in the TopMark Business Plan since February 2018 are attached hereto collectively as
8 Exhibit “3”.

9 **C. Purpose of the Chapter 11 Filing**

10 The bankruptcy filing was necessary for an orderly allocation of the Debtor’s limited
11 assets among its creditors, a restructuring of the Subordinated Debt Notes to allow for a
12 manageable structured repayment of those obligations, and a breathing period for the
13 management to develop TopMark as an alternative revenue stream to fully pay those creditors
14 voting in favor of the Plan.

15 **IV. SIGNIFICANT EVENTS DURING THE CHAPTER 11 CASE**

16 The following constitutes a brief, general discussion of certain significant events during
17 the chapter 11 cases prior to the filing of this disclosure statement. All of the pleadings filed by
18 the Debtor in the Case are posted in pdf format on counsel for the Debtor’s webpage at
19 www.ffwplaw.com under “Cases” and in the Nations First Capital folder.

20 **A. “First Day” Motions**

21 As soon as practicable after the filing of the petition, the Debtor filed several “first day”
22 pleadings. These pleadings included a motion to pay pre-petition wage claims and related relief
23 and a Notice of Consent to Use Cash Collateral, as discussed below. The motion to pay pre-
24 petition wages was granted.

25 **B. Formation of Creditors’ Committee**

26 The Office of the United States Trustee (“U.S. Trustee”) solicited the 20 largest creditors
27 for participation on the Official Committee of Unsecured Creditors (“Committee”). On April 3,
28 2018, the U.S. Trustee appointed a nine (9) member Committee. As of the date of this Disclosure

1 Statement, the following parties are members of the Committee: (1) Develyne Capital LLC;
2 (2) Robert Pitts; (3) Peter Wilver; (4) Peter Wurmer; (5) Barry Breckon; (6) Chase
3 Mart; (7) Michael Boutross; (8) Kaleo Moylan; and (9) Rick Rodriguez.

4 **C. Retention of Professionals**

5 The Debtor retained Felderstein Fitzgerald Willoughby & Pascuzzi LLP (“FFWP”) as its
6 bankruptcy counsel. The Committee retained Parkinson & Phinney as its counsel.

7 **D. Use of Cash Collateral**

8 The Debtor obtained the consent of the Stephan Lang Family Trust Dated September 9,
9 1985 to use the Debtor’s cash collateral in the ordinary course of the Debtor’s operations. As no
10 additional or replacement liens or other relief was sought requiring Bankruptcy Court approval,
11 no motion for use of cash collateral was required or filed. A Notice of Consent to Use Cash
12 Collateral was filed with the Court with respect to the general operations of the Debtor and with
13 respect to the payment of a post-petition retainer to Committee Counsel.

14 **E. Miscellaneous Motions**

15 On March 20, 2018, the Debtor filed a Motion for Authority to Reject Unexpired Lease at
16 2485 McCabe Way, Suite 200, Irvine, California Effective March 31, 2018, which motion was
17 later amended on March 27, 2018 to add a request to abandon certain personal property located at
18 the McCabe address. The Motion was granted on April 17, 2018. The Debtor also entered into a
19 stipulation with the landlord for its Blue Oaks leased real property that rejected the lease and
20 sublease, provided for a relatively small termination payment equivalent to the post-petition rent
21 due, and a waiver of any further claims by the landlord, which stipulation was approved by the
22 Court on May 31, 2018. The Debtor is in negotiations with the landlord for its operating premises
23 for the assumption and assignment of the lease to TopMark. A motion to extend the time to
24 assume or reject leases was granted on May 31, 2018.

25 The Debtor also filed a motion to sell its office equipment to TopMark for the assumption
26 of the existing Blue Bridge Lease and a waiver of any claim by the secured creditor Blue Bridge
27 Financial against the Debtor. The Debtor anticipates that Blue Bridge will do business with
28 TopMark which will assist in the growth of Top Mark and its ability to fund the plan of

1 reorganization payments. That motion was granted by order dated May 16, 2018

2 Finally, on May 1, 2018, the Debtor filed a motion to extend the exclusivity periods that
3 was granted on May 31, 2018.

4 **V. PLAN DESCRIPTION**

5 The Plan treatment of claims is summarized below.

6 **A. Specification And Treatment Of Unclassified Claims**

7 Other than the Professional Claims, each Administrative Claim against the Debtor or its
8 Estate shall be paid in full as soon as practicable after the entry of an order of the Court approving
9 such Administrative Claim or on the Effective Date, whichever is later, unless different treatment
10 is agreed to between the claimant and the Debtor; provided however, that the Reorganized Debtor
11 is hereby authorized to pay any and all Administrative Claims in the ordinary course of business
12 without Court approval. Except as may be expressly set forth in the Plan or by an order of the
13 Court, no holder of an Administrative Claim shall be entitled to payment on account of any post-
14 petition interest or penalties arising with respect to such Administrative Claim.

15 To the extent any Professional Person holds a Professional Claim against the Debtor for
16 services rendered prior to the Effective Date of the Plan, such Professional Person shall be paid in
17 full upon Court approval pursuant to the terms of the applicable employment order, unless
18 different treatment is agreed to between such Professional Person and the Debtor.

19 At the election of the Reorganized Debtor, the Holder of each Allowed Prepetition Tax
20 Claim shall be entitled to receive, on account of such Claim, (i) equal cash payments on the last
21 Business Day of each three-month period following the Effective Date, payable over a period not
22 to exceed five years from the Petition Date. Such payments shall, in the aggregate, equal the
23 principal amount of such Claims, plus simple interest on the unpaid balance calculated at the
24 interest rate payable on ninety (90) day United States Treasuries on the Effective Date, or (ii)
25 such other treatment agreed to by the Holder of the Allowed Prepetition Tax Claim and the
26 Reorganized Debtor.

27 All fees payable by the Debtor through the Confirmation Date under 28 U.S.C. §1930
28 shall be paid in full on the Effective Date or as soon thereafter as they may come due in the

1 ordinary course.

2 **B. Treatment Of Classified Claims**

3 1.1 Class 1 (Priority Claims):

4 (a) Class 1A (Wages):

5 The holder of each Allowed Class 1A Claim shall be paid the Allowed amount of
6 their Priority Claim in the amount required under section 507(a)(4) and section 507(a)(5) in cash
7 on the Effective Date or as soon thereafter as is practicable, except to the extent that the holder of a
8 particular Claim has agreed otherwise.

9 (b) Class 1B (Other Priority Claims):

10 Any Allowed Priority Claims not otherwise included in Class 1A shall be paid the
11 Allowed amount thereof in cash on the Effective Date or as soon thereafter as is practicable,
12 except to the extent that the holder of a particular Claim has agreed otherwise..

13 1.2 Class 2 (Secured Claims):

14 Any holder of an Allowed Secured Claim shall retain its liens securing the Claims
15 and shall receive deferred cash payments totaling at least the allowed amount of their Claims, of a
16 value, as of the Effective Date of the Plan, of at least the value of each claimant's interest in the
17 collateral as required under section 1129(b)(2) of the Bankruptcy Code; provided however, that the
18 interest rate on the Secured Claim of SLFT shall be adjusted as of the Petition Date to the Plan
19 Rate and the repayment of such claim shall be made solely from Debtor Sourced Funds derived
20 from the residual value in the Lease Portfolio, *provided however*, if the Debtor Sourced Funds
21 derived from the residual value in the Lease Portfolio are not sufficient to repay such Secured
22 Claim in full, then any deficiency amount shall be treated as an Allowed Class 4D Claim. The
23 Debtor shall treat the SLFT Claim as a Class 4D Claim in its entirety until such time as the
24 residual value of the Lease Portfolio has been realized or established, and any sums paid on
25 account of the treatment of the SLFT Claim as a Class 4D claim shall be credited to the SLFT
26 Claim amount. The Debtor does not believe there are any holders of Class 2 Secured Claims other
27 than the SLFT Claim.

28

1 1.3 Class 3 (Administrative Convenience Claims):

2 All Class 3 Creditors holding Allowed ACC Claims within Class 3 shall receive
3 distributions in the amount of their respective Allowed Class 3 ACC Claim, made in two equal
4 payments out of the Debtor Sourced Funds, as follows: (i) a payment equal to 50.00% of their
5 respective Allowed Class 3 ACC Claim on or before one-hundred and twenty (120) days
6 following the Effective Date; and (ii) a payment equal to the remaining 50.00% of their respective
7 Allowed Class 3 ACC Claim on or before two-hundred and forty (240) days following the
8 Effective Date. The Allowed Class 3 ACC Claims shall not bear interest

9 1.4 Class 4 (Unsecured Claims):

10 Class 4 is comprised of four subclasses that collectively encompass all Allowed
11 Unsecured Claims, other than Tax Claims and ACC Claims.¹¹ The treatment accorded each
12 subclass under the Plan is described in paragraphs (A) through (H) below:

13 (A) Treatment of Class 4A Creditors (Non-SDH General Unsecured Creditors)

14 Who Vote To REJECT The Plan or FAIL TO VOTE:

15 All Class 4A Creditors holding Allowed Unsecured Claims within Class 4A who vote to
16 REJECT the Plan, or who FAIL TO VOTE ON THE PLAN, shall receive distributions derived
17 solely from Debtor Sourced Funds. Such distributions shall be shared, pro rata, with the holders of
18 Allowed Unsecured Claims in Class 4A and Allowed Unsecured SD Claims in Classes 4B, 4C,
19 and 4D, except as otherwise provided for in the Plan. Distributions to such Class 4A holders shall
20 be made monthly until the satisfaction in full of the Rapid Obligation, and thereafter quarterly, as
21 and to the extent such funds become available from the collection, liquidation or realization of
22 Debtor Sourced Funds. Once the Debtor Sourced Funds have been exhausted, no further payments
23 shall be payable to the holders of the above-described (rejecting) Class 4A Claims.

24

25

26 ¹¹ The distributions under the Plan will be made on a pro rata basis, as more fully discussed
27 below with respect to the treatment of each specific subclass of Class 4 creditors. Attached hereto
28 collectively as Exhibit "4" is a set of Proceeds Distribution Schedules that set forth the projected
pro rata distribution to the Class 4A creditors in the aggregate, and to each of the SDH, broken
down by each SD Note, within each of Class 4B, 4C and 4D. The Proceeds Distribution
Schedules also establish the projected Liquidity Factor for each SDH.

1 (B) Treatment of Class 4A Creditors (Non-SDH General Unsecured Creditors)
2 Who Vote To ACCEPT The Plan:

3 All Class 4A Creditors who vote to ACCEPT the Plan shall share in the distributions from
4 Debtor Sourced Funds as provided in paragraph (A) above. IN ADDITION, such accepting
5 Class 4A Creditors shall receive their pro rata share, with the holders of Allowed Unsecured SD
6 Claims in Classes 4B, 4C, and 4D who vote in favor of the Plan, of the Rapid Payments, in the
7 amounts reflected on the Rapid Payment Schedule, until such creditors' Allowed Claims,
8 including interest at the Plan Rate, have been paid in full.

9 (C) Treatment of Class 4B Creditors (Subordinated Debt Holders with No
10 Guaranty) Who Vote To REJECT the Plan or who FAIL TO VOTE:

11 All Class 4B Creditors holding Allowed Unsecured SD Claims within Class 4B shall
12 receive distributions derived from Debtor Sourced Funds. Such distributions shall be shared pro
13 rata with the holders of Allowed Unsecured Claims in Class 4A and Allowed Unsecured SD
14 Claims in Classes 4C and 4D, except as otherwise provided for in the Plan. Distributions shall be
15 payable monthly until the satisfaction in full of the Rapid Obligation, and thereafter quarterly, as
16 and to the extent such funds become available from the collection, liquidation or realization of
17 Debtor Sourced Funds. Once the Debtor Sourced Funds have been exhausted, no further payments
18 shall be payable to the holders of the above-described (rejecting) Class 4B SD Claims.

19 (D) Treatment of Class 4B Creditors Who Vote To ACCEPT the Plan:

20 All Class 4B Creditors who vote to ACCEPT the Plan shall share in the distributions from
21 Debtor Sourced Funds as provided in paragraph (C) above. IN ADDITION, such accepting Class
22 4B Creditors shall receive the following:

23 1. *Rapid Payments.* A pro rata share, with the holders of Allowed Unsecured Claims
24 in Class 4A who vote in favor of the Plan, and Allowed Unsecured SD Claims in Classes 4C and
25 4D who vote in favor of the Plan, of the Rapid Payments, in the amounts reflected on the Rapid
26 Payment Schedule, until such creditors' Allowed Claims and Allowed SD Claims, including
27 interest at the Plan Rate, have been paid in full;

28 2. *Liquidity Event Distribution.* A pro rata share, based on such Creditors' respective

1 Liquidity Event Factor, of the Liquidity Event Distribution along with the holders of Allowed
2 Unsecured SD Claims in Classes 4C and 4D who vote in favor of the Plan, *provided however*,
3 that any Liquidity Event Distribution payment hereunder may be in excess of such Allowed
4 Amount of such SD Claims;

5 3. *Conversion Right.* Upon the occurrence of a Conversion Event, the right to
6 convert some or all of their then outstanding Allowed SD Claim into the equity interests being
7 sold or offered upon the same terms and conditions with respect to the Conversion Event, at the
8 Conversion Ratio, subject to the Conversion Cap; and

9 4. *Release of Claims.* The release of Claims provided for in Section 6.17 of the Plan,
10 subject to the Release Effective Date.

11 (E) Treatment of Class 4C Creditors (SD Claim Holders with a Two-Party
12 Guaranty) Who Vote To REJECT the Plan or who FAIL TO VOTE:

13 All Class 4C Creditors holding Allowed Unsecured SD Claims within Class 4C shall
14 receive distributions derived from Debtor Sourced Funds. Such distributions shall be shared pro
15 rata with the holders of Allowed Unsecured Claims in Class 4A and Allowed Unsecured SD
16 Claims in Classes 4B and 4D, except as otherwise provided for in the Plan. Distributions shall be
17 payable monthly until the satisfaction in full of the Rapid Obligation, and thereafter quarterly, as
18 and to the extent such funds become available from the collection, liquidation or realization of
19 Debtor Sourced Funds. Once the Debtor Sourced Funds have been exhausted, no further payments
20 shall be payable to the holders of the above-described (rejecting) Class 4C Claims.

21 (F) Treatment of Class 4C Creditors Who Vote To ACCEPT the Plan:

22 All Class 4C Creditors who vote to ACCEPT the Plan shall share in the distributions from
23 Debtor Sourced Funds as provided in paragraph (E) above. IN ADDITION, such accepting Class
24 4C Creditors shall receive the following:

25 1. *Reallocated Distributions.* A pro rata share with the holders of Allowed
26 Unsecured SD Claims in Classes 4C and 4D who vote in favor of the Plan, of the Debtor Sourced
27 Funds and Rapid Payments that would otherwise have been distributed on account of the
28 Summers Subordinated Debt and the Lang Subordinated Debt, until such creditors' Allowed SD

1 Claims, including interest at the Plan Rate, have been paid in full;

2 2. *Rapid Payments.* A pro rata share, with the holders of Allowed Unsecured Claims
3 in Class 4A who vote in favor of the Plan, and Allowed Unsecured SD Claims in Classes 4B and
4 4D who vote in favor of the Plan, of the Rapid Payments, in the amounts reflected on the Rapid
5 Payment Schedule, until such creditors' Allowed Claims and Allowed SD Claims, including
6 interest at the Plan Rate, have been paid in full;

7 3. *Liquidity Event Distribution.* A pro rata share, based on such Creditors' respective
8 Liquidity Event Factor, of the Liquidity Event Distribution along with the holders of Allowed
9 Unsecured SD Claims in Classes 4B and 4D who vote in favor of the Plan, *provided however*,
10 that any Liquidity Event Distribution payment hereunder may be in excess of such Allowed
11 Amount of such SD Claims; and

12 4. *Conversion Right.* Upon the occurrence of a Conversion Event, the right to
13 convert some or all of their then outstanding Allowed SD Claim into the equity interests being
14 sold or offered upon the same terms and conditions with respect to the Conversion Event, at the
15 Conversion Ratio, subject to the Conversion Cap; and

16 5. *Release of Claims.* The release of Claims provided for in Section 6.17 of the Plan,
17 subject to the Release Effective Date.

18 (G) Treatment of Class 4D Creditors (SD Claim Holders with a Three-Party
19 Guaranty) Who Vote To REJECT the Plan or who FAIL TO VOTE:

20 All Class 4D Creditors holding Allowed Unsecured SD Claims within Class 4D shall
21 receive distributions derived from Debtor Sourced Funds. Such distributions shall be shared pro
22 rata with the holders of Allowed Unsecured Claims in Class 4A and Allowed Unsecured SD
23 Claims in Classes 4B and 4C, except as otherwise provided for in the Plan. Distributions shall be
24 payable monthly until the satisfaction in full of the Rapid Obligation, and thereafter quarterly as
25 and to the extent such funds become available from the collection, liquidation or realization of
26 Debtor Sourced Funds. Once the Debtor Sourced Funds have been exhausted, no further payments
27 shall be payable to the holders of the above-described (rejecting) Class 4D SD Claims.
28

1 (H) Treatment of Class 4D Creditors Who Vote To ACCEPT the Plan:

2 All Class 4B Creditors who vote to ACCEPT the Plan shall share in the distributions from
3 Debtor Sourced Funds as provided in paragraph (G) above. IN ADDITION, such accepting Class
4 4D Creditors shall receive the following:

5 1. *Reallocated Distributions.* (i) A pro rata share with the holders of Allowed
6 Unsecured SD Claims in Classes 4C and 4D who vote in favor of the Plan, of the Debtor Sourced
7 Funds and Rapid Payments that would otherwise have been distributed on account of the
8 Summers Subordinated Debt and the Lang Subordinated Debt, until such creditors' Allowed SD
9 Claims, including interest at the Plan Rate, have been paid in full; and (ii) a pro rata share with
10 the holders of Allowed Unsecured SD Claims in Class 4D who vote in favor of the Plan, of
11 seventy-five percent (75%) of the Debtor Sourced Funds and Rapid Payments that would
12 otherwise have been distributed on account of the Pitts Subordinated Debt, until such creditors'
13 Allowed SD Claims, including interest at the Plan Rate, have been paid in full;

14 2. *Rapid Payments.* A pro rata share, with the holders of Allowed Unsecured Claims
15 in Class 4A who vote in favor of the Plan, and Allowed Unsecured SD Claims in Classes 4B, 4C
16 and 4D who vote in favor of the Plan, of the Rapid Payments, in the amounts reflected on the
17 Rapid Payment Schedule, until such creditors' Allowed Claims and Allowed SD Claims,
18 including interest at the Plan Rate, have been paid in full;

19 3. *Liquidity Event Distribution.* A pro rata share, based on such Creditors' respective
20 Liquidity Event Factor, of the Liquidity Event Distribution along with the holders of Allowed
21 Unsecured SD Claims in Classes 4B and 4C who vote in favor of the Plan, *provided however*, that
22 any Liquidity Event Distribution payment hereunder may be in excess of such Allowed Amount
23 of such SD Claims; and

24 4. *Conversion Right.* Upon the occurrence of a Conversion Event, the right to
25 convert some or all of their then outstanding Allowed SD Claim into the equity interests being
26 sold or offered upon the same terms and conditions with respect to the Conversion Event, at the
27 Conversion Ratio, subject to the Conversion Cap; and

28 5. *Release of Claims.* The release of Claims provided for in Section 6.17 of the Plan,

1 subject to the Release Effective Date.

2 1.5 Treatment of Class 5 (Members):

3 All holders of membership interests of the Debtor shall retain such membership
4 interests as of the Effective Date of the Plan.

5 **C. Unimpaired and Impaired Classes**

6 Classes 1A, 1B and 5 are unimpaired under the Plan, are deemed to accept the Plan
7 and are not entitled to vote. Classes 2, 3, 4A, 4B, 4C, and 4D are impaired under the Plan.

8 **D. Means For Implementation And Execution Of The Plan**

9 1. Continued Legal Existence and Vesting of Assets in the Reorganized Debtor:

10 After the Effective Date, the Reorganized Debtor shall continue to exist as separate
11 legal entity in accordance with California law pursuant to the operating agreement in effect prior
12 to the Effective Date.

13 Except as otherwise provided in the Plan, on and after the Effective Date, all
14 property of the Estate, including all claims, rights, and causes of action and any property acquired
15 by the Debtor or the Reorganized Debtor under or in connection with the Plan, shall vest in the
16 Reorganized Debtor free and clear of all Claims, security interests, liens, charges, other
17 encumbrances, and Interests.

18 On and after the Effective Date, the Reorganized Debtor may operate its business
19 and may use, acquire, and dispose of property and compromise or settle any Claims without
20 supervision of or approval by the Bankruptcy Court and free and clear of any restrictions of the
21 Bankruptcy Code or the Bankruptcy Rules, other than restrictions expressly imposed by the Plan
22 or the Confirmation Order.

23 2. Separate Legal Existence and Non-Liability of Rapid and TopMark:

24 Nothing in the Plan shall affect or impair Rapid and TopMark's continued legal
25 existence as entities separate from the Debtor and the Reorganized Debtor, subject to the following
26 exception: Rapid shall continue to own all of the Reorganized Debtor's membership interests.

27 Rapid and TopMark are not assuming any liability for any of the Claims against the
28 Debtor or the Reorganized Debtor, subject to the following exception only: Rapid is obligated to

1 make the Rapid Payments and TopMark is obligated to make the TopMark Distributions.

2 3. Sources of Plan Distributions:

3 The Reorganized Debtor shall fund distributions under the Plan with (1) the Debtor
4 Sourced Funds; and (2) the Rapid Payments. In addition, Rapid shall make any Liquidity Event
5 Distributions, to the extent required under the Plan.

6 The distributions under the Plan primarily are funded by TopMark Distributions generated
7 by the successful execution of the TopMark Business Plan. The projected TopMark Distributions
8 that will fund the repayment of the Rapid Obligation and the Rapid Payments are set forth in the
9 TopMark Business Plan, and the schedule of projected payments to Creditors generated thereby is
10 set forth in the Rapid Payment Schedule attached hereto as Exhibit "2".

11 A. Debtor Sourced Funds Distributions.

12 Within thirty (30) days after the Effective Date, the Reorganized Debtor shall establish the
13 Debtor Plan Payment Account. All Debtor Sourced Funds, including but not limited to the
14 Servicing Fee and Servicing Expense Reimbursement payments, but excluding any amounts
15 necessary for the operation of the Debtor or Reorganized Debtor in the ordinary course of
16 business, shall be deposited into the Debtor Plan Payment Account and held in trust for the benefit
17 of the holders of all Allowed Claims.

18 The Debtor Plan Payment Account shall not be property of the Debtor or the Reorganized
19 Debtor. All funds deposited therein shall be held in trust to fund distributions as provided herein,
20 and no Liens, Claims, or Interests shall encumber this account or the funds deposited therein;
21 *provided however*, that if funds remain in the Debtor Plan Payment Account after all Allowed
22 Claims have been paid in full, such funds shall be remitted to the Reorganized Debtor.

23 B. Rapid Payments.

24 Within thirty (30) days after the Effective Date, Rapid shall establish the Rapid Plan
25 Payment Account. All TopMark Distributions shall be deposited into the Rapid Plan Payment
26 Account and held in trust for the benefit of; (i) first, the Reorganized Debtor, to the extent of the
27 Rapid Obligation; and (ii) second, after payment in full of the Rapid Obligation, the holders of
28 Allowed Claims who are entitled to receive the Rapid Payments.

1 The Rapid Plan Payment Account shall not be property of the Debtor, the Reorganized
2 Debtor, or Rapid. All funds deposited therein shall be held in trust to fund distributions as
3 provided herein, and no Liens, Claims, or Interests shall encumber this account or the funds
4 deposited therein; *provided however*, that if funds remain in the Rapid Plan Payment Account after
5 all Allowed Claims who are entitled to receive the Rapid Payments have been paid in full, such
6 funds shall be remitted to Rapid.

7 Rapid shall make: (i) first, periodic payments to the Reorganized Debtor until the Rapid
8 Obligation is paid in full; and (ii) second, the Rapid Payments to the holders of Allowed Claims in
9 Class 4A, and the Allowed SD Claims in Classes 4B, 4C and 4D who vote in favor of the Plan, in
10 accordance with the Rapid Payment Schedule and in accordance with the treatment set forth in
11 Article 4 of the Plan.

12 C. Liquidity Event Distributions.

13 Rapid shall make a Liquidity Event Distribution within thirty (30) days of the
14 consummation of a Liquidity Event. Each Non-Owner SDH who voted in favor of the Plan shall
15 receive a distribution from the Rapid Plan Payment Account in an amount equal to their respective
16 Liquidity Event Distribution (i.e., their respective Liquidity Event Factor multiplied by ten percent
17 (10%) of the Net Liquidity Event Proceeds).

18 Any Liquidity Event Distribution amount hereunder shall be in excess of the
19 Allowed SD Claim of the respective Non-Owner SDH.

20 D. Incentive Payments.

21 TopMark and/or the Portfolio Business shall make the Incentive Payments to the
22 TopMark Managers out of available cash of TopMark and/or the Portfolio Business. The
23 Incentive Payment paid to each of the TopMark Managers shall be equal to ten percent (10.00%)
24 of any Additional Payment made under the Plan, less any Plan Goal Payments made to such
25 TopMark Manager for the applicable period, and shall be paid concurrently with the Additional
26 Payment. The payment of the Incentive Payments shall not diminish or dilute the amount of the
27 Additional Payment paid to Creditors.

28 ///

1 E. Plan Goal Payments.

2 TopMark shall make the Plan Goal Payments to the TopMark Managers out of
3 available cash of TopMark. The Plan Goal Payments are additional compensation payments made
4 to each of the TopMark Managers equal to \$50,000 measured and paid at the end of each of the
5 calendar years 2021, 2022 and 2023, *provided* that each of the payments required under the Rapid
6 Payment Schedule have been made in the twelve months prior to each such payment.

7 F. Non-Cumulative; No Other Payments or Distributions

8 The TopMark Managers shall be paid the salary set forth in the TopMark Business
9 Plan plus any employee benefits and/or expense reimbursements consistent with past practice and
10 with other similarly situated employees of TopMark. For each of the twelve (12) month periods
11 following the Effective Date and through the 24th month following the Effective Date, the
12 TopMark Managers shall be paid, in addition to the salary set forth in the TopMark Business Plan,
13 the Incentive Payments. For each of the calendar years 2021, 2022 and 2023, the TopMark
14 Managers shall be paid, in addition to the salary set forth in the TopMark Business Plan, the
15 greater of: (i) the aggregate of the Incentive Payments paid; or (ii) the Plan Goal Payment,
16 *provided* that each of the payments required under the Rapid Payment Schedule have been made in
17 such twelve month period.

18 No other payments or distributions shall be made to the TopMark Managers in
19 consideration for their services as TopMark Managers. Nothing herein shall affect any distribution
20 to the members of TopMark or Rapid set forth in the TopMark Business Plan for any pass through
21 tax liability incurred by such members, as determined by the actual performance of TopMark
22 and/or Rapid.

23 4. Cancellation of Existing Securities and Notes:

24 Except as otherwise provided in the Plan or any agreement, instrument, or other
25 document incorporated in the Plan or the Plan Supplement, on the Effective Date: (1) the
26 obligations of the Debtor under the Subordinated Debt Notes and any other certificate, share, note,
27 bond, indenture, purchase right, option, warrant, or other instrument or document, directly or
28 indirectly, evidencing or creating any indebtedness or obligation of or ownership interest in the

1 Debtor, excluding the ownership interest held by Rapid, giving rise to any Claim or Interest
2 (except such certificates, notes, or other instruments or documents evidencing indebtedness or
3 obligations of the Debtors that are specifically Reinstated pursuant to the Plan) shall be cancelled
4 solely as to the Debtors and the Reorganized Debtor, they shall have no continuing obligations
5 thereunder, except as specifically provided for in the Plan; and (2) the obligations of the Debtor
6 pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws,
7 or certificate or articles of incorporation or similar documents governing the shares, certificates,
8 notes, bonds, purchase rights, options, warrants, or other instruments or documents evidencing or
9 creating any indebtedness or obligation of the Debtor (except such agreements, certificates, notes,
10 or other instruments evidencing indebtedness or obligations of the Debtors that are specifically
11 Reinstated pursuant to the Plan) shall be released and discharged, except as specifically provided
12 for in the Plan.

13 5. Limitation on Liability:

14 Except as otherwise prohibited by the Bankruptcy Code or applicable non-
15 bankruptcy law, Nations First Capital, the Reorganized Debtor, the Creditors' Committee, and the
16 PCAB, and each of their officers, directors, managers, employees, agents and assignees, shall have
17 no liability for any error of judgment acting in his/her official capacity made in good faith other
18 than as a result of gross negligence or willful misconduct from the Petition Date forward. Except
19 as otherwise prohibited by the Bankruptcy Code or applicable non-bankruptcy law, the
20 Reorganized Debtor, the Creditors' Committee, and the PCAB, and each of their officers,
21 directors, managers, employees, and agents shall not be liable for any action taken or omitted in
22 good faith and believed by them to be authorized within the discretion or rights or powers
23 conferred upon them by the Plan. Any liability for negligence or other misconduct by attorneys,
24 consultants or other professionals employed in the Case must be raised during the final fee
25 application process of such attorneys, consultants or other professionals employed in the Case. No
26 provision of the Plan shall require any employee, officer, manager or director of the Reorganized
27 Debtor, the Creditors' Committee, or the PCAB, to expend or risk his or her own funds or
28 otherwise incur personal financial liability in the performance of any of his or her duties under the

1 Plan or in the exercise of any of his or her rights and powers

2 6. Preservation of Causes of Action:

3 In accordance with section 1123(b) of the Bankruptcy Code, but subject in all
4 respects to Article 6 of the Plan, the Reorganized Debtor shall retain and may enforce all rights to
5 commence and pursue, as appropriate, any and all Causes of Action, whether arising before or
6 after the Petition Date, including any actions specifically enumerated in the Plan Supplement, and
7 such rights to commence, prosecute, or settle such Causes of Action shall be preserved
8 notwithstanding the occurrence of the Effective Date. **Except as otherwise provided in the Plan,**
9 **the Debtor or the Reorganized Debtor, as applicable, expressly reserve all rights to prosecute**
10 **any and all Causes of Action against any Entity.** The Debtor and Reorganized Debtor, as
11 applicable, expressly reserve all Causes of Action, for later adjudication, and, therefore, no
12 preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion,
13 claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes
14 of Action upon, after, or as a consequence of the Confirmation or Consummation. Without
15 limiting the generality of the foregoing, any and all claims and causes of action held by the Debtor
16 and/or the Debtor in Possession prior to the Effective Date shall be retained by the Reorganized
17 Debtor, including but not limited to all avoidance actions for transfers made by the Debtor,
18 including all transfers disclosed in the statement of financial affairs filed with the Court by the
19 Debtor. Confirmation of the Plan affects no settlement, compromise, waiver, or release of any
20 cause of action unless the Plan or Confirmation Order specifically and unambiguously so provides.
21 The nondisclosure or nondiscussion of any particular cause of action is not and shall not be
22 construed as a settlement, compromise, waiver, or release of such cause of action.

23 7. Portfolio Business:

24 To the extent the Reorganized Debtor, Rapid or TopMark establish any Portfolio Business,
25 the cash flow from such Portfolio Business shall be treated in the same manner as the cash flow of
26 TopMark and shall be included in the calculation of the Rapid Payments as if such Portfolio
27 Business cash flow were generated by TopMark.

28 The establishment of any Portfolio Business funded by any distribution from the Portfolio

1 Business Funding Account shall be subject to the advice, approval and monitoring of the
2 PCAB. At the point in time when the Portfolio Business Funding Account reaches a balance of at
3 least \$500,000, Rapid and/or TopMark shall present to the PCAB a comprehensive business plan
4 for establishing and developing the Portfolio Business (“Portfolio Business Plan”), which plan
5 shall include an initial funding from the Portfolio Business Funding Account of not less than
6 \$500,000. The PCAB shall make a determination, within thirty (30) calendar days of its receipt of
7 the Portfolio Business Plan as to whether to approve such establishment and funding of the
8 Portfolio Business. If the PCAB approves the establishment and funding of the Portfolio Business
9 within such thirty (30) calendar day period, then such approval shall be deemed, so long as the
10 Portfolio Business is performing to the Portfolio Business Plan in the reasonable determination of
11 the PCAB, an approval of the disbursement of any additional funds contributed into the Portfolio
12 Business Funding Account up to the \$3,000,000 initial amount, with such disbursements to be
13 made in not less than \$100,000 increments. If the PCAB approves the establishment and funding
14 of the Portfolio Business and the Portfolio Business does not perform to the Portfolio Business
15 Plan in the reasonable determination of the PCAB, then the PCAB may decline to advance
16 additional funds from the Portfolio Business Funding Account, in which case: (i) the Portfolio
17 Business Split shall continue until the Portfolio Business has made distributions to the Creditors,
18 as Additional Payments under the Plan, equal to the aggregate amount of funds contributed to the
19 Portfolio Business from the Portfolio Business Funding Account; and (ii) the Creditors shall forgo
20 any revenue, income or payments from or generated by the Portfolio Business after the payment of
21 such distributions and the PCAB shall no longer be required to advise, approve or monitor the
22 Portfolio Business. The PCAB shall monitor and approve any contributions to and disbursements
23 from the Portfolio Business Funding Account (subject to the provisions of the two immediately
24 preceding sentences), including any contributions in excess of the initial \$3,000,000 amount
25 and/or the disposition of excess undeployed cash in the Portfolio Business. If the PCAB declines
26 to approve the funding of the Portfolio Business after review and consideration of the Portfolio
27 Business Plan, then: (i) the funds in the Portfolio Business Funding Account shall be disbursed to
28 creditors as Additional Payments under the Plan; (ii) Rapid shall be free to establish, utilizing

1 external funding sources other than TopMark, the Debtor and/or Rapid, a portfolio business
2 separate and apart from the provisions of this Plan; and (iii) the creditors shall forgo any revenue,
3 income or payments from or generated by such externally funded portfolio business.

4 8. Releases Under The Plan

5 The Plan envisions three separate releases. For those Consenting Subordinated Debt
6 Holders voting in favor of the Plan, the Plan provides that such Consenting SD Holders shall
7 release, on the Release Effective Date, all claims held by each of them against the Debtor, the
8 Debtor's Estate, Rapid and TopMark, and all officers, directors, managers, employees, agents,
9 members and affiliates of the foregoing, including Evan B. Lang, James Daniel Summers and
10 Robert W. Pitts, from any and all Claims and Causes of Action, whether known or unknown.
11 These claims include, but are not limited to, any claims relating to the Subordinated Debt Notes
12 and the related personal guaranties. The rationale behind these releases is straightforward – the
13 guarantors are making a substantial commitment in terms of the TopMark Business Plan in order
14 to provide for the repayment of the Subordinated Debt Holders, those with personal guaranties and
15 those without. Further, the guarantors, in essence, are subordinating their repayment on their
16 Subordinated Debt Notes to those Consenting SD Holders holding personal guaranties.
17 Specifically, the entirety of the repayment on the Summers Subordinated Debt and the Lang
18 Subordinated Debt, and seventy-five percent (75%) of the repayment on the Pitts Subordinated
19 Debt is being reallocated under the Plan for the benefit of those respective Consenting SD Holders
20 holding personal guaranties.

21 The releases between the Consenting SD Holders and the guarantors, referenced as the
22 Forborne Releases below, will be effective only after a period of time during which the Consenting
23 SD Holders will be required to forbear from exercising any rights under any claim they may have
24 in order to allow the guarantors to develop and grow TopMark, subject to the monitoring of the
25 PCAB. This period, referenced as the Forbearance Period below, will be twenty four (24) months
26 after the Effective Date if all the payments due under the Rapid Payment Schedule are made, and
27 may be extended to thirty six (36) months if less than full payments are made, subject to the
28 determination of the PCAB. Thus, the delay in the effectiveness of the Forborne Releases will

1 ensure that a full and complete effort is made with respect to the development of TopMark and
2 that TopMark will be fully scaled under the TopMark Business Plan. The specific attributes of the
3 releases are described in the respective sections below.

4 In the absence of such releases, even on a delayed basis, and the corresponding
5 forbearance, the guarantors have no assurances that their considerable efforts in repaying the
6 Consenting SD Holders through the development, growth and management of TopMark over the
7 next six years will not be lost to an aggressive pursuit of a personal guaranty or claim against the
8 guarantors. In the absence of a path forward without the forbearance of actions or the lingering
9 threat, or pursuit, of claims against them, the guarantors would not be willing to make the
10 commitment necessary to ultimately repay the Consenting SD Holders in full. Based on the
11 liquidation analyses of the guarantors, the release of the claims against the guarantors is not a
12 meaningful economic loss to the Consenting SD Holders. If the Plan is not confirmed, it is the
13 expectation of each of the guarantors that they will be forced to file personal bankruptcies to deal
14 with the tens of millions of dollars in guaranty liability. In the event of personal Chapter 7
15 bankruptcies of the guarantors, it is estimated that there will be little to no distribution to general
16 unsecured creditors of the guarantors, such as the Subordinated Debt Holders holding personal
17 guaranties, after payment of priority and administrative claims in such bankruptcies. Further, in
18 the event the guarantors are required to file personal bankruptcies, there will be no opportunity for
19 the development of TopMark to provide the means for repayment of any Creditors in this case,
20 through either the repayment of the Rapid Obligation or the Rapid Payments. Accordingly, the
21 release by the Consenting SD Holders as set forth in the Plan will provide for the complete and
22 unfettered focus of the guarantors on achieving the payments provided for under the Plan while
23 causing the releasing parties little to no economic loss.

24 Finally, as part of the Plan and in consideration for the substantial value to be provided by
25 TopMark and Rapid pursuant to the terms set forth in the Plan, the Debtor has determined that it is
26 in the best interests of all parties to provide for a release of any claims held by the Debtor and the
27 Estate (the "Estate Parties") against Rapid, TopMark, Evan B. Lang, James Daniel Summers and
28 Robert W. Pitts, and all officers, directors, managers, employees, agents, members and affiliates of

1 the foregoing, including any and all Claims and Causes of Action, whether known or unknown.

2 Accordingly, the Plan contemplates the following releases:

3 **a. Release of Claims By Consenting SD Holders in Favor of Debtor**
4 **Related Parties.**

5 In consideration for, inter alia, the Rapid Payments, the TopMark Distributions and the
6 Portfolio Business contribution provided for in the Plan, each and every holder of an Allowed SD
7 Claim who votes in favor of the Plan (the “Consenting SD Holder”) shall be deemed, as of the
8 Effective Date, to have forever released the Debtor, Rapid and TopMark, and all officers,
9 directors, managers, employees, agents, members and affiliates of the foregoing, including Evan
10 B. Lang, James Daniel Summers and Robert W. Pitts, from any and all Claims and Causes of
11 Action, whether known or unknown. This release shall include any and all derivative claims held
12 by the Consenting SD Holders against the foregoing released parties, and any and all rights and
13 claims arising under or relating to the Two Party Guaranty, the Three Party Guaranty or any other
14 guaranty serving as additional security for the Allowed SD Claims of the Consenting SD Holders.

15 Consenting SD Holders shall be deemed, pursuant to this release, to have waived their
16 rights under California Civil Code section 1542, and any statute, rule, or legal doctrine similar to
17 California Civil Code section 1542. Section 1542 provides as follows:

18 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
19 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO
20 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING
21 THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST
22 HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT
23 WITH THE DEBTOR.

22 **b. Release of Claims By Debtor Related Parties In Favor of Consenting**
23 **SD Holders.**

24 In consideration for the release granted in Section 6.16 the Plan, the Debtor, the Estate,
25 Rapid, TopMark, Evan B. Lang, James Daniel Summers and Robert W. Pitts (the “Debtor Related
26 Parties”) shall be deemed, as of the Effective Date with respect to the Estate, Rapid and TopMark,
27 and as of the Release Effective Date with respect to Evan B. Lang, James Daniel Summers and
28 Robert W. Pitts, to have released the Consenting SD Holders from any and all Claims and Causes

1 of Action, whether known or unknown, held by the Debtor Related Parties. This release includes,
2 but is not limited to, Claims and Causes of Action arising under any Section within Article V of
3 the Bankruptcy Code, any Claim or Causes of Action pursuant to or arising under Article 15 of the
4 California Constitution or under any related California statute, and any Claims or Causes of Action
5 arising under any Two Party Guaranty or any Three Party Guaranty.

6 The Debtor Related Parties shall be deemed, pursuant to this release, to have waived their
7 rights under California Civil Code section 1542, and any statute, rule, or legal doctrine similar to
8 California Civil Code section 1542. Section 1542 provides as follows:

9 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
10 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO
11 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING
12 THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST
13 HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT
14 WITH THE DEBTOR.

15 c. Release of Claims By Estate Parties in Favor of Debtor Related
16 Parties.

17 In consideration for the Rapid Payments, the Rapid Payments, the TopMark Distributions
18 and the Portfolio Business contribution provided for in the Plan, the Debtor and the Estate (the
19 “Estate Parties”) shall be deemed, as of the Effective Date, to have released Rapid, TopMark,
20 Evan B. Lang, James Daniel Summers and Robert W. Pitts, and all officers, directors, managers,
21 employees, agents, members and affiliates of the foregoing, from any and all Claims and Causes of
22 Action, whether known or unknown. This release includes, but is not limited to, Claims and
23 Causes of Action arising under any Section within Article V of the Bankruptcy Code.

24 The Estate Parties shall be deemed, pursuant to this release, to have waived their rights
25 under California Civil Code section 1542, and any statute, rule, or legal doctrine similar to
26 California Civil Code section 1542. Section 1542 provides as follows:

27 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
28 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO
EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING
THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST
HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT
WITH THE DEBTOR.

1 9. Forbearance Period and Effectiveness of Certain Releases:

2 During the Forbearance Period, the parties to the Forborne Releases, as defined in the
3 Plan, shall forbear, in accordance with Section 6.27 of the Plan, from initiating, continuing,
4 asserting or taking any action, or causing any action to be initiated, continued, asserted or taken,
5 on any Claim or Cause of Action covered by the respective release, as if such release were in full
6 force and effect during such Forbearance Period. On the first business day following the
7 expiration of the Forbearance Period, the respective Forborne Releases shall be deemed in full
8 force and effect and fully enforceable by the respective Released Parties.

9 Provided that all the payments due under the Rapid Payment Schedule are made during
10 the twenty four (24) months following the Effective Date, then the Forbearance Period shall expire
11 on the first business day following such 24th month period.

12 Provided that at least ninety percent (90.00%) in amount of the payments due under the
13 Rapid Payment Schedule are made during the twenty four (24) months following the Effective
14 Date¹², the Forbearance Period shall be extended by the PCAB established under Section 6.20 of
15 the Plan until the earlier of: (i) any deficiency in the payments due under the Rapid Payment
16 Schedule has been cured; or (ii) the first business day following the 36th month following the
17 Effective Date, at which time, provided that at least ninety percent (90.00%) in amount of the
18 payments due under the Rapid Payment Schedule are made during such extended Forbearance
19 Period, the Forbearance Period shall expire and the respective Forborne Releases shall be deemed
20 in full force and effect and fully enforceable by the respective Released Parties.

21 If less than ninety percent (90.00%) in amount of the payments due under the Rapid
22 Payment Schedule are made during the twenty four (24) months following the Effective Date, then
23 the PCAB shall make a determination regarding the cause of such deficiency. If the PCAB
24 determines that the deficiency is due to: (i) a material deviation from the TopMark Business Plan
25 undertaken by the TopMark Managers that was not expressly authorized by the PCAB, in
26 consultation with the TopMark Managers; or (ii) the bad faith conduct of any of the Released

27 ¹² For purposes of determining any deviation of the payments due under the Rapid Payment
28 Schedule hereunder, such payments shall be measured on a trailing three month average of such
payments.

1 Parties,¹³ then the PCAB may in its discretion declare a default under the Plan, at which point the
2 Forbearance Period shall terminate and the Forborne Releases shall become null and void as to any
3 Released Party who caused, engaged or materially participated in the conduct leading to the
4 determination of a default under the Plan. If the PCAB determines that the deficiency is due to
5 factors other than those set forth in the immediately preceding sentence, then the Forbearance
6 Period shall be extended by the PCAB until the earlier of: (i) any deficiency in the payments due
7 under the Rapid Payment Schedule has been cured; or (ii) the first business day following the 36th
8 month following the Effective Date, at which time, provided the PCAB determines that the failure
9 to cure any deficiency is due to factors other than those set forth in the immediately preceding
10 sentence, the Forbearance Period shall expire and the respective Forborne Releases shall be
11 deemed in full force and effect and fully enforceable by the respective Released Parties.

12 Notwithstanding anything herein or in the Plan to the contrary, if less than fifty percent
13 (50.00%) in amount of the payments due under the Rapid Payment Schedule are made over any
14 three (3) month rolling period during the first twenty four (24) months following the Effective
15 Date, then the PCAB may in its discretion declare a default under the Plan and shall provide notice
16 of such default to parties in interest, including the US Trustee and all creditors. If the PCAB
17 declares such a default under the Plan within the first twenty four (24) months following the
18 Effective Date, the Forborne Releases shall become null and void and the Forbearance Period shall
19 terminate.

20 Any Released Party adversely affected by a determination of the PCAB hereunder shall
21 have the right to arbitration under the procedures and rules of the American Arbitration
22 Association (AAA). The direct cost, fees and expenses of such arbitration shall be borne by
23 TopMark.

24 10. Post Confirmation Advisory Board:

25 On the Effective Date, the Creditors' Committee shall be disbanded and a Post

26 ¹³ For purposes this provision, bad faith conduct hereunder shall mean: (i) commission of a crime
27 involving dishonesty, breach of trust, or physical harm to any person; (ii) misappropriation of
28 trade secrets, fraud or embezzlement; or (iii) engaging in misfeasance or malfeasance
demonstrated by a pattern of failure to perform job duties diligently and professionally consistent
with similarly situated executives.

1 Confirmation Advisory Board (“PCAB”) shall be constituted. The PCAB shall consist of five (5)
2 Subordinated Debt Holders appointed by the Committee. The PCAB shall: (i) act as a monitor of
3 the post -confirmation operations of the Debtor, TopMark, Rapid, and the Portfolio Business,
4 including but not limited to, any contributions to and disbursements from the Portfolio Business
5 Funding Account and/or the disposition of undeployed cash in the Portfolio Business; (ii) monitor
6 and verify the calculation of payments due under the Plan; and (iii) have the exclusive authority to
7 make any requisite determinations regarding the Forbearance Period and the Forborne Releases, as
8 described in Section 6.19 of the Plan. The Reorganized Debtor shall provide the PCAB with all
9 post-confirmations reports required pursuant to Section 6.22 of the Plan, as well as monthly
10 financial reports of TopMark sufficient to allow the PCAB to monitor and measure TopMark’s
11 financial performance against the TopMark Business Plan, upon reasonable request of the PCAB.
12 Further, the PCAB shall meet telephonically with the TopMark Managers at least quarterly to
13 review performance, and any material business deviations or other issues with respect to the
14 TopMark Business Plan. Finally, the PCAB shall have the authority to advise, approve and
15 monitor any business plan related to the establishment and operation of the Portfolio Business
16 consistent with the provisions of Section 6.15 of the Plan, including but not limited to
17 contributions to and disbursements from the Portfolio Business Funding Account, including any
18 contributions in excess of the initial \$3,000,000 amount and/or the disposition of undeployed cash
19 in the Portfolio Business.

20 The initial members of the PCAB shall be: (i) Barry Breckon; (ii) Kaleo Moylan; (iii)
21 Robert Pitts; (iv) Richard Rodriguez; and (v) Peter Wilver. Any replacement members shall be
22 appointed by the remaining PCAB members and drawn from the pool of SDHs in existence on the
23 Petition Date. The PCAB shall have the exclusive authority to make any determinations
24 authorized hereunder by majority vote in number of the members of the PCAB, provided, that no
25 member of the PCAB may vote on a determination relating to a Forborne Release described in
26 Section 6.17 of the Plan in favor of such member.

27 The PCAB shall be deemed a “party in interest” hereunder and shall have the authority to
28 enforce any Plan obligation as against any party obligated hereunder. Although it is not

1 anticipated that the PCAB will need to retain legal counsel or other professionals, in the event such
2 engagement is appropriate, such as if a Released Party requests arbitration relating to a
3 determination that the PCAB made, the PCAB shall have authority to engage professionals
4 equivalent to the powers of a Committee under 11 U.S.C. § 1103(a).

5 11. Certain Jurisdictional Limitations:

6 Any party in interest who believes that the conduct of the Reorganized Debtor, the
7 Creditors' Committee, the PCAB or professionals engaged by the Reorganized Debtor or the
8 Creditors' Committee, or the PCAB, is not consistent with the provisions of the Plan, or believes
9 that any Claims exist against the Reorganized Debtor, the Creditors' Committee, or the PCAB, or
10 professionals working for the Reorganized Debtor, the Creditors' Committee, or the PCAB for any
11 conduct taken within the scope of its/his/her duties as Reorganized Debtor, Creditors' Committee,
12 the PCAB or as such professional, all such Claims, rights, requests for relief, or enforcement of the
13 Plan must be filed in and determined by the Bankruptcy Court having jurisdiction over the Case.
14 No concurrent jurisdiction shall exist for the determination or enforcement of any such rights
15 under or arising from the Plan, or Claims against the Reorganized Debtor, Creditors' Committee,
16 the PCAB or professionals retained by the Reorganized Debtor, Creditors' Committee, or the
17 PCAB, in any other state, federal or foreign court.

18 12. Preservation and Assignment of Causes of Action:

19 As of the Effective Date and except as otherwise provided in the Plan, each and every
20 claim, right, cause of action, claim for relief, right to set-off and other entitlement held by the
21 Debtor, Nations First Capital or the Estate, whether arising under §§ 502, 506, 510, 541, 542, 543,
22 544, 545, 546, 547, 548, 549, 550, 551, 552 or 553 of the Bankruptcy Code, Article 15 of the
23 California Constitution, or otherwise, other than those waived or released by express terms of the
24 Plan or the Confirmation Order, shall be deemed fully preserved and vested in the Reorganized
25 Debtor. This preservation shall specifically include the corporate entities and all net operating
26 losses to the extent allowed under non-bankruptcy law. Without limiting the generality of the
27 foregoing, any and all claims and causes of action held by the Debtor and/or the Debtor in
28 Possession prior to the Effective Date shall be retained by the Reorganized Debtor, including but

1 not limited to all avoidance actions for transfers made by the Debtor, including all transfers
2 disclosed in the statement of financial affairs filed with the Court by the Debtor. Confirmation of
3 the Plan affects no settlement, compromise, waiver, or release of any cause of action unless the
4 Plan or Confirmation Order specifically and unambiguously so provides. The nondisclosure or
5 nondiscussion of any particular cause of action is not and shall not be construed as a settlement,
6 compromise, waiver, or release of such cause of action.

7 **13. Stay or Injunction in Aid of the Plan:**

8 **Except as otherwise provided in the Plan, after the Effective Date all parties,**
9 **individuals and entities are stayed and enjoined from (a) commencing or continuing in any**
10 **manner any action or other proceeding of any kind on any such Claim or Interest against the**
11 **Debtor, the Debtor in Possession, the Estate, the Reorganized Debtor, the Released Parties or**
12 **properties or interests in properties of the Debtor, the Debtor in Possession, the Debtor's**
13 **estate, the Released Parties, the Reorganized Debtor; (b) pursuing the enforcement,**
14 **attachment, collection or recovery by any manner or means of any judgment, award, decree**
15 **or order against the Debtor, the Debtor in Possession, the Debtor's estate, the Reorganized**
16 **Debtor, or the Released Parties or properties or interests in properties of the Debtor, the**
17 **Debtor in Possession, the Estate, the Reorganized Debtor, or the Released Parties; (c)**
18 **creating, perfecting, or enforcing any encumbrance of any kind against the Debtor, the**
19 **Debtor in Possession, the Estate, the Reorganized Debtor or the Released Parties; and (d)**
20 **except to the extent provided, permitted, or preserved by section 553 of the Bankruptcy**
21 **Code or pursuant to the common law right of recoupment, asserting any right of setoff,**
22 **subrogation, or recoupment of any kind against any obligation due from the Debtor, the**
23 **Debtor in Possession, the Estate, the Reorganized Debtor or the Released Parties.**

24 **E. Procedures Relating To Claims And Interests**

25 **1. Pre-Petition, Unsecured Claims Bar Date:**

26 The deadline for filing pre-petition, unsecured Claims was established by the Court
27 as June 12, 2018, for Creditors other than Governmental Units. For Governmental Units, the
28 deadline is August 6, 2018.

1 2. Bar Date for Administrative Claims Incurred Before the Confirmation
2 Date:

3 Holders of Administrative Claims arising before the Confirmation Date, including
4 those allowable under Bankruptcy Code section 503 but excluding post-confirmation Claims of
5 Professionals, shall be forever barred from recovering from Debtor or the Estate on account of
6 such Claim unless within forty-five (45) days of service of notice of entry of the Confirmation
7 Order the holder of such Claim files with the Court a motion for allowance of such Claim,
8 including notice of the date and time for the hearing on the allowance of such Claim.

9 3. Disputed Claims:

10 In the case of disputed Claims and unless the Court orders otherwise for cause
11 shown, reserves from each distribution shall be set aside for the holder of each disputed Claim in
12 an amount equal to what each disputed Claim holder would have received had its Claim been
13 allowed at the time of the distribution, unless otherwise ordered by the Court under section
14 502(c). When the dispute over the Claim is resolved, the funds reserved for the disputed Claim
15 shall be paid if it is allowed and any funds reserved for the disputed Claim, if disallowed, shall be
16 re-distributed to the holders of Allowed Claims or Interests of that class until paid in full, subject
17 to the terms of the Plan. There shall be no distribution to any Disallowed Claim.

18 4. Deadline for Objections to Claims:

19 Unless the Court orders otherwise, any objection to Claims filed by the
20 Reorganized Debtor must be filed within 90 days of the Effective Date of the Plan. Unless the
21 Court orders otherwise, any objections to Claims by the Creditors' Committee or any other party
22 in interest shall be filed within 120 days of the Effective Date of the Plan.

23 5. Interim Distributions:

24 The Reorganized Debtor, in consultation with the PCAB, shall make interim
25 distributions to holders of Allowed Claims no less frequently than every 120 days following the
26 Effective Date, provided that sufficient funds exist to continue the implementation of the Plan and
27 to reserve for disputed Claims and all costs to be incurred in completing the liquidation of assets
28 and other duties under the Plan. If the PCAB has approved a proposed distribution, Court

1 approval is not required for interim distributions, but the Reorganized Debtor may seek such
2 approval nonetheless.

3 6. Claims under Bankruptcy Code Section 502(h):

4 All Claims arising from judgments or settlements in an action by the Estate for
5 recovery of money or property must be filed within thirty (30) days of the entry of such judgment
6 or date of such settlement as required by Rule 3002(c)(3) or will forever be barred and
7 disallowed.

8 7. Claims Cap:

9 The Claims of all Creditors who have been properly scheduled and/or who have
10 filed Claims shall be capped at the amount set in the schedules or proof of Claim as of the
11 Confirmation Date, except as otherwise provided for under the Plan with respect to the Liquidity
12 Event Distribution and accrual of interest on the SLFT Claim and the Allowed SD Claims of
13 holders who voted in favor of the Plan. Unless specifically provided for under the Plan, no
14 Creditor may amend a Claim after the Confirmation Date to increase the amount asserted against
15 the Debtor or the Estate, unless such Creditor seeks approval of the Court and the Court allows
16 such amendment by Final Order.

17 8. Unclaimed Distributions and Claim Waiver:

18 The Reorganized Debtor may draw checks constituting payments due under the
19 Plan so that such checks will automatically become void if not presented to the payor bank for
20 payment within ninety (90) days after the date of the check. Unless the Court for cause otherwise
21 directs, if any such check is properly mailed to the payee's last known address within twenty (20)
22 days after its date and thereafter becomes void, the Claim with respect to which the check was
23 issued shall be deemed withdrawn and disallowed, and the holder shall be barred from seeking
24 further recovery on account of that Claim and the unclaimed distribution shall become available
25 for distribution to known holders of Allowed Claims as applicable. Provided, however, if the
26 Reorganized Debtor later determines in its sole discretion that it is not economically prudent to
27 redistribute such unclaimed or returned funds, such funds shall be considered and treated as
28 unclaimed property under Bankruptcy Code section 347(a).

1 9. DeMinimis Distributions:

2 Notwithstanding anything to the contrary in the Plan, the Reorganized Debtor is not
3 required to deliver a payment to the holder of an Allowed Claim if the amount of cash due is less
4 than \$20.00. The Reorganized Debtor may round all amounts for distribution to the nearest
5 whole dollar.

6 **F. Executory Contracts and Leases**

7 A list of the executory contracts and unexpired leases to be assumed, and to the extent
8 necessary assigned, to the Reorganized Debtor, or to be rejected, on the Effective Date of the Plan
9 will be filed and served by the Debtor as part of the Plan Supplement at least thirty (30) days prior
10 to the hearing on confirmation of the Plan.

11 Except as otherwise provided in the Plan or other order of the Court prior to Confirmation,
12 all executory contracts and unexpired leases of the Debtor entered into prior to the Petition Date
13 which are not assumed or rejected pursuant to Bankruptcy Code section 365 prior to the
14 Confirmation Date shall be deemed rejected upon the Effective Date. Specifically, the Debtor
15 shall reject all of the executory contracts and unexpired leases listed on the Debtor's Schedule G,
16 as amended, except those that have been specifically assumed during the Bankruptcy Case. Each
17 non-debtor party to an executory contract or unexpired lease rejected hereunder shall have thirty
18 (30) days subsequent to the Effective Date to file a proof of Claim with the Court asserting
19 damages arising from such rejection.

20 **G. Effect Of Confirmation**

21 1. Discharge:

22 Pursuant to section 1141(d)(1) of the Bankruptcy Code, the confirmation of the
23 Plan shall discharge Claims against the Debtor. Any actions against the Debtor, Reorganized
24 Debtor, the Estate, the Debtor in Possession, or properties or interests in properties of any of the
25 foregoing are enjoined pursuant to and to the extent provided by Sections 6.16, 6.17, 6.18 and
26 6.19 of the Plan.

27 2. Creditors' Committee Replacement by PCAB:

28 On and after the Effective Date, the existence of the Creditors' Committee shall

1 terminate and the Post Confirmation Advisory Board (PCAB) shall be constituted as provided
2 under the Plan.

3 3. Plan Binding on Debtor Related Parties:

4 The provisions of the Plan are binding on all parties in interest, including without
5 limitation, and for the avoidance of doubt, the Debtor Related Entities. The PCAB shall have the
6 authority to enforce any Plan obligation as against any party obligated hereunder.

7 **VI. LIQUIDATION ANALYSIS**

8 The Plan provides for the preservation and the maximization of the assets of the Estate
9 and the distribution of the net proceeds to holders of Allowed Claims, which is similar to what
10 would occur in a chapter 7. However, under the Plan, the Debtor's experience, knowledge and
11 expertise with respect to the servicing and management of the Lease Portfolio, and any other
12 Debtor Sourced Funds, will be utilized for the benefit of all parties to maximize the value of the
13 Debtor's assets. In addition, the current owners of the Debtor have committed to develop
14 TopMark, pursuant to the TopMark Business Plan, as an alternative source of recovery through
15 the Rapid Payments, which source of recovery would not otherwise be available to the creditors.
16 Furthermore, without the development of TopMark, there would be no value to the Estate with
17 respect to the Rapid Obligation as Rapid has no independent means of satisfying such obligation.
18 For these reasons, the Debtor contends that the net recovery to creditors will be far greater under
19 the Plan than in a chapter 7 case. In addition, conversion of the Case to chapter 7 would add an
20 additional layer of administrative expenses from the chapter 7 case that does not already exist.
21 Moreover, the Plan provides the maximum flexibility for the efficient management of the Estate
22 post-confirmation that would not be available in a chapter 7 case.

23 A liquidation analysis with respect to the individual financial status of the guarantors has
24 been provided to the Committee and shall be made available upon request by any of the
25 applicable Subordinated Debt Holders.

26 **VII. FEDERAL INCOME TAX CONSEQUENCES**

27 Attached hereto as Exhibit "5" is a summary of certain material federal income tax
28 consequences of the Plan to the Debtor and the holders of Claims or Interests.

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VIII. RECOMMENDATION FOR VOTE TO ACCEPT THE PLAN

The Debtor recommends that all creditors entitled to vote cast a ballot ACCEPTING the Plan.

PROPONENT:

Dated June 6, 2018

NATIONS FIRST CAPITAL LLC

By/s/ James Daniel Summers
James Daniel Summers, Manager

APPROVED AS TO FORM.

FELDERSTEIN FITZGERALD
WILLOUGHBY & PASCUZZI, LLP

By/s/ Paul J. Pascuzzi
Paul J. Pascuzzi
Attorneys for Nations First Capital LLC