

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

In re:

NNN 400 CAPITOL CENTER 16, LLC, et al.,¹

Debtors.

Chapter 11

Case No. 16-12728 (KG)
(Jointly Administered)

Hearing Date: ~~April 10~~, May 16, 2018 at ~~10~~11:00 a.m.
(~~ETEST~~)

Objection Deadline: TBD

DEBTORS' FIRST AMENDED JOINT PLAN OF REORGANIZATION

NNN 400 Capitol Center, LLC, Case No. 17-11250 (KG); NNN 400 Capitol Center 1, LLC, Case No. 17-11251 (KG); NNN 400 Capitol Center 2, LLC, Case No. 16-12741 (KG); NNN 400 Capitol Center 3, LLC, Case No. 16-12750 (KG); NNN 400 Capitol Center 4, LLC, Case No. 16-12752 (KG); NNN 400 Capitol Center 5, LLC, Case No. 16-12753 (KG); NNN 400 Capitol Center 6, LLC, Case No. 16-12754 (KG); NNN 400 Capitol Center 7, LLC, Case No. 17-11253 (KG); NNN 400 Capitol Center 8, LLC, Case No. 17-11254 (KG); NNN 400 Capitol Center 9, LLC, Case No. 16-12755 (KG); NNN 400 Capitol Center 10, LLC, Case No. 16-12730 (KG); NNN 400 Capitol Center 11, LLC, Case No. 16-12731 (KG); NNN 400 Capitol Center 12, LLC, Case No. 16-12732 (KG); NNN 400 Capitol Center 13, LLC, Case No. 16-12733 (KG); NNN 400 Capitol Center 14, LLC, Case No. 16-12735 (KG); NNN 400 Capitol Center 15, LLC, Case No. 16-12736 (KG); NNN 400 Capitol Center 16, LLC, Case No. 16-12728 (KG); NNN 400 Capitol Center 17, LLC, Case No. 16-12737 (KG); NNN 400 Capitol Center 18, LLC, Case No. 16-12738 (KG); NNN 400 Capitol Center 19, LLC, Case No. 16-12739 (KG); NNN 400 Capitol Center 20, LLC, Case No. 16-12742 (KG); NNN 400 Capitol Center 21, LLC, Case No. 16-12743 (KG); NNN 400 Capitol Center 22, LLC, Case No. 16-12744 (KG); NNN 400 Capitol

¹ The Initial Debtors (as defined below) in these cases are: NNN 400 Capitol Center 2, LLC, Case No. 16-12741 (KG); NNN 400 Capitol Center 3, LLC, Case No. 16-12750 (KG); NNN 400 Capitol Center 4, LLC, Case No. 16-12752 (KG); NNN 400 Capitol Center 5, LLC, Case No. 16-12753 (KG); NNN 400 Capitol Center 6, LLC, Case No. 16-12754 (KG); NNN 400 Capitol Center 9, LLC, Case No. 16-12755 (KG); NNN 400 Capitol Center 10, LLC, Case No. 16-12730 (KG); NNN 400 Capitol Center 11, LLC, Case No. 16-12731 (KG); NNN 400 Capitol Center 12, LLC, Case No. 16-12732 (KG); NNN 400 Capitol Center 13, LLC, Case No. 16-12733 (KG); NNN 400 Capitol Center 14, LLC, Case No. 16-12735 (KG); NNN 400 Capitol Center 15, LLC, Case No. 16-12736 (KG); NNN 400 Capitol Center 16, LLC, Case No. 16-12728 (KG); NNN 400 Capitol Center 17, LLC, Case No. 16-12737 (KG); NNN 400 Capitol Center 18, LLC, Case No. 16-12738 (KG); NNN 400 Capitol Center 19, LLC, Case No. 16-12739 (KG); NNN 400 Capitol Center 20, LLC, Case No. 16-12742 (KG); NNN 400 Capitol Center 21, LLC, Case No. 16-12743 (KG); NNN 400 Capitol Center 22, LLC, Case No. 16-12744 (KG); NNN 400 Capitol Center 24, LLC, Case No. 16-12746 (KG); NNN 400 Capitol Center 26, LLC, Case No. 16-12747 (KG); NNN 400 Capitol Center 27, LLC, Case No. 16-12748 (KG); NNN 400 Capitol Center 28, LLC, Case No. 16-12749 (KG); and NNN 400 Capitol Center 32, LLC, Case No. 16-12751 (KG). The June Debtors (as defined below) in these cases are: NNN 400 Capitol Center, LLC, Case No. 17-11250 (KG); NNN 400 Capitol Center 1, LLC, Case No. 17-11251 (KG); NNN 400 Capitol Center 7, LLC, Case No. 17-11253 (KG); NNN 400 Capitol Center 8, LLC, Case No. 17-11254 (KG); NNN 400 Capitol Center 30, LLC, Case No. 17-11255 (KG); NNN 400 Capitol Center 35, LLC, Case No. 17-11256 (KG); NNN 400 Capitol Center 36, LLC, Case No. 17-11257 (KG); and NNN 400 Capitol Center 25, LLC, Case No. 17-11258 (KG).

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ARTICLE I. DEFINED TERMS AND RULES OF INTERPRETATION

A. Rules of Construction

For purposes of this Plan (defined below), except as expressly provided herein or unless the context otherwise requires, all capitalized terms not otherwise defined shall have the meanings ascribed to them in Article I of this Plan or any Exhibit hereto. Any term used in this Plan that is not defined herein, but is defined in the Bankruptcy Code (defined below) or the Bankruptcy Rules (defined below), shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable. To the extent that there is an inconsistency between a definition in this Plan and a definition set forth in the Bankruptcy Code, the definition set forth herein shall control. Whenever the context requires, such terms shall include the plural as well as the singular number, the masculine gender shall include the feminine, and the feminine gender shall include the masculine.

B. Definitions

1.1. *Adequate Protection Payments* means the payments made by or on behalf of the Debtors to the ~~Trustee or the Special Servicer or the~~ New Lender and its predecessor-in-interest from and after the Petition Date of the Initial Debtors in these Chapter 11 Cases through the Effective Date.

1.2. *Administrative Claim* means a Claim for costs and expenses of administration of these Chapter 11 Cases under Bankruptcy Code sections 503(b), 507(b), or 1114(e)(2), and entitled to priority under Bankruptcy Code section 507(a)(2), including: (a) any actual and necessary costs and expenses, incurred after the Petition Date, of preserving the Estates and operating the business of the Debtors; and (b) all other claims entitled to administrative claim status pursuant to a Final Order of the Bankruptcy Court.

1.3. *Administrative Claims Bar Date* means the first Business Day that is thirty (30) days following the ~~Confirmation~~ Effective Date.

1.4. *Allowed Administrative Claim* means an Administrative Claim as to which a written request for payment has been made in accordance with applicable bar dates for such requests set by the Bankruptcy Court (if such written request is required) in each case as to which the Debtors, or any other party in interest (x) has not interposed an objection or (y) has interposed an objection and such objection has been settled, waived through payment, or withdrawn, or has been denied by a Final Order.

1.5. *Allowed Claim* means a Claim (other than an Administrative Claim) or any portion thereof: (a) that has been allowed by a Final Order of the Bankruptcy Court, including those claims allowed under 502(c) of the Bankruptcy Code; (b) that either (x) has been Scheduled as a liquidated, non-contingent, and undisputed Claim in an amount greater than zero on the Schedules, or (y) is the subject of a filed Proof of Claim as to which either (i) no objection to its allowance has been filed by the Claims Objection Deadline, or (ii) any objection to its

allowance has been settled, waived through payment, or withdrawn, or has been denied by a Final Order; or (c) that is expressly allowed in a liquidated amount in this Plan.

1.6. **Allowed ... Claim** means an Allowed Claim of the particular type or Class described.

1.7. **Assets** means all tangible and intangible assets of every kind and nature of the Debtors and their Estates, and all proceeds thereof, existing as of the Effective Date.

1.8. **Assumption List** means the list attached hereto as **Exhibit A**, or such amended list as may be filed by the Debtors, which identifies the executory contracts and unexpired leases to be assumed by the Debtors, the executory contracts and unexpired leases to be assigned by the Debtors to other parties, the amounts of any cure payments proposed to be made with respect to executory contracts and unexpired leases that are to be assumed, and other terms as may apply with respect to specific executory contracts and unexpired leases that are proposed for assumption under the Plan.

1.9. **Avoidance Actions** means Causes of Action arising under Bankruptcy Code sections 510, 541, 542, 544, 545, 547 through 551 and/or 553, or under related state or federal statutes and common law, including, without limitation, fraudulent transfer laws, whether or not litigation is commenced to prosecute such Causes of Action.

1.10. **Ballot** means each of the ballot forms distributed to each Holder of a Claim or Interest entitled to vote to accept or reject this Plan.

1.11. **Bankruptcy Code** means title 11 of the United States Code, as now in effect or hereafter amended and as applicable to the Chapter 11 Cases.

1.12. **Bankruptcy Court** means the United States Bankruptcy Court for the District of Delaware, or any other court with jurisdiction over the Chapter 11 Cases.

1.13. **Bankruptcy Rules** means, collectively, the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, as amended, the Federal Rules of Civil Procedure, as amended and as applicable to the Chapter 11 Case or proceedings therein, as the case may be, and the Local Rules, as now in effect or hereafter amended.

1.14. **Business Day** means any day, other than a Saturday, Sunday or Legal Holiday (as defined in Bankruptcy Rule 9006(a)).

1.15. **Cash** means legal tender of the United States of America and equivalents thereof, which may be conveyed by check or wire transfer.

1.16. **Causes of Action** means any and all claims, actions, proceedings, causes of action, Avoidance Actions, suits, accounts, controversies, agreements, promises, rights of action, rights to legal remedies, rights to equitable remedies, rights to payment and Claims (as defined in Bankruptcy Code section 101(5)), whether known, unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured and whether asserted or assertable directly or derivatively, in law, equity or otherwise, that the Debtors and/or the Estates may hold against any Entity.

1.17. **Chapter 11 Case** means the Chapter 11 bankruptcy case of an individual Debtor, as set forth in the preamble of this Plan.

1.18. **Chapter 11 Cases** means the cases under chapter 11 of the Bankruptcy Code commenced by the Debtors in the Bankruptcy Court and referenced as Chapter 11 cases numbers: NNN 400 Capitol Center, LLC, Case No. 17-11250 (KG); NNN 400 Capitol Center 1, LLC, Case No. 17-11251 (KG); NNN 400 Capitol Center 2, LLC, Case No. 16-12741 (KG); NNN 400 Capitol Center 3, LLC, Case No. 16-12750 (KG); NNN 400 Capitol Center 4, LLC, Case No. 16-12752 (KG); NNN 400 Capitol Center 5, LLC, Case No. 16-12753 (KG); NNN 400 Capitol Center 6, LLC, Case No. 16-12754 (KG); NNN 400 Capitol Center 7, LLC, Case No. 17-11253 (KG); NNN 400 Capitol Center 8, LLC, Case No. 17-11254 (KG); NNN 400 Capitol Center 9, LLC, Case No. 16-12755 (KG); NNN 400 Capitol Center 10, LLC, Case No. 16-12730 (KG); NNN 400 Capitol Center 11, LLC, Case No. 16-12731 (KG); NNN 400 Capitol Center 12, LLC, Case No. 16-12732 (KG); NNN 400 Capitol Center 13, LLC, Case No. 16-12733 (KG); NNN 400 Capitol Center 14, LLC, Case No. 16-12735 (KG); NNN 400 Capitol Center 15, LLC, Case No. 16-12736 (KG); NNN 400 Capitol Center 16, LLC, Case No. 16-12728 (KG); NNN 400 Capitol Center 17, LLC, Case No. 16-12737 (KG); NNN 400 Capitol Center 18, LLC, Case No. 16-12738 (KG); NNN 400 Capitol Center 19, LLC, Case No. 16-12739 (KG); NNN 400 Capitol Center 20, LLC, Case No. 16-12742 (KG); NNN 400 Capitol Center 21, LLC, Case No. 16-12743 (KG); NNN 400 Capitol Center 22, LLC, Case No. 16-12744 (KG); NNN 400 Capitol Center 24, LLC, Case No. 16-12746 (KG); NNN 400 Capitol Center 25, LLC, Case No. 17-11258 (KG); NNN 400 Capitol Center 26, LLC, Case No. 16-12747 (KG); NNN 400 Capitol Center 27, LLC, Case No. 16-12748 (KG); NNN 400 Capitol Center 28, LLC, Case No. 16-12749 (KG); NNN 400 Capitol Center 30, LLC, Case No. 17-11255 (KG); NNN 400 Capitol Center 32, LLC, Case No. 16-12751 (KG); NNN 400 Capitol Center 35, LLC, Case No. 17-11256 (KG); and NNN 400 Capitol Center 36, LLC, Case No. 17-11257 (KG).

1.19. **Claim** means a claim, as defined by section 101(5) of the Bankruptcy Code, against any of the Debtors or their assets, whether or not asserted.

1.20. **Claims Bar Date** means the date the Court establishes as the deadline for the filing of Proofs of Claim.

1.21. **Claims Objection Deadline** means the first Business Day that is one hundred eighty (180) days following the Effective Date, or such later date as the Court may set pursuant to request of the Debtors.

1.22. **Class** means a category of Holders of Claims or Interests, as described in Article II hereof.

1.23. **Collateral** means any property or interest in property of the Debtors' Estates subject to a Lien to secure the payment or performance of a Claim.

1.24. **Confirmation** means entry by the Bankruptcy Court of the Confirmation Order.

1.25. **Confirmation Date** means the date on which the Clerk of the Bankruptcy Court

enters the Confirmation Order on the Bankruptcy Court docket in the Chapter 11 Case(s).

1.26. **Confirmation Hearing** means the hearing held by the Bankruptcy Court to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

1.27. **Confirmation Order** means the order entered by the Bankruptcy Court confirming this Plan under Bankruptcy Code section 1129 in the Chapter 11 Case(s).

1.28. **Consummation or Consummate** means the occurrence of, or to achieve, the Effective Date.

1.29. **Contingent** means, with reference to a Claim: (i) a Claim that has not accrued or is not otherwise payable and the accrual of which, or the obligation to make payment on which, is dependent upon a future event that may or may not occur; or (ii) a Claim that is listed as contingent in the Debtors' Schedules for which no Proof of Claim has been timely filed.

1.30. **Creditor** means any Entity that holds a Claim against any of the Debtors.

1.31. **Debtor** means any one of the Debtors.

1.32. **Debtors** means NNN 400 Capitol Center, LLC, Case No. 17-11250 (KG); NNN 400 Capitol Center 1, LLC, Case No. 17-11251 (KG); NNN 400 Capitol Center 2, LLC, Case No. 16-12741 (KG); NNN 400 Capitol Center 3, LLC, Case No. 16-12750 (KG); NNN 400 Capitol Center 4, LLC, Case No. 16-12752 (KG); NNN 400 Capitol Center 5, LLC, Case No. 16-12753 (KG); NNN 400 Capitol Center 6, LLC, Case No. 16-12754 (KG); NNN 400 Capitol Center 7, LLC, Case No. 17-11253 (KG); NNN 400 Capitol Center 8, LLC, Case No. 17-11254 (KG); NNN 400 Capitol Center 9, LLC, Case No. 16-12755 (KG); NNN 400 Capitol Center 10, LLC, Case No. 16-12730 (KG); NNN 400 Capitol Center 11, LLC, Case No. 16-12731 (KG); NNN 400 Capitol Center 12, LLC, Case No. 16-12732 (KG); NNN 400 Capitol Center 13, LLC, Case No. 16-12733 (KG); NNN 400 Capitol Center 14, LLC, Case No. 16-12735 (KG); NNN 400 Capitol Center 15, LLC, Case No. 16-12736 (KG); NNN 400 Capitol Center 16, LLC, Case No. 16-12728 (KG); NNN 400 Capitol Center 17, LLC, Case No. 16-12737 (KG); NNN 400 Capitol Center 18, LLC, Case No. 16-12738 (KG); NNN 400 Capitol Center 19, LLC, Case No. 16-12739 (KG); NNN 400 Capitol Center 20, LLC, Case No. 16-12742 (KG); NNN 400 Capitol Center 21, LLC, Case No. 16-12743 (KG); NNN 400 Capitol Center 22, LLC, Case No. 16-12744 (KG); NNN 400 Capitol Center 24, LLC, Case No. 16-12746 (KG); NNN 400 Capitol Center 25, LLC, Case No. 17-11258 (KG); NNN 400 Capitol Center 26, LLC, Case No. 16-12747 (KG); NNN 400 Capitol Center 27, LLC, Case No. 16-12748 (KG); NNN 400 Capitol Center 28, LLC, Case No. 16-12749 (KG); NNN 400 Capitol Center 30, LLC, Case No. 17-11255 (KG); NNN 400 Capitol Center 32, LLC, Case No. 16-12751 (KG); NNN 400 Capitol Center 35, LLC, Case No. 17-11256 (KG); and NNN 400 Capitol Center 36, LLC, Case No. 17-11257 (KG).

1.33. **Default Interest** means interest accruing under the Loan at the Default Rate, as such term is defined in the Loan Agreement.

1.34. **Disallowed** means, with respect to a Claim, or any portion thereof, that such Claim (a) has been disallowed by a Final Order; (b) is Scheduled at zero or as contingent, disputed or

unliquidated and as to which no Proof of Claim has been filed or deemed filed pursuant to either the Bankruptcy Code or any Final Order or under applicable law; or (c) is not Scheduled, and as to which (i) no Proof of Claim has been filed, or (ii) no request for payment of an Administrative Claim has been filed by the Administrative Claims Bar Date (other than Administrative Claims for taxes).

1.35. **Disclosure Statement** means the disclosure statement (including all Exhibits and schedules thereto) relating to this Plan, distributed in accordance with Bankruptcy Code sections 1125 and 1126(b) and Bankruptcy Rule 3018, as well as any amendments as may be filed by the Debtors with respect to such disclosure statement.

1.36. **Disputed Claim** means a Claim, or any portion thereof: (i) listed on the Schedules as unliquidated, disputed and/or contingent for which no proof of claim in a liquidated and non-contingent amount has been filed; or (ii) that is the subject of an objection or request for estimation filed by any of the Debtors or any other party-in-interest, and which objection has not been withdrawn, resolved, or overruled by a Final Order of the Bankruptcy Court. With respect to any request for payment of an Administrative Claim, a Disputed Claim shall be one as to which any of the Debtors or a party-in-interest has filed an objection or request for estimation in accordance with this Plan, the Bankruptcy Code, the Bankruptcy Rules, or any orders of the Bankruptcy Court, which objection, request for estimation or dispute has not been withdrawn or determined by a Final Order.

1.37. **Disputed ... Claim** means a Disputed Claim of the type described.

1.38. **Disputed Portion of the Secured Claim of Little Rock – 400 West Capitol Trust** means those amounts of the asserted Secured Claim of Little Rock – 400 West Capitol Trust that are not comprised of the Undisputed Portion of the Secured Claim of Little Rock – 400 West Capitol Trust.

1.39. ~~1.38.~~ **Distribution** means any distribution pursuant to this Plan to the Holders of Allowed Claims.

1.40. ~~1.39.~~ **Distribution Date** means either the Initial Distribution Date or the date on which any subsequent Distribution occurs.

1.41. ~~1.40.~~ **Effective Date** means the Business Day this Plan becomes effective as provided in Article VIII hereof.

1.42. ~~1.41.~~ **Entity** has the meaning set forth in Bankruptcy Code section 101(15).

1.43. ~~1.42.~~ **Escrow Account** means the escrow account to be established by the Debtors pursuant to Section III.B(1)(d) herein.

1.44. ~~1.43.~~ **Estate** means the estate of each Debtor created under Bankruptcy Code ~~section~~Section 541.

1.45. ~~1.44.~~ **Exhibit** means an exhibit annexed to either this Plan or as an appendix to the Disclosure Statement, or filed separately with the Clerk of the Bankruptcy Court (as a Plan

supplement, or otherwise) in connection with the hearing on the Confirmation of this Plan or the approval of the Disclosure Statement.

1.46. ~~1.45.~~ **Federal Judgment Rate** means the rate of interest applicable from time to time pursuant to 28 U.S.C. § 1961.

1.47. ~~1.46.~~ **Final Decree** means the decree contemplated under Bankruptcy Rule 3022.

1.48. ~~1.47.~~ **Final Fee Applications** means the final requests for payment of Professional Fee Claims.

1.49. ~~1.48.~~ **Final Order** means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket in the Chapter 11 Case, the operation or effect of which has not been stayed, reversed, or amended and as to which order or judgment (or any revision, modification, or amendment thereof) the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for review or rehearing was filed or, if filed, remains pending.

1.50. ~~1.49.~~ **General Unsecured Claim** means a Claim that is not an Administrative Claim, a Secured Claim, a Priority Tax Claim, a Non-Tax Priority Claim, or an Inter-TIC Claim.

1.51. ~~1.50.~~ **Governmental Unit** has the meaning set forth in Bankruptcy Code section 101(27).

1.52. ~~1.51.~~ **Holder** means an Entity holding a Claim or Interest.

1.53. ~~1.52.~~ **Impaired** means, when used in reference to a Claim, Interest or Class, a Claim, Interest or Class that is impaired within the meaning of Bankruptcy Code section 1124 of the Bankruptcy Code.

1.54. ~~1.53.~~ **Initial Debtors** means NNN 400 Capitol Center 2, LLC, Case No. 16-12741 (KG); NNN 400 Capitol Center 3, LLC, Case No. 16-12750 (KG); NNN 400 Capitol Center 4, LLC, Case No. 16-12752 (KG); NNN 400 Capitol Center 5, LLC, Case No. 16-12753 (KG); NNN 400 Capitol Center 6, LLC, Case No. 16-12754 (KG); NNN 400 Capitol Center 9, LLC, Case No. 16-12755 (KG); NNN 400 Capitol Center 10, LLC, Case No. 16-12730 (KG); NNN 400 Capitol Center 11, LLC, Case No. 16-12731 (KG); NNN 400 Capitol Center 12, LLC, Case No. 16-12732 (KG); NNN 400 Capitol Center 13, LLC, Case No. 16-12733 (KG); NNN 400 Capitol Center 14, LLC, Case No. 16-12735 (KG); NNN 400 Capitol Center 15, LLC, Case No. 16-12736 (KG); NNN 400 Capitol Center 16, LLC, Case No. 16-12728 (KG); NNN 400 Capitol Center 17, LLC, Case No. 16-12737 (KG); NNN 400 Capitol Center 18, LLC, Case No. 16-12738 (KG); NNN 400 Capitol Center 19, LLC, Case No. 16-12739 (KG); NNN 400 Capitol Center 20, LLC, Case No. 16-12742 (KG); NNN 400 Capitol Center 21, LLC, Case No. 16-12743 (KG); NNN 400 Capitol Center 22, LLC, Case No. 16-12744 (KG); NNN 400 Capitol Center 24, LLC, Case No. 16-12746 (KG); NNN 400 Capitol Center 26, LLC, Case No. 16-12747 (KG); NNN 400 Capitol Center 27, LLC, Case No. 16-12748 (KG); NNN 400 Capitol Center 28, LLC, Case No. 16-12749 (KG); and NNN 400 Capitol Center 32, LLC, Case No. 16-12751 (KG).

1.55. ~~1.54.~~ **Initial Distribution Date** means the first Business Day of the first month that is at least ten (10) Business Days following the Effective Date.

1.56. ~~Initial Note Rate means the initial interest rate in effect under the Note, which is 6.127 percent.~~

1.57. ~~1.55.~~ **Inter-TIC Claims** means the Claims of any Debtor against another Debtor, including without limitation any Claim arising on account of funds advanced by the beneficial owner of any Debtor before the Confirmation Date for the purpose of funding professional fees or expenses, filing fees, or other costs or expenses as may have been, or may be, incurred in connection with these Bankruptcy Cases.

1.58. ~~1.56.~~ **Interests** means the legal, equitable, contractual, and other rights of any Entity with respect to any capital stock, membership interest or other ownership interest in each Debtor, whether or not transferable, and all options, warrants, call rights, puts, awards, or rights or agreements to purchase, sell, or subscribe for an ownership interest or other equity security in each Debtor.

~~1.57. Initial Note Rate means the initial interest rate in effect under the Note, which is 6.127 percent.~~

1.59. ~~1.58.~~ **June Debtors** means: NNN 400 Capitol Center, LLC, Case No. 17-11250 (KG); NNN 400 Capitol Center 1, LLC, Case No. 17-11251 (KG); NNN 400 Capitol Center 7, LLC, Case No. 17-11253 (KG); NNN 400 Capitol Center 8, LLC, Case No. 17-11254 (KG); NNN 400 Capitol Center 30, LLC, Case No. 17-11255 (KG); NNN 400 Capitol Center 35, LLC, Case No. 17-11256 (KG); NNN 400 Capitol Center 36, LLC, Case No. 17-11257 (KG); and NNN 400 Capitol Center 25, LLC, Case No. 17-11258 (KG).

1.60. ~~1.59.~~ **Lien** shall mean any lien, security interest, pledge, title retention agreement, encumbrance, charge, mortgage, or hypothecation to secure payment of a debt or performance of an obligation, other than, in the case of securities and any other equity ownership interests, any restrictions imposed by applicable United States or foreign securities laws.

1.61. ~~1.60.~~ **Loan** means the loan made by Bank of America, N.A. to NNN 400 Capitol Center, LLC and the Debtors pursuant to the Loan Agreement.

1.62. ~~1.61.~~ **Loan Agreement** means the Loan Agreement dated as of August 18, 2006, between Bank of America, N.A. to NNN 400 Capitol Center, LLC and the Debtors.

1.63. ~~1.62.~~ **Loan Documents** means the Loan Agreement, the Mortgage, and all other documents executed and/or delivered in connection with the Loan.

1.64. ~~1.63.~~ **Local Rules** means the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware.

1.65. ~~1.64.~~ **Management Agreement** means the management agreement between First Guardian Group and the Debtors.

1.66. ~~1.65.~~ **Mortgage** means that certain mortgage collateralizing the debt of the Debtors to the Secured Lender with the Property.

1.67. **NewCo** means a limited liability company to be established under the laws of the State of Delaware on or before the Effective Date.

1.68. ~~1.66.~~ **New Lender** means Little Rock – 400 West Capitol Trust.

1.69. ~~1.67.~~ **Non-Tax Priority Claim** means a Claim, other than an Administrative Claim or Priority Tax Claim, which is entitled to priority in payment pursuant to Bankruptcy Code section 507(a).

1.70. ~~1.68.~~ **Note** means the Note executed in favor of Bank of America, N.A. to NNN 400 Capitol Center, LLC that is part of the Loan Documents.

1.71. ~~1.69.~~ **Original Borrower** means NNN 400 Capitol Center, LLC, NNN 400 Capitol Center 1, LLC, NNN 400 Capitol Center 2, LLC, NNN 400 Capitol Center 3, LLC, NNN 400 Capitol Center 4, LLC, NNN 400 Capitol Center 5, LLC, NNN 400 Capitol Center 6, LLC, NNN 400 Capitol Center 7, LLC, NNN 400 Capitol Center 8, LLC, NNN 400 Capitol Center 9, LLC, NNN 400 Capitol Center 11, LLC, NNN 400 Capitol Center 12, LLC, NNN 400 Capitol Center 13, LLC, NNN 400 Capitol Center 14, LLC, NNN 400 Capitol Center 15, LLC, and NNN 400 Capitol Center 16, LLC.

1.72. ~~1.70.~~ **Petition Date** means the date on which each respective Debtor filed its voluntary petition commencing its Chapter 11 Case.

1.73. ~~1.71.~~ **Plan** means the Debtors' First Amended Joint Plan of Reorganization, as may be further amended.

1.74. ~~1.72.~~ **Plan Payments** means any payment obligation required or provided for under this Plan, the Confirmation Order, or any other order of the Bankruptcy Court (whether existing or entered before, at or after Confirmation of the Plan).

1.75. ~~1.73.~~ **Professional Fee Claims** means the Claims of professionals engaged by the Debtors pursuant to Sections 327 and/or 328 of the Bankruptcy Code.

1.76. ~~1.74.~~ **Property** means the parcels of real property, the improvements thereon and all personal property owned by the Debtors (or leased by the Debtors), and encumbered by the Mortgage, together with all rights pertaining to such property and improvements, as more particularly described in the granting clauses of the Mortgage and referred to therein as the "Property."

1.77. ~~1.75.~~ **Scheduled** means, with respect to any Claim, the status, priority and amount, if any, of such Claim as set forth in the Schedules, as they have been, or may be, amended.

1.78. ~~1.76.~~ **Schedules** means the schedules of assets and liabilities, the list of Holders of Interests, and the statements of financial affairs filed by the Debtors pursuant to Bankruptcy Code section 521 and the Bankruptcy Rules, as such schedules have been or may be further

modified, amended or supplemented in accordance with Bankruptcy Rule 1009 or orders of the Bankruptcy Court.

1.79. ~~1.77.~~ **Secured Claim** means a Claim that is secured by Collateral owned by the Debtor, subject to Section 506(a) of the Bankruptcy Code.

1.80. ~~1.78.~~ **Tax Claim** means all or that portion of a Claim held by a Governmental Unit for a tax assessed or assessable against the ~~Debtor~~Debtors, including income and employment taxes and any related penalties or interest.

1.81. ~~1.79.~~ **Taxes** means any and all taxes, levies, imposts, assessments, or other charges of whatever nature imposed at any time by a Governmental Unit or by any political subdivision or taxing authority thereof or therein and all interest, penalties, or similar liabilities with respect thereto.

1.82. ~~1.80.~~ **Unclassified Claims** means Administrative Claims and Priority Tax Claims.

1.83. **Undisputed Portion of the Secured Claim of Little Rock – 400 West Capitol Trust** means the principal owed under the Note plus any unpaid pre-petition interest due under the Note at the Initial Note Rate.

1.84. ~~1.81.~~ **Unimpaired** means, when used in reference to a Claim, Interest or Class, a Claim, Interest or Class that is not impaired within the meaning of Bankruptcy Code section 1124.

1.85. ~~1.82.~~ **U.S. Trustee** means the Office of the United States Trustee for the District of Delaware.

C. Computation of Time

In computing any period of time prescribed or allowed by this Plan, the provisions of Bankruptcy Rule 9006(a) shall apply, irrespective whether the Bankruptcy Cases are pending at the time such computation is made.

D. Governing Law

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) and except as otherwise provided herein or therein, the laws of the State of Delaware shall govern the construction and implementation of this Plan and any agreements, documents, and instruments executed in connection with this Plan, without giving effect to the conflicts of law principles thereof.

E. Exhibits

All Exhibits are incorporated into and are a part of this Plan as if set forth in full herein. To the extent any Exhibit is inconsistent with the terms of this Plan, unless otherwise ordered by the Bankruptcy Court, the text of this Plan shall control over the Exhibit.

ARTICLE II. CLASSIFICATION AND IMPAIRMENT OF CLAIMS AND INTERESTS

A. Introduction

All Claims and Interests, except Administrative Claims and Priority Tax Claims are placed in the Classes set forth below. In accordance with Bankruptcy Code section 1123(a)(1), Administrative Claims and Priority Tax Claims have not been classified.

A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class, and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes. A Claim is also placed in a particular Class for the purpose of receiving Distributions pursuant to this Plan only to the extent that such Claim is an Allowed Claim in that Class and such Claim has not been paid, released or otherwise settled prior to the Effective Date.

B. Classification and Impairment

The following Classes are established with respect to each Debtor and each class is unimpaired, as indicated below:

Class Number	Description	Impairment
Class 1	Secured Claim of Little Rock-400 West Capitol Trust	Class 1 is unimpaired under the Plan
Class 2	Non-Tax Priority Claims	Class 2 is unimpaired under the Plan
Class 3	General Unsecured Claims	Class 3 is unimpaired under the Plan
Class 4	Inter-TIC Claims	Class 4 is unimpaired under the Plan
Class 5	Interests	Class 5 is unimpaired under the Plan

To the extent required by law for determining the acceptance of this Plan, the Classes described above shall be deemed to be applicable to each individual Debtor, and voting with respect to each Debtor shall be determined individually for each Debtor. The Debtors reserve the right to seek a determination that they may be deemed substantively consolidated, without the need to merge their assets or liabilities, for the purpose of classification under, and determination of the acceptance of, this Plan.

ARTICLE III. TREATMENT OF CLAIMS AND INTERESTS

A. Unclassified Claims

In accordance with Bankruptcy Code section 1123(a)(1) of the Bankruptcy Code, certain Claims have not been classified, and the respective treatment of such Unclassified Claims is set

forth immediately below.

(1) Administrative Claims

Provided that an Administrative Claim has not been paid prior to the Effective Date, on, or as soon as reasonably practicable after the Effective Date that an Administrative Claim becomes an Allowed Administrative Claim, a Holder of an Allowed Administrative Claim shall receive, in full and final satisfaction, settlement and release of and in exchange for such Allowed Administrative Claim, (i) Cash equal to the unpaid portion of such Allowed Administrative Claim or (ii) such other treatment as to which such Holder and the applicable Debtor, or Debtors, shall have agreed upon in writing; provided, however, that Allowed Administrative Claims with respect to liabilities incurred by the Debtors in the ordinary course of business during the Chapter 11 Case may be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto by the Debtors. Holders of Administrative Claims will be paid in full on account of their Claims and are not entitled to vote on this Plan. Except for Professional Fee Claims, any Person seeking allowance or payment of an Administrative Claim shall serve and file a motion seeking allowance of such Claim not later than thirty (30) days following the Confirmation Date.

The failure to file a motion seeking the allowance of any Administrative Claim by the thirtieth (30th) day following the Confirmation Date shall constitute a bar against the assertion or collection of any such Administrative Claim, and shall relieve the Debtors from any liability, responsibility or obligation with respect to such Administrative Claim. Without limiting the generality of the foregoing, no distribution shall be made pursuant to this Plan with respect to any Administrative Claim (other than Professional Fee Claims) that is not filed by the thirtieth (30th) day following the Confirmation Date. The Debtors shall not be required to file any objection in order to confirm or determine the disallowance of any late-filed motion for the allowance or payment of any Administrative Claim (other than Professional Fee Claims).

The Debtors reserve the right to pay Administrative Claims that they incur in the ordinary course of business during the Chapter 11 Case in accordance with the terms and conditions of any agreements relating thereto by the Debtors. However, Holders of Administrative Claims should file a timely Administrative Claim.

Administrative Claims for taxes shall be paid on the later of the Effective Date or the date when such taxes are due under applicable non-bankruptcy law. Holders of post-petition tax claims are not required to file an Administrative Claim.

(2) Priority Tax Claims

Provided that a Priority Tax Claim has not been paid prior to the Effective Date, on, or as soon as reasonably practicable after, the ~~Distribution Date immediately following the date a Priority Tax Claim becomes an Allowed Priority Tax Claim~~Effective Date, but in no event later than the date that is five (5) years after the applicable Petition Date, a Holder of an Allowed Priority Tax Claim shall receive, in full and final satisfaction, settlement and release of and in

exchange for such Allowed Priority Tax Claim, (i) Cash in an amount equal to the aggregate principal amount of the unpaid portion of such Allowed Priority Tax Claim, plus interest on the unpaid portion of such Allowed Priority Tax Claim from the Effective Date through the date of payment at the rate of interest determined under applicable non-bankruptcy law as of the calendar month in which Confirmation occurs, or (ii) such other treatment as to which such Holder and the applicable Debtor or Debtors shall have agreed upon in writing; provided, however, that the Debtors shall have the right to prepay any Allowed Priority Tax Claim, or any remaining balance of any Allowed Priority Tax Claim, in full at any time on or after the Effective Date without premium or penalty. Holders of Priority Tax Claims will be paid in full on account of such Claims and are not entitled to vote on this Plan.

B. Classified Claims

(1) Class 1A – Allowed Secured Claim of Little Rock – 400 West Capitol Trust

(a) ~~Payment of Secured Claim of Little Rock – 400 West Capitol Trust. As of the occurrence of the Effective Date, the Debtors shall pay the undisputed portion~~ Initial Distribution Date, the Debtors shall pay the Undisputed Portion of the Secured Claim of Little Rock – 400 West Capitol Trust in cash in full ~~through a refinancing of the secured debt on the Property.~~

(b) ~~Payment of Post-Petition Interest and Outstanding Principal. Post-petition Interest shall be deemed to have accrued on the principal balance of the Note as in effect on the Petition Dates in these Chapter 11 Cases (such principal amount subject to reduction as provided above) at the Initial Note Rate. To the extent that such interest has not been fully paid during the pendency of these Chapter 11 Cases, the Debtors shall pay Little Rock – 400 West Capitol Trust any outstanding interest, computed at the Initial Note Rate, accruing between the Petition Date and the Initial Distribution Date on the outstanding principal of the Note. Further, on the Initial Distribution Date, the Debtors shall make payment to the Trustee in an amount equal to the undisputed portion of the outstanding principal amount of the Note after application of allowed unpaid post-petition interest and allowed legal fees and expenses as set forth herein.~~ Establishment of Escrow Account for Any Disputed Portion of Claim. In the event that the Secured Claim of Little Rock – 400 West Capitol Trust is not an Allowed Claim and provided that the Debtors have not elected to proceed with a sale of the Property, prior to the occurrence of the Effective Date, the Debtors will have established the Escrow Account, and shall have deposited into the Escrow Account cash in an amount to pay in full the Disputed Portion of the Secured Claim of Little Rock – 400 West Capitol Trust.

(c) ~~Payment of Allowed Legal Fees and Expenses. On the later of: (a) the Initial Distribution Date or (b) the date, or dates, of payments to Professionals engaged by the Debtors pursuant to Orders of the Bankruptcy Court, the Debtors shall pay to Little Rock – 400 West Capitol Trust, its actual reasonable legal fees and expenses as allowed under the Loan Documents and applicable law incurred in connection with the Bankruptcy Cases during the period between the Petition Date and the Initial Distribution Date. Payments with respect to counsel for Little Rock – 400 West Capitol Trust shall be paid pro rata with payments to the Debtors' court approved Professionals. The Debtors reserve the right to review the fees and expenses of Little Rock – 400 West Capitol Trust, and to reach agreement regarding the~~

~~Allowable amount of such fees and expenses, and, if agreement is reached, to provide for the allowance of such fees and expenses in the Confirmation Order. Prior to the closing of the Chapter 11 Cases, copies of invoices for such fees and expenses shall be provided to the U.S. Trustee.~~

~~(d) Establishment of Escrow Account for Any Disputed Portion of Secured Claim. Prior to the occurrence of the Effective Date, the Debtors will have established an escrow account (the "Escrow Account"), and shall have deposited into the Escrow Account cash in an amount to cover any disputed portion of the Secured Claim.~~ (c) Payment of the Disputed Portion of the Secured Claim of Little Rock – 400 West Capitol Trust. In the event that any part of the Disputed Portion of the Secured Claim of Little Rock – 400 West Capitol Trust becomes an Allowed Claim, payment in full in cash shall be made on account of such Allowed Claim by the later of: (i) thirty (30) days after the date upon which any Order of the Court allowing such claim has become final and non-appealable, provided that the Escrow Account has been funded; or (ii) upon the closing of the sale of the Property, if such sale occurs.

(2) Class 1B – Other Secured Claims

The Debtors do not believe that any Other Secured Claims exist, except to the extent provided with respect to Class 1A. To the extent that the Bankruptcy Court determines at or before the conclusion of the Confirmation Hearing that a Secured Claim exists in Class 1B, such Secured Claim will be treated in accordance with Section 1129(b) of the Bankruptcy Code. On the Distribution Date, the Debtors shall pay the Holders of Other Secured Claims, in full and final satisfaction of such Claims, (i) Cash equal to the unpaid portion of such Other Secured Claims or (ii) such other treatment as to which such Holder and the Debtors or the Debtors shall have agreed upon in writing. Such treatment will be determined at or before the conclusion of the Confirmation Hearing, and specified in the Confirmation Order.

(3) Class 2 – Non-Tax Priority Claims

Provided that a Non-Tax Priority Claim has not been paid prior to the Effective Date, on the Distribution Date, the Debtors shall pay the Holders of Allowed Non-Tax Priority Claims, in full and final satisfaction of such Claims, (i) Cash equal to the unpaid portion of such Allowed Non-Tax Priority Claim or (ii) such other treatment as to which such Holder and the Debtors or the Debtors shall have agreed upon in writing. The Debtors do not believe that any Claims exist within Class 2. Class 2 is unimpaired under this Plan and is conclusively presumed to have accepted this Plan and, therefore, Holder of Class 2 Non-Tax Priority Claims are not entitled to vote to accept or reject this Plan.

(4) Class 3 – General Unsecured Claims

On the Distribution Date, the Debtors shall pay to Holders of Allowed Class 3 Claims the principal amount of such Allowed Claims, ~~without~~with interest ~~or fees~~from the Petition Date at the Federal Judgment Rate. Such payments shall be in full and complete satisfaction of all Claims of each respective Holder of a Class 3 Claim. Class 3 is unimpaired under this Plan and is conclusively presumed to have accepted this Plan and, therefore, Holder of Class 3 General Unsecured Claims are not entitled to vote to accept or reject this Plan.

(5) Class 4 – Inter-TIC Claims

Inter-TIC Claims shall be paid by the respective Debtor in full on the Distribution Date. No interest shall accrue or be payable on account of any Inter-TIC Claims. The Debtors reserve the right to assert the Inter-TIC Claims by filing an Exhibit listing such Claims at, or prior to, the Confirmation Hearing, and/or by amending their schedules, as appropriate. Class 4 is unimpaired under this Plan and is conclusively presumed to have accepted this Plan and, therefore, Holder of Class 5 Inter-TIC Claims are not entitled to vote to accept or reject this Plan.

(6) Class 5 – Interests

Holders of Interests shall retain their interests under this Plan. Class 5 is unimpaired under this Plan and is conclusively presumed to have accepted this Plan and, therefore, Holders of Class 5 Interests are not entitled to vote to accept or reject this Plan.

ARTICLE IV. ACCEPTANCE OR REJECTION OF PLAN

A. Impaired Classes of Claims Entitled to Vote

Subject to Article III of this Plan, the votes of Holders of Claims and Interests in Impaired Classes who receive or retain property on account of their Claims or Interests and who are entitled to vote will be solicited for acceptance or rejection of this Plan. Classes of Claims or Interests that have been designated in this Plan as unimpaired are not entitled to vote with respect to the Plan.

B. Confirmation Pursuant to Bankruptcy Code Section 1129(b)

To the extent that any impaired class of Claims does not accept this Plan, the Debtors hereby request confirmation of this Plan pursuant to section 1129(b) of the Bankruptcy Code.

C. Reservation of Rights ~~relating~~ Relating to Plan

The Debtors reserve the right to alter, amend, modify, revoke, or withdraw this Plan or any Plan Exhibit or schedule, including to amend or modify this Plan or such Exhibits or schedules to satisfy the requirements of Bankruptcy Code section 1129(b), if necessary.

D. Elimination of Classes

Any Class that does not contain any Allowed Claims or Interests, or any Claims or Interests temporarily allowed for voting purposes under Bankruptcy Rule 3018, as of the date of commencement of the Confirmation Hearing, shall be deemed to have been deleted from the Plan for purposes of (a) voting to accept or reject the Plan and (b) determining whether it has accepted or rejected the Plan under section 1129(a)(8) of the Bankruptcy Code.

ARTICLE V. MEANS FOR IMPLEMENTATION OF PLAN

A. Refinancing of Existing Secured Debt or Sale of the Property

To effectuate the payment of creditors under this Plan, at their sole discretion, the Debtors will either: (i) refinance the secured debt of Little Rock – 400 West Capitol Trust; or (ii) sell the Property pursuant to 11 U.S.C. §1129(b)(2)(a)(iii). The Debtors shall elect to proceed by way of either a refinancing or sale within ninety (90) days from the date of the entry of an order of the Bankruptcy Court approving the Disclosure Statement. The Debtors shall file a notice of such election with the Bankruptcy Court.

(1) Refinancing of Existing Secured Debt. In the event the Debtors proceed with a refinancing of the secured debt of Little Rock – 400 West Capitol Trust, as of the Effective Date, the Debtors will have completed a refinancing of their secured debt in such an amount as to: (i) pay in full the Undisputed Portion of the Secured Claim of Little Rock – 400 West Capitol Trust; (ii) pay in full all other required payments to be made under this Plan as of the Effective Date, with the exception of the Disputed Portion of the Secured Claim of Little Rock – 400 West Capitol Trust; and (iii) place into the Escrow Account as of the Effective Date such an amount as to pay in full the Disputed Portion of the Secured Claim of Little Rock – 400 West Capitol Trust in the event that the Disputed Portion of the Secured Claim of Little Rock – 400 West Capitol Trust becomes an Allowed Claim.

(2) Sale of Property Free and Clear of Liens and Encumbrances Pursuant to 11 U.S.C. § 1129(b)(2)(a)(iii). In the event that the Debtors proceed with the sale of the Property, the Debtors shall make payment in full on Allowed Claims pursuant to the terms set forth in this Plan following the occurrence of the Effective Date.

B. ~~A.~~ Revesting of Property

On the Effective Date, all remaining property of the Estates shall revest in the Debtors, subject to the Liens expressly created or preserved by this Plan, but otherwise free and clear of all other liens, claims, interests and encumbrances.

C. ~~B.~~ Exemption From Transfer And Recordation Taxes

Pursuant to Bankruptcy Code section 1146(a), any transfers from the Debtors to any Entity, pursuant to this Plan in the United States shall not be subject to any stamp tax or similar tax, and the Confirmation Order shall direct the appropriate state or local governmental officials or agents to forgo the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

D. ~~C.~~ Releases of Record.

Upon the request of the Debtors, any Entity that is entitled to receive any distribution under this Plan, or whose Lien is extinguished or modified pursuant to this Plan, shall execute and deliver such documents and instruments as are necessary to release, modify or preserve of

record any Lien, to the extent such Lien is extinguished, modified or preserved pursuant to this Plan. Notwithstanding any provision in this Plan, the Debtors shall not be required to make any distribution, or deliver any document or instrument, to such Entity, unless and until such Entity has complied with this obligation. The obligations set forth in this paragraph shall not be waived by any action or inaction of the Debtors, including without limitation commencement of distributions to the affected Entity.

E. ~~D.~~ Claims and Causes of Action

Except as expressly set forth in this subsection, all Causes of Action owned by the Debtors, including without limitation Avoidance Actions, shall be preserved.

E. ~~E.~~ Preservation of Priority

Notwithstanding the occurrence of the Confirmation Date or the Effective Date, all Claims, including without limitations Administrative Claims, shall retain their respective priority under the Bankruptcy Code and applicable non-bankruptcy law.

G. ~~F.~~ Plan Payments

Payments under this Plan shall be made from the rents, revenues and proceeds of the operations of the Property, in addition to the proceeds of the refinancing of the Debtors' secured debt or the sale of the Property, whichever the case may be.

H. Roll Up

In the event of a refinancing of the Note, on the Effective Date, each of the Debtors shall transfer their respective ownership interests in the Property to NewCo. Such transfers shall be subject to the Liens and Allowed Claims of Class 1, but otherwise free and clear of all Liens. Neither the Debtors nor NewCo shall be required to obtain title insurance with respect to such transfer. On the Effective Date, membership interests in NewCo shall be issued to each of the Debtors in the same proportion as the ownership interests of each Debtor in the Property. Following the Effective Date, the Debtors shall be dissolved, and their remaining assets (which will exclude the Property and other assets transferred to NewCo under this Plan) shall be distributed to their respective owners. On the Effective Date, NewCo shall assume (but may not assign) all indebtedness, liabilities and obligations of the Debtors, as such indebtedness, liabilities and obligations are established or modified under this Plan. The owners of the Debtors shall pay or provide for the payment, at or prior to the Effective Date, with respect to: (a) all governmental fees and expenses as may be required with respect to the registration of NewCo and the dissolution of the Debtors (provided, however, that as set forth in Article V, Section C, above, the exemption under Section 1146 of the Bankruptcy Code shall apply with respect to transfer and recordation fees and taxes); (b) legal and accounting fees and expenses in connection with the formation of NewCo and the dissolution of the Debtors and the preparation of closing documents relating to the transfer of the Property to NewCo.

I. Formation of NewCo

In the event of a refinancing of the Note, the Debtors shall cause NewCo to be formed prior to the Effective Date. NewCo shall be a limited liability company, formed under the laws of the State of Delaware. NewCo will not be a tenant-in-common entity created for the purpose of realizing certain tax benefits under Section 1031 of the Internal Revenue Code. NewCo's organizational documents shall prohibit the issuance of non-voting classes of membership interests. The membership interests in NewCo shall not be dealt in or traded on securities exchanges or in securities markets. NewCo shall be managed by a manager, or a board of managers, as may be elected by its members. The initial manager, or board of managers, shall be identified at or before the Confirmation Hearing. Except as otherwise expressly provided for herein, following the occurrence of the Effective Date, the rights and obligations of the Debtors shall become the rights and obligations of NewCo hereunder, and NewCo shall be liable for the Debtors' obligations under this Plan and the performance thereof.

ARTICLE VI. DISTRIBUTIONS

A. Delivery of Distributions and Undeliverable or Unclaimed Distributions

(1) Delivery of Distributions in General.

Distributions to each Holder of an Allowed Claim shall be made by the Debtors (a) at the addresses set forth on the proofs of Claim filed by such Holder, (b) at the addresses set forth in any written notices of address changes delivered to the Debtors after the date of any related proof of Claim, (c) at the address reflected in the Schedules if no proof of Claim has been filed and the Debtors have not received a written notice of a change of address, (d) at the address set forth in the other records of the Debtors at the time of the Distribution or (e) in the case of the Holder of a Claim that is governed by an agreement and is administered by an agent or servicer, at the addresses contained in the official records of such agent or servicer. Distributions shall be made in accordance with the terms of this Plan. In making Distributions under this Plan, the Debtors may rely upon the accuracy of the claims register maintained in the Chapter 11 Cases, as modified by any Final Order of the Bankruptcy Court allowing or disallowing Claims in whole or in part.

(2) Undeliverable and Unclaimed Distributions.

If the Distribution to any Holder of an Allowed Claim is made in accordance with this Plan and is returned to the Debtors as undeliverable or is otherwise unclaimed within ~~sixty (60)~~one hundred eighty (180) days following such Distribution, such Distribution may be cancelled, and the Debtors shall be relieved of any and all obligations to make further Distributions to such Holder. Any Holder of an Allowed Claim that does not negotiate any payment made pursuant to this Plan within such ~~60~~180 days shall be deemed to have forfeited its Claim and shall be forever barred and enjoined from asserting any such Claim for an undeliverable or unclaimed Distribution against the Debtors, their respective Estates, and their respective agents, attorneys, representatives, employees or independent contractors, and/or any of their property. Nothing contained in this Plan shall require the Debtors to attempt to locate any Holder of an Allowed Claim; provided, however, that in its sole discretion, the Debtors may take such other action as

the Debtors deem appropriate to locate the Holder of an Allowed Claim.

B. Prepayment

Except as otherwise expressly provided in this Plan or the Confirmation Order, the Debtors shall have the right to prepay, without any fee, charge, premium or penalty, all or any portion of an Allowed Claim, at any time.

C. Means of Cash Payment

Cash payments made pursuant to this Plan shall be in U.S. dollars and shall be made, on and after the Effective Date, at the option and in the sole discretion of the Debtors by: (i) checks drawn on, or (ii) wire transfers from a domestic bank selected by the Debtors. In the case of foreign creditors, Cash payments may be made, at the option of the Debtors, in such funds and by such means as are necessary or customary in a particular jurisdiction.

D. Interest on Claims

Unless otherwise specifically provided for in this Plan or the Confirmation Order, post-petition interest shall not accrue or be paid on any Claim, and no Holder of an Allowed Claim shall be entitled to interest accruing on or after the Petition Date on any Claim.

E. Withholding and Reporting Requirements

In connection with this Plan and all Distributions under this Plan, the Debtors shall, to the extent applicable, comply with all tax withholding, payment, and reporting requirements imposed by any federal, state, provincial, local, or foreign taxing authority, and all Distributions under this Plan shall be subject to any such withholding, payment, and reporting requirements. The Debtors shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding, payment, and reporting requirements. All amounts properly withheld from Distributions to a Holder as required by applicable law and paid over to the applicable taxing authority for the account of such Holder shall be treated as part of the Distributions to such Holder. All Entities holding Claims shall be required to provide any information necessary to effect information reporting and withholding of such taxes. For example, with respect to any employee-related withholding, if the Debtors are obligated by law to withhold amounts from Distributions to a present or former employee to satisfy such present or former employee's tax and other payroll obligations, the Debtors may withhold a portion of the Distributions allocated to the Holder of an Allowed Claim that is a present or former employee, whether or not such Distributions are in the form of Cash, in such amount as is determined necessary to satisfy such Holder's tax and other payroll obligations with respect to the Distributions. Notwithstanding the foregoing or any other provision of this Plan, (a) each Holder of an Allowed Claim that is to receive a Distribution pursuant to this Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding, and other tax obligations, on account of such Distribution, and (b) no Distribution shall be made to or on behalf of such Holder pursuant to this Plan unless and until such Holder has made arrangements satisfactory to the Debtors for the payment and satisfaction of such withholding tax obligations or such tax obligation that would be imposed upon the

Debtors in connection with such Distribution. Any property to be distributed pursuant to this Plan shall, pending the implementation of such arrangements, be treated as an undeliverable Distribution pursuant to Section VI.B.2 of this Plan.

F. Setoffs

(1) By the Debtors

Except as otherwise provided in this Plan, the Debtors may, pursuant to Bankruptcy Code sections 553, 558 or applicable non-bankruptcy laws, but shall not be required to, set off against any Claim, and the payments or other Distributions to be made pursuant to this Plan in respect of such Claim, Claims of any nature whatsoever that the Debtors may have against the Holder of such Claim; provided, however, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors of any such Claim that the Debtors may have against such Holder. Please note that to the extent allowed by law, a claimant may challenge such setoff in the bankruptcy court or other court with jurisdiction over such matter.

(2) By Non-Debtors

Unless otherwise stipulated in writing by the Debtors, or asserted pursuant to a timely filed Proof of Claim or as expressly provided for by the terms of the agreement underlying any timely filed Proof of Claim, any party against whom a claim or counterclaim is asserted by the Estate (an “Estate Claim”) must assert or must have asserted any setoff rights, right of subrogation, or recoupment of any kind against such Estate Claim at the time it answers such Estate Claim, or such right of setoff, subrogation or recoupment will be deemed waived and forever barred. Notwithstanding the foregoing, nothing herein shall affect the setoff rights of any taxing authority.

G. Procedure for Treating and Resolving Disputed, Contingent and/or Unliquidated Claims

(1) Objection Deadline; Prosecution of Objections

Except as set forth in this Plan with respect to Administrative Claims, all objections to Claims must be filed and served on the Holders of such Claims by the Claims Objection Deadline, as the same may be extended by the Bankruptcy Court. Notice of any motion for an order extending the Claims Objection Deadline shall be required to be given only to those Entities that have requested notice in the Chapter 11 Case, or to such Entities as the Bankruptcy Court shall order. The filing by the Debtors of an adversary proceeding or other legal action against the Holder of any Claim shall constitute a dispute as to such Claim for the purposes of distributions under this Plan. The provisions of this Plan relating to the Claims Objection Deadline is intended solely to facilitate orderly distributions with respect to Claims. Notwithstanding anything to the contrary herein, the failure of the Debtors to file an objection to a Claim by the Claims Objection Deadline shall not constitute a determination of the validity of such Claim for purposes of res judicata, collateral estoppel or any other similar doctrine, shall not constitute an admission by the Debtors with respect to any Claim, or otherwise constitute a bar against the Debtors pursuing any action at law or in equity against the Holder of a Claim, or

raising any defense against the assertion of any Claim.

(2) No Distributions on Disputed Claims

Notwithstanding any other provision of this Plan, no payments or Distributions shall be made with respect to all or any portion of a Disputed Claim unless and until all objections to such Disputed Claim have been settled or withdrawn or have been determined by Final Order, and the Disputed Claim, or some portion thereof, has become an Allowed Claim; provided, however, that if the only dispute regarding a Disputed Claim is to the amount of the Disputed Claim, the Holder of a Disputed Claim shall be entitled to a Distribution on account of that portion of the Disputed Claim which the Debtors do not dispute at the time and in the manner that the Debtors make Distributions to Holders of Allowed Claims pursuant to the provisions of this Plan.

(3) Distributions on Allowed Claims

Payments and Distributions to each respective Claimholder on account of a Disputed Claim, to the extent that it ultimately becomes an Allowed Claim, shall be made in accordance with provisions of this Plan that govern Distributions to such Holders.

(4) De Minimis Distributions

Except as otherwise expressly provided in this Plan, the Debtors shall not have any obligation to make a Distribution on account of an Allowed Claim if the amount to be distributed to the specific Holder of the Allowed Claim does not constitute a final Distribution to such Holder and such Distribution has a value less than \$10.00.

H. Fractional Dollars

Any other provision of this Plan notwithstanding, the Debtors shall not be required to make Distributions or payments of fractions of dollars. Whenever any payment of a fraction of a dollar under this Plan would otherwise be called for, the actual payment shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down.

I. Distribution Record Date

The Debtors will have no obligation to recognize the transfer of or sale of any Claim or any participation in any Claim, that occurs after the Confirmation Date, and will be entitled for all purposes herein to recognize, deal with and distribute only to those Holders of Allowed Claims who are record Holders of such Claims, or participants therein, as of the close of business on the Confirmation Date, as stated on the official claims register.

ARTICLE VII. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. ~~Rejected~~Assumed Contracts and Leases

Except as otherwise provided in the Confirmation Order, this Plan, any other Plan

Document, or Order of the Bankruptcy Court, the Confirmation Order shall constitute an order under Bankruptcy Code section 365 ~~rejecting~~assuming all pre-petition executory contracts and unexpired leases to which any of the Debtors is a party, to the extent such contracts or leases are executory contracts or unexpired leases, on and subject to the occurrence of the Effective Date, unless such contract or lease (a) previously shall have been assumed, assumed and assigned, or rejected by the Debtor, (b) previously shall have expired or terminated pursuant to its own terms before the Effective Date, or (c) is the subject of a pending motion to assume or reject on the Confirmation Date, ~~or (d) is an insurance agreement of the Debtors~~; provided, however, that the foregoing reference to insurance agreements shall not constitute an admission by the Debtors that any insurance agreement is an executory contract or that the Debtors have any liability thereunder. Except to the extent as the Debtors specifically have agreed, or may agree, in writing, the ~~rejection~~assumption of any executory contract or unexpired lease, shall not constitute a waiver or release of any property right, claim or cause of action belonging to the Debtors, all of which are expressly reserved. The Debtors will cure any monetary defaults with respect to those executory contracts to be assumed on or before the Initial Distribution Date. The Debtors shall serve upon counterparties to executory contracts a schedule setting forth the Debtors' asserted cure amounts and information regarding adequate assurance of the Debtors' future performance under such agreements.

~~B.—Bar to Rejection Damages~~

~~—If the rejection of an executory contract or unexpired lease pursuant to Article VII.A. above gives rise to a Claim by the other party or parties to such contract or lease, or by any other Person, such Claim shall be forever barred and shall not be enforceable against the Debtors or their Estates, or their successors, assigns, or properties unless a proof of Claim is filed and served on the Debtors within thirty (30) days after service of a notice of the Effective Date or such other date as is prescribed by this Plan or the Bankruptcy Court. The notice of the Effective Date, or if applicable the Confirmation Order, will include a notice regarding rejection of executory contracts and unexpired leases, and will set forth the date by which Claims for rejection damages must be filed.~~

~~C.—Assumed and Assigned Contracts and Leases~~

~~—To the extent provided in the Confirmation Order, this Plan, or any other Plan Document entered into after the Petition Date or in connection with this Plan, the Confirmation Order shall constitute an order under Bankruptcy Code section 365 assuming, as of the Effective Date, those executory contracts and unexpired leases identified in such documents as being assumed. To the extent provided in the Confirmation Order, this Plan, or any other Plan Document entered into after the Petition Date or in connection with this Plan, the Confirmation Order shall constitute an order under Bankruptcy Code section 365 assigning, as of the Effective Date, those executory contracts and unexpired leases identified in such documents as being assigned. Unless otherwise specified in the Assumption List, the Debtors will cure any monetary defaults with respect to those executory contracts to be assumed on or before the Initial Distribution Date.~~

ARTICLE VIII. CONFIRMATION AND CONSUMMATION OF THIS PLAN

A. Conditions to Effective Date

The following are conditions precedent to the occurrence of the Effective Date, each of which must be satisfied or waived in writing in accordance with Article VIII.B of this Plan:

1. One of the following will have occurred:

(a) In the event that the Debtors elect to proceed with a refinancing of the Note, the Debtors shall have closed on the refinancing transaction described herein in Article V.A., with the funds borrowed thereunder being available to satisfy the Debtors' financial obligations as set forth in this Plan; or

(b) In the event that the Debtors elect to proceed with a sale of the Property pursuant to 11 U.S.C. §1129(b)(2)(a)(iii), the Debtors shall have sought and received approval from the Bankruptcy Court regarding the procedures for the sale of the Property.

2. The Confirmation Order shall have been entered in these Chapter 11 Cases and shall provide that the Debtors are authorized to take all actions necessary or appropriate to enter into, implement and consummate the contracts, instruments, releases, leases, indentures, and other agreements or documents created in connection with this Plan or effectuate, advance, or further the purposes thereof.

~~2.3.~~ The Confirmation Order shall have become a Final Order.

~~3.4.~~ All Exhibits shall be, in form and substance, reasonably acceptable to the Debtors, and shall have been executed and delivered by all parties who are signatory thereto.

5. In the event that the Debtors elect to refinance the Note, NewCo shall have been formed and shall be in good standing under the laws of the State of Delaware.

B. Waiver of Conditions

~~Each of the~~The conditions set forth in Article VIII.A-~~or 4 and~~ VIII.BA.5 of this Plan, ~~except for entry of the Confirmation Order, as set forth in Article VIII.B.1 of this Plan,~~ may be waived in whole or in part by the Debtors. The failure to satisfy or waive any condition to the Effective Date may be asserted by the Debtors as a basis to not consummate this Plan regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtors to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right that may be asserted at any time.

C. Consequences of Non-Occurrence of Effective Date

In the event that the Effective Date does not occur, the Debtors reserve all rights to seek an order from the Bankruptcy Court directing that the Confirmation Order be vacated, that this Plan be null and void in all respects, and/or that any settlement or treatment of Claims provided for in this Plan be null and void. In the event that the Bankruptcy Court shall enter an order vacating

the Confirmation Order, the time within which the Debtors may assume and assign or reject all executory contracts and unexpired leases not previously assumed, assumed and assigned, or rejected, shall be extended for a period of thirty (30) days after the date the Confirmation Order is vacated, without prejudice to further extensions as may be approved by the Court either before or after the expiration of such 30-day period.

ARTICLE IX. ADMINISTRATIVE CLAIMS

A. Professional Fee Claims

Final Fee Applications

The Final Fee Applications shall be filed no later than ninety (90) days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior orders of the Bankruptcy Court, the allowed amounts of such Professional Fee Claims shall be determined by the Bankruptcy Court. To the extent Professional Fee Claims have been allowed prior to the Effective Date, such Claims shall be paid on the Effective Date (unless otherwise agreed in writing between the Debtors and the affected Professional). To the extent that a Professional Fee Claim is allowed on or after the Effective Date, such Professional Fee Claim shall be paid within ten (10) business days following the entry of the order allowing such Claim (unless otherwise agreed in writing between the Debtors and the affected Professional).

Employment of Professionals after the Effective Date

From and after the Effective Date, any requirement that Professionals comply with Bankruptcy Code sections 327 through 331 or any order previously entered by the Bankruptcy Court in seeking retention or compensation for services rendered or expenses incurred after such date shall terminate, and Professionals shall be compensated without the requirement of application to, or order of, the Bankruptcy Court.

B. Other Administrative Claims

All other requests for payment of an Administrative Claim arising from and after the Petition Date up to and through the Effective Date, other than Professional Fee Claims, must be filed with the Bankruptcy Court and served on counsel for the Debtors no later than the Administrative Claims Bar Date. Unless the Debtors object to an Administrative Claim, such Administrative Claim shall be deemed allowed in the amount requested. In the event that the Debtors object to an Administrative Claim, the Bankruptcy Court shall determine the allowed amount of such Administrative Claim.

ARTICLE X. EFFECT OF PLAN CONFIRMATION

A. Binding Effect

This Plan shall be binding upon and inure to the benefit of the Debtors, all present and former Holders of Claims and Interests, and their respective successors and assigns.

B. Discharge of the Debtors

Pursuant to Bankruptcy Code section 1141(d)(1), and subject to the occurrence of the Effective Date, Confirmation will discharge all Claims against the Debtors except for the obligations and Liens expressly created or preserved by this Plan.

C. Injunction

Except as otherwise provided in this Plan, the Confirmation Order shall provide, among other things, that from and after the Effective Date all entities who have held, hold or may hold Claims against or Interests in the Debtors are permanently enjoined from taking any of the following actions against the Debtors, their Estates, or any of their property on account of any such Claims or Interests that arose before the Effective Date, except for the obligations and Liens expressly created or preserved by this Plan: (a) commencing or continuing, in any manner or in any place, any action or other proceeding; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree or order; (c) creating, perfecting, or enforcing any lien or encumbrance; (d) asserting a setoff (except as to those setoffs that were asserted prior to the petition date), or right of subrogation against any debt, liability, or obligation due to the Debtors except as set forth in article VI.G.2 of this Plan; and (e) commencing or continuing, in any manner or

in any place, any action that does not comply with or is inconsistent with the provisions of this Plan; provided, however, that nothing contained in this Plan shall preclude such entities from exercising their rights pursuant to and consistent with the terms of this Plan or the Confirmation Order.

D. Exculpation and Limitation of Liability

Except as otherwise specifically provided in this Plan, the Debtors, and any of their present attorneys, financial advisors, investment bankers, or other professionals engaged pursuant to order of the Bankruptcy Court and any of such person's successors and assigns, solely in their capacities as such, shall not have or incur any liability to any holder of a Claim, Administrative Claim or Interest for any act or omission originating or occurring on or after the Petition Date through and including the Effective Date in connection with, relating to, or arising out of: the Debtors; the Chapter 11 Cases; the management of the Debtors or their assets; the sale of assets of the Debtors; the negotiation and filing of this Plan, the Disclosure Statement or any prior plans of reorganization; the pursuit of Confirmation of this Plan or any prior plans of reorganization, the consummation of this Plan; except for their willful misconduct or gross negligence as determined by a Final Order of a court of competent jurisdiction.

E. Term of Bankruptcy Injunction or Stays

All injunctions or stays provided for in the Chapter 11 Case under Bankruptcy Code section 105 or 362, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect through and including the Effective Date. Upon the Effective Date, the injunction provided in Article X.C shall apply.

ARTICLE XI. RETENTION OF JURISDICTION

Under Bankruptcy Code sections 105(a) and 1142, and notwithstanding entry of the Confirmation Order, substantial consummation of this Plan and occurrence of the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising out of, and related to, the Chapter 11 Case and this Plan to the fullest extent permitted by law, including, among other things, jurisdiction to:

A. Allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim, the resolution of any objections to the allowance or priority of Claims or Interests and the determination of requests for the payment of claims entitled to priority under Bankruptcy Code section 507(a)(1), including compensation of any reimbursement of expenses of parties entitled thereto;

B. Hear and determine all applications for compensation and reimbursement of expenses of Professionals under this Plan or under Bankruptcy Code sections 330, 331, 503(b), 1103, and 1129(a)(4); provided, however, that from and after the Effective Date, the payment of the fees and expenses of the retained Professionals of the Debtors shall be made in the ordinary course of business and shall not be subject to the approval of the Bankruptcy Court;

C. Hear and determine all matters with respect to the assumption or rejection of any executory contract or unexpired lease to which the Debtors, or any of them, are parties or with respect to which the Debtors or, following the Effective Date, may be liable, and to hear, determine and, if necessary, liquidate any Claims arising therefrom;

D. Effectuate performance of and payments under the provisions of this Plan;

E. Hear and determine any and all adversary proceedings, motions, applications and contested or litigated matters arising out of, under or related to the Chapter 11 Case, this Plan, or any Plan Document;

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

G. Hear and determine disputes arising in connection with the interpretation, implementation, consummation or enforcement of this Plan, including disputes arising under agreements, documents or instruments executed in connection with this Plan;

H. Consider any modifications of this Plan, cure any defect or omission or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

I. Issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, consummation, or enforcement of this Plan or the Confirmation Order;

J. Enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified or vacated;

K. Hear and determine any matters arising in connection with or relating to this Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document created in connection with this Plan, the Disclosure Statement or the Confirmation Order;

L. Enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Chapter 11 Case;

M. Except as otherwise limited herein, recover all Assets of the Debtors and property of the Estates, wherever located;

N. Hear and determine matters concerning state, local and federal taxes in accordance with Bankruptcy Code sections 346, 505 and 1146;

- O. Hear and determine all matters related to the property of the Estates from and after the Confirmation Date;
- P. Hear and determine any Causes of Action;
- Q. Hear and determine all disputes involving the existence, nature or scope of the injunctions, indemnification, exculpation and releases granted pursuant to this Plan;
- R. Hear and determine all matters related to the property of the Estate from and after the Confirmation Date;
- S. Hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, provisions of the Bankruptcy Code;
- T. Enforce all orders previously entered by the Bankruptcy Court;
- U. Dismiss the Chapter 11 Cases; and
- V. Enter a final decree closing the Chapter 11 Cases.

ARTICLE XII. MISCELLANEOUS PROVISIONS

A. Modifications and Amendments

The Debtors may alter, amend or modify this Plan or any Exhibits thereto under Bankruptcy Code section 1127(a) at any time prior to the Confirmation Date. If any material amendments to the Plan are made after the solicitation package is sent out, but before the confirmation hearing, the Debtors will make a motion to determine if re-solicitation is necessary. After the Confirmation Date and prior to substantial consummation of this Plan as defined in Bankruptcy Code section 1101(2), the Debtors may, under Bankruptcy Code section 1127(b), institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in this Plan, the Disclosure Statement or the Confirmation Order, and such matters as may be necessary to carry out the purpose and effect of this Plan so long as such proceedings do not adversely affect the treatment of Holders of Claims under this Plan; provided, however, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

B. Severability of Plan Provisions

If, prior to Confirmation, any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, then the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The

Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

C. Successors and Assigns

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

D. Payment of Statutory Fees

All fees then due and payable pursuant to 28 U.S.C. § 1930 shall be paid on or before the Effective Date by the Debtors. All such fees that become due and payable thereafter by the Debtors shall be paid when due. Each Debtor shall pay quarterly fees to the U.S. Trustee until the earliest of that particular Debtor's Chapter 11 Case being closed, dismissed, or converted to a case under Chapter 7 of the Bankruptcy Code. The Debtors shall file post-confirmation quarterly reports or any pre-confirmation monthly operating reports not filed as of the Confirmation Hearing in conformance with the U.S. Trustee Guidelines. The U.S. Trustee shall not be required to file a request for payment of its quarterly fees, which shall be paid by the Debtors, as set forth herein.

E. Revocation, Withdrawal or Non-Consummation

The Debtors reserve the right to revoke or withdraw this Plan prior to the Confirmation Date and to file subsequent plans. If the Debtors revoke or withdraw this Plan, or if Confirmation or consummation of this Plan does not occur, then (a) this Plan shall be null and void in all respects, (b) any settlement or compromise embodied in this Plan (including the fixing or limiting to an amount certain any Claim or Class of Claims), assumption or rejection of executory contracts or leases effected by this Plan, and any document or agreement executed pursuant to this Plan, shall be deemed null and void, and (c) nothing contained in this Plan, and no acts taken in preparation for consummation of this Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against, or any Interests in, the Debtors or any other Entity, (ii) prejudice in any manner the rights of the Debtors or any other Entity, or (iii) constitute an admission of any sort by the Debtors or any other Entity.

F. Service of Documents

Any notice, request or demand required or permitted to be made or provided to or upon the Debtors under this Plan shall be (a) in writing, (b) served by (i) certified mail, return receipt requested, (ii) hand delivery, (iii) overnight delivery service, (iv) first class mail, or (v) facsimile transmission, (c) deemed to have been duly given or made ~~when actually delivered~~ on mailing or, in the case of notice by facsimile transmission, when ~~received and telephonically confirmed~~ sent, and (d) addressed as follows:

The Debtors:

To each of the individuals and entities listed in the Plan Exhibit, to be attached to the Confirmation Order

With a required copies to:

I. Mark Rubin
Rubin & Rubin, P.A.
P.O. Box 1975
Palm Valley, Florida 32004
Phone: (904) 396-7711
Fax: (904) 742-7911
Email: mRubin@RubinandRubin.com

And to:

Thomas J. Francella, Jr.
Whiteford Taylor & Preston, LLC
The Renaissance Centre
405 N. King Street, Suite 500
Wilmington, DE 19801
Phone: (302) 357-3252
Fax: (302) 357-3272
Email: tfrancella@wtplaw.com

G. Plan Supplement(s)

Exhibits to this Plan not attached hereto shall be filed in one or more Plan Supplements. Any Plan Supplement (and amendments thereto) filed by the Debtors shall be deemed an integral part of this Plan and shall be incorporated by reference as if fully set forth herein. Substantially contemporaneously with their filing, the Plan Supplements may be viewed at the office of the clerk of the Bankruptcy Court or its designee during normal business hours, by visiting the Bankruptcy Court's website at www.vaeb.uscourts.gov (PACER account required). Holders of Claims and/or Interests may obtain a copy of any Plan Supplements free of charge upon reasonable written request to counsel for the Debtors (contact information below).

H. Plan Exhibits

Any and all Exhibits, or other lists or schedules not filed with this Plan shall be filed with the Clerk of the Bankruptcy Court. Upon such filing, such documents may be inspected in the office of the Clerk of the Bankruptcy Court during normal court hours. Holders of Claims or Interests may obtain a copy of any such document upon written request to the Debtor in accordance with Article XII.F of this Plan.

I. Tax Reporting And Compliance

The Debtors are hereby authorized to request an expedited determination under Bankruptcy Code section 505(b) of the tax liability of the Debtor for all taxable periods ending after the

Petition Date through and including the Effective Date.

J. Filing Of Additional Documents

On or before substantial consummation of this Plan, the Debtors reserve the right to file such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan.

Dated: ~~January 22,~~[March 16,](#) 2018

WHITEFORD TAYLOR & PRESTON LLC

Wilmington, DE

/s/ Thomas J. Francella, Jr.

Thomas J. Francella, Jr., Esq. (#3835)

The Renaissance Centre

405 North King Street, Suite 500

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– and –

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– and –

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Special Counsel to the Debtors

~~No. 2236116-v.6~~
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Document 2 ID	PowerDocs://BALTIMORE/2275159/2
Description	BALTIMORE-#2275159-v2-NNN/First_Amended_Plan
Rendering set	Standard

Legend:	
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Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Moved to	6
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Format changed	0
Total changes	479