

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF KENTUCKY  
LONDON DIVISION

IN RE:

HOPE INDUSTRIES, LLC

CASE NO. 18-60142  
CHAPTER 11

DEBTOR IN POSSESSION

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**DEBTOR'S SECOND AMENDED PLAN OF REORGANIZATION UNDER  
CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE**

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Respectfully submitted,

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Dated: August 2, 2018

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Comes Hope Industries, LLC (“Debtor”), as debtor and debtor in possession in the above-captioned bankruptcy case, and pursuant to 11 U.S.C. §§ 1121, 1123, and 1129, and Fed. R. Bankr. P. 3016, hereby proposes the following Second Amended Plan of Reorganization (the “Plan”) for the resolution of the Claims against and Equity Security Interests in the Debtor along with certain claims against affiliates and insiders of the Debtor.

**ARTICLE I**

**DEFINITIONS, RULES OF CONSTRUCTION, AND COMPUTATION OF TIME**

1.1 **Defined Terms.** All capitalized terms used herein and not otherwise defined have the meanings given to them in the Plan Definitions attached hereto as an Appendix to this Plan, or, if not defined therein, then as defined in the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, or as commonly understood, unless the context clearly requires otherwise.

1.2 **Rules of Construction.** The rules of construction used in 11 U.S.C. § 102 shall apply to the construction of this Plan.

1.3 **Computation of Time.** In computing any period of time prescribed or allowed by the Plan, the provisions of Fed. R. Bankr. P. 9006(a) shall apply.

**ARTICLE II**

**GENERAL OVERVIEW OF THE PLAN**

The Plan provides for the Debtor to continue to operate post-Confirmation as the Reorganized Debtor in the ordinary course of business, receiving ongoing rental incomes and sales proceeds from the operations of its Properties in order to fund plan payments to its Creditors. In addition, the Plan contemplates several additional sources of capital to fund Plan payments: (i) an initial “new value” member contribution from current member Star R. Kusiak, in the amount of \$50,000, to be funded on or before the Plan Effective Date, which will be held solely for a reserve fund for assurance of future Plan payments on Allowed Claims; and (ii) ongoing and regular

monthly post-confirmation contributions, account repayments, and funds from SRC and Star R. Kusiak to be used solely for Allowed Claim payments.

THIS GENERAL SUMMARY IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE SPECIFIC PROVISIONS OF THE PLAN AS SET FORTH HEREIN WHICH GOVERN.

### **ARTICLE III**

#### **TREATMENT OF UNCLASSIFIED CLAIMS**

3.1 **United States Trustee Fees.** All fees payable to the United States Trustee pursuant to 28 U.S.C. § 1930 shall be paid on or before the Effective Date of the Plan, unless otherwise agreed. Following Confirmation, the Reorganized Debtor's obligation to pay United States Trustee fees shall continue until the Bankruptcy Case is converted, dismissed, or closed, whichever occurs first, and said fees will be paid by the Reorganized Debtor in the ordinary course as they are incurred.

3.2 **Ordinary Course Administrative Claims.** Allowed Administrative Claims arising from obligations incurred by the Debtor in the ordinary course of its business prior to the Confirmation Date shall be paid and performed by the Reorganized Debtor in the ordinary course of business in accordance with the terms of any agreements governing, instruments evidencing, or other documents relating to such transactions, on or before the later of the Effective Date or the Date the Claim becomes an Allowed Claim if subject to dispute, or as otherwise agreed. Ordinary Course Administrative Claims shall include any Administrative Claims of Tax Creditors for postpetition tax obligations which may be accrued but not yet paid.

3.3 **Other Allowed Administrative Claims.** All other holders of Allowed Administrative Claims, including Professional Claims and 11 U.S.C. § 503(b)(9) Allowed Claims, if any, shall be paid in full on or before the later of the Effective Date or the Date the Claim becomes an Allowed Claim if subject to dispute, or as otherwise agreed.

3.4 **Bar Date for Administrative Claims.**

3.4.1 **Holders of Administrative Claims in Section 3.2.** Holders of Administrative Claims in Section 3.2 (Ordinary Course Administrative Claims) are not required to file or serve any request for payment, and will be paid in the ordinary course as due or pursuant to agreement with the Reorganized Debtor. Reorganized Debtor shall file any objection to same within 30 days following Confirmation, if any.

3.4.2 **All Other Entities Seeking Payment of an Administrative Claim.** All other entities seeking payment of an Administrative Claim, including Professionals, shall file their respective requests for allowance and payment thereof by no later than the date that is **thirty (30) days after the entry of the Confirmation Order** or such other date as may be fixed by an order of the Bankruptcy Court. A proof of claim, without more, does not constitute a

**request for allowance of an Administrative Claim. Holders of Administrative Claims that do not file and serve a request for allowance and payment by the bar date set forth in this Section will be forever barred from asserting such Claims; provided, however, that Administrative Claimants who have previously had their Claims Allowed by Court Order do not need to file any further Application or request for Allowance unless the amount they are seeking has increased subsequent to entry to said Order. The Court shall retain jurisdiction to determine the amount and allowance of any such Claim if there is any dispute between the Reorganized Debtor and any Claimant.**

### **3.5 Priority Tax Claims.**

3.5.1 Pursuant to 11 U.S.C. § 1129(a)(9)(C), unless otherwise agreed by the holder of a Priority Tax Claim and the Reorganized Debtor, each Tax Creditor with an Allowed Priority Tax Claim will receive, in full satisfaction of its Allowed Priority Tax Claim, deferred cash payments totaling the Allowed amount of such Claim over a period not exceeding five (5) years from the Petition Date, as required by the Bankruptcy Code, which period shall conclude on or about February 9, 2023. Payments on the Allowed Priority Tax Claims will begin on the first Semi-Annual Distribution Date following the Effective Date and shall continue to become due on each subsequent Semi-Annual Distribution Date until the Priority Tax Claims are paid in full. Payments on Allowed Priority Tax Claims shall be made in equal semi-annual installments of principal and simple interest accruing from the Effective Date at the current rate of interest required by law on the unpaid portion of each Allowed Priority Tax Claim (or upon such other terms determined by the Bankruptcy Court to provide the holders of Priority Tax Claims with deferred cash payments having a value, as of the Effective Date, equal to the Allowed amount of such Priority Tax Claims). The Reorganized Debtor will have the right and discretion to pay any Allowed Priority Tax Claim, or any remaining balance of such Priority Tax Claim, in full, at any time on or after the Effective Date, without premium or penalty and without further order of the Court if cash is available to do so.

3.5.2 Notwithstanding the provisions of Section 3.5.1, any Tax Creditor with an Allowed Priority Tax Claim will **not** be entitled to receive any payment on account of any penalty arising with respect to or in connection with the Allowed Priority Tax Claim. The holder of an Allowed Priority Tax Claim shall not assess or attempt to collect such penalty from the Reorganized Debtor, its property, or any responsible officer or other person who might be liable thereon, and any such penalty amount shall be disallowed, provided that the principal and interest portions of the Allowed Priority Tax Claim are paid in full within the five (5) years provided by law.

3.6 **Other Allowed Priority Non-Tax Claims.** As soon as practicable after the later of the Effective Date and the date the Claim becomes an Allowed Claim, each holder of an Allowed Priority Non-Tax Claim against the Reorganized Debtor will receive in full satisfaction, settlement, release and discharge of, and in exchange for, such Allowed Priority Non-Tax Claim, a Distribution from the Reorganized Debtor: (i) in Cash equal to the unpaid portion of such Allowed Priority Non-Tax Claim against the Reorganized Debtor; or (ii) in such amounts and on such other terms as may be agreed between the holder of the Allowed Priority Non-Tax Claim and

the Reorganized Debtor; or (iii) in accordance with the terms of the particular agreement under which such Priority Non-Tax Claim arose. To the extent that any Creditor's total Allowed Priority Non-Tax Claim exceeds the amount entitled to Priority treatment under 11 U.S.C. § 507, the remaining amount of such Claim shall be treated as a Class 9 Allowed Unsecured Claim. The Debtor does not believe that there are any outstanding Priority Non-Tax Claims.

3.7 **Post-Confirmation Professional Claims.** Post-Confirmation Professional Claims will not require Bankruptcy Court approval and will be paid post-Confirmation in the ordinary course from the Reorganized Debtor's business operations and funds on hand.

## **ARTICLE IV**

### **CLASSIFICATION OF CLAIMS AND INTERESTS**

The following classes are hereby designated under this Plan:

4.1 **Class 1: Allowed Secured Claim of Citizens Guaranty Bank.** Class 1 consists of the Allowed Secured Claim of Citizens Guaranty Bank ("CGB") in the total Allowed amount of approximately \$410,000 as of the Petition Date, plus interest from the Petition Date through the Confirmation Date at the rate set forth in the loan documents underlying the Class 1 Claim, plus reasonable attorney's fees and expenses, less all payments received by CGB on or before the Confirmation Date. The Class 1 Claim is Impaired. The exact Allowed Amount of the Secured Claim as of the Confirmation Date will be determined by Agreed Order or Order of the Court. The Allowed Class 1 Claim is secured by a first mortgage lien against 853 E. 4<sup>th</sup> St., London KY, MB 998/P800. Debtor is borrower and mortgagor, and SRC, and Mr. and Ms. Kusiak are guarantors. The Allowed Class 1 Claim against the Debtor will hereinafter be referred to as the "Class 1 Claim."

4.2 **Class 2: Allowed Secured Claim of Community Trust Bank.** Class 2 consists of the Allowed Secured Claim of Community Trust Bank ("CTB") in the total Allowed amount of \$33,115.95 as of the Petition Date, plus interest from the Petition Date through the Confirmation Date at the rate set forth in the loan documents underlying the Class 2 Claim, plus reasonable attorney's fees and expenses, less all payments received by CTB on or before the Confirmation Date. The Class 2 Claim is Impaired. The exact Allowed Amount of the Secured Claim as of the Confirmation Date will be determined by Agreed Order or Order of the Court. The Allowed Class 2 Claim is secured by a first mortgage lien against 1257 S. Main St., London KY, MB 849/P383. Debtor, SRC, and Mr. and Ms. Kusiak are co-borrowers, and Debtor is mortgagor. The Allowed Class 2 Claim against the Debtor will hereinafter be referred to as the "Class 2 Claim."

4.3 **Class 3: Allowed Secured Claims of Cumberland Valley National Bank.** Class 3 consists of the Allowed Secured Claims of Cumberland Valley National Bank ("CVNB") in the total approximate amounts set forth below as of the Petition Date, plus interest from the Petition Date through the Confirmation Date at the rate set forth in the loan documents underlying the Class 3 Claims, plus reasonable attorney's fees and expenses, less all payments received by CVNB on or before the Confirmation Date. The Class 3 Claims are Impaired. The exact Allowed Amount



of each of the Class 3 Claims as of the Confirmation Date will be determined by Agreed Order or Order of the Court. The Allowed Class 3 Claims are secured by the mortgages as described below for each promissory note comprising the Claims. The Allowed Class 3 Claims against the Debtor will hereinafter be referred to as the "Class 3 Claims" and consist of the following Claims:

4.3.1 Note No. 5569: Approximate principal amount of \$808,000 plus accrued interest, costs and fees as ordered through the Confirmation Date. Secured by first mortgages on real estate at 935 Camelot Place including adjacent lots, and 1251-1253-1255 S. Main Street, MB878/P514. Debtor is borrower and mortgagor, and Mr. and Ms. Kusiak are personal guarantors.

4.3.2 Note No. 6409: Approximate principal amount of \$60,223.43, plus accrued interest, costs and fees as ordered through the Confirmation Date. Secured by first mortgage on 1215 Maple Lane, Corbin (MB 515/P383 dated 9/10/09); and second mortgages properties in MB 935/P 311 (dated 9/10/09)(935 Camelot and adjacent lots, 5617 Keavy Rd, 5175 Keavy Rd, and 38.38 acres Keavy Road). SRC is borrower, Debtor is mortgagor, and Mr. and Ms. Kusiak are personal guarantors and mortgagor on the 30.61 acres at 5959 Keavy.

4.3.3 Note No. 6784: Approximate principal amount of \$333,311.44, plus accrued interest, costs and fees as ordered through the Confirmation Date. Secured by first mortgage on real estate at 1215 Maple Lane, Corbin (MB 515/P383 dated 9/10/09); second mortgage on properties owned by Debtor covered by MB 935/P311 (935 Camelot with adjacent lots, 5617 Keavy Rd., 5175 Keavy Rd, and 38.38 Acres Keavy Rd). SRC is borrower, Debtor is mortgagor, and Mr. and Ms. Kusiak are personal guarantors and mortgagor on the 30.61 acres at 5959 Keavy.

4.3.4 Note No. 6407: Approximate total amount of \$65,000, being the prepetition balance of approximately \$218,186.54, less the postpetition net sale proceeds of approximately \$157,000 from the foreclosure sale on the first mortgage on 30.61 acres at 5959 Keavy Road owned by the Kusiaks (MB 935/P311), plus accrued interest, costs and fees as ordered through the Confirmation Date. Secured by first mortgage on real estate at 1215 Maple Lane, Corbin (MB 515/P383 dated 9/10/09); and second mortgage on properties owned by Debtor covered by MB 935/P311 (935 Camelot with adjacent lots, 5617 Keavy Rd., 5175 Keavy Rd, and 38.38 Acres Keavy Rd). Ms. Kusiak is borrower, Debtor is mortgagor, and Mr. Kusiak is personal guarantor.

4.3.5 Note No. 0350: Approximate principal amount of \$196,017.02, plus accrued interest, costs and fees as ordered through the Confirmation Date. Secured by first mortgage on real estate at 1215 Maple Lane, Corbin (MB 515/P383 dated 9/10/09); second mortgage on properties owned by Debtor covered by MB 935/P311 (935 Camelot with adjacent lots, 5617 Keavy Rd., 5175 Keavy Rd, and 38.38 Acres Keavy Rd); and second mortgage on 853 E. 4<sup>th</sup> St., London, MB 1015, P08 dated 7/12/12. Mr. and Ms. Kusiak are borrowers, and Debtor and Mr. and Ms. Kusiak are both mortgagors.

4.3.6 Seven credit cards in approximate total amount of \$107,250, plus interest costs and fees as ordered through the Confirmation Date. Consisting of two (2) credit cards issued to Ms. Kusiak totaling approximately \$41,250 [MC## 120 and 882]; three (3) credit cards issued

to SRC totaling approximately \$35,000 [MC## 826, 908 and 385]; one (1) credit card issued to White Lily totaling approximately \$26,000 [MC# 350]; and one (1) credit card issued to Debtor totaling approximately \$5,000 [MC #452]. Secured by second mortgage on 853 E. 4<sup>th</sup> St., London, MB 1015/P08.

4.4 **Class 4: Allowed Secured Claims of First National Bank.** Class 4 consists of the Allowed Secured Claims of First National Bank (“FNB”) in the total approximate amounts set forth below as of the Petition Date, plus interest from the Petition Date through the Confirmation Date at the rate set forth in the loan documents underlying the Class 4 Claims plus reasonable attorney’s fees and expenses less all payments received by FNB on or before the Confirmation Date. The Class 4 Claims are Impaired. The exact Allowed Amount of each of the Class 4 Claims as of the Confirmation Date will be determined by Agreed Order or Order of the Court. The Allowed Class 4 Claims against the Debtor will hereinafter be referred to as the “Class 4 Claims” and consist of the following Claims:

4.4.1 Note No. 1720 [POC No. 10]: Approximate total amount of \$67,900 plus interest, costs and fees as ordered through the Confirmation Date. Secured by North Carolina real estate, DOT 6631/ P089. Debtor, Mr. Kusiak and Ms. Kusiak are co-borrowers, and Debtor is mortgagor.

4.4.2 Note No. 4630 [POC No. 11 and POC No. 11, amended]: Approximate total amount of \$197,700 plus interest, costs and fees as ordered through the Confirmation Date. Secured by North Carolina real estate, DOT 8086/P117, and 309 W. Dixie ST, London, MB 555/P553. Debtor, Mr. Kusiak and Ms. Kusiak are co-borrowers, and Debtor is mortgagor.

4.4.3 Note No. 5060 [POC No. 12]: Approximate total amount of \$46,410 plus interest, costs and fees as ordered through the Confirmation Date. Secured by North Carolina real estate, DOT 8448/P888 dated July 16, 2010. Debtor, Mr. Kusiak and Ms. Kusiak are co-borrowers, and Debtor is mortgagor.

4.4.4 Note No. 5650 [POC No. 13]: Approximate total amount of \$54,500 plus interest, costs and fees as ordered through the Confirmation Date. Secured by real estate at 309 W Dixie St, London, MB 555/P553, dated August 14, 2002. Debtor, Mr. Kusiak and Ms. Kusiak are co-borrowers, and Debtor is mortgagor.

4.4.5 Note No. 5740 [POC No. 14]: Approximate total amount of \$39,000 plus interest, costs and fees as ordered through the Confirmation Date. Secured by 25.43 acres at 5959 Keavy Road, MB 410/590 dated June 3, 1999; and 5617 Keavy Rd, MB 635/P 437, dated October 2, 2003. Debtor, Mr. Kusiak and Ms. Kusiak are co-borrowers. Mr. and Mrs. Kusiak are mortgagors on 5959 Keavy, and Debtor is mortgagor on 5617 Keavy.

4.4.6 Note No. 6910 [POC No. 15]: Approximate total amount of \$36,100 plus interest, costs and fees as ordered through the Confirmation Date. Secured by 38.38 acres on Keavy

Rd, MB 594/P620 dated March 19, 2003. Debtor, Mr. Kusiak and Ms. Kusiak are co-borrowers, and Debtor is mortgagor.

4.4.7 Note No. 6920 [POC No. 16]: Approximate total principal amount of \$24,000 plus interest, costs and fees as ordered through the Confirmation Date. Secured by real estate at 5175 Keavy Rd, MB 594/ P620 dated March 19, 2003. Debtor, Mr. Kusiak and Ms. Kusiak are co-borrowers, and Debtor is mortgagor.

4.4.8 Note No. 3690: Approximate total amount of \$392,100 plus accrued interest, costs and fees as ordered through the Confirmation Date. Secured by (i) real estate at 309 W Dixie St, MB 555/P553 dated August 14, 2002; (ii) house and 1.48 acre lot at 5175 Keavy Rd, MB 594/P 620 dated March 19, 2003; (iii) 38.38 Acres on Keavy Rd, MB 594/P620 dated March 19, 2003; and (iv) 5617 Keavy MB 635/P 437 dated October 2, 2003. SRC is borrower, Debtor is mortgagor, and Mr. and Ms. Kusiak are personal guarantors. This is a general description of the obligation to FNB. The loan documents control the rights, duties and obligations of the parties. To the extent of any conflict, the loan documents will control. The obligations under this Note shall be paid as promised in this Plan and in the loan documents.

4.4.9 Note No. 8070: Approximate total amount of \$441,200 plus accrued interest, costs and fees as ordered through the Confirmation Date. Secured by 25.43 acres of real estate at 5959 Keavy Road, MB 973/P526. SRC is borrower, and Mr. and Ms. Kusiak are mortgagors and personal guarantors. This is a general description of the obligation to FNB. The loan documents control the rights, duties and obligations of the parties. To the extent of any conflict, the loan documents will control. The obligations under this Note shall be paid as promised in this Plan and in the loan documents.

4.4.10 Note No. 8080: Approximate total amount of \$27,100 plus accrued interest, costs and fees as ordered through the Confirmation Date. Secured by SRC savings account at FNB. SRC is borrower and account pledgor, and Mr. and Ms. Kusiak are personal guarantors. This is a general description of the obligation to FNB. The loan documents control the rights, duties and obligations of the parties. To the extent of any conflict, the loan documents will control. The obligations under this Note shall be paid as promised in this Plan and in the loan documents.

4.4.11 Note No. 9511: Approximate total amount of \$36,200 plus accrued interest, costs and fees as ordered through the Confirmation Date. Secured by (i) real estate at 309 W Dixie St, MB 555/P553 dated August 14, 2002; (ii) house and 1.48 acre lot at 5175 Keavy Rd, MB 594/P 620 dated March 19, 2003; (iii) 38.38 Acres on Keavy Rd, MB 594/P620 dated March 19, 2003; and (iv) 5617 Keavy MB 635/P 437 dated October 2, 2003. SRC is borrower, Debtor is mortgagor and Mr. and Ms. Kusiak are personal guarantors. This is a general description of the obligation to FNB. The loan documents control the rights, duties and obligations of the parties. To the extent of any conflict, the loan documents will control. The obligations under this Note shall be paid as promised in this Plan and in the loan documents.

4.4.12 North Carolina Credit Card Claim: Approximate total amount of \$25,000 plus any accrued interest, costs and fees for the credit card related to the North Carolina insurance

proceeds, Account No. x2479, issued in the name of Star A Robbins and the subject of the Agreed Order Concerning North Carolina Insurance Proceeds [ECF No. 121].

4.4.13 Hope Credit Card Claim [POC No. 9]: Approximate total amount of \$10,580 as of Petition Date for that certain credit card No. x9413.

4.4.14 All loan documents shall remain in full force and effect including without limitation the obligations of Mr. Kusiak, Ms. Kusiak, SRC and/or the Debtor as makers, co-makers, guarantors and/or obligors.

4.5 **Class 5: Allowed Secured Tax Claims of City of Corbin.** Class 5 are the Allowed Secured Tax Claims of the City of Corbin for real estate *ad valorem* property taxes owed for tax years 2008, 2012, and 2017, secured by a statutory first lien on the property located at 1215 Maple Lane, Corbin KY, in the approximate total amount of \$5000 as of the Petition Date, plus accruing interest, fees and other charges as may be allowed by statute, less all payments received by the Class 5 Claimant on or before the Confirmation Date. The Class 5 Claims are Impaired. The exact Allowed Amount of the Class 5 Claims as of the Confirmation Date will be determined by Agreed Order or Order of the Court. The Allowed Class 5 Claims against the Debtor will be hereinafter referred to as the “Class 5 Claims.”

4.6 **Class 6: Allowed Secured Tax Claims of Mid South Capital Partners LP.** Class 6 are the Allowed Secured Tax Claims of Mid South Capital Partners (“Mid South”) for real estate *ad valorem* property taxes owed for tax year 2016, consisting of (i) approximately \$8,200 as of the Petition Date, plus accruing interest, fees and other charges as may be allowed by statute, secured by a statutory first lien on property known as “Camelot Place 10 Lots and House” located at 935 Camelot Place and surrounding vacant lots, all in Laurel County, KY; and (ii) approximately \$16,890 as of the Petition Date, plus accruing interest, fees and other charges as may be allowed by statute, secured by a statutory first lien on property known as “1255 South Main Street” London, KY. The Class 6 Claims are Impaired. The exact Allowed Amounts of the Class 6 claims as of the Confirmation Date will be determined by Agreed Order or Order of the Court. The Allowed Class 6 Claims against the Debtor will be hereinafter referred to as the “Class 6 Claims.”

4.7 **Class 7: Allowed Secured Tax Claim of Cumberland County North Carolina Tax Collector.** Class 7 is the Allowed Secured Tax Claim of Cumberland County North Carolina Tax Collector (“NC Tax Collector”) for real estate *ad valorem* property taxes owed for tax years 2017 and 2018 on property known as “935 Four Wood Drive” located in Fayetteville, NC. The claim is evidenced by Proof of Claim No. 6. The Allowed Secured Claim is in the approximate amount of \$7,625 as of the Petition Date, plus accruing interest at the statutory rate of 10.25%, fees and other charges as may be allowed by statute. The Class 7 Claim is Impaired. The exact Allowed Amount of the Class 7 Claim as of the Confirmation Date will be determined by Agreed Order or Order of the Court. The Allowed Class 7 Claim against the Debtor will be hereinafter referred to as the “Class 7 Claim.”

4.8 **Class 8: Allowed Secured Tax Claims of Laurel County/City of London.** Class 8 are the Allowed Secured Tax Claims of Laurel County/City of London for real estate *ad valorem*

property taxes owed for tax year 2017 on property located at (i) 935 Camelot, and (ii) 1251-53-55 S. Main St., in the approximate total amount of \$15,500 as of the Petition Date, plus accruing statutory interest at 12% per annum until paid in full, less all payments received by the Class 8 Claimant on or before the Confirmation Date. The Class 8 Claims are Impaired. The exact Allowed Amount of the Class 8 Claims as of the Confirmation Date will be determined by Agreed Order or Order of the Court. The Allowed Class 8 Claims against the Debtor will be hereinafter referred to as the “Class 8 Claims.”

4.9 **Class 9: Allowed Other Secured Claims and Secured Tax Claims.** Class 9 is all other Secured Claims or Secured Tax Claims, if any, excluding the Class 1-8 Allowed Secured Claims.

4.10 **Class 10: Allowed General Unsecured Claims.** Class 10 is the Allowed Unsecured Claims against the Debtor other than unclassified Claims, Cure Claims, Priority Tax Claims, and Priority Non-Tax Claims.

4.11 **Class 11: Equity Membership Interests in the Debtor.** Class 11 consists of those Persons or entities holding equity membership Interests in the Debtor, i.e., Star R. Kusiak, the sole member of the Debtor.

## **ARTICLE V**

### **TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS**

On the respective dates set forth herein and in the attached Plan Payments Chart, or as soon as practicable following the date a classified Claim becomes an Allowed Claim,<sup>1</sup> whichever is later, the Reorganized Debtor shall make the following payments, undertake the considerations hereinafter set forth, and be obligated with respect to such Claims, as follows. Pending allowance of any Claim, the Reorganized Debtor shall reserve the monthly payment amount on such Claim as set forth in the attached Plan Payments Chart pending final order of the Court, to wit:

5.1 **Class 1: Allowed Secured Claim of CGB.** The Allowed Amount of the Class 1 Claim will be paid in full with interest over time pursuant to the following terms. The Class 1 Claim is Impaired.

5.1.1 **Retention of Liens.** The Allowed Class 1 Claim will be paid in full over time, and will retain all liens securing the Allowed Class 1 Secured Claim until paid in full as set forth herein or as otherwise agreed by CGB or as ordered by the Court in the Confirmation Order.

5.1.2. **Post-Confirmation Rents.** Beginning on the Confirmation Date, all rents arising from the Collateral securing the Allowed Class 1 Claim shall remain subject to the existing assignment of rents, and shall be paid to the Reorganized Debtor, for use solely in accordance with the confirmed Plan and in the discretion of the Reorganized Debtor without further order of the

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<sup>1</sup> The Reorganized Debtor reserves all rights to object to all claims of any Class except as otherwise noted.

Court.

5.1.3 **Modification and Repayment of Allowed Class 1 Claim.** The Allowed Class 1 Claim will be repaid in full as set forth in the attached Plan Payments Chart. The existing loan documents are modified to reflect repayment terms of interest rate of 6.00%, 30 year amortization, with a final balloon payment on or before October 1, 2023, or such other terms as are approved by the Court in the Confirmation Order.

5.1.4 **No Prepayment Penalty.** In the event of the sale of or the refinancing of the Collateral securing the Allowed Claim, the Claim shall attach to the net proceeds of sale or refinancing, and the Claims shall be paid from same at closing, and may be prepaid in part or in full at any time without penalty.

5.2 **Class 2: Allowed Secured Claim of CTB.** The Allowed Amount of the Class 2 Claim will be paid in full with interest over time pursuant to the following terms. The Class 2 Claim is Impaired.

5.2.1 **Retention of Liens.** The Allowed Class 2 Claim will be paid in full over time, and will retain all liens securing the Allowed Class 2 Secured Claim until paid in full as set forth herein or as otherwise agreed by CTB or as ordered by the Court in the Confirmation Order.

5.2.2. **Post-Confirmation Rents.** Beginning on the Confirmation Date, all rents arising from the Collateral securing the Allowed Class 2 Claim shall remain subject to the existing assignment of rents, and shall be paid to the Reorganized Debtor, for use solely in accordance with the confirmed Plan and in the discretion of the Reorganized Debtor without further order of the Court.

5.2.3 **Modification and Payment of Allowed Class 2 Claim.** The Allowed Class 2 Claim will be repaid in full as set forth in the attached Plan Payments Chart. The existing loan documents are modified to reflect repayment terms of interest rate of 6.00%, 30 year amortization, with a balloon payment on or before October 1, 2023, or such other terms as are approved by the Court in the Confirmation Order.

5.2.4 **No Prepayment Penalty.** In the event of the sale of or the refinancing of the Collateral securing the Allowed Claim, the Claim shall attach to the net proceeds of sale or refinancing, and the Claims shall be paid from same at closing, and may be prepaid in part or in full at any time without penalty.

5.3 **Class 3: Allowed Secured Claims of CVNB.** The Allowed Amounts of the Class 3 Claims will be paid in full with interest over time pursuant to the following terms. The Class 3 Claims are Impaired.

5.3.1 **Retention of Liens.** The Allowed Class 3 Claims will be paid in full over time, and will retain all liens securing the Allowed Class 3 Secured Claims until paid in full as set forth herein or as otherwise agreed by CVNB or as ordered by the Court in the Confirmation Order.

5.3.2. **Post-Confirmation Rents.** Beginning on the Confirmation Date, all rents arising from the Collateral securing the Allowed Class 3 Claims shall remain subject to the existing

assignment of rents, and shall be paid to the Reorganized Debtor, for use solely in accordance with the confirmed Plan and in the discretion of the Reorganized Debtor without further order of the Court.

5.3.3 **Modification and Repayment of Allowed Class 3 Claims.** The Allowed Class 3 Claims will be repaid in full as set forth in the attached Plan Payments Chart. The existing loan documents for each of the below promissory notes are modified to reflect repayment terms of interest rate of 6.00%, 30 year amortization, with a balloon payment on or before October 1, 2023, or such other terms as are approved by the Court in the Confirmation Order, to wit:

Note No. 5569 Claim. The total Allowed Amount of the Note 5569 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before October 1, 2023.

Note No. 6407 Claim. The total Allowed Amount of the Note 6407 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before October 1, 2023.

Note No. 6409 Claim. The total Allowed Amount of the Note 6409 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before October 1, 2023.

Note No. 6784 Claim. The total Allowed Amount of the Note 6784 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before October 1, 2023.

Note No. 0350 Claim. The total Allowed Amount of the Note 0350 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before October 1, 2023.

Secured Credit Card Claims. The total Allowed Amount of the combined Secured Credit Card Claims as of the Confirmation Date shall be combined into one fully secured obligation, secured by the existing Collateral, and reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before October 1, 2023.

5.3.4 **No Prepayment Penalty.** In the event of the sale of or the refinancing of any of the Collateral securing any of the Allowed Claims, the Claims shall attach to the net proceeds of sale or refinancing in the same respective order of priority as currently exists, and the Claims shall be paid from same at closing in the same order of priority, and may be prepaid in part or in full at any time without penalty. If the CVNB lien is second, and if there are no net proceeds to attach to said second lien, it shall be deemed released at Closing or upon order of this Court if there is any dispute regarding same.

5.3.5. **State Court Foreclosure Case.** CVNB shall file a notice of stay, in a form acceptable to the Reorganized Debtor, of the proceedings in the Laurel Circuit Court Foreclosure

Action, as hereinafter defined, to make clear that the lawsuit is not going forward with any further action to sell properties at foreclosure, subject to all payments being timely made under the Plan. Any such notice of stay shall not interfere with the entry of the Agreed Judgment with FNB.

5.4 **Class 4: Allowed Secured Claims of FNB.** The Allowed Amounts of the Class 4 Claims will be paid in full with interest over time pursuant to the following terms. The Class 4 Claims are Impaired. All of the Proofs of Claim of FNB, including amendments, are Allowed as filed. All loan documents shall remain in full force and effect except as necessary to:

5.4.1 **Retention of Liens.** The Allowed Class 4 Claims will be paid in full over time, and will retain all liens securing the Allowed Class 4 Secured Claims until paid in full as set forth herein or as otherwise agreed by FNB or as ordered by the Court in the Confirmation Order.

5.4.2. **Post-Confirmation Rents.** Beginning on the Confirmation Date, all rents arising from the Collateral securing the Allowed Class 4 Claims shall remain subject to the existing assignment of rents, and shall be paid to the Reorganized Debtor, for use solely in accordance with the confirmed Plan and in the discretion of the Reorganized Debtor without further order of the Court. All post-confirmation leases or leasehold estates shall be rented only at fair market values during the Plan Term. Any lease or leasehold estate shall be subordinate to the rights of FNB under its mortgages. If any tenant in any FNB Collateral fails to make any monthly payment as and when due, such lease shall be terminated by the Reorganized Debtor and such tenant shall be evicted by appropriate means.

5.4.3 **Modification and Repayment of Allowed Class 4 Claims.** The Allowed Class 4 Claims, inclusive of all loans referenced in Paragraph 4.4, will be repaid in full as set forth in the attached Plan Payments Chart and in certain lump sums related to the North Carolina Property as set forth below. The existing loan documents for each of the below promissory notes are modified to reflect repayment terms of interest rate of 6.00%, 30 year amortization, with a balloon payment on or before October 1, 2023, or such other terms as are approved by the Court in the Confirmation Order, to wit:

Note No. 6910 Claim. The total Allowed Amount of the Note 6910 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before October 1, 2023.

Note No. 6920 Claim. The total Allowed Amount of the Note 6920 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before October 1, 2023.

Note No. 5740 Claim. The total Allowed Amount of the Note 5740 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before October 1, 2023.

Note No. 1720 Claim. The total Allowed Amount of the Note 1720 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before August 31, 2019 at Closing as described herein.



Note No. 5650 Claim. The total Allowed Amount of the Note 5650 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before October 1, 2023.

Note No. 5060 Claim. The total Allowed Amount of the Note 5060 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before August 31, 2019 at Closing as described herein.

Note No. 8070 Claim. The total Allowed Amount of the Note 8070 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before October 1, 2023.

Note No. 9511 Claim. The total Allowed Amount of the Note 9511 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before October 1, 2023.

Note No. 4630 Claim. The total Allowed Amount of the Note 4630 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before August 31, 2019 at Closing as described herein.

Note No. 3690 Claim. The total Allowed Amount of the Note 3690 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before October 1, 2023.

Note No. 8080 Claim. The total Allowed Amount of the Note 8080 Claim as of the Confirmation Date shall be reamortized into regular monthly payments, payable in equal monthly installments as set forth in the attached Plan Payment Chart, with the final balloon payment being due on or before October 1, 2023 and as described below regarding the North Carolina Property net proceeds.

North Carolina Credit Card Claim and Hope Credit Card Claim. The Allowed Amounts of both of these Claims shall be paid in full as described below on or before August 31, 2019 at Closing on the sale of the North Carolina Property. If not paid in full, any unpaid obligations shall remain the obligations of Ms. Kusiak (2479) and the Debtor (9413).

For purposes of clarity, the indebtedness reflected by each of the Allowed Class 4 Claims shall be collateralized and secured by the presently recorded FNB Mortgages and/or Deeds of Trust, up to the maximum amount allowed thereunder for each property, and without the necessity of any further recordation. Each recorded Mortgage and/or Deed of Trust shall be treated as securing the above indebtedness to the full maximum amount allowed thereunder.

5.4.4 **No Prepayment Penalty.** In the event of the sale of or the refinancing of any of the Collateral securing any of the Allowed Claims, the Claims shall attach to the net proceeds of sale or refinancing in the same respective order of priority as currently exists, and the Claims shall be paid from same at closing in the same order of priority, and may be prepaid in part

or in full at any time without penalty. If CVNB has a lien which is second to the lien of FNB, and if there are no net proceeds to attach to said second lien, it shall be deemed released at Closing or upon order of this Court if there is any dispute regarding same.

5.4.5 **Payment of North Carolina Sale Proceeds.** The Reorganized Debtor shall promptly list with a realtor the North Carolina Property for sale in the ordinary course and agrees to sell it to an unrelated third party in an arm's length bona fide sale on or before August 31, 2019. FNB and the Reorganized Debtor have agreed on the minimum purchase price which is acceptable to FNB. At a Closing to be conducted in the ordinary course, from the net proceeds of sale, after payment of any unpaid ad valorem property tax liens and the normal closing costs such as commissions and closing fees, FNB shall receive the net sale proceeds to be applied by FNB as follows: (i) first to the full payoff of Notes No. 1720, 4630 and 5060 (the "North Carolina Property Loans"), including principal, interest and costs and expenses; (ii) second to the full payoff of the North Carolina Credit Card Allowed Claim x2479; (iii) third to the full payoff of the Hope Credit Card Allowed Claim x9413; (iv) fourth for FNB attorney fees and any allowed professional fees of the Debtor on a 50/50% basis up to \$30,000 each; and (v) fifth, to the payoff of Note No. 8080. The Note No. 8080 is secured by a savings account with a balance of \$25,702.05 as of July 3, 2018. The loan balance as of July 3, 2018 is \$26,283.44. The savings account balance will be held until the Closing. If the available proceeds of the North Carolina Property are insufficient to pay in full Note No. 8080, then so much or all of the savings account will be used to pay off the balance of Note No. 8080. Any amounts not paid in full shall be and remain the obligation of such obligor.

As set forth in the attached Plan Payments Chart, the Reorganized Debtor shall repay FNB in the monthly amount of \$8,167.14 to be applied by FNB in any manner or amounts as determined by FNB in its sole and absolute discretion; provided, that if the North Carolina Property is timely sold as provided herein, and all balances owed on the North Carolina Property Loans are timely paid in full, then the monthly payment obligation shall be reduced from \$8,167.14 to \$7,081 per month.

Any excess net sale proceeds from the North Carolina Property over and above the forgoing shall be paid at Closing to the Reorganized Debtor to be used solely to fund Allowed Administrative and Priority Claims in their respective order of priority under the Plan.

5.4.6 **Release of all Claims.** In consideration of the foregoing, the Debtor releases any and all claims which it may have against FNB and upon Plan confirmation, all such claims of the Debtor and the Estate are waived and released in full, including but not limited to any Avoidance Actions and all other claims.

5.4.7 **Other Terms related to FNB Claims.** FNB, the Debtor and all the Affiliates shall enter into an Agreed Judgment in the Laurel Circuit Court action No. 17-CI-00783 (the "Laurel Circuit Court Foreclosure Action"), pursuant to which a judgment(s) shall be entered against Starlena Robbins Kusiak/Ms. Kusiak, Walter K. Kusiak/Mr. Kusiak, Star Robbins & Company, Inc., Hope Industries, LLC, The White Lilly Floral and Gifts, Inc., on all indebtedness owed to FNB. FNB shall not execute on the Agreed Judgment as long as all payments are timely made as provided in the Plan. If any civil action is commenced by any third-party claimant (who is not otherwise subject to the injunctions/stays herein) against Walter Kusiak, Star Robbins Kusiak and/or Star Robbins Company, notice shall be immediately given to FNB. IF FNB is

named in such civil action(s) or must otherwise act to protect its interest concerning the subject matter/collateral in any other civil action(s) then all injunctions/stays shall be immediately terminated as to FNB as to the subject matter/collateral of a civil action(s). The entirety of FNB's Plan treatment is contingent on all provisions thereof being approved. If any provision is not approved in a confirmed Plan, the agreement shall be invalid and unenforceable.

5.4.8 **Conflict.** To the extent of any conflict between the Term Sheet and the Plan, the Plan will control.

5.4.9. **Tax Liens.** Application of proceeds from the sale of the North Carolina Property and otherwise in the Plan shall be free and clear of any tax lien(s) except for the payment of the North Carolina statutory ad valorem tax lien(s) against the North Carolina Property.

5.5 **Class 5: Allowed Secured Tax Claims of City of Corbin.** The Allowed Amount of the Class 5 Claims will be paid in full with interest pursuant to the following terms. The Class 5 Claims are Impaired.

5.5.1 **Retention of Liens.** The Allowed Class 5 Claims will be paid in full over time, and will retain all liens securing the Allowed Class 5 Secured Claims until paid in full as set forth in the Plan Payments Chart or as otherwise agreed by Tax Claimant or as ordered by the Court in the Confirmation Order.

5.5.2 **Repayment of Class 5 Claims.** The Allowed Class 5 Claims will be repaid in full as set forth in the Plan Payments Chart attached hereto or as so ordered by the Court. The Allowed Claim will be paid in full including all interest, fees and charges allowed by law, in equal monthly installments beginning October 1, 2018 until paid in full. The Class 5 Claims are Impaired.

5.5.3 **No Prepayment Penalty.** In the event of the sale of or the refinancing of the Collateral securing the Allowed Claims, the Claims will attach to the net proceeds of sale or refinancing, and the Claims shall be paid in full from same at closing, and may be prepaid in full at any time without penalty.

5.6 **Class 6: Allowed Secured Tax Claim of Mid South Partners.** The Allowed Amount of the Class 6 Claims will be paid in full with interest pursuant to the following terms. The Class 6 Claims are Impaired.

5.6.1 **Retention of Liens.** The Allowed Class 6 Claims will be paid in full over time, and will retain all liens securing the Allowed Class 6 Secured Claims until paid in full as set forth in the Plan Payments Chart or as otherwise agreed by Tax Claimant or as ordered by the Court in the Confirmation Order.

5.6.2 **Repayment of Class 6 Claims.** The Allowed Class 6 Claims will be repaid in full as set forth in the Plan Payments Chart attached hereto or as so ordered by the Court. The Allowed Claim will be paid in full including all interest, fees and charges allowed by law, in equal

monthly installments beginning October 1, 2018, until paid in full. The Class 6 Claims are Impaired.

5.6.3 **No Prepayment Penalty.** In the event of the sale of or the refinancing of the Collateral securing the Allowed Claims, the Claims will attach to the net proceeds of sale or refinancing, and the Claims shall be paid in full from same at closing, and may be prepaid in full at any time without penalty.

5.7 **Class 7: Allowed Secured Tax Claim of Cumberland County Tax Collector.** The Allowed Amount of the Class 7 Claims will be paid in full with interest pursuant to the following terms. The Class 7 Claims are Impaired.

5.7.1 **Retention of Liens.** The Allowed Class 7 Claims will be paid in full over time, and will retain all liens securing the Allowed Class 7 Secured Claims until paid in full as set forth in the Plan Payments Chart or as otherwise agreed by Tax Claimant or as ordered by the Court in the Confirmation Order.

5.7.2 **Repayment of Class 7 Claims.** The Allowed Class 7 Claims will be repaid in full as set forth in the Plan Payments Chart attached hereto or as so ordered by the Court, and will be paid in full at Closing of the sale of the North Carolina Property from the net sale proceeds after normal closing costs. The Allowed Claim will be paid in full including all interest, fees and charges allowed by law, in equal monthly installments beginning October 1, 2018, until paid in full. The Class 7 Claims are Impaired.

5.7.3 **No Prepayment Penalty.** In the event of the sale of or the refinancing of the Collateral securing the Allowed Claims, the Claims will attach to the net proceeds of sale or refinancing, and the Claims shall be paid in full from same at closing, and may be prepaid in full at any time without penalty.

5.8 **Class 8: Allowed Secured Tax Claims of Laurel County/City of London.** The Allowed Amount of the Class 8 Claims will be paid in full with interest pursuant to the following terms. The Class 8 Claims are Impaired.

5.8.1 **Retention of Liens.** The Allowed Class 8 Claims will be paid in full over time, and will retain all liens securing the Allowed Class 8 Secured Claims until paid in full as set forth in the Plan Payments Chart or as otherwise agreed by Tax Claimant or as ordered by the Court in the Confirmation Order.

5.8.2 **Repayment of Class 8 Claims.** The Allowed Class 8 Claims will be repaid in full as set forth in the Plan Payments Chart attached hereto or as so ordered by the Court. The Allowed Claim will be paid in full including all interest, fees and charges allowed by law, in equal monthly installments beginning October 1, 2018, until paid in full. The Class 8 Claims are Impaired.

5.8.3 **No Prepayment Penalty.** In the event of the sale of or the refinancing of the Collateral securing the Allowed Claims, the Claims will attach to the net proceeds of sale or refinancing, and the Claims shall be paid in full from same at closing, and may be prepaid in full

at any time without penalty.

5.9 **Class 9: Allowed Other Secured Claims or Other Secured Tax Claims.** In satisfaction of the Allowed Secured Claim of any Class 9 Claimants, if any, the Reorganized Debtor shall, on the Effective Date, or such other date as may be agreed on, at the Debtor's option, either: (i) surrender the collateral to the Claimant to allow it to liquidate said collateral at its discretion; or (ii) pay the amount of such Allowed Secured Claim to the Class 9 Creditor over time during the life of the Plan, over 60 months. The Class 9 Claims are Impaired. There are no known claims in this Class.

5.10 **Class 10: Allowed General Unsecured Claims.** Each holder of an Allowed Claim in Class 10 shall receive a Distribution equal to its *pro rata* share of the monthly payment amount as set forth in the Plan Payments Chart. Each holder of an Allowed Claim in Class 10 shall receive its distribution monthly until paid in full, without interest. Distributions to holders of Class 10 Allowed Claims shall be made monthly beginning on October 1, 2018, and continuing until paid in full, without interest, on or before October 1, 2023. There shall be no prepayment penalty to pay Allowed Class 10 Claims in full, without interest, earlier than October 1, 2023. There shall be no payment on the Class 10 Claim of the Kusiaks unless and until all other Allowed Claims under the Plan have been repaid in full.

5.11 **Class 11: Equity Membership Interests in the Reorganized Debtor.** In order to retain her membership interests, member Star R. Kusiak shall make an immediate "new value" contribution of \$50,000 on or before the Confirmation Date, or such other amount as ordered by the Court in the Confirmation Order, which shall be used by the Reorganized Debtor as a reserve fund, held to assure the monthly payments in the Plan Payment Chart and to be used only for repayment obligations for any Allowed Claims under the Plan.

There will be no dividends, member distributions, or any other payments to or on account of the Equity Membership Interests unless and until all other Allowed Claims have been paid in full as provided herein. The Class 11 Claims are Impaired.

5.12 **Valuation of Secured Claims.** Under 11 U.S.C. § 506, if any dispute over valuation occurs with any Secured Creditor, the Debtor reserves the right to request that the Court determine the value of the Creditor's interest in the Collateral which secures the Creditor's Claim.

## **ARTICLE VI**

### **MEANS OF IMPLEMENTATION OF PLAN**

6.1 **General Description of Means of Implementation.** In overview, the Debtor will continue to operate post-Confirmation as the Reorganized Debtor in the ordinary course of business, receiving ongoing rental income from its properties to be used to fund Plan payments within its discretion, and soliciting either property sales, additional rentals and/or refinancings from other traditional and nontraditional lenders in the ordinary course of its business affairs. As reflected in the Plan Payments Chart, the implementation of the Plan repayment structure is to be

financed by the net rental incomes of the Reorganized Debtor, after reserves for insurance and property taxes, and by financial contributions within the Plan structure by SRC and Star and Walter Kusiak, who are borrowers, co-obligors and/or guarantors on all of the indebtedness being repaid within the Plan.

6.2 **Vesting of the Debtor's Assets.** At the Confirmation Date, all Assets of the Debtor and the Estate, including all Avoidance Actions and Causes of Action will revert in and remain with the Reorganized Debtor, free and clear of all liens, claims, interests, and encumbrances, except for those liens provided for in the Plan. Nothing herein shall prohibit the Reorganized Debtor from continuing its efforts to sell, lease or refinance its various properties in the ordinary course of its business. The multiple DIP bank accounts will revert to one post-confirmation bank account for the Reorganized Debtor. While the case remains open, the Reorganized Debtor will remain subject to the jurisdiction of this Court until its Bankruptcy Case is closed or dismissed. Parties may bring motions before the Court regarding any disputes over the sale of any property, but are not required to do so.

6.3 **Funding the Plan Payments.**

6.3.1 **Post-Confirmation Ordinary Course Cash Flows of Reorganized Debtor.** The Reorganized Debtor will fund Plan payments to Allowed Claims of Creditors as provided for under the Plan, from net post-Confirmation income and revenues, after reserving for ordinary costs of insurance, taxes and maintenance. Notwithstanding any prior Order, as of the Effective Date, and as long as the Reorganized Debtor has not materially defaulted under the terms of this Plan, the Reorganized Debtor shall have the right to collect and use all revenues and other cash derived from the operation of the Assets and to handle same within its discretion.

6.3.2 **Post-confirmation Co-Obligors Plan Payments.** The Reorganized Debtor has the written commitment from SRC, Mr. Kusiak and Mrs. Kusiak, which is attached hereto and binding on all parties, to fund out of their respective cash flows the amounts as set forth in the Plan Payments Chart of \$14,500 per month, being the amount projected to be necessary to meet the projections and amortization repayment schedules herein, and to assure that the Reorganized Debtor complies with the Plan Payments Chart. Additionally, Ms. Kusiak is funding the \$50,000 new value amount to be held in reserve to be used solely for Plan payments and any shortfalls in monthly projections as needed. Each Affiliate co-obligor and guarantor jointly and severally liable with Debtor is waiving all claims that each has for reimbursement, contribution and indemnity as part of making the Plan payments. Debtor is waiving all claims it may have against any Affiliate co-obligor and guarantor jointly and severally liable with Debtor on any claims or claims secured by Debtor's assets. The Debtor, Mr. Kusiak, Ms. Kusiak and Star Robbins Company will jointly and severally pay FNB a monthly payment in the amount of \$8,167.14 as provided in the Plan Payment Chart, notwithstanding anything to the contrary herein.

6.3.3 **Post-confirmation Sales and Refinancings.** Except as otherwise provided herein (i.e., the North Carolina Property Loans), the Reorganized Debtor, SRC and/or Mr. and Ms. Kusiak may enter into such post-confirmation sales of Assets, loans and refinancings in their sole discretion and as may be necessary to meet Plan obligations, without further order of this Court.

Any party may bring any dispute regarding same to the Court, which shall retain jurisdiction over the Plan and the Assets until the case is closed, and thereafter if the case is subsequently reopened upon order of the Court. The net sales or refinancing proceeds shall be applied to reduce Claims in their order of priority against the proceeds, and any additional unencumbered sums shall be used for payment of other Allowed Claims in their respective order of priority. The confirmation of the Plan is not likely to be followed by liquidation or further reorganization, except for the ordinary course real estate sales as proposed herein in the ordinary course throughout the Plan term.

6.4 **Quarterly Reports.** The Reorganized Debtor will file United States Trustee quarterly reports until such time as its Bankruptcy Case is closed, converted, or dismissed, whichever occurs first.

6.5 **Continued Engagement of Professionals.** The Reorganized Debtor shall continue the engagement of DelCotto Law Group PLLC and such other professionals as may be necessary for the purposes of rendering services in connection with implementing the Plan, resolving Claims, and performing routine post-Confirmation Chapter 11 administration, such as final reporting and moving to have the Bankruptcy Case closed upon substantial consummation of the Plan. Post-Confirmation, any professional services will not require Court approval.

6.6 **Ordinary Course LLC Operations.** The Debtor will continue to operate following Confirmation in the ordinary course as the Reorganized Debtor, subject to the continuing jurisdiction and supervision of this Court until its case is closed. The Debtor shall not issue any additional voting or non-voting LLC membership interests during the Plan term.

6.7 **Parties Responsible for Implementation of the Plan and Compensation for Same.** Upon confirmation, Ms. Kusiak shall continue acting as Member of the Reorganized Debtor, and will continue to manage the Debtor's operations, acting subject to the terms of this Plan. Ms. Kusiak has the authority to take all actions desirable in her business judgment to continue the operations of the Reorganized Debtor, including implementation of the Plan and administration of the Reorganized Debtor's Estate. For these duties, Ms. Kusiak will not receive any salary or compensation other than reimbursement of ordinary course expenses. Ms. Kusiak will have the authority to take all actions desirable in her business judgment to continue the operations of the Reorganized Debtor, including implementation of the Plan and administration of the Debtor's Estate. For these duties, Ms. Kusiak may also use the services of the bookkeeping employees of SRC to assist in these duties, as was conducted prepetition, where the services are paid for *pro rata* by each company. Ms. Kusiak will receive no compensation for her services for the Reorganized Debtor, but the Reorganized Debtor may compensate any outside SRC employees who provide services for the Reorganized Debtor at their normal hourly rates as existed prior to bankruptcy. Any such payments shall be documented by the Reorganized Debtor. The Reorganized Debtor may pay Mr. Kusiak a reasonable hourly rate and reimbursement of ordinary course expenses for any repair and maintenance work that he performs on the Debtor's properties; provided, however, that all Plan payments shall be current prior to any such payments being made. The Reorganized Debtor will pay all United States Trustee fees and will file all post-Confirmation reports required by the United States Trustee's Office. The Reorganized Debtor will also file the

necessary final reports and will request to close the Bankruptcy Case as soon as practicable after Plan payments have begun upon substantial consummation of the Plan.

6.8 **Vesting and Prosecution of Claims and Causes of Action.** The Debtor's rights, duties, and obligations to investigate, prosecute, and collect all of the Debtor's and the Estate's Causes of Action and to pursue Avoidance Actions shall pass to and vest in the Reorganized Debtor as of the Effective Date. The Reorganized Debtor may, but shall not be required to, prosecute any Avoidance Action in its sole discretion.

6.9 **Notice of Default/Cure Period.** In the event of any alleged default under the Plan, any affected Creditor must give a written default notice to the Reorganized Debtor with a copy of said notice emailed to the counsel of record for the Debtor, specifying the nature of the default. If any Creditor waives any default or delay in its monthly Plan Payments by agreement, it shall not constitute a waiver of future rights to declare default. Any Creditor whose Claims are being repaid under the Plan has the right to also declare a default if any other third party brings collection action against any of the Affiliates against whom enforcement of Allowed Claims is enjoined in this Plan. The Reorganized Debtor shall have fifteen (15) days to cure such default from the first date the Reorganized Debtor receives the default notice. If such default has not been cured within the 15-day cure period, then the Claimant shall have the right to seek appropriate relief from the terms of the confirmed Plan in the Bankruptcy Court or seek whatever remedies may be available to the Claimant against any party or property under state law, without the need to obtain Bankruptcy Court approval.

6.10 **Retiree Benefit Plans-Governmental Approvals.** There are no qualified retiree benefit plans as established by 11 U.S.C. § 1114, and no such plans will be continued post-Confirmation. There are no governmental regulatory commissions whose approval is necessary.

## **ARTICLE VII**

### **EXECUTORY CONTRACTS AND LEASES**

7.1 **Assumption, Assignment and/or Rejection.** The following terms shall govern the Debtor's assumption, assignment, and/or rejection of its respective Executory Contracts and/or Unexpired Leases:

7.1.1 **Assumption of Certain Unexpired Leases.** The following Unexpired Leases shall be assumed by the Debtor upon Confirmation: SEE EXHIBIT B to Disclosure Statement. Following Confirmation, the Reorganized Debtor is authorized to enter into new written leases with the parties who currently have month to month leases.

7.1.2 **Assumption of Certain Executory Contracts.** The following Contracts shall be assumed by the Debtor upon Confirmation: SEE EXHIBIT B to Disclosure Statement.

7.1.3 **All Other Executory Contracts and/or Unexpired Leases.** The Debtor reserves the right to apply to this Court at any time prior to Confirmation for authority to assume,



assign, or reject any other Executory Contracts and/or Unexpired Leases beyond those referenced in Section 7.1.1, in whole or in part as provided in 11 U.S.C. §§ 365 and 1123. All remaining Executory Contracts and Unexpired Leases for which the Debtor has not specifically so moved on or before the Confirmation Date shall be deemed rejected as of said date (the “Rejection Date”); provided, however, that any such motions, requests, proceedings, or actions to seek to assume or reject, or to determine Allowed Cure Claims, pending at the Confirmation Date shall be continued until determined by Final Order of the Bankruptcy Court or other court of competent jurisdiction.

7.2 **Bar Date for Rejection Damages Claims.** Any proof of claim that any third party has with respect to the rejection of any Unexpired Lease or Executory Contract must be filed no later than thirty (30) days after the later of: (i) entry of a Final Order of this Court authorizing such rejection, or (ii) the Rejection Date. Any such Claim for rejection damages shall be treated as a Class 10 Unsecured Claim.

7.3 **Allowed Cure Claims on Assumed Unexpired Leases and/or Executory Contracts.** If the Debtor applies for and receive the Court’s authorization to assume an Unexpired Lease or Executory Contract as provided under 11 U.S.C. § 365, other than those Unexpired Leases and Executory Contract specifically addressed herein, the other party to said Lease or Contract shall have thirty (30) days to seek allowance of a Cure Claim from the Bankruptcy Court, provided that the Court has not already entered an order or agreed order specifying the Cure Claim terms. If no such allowance of a Cure Claim is sought within that time period, all such Claims shall be barred. However, if a Cure Claim is timely sought and thereafter Allowed by the Court, the Debtor will then consult with the Cure Claimant to negotiate the repayment terms of the Allowed Cure Claim over a reasonable period of no longer than two (2) years from the Effective Date.

7.4 **Repossession Deadline for Rejected Personalty.** Unless a different time period is set forth in any separate order, the lessor of any equipment or other personal property deemed rejected under an Order of the Court or by virtue of Section 7.1.2 above shall have thirty (30) days following the Rejection Date (“Repossession Date”) in which to take possession of said equipment or property. If said equipment or property is not taken by said lessor by the Repossession Date, then said equipment shall be deemed abandoned by lessor to the Reorganized Debtor, free and clear of any Liens, Claims, encumbrances, or interests which may be claimed by a lessor.

7.5 **Post-Confirmation Rents.** All post-confirmation leases or leasehold estates shall be rented only at fair market values during the Plan Term. Any lease or leasehold estate shall be subordinate to the rights of FNB under its mortgages. If any tenant in any FNB Collateral fails to make any monthly payment as and when due, such lease shall be terminated by the Reorganized Debtor and such tenant shall be evicted by appropriate means.

## **ARTICLE VIII**

### **VOTING AND REQUEST FOR PLAN CONFIRMATION**

8.1 **Voting Procedure.** ACCEPTANCE OR REJECTION OF THE PLAN WILL BE DETERMINED, PURSUANT TO THE BANKRUPTCY CODE, BASED UPON THE BALLOTS OF THE CREDITORS HOLDING ALLOWED CLAIMS THAT ACTUALLY VOTE ON THE PLAN. THEREFORE, IT IS IMPORTANT THAT CLAIMANTS EXERCISE ITS RIGHT TO VOTE TO ACCEPT OR REJECT THE PLAN.

8.2 **Classes Entitled to Vote on the Plan.** All Creditors who have an Impaired Claim are entitled to vote to accept or reject the Plan. Classes 1-10 may vote. Class 11 is equity interests and is assumed to have voted in favor of the Plan.

8.3 **General Provisions for Voting.** Any Creditor holding a Claim that does not vote will not be counted in the percentage or number requirements for voting. A Claim that has been objected to is not an Allowed Claim unless and until the Court rules on the objection. The Court may temporarily set an amount for such an objected Claim for purposes of voting on the Plan. The allowance or disallowance of any Claim for voting purposes does not necessarily mean that all or a portion of the Claim or interest will be allowed or disallowed for distribution purposes under the Plan.

8.4 **Requirement of Acceptance by One Class of Claims.** As a condition of Confirmation, the Bankruptcy Code requires that each class of Claims that is impaired vote to accept the Plan, subject to the exception of 11 U.S.C. § 1129(b), which requires at least one class of Claims that is impaired to have voted to accept the Plan.

8.5 **Confirmation by Cramdown Pursuant to 11 U.S.C. § 1129(b).** The Debtor shall seek Confirmation of the Plan pursuant to 11 U.S.C. § 1129(b) with respect to any rejecting Class of Claims. The Debtor also reserves the right to modify the Plan and seek Confirmation otherwise consistent with the Bankruptcy Code.

8.6 **Conditions Precedent to Confirmation.** The following are conditions precedent to confirmation of this Plan:

8.6.1 **Disclosure Statement.** The Court shall have finally approved a Disclosure Statement with respect to this Plan as containing adequate information within the meaning of 11 U.S.C. § 1125.

8.6.2 **Form of Confirmation Order.** The Confirmation Order shall be in a form and substance satisfactory to the Debtor.

8.7 **Conditions Precedent to Effective Date.** Before the Plan becomes effective, the Confirmation Order shall have become a Final Order.

## **ARTICLE IX**

### **DISTRIBUTIONS**

9.1 **Distributions on Claims Allowed as of Effective Date.** The Reorganized Debtor shall begin to make Distributions under the Plan, in accordance with the Plan terms and the attached Plan Payment Chart beginning on October 1, 2018, the anticipated first month following the Effective Date, and on or by the first of each month thereafter. In the event the Effective Date is later, then the payments shall begin on the first day of the month subsequent to the month of the Effective Date.

9.2 **Method of Distributions.** Any payment made by the Reorganized Debtor pursuant to the Plan shall, at the Reorganized Debtor's option, be made by check drawn on a domestic bank, wire transfer, or any other means available for payment to be remitted.

9.3 **Timing of Distributions.** In the event that any payment, Distribution, or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or Distribution or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

9.4 **Delivery of Distributions.** Subject to Fed. R. Bankr. P. 9010, all Distributions under the Plan to holders of Allowed Claims shall be made to the holder of each Allowed Claim at the address of such holder as listed on the Claimant's Proof of Claim and if none, the Debtor's Schedules as of the Effective Date unless the Reorganized Debtor have been notified in writing of a change of address, including, without limitation, by the timely filing of a Proof of Claim by such holder prior to the Effective Date that provides an address for such holder different from the address reflected on the Schedules. In the event that any Distribution to any such holder is returned as undeliverable, the Reorganized Debtor shall use reasonable efforts to determine the current address of such holder, but no Distribution to such holder shall be made unless and until the Reorganized Debtor have determined the then-current address of such holder, at which time such Distribution shall be made to such holder.

9.5 **Unclaimed Distributions.** All unclaimed payments or Distributions made to any Creditor under the Plan, including but not limited to, unnegotiated checks or drafts, shall, six (6) months after the date of any Distribution, revert to the Reorganized Debtor to be redistributed pursuant to the Plan, and shall be forfeited as to the affected Creditors. Any Creditor whose payment is forfeited under this provision will thereafter be treated as having a Disallowed Claim.

9.6 **De Minimis Distribution Cutoff.** If a Distribution to be made to a Creditor holding an Allowed Claim would be \$50.00 or less in the aggregate, notwithstanding any contrary provision of this Plan, no such Distribution will be made to such holder unless a request therefore is made in writing to the Reorganized Debtor.

9.7 **Compliance with Tax Requirements.** A Distribution may be withheld until such time as such holder of the applicable Allowed Claim provides the necessary information to comply with any withholding requirements of any governmental unit, if any. Any property so withheld will then be paid to the appropriate authority. If the holder of an Allowed Claim fails to provide the information necessary to comply with any withholding requirements of any governmental unit within six (6) months from the date of first notification to the holder of the need for such information or for the cash necessary to comply with any applicable withholding requirements,

then such holder's Distribution shall be treated as an unclaimed Distribution in accordance with this Plan.

9.8 **Allocations of Distributions between Principal and Interest.** To the extent that any Allowed Claim entitled to a Distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall be allocated first to the principal amount of the Claim (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claim, to accrued but unpaid interest, unless otherwise specifically set forth herein or expressly agreed by the Reorganized Debtor and the Claimant.

9.9 **No Interest on Claims.** Except as specifically provided for in the Plan, interest shall not accrue on Claims, and no holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim other than as provided herein. Interest shall not accrue or be paid on any Disputed Claim for the period from the Petition Date to the date that such a Disputed Claim becomes an Allowed Claim, and shall not accrue thereafter, except as otherwise provided in any Order of the Court. Except as expressly provided herein or in a Final Order of the Court, no prepetition Claim shall be Allowed to the extent that it is for postpetition interest or other similar charges.

## **ARTICLE X**

### **PROCEDURES FOR RESOLUTION OF DISPUTED CLAIMS AND CLAIM ESTIMATES**

10.1 **Procedure for Contingent and Unliquidated Claims.** Creditors holding contingent or unliquidated Claims shall have sixty (60) days from the Confirmation Date to file a motion with the Court to have their Claim Allowed. Upon the allowance of a contingent or unliquidated Claim, it shall be entitled to Distribution under the Plan consistent with the treatment of other Claims in the Class in which the contingent or unliquidated Claim is ultimately Allowed. The contingent or unliquidated Claim of any Creditor who fails to initiate action pursuant to this provision for the allowance of its Claim as set forth herein shall have its Claim disallowed and be forever barred from seeking any recovery from the Debtor, the Estate, and the Assets.

10.2 **Objections to Claims.** Unless otherwise ordered by the Bankruptcy Court, all objections to Claims, including determinations regarding the priority/type of status of any Claim, shall be filed on or before ninety (90) days following the Effective Date, or forty-five (45) days following the filing of any Claim, whichever is later (the "Claims Objection Bar Date"), without prejudice to the extension of such period upon proper application therefor. The objecting party shall serve a copy of each such objection upon the holder of the Claim in accordance with Fed. R. Bankr. P. 3007.

10.3 **Estimation of Claims.** At any time, the Reorganized Debtor may request that the Court estimate any contingent or unliquidated Claim to the extent permitted by 11 U.S.C. § 502(c), regardless of whether the Reorganized Debtor have previously objected to such Claim or whether the Court has ruled on any such objection, and the Court shall have jurisdiction to estimate any

Claim at any time during litigation concerning any objection to such Claim, including during the pendency of any appeal relating to any such objection. If the Court estimates any contingent or unliquidated Claim, that estimated amount shall constitute either the Allowed amount of such Claim or a maximum limitation on the Claim, as determined by the Court. If the estimated amount constitutes a maximum limitation on the Claim, the Reorganized Debtor may elect to pursue supplemental proceedings to object to the ultimate allowance of the Claim. All of the aforementioned Claims objection, estimation, and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Court.

10.4 **No Distributions Pending Allowance.** Pending final allowance of any Claims, funds, in an estimated amount, shall be held by the Reorganized Debtor in reserve for distribution, but no distribution shall occur until a Claim is finally Allowed and its exact Allowed Amount determined.

10.5 **Authority to Compromise and Settle Disputed Claims without Court Approval.** On and after the Effective Date, the Reorganized Debtor shall have the authority to compromise, settle, otherwise resolve, or withdraw any objections to Disputed Claims without approval of the Bankruptcy Court, unless otherwise ordered in the Confirmation Order.

## **ARTICLE XI**

### **EFFECT OF PLAN CONFIRMATION, DISCHARGE, AND INJUNCTIONS/STAYS**

11.1 **Discharge of Claims.** Except as provided in the Confirmation Order, pursuant to 11 U.S.C. § 1141(d), the rights afforded under the Plan and the treatment of Claims and Equity Security Interests under the Plan as to the Reorganized Debtor shall be in exchange for and in complete satisfaction, settlement, discharge and release of all Claims and replaced with the Claim Treatment within the Plan. The Confirmation Order shall discharge the Debtor from all Claims and other debts that arose before the Confirmation Date and all debts of the kind specified in 11 U.S.C. §§ 502(g), 502(h), or 502(i), whether or not (i) a Claim based on such debt is allowed pursuant to 11 U.S.C. § 502, or (ii) the holder of a Claim based on such debt has accepted the Plan. As of the Confirmation Date, all persons and entities shall be precluded from asserting against the Debtor and the Reorganized Debtor, the Estate, or their successors or property, any other or further Claims, debts, rights, causes of action, or liabilities based upon any act, omission, transaction or other activity of any nature incurred prior to the Confirmation Date. In accordance with the foregoing, the Confirmation Order shall be a judicial determination of discharge of all such Claims and other debts and liabilities of the Debtor, pursuant to 11 U.S.C. §§ 524 and 1141, and such discharge shall void any judgment obtained against the Debtor at any time to the extent that such judgment relates to a discharged Claim. For purposes of clarity, this paragraph shall not preclude a party from pursuing the enforcement of its treatment being granted under the Plan. The discharge granted to the Debtor hereunder shall not prohibit any Creditor from pursuing any non-Debtor guarantor or co-obligor, **subject to the provisions contained in Section 11.3, 11.4, and 11.6 herein**, and no non-Debtor is being released or discharged from its own liabilities.

11.2 **Subordination Rights.** The classification and manner of satisfying all Claims and Equity Security Interests and the respective Distributions and treatments hereunder takes into account and/or conforms to the relative priority and rights of the Claims and Equity Security Interests in each Class of the Debtor in connection with any contractual, legal, and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, 11 U.S.C. § 510(b), or otherwise, and any and all such rights are settled, compromised, and released pursuant to the Plan. The Confirmation Order shall permanently enjoin, effective as of the Effective Date, all persons and entities from enforcing or attempting to enforce any such contractual, legal, and equitable subordination rights satisfied, compromised, and settled in this manner.

11.3 **Injunctions.** Except as otherwise provided in the Confirmation Order, the entry of the Confirmation Order shall constitute an injunction against all Claimants treated in the Plan from taking any actions to commence or continue any action or proceeding that arose before the Confirmation Date against or affecting the Reorganized Debtor, the Estate, or the Assets, *and against any guarantors, co-obligors, SRC, Walter Kusiak, Star Kusiak, or other person who might be obligated on any Claim along with the Reorganized Debtor or for whom the Reorganized Debtor pledged its assets to secure such party's indebtedness*, so long as the Reorganized Debtor is in compliance with the Plan provisions and so long as no third party whose claim is not enjoined under the Plan has commenced any civil action or otherwise taken enforcement action against any of said parties. That is to say, no party in interest whose Claims are treated in the Plan may take any steps to collect or otherwise proceed on its claims against SRC, the Kusiaks, or White Lily, or any other Person obligated on a Claim or who is assisting in the funding of the Plan, so long as the Reorganized Debtor is performing and in compliance with the Plan as confirmed. No guarantor or co-obligor is being released, but no party can pursue any such Person so long as the Reorganized Debtor is in Plan compliance.

11.4 **Terms of Injunctions and Stays.** Except as may be otherwise provided in the herein or in the final Confirmation Order, the Confirmation Order will permanently enjoin the commencement or prosecution by any person or entity, whether directly, derivatively or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities being treated or modified pursuant to the Plan, except for the treatment as provided for in the Plan.

11.5 **Injunction and Stay against Claimants as to Member, Officers and Insiders.** On the Effective Date, any Creditor asserting any type of personal liability against any Member, Officer, or Insider shall be precluded and stayed from asserting against any such Member, Officer or Insider any Claim that is provided herein for payment in full by the Reorganized Debtor under the Plan, so long as the Reorganized Debtor is in compliance with the Plan; provided, however, any such claimant may obtain exemption from this stay: (i) if the Plan is in default, (ii) if such holder obtains such exemption by the entry of an Order of the Court, and (iii) if such Allowed Claim is not paid in full pursuant to the terms of this Plan. For clarity, no such guarantor, co-obligor, insider, member or officer shall be released by the Plan until Reorganized Debtor has paid the Allowed Claim in full.

**Notwithstanding anything herein to the contrary, the injunctions and stays shall not apply to any Claimant if any party who is not enjoined commences any civil action or has otherwise taken enforcement or other action against such Claimant or other parties.**

11.6 **Indemnities for Members, Directors and Officers.** Any state law indemnity obligations of the Debtor to its member, as provided by statute or the operating agreements of the Debtor, shall continue, unaffected by the Plan, to the extent as they existed on the Petition Date.

11.7 **Post-Confirmation Liabilities of the Reorganized Debtor.** The Reorganized Debtor will not have any prepetition liabilities except those expressly assumed and/or addressed under the Plan. The Reorganized Debtor will be responsible for all ongoing post-confirmation business expenses and payments due and owing or contemplated under the Plan.

11.8 **Copies of Confirmation Order Sufficient Evidence of Waivers, Releases.** Upon Confirmation of this Plan, a true and correct copy of the Confirmation Order shall be legally sufficient evidence of the terms, provisions, and effects of this Plan for all purposes in any subsequent judicial proceeding or official record.

11.9 **Binding Effect.** The rights and obligations of any Person named or referred to in this Plan shall be binding upon, and shall inure to the benefit of, such Person and all successors, heirs, and assigns of such Person.

## **ARTICLE XII**

### **MISCELLANEOUS PLAN PROVISIONS**

12.1 **Effectuating Documents.** The Reorganized Debtor is hereby authorized to execute, deliver, file, or record such documents, contracts, releases and other agreements, and take all such further action as may be necessary, to effectuate and further evidence the terms of this Plan. The corporate charter and the Operating Agreement of the Reorganized Debtor is hereby amended to include a provision prohibiting the issuance of additional non-voting equity securities and membership interests in accordance with 11 U.S.C. § 1123(a)(6).

12.2 **Exemption from Certain Transfer Taxes.** Pursuant to 11 U.S.C. § 1146(a), the delivery of any instrument or transfer under, and furtherance of, or in connection with, the Plan, including but not limited to deeds, bills of sale, assignments, or other instruments of transfer, shall not be subject to any stamp tax, real estate tax, or similar transfer tax.

12.3 **Closing of the Case.** After Confirmation, the Reorganized Debtor may seek to close its Bankruptcy Case upon substantial consummation of the Plan; provided, however, that any closure shall be subject to the following conditions authorized by 11 U.S.C. § 349(b): (a) said closing shall not alter, amend, revoke or supersede the terms of the confirmed Plan; (b) all rights of the Debtor, Creditors, or any other Person treated under the Plan shall remain unaffected by said closing; (c) the terms of the confirmed Plan shall be binding on all Persons; (d) all orders

previously entered by the Court, unless altered by the Plan, shall remain in full force and effect; and (e) the Court shall retain all jurisdiction set forth herein.

12.4 **Further Authorizations.** The Reorganized Debtor shall be entitled to seek such orders, judgments, injunctions, and rulings they deem necessary or desirable to carry out the intentions and purposes, and to give full effect to the provisions, of this Plan.

12.5 **Modification or Withdrawal of Plan.** The Debtor reserves the right to modify this Plan in accordance with 11 U.S.C. § 1127 and Fed. R. Bankr. P. 3019 at any time prior to the Confirmation Date. Subject thereto, the Debtor may modify this Plan, before or after the Confirmation Date but prior to substantial consummation of this Plan, without notice or hearing, or after such notice as the Court deems appropriate, if the modification does not materially and adversely affect the rights of any parties in interest which have not had notice or opportunity to be heard with regard thereto. In the event of any modification of this Plan on or before the Confirmation Date, any votes to accept or reject the Plan shall be deemed to be votes to accept or reject as modified, unless the Bankruptcy Court finds that the modification materially and adversely affects the rights of the parties which have cast said votes. Further, the Debtor reserves the right to revoke or withdraw this Plan any time before entry of the Confirmation Order. If the Debtor revokes or withdraws the Plan prior to the Confirmation Date, or if Confirmation or the Effective Date do not occur, this Plan shall be deemed null and void.

12.6 **Consummation of the Plan.** Substantial consummation shall occur when the Reorganized Debtor has begun making the Distributions to holders of Allowed Claims as provided for under the Plan, and has done so without default for a period of at least 6 months.

12.7 **Severability of Plan Provisions.** If the Court determines at the Confirmation Hearing that any material provision of this Plan is invalid or unenforceable, such provision, subject to 11 U.S.C. § 1127, shall be severable from this Plan and shall be null and void, and, in such event, such determination shall in no way limit or affect the enforceability or operative effect of any or all other portions of the Plan.

12.8 **No Admissions or Waivers.** Neither the filing of this Plan or the Disclosure Statement (as either may be modified or amended) nor the taking of any action by the Debtor with respect to the Plan or Disclosure Statement is, or shall be deemed, an admission or waiver of any of the Debtor's rights or defenses. In the event that Confirmation does not occur, or the Plan does not become effective, no statement contained herein or in the Disclosure Statement may be used or relied on in any manner as against the Debtor in any suit, action, proceeding, or controversy within or outside of the Bankruptcy Case, nor against any of the non-Debtor affiliates and member who are providing funding for the Plan. Debtor further reserves any and all of its rights against all Persons in the event the Plan is not confirmed or does not become effective.

12.9 **Notices/Service.** Except as otherwise specified, all notices and requests shall be given by any written means, including but not limited to electronic email, facsimile, first-class mail, express mail, or similar overnight delivery service, and hand-delivery letters, and any such



notices or requests shall be deemed to have been given when received. Notices shall be delivered as follows:

To the Reorganized Debtor:

Attn: Star R. Kusiak

Via email: star.robbins@starrobbs.com

With a copy to:

Laura Day DelCotto, Esq.  
DelCotto Law Group PLLC  
200 North Upper Street  
Lexington, KY 40507  
Telephone: (859) 231-5800  
Facsimile: (859) 281-1179  
ldelcotto@dlgfirm.com

**ARTICLE XIII**

**RETENTION OF JURISDICTION**

The Bankruptcy Court shall retain jurisdiction over the Bankruptcy Case after Confirmation of the Plan with respect to the following matters:

13.1 To hear and determine all controversies relating to or concerning the classification or allowance or Allowed Amount of Claims.

13.2 To determine and fix all Claims arising from the rejection of any Executory Contracts or Unexpired Leases.

13.3 To hear any pending motions for rejection, assumption, or assignment of any Executory Contract or Unexpired Lease, and to fix and determine any amounts alleged due and owing thereunder in order to cure defaults including amount of allowed cure claims and repayment terms.

13.4 To enable the Reorganized Debtor to consummate any and all proceedings they may bring prior to the closing of the Bankruptcy Case to set aside Liens or encumbrances, to recover any transfers, Assets, or damages to which the Debtor may be entitled under applicable provisions of the Bankruptcy Code or other federal, state, or local law.

13.5 To recover all Assets and properties of the Debtor, wherever located.

13.6 To permit amendments to the Schedules.

13.7 To make such orders as are necessary or appropriate to carry out the provisions of this Plan, including but not limited to Plan default determinations and disputes over sales or refinancings.

13.8 To modify this Plan pursuant to the Bankruptcy Code and the Bankruptcy Rules.

13.9 To hear any matters regarding interpretation, implementation, or consummation of the Plan and to correct any defect, cure any omission, or reconcile any inconsistency in this Plan or the Confirmation Order, or otherwise resolve any disputes arising in relation to the Plan and the Plan Terms.

13.10 To decide issues concerning federal tax liability, reporting, and withholding that may arise in connection with the Confirmation or consummation of this Plan.

13.11 To enter a final decree closing the Bankruptcy Case.

Dated: August 2, 2018

Respectfully submitted,

HOPE INDUSTRIES, LLC

By: /s/ Star R. Kusiak, Member  
Designated Representative, Debtor

Tendered by:

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#### APPENDIX- PLAN DEFINITIONS

1. **“Administrative Claim”** shall mean a Claim for costs and expenses of administration allowed under 11 U.S.C. §§ 503(b), including: (a) the actual and necessary costs and expenses incurred after the Petition Date of preserving the Estate and operating the businesses of the Debtor (such as wages, salaries, commissions for services and payments for inventories, leased equipment and premises), including Claims under any Orders (for any adequate protection rights granted which proved to be inadequate); (b) compensation for legal, financial advisory, accounting and other services and reimbursement of expenses awarded or allowed under 11 U.S.C. §§ 328, 330(a), or 331; (c) Claims for reclamation allowed in accordance with 11 U.S.C. § 546(c)(2); (d) any Claims pursuant to 11 U.S.C. § 503(b)(9) for the value of goods received by the Debtor in the twenty (20) days immediately prior to the Petition Date and sold to the Debtor in the ordinary course of business; and (e) all fees and charges assessed against the Estate under Chapter 123 of Title 28, United States Code, 28 U.S.C. §§ 1911-1930.

2. **“Affiliates”** shall mean Star Robbins and Company, LLC (“SRC”), a Kentucky limited liability company and The White Lily Floral and Gifts, Inc. (“White Lily”), both of which are affiliated with the Debtor through common ownership, and shall also include Ms. Star Kusiak and Mr. Walter Kusiak.

3. **“Allowed Administrative Claim”** shall mean an Administrative Claim for which the Bankruptcy Court has entered a Final Order allowing such Claim as an Administrative Claim, provided that a request for payment of an Administrative Claim is filed with the Bankruptcy Court prior to thirty (30) days after the Confirmation Date of the Plan unless otherwise provided in the Plan.

4. **“Allowed Claim”** shall mean: (a) a Claim allowed by a Final Order; (b) a Claim as to which a timely and proper proof of claim or application for payment has been filed, and as to

which proof of claim or application for payment no objection has been made within the time allowed for the making of objections; and/or (c) any obligation(s) of the Affiliates. Interest, costs, expenses and attorney's fees of the Claimants accrued after the Petition Date of the Bankruptcy Case shall be part of any Allowed Claim against the Debtor, except as required under the Plan or permitted by law.

5. **“Assets”** shall mean, with respect to the Debtor, all of the right, title, and interest in and to property of whatsoever type or nature, owned by the Debtor as of the Effective Date, as well as the proceeds, products, rents and profits from all of the foregoing. Assets include, but are not limited to, property as defined in 11 U.S.C. § 541 (each identified item of property being herein sometimes referred to as an “Asset”).

6. **“Avoidance Actions”** shall mean any Claims or Causes of Action arising under or authorized by 11 U.S.C. §§ 510, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551 or 553, including applicable state law claims, that belong to the Debtor, the Debtor in Possession, or its Estate.

7. **“Bankruptcy Case”** shall mean, as to the Debtor, its case filed in this Court under Chapter 11 of the Bankruptcy Code, Case No. 18-60142.

8. **“Bankruptcy Code”** or **“Code”** shall mean the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, as in effect from time to time.

9. **“Bankruptcy Court”** or **“Court”** shall mean the United States Bankruptcy Court for the Eastern District of Kentucky.

10. **“Bankruptcy Rules”** shall mean the Federal Rules of Bankruptcy Procedure and Local Rules applicable to cases pending before the Bankruptcy Court (“Local Rules”), as the same may from time to time be in effect and applicable to proceedings under the Plan.

11. **“Bar Date”** shall mean the final date for filing proofs of claim as ordered by the Bankruptcy Court if any or, if none, pursuant to KYEB LBR 3003-1, a proof of claim shall be deemed timely if filed prior to the date first set for the hearing on approval of the Disclosure Statement.

12. **“Business Day”** shall mean a day other than a Saturday, Sunday, or “legal holiday” as defined by Fed R. Bankr. P. 9006(a).

13. **“Cash”** means legal tender of the United States of America and equivalents thereof.

14. **“Causes of Action”** shall mean, without limitation, any and all actions (including Avoidance Actions), liabilities, obligations, rights, suits, damages, judgments, Claims, and demands whatsoever of the Debtor, the Debtor in Possession, or its Estate, whether known or unknown, existing or hereafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Bankruptcy Case, including through the Effective Date.

15. **“Claim”** shall mean “claim” as defined in 11 U.S.C. § 101(5), if such claim against the Debtor was in existence on or as of the Petition Date. The term Claim, when preceded by a reference to a Class of Claims, shall mean a Claim of that Class.

16. **“Confirmation”** shall mean confirmation of the Plan pursuant to 11 U.S.C. § 1129, which shall occur upon entry of the Confirmation Order.

17. **“Confirmation Date”** shall mean the date on which the Bankruptcy Court enters the Confirmation Order.

18. **“Confirmation Hearing”** shall mean the Bankruptcy Court’s hearing on confirmation of the Plan, as such hearing may be continued from time to time.

19. **“Confirmation Order”** shall mean the order of the Bankruptcy Court confirming the Plan with such modifications as may be agreed to or approved prior to the Effective Date by the Debtor.

20. **“Creditor”** shall mean the owner or holder of a Claim.

21. **“Cure Claim”** shall mean a Claim based upon the Debtor’s defaults pursuant to an Executory Contract or Unexpired Lease at the time such Contract or Lease is assumed under 11 U.S.C. § 365.

22. **“Debt”** shall mean the amount of indebtedness owed to any Creditor as of the Petition Date, contingent or otherwise, limited to principal and interest at the non-default contract rate, and, in the case of any Secured Creditor whose Claim is wholly Allowed, interest calculated postpetition at the lower of: (a) the non-default contract rate, or (b) such rate as is provided in the Plan. “Debt” also includes any obligation under a lease or executory contract. “Debt” does not include late fees, penalties, costs, attorney fees, or other similar items except as may be included in an Allowed Claim as determined by agreement or by the Court.

23. **“Debtor”** and **“Debtor in Possession”** shall mean Hope Industries, LLC.

24. **“Deficiency Claim”** shall mean the Unsecured portion of a Secured Claim as determined by 11 U.S.C. § 506(a).

25. **“Disallowed Claim”** shall mean a Claim, or any portion thereof, that has been: (a) disallowed by a Final Order; (b) withdrawn by a Creditor; (c) scheduled as contingent, disputed, or unliquidated, and as to which no Proof of Claim has been timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy Court; or (d) not otherwise deemed timely filed under applicable law or the provisions of a confirmed Plan.

26. **“Disclosure Statement”** shall mean that version of the Disclosure Statement which is ultimately approved by Court Order, including the version proposed by the Debtor and filed in

the Bankruptcy Case, as it may be further amended, modified, or supplemented from time to time as provided therein, including all exhibits and schedules thereto.

27. **“Disclosure Statement Approval Order”** shall mean the Order of the Bankruptcy Court which approves the Disclosure Statement.

28. **“Disputed Claims”** shall mean:

a. A Claim that is listed on the Debtor’s schedules as either disputed, contingent, or unliquidated;

b. A Claim that is listed on the Debtor’s Schedules as other than disputed, contingent, or unliquidated, but the nature or amount of the Claim as asserted by the holder varies from the nature or amount of such Claim as is listed on the Schedules;

c. A Claim that is not listed on the Debtor’s Schedules;

d. A Claim as to which the Debtor, or any other party in interest, has filed an objection by the Claims Objection Bar Date and such objection has not been withdrawn or denied by a Final Order; or

e. A Tort Claim.

29. **“Distribution”** shall mean the transfer of funds or other property of the Debtor’s Estate as payment towards a Creditor’s Claim pursuant to the terms set forth herein.

30. **“Effective Date”** shall mean ten business (10) days following the date that the Confirmation Order becomes a Final Order.

31. **“Equity Membership Interests”** shall mean such interests as are included in the definition of “equity security” in 11 U.S.C. § 101(16), and in this case, shall mean the membership interests in the Debtor LLC as they existed on the Petition Date.

32. **“Equity Security Holder”** shall have the definition set forth in 11 U.S.C. § 101(17).

33. **“Estate”** shall mean, as to the Debtor, the estate created in the Debtor’s Bankruptcy Case pursuant to 11 U.S.C. § 541.

34. **“Executory Contract”** shall mean a contract to which the Debtor is a party that is subject to assumption, assumption and assignment, or rejection under 11 U.S.C. § 365.

35. **“Final Order”** shall mean an order or judgment of a court of competent jurisdiction which: (a) shall not have been reversed, stayed, modified, or amended, and the time to appeal from, or to seek review or rehearing of, shall have expired, and as to which no appeal or petition

for review, rehearing, or certiorari is pending, or (b) if appealed from, shall have been affirmed and no further hearing, appeal, or petition for certiorari may be taken or granted.

36. **“Impaired”** shall mean, with respect to a Class or a Claim, that such Class or Claim is impaired within the meaning of 11 U.S.C. § 1124.

37. **“Kusiaks”** shall mean Mr. Kusiak and Ms. Kusiak.

38. **“Mr. Kusiak”** shall mean Walter Kusiak.

39. **“Ms. Kusiak”** shall mean Star Robbins Kusiak, Star R. Kusiak.

40. **“Person”** shall mean any individual, corporation, limited liability company, or partnership, general partnership, limited partnership, association, joint stock company, joint venture, estate, trust, unincorporated organization, governmental unit or any political subdivision thereof, or any other entity.

41. **“Petition Date”** shall mean February 9, 2018 being the date of the filing of the voluntary petition for relief by the Debtor under Chapter 11 of the Bankruptcy Code.

42. **“Plan”** shall mean this Plan proposed by the Debtor and filed in the Bankruptcy Case, as it may be further amended, modified, or supplemented from time to time as provided therein and the version as may be confirmed by Order of this Court.

43. **“Priority Claim”** shall mean a Claim entitled to priority pursuant to 11 U.S.C. § 507(a) other than an Administrative Claim.

44. **“Priority Tax Claim”** shall mean a Claim entitled to priority pursuant to 11 U.S.C. § 507(a)(8).

45. **“Professional Claims”** shall mean the allowances made by the Court to the Professionals, each of which allowance shall be an Administrative Claim.

46. **“Professionals”** shall mean all professional Persons properly retained by the Debtor and approved by the Court under the Bankruptcy Code who performed professional services for or on behalf of the Debtor from the Petition Date through and including the Confirmation Date.

47. **“Pro rata”** shall mean ratable payment, without preference proportionate to all other Allowed Claims in the particular Class or other specified group of Claims.

48. **“Reorganized Debtor”** shall mean the Debtor on and after the Confirmation Date.

49. **“Schedules”** shall mean those schedules and statements of financial affairs filed by the Debtor under 11 U.S.C. § 521 and Fed. R. Bankr. P. 1007, as may be amended from time to time.

50. **“Secured Claim”** shall mean: (a) a Claim secured by a Lien on property of the Debtor, which Lien is valid, superior, perfected, and enforceable under applicable law and is not subject to avoidance under the Bankruptcy Code or other applicable non-bankruptcy law, and which is duly established in the Debtor’s Bankruptcy Case, but only to the extent that such Claim does not exceed the value of the Debtor’s Assets which the Bankruptcy Court finds are valid collateral for such Claim (except, if the class of which such Claim is a part makes the election provided for in 11 U.S.C. § 1111(b)(2), the entire amount of the Claim shall be a Secured Claim); and (b) a Claim Allowed under the Plan as a Secured Claim.

51. **“Secured Creditor”** shall mean the owner or holder of a Secured Claim or a Secured Tax Claim.

52. **“Star Robbins Company” or “SRC”** shall mean Star Robbins and Company, Inc., a/k/a Star Robbins & Company, Inc., a/k/a Star Robbins & Co., Inc.

53. **“Tax Claims”** shall mean Claims of any Person for the payment of taxes: (a) accorded priority pursuant to 11 U.S.C. §§ 507(a)(2) and (8); or (b) those secured by valid Liens on Assets of the Debtor as of the Confirmation Date.

54. **“Tax Creditor”** shall mean the holder of a Tax Claim.

55. **“Tort Claims”** shall mean any claim that has not been settled, compromised or otherwise resolved that arises out of allegations of personal injury, wrongful death, property damage, products liability, or similar legal theories of recovery.

56. **“Unexpired Lease”** shall mean a lease to which the Debtor is a party that is subject to assumption, assumption and assignment, or rejection under 11 U.S.C. § 365.

57. **“Unsecured Claims”** shall mean all Claims held by Creditors of the Debtor, including Deficiency Claims and Claims arising out of the rejection of Executory Contracts and/or Unexpired Leases, other than Secured Claims, Administrative Claims, Cure Claims, Priority Claims, and Priority Tax Claims.

58. **“Unsecured Creditor”** shall mean the owner or holder of an Unsecured Claim.