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UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

IN RE:)	
)	
DYNAMIC INTERNATIONAL)	Case No. 17-10814
AIRWAYS, LLC)	Chapter 11
)	
Debtor.)	
_____)	

DEBTOR'S SECOND AMENDED PLAN OF REORGANIZATION

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1 Dynamic International Airways, LLC, a Virginia limited liability company (“Debtor”),
 2 debtor and debtor-in-possession, proposes this plan of reorganization (the “Plan”) for the
 3 resolution of Debtor’s outstanding Claims and Equity Securities (as these terms are defined
 4 herein). All Creditors, Equity Security Holders (as both terms are defined herein), and other
 5 parties-in-interest should refer to the Disclosure Statement (as this term is defined herein) for a
 6 discussion of Debtor’s history, assets, historical financial data, and for a summary and analysis
 7 of this Plan and certain related matters. All Holders of Claims against and Equity Securities in
 8 Debtor are encouraged to read this Plan, the Disclosure Statement, and the related solicitation
 9 materials in their entirety before voting to accept or reject this Plan.

10 Subject to the restrictions on modifications set forth in Section 1127 of the Bankruptcy
 11 Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in Article 11 to
 12 this Plan, Debtor expressly reserves the right to alter, amend, strike, withdraw, or modify this
 13 Plan one or more times before its substantial consummation.

14 1. DEFINITIONS, RULES OF INTERPRETATION, AND COMPUTATION OF 15 TIME

16 **1.1. Definitions.** For purposes of this Plan, except as expressly provided or unless the
 17 context otherwise requires, all capitalized terms not otherwise defined shall have the meanings
 18 ascribed to them in this Article 1. Any term used in this Plan that is not defined herein, but is
 19 defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that
 20 term in the Bankruptcy Code or the Bankruptcy Rules, in that order of priority. Whenever the
 21 context requires, such terms shall include the plural as well as the singular, the masculine gender
 22 shall include the feminine, and the feminine gender shall include the masculine. As used in this
 23 Plan, the following

24 **1.1.1. Administrative Claim.** A Claim for any cost or expense of administration of the
 25 Chapter 11 Case allowed under Sections 503(b) or 507(b) of the Bankruptcy Code and entitled to
 26 priority under Section 507(a)(1) of the Bankruptcy Code, including, but not limited to: (i) fees
 27 payable pursuant to 28 U.S.C. § 1930; (ii) the actual and necessary costs and expenses incurred
 28 after the Petition Date of preserving the Estate, including wages, salaries, or commissions for
 services rendered after the commencement of the Chapter 11 Case; and (iii) all Professional Fees
 approved by the Bankruptcy Court pursuant to interim and final allowances. To the extent that a
 Claim is allowed pursuant to Sections 365(d)(3) and (d)(5) of the Bankruptcy Code, such Claim
 shall also be deemed an “Administrative Claim” under this paragraph.

1.1.2. Administrative Claim Bar Date. The end of the first Business Day occurring on
 or after the Thirtieth (30th) calendar day after the Effective Date.

1.1.3. Affiliate. This term has the meaning set forth in Section 101(2) of the
 Bankruptcy Code.

1.1.4. Agencies. Collectively, the Transportation Security Agency, U.S. Department
 of Agriculture, and U.S. Customs and Border Protection.

1.1.5. Allowed Administrative Claim. An Administrative Claim as to which no
 objection has been filed or, if an objection has been filed, has been resolved by the allowance of
 such Administrative Claim by a Final Order of the Bankruptcy Court; or which requires payment

1 in the ordinary course and as to which there is no Final Order of the Bankruptcy Court in effect
2 which prohibits any such payment.

3 **1.1.6. Allowed Claim.** A Claim or any portion thereof that is not a Disputed Claim: (i)
4 that is allowed pursuant: (w) to this Plan or Final Order of the Bankruptcy Court, (x) to any
5 stipulation executed prior to the Confirmation Date and approved by the Bankruptcy Court, (y)
6 to any stipulation with Debtor or Reorganized Debtor, as applicable, executed on or after the
7 Confirmation Date and approved by the Bankruptcy Court, or (z) to any contract, instrument, or
8 other agreement entered into or assumed in connection herewith; (ii) proof of which, requests for
9 payment of which, or application for allowance of which, was filed or deemed to be filed on or
10 before the Bar Date for filing proofs of Claim or requests for payment of Claims of such type
11 against Debtor; or (iii) if no proof of Claim is filed, which has been or hereafter is listed by
12 Debtor in the Schedules as liquidated in amount and not disputed or contingent; and in the case
13 of (ii) or (iii), no objection to the allowance thereof has been interposed within the applicable
14 period of limitation fixed by this Plan, the Bankruptcy Code, the Bankruptcy Rules, or the
15 Bankruptcy Court or the Bankruptcy Court has entered a Final Order Allowing all or a portion of
16 such Claim.

17 **1.1.7. Allowed Equity Security.** An Equity Security as of the Record Date that: (i) is
18 allowed pursuant to this Plan; (ii) is not disputed by Debtor or Reorganized Debtor, as the case
19 may be; or (iii) if a Disputed Equity Security, which Equity Security has been allowed in whole
20 or in part by Final Order of the Bankruptcy Court.

21 **1.1.8. APHIS.** The Animal Plant Health Inspection Service.

22 **1.1.9. Assets.** All of the assets, property, interests, and effects, real and personal,
23 tangible and intangible, wherever situated, of Debtor, as they exist on the Effective Date.

24 **1.1.10. Avoidance Actions.** All avoidance, recovery, subordination, and other similar
25 actions preserved for the Estate under the Bankruptcy Code, including but not limited to those set
26 forth in Sections 510, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551, 553(b), and 724(a) of the
27 Bankruptcy Code, regardless of whether or not such action has been commenced prior to the
28 Effective Date.

1.1.11. Ballot. The form of ballot or ballots that will be distributed with the Disclosure
Statement to Holders of Claims entitled to vote under this Plan in connection with the solicitation
of acceptances of this Plan.

1.1.12. Bankruptcy Code. The Bankruptcy Reform Act of 1978, Title 11, United States
Code, as applicable to the Chapter 11 Case, as now in effect or hereafter amended, 11 U.S.C. §§
101, et seq.

1.1.13. Bankruptcy Court. The United States Bankruptcy Court for the Middle District
of North Carolina having jurisdiction over the Chapter 11 Case and, to the extent of the
withdrawal of any reference under Section 157 of Title 28 of the United States Code and/or the
General Order of the United States District Court for the Middle District of North Carolina,
pursuant to Section 151 of Title 28 of the United States Code.

1 **1.1.14. Bankruptcy Rules.** Collectively, the Federal Rules of Bankruptcy Procedure, as
2 applicable to the Chapter 11 Case, promulgated under 28 U.S.C. § 2075 and the general, local,
3 and chamber rules of the Bankruptcy Court as applicable to the Chapter 11 Case, as now in effect
4 or hereinafter amended.

5 **1.1.15. Bar Date.** The date or dates established by the Bankruptcy Court, the Bankruptcy
6 Code, and/or the Bankruptcy Rules for the filing of proofs of Claim for all Creditors, excepting
7 therefrom, Administrative Claims.

8 **1.1.16. Business Day.** Any day, other than a Saturday, Sunday, or “legal holiday” (as
9 defined in Bankruptcy Rule 9006(a)).

10 **1.1.17. Cash.** The legal tender of the United States of America or the equivalent thereof,
11 including bank deposits, checks, negotiable instruments, wire transfers of immediately available
12 funds, or other cash equivalents.

13 **1.1.18. Causes of Action.** All actions, causes of action, Litigation Claims, claims,
14 liabilities, obligations, rights, suits, debts, damages, judgments, remedies, demands, setoffs,
15 defenses, recoupments, crossclaims, counterclaims, third-party claims, indemnity claims,
16 contribution claims and any other claims disputed or undisputed, suspected or unsuspected,
17 foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, in law,
18 equity or otherwise, based in whole or in part upon any act or omission or other event occurring
19 prior to the Petition Date or during the course of the Chapter 11 Case.

20 **1.1.19. Chapter 11 Case.** The case under Chapter 11 of the Bankruptcy Code involving
21 Debtor, having case number 17-10814, including all adversary proceedings pending in
22 connection therewith.

23 **1.1.20. Claim.** Any right to payment from Debtor, whether or not such right is reduced
24 to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed,
25 undisputed, legal, equitable, secured, or unsecured arising at any time before the Effective Date
26 or relating to any event that occurred before the Effective Date, or any right to an equitable
27 remedy for breach of performance if such breach gives rise to a right of payment from Debtor,
28 whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent,
matured, unmatured, disputed, undisputed, secured, or unsecured.

1.1.21. Class. A category of Holders of Claims or Equity Securities as classified in this
Plan.

1.1.22. Class 5 Distribution Amount. Cash in an amount equal to Two Million and Six
Hundred and Seventy Thousand (2,670,000.00) Dollars, less the aggregate amount of Allowed
Professional Fees of the Creditor Committee approved and paid prior to the Effective Date, to be
distributed to the Disbursing Agent on the Effective Date to be deposited into the Disbursing
Agent Account.

1.1.23. Class 2 and Class 6 Settlement Agreement. The Class 2 and Class 6
Settlement Agreement by and between the Debtor, [Kenneth Woolley] and DOJ regarding the
Claims of the Agencies. Pursuant to the Class 2 and Class 6 Settlement Agreement, (i) the Claim
of the U.S. Department of Agriculture regarding the APHIS Claim shall be bifurcated between

1 an Allowed Secured Claim being treated in Class 2 and an Allowed General Unsecured Claim
2 being treated in Class 5, (ii) the Agencies' Residual Governmental Unit Claims shall be treated
3 solely in Class 6, and (iii) the Agencies' Governmental Unit Penalty Claims shall be included as
4 Allowed General Unsecured Claims in Class 5. A copy of the Class 2 and Class 6 Settlement
5 Agreement will be attached to Plan Supplement.

6 **1.1.24. Collateral.** All the collateral as described in the Loan Documents.

7 **1.1.25. Confirmation.** The entry by the Bankruptcy Court of the Confirmation Order on
8 the docket of the Chapter 11 Case.

9 **1.1.26. Confirmation Date.** The date upon which the Bankruptcy Court enters the
10 Confirmation Order on the docket of the Chapter 11 Case.

11 **1.1.27. Confirmation Hearing.** The duly-noticed initial hearing held by the Bankruptcy
12 Court to confirm this Plan pursuant to Section 1128 of the Bankruptcy Code, and any subsequent
13 hearing held by the Bankruptcy Court from time to time to which the initial hearing is adjourned
14 without further notice other than the announcement of the adjourned dates at the Confirmation
15 Hearing or by a subsequent order of the Bankruptcy Court.

16 **1.1.28. Confirmation Order.** The order entered by the Bankruptcy Court confirming
17 this Plan pursuant to Section 1129 of the Bankruptcy Code.

18 **1.1.29. Contingent Claim.** A Claim which is contingent, unmatured, or unliquidated on
19 or immediately before the Confirmation Date.

20 **1.1.30. Convenience Claim.** As provided for in Section 1122(b) of the Bankruptcy
21 Code, a General Unsecured Claim for which the Allowed amount of such General Unsecured
22 Claim is less than or equal to \$2000 or an Allowed General Unsecured Claim for which the
23 Holder thereof makes the Convenience Class Election.

24 **1.1.31. Convenience Class Election.** The election on the Ballot by a Holder of a
25 Allowed General Unsecured Claim greater than \$2000 to participate in the Convenience Class in
26 full satisfaction of the Holder's Allowed General Unsecured Claim.

27 **1.1.32. Creditor.** Any Holder of a Claim, whether or not such Claim is an Allowed
28 Claim.

1.1.33. Creditor Committee. The Official Committee of Unsecured Creditors appointed
pursuant to Section 1102(a)(1) of the Bankruptcy Code on August 3, 2017 [ECF 98].

1.1.34. Cure. The distribution on the Effective Date or as soon thereafter as practicable
of Cash, or such other property as may be agreed upon by the parties or ordered by the
Bankruptcy Court, with respect to the assumption of an Executory Contract or Unexpired Lease
pursuant to Section 365(b) of the Bankruptcy Code, or with respect to any other debt instrument,
in an amount equal to: (i) all unpaid monetary obligations due under such executory contract or
unexpired lease or required to pay to bring current the debt instrument and thereby reinstate the
debt and return to the pre-default conditions to the extent such obligations are enforceable under
the Bankruptcy Code or applicable non-bankruptcy law; and (ii) with respect to any debt

1 instrument, if a claim arises from a debtor's failure to perform any non-monetary obligation as
2 set forth in Sections 1124(2)(C) and 1124(2)(D) of the Bankruptcy Code, payment of the dollar
3 amount which compensates the Holder of such a claim for any actual pecuniary loss incurred by
4 such Holder as a result of any such failure and the dollar amount of the Claim that is established
5 by the Holder's sworn declaration and accompanying admissible evidence filed with the
6 Bankruptcy Court and served upon Debtor's counsel on or before such date ordered by the
7 Bankruptcy Court for the filing of objections to the disclosure statement.

8 **1.1.35. Debtor. Dynamic International Airways, LLC.**, the debtor and debtor-in-
9 possession in the Chapter 11 Case pursuant to Section 1108 of the Bankruptcy Code.

10 **1.1.36. DIP Loan Orders.** Collectively, the (i) *Interim Order (1) Authorizing Debtor to*
11 *Obtain Post-Petition Financing, (2) Granting Administrative Expense, and (3) Setting and*
12 *Prescribing the Form and Manner of Notice for a Further Hearing* [ECF No. 99], (ii) *Second*
13 *Interim Order (1) Authorizing Debtor to Obtain Post-Petition Financing, (2) Granting*
14 *Administrative Expense, and (3) Setting and Prescribing the Form and Manner of Notice for a*
15 *Further Hearing* [ECF No. 185], (iii) *Third Interim Order (1) Authorizing Debtor to Obtain*
16 *Post-Petition Financing, (2) Granting Administrative Expense, and (3) Setting and Prescribing*
17 *the Form and Manner of Notice for a Further Hearing* [ECF No. 258], and (iv) *Fourth Interim*
18 *Order (1) Authorizing Debtor to Obtain Post-Petition Financing, (2) Granting Administrative*
19 *Expense, and (3) Setting and Prescribing the Form and Manner of Notice for a Further Hearing*
20 [ECF No. 344].

21 **1.1.37. Disbursing Agent.** A Person designated by the Creditor Committee to serve as
22 disbursing agent under this Plan with regard to Disbursements to Holders of Class 4 Allowed
23 General Unsecured Claims.

24 **1.1.38. Disbursing Agent Account.** The bank account established prior to the Effective
25 Date by the Disbursing Agent into which the Class 5 Distribution Amount is deposited. The
26 Disbursing Agent Account shall be under the sole authority of the Disbursing Agent.

27 **1.1.39. Disclosure Statement.** The disclosure statement that relates to this Plan, as
28 amended, supplemented, or modified from time to time, describing this Plan that is prepared and
distributed in accordance with, among others, Sections 1125, 1126(b), and 1145 of the
Bankruptcy Code, Bankruptcy Rule 3018, and other applicable law.

1.1.40. Disputed Claim or Disputed Equity Security. A Claim or Equity Interest or
any portion thereof that is: (i) subject to timely objection interposed by a Debtor, Reorganized
Debtor, or any party-in-interest entitled to file and prosecute such objection in a Debtor's
Chapter 11 Case, if at such time such objection has not been withdrawn or determined by Final
Order; or (ii) a Claim that is listed by a Debtor as disputed, unliquidated or contingent in the
Schedules, with respect to which no proof of claim has been timely filed; provided, however, that
the Bankruptcy Court may estimate a Disputed Claim for purposes of allowance pursuant to
Section 502(c) of the Bankruptcy Code. The term "Disputed," when used to modify a reference
in this Plan to any Claim or Equity Interest (or Class of Claims or Equity Interest), shall mean a
Claim or Equity Interest (or any Claim or Equity Interest in such Class) that is a Disputed Claim
or Disputed Equity Interest. In the event there is a dispute as to classification or priority of a
Claim or Equity Interest, it shall be considered a Disputed Claim or Disputed Equity Interest in

1 its entirety. Until such time as a Contingent Claim becomes fixed and absolute, such Claim shall
2 be treated as a Disputed Claim and not an Allowed Claim for purposes related to allocations and
distributions under this Plan.

3 **1.1.41. Disputed Claim Reserve.** A reserve established by the Disbursing Agent or the
4 Reorganized Debtor, as applicable, to hold in one or more accounts Cash or other Assets equal to
5 the aggregate amount thereof that would have been distributed in accordance with the terms of
this Plan on account of a Disputed Claim.

6 **1.1.42. Distributable Assets.** Shall mean the Assets distributable to Allowed Claims and
7 unclassified Claims in accordance with this Plan by Reorganized Debtor and the Disbursing
Agent, as applicable.

8 **1.1.43. Distribution.** Any distribution by Debtor, Reorganized Debtor or the Disbursing
9 Agent of Distributable Assets to the Holders of Allowed Claims or Equity Securities as of the
Record Date.

10 **1.1.44. DOJ.** The United States Department of Justice.

11 **1.1.45. Effective Date.** The latest to occur of: (i) the first Business Day that is at least
12 fourteen (14) days after the Confirmation Date and on which no stay of the Confirmation Order
13 is in effect; and (ii) the first (1st) Business Day on which all of the conditions set forth in Article
8 to this Plan have been satisfied or waived.

14 **1.1.46. Equity Security.** An equity security as the term is defined in Section 101(16) of
15 the Bankruptcy Code and includes the membership interests in Debtor and any warrants, options,
16 redemption rights, dividend rights, liquidation preferences, rights to purchase any such Equity
Security, or any other rights related thereto.

17 **1.1.47. Estate.** The estate created for Debtor in the Chapter 11 Case pursuant to Section
18 541 of the Bankruptcy Code.

19 **1.1.48. Executory Contract.** A contract to which Debtor is a party that is subject to
assumption or rejection under Section 365 of the Bankruptcy Code.

20 **1.1.49. Exit Loan.** The advances from time to time by the Exit Loan Lender to
21 Reorganized Debtor in accordance with and pursuant to this Plan in the amount necessary to pay
22 all Allowed Administrative Claims (except to the extent the Creditor Committee's Professional
23 Fees are being paid from the Disbursing Agent Account) and Allowed Claims as provided for in
24 Class 4 or such additional amount as agreed to by Reorganized Debtor and the Exit Loan Lender.
25 On the Effective Date the Exit Loan Lender shall advance to the Reorganized Debtor the amount
26 necessary to pay the Allowed Administrative Claims, Allowed Claims in Class 2 and the Class 5
27 Distribution Amount. Subsequent to the Effective Date, the Exit Loan Lender shall make
28 additional advances to the Reorganized Debtor sufficient in amount for the Reorganized Debtor
to make all payments required on Allowed Administrative Claims (except the Creditor
Committee's Professional Fees which will be paid from the Disbursing Agent Account), Class 2,
Class 6 and Allowed Claims in Class 3 which become Allowed Claims subsequent to the
Effective Date. Commencing on the first (1st) Business Day of the first (1st) full calendar month
following the Effective Date, and on the first (1st) Business Day of each subsequent month up to

1 and through the Exit Loan Maturity Date, Reorganized Debtor shall pay to the Exit Loan Lender
2 monthly interest payments on the outstanding balance of the Exit Loan Note at the Exit Loan
3 Interest Rate. The unpaid balance of the Exit Loan Promissory Note shall be due and payable on
4 the Exit Loan Maturity Date.

5 **1.1.50. Exit Loan Documents.** The Exit Loan Agreement, Exit Loan Promissory Note,
6 Exit Loan Security Documents and any related documents to be dated as of the Effective Date.
7 The Exit Loan Documents shall be substantially in the form to be filed in the Plan Supplement
8 no later than ten (10) days prior to the commencement of the Confirmation Hearing.

9 **1.1.51. Exit Loan Interest Rate.** The rate of six (6) percent per annum.

10 **1.1.52. Exit Loan Lender.** Woolley and/or each other Person as designated by Woolley
11 having a right of participation in, under, or to the Exit Loan or any rights, title, or interest to or
12 under the Exit Loan Documents.

13 **1.1.53. Exit Loan Note.** The Promissory Note to be executed by Reorganized Debtor on
14 the Effective Date to evidence the Exit Loan.

15 **1.1.54. Exit Loan Maturity Date.** Five (5) years from the Effective Date.

16 **1.1.55. Final Order.** An order, judgment, or other decree of the Bankruptcy Court, or
17 other court of competent jurisdiction, entered on the docket of such court, that has not been
18 reversed, reconsidered, stayed, modified, or amended, that is in full force and effect, and as to
19 which order or judgment: (i) the time to appeal, seek review or rehearing, or petition for
20 certiorari has expired and no timely filed appeal or petition for review, rehearing, remand, or
21 certiorari is pending; (ii) any appeal taken or petition for certiorari or request for reconsideration
22 or further review or rehearing filed: (a) has been resolved by the highest court to which the order
23 or judgment was appealed or from which review, rehearing, or certiorari was sought; or (b) has
24 not yet been resolved by such highest court, but such order has not been stayed pending appeal.
25 Notwithstanding the foregoing, the Confirmation Order shall specifically become a Final Order
26 on the first Business Day that is fourteen (14) days after the entry of such Confirmation Order
27 unless any appeal of such Confirmation Order was accompanied by a stay pending appeal.

28 **1.1.56. General Unsecured Claim.** A Claim that is not secured by a Lien or other
charge against or interest in property in which the Estate has an interest and is not (i) a Section
507(a)(2) or 507(a)(3) Claim, (ii) an Administrative Claim, (iii) a Priority Tax Claim, (iv) a
Priority Unsecured Claim, or (v) a Residual Governmental Unit Claim. General Unsecured
Claims shall also include all Claims arising under Section 502(g) of the Bankruptcy Code and
Governmental Unit Penalty Claims. Pursuant to the Settlement and Restructuring Agreement the
Woolley Secured Claim will be a General Unsecured Claim.

1.1.57. Governmental Unit. The term shall have the meaning set forth in Section
101(27) of the Bankruptcy Code.

1.1.58. Governmental Unit Claims. Any and all Claims of a Governmental Unit which
is (i) a tax on or measured by income or gross receipts, (ii) a property tax, (iii) an employment
tax on a wage, salary or commission of a kind as specified in Section 507(a)(4) of the
Bankruptcy Code, (iv) an excise tax, (v) a customs duty arising out of the importation of

1 merchandise and (vi) a penalty related to (i) through (v) provided it is in compensation for an
2 actual pecuniary loss.

3 **1.1.59. Governmental Unit Penalty Claims.** Any and all Claims of a Governmental
4 Unit for penalties and similar assessments not in compensation for an actual pecuniary loss.

5 **1.1.60. Holder.** An entity holding an Equity Security or Claim.

6 **1.1.61. Impaired.** Impaired within the meaning of Section 1124 of the Bankruptcy Code.

7 **1.1.62. Initial Distribution Date.** The first Business Day following the date that is thirty
8 (30) days after the Effective Date.

9 **1.1.63. Jet Midwest.** Collectively, Jet Midwest, Inc., Jet Midwest Group and Jet
10 Midwest Technik, each an affiliate of Kraus, but does not include Jet Midwest International.

11 **1.1.64. KMW.** Collectively, KMW Leasing IV, LLC, KMW Leasing IX, LLC, KMW
12 Leasing N796JM, LLC, KMW Leasing VII, LLC, and KMW Leasing X, LLC, each a lessor
13 under the KMW Leases.

14 **1.1.65. KMW Leases.** The leased Boeing 767 aircraft from KMW, being a (i) Boeing
15 767-23B bearing serial number 23974 and U.S. Registration Mark N253MY leased from KMW
16 Leasing IV, LLC; (ii) Boeing 767-246 bearing serial number 23213 and U.S. Registration Mark
17 N767DA leased from KMW Leasing IX, LLC; (iii) Boeing 767-336 bearing serial number 24339
18 and U.S. Registration Mark N796MY leased from KMW Leasing N796JM, LLC; (iv) Boeing
19 767-336 bearing serial number 25443 and U.S. Registration Mark N254MY leased from KMW
20 Leasing VII, LLC; (v) Boeing 767-336 bearing serial number 24343 and U.S. Registration Mark
21 N740JM leased from KMW Leasing X, LLC; and (vi) Boeing 767-300ER bearing serial number
22 24342 and U.S. Registration Mark N793JM leased from KMW Leasing X, LLC.

23 **1.1.66. Kraus.** Paul Kraus, an individual.

24 **1.1.67. Lien.** This term shall have the meaning set forth in Section 101(37) of the
25 Bankruptcy Code.

26 **1.1.68. Litigation Claims.** All rights, claims, torts, liens, liabilities, obligations, actions,
27 causes of action, Avoidance Actions except as otherwise provided for in this Plan, derivative
28 actions, proceedings, debts, contracts, judgments, damages and demands whatsoever in law or in
equity, whether known or unknown, contingent or otherwise, that Debtor or the Estate may have
against any Person, including but not limited to, those listed on Schedule 1.1.68 hereto. Failure
to list a Litigation Claim on Schedule 1.1.68 shall not constitute a waiver or release by Debtor or
Reorganized Debtor of such Litigation Claim.

1.1.69. Other Secured Claim. A Secured Claim other than a Secured Claim held by
Woolley or the U.S. Department of Agriculture.

1.1.70. Person. An individual, corporation, limited liability company, partnership,
association, joint stock company, joint venture, estate, trust, unincorporated organization or
government, governmental unit, or any subdivision thereof or any other entity.

1 **1.1.71. Petition Date.** July 19, 2017, the date on which a voluntary Chapter 11 petition
2 was filed by Debtor, thereby commencing the Chapter 11 Case.

3 **1.1.72. Plan.** This first amended plan of reorganization, either in its present form or as it
4 may be amended, supplemented, or modified from time to time, including all exhibits and
5 schedules annexed hereto or referenced herein.

6 **1.1.73. Plan Rate.** The Federal judgment rate of interest as of the Petition Date.

7 **1.1.74. Plan Supplement.** The supplement to this Plan to be filed no later than 20 days
8 prior to the commencement of the Confirmation Hearing, which shall include post-Effective
9 Date operative documents, the Settlement and Restructuring Agreement, the Class 2 and Class 6
10 Settlement Agreement, and Exit Loan Documents.

11 **1.1.75. Priority Tax Claims.** Any and all Governmental Unit Claims accorded priority
12 in right of payment under Section 507(a)(8) of the Bankruptcy Code.

13 **1.1.76. Priority Unsecured Claims.** Any and all Claims accorded priority in right of
14 payment under Section 507(a) of the Bankruptcy Code except for Section 507(a)(8).

15 **1.1.77. Professional Fees.** The Administrative Claims for compensation and
16 reimbursement submitted pursuant to Sections 327, 328, 330, 331, or 503(b) of the Bankruptcy
17 Code of Persons: (i) employed pursuant to an order of the Bankruptcy Court under Sections 327,
18 328 or 1102 of the Bankruptcy Code; or (ii) for whom compensation and reimbursement has
19 been allowed by the Bankruptcy Court pursuant to Section 503(b) of the Bankruptcy Code or by
20 other Final Order.

21 **1.1.78. Proof of Claim.** A proof of Claim filed by a Creditor in accordance with Section
22 501 of the Bankruptcy Code and Bankruptcy Rule 3001.

23 **1.1.79. Pro Rata.** The ratio of an Allowed Claim or Allowed Equity Security in a
24 particular class to the aggregate amount of all such Allowed Claims or Allowed Equity Securities
25 in any such Class.

26 **1.1.80. Record Date.** The Confirmation Date for the purpose of determining the Holders
27 of Equity Securities.

28 **1.1.81. Reinstated or Reinstatement.** These terms shall mean: (i) leaving unaltered the
legal, equitable, and contractual rights of the Holder of a Claim so as to leave such Claim
Unimpaired in accordance with Section 1124 of the Bankruptcy Code; or (ii) notwithstanding
any contractual provision or applicable law that entitles the Holder of such Claim to demand or
receive accelerated payment of such Claim after the occurrence of a default: (a) Curing any such
default that occurred before or after the Petition Date, other than a default of a kind specified in
Section 365(b)(2) of the Bankruptcy Code; (b) reinstating the maturity of such Claim as such
maturity existed before such default; (c) compensating the Holder of such Claim for any
damages incurred as a result of any reasonable reliance by such Holder on such contractual
provision or such applicable law; and (d) not otherwise altering the legal, equitable, or
contractual rights to which such Claim entitles the Holder of such Claim; provided, however, that
any contractual right that does not pertain to the payment when due of principal and interest on

1 the obligation on which such Claim is based, including, but not limited to, financial covenant
2 ratios, negative pledge covenants, covenants, or restrictions on merger or consolidation, and
3 affirmative covenants regarding corporate existence prohibiting certain transactions or actions
4 contemplated by this Plan, or conditioning such transactions or actions on certain factors, shall
5 not be required in order to accomplish Reinstatement.

6 **1.1.82. Released Claims.** The Claims of Woolley, Kraus and Jet Midwest released as
7 provided for in the Settlement and Restructuring Agreement.

8 **1.1.83. Released Parties.** The Released Parties include, (i) Woolley; (ii) Kraus; (iii)
9 KMW; (iv) Jet Midwest, and (v) the Released Parties' current and former Affiliates, estates,
10 heirs, managed accounts or funds, subsidiaries, officers, directors, principals, employees, agents,
11 financial advisors, attorneys, accountants, investment bankers, consultants, representatives and
12 other professionals, in each case in their capacity as such.

13 **1.1.84. Reorganized Debtor.** Debtor as reorganized pursuant to this Plan after the
14 Effective Date by merger, consolidation, or otherwise.

15 **1.1.85. Residual Governmental Unit Claims.** All pre-Petition Date Claims of
16 Governmental Units which are neither Priority Tax Claims nor Governmental Unit Penalty
17 Claims but are subject to the Class 2 and Class 6 Settlement Agreement.

18 **1.1.86. Schedules.** The schedules of assets and liabilities and any amendments thereto
19 filed by Debtor with the Bankruptcy Court in accordance with Section 521(1) of the Bankruptcy
20 Code.

21 **1.1.87. Secured Claim.** A Claim that is secured by a Lien against property of the Estate
22 to the extent of the value of any interest in such property of the Estate securing such Claim,
23 which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a
24 Bankruptcy Court order, or to the extent of the amount of such Claim subject to setoff in
25 accordance with Section 553 of the Bankruptcy Code, in either case as determined pursuant to
26 Section 506(a) of the Bankruptcy Code.

27 **1.1.88. Settlement and Restructuring Agreement.** The Settlement and Restructuring
28 Agreement between Debtor, Solitude and the Released Parties, a copy of which will be included
in the Plan Supplement, which agreement provides for One Hundred (100) percent of the Equity
Securities of the Reorganized Debtor to be issued to Solitude as provided for in Section 5.1.6 and
the Releases of the Released Parties as provided for in Section 9.6 below, on the Effective Date
in exchange for; (a) the Exit Loan Lender entering into the Exit Loan and Exit Loan Documents
and commencing funding as provided for therein; (b) the Discharge of Woolley's Pre-Petition
Date Claims without receiving a Distribution related thereto; (c) the treatment of the Woolley's
Secured Claim as an Allowed General Unsecured Claim to be Discharged without a Distribution
related thereto; (d) Solitude exchanging all Claims related to the Solitude DIP Loans for the
Equity Securities of Reorganized Debtor; (e) KMW consenting to the assumption of the KMW
Leases in accordance with Article 6 of this Plan; and (f) Kraus and Jet Midwest agreeing to the
Discharge of all pre-Petition Date Claims without receiving a Distribution related thereto.

1.1.89. Solitude. Solitude Strategies, LLC, a Nevada limited liability company, of which
Woolley is the sole member and manager.

1 **1.1.90. Solitude DIP Loans.** The administrative loans from Solitude to the Debtor
2 subject to Section 364(c)(1) of the Bankruptcy Court and approved pursuant to the DIP Loan
3 Orders.

4 **1.1.91. Taxes.** All income, gaming, franchise, excise, sales, use, employment,
5 withholding, property, payroll, or other taxes, assessments of governmental charges, together
6 with any interest penalties, additions to tax, fines, and similar amounts relating thereto, whether
7 or not yet assessed or imposed, collected by, or due to any federal, state, local or foreign
8 governmental authority.

9 **1.1.92. Unexpired Lease.** A lease of real property or personal property to which Debtor
10 is a party that is subject to assumption or rejection under Section 365 of the Bankruptcy Code.

11 **1.1.93. Unimpaired.** This term has the meaning as set forth in Section 1124 of the
12 Bankruptcy Code.

13 **1.1.94. Virginia Code.** The Commonwealth of Virginia Code.

14 **1.1.95. Virginia SOS.** The Secretary of State of the Commonwealth of Virginia.

15 **1.1.96. Woolley.** Kenneth Woolley, an individual.

16 **1.2. Computation of Time.** In computing any period of time prescribed or allowed
17 by this Plan, unless otherwise expressly provided, the provisions of Bankruptcy Rule 9006(a)
18 shall apply.

19 **1.3. Rules of Interpretation.** For purposes of this Plan only; (i) any reference in this
20 Plan to a contract, instrument, release, or other agreement or documents being in particular form
21 or on particular terms and conditions means that such document shall be substantially in such
22 form or substantially on such terms and conditions; (ii) any reference in this Plan to an existing
23 document or exhibit filed or to be filed means such document or exhibit as it may have been or
24 may be amended, modified, or supplemented; (iii) unless otherwise specified, all references in
25 this Plan to Sections, Articles, Schedules and Exhibits are references to Sections, Articles,
26 Schedules and Exhibits of or to this Plan; (iv) the words “herein,” “hereof,” “hereto,” and
27 “hereunder” refer to this Plan in its entirety rather than to a particular portion of this Plan; (v)
28 captions and headings to Articles and Sections are inserted for convenience of reference only and
are not intended to be a part of or to affect the interpretation of this Plan; and (vi) the rules of
construction and definitions set forth in Sections 101 and 102 of the Bankruptcy Code and in the
Bankruptcy Rules shall apply unless otherwise expressly provided.

1.4. Exhibits and Plan Schedules. All exhibits and schedules attached to this Plan
are incorporated into and are a part of this Plan as if set forth in full herein.

2. TREATMENT OF UNCLASSIFIED CLAIMS

2.1. General. Pursuant to Section 1123(a)(1) of the Bankruptcy Code, the Claims
against Debtor set forth in this Article 2 are not classified within any Classes. The Holders of
such Claims are not entitled to vote on this Plan. The treatment of the Claims set forth below is
consistent with the requirements of Section 1129(a)(9)(A) of the Bankruptcy Code.

1 **2.2. Treatment of Administrative Claims.** Each Allowed Administrative Claim
2 shall be paid by Reorganized Debtor or the Disbursing Agent, as applicable, upon the latest of:
3 (i) the Effective Date or as soon thereafter as is practicable; (ii) such date as may be fixed by the
4 Bankruptcy Court, or as soon thereafter as practicable, (iii) the fourteenth (14th) Business Day
5 after such Claim is Allowed, or as soon thereafter as practicable; and (iv) such date as the Holder
6 of such Claim and Reorganized Debtor shall agree upon. With respect to payment of the Allowed
7 Professional Fees of the Creditor Committee, (i) the Debtor shall pay the fees approved prior to
8 the Effective Date, and (ii) the Disbursing Agent shall pay the fees approved after the Effective
9 Date.

10 **2.3. Treatment of Priority Tax Claims.** Each Allowed Priority Tax Claim shall be
11 paid in full in Cash by the Reorganized Debtor in equal monthly installments beginning the latest
12 of: (i) the Effective Date or as soon thereafter as is practicable; (ii) such date as may be fixed by
13 the Bankruptcy Court, or as soon thereafter as practicable, (iii) the fourteenth (14th) Business
14 Day after such Priority Tax Claim is Allowed, or as soon thereafter as practicable; and (iv) such
15 date as the Holder of such Priority Tax Claim and Reorganized Debtor shall agree upon and on
16 the same day of each successive month for a period ending not later than five (5) years after the
17 Petition Date. Until the Allowed Priority Tax Claim is paid in full, the unpaid balance shall
18 accrue statutory interest from the Effective Date faxed at the applicable federal or state statutory
19 rate in effect with respect to such Priority Tax Claim on the Petition Date.

20 **2.4. Solitude DIP Loans.** On the Effective Date, the aggregate of the Solitude DIP
21 Loans shall be converted into the right to receive one hundred (100) percent of the Equity
22 Security in the Reorganized Debtor, calculated on a fully diluted basis.

23 **2.5. Requests for Payment.** All requests for payment of Administrative Claims
24 against Debtor and all final applications for allowance and disbursement of Professional Fees
25 must be filed by the Administrative Claims Bar Date or the Holders thereof shall be forever
26 barred from asserting such Administrative Claims against Debtor and the Reorganized Debtor.
27 All Professional Fees applications must be in compliance with all of the terms and provisions of
28 any applicable order of the Bankruptcy Court, including the Confirmation Order, and all other
orders governing payment of Professional Fees. Unless otherwise ordered by the Bankruptcy
Court, from and after the Effective Date, no professional shall be required to file fee applications
with the Bankruptcy Court and Reorganized Debtor may pay all professionals in the ordinary
course for fees and expenses incurred after the Effective Date.

3. DESIGNATION OF CLASSES OF CLAIMS AND EQUITY INTERESTS

Pursuant to this Plan and in accordance with Section 1123(a)(1) of the Bankruptcy Code,
all Claims of Creditors and the Holders of Equity Securities (except unclassified Claims) are
placed in the Classes described below. A Claim or Equity Security is classified in a particular
Class only to the extent that the Claim or Equity Security qualifies within the description of that
Class and is classified in other Classes only to the extent that any remainder of the Claim or
Equity Security qualifies within the description of such other Classes. A Claim or Equity
Security is also classified in a particular Class only to the extent that such Claim or Equity
Security is an Allowed Claim or Allowed Equity Security in that Class and has not been paid,
released, or otherwise satisfied prior to the Effective Date. With respect to Classes of Claims
described as Unimpaired under this Plan, except as otherwise provided under this Plan, nothing

1 shall affect the rights and legal and equitable defenses of Debtor and Reorganized Debtor
 2 regarding such Claims classified as Unimpaired under this Plan, including but not limited to, all
 3 rights in respect of legal and equitable defenses to setoff or recoupment against such Claims.

3 **3.1. Summary of Classification.**

<u>Class</u>	<u>Description</u>	<u>Treatment</u>
Class 1	Other Secured Claims	Unimpaired. No Solicitation required.
Class 2	U.S. Department of Agriculture Secured Claim	Impaired Solicitation required.
Class 3	Priority Unsecured Claims	Unimpaired. No solicitation required.
Class 4	Convenience Claims	Impaired Solicitation required.
Class 5	General Unsecured Claims	Impaired. Solicitation required.
Class 6	Residual Governmental Unit Claims	Impaired Solicitation required.
Class 7	Pre-Effective Date Equity Security	Impaired. No solicitation required.

17 **3.2. Specific Classification.**

18 **3.2.1.** Class 1: Other Secured Claims. Class 1 consists of the Other Secured Claims.
 19 Each Holder of an Other Secured Claim shall be considered to be its own separate subclass
 20 within Class 1, and each subclass shall be deemed to be a separate class for purposes of this Plan.
 Debtor may add additional other Secured Creditors as an additional separate subclass.

21 **3.2.2.** Class 2: U.S. Department of Agriculture Secured Claim. Class. 2 consists of the
 22 Secured Claim of the U.S. Department of Agriculture pursuant to 21 U.S.C.136a(c)(5) providing
 23 for a statutory Lien in certain personal property of the Debtor as of the Petition Date.

24 **3.2.3.** Class 3: Priority Unsecured Claims. Class 3 consists of the Priority Unsecured
 25 Claims.

26 **3.2.4.** Class 4: Convenience Claims. Class 4 consists of the Convenience Claims.

27 **3.2.5.** Class 5: General Unsecured Claims. Class 5 consists of the General Unsecured
 28 Claims but shall not include Holders of General Unsecured Claims which make the Convenience
 Class Election.

1 **3.2.6.** Class 6: Residual Governmental Unit Claims. Class 6 consists of the Residual
Governmental Unit Claims.

2 **3.2.7.** Class 7: Pre-Effective Date Equity Securities. Class 7 consists of the Equity
3 Securities of Debtor prior to the Effective Date.

4 **4. DESIGNATION OF AND PROVISIONS FOR TREATMENT OF CLASSES OF**
5 **CLAIMS UNDER THIS PLAN**

6 **4.1. Class 1 – Other Secured Claims.** Each Allowed Other Secured Claim, if any,
7 shall, in full and final satisfaction of such Claim, be paid in accordance with its terms, or if none,
8 then in full in Cash by Reorganized Debtor upon the latest of: (i) the Effective Date or as soon
9 thereafter as practicable; (ii) such date as may be fixed by the Bankruptcy Court; (iii) the first
Business Day following the fourteenth (14th) day after such Claim is Allowed; and (iv) such date
as agreed upon by the Holder of such Claim and the Debtor, and after the Effective Date, by
Reorganized Debtor.

10 Creditors in Class 1 are Unimpaired under this Plan, deemed to have accepted this Plan
11 pursuant to section 1126(f) of the Bankruptcy Code, and are not entitled to vote on this Plan.

12 **4.2. Class 2 – U.S. Department of Agriculture Secured Claim.** In accordance with
13 the Class 2 and Class 6 Settlement Agreement, the US. Department of Agriculture shall receive
14 in full and complete satisfaction of its Allowed Secured Claim One Hundred and Fifty
Thousand (150,000.00) Dollars in Cash on the first (1st) Business Day following the tenth (10th)
day after the Effective Date.

15 The U.S. Department of Agriculture is Impaired under this Plan and is entitled to vote on
16 this Plan

17 **4.3. Class 3 – Priority Unsecured Claims.** Each Allowed Priority Unsecured Claim,
18 if any, shall, in full and final satisfaction of such Claims, be paid in full in Cash on the latest of:
19 (i) the Initial Distribution Date, or as soon thereafter as is practical; (ii) such date as may be
20 fixed by the Bankruptcy Court, or as soon thereafter as is practicable; (iii) the fourteenth (14th)
21 Business Day after such Claim is Allowed, or as soon thereafter as is practicable; or (iv) such
22 date as the Holder of such Claim and Debtor or Reorganized Debtor, as applicable, have agreed
or shall agree, plus pre-Petition Date interest due under applicable bankruptcy or non-
bankruptcy law and claimed in a Proof of Claim by such Holder to the extent approved by the
Bankruptcy Court or as included in the Schedules by the Debtor.

23 Class 3 is Unimpaired under this Plan, and therefore, the Holders of Class 3 Claims, if any,
are deemed to have accepted this Plan and are not entitled to vote on this Plan.

24 **4.4. Class 4 – Convenience Claims.** Except to the extent that a Holder of an Allowed
25 Convenience Claim agrees to less favorable treatment, each Holder of an Allowed Convenience
26 Claim shall, in full and final satisfaction of such Allowed Convenience Claim be paid in 6 equal
27 monthly installments commencing on the Initial Distribution Date, the lesser of (i) the Allowed
amount of such Claim, or (ii) Two Thousand (2,000.00) Dollars.

1 Class 4 is impaired under this Plan, and the Holders of Allowed Convenience Claims are
entitled to vote on this Plan.

2
3 **4.5. Class 5 – General Unsecured Claims.** Except to the extent that a Holder of an
Allowed General Unsecured Claim agrees to less favorable treatment;

4 **4.5.1.** Each Holder of an Allowed General Unsecured Claim, shall, in full and final
5 satisfaction of such Claim, be paid in Cash its Pro Rata share of the Class 5 Distribution Amount.

6 **4.5.2.** Deducted from the Class 5 Distribution Amount shall be (i) all costs and expenses
7 of the Disbursing Agent and the Disbursing Agent Account, and (ii) the Allowed Professional
Fees of the Creditor Committee approved after the Effective Date.

8 **4.5.3.** On the Effective Date, provided that the Settlement and Restructuring Agreement
9 is approved and this Plan as confirmed is consistent with the relief provided for in the Settlement
10 and Restructuring Agreement, the Claims of Woolley, Kraus and Jet Midwest and the KMW
Cure payments shall be subordinated to the payment of all other Allowed General Unsecured
11 Claims and unclassified Allowed Claims and shall not receive any Distribution under this Plan.

12 Class 5 is Impaired under this Plan. The Holders of the Class 5 Allowed General
Unsecured Claims are entitled to vote on this Plan.

13 **4.6. Class 6 – Governmental Unit Residual Claims.** . In accordance with the Class
14 2 and Class 6 Settlement Agreement, the Agencies shall receive in full and complete
15 satisfaction of their Allowed Governmental Unit Residual Claims the sum of Eight Hundred
Thousand (800,000.00) Dollars in Cash on the first (1st) Business Day following the tenth (10th)
16 day after the Effective Date.

17 Class 6 is Impaired under this Plan. The Holders of the Class 6 Allowed Governmental
Unit Residual Claims are entitled to vote on this plan.

18 **4.7. Class 7 – Equity Securities.** On the Effective Date the Equity Securities of the
19 Debtor shall be cancelled and Holders of Class 7 Equity Securities shall not receive any
Distribution on account of such Equity Interests.

20 Class 7 is Impaired under this Plan. The Holders of Class 7 Equity Securities are not
21 entitled to vote on this Plan and are deemed to have voted no on this Plan.

22 **5. MEANS FOR IMPLEMENTATION OF PLAN**

23 **5.1. Plan Implementation Occurring on the Effective Date.** On the Effective Date,
24 except as otherwise provided, without any further action by Debtor or Reorganized Debtor, all of
25 Debtor's assets shall vest in Reorganized Debtor and the following events shall occur in the
following sequence:

26 **5.1.1.** The Settlement and Restructuring Agreement shall be executed.

27 **5.1.2.** If not already executed, the Class 2 and Class 6 Settlement Agreement shall be
executed.

1 **5.1.3.** The Exit Loan Documents shall be executed by the Reorganized Debtor and the
2 Exit Loan Lender, as applicable, and the Exit Loan Note shall be delivered to the Exit Loan
Lender. The initial funding shall be funded.

3 **5.1.4.** All Litigation Claims shall be assigned and transferred to Reorganized Debtor.

4 **5.1.5.** On the Effective Date the Class 5 Distribution Amount shall be transferred to the
5 Disbursing Agent for deposit into the Disbursing Agent Account.

6 **5.1.6.** Any additional Distributions required to be made by the Debtor or Reorganized
7 Debtor, as applicable, pursuant to this Plan the Holders of Allowed Claims on the Effective
Date shall be made.

8 **5.1.7.** One Hundred (100) Percent of the Equity Securities of Reorganized Debtor shall
9 be issued to Solitude.

10 **5.2. Reorganized Debtor.** From and after the Effective Date shall continue to exist as
11 a separate entity in accordance with applicable law. Debtor's existing articles of organization,
12 by-laws, and operating agreements (as amended, supplemented, or modified) will continue in
13 effect for Reorganized Debtor following the Effective Date, except to the extent that such
documents are amended in conformance with this Plan or by proper governance action after the
Effective Date.

14 **5.3. Articles of Organization, By-laws, Operating Agreement.** The articles of
15 organization, by-laws, and/or operating agreement, as applicable, of Debtor shall be amended as
16 necessary to satisfy the provisions of this Plan and the Bankruptcy Code and shall include,
17 among other things, pursuant to Section 1123(a)(6) of the Bankruptcy Code, a provision
prohibiting the issuance of non-voting equity securities, but only to the extent required by
Section 1123(a)(6) of the Bankruptcy Code

18 **5.4. Post-Effective Date Management of Reorganized Debtor.** From and after the
19 Effective Date, Reorganized Debtor will continue to be managed by Debtor's pre-petition
20 managers, which management may subsequently be modified to the extent provided by
Reorganized Debtor's articles of organization, by-laws, and operating agreement (as amended,
supplemented, or modified).

21 **5.5. Effectuation of Transactions.** On and after the Effective Date, the appropriate
22 managers or members of Debtor are authorized to issue, execute, deliver, and consummate the
23 transactions contemplated by or described in this Plan in the name of and on behalf of
24 Reorganized Debtor without further notice to or order of the Bankruptcy Court, act or action
under applicable law, regulation, order, rule, or any requirements of further action, vote, or other
approval or authorization by any Person

25 **5.6. Notice of Effectiveness.** When all of the steps contemplated by Section 8.2 have
26 been completed or waived, Reorganized Debtor shall file with the Bankruptcy Court and serve
27 upon all Creditors and all potential Holders of Administrative Claims known to Reorganized
Debtor (whether or not disputed), a notice of Effective Date of Plan. The notice of Effective
Date of Plan shall include notice of the Administrative Claim Bar Date

1 **5.7. No Governance Action Required.** As of the Effective Date: (i) the adoption,
2 execution, delivery, and implementation or assignment of all contracts, leases, instruments,
3 releases, and other agreements related to or contemplated by this Plan; and (ii) the other matters
4 provided for under or in furtherance of this Plan involving corporate action to be taken by or
5 required of Debtor shall be deemed to have occurred and be effective as provided herein, and
6 shall be authorized and approved in all respects without further order of the Bankruptcy Court or
7 any requirement of further action by the members or managers of Debtor

8 **5.8. Filing with Virginia SOS.** To the extent required by the Virginia Code, on or as
9 soon as reasonably practical after the Effective Date, a certified copy of this Plan and the
10 Confirmation Order shall be filed with the Virginia SOS. Again, to the extent applicable, Debtor,
11 from the Confirmation Date until the Effective Date, is authorized and directed to take any action
12 or carry out any proceeding necessary to effectuate this Plan pursuant to applicable Virginia
13 Code provisions.

14 **5.9. Creditor Committee.** On the Effective Date the Creditor Committee shall be
15 disbanded and all authorities granted the Creditor Committee pursuant to Sections 1102 and
16 1103 of the Bankruptcy Code shall be terminated without further order of the Bankruptcy Court.

17 **6. EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

18 **6.1. Executory Contracts.** Except for Executory Contracts and Unexpired Leases
19 specifically addressed in this Plan, assumed pursuant to prior order of the Bankruptcy Court, or
20 set forth on the schedule of Rejected Executed Contracts and Unexpired Leases attached as
21 Schedule 6.1 hereto (which may be supplemented and amended up to the date the Bankruptcy
22 Court enters the Confirmation Order), all Executory Contracts and Unexpired Leases that exist
23 on the Confirmation Date shall be deemed rejected by Debtor on the Effective Date.

24 **6.2. Approval of Assumption or Rejection.** Entry of the Confirmation Order shall
25 constitute as of the Effective Date: (i) approval, pursuant to Bankruptcy Code Section 365, of the
26 rejection by Reorganized Debtor of each Executory Contract and Unexpired Lease to which
27 Debtor is a party that is not listed on Schedule 6.1, not otherwise provided for in this Plan, and
28 neither assigned, assumed and assigned, nor rejected by separate order of the Bankruptcy Court
prior to the Effective Date; and (ii) rejection by Debtor of each Executory Contract and
Unexpired Lease to which Debtor is a party that is not listed on Schedule 6.1. Upon the
Effective Date, each counter party to an assumed Executory Contract or Unexpired Lease listed
shall be deemed to have consented to an assumption contemplated by Section 365(c)(1)(B) of the
Bankruptcy Code, to the extent such consent is necessary for such assumption. To the extent
applicable, all Executory Contracts or Unexpired Leases of Reorganized Debtor assumed
pursuant to this Article 6 shall be deemed modified such that the transactions contemplated by
this Plan shall not be a “change of control,” regardless of how such term may be defined in the
relevant Executory Contract or Unexpired Lease and any required consent under any such
Executory Contract or Unexpired Lease shall be deemed satisfied by confirmation of this Plan.

6.3. Cure of Defaults. Reorganized Debtor shall Cure any defaults respecting each
Executory Contract or Unexpired Lease assumed pursuant to Section 6.1 of this Plan upon the
latest of: (i) the Effective Date or as soon thereafter as practicable; (ii) such dates as may be fixed
by the Bankruptcy Court or agreed upon by Debtor, and after the Effective Date, Reorganized
Debtor; or (iii) the fourteenth (14th) Business Day after the entry of a Final Order resolving any

1 dispute regarding: (a) a Cure amount; (b) the ability of Debtor or Reorganized Debtor to provide
2 “adequate assurance of future performance” under the Executory Contract or Unexpired Lease
3 assumed pursuant to this Plan in accordance with Section 365(b)(1) of the Bankruptcy Code; or
4 (c) any matter pertaining to assumption, assignment, or the Cure of a particular Executory
Contract or an Unexpired Lease. Notwithstanding, the Cure of the KMW Leases shall be treated
in accordance with the Settlement and Restructuring Agreement.

5 **6.4. Objection to Cure Amounts.** Any party to an Executory Contract or Unexpired
6 Lease who objects to the Cure amount determined by Debtor to be due and owing must file and
7 serve an objection on Debtor’s counsel no later than thirty (30) days after the Effective Date.
8 Failure to file and serve a timely objection shall be deemed consent to the Cure amounts paid by
9 Debtor in accordance with Section 6.3 of this Plan. If there is a dispute regarding: (i) the amount
10 of any Cure payment; (ii) the ability of Reorganized Debtor to provide “adequate assurance of
future performance” under the Executory Contract or Unexpired Lease to be assumed or
assigned; or (iii) any other matter pertaining to assumption, the Cure payments required by
Section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order
resolving the dispute and approving the assumption.

11 **6.5. Confirmation Order.** The Confirmation Order will constitute an order of the
12 Bankruptcy Court approving the assumptions described in this Article 6 pursuant to Section 365
13 of the Bankruptcy Code as of the Effective Date. Notwithstanding the forgoing, if, as of the date
14 the Bankruptcy Court enters the Confirmation Order, there is pending before the Bankruptcy
15 Court a dispute concerning the Cure amount or adequate assurance for any particular Executory
Contract or Unexpired Lease, the assumption of such Executory Contract or Unexpired Lease
shall be effective as of the date the Bankruptcy Court enters an order resolving any such dispute
and authorizing assumption by Debtor.

16 **6.6. Bar Date.** All proofs of Claims with respect to Claims arising from the rejection
17 of any Executory Contract or Unexpired Lease shall be filed no later than thirty (30) calendar
18 days after the Effective Date. Any Claim not filed within such time shall be forever barred.

19 **7. MANNER OF DISTRIBUTION OF PROPERTY UNDER THIS PLAN**

20 **7.1. Distributions.** Distributions to Holders of Class 5 Allowed Claims shall be the
21 responsibility of the Disbursing Agent, and Reorganized Debtor shall be responsible for making
22 the balance of Distributions described in this Plan. Reorganized Debtor and Disbursing Agent,
23 as applicable, may make such Distributions before the allowance of each Claim has been
24 resolved if Reorganized Debtor has a good faith belief that the Disputed Claims Reserve is
25 sufficient for all Disputed Claims. Except as otherwise provided in this Plan or the Confirmation
Order, the Cash necessary for Reorganized Debtor to make payments pursuant to this Plan may
be obtained from existing Cash balances or the Exit Loan, and the Cash necessary for Disbursing
Agent to make payments pursuant to this Plan shall be obtained from the Disbursing Agent
Account.

26 **7.2. Reserves.** Disbursing Agent shall establish and maintain the Disputed Claim
27 Reserve with respect to Class 5 General Unsecured Claims, and Reorganized Debtor shall
28 establish and maintain the Disputed Claim Reserve for the balance of the Claims.

1 **7.3. Statements.** Reorganized Debtor shall maintain a record of the names and
2 addresses of all Holders of Allowed Claims as of the Effective Date for purposes of mailing
3 Distributions to them, and shall provide a copy to the Disbursing Agent. Reorganized Debtor and
4 the Disbursing Agent may rely on the name and address set forth in Debtor's Schedules and/or
5 Proofs of Claim and the ledger and records regarding Holders of Equity Securities as of the
6 Record Date as being true and correct unless and until notified otherwise in writing.
7 Reorganized Debtor shall file all tax returns and other filings with governmental authorities on
8 behalf of Reorganized Debtor and the Assets it holds. The Disbursing Agent shall be responsible
9 for any tax returns and other filings with governmental authorities with regard to the Assets it
10 holds.

11 **7.4. Further Authorization.** Debtor and Reorganized Debtor shall be entitled to seek
12 such orders, judgments, injunctions, and rulings as it deems necessary to carry out the intentions
13 and purposes, and to give full effect to the provisions of this Plan.

14 **8. CONDITIONS PRECEDENT TO CONFIRMATION AND THE EFFECTIVE**
15 **DATE**

16 **8.1. Conditions to Confirmation.** The Confirmation Order shall have been entered
17 and be in form and substance reasonable acceptable to Debtor.

18 **8.2. Conditions to Effectiveness.** The following are conditions precedent to the
19 occurrence of the Effective Date:

20 **8.2.1.** The Confirmation Order shall be a Final Order, except that Debtor reserves the
21 right to cause the Effective Date to occur notwithstanding the pendency of an appeal of the
22 Confirmation Order;

23 **8.2.2.** All documents necessary to implement the transactions contemplated by this Plan
24 shall be in form and substance reasonable acceptable to Debtor;

25 **8.2.3.** The Settlement and Restructuring Agreement shall be in form and substance
26 reasonably acceptable to Solitude, Woolley and the Debtor, and the Settlement and Restructuring
27 Agreement shall have been executed;

28 **8.2.4.** The Class 2 and Class 6 Settlement and Agreement shall be in form and substance
reasonably acceptable to the DOJ, Woolley and the Debtor, and the Class 2 and Class 6
Settlement Agreement shall have been executed;

8.2.5. The Exit Loan Documents shall be in form and substance reasonably acceptable
to Woolley and the Debtor, and the Exit Loan Documents shall have been executed;

8.2.6. The initial advance under the Exit Loan shall have been funded; and

8.2.7. The Class 5 Distribution Amount shall have been distributed to the Disbursing
Agent for deposit into the Disbursing Agent Account.

1 **9. TITLE TO PROPERTY; DISCHARGE; INJUNCTION**

2 **9.1. Vesting of Assets.** Subject to the provisions of this Plan and as permitted by
3 Section 1123(a)(5)(B) of the Bankruptcy Code, the Assets, including the Litigation Claims and
4 right, title, and interest being assumed by Reorganized Debtor in the assumed Executory
5 Contracts, shall be transferred to Reorganized Debtor on the Effective Date. As of the Effective
6 Date, all such property shall be free and clear of all Liens, Claims, and Equity Securities except
7 as otherwise provided herein. On and after the Effective Date, Reorganized Debtor may operate
its business and may use, acquire, and dispose of property and compromise or settle any Claim
without the supervision of or approval of the Bankruptcy Court and free and clear of any
restrictions of the Bankruptcy Code or the Bankruptcy Rules, other than restrictions expressly
imposed by this Plan or the Confirmation Order.

8 **9.2. Preservation of Litigation Claims.** In accordance with Section 1123(b)(3) of the
9 Bankruptcy Code, and except as otherwise expressly provided herein, all Litigation Claims shall
10 be assigned and transferred to Reorganized Debtor pursuant to Section 5.1 of this Plan.
11 Reorganized Debtor, as the successor in interest to Debtor and the Estate, may and shall have the
12 exclusive right to sue on, settle, or compromise any and all Litigation Claims, including
13 derivative actions existing against Debtor on the Effective Date. Notwithstanding, however, all
14 Avoidance Actions are waived and extinguished as of the Effective Date.

15 **9.3 Discharge.** On the Effective Date, except as otherwise provided in this Plan, the
16 Debtor shall be discharged from any and all unclassified Claims and Claims in Classes 1, 2, 3, 4,
17 5, 6, and 7 to the fullest extent provided in sections 524 and 1141 of the Bankruptcy Code. The
18 Discharge shall be to the fullest extent provided under section 1141(d)(1)(A) and other
19 applicable provisions of the Bankruptcy Code, and, except as otherwise expressly provided by
20 this Plan or the Confirmation Order, all consideration distributed under this Plan and shall be in
21 exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims of
22 any kind or nature whatsoever against the Debtor or any of its assets or properties, and regardless
23 of whether any property shall have been distributed or retained pursuant to this Plan on account
of such Claims. Except as otherwise expressly provided by this Plan or the Confirmation Order,
upon the Effective Date as to unclassified Claims and Claims in Classes 1, 2, 3, 4, 5, 6, and 7, the
Debtor shall be deemed discharged and released under and to the fullest extent provided under
section 1141(d)(1)(A) of the Bankruptcy Code from any and all Claims of any kind or nature
whatsoever, including, but not limited to, demands and liabilities that arose before the
Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the
Bankruptcy Code. Nothing in this Plan or Confirmation Order shall operate to expand the
Debtor's discharge as provided for in this Section 9.3 beyond those allowed by the Bankruptcy
Code. Nothing in this Plan or Confirmation Order shall discharge any Claims of the United
States arising after the Confirmation Date.

24 **9.4. Compromise and Settlement.** The allowance, classification, and treatment of all
25 Allowed Claims and their respective Distributions under this Plan take into account and/or
26 conform to the relative priority and rights of the Claims in each Class in connection with any
27 contractual, legal, and equitable subordination rights relating thereto whether arising under
28 general principles of equitable subordination, section 510(c) of the Bankruptcy Code, or
otherwise. As of the Effective Date, any and all such rights described in the preceding sentence
will be settled, compromised, and released pursuant to this Plan and any and all such Causes of

1 Action related thereto are settled, compromised, and released pursuant hereto.

2 **9.5. Injunction.** From and after the Effective Date, and except as provided in this
3 Plan and the Confirmation Order, all entities that have held, currently hold, or may hold a Claim
4 or an Equity Security or other right of an Equity Security Holder that is terminated pursuant to
5 the terms of this Plan are permanently enjoined from taking any of the following actions on
6 account of any such Claims or terminated Equity Securities or rights: (i) commencing or
7 continuing in any manner any action or other proceeding against Reorganized Debtor or its
8 property; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award,
9 decree, or order against Reorganized Debtor or its property; (iii) creating, perfecting, or
10 enforcing any Lien or encumbrance against Reorganized Debtor or its property; (iv) asserting a
11 right of subrogation of any kind against any debt, liability, or obligation due to Reorganized
12 Debtor or its property; and (v) commencing or continuing any action, in any manner or any
13 place, that does not comply with or is inconsistent with the provisions of this Plan or the
14 Bankruptcy Code. Nothing in this Plan or the Confirmation Order will enjoin, impair or
15 otherwise preclude the United States (1) from pursuing any criminal action or any police or
16 regulatory action; (ii) from pursuing any liability to the United States that is not a Claim; (iii)
17 from exercising any rights of setoff or recoupment; and (iv) from pursuing any claim of the
18 United States arising after the Confirmation Date.

19 **9.6. Releases by Debtor.** Pursuant to section 1123(b) of the Bankruptcy Code, for
20 good and valuable consideration, including the release of Claims by and treatment of the
21 KMW Leases, the Released Parties' facilitation of the expeditious reorganization of Debtor
22 and the implementation of the restructuring contemplated by this Plan, on and after the
23 Effective Date, the Released Parties are deemed released and discharged by Debtor, the
24 Reorganized Debtor, and the Estate from any and all claims, obligations, rights, suits,
25 damages, Causes of Action, remedies and liabilities whatsoever, including any derivative
26 claims asserted or which could be asserted on behalf of the Debtor, whether known or
27 unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or
28 otherwise, that the Debtor, the Reorganized Debtor, or and the Estate would have been
legally entitled to assert in their own right (whether individually or collectively), based on
or relating to, or in any manner arising from, in whole or in part, Debtor, Debtor's
restructuring, Debtor's Chapter 11 Case, the purchase, sale or rescission of the purchase or
sale of any security of the Debtor or the Reorganized Debtor, the subject matter of, or the
transactions or events giving rise to, any Claim or Equity Security that is treated in this
Plan, the business or contractual arrangements between Debtor and any Released Party,
the restructuring of Claims and Equity Securities before or during the Chapter 11 Case,
the negotiation, formulation or preparation of this Plan, the Disclosure Statement or
related agreements, instruments or other documents, or any other act or omission,
transaction, agreement, event or other occurrence relating to the Debtor taking place on or
before the Confirmation Date of this Plan, other than claims or liabilities arising out of or
relating to any act or omission of a Released Party.

9.7. Exculpation. Except as provided for in this Plan, from and after the Effective
Date, neither the Debtor, Reorganized Debtor, Creditor Committee, KMW, Solitude, the
professionals employed on behalf of the Estate or the Creditor Committee, nor any of their
respective present or former members, directors, officers, managers, employees, advisors,
attorneys, or agents, shall have or incur any liability, including derivative claims, but excluding

1 direct claims, to any Holder of a Claim or Equity Security or any other party-in-interest, or any
2 of their respective agents, employees, representatives, financial advisors, attorneys, or Affiliates,
3 or any of their successors or assigns, for any act or omission in connection with, relating to, or
4 arising out of (from the Petition Date through the Effective Date), the Chapter 11 Case, the
5 pursuit of confirmation of this Plan, or the consummation of this Plan, except for gross
6 negligence and willful misconduct, and in all respects shall be entitled to reasonably rely upon
7 the advice of counsel with respect to their duties and responsibilities under this Plan or in the
8 context of the Chapter 11 Case.

9
10 **10. RETENTION OF JURISDICTION**

11 **10.1. Jurisdiction.** Notwithstanding the entry of the Confirmation Order and the
12 occurrence of the Effective Date, the Bankruptcy Court shall retain such jurisdiction over the
13 Chapter 11 Case and Reorganized Debtor after the Effective Date as is legally permissible,
14 including jurisdiction to:

15 **10.1.1.** Allow, disallow, determine, liquidate, classify, estimate, or establish the priority
16 or secured or unsecured status of any Claim or Disputed Claim, including the resolution of any
17 request for payment of any Administrative Claim and the resolution of any and all objections to
18 the allowance or priority of Claims or Disputed Claims;

19 **10.1.2.** Grant or deny any applications for allowance of compensation or reimbursement
20 of expenses authorized pursuant to the Bankruptcy Code or this Plan for periods ending on or
21 before the Effective Date;

22 **10.1.3.** Resolve any matters related to the assumption, assignment, or rejection of any
23 Executory Contract or Unexpired Lease to which Debtor or Reorganized Debtor are party and to
24 hear, determine, and, if necessary, liquidate any Claims arising there from or Cure amounts
25 related thereto;

26 **10.1.4.** Insure that Distributions to Holders of Allowed Claims, or if applicable, Equity
27 Securities are accomplished pursuant to the provisions of this Plan;

28 **10.1.5.** Decide or resolve any motions, adversary proceedings, contested or litigated
matters, and any other matters and grant or deny any applications or motions involving Debtor or
Reorganized Debtor that may be pending on the Effective Date or commenced thereafter as
provided for by this Plan;

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

10.1.7. Decide or resolve any cases, controversies, suits, or disputes that may arise in
connection with the consummation, interpretation, or enforcement of any Final Order, this Plan,
the Confirmation Order, or any Person's obligations incurred in connection with this Plan or the
Confirmation Order;

1 **10.1.8.** Modify this Plan before or after the Effective Date pursuant to Section 1127 of the
2 Bankruptcy Code and Section 11.1 of this Plan or modify any contract, instrument, release or
3 other agreement or document created in connection with this Plan, the Disclosure Statement, or
4 the Confirmation Order or the Reorganized Debtor; or remedy any defect or omission or
5 reconcile any inconsistency in any Final Order, this Plan, the Confirmation Order, or any
6 contract, instrument, release or other agreement or document created in connection with this
7 Plan, the Disclosure Statement, or the Confirmation Order, in such manner as may be necessary
8 or appropriate to consummate this Plan, to the extent authorized by the Bankruptcy Code;

6 **10.1.9.** Issue injunctions, enter and implement other orders, or take such other actions as
7 may be necessary or appropriate to restrain interference by any person with consummation,
8 implementation, or enforcement of any Final Order, this Plan, or the Confirmation Order, except
9 as otherwise provided herein;

9 **10.1.10.** Enter and implement such orders as are necessary or appropriate if a Final Order
10 or the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

10 **10.1.11.** Determine any other matters that may arise in connection with or relate to this
11 Plan, any Final Order, the Disclosure Statement, the Confirmation Order, or any contract,
12 instrument, release, or other agreement or document created in connection with this Plan, the
13 Disclosure Statement, any Final Order, or Confirmation Order, except as otherwise provided
14 herein;

14 **10.1.12.** Enter an order closing the Chapter 11 Case;

15 **10.1.13.** Hear and decide Litigation Claims and continue to hear and decide pending
16 Litigation Claims and any other claim or cause of action of Debtor and Reorganized Debtor; and

17 **10.1.14.** Decide or resolve any matter over which the Bankruptcy Court has jurisdiction
18 pursuant to Section 505 of the Bankruptcy Code

18 Nothing contained in this Article 10 shall constitute a waiver by any Person of the right to
19 assert that the Bankruptcy Court lacks jurisdiction over any matter set forth in this Article 10.

20 **11. MODIFICATION AND AMENDMENT OF PLAN**

21 **11.1. Modification and Amendment.** Prior to Confirmation, Debtor may alter, amend,
22 or modify this Plan under Section 1127(a) of the Bankruptcy Code at any time. After the
23 Confirmation Date and prior to substantial consummation of this Plan as defined in Section
24 1101(2) of the Bankruptcy Code, Debtor may, under Section 1127(b), (c), and (d) of the
25 Bankruptcy Code, alter, amend, or modify this Plan or institute proceedings in the Bankruptcy
26 Court to remedy any defect or omission or reconcile any inconsistencies in this Plan, the
27 Disclosure Statement, or the Confirmation Order, to make appropriate adjustments and
28 modifications to this Plan or the Confirmation Order as may be necessary to carry out the
purposes and effects of this Plan so long as such proceedings do not materially adversely affect
the treatment of Holders of Claims under this Plan.

27 **12. MISCELLANEOUS**

1 **12.1. Filing of Objections to Claims.** After the Effective Date, objections to Claims
2 shall be made and objections to Claims made previous thereto shall be pursued by Reorganized
3 Debtor or any other party properly entitled to do so under the Bankruptcy Code. Any objections
4 to Claims made after the Effective Date shall be filed and served not later than the first Business
Day that is thirty (30) calendar days after the Effective Date; provided, however, that such period
may be extended by order of the Bankruptcy Court.

5 **12.1.1. Resolution of Objections After Effective Date.** From and after the Effective
6 Date, Reorganized Debtor may litigate to judgment, propose settlements of, or withdraw
7 objections to, all pending or filed Disputed Claims and may settle or compromise any Disputed
Claim without notice and a hearing and without approval of the Bankruptcy Court.

8 **12.1.2. Distributions and Disputed Claims Reserve.** In order to facilitate Distributions
9 to Holders of Allowed Claims, and if and to the extent there are Disputed Claims or Disputed
10 Equity Securities in any Class, Reorganized Debtor or the Disbursing Agent, as applicable, shall
11 set aside in a designated reserve account the payments or Distributions applicable to such
12 Disputed Claims as if such Disputed Claims were Allowed Claims, pending the allowance or
13 disallowance of such Disputed Claims. In the event Reorganized Debtor or the Disbursing
14 Agent, as applicable, wishes to deposit or hold a lesser amount than required herein and is unable
15 to reach an agreement with the Holder of the Disputed Claim on the amount to be deposited or
held, the Bankruptcy Court shall fix the amount after notice and hearing. Upon Final Order with
respect to a Disputed Claim, the Holder of such Disputed Claim, to the extent it has been
determined to be an Allowed Claim, shall receive as soon as reasonably practical that payment or
Distribution to which it would have been entitled if the portion of the Claim so allowed had been
allowed as of the Effective Date.

16 **12.1.3. Late-Filed Claims.** No Proof of Claim filed after the Bar Date or, as applicable,
17 the Administrative Claim Bar Date, shall be allowed, and all such Proofs of Claims are hereby
18 disallowed in full. After the Bar Date or the Administrative Bar Date, as applicable, no Creditor
19 shall be permitted to amend any Claim or Proof of Claim to increase the claimed amount and any
20 such amendment shall be disallowed to the extent of the late-filed increase in the claimed
amount. Notwithstanding the above, the United States reserves the right to amend or file a Proof
of Claim after the applicable Bar Date consistent with applicable law and the Class 2 and Class 6
Settlement Agreement.

21 **12.2. Effectuating Documents; Further Transactions; Timing.** Debtor and
22 Reorganized Debtor are each authorized to execute, deliver, file, or record such contracts,
23 instruments, releases, and other agreements or documents and to take such actions as may be
24 necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan
25 and any securities issued, transferred, or canceled pursuant to this Plan. All transactions that are
required to occur on the Effective Date under the terms of this Plan shall be deemed to have
occurred simultaneously. Debtor and Reorganized Debtor are authorized and directed to do such
acts and execute such documents as are necessary to implement this Plan.

26 **12.3. Exemption from Transfer Taxes.** Pursuant to Section 1146 of the Bankruptcy
27 Code: (i) the issuance, distribution, transfer, or exchange of Estate property; (ii) the creation,
28 modification, consolidation, or recording of any deed of trust or other security interest, the
securing of additional indebtedness by such means or by other means in furtherance of, or

1 connection with this Plan or the Confirmation Order; (iii) the making, assignment, modification,
2 or recording of any lease or sublease; or (iv) the making, delivery, or recording of a deed or other
3 instrument of transfer under, in furtherance of, or in connection with, this Plan, Confirmation
4 Order, or any transaction contemplated above, or any transactions arising out of, contemplated
5 by, or in any way related to the foregoing shall not be subject to any document recording tax,
6 stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act or real estate
7 transfer tax, mortgage recording tax, or other similar tax or governmental assessment and the
8 appropriate state of local government officials or agents shall be, and hereby are, directed to
9 forego the collection of any such tax or assessment and to accept for filing or recordation any of
10 the foregoing instruments or other documents without the payment of any such tax or assessment

11 **12.4. Revocation or Withdrawal of this Plan.** Debtor reserves the right to revoke or
12 withdraw this Plan at any time prior to its substantial consummation. If this Plan is withdrawn or
13 revoked, then this Plan shall be deemed null and void and nothing contained herein shall be
14 deemed to constitute a waiver or release of any Claims by or against Debtor or any other Person
15 nor shall the withdrawal or revocation of this Plan prejudice in any manner the rights of Debtor
16 or any Person in any further proceedings involving Debtor. In the event this Plan is withdrawn
17 or revoked, nothing set forth herein shall be deemed an admission of any sort and this Plan and
18 any transaction contemplated thereby shall be inadmissible into evidence in any proceeding

19 **12.5. Binding Effect.** This Plan shall be binding upon, and shall inure to the benefit of
20 Debtor, Reorganized Debtor, and the Holders of all Claims and Equity Securities and their
21 respective successors and assigns.

22 **12.6. Governing Law.** Except to the extent that the Bankruptcy Code or other federal
23 law is applicable or as provided in any contract, instrument, release, or other agreement entered
24 into in connection with this Plan or in any document which remains unaltered by this Plan, the
25 rights, duties, and obligations of Debtor, Reorganized Debtor, and any other Person arising under
26 this Plan shall be governed by, and construed and enforced in accordance with, the internal laws
27 of the State of North Carolina without giving effect to North Carolina's choice of law provisions.

28 **12.7. Modification of Payment Terms.** Reorganized Debtor reserves the right to
modify the treatment of any Allowed Claim in any manner adverse only to the Holder of such
Allowed Claim at any time after the Effective Date upon the prior written consent of the Holder
whose Allowed Claim treatment is being adversely affected.

12.8. Providing for Claims Payments. Distributions to Holders of Allowed Claims
shall be made by Reorganized Debtor or the Disbursing Agent, as applicable,: (i) at the addresses
set forth on the proofs of Claim filed by such Holders (or at the last known addresses of such
Holders if no proof of Claim is filed or if Debtor has been notified of a change of address); (ii) at
the addresses set forth in any written notices of address changes delivered to Reorganized Debtor
after the date of any related proof of Claim; or (iii) at the addresses reflected in the Schedules if
no proof of Claim has been filed and Reorganized Debtor has not received a written notice of a
change of address. If any Holder's Distribution is returned as undeliverable, no further
Distributions to such Holder shall be made unless and until Reorganized Debtor or the
Disbursing Agent, as applicable, is notified of such Holder's then-current address, at which time
all missed Distributions shall be made to such Holder without interest. Amounts in respect of
undeliverable Distributions made through Reorganized Debtor or the Disbursing Agent, as

1 applicable, shall be paid to the Clerk of the Bankruptcy Court pursuant to Bankruptcy Rule 3011,
2 as in the case of a Chapter 7 liquidation. Nothing contained in this Plan shall require Debtor or
Reorganized Debtor to attempt to locate any Holder of an Allowed Claim.

3 **12.9. Set Offs.** Debtor and Reorganized Debtor may, but shall not be required to, set
4 off or recoup against any Claim and the payments or other Distributions to be made pursuant to
5 this Plan in respect of such Claim (before any Distribution is made on account of such Claim or
6 Equity Security), claims of any nature whatsoever that the applicable Debtor or Reorganized
7 Debtor may have against the Holder of such Claim to the extent such Claims may be set off or
recouped under applicable law, but neither the failure to do so nor the allowance of any Claim
hereunder shall constitute a waiver or release by Debtor or Reorganized Debtor of any such
Claim that it may have against such Holder.

8 **12.10. Notices.** Any notice required or permitted to be provided under this Plan shall be
9 in writing and served by either: (i) certified mail, return receipt requested, postage prepaid; (ii)
10 hand delivery; or (iii) reputable overnight courier service, freight prepaid, to be addressed as
follows:

11 If to Debtor: Dynamic International Airways, LLC
12 Attn: Raymond Lawlor
13 4310 Regency Drive, Suite 100
14 High Point, NC 27265
15 Tel: (262) 521-1100
16 Email: rlawlor@flydya.com
17
18
19
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21
22
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25
26
27
28

1 With a copy to:

Garman Turner Gordon
Attn: Gerald M. Gordon, Esq.
650 White Drive, Suite 100
Las Vegas, NV 89119
Tel: (725) 777-3000
Email: ggordon@gtg.legal

5 and

6 Bell, Davis & Pitt,
7 Attn: Walter Pitt, Esq.
8 PO Box 21029
9 Winston-Salem, NC 27120-1029
10 Tel: (336) 714-4110
11 Email: WPitt@belldavispitt.com

12 and

13 Northern Blue, LLP
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19 **12.11. Severability.** If any provision of this Plan is determined by the Bankruptcy Court
20 to be invalid, illegal, or unenforceable or this Plan is determined to be not confirmable pursuant
21 to Section 1129 of the Bankruptcy Code, the Bankruptcy Court, at the request of Debtor shall
22 have the power to alter and interpret such term to make it valid or enforceable to the maximum
23 extent practicable, consistent with the original purpose of the term or provision held to be
24 invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or
25 interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the
26 terms and provisions of this Plan shall remain in full force and effect and will in no way be
27 affected, impaired, or invalidated by such holding, alteration, or interpretation. The
28 Confirmation Order shall constitute a judicial determination and shall provide that each term and
provision of this Plan, as it may have been altered or interpreted in accordance with the
foregoing, is valid and enforceable pursuant to its terms.

12.12. Withholding and Reporting Requirements. In connection with this Plan and all
instruments and securities issued in connection therewith and Distributions thereon, Reorganized
Debtor shall comply with all withholding and reporting requirements imposed by any federal,
state, local, or foreign taxing authority and all Distributions hereunder shall be subject to any
such withholding and reporting requirements. Reorganized Debtor shall be authorized to take
any and all action that may be necessary to comply with such withholding and recording
requirements. Notwithstanding any other provision of this Plan, each Holder of an Allowed
Claim that has received a Distribution pursuant to this Plan shall have sole and exclusive
responsibility for the satisfaction or payment of any tax obligation imposed by any governmental
unit, including income, withholding, and other tax obligation on account of such Distribution.

1 **12.13. Post-Confirmation Reporting.** Until the entry of the final decree closing the
2 Chapter 11 Case, Reorganized Debtor shall comply with the Bankruptcy Code and Bankruptcy
3 Rules post-confirmation reporting requirements. Additionally, Reorganized Debtor shall file
4 post-confirmation quarterly operating reports detailing receipts and disbursements (along with
5 ending cash balance) for each calendar quarter from the date of confirmation until dismissal,
6 conversion, or entry of a final decree closing the case no later than 20 days after the expiration of
7 the reported quarter.

8 **12.14. Cramdown.** In the event that any Impaired Class is determined to have rejected
9 this Plan in accordance with Section 1126 of the Bankruptcy Code, Debtor may invoke the
10 provisions of Section 1129(b) of the Bankruptcy Code to satisfy the requirements for
11 confirmation of this Plan. Debtor reserves the right to modify this Plan to the extent, if any, that
12 Confirmation pursuant to Section 1129(b) of the Bankruptcy Code requires modification.

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17 **12.15. Quarterly Fees.** Prior to the Effective Date, Debtor, and after the Effective Date,
18 Reorganized Debtor, shall pay all quarterly fees payable to the Office of the Bankruptcy
19 Administrator consistent with the sliding scale set forth in 28 U.S.C. § 1930(a)(6), and the
20 applicable provisions of the Bankruptcy Code and Bankruptcy Rules.

21 DATED this day of December, 2017.

22 DYNAMIC INTERNATIONAL AIRWAYS, LLC
23 A Virginia limited liability company,

24 /s/ Ray Lawlor
25 By: Ray Lawlor
26 Its: Chief Executive Officer

27 **Prepared and Submitted:**

1 GARMAN TURNER GORDON

2 By: /s/ Teresa Pilatowicz

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SCHEDULE 1.1.68
TO PLAN OF REORGANIZATION
CERTAIN PRESERVED POTENTIAL CAUSES OF ACTION

All defined terms used herein shall have the meanings set forth in the Plan. The following is a non-exhaustive list of potential parties against whom Debtor and/or Reorganized Debtor may hold a claim or cause of action. Debtor and Reorganized Debtor reserve their right to modify this list to amend or add parties or causes of action, but disclaim any obligation to do so. In addition to the possible causes of action and claims listed below, Debtor and Reorganized Debtor have or may have, in the ordinary course of their business, numerous causes of action and Claims or rights against contractors, subcontractors, vendors, suppliers, and others with whom they deal in the ordinary course of their business (the "Ordinary Course Claims"). Debtor and Reorganized Debtor reserve their right to enforce, sue on, settle, or compromise (or decline to do any of the foregoing) the Ordinary Course Claims, as well as the claims and causes of action listed below and all other claims and causes of action. Debtor and Reorganized Debtor also have, or may have, and are retaining, various claims or causes of action arising under or pursuant to its insurance policies, and all rights arising under, relating to, or in connection with such policies are expressly reserved and retained.

1. Litigation Claims arising out of or in connection with Debtor's business, property, or operations, including the pending actions against Air India Limited before the United States District Court for the District of New York, The Second Circuit Court of Appeals and the High Court of Delhi.
2. Litigation Claims arising out of transactions involving, concerning, or related to Debtor; and
3. All other rights, privileges, claims, actions, or remedies of Debtor and/or Reorganized Debtor existing on the Effective Date, whether arising at law or in equity.

There may also be other Litigation Claims which currently exist or may subsequently arise that are not set forth herein because the facts underlying such Litigation Claims are not currently known or sufficiently known by Debtor. The failure to list any such unknown Litigation Claim herein is not intended to limit the rights of Reorganized Debtor to pursue any unknown Litigation Claim to the extent the facts underlying such unknown Litigation Claim become more fully known in the future.

Unless Litigation Claims against any individual or entity are expressly waived, relinquished, released, compromised, or settled by the Plan or any Final Order, Debtor expressly reserves for its benefit, and the benefit of Reorganized Debtor, all Litigation Claims, including, without limitation, all unknown Litigation Claims for later adjudication and therefore no preclusion doctrine (including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches) shall apply to such Litigation Claims after the confirmation or consummation of the Plan. In addition, Debtor expressly reserves for its benefit and the benefit of Reorganized Debtor, the right to pursue or adopt any claims alleged in any lawsuit in which Debtor is a defendant or an interested party, against any individual or entity, including plaintiffs and co-defendants in such lawsuits.

1 **SCHEDULE 6.1**
2 **TO**
3 **PLAN OF REORGANIZATION**
4 **ASSUMED EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

5 1. The leased Boeing 767 aircraft from KMW, being;

6 (i) Boeing 767-23B bearing serial number 23974 and U.S. Registration Mark N253MY leased from KMW Leasing IV, LLC;

7 (ii) Boeing 767-246 bearing serial number 23213 and U.S. Registration Mark N767DA leased from KMW Leasing IX, LLC;

8 (iii) Boeing 767-336 bearing serial number 24339 and U.S. Registration Mark N796MY leased from KMW Leasing N796JM, LLC;

9 (iv) Boeing 767-336 bearing serial number 25443 and U.S. Registration Mark N254MY leased from KMW Leasing VII, LLC;

10 (v) Boeing 767-336 bearing serial number 24343 and U.S. Registration Mark N740JM leased from KMW Leasing X, LLC; and

11 (vi) Boeing 767-300ER bearing serial number 24342 and U.S. Registration Mark N793JM leased from KMW Leasing X, LLC.
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