Court File No. CV-19-00614629-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

(the "**Applicants**")

MOTION RECORD
(Returnable September 17, 2019)

September 10, 2019

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TO: THE SERVICE LIST

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I N D E X

TAB 1

Court File No. CV-19-00614629-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

(the "**Applicants**")

NOTICE OF MOTION
(Returnable September 17, 2019)

Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc. (the "**Applicants**", and with Payless ShoeSource Canada LP, the "**Payless Canada Entities**") will make a Motion before a Judge of the Ontario Superior Court of Justice (Commercial List), on Tuesday, September 17, 2019 at 10:00 a.m., or as soon after that time as the motion can be heard, at the court house at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The Motion is to be heard orally.

THE MOTION IS FOR:

a) An order (the "**Meetings Order**") substantially in the form attached as Schedule "A" *inter alia*:

   i. accepting the filing of the Payless Canada Entities' Plan of Compromise and Arrangement (the "**CCAA Plan**");

   ii. authorizing the Payless Canada Entities to establish two (2) classes of creditors for the purpose of considering and voting on the CCAA Plan: (i) a

general unsecured creditors class (the "**General Unsecured Creditors**"); and (ii) a landlord class (the "**Landlords**");

iii. authorizing the Payless Canada Entities to call, hold and conduct (i) a meeting of the General Unsecured Creditors and (ii) a meeting of the Landlords (together, the "**Creditors' Meetings**") to consider and vote on a resolution (the "**Plan Resolution**") to approve the CCAA Plan, and approving the procedures to be followed with respect to the Creditors' Meetings;

iv. setting the date for the hearing of the Payless Canada Entities' motion for an order to sanction the CCAA Plan (the "**Sanction Order**") should the CCAA Plan be approved for filing and approved by the required majorities of affected creditors at the Creditors' Meetings; and

v. approving procedures for the reconciliation of certain claims.

b) An order, substantially in the form attached hereto as Schedule "B" (the "**Stay Extension Order**"), *inter alia*:

i. extending the Stay Period (as defined in paragraph 18 of the Initial Order of the Honourable Regional Senior Justice Morawetz dated February 19, 2019 (the "**Initial Order**")) up to and including December 20, 2019 (the "**Third Stay Extension**");

ii. approving the fifth report of the Monitor (as defined below) to be filed (the "**Fifth Report**"), and the activities of the Monitor as described therein; and

iii. approving the fees and disbursements of the Monitor and its counsel as set out in the Fifth Report; and

c) Such further and other relief as this Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

Background

a) On February 18, 2019, the Payless Holdings LLC and twenty-six of its affiliated companies (collectively, the "**U.S. Debtors**") (including the Payless Canada Entities) commenced insolvency proceedings (the "**U.S. Proceedings**") by filing voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code.

b) On February 19, 2019, Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc. sought and obtained the Initial Order under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") (the "**CCAA Proceedings**"). The Initial Order's protections extend to Payless ShoeSource Canada LP as the operating entity of the Payless Canada Entities.

c) The Initial Order granted an initial stay of proceedings (the "**Stay of Proceedings**") in favour of the Payless Canada Entities up to and including March 21, 2019 (the "**Stay Period**") and appointed FTI Consulting Canada Inc. as monitor in the CCAA Proceedings (in such capacity, the "**Monitor**"). The Stay of Proceedings has been extended a number of times and is currently set to expire on September 20, 2019.

d) On February 21, 2019, the Court granted an order approving a liquidation consulting agreement dated February 12, 2019 with respect to the liquidation of inventory and certain fixtures of the Payless Canada Entities. The sales in the U.S.

and Canada have concluded and the Payless Canada Entities have vacated all of their Canadian stores and the Canadian corporate head office.

e) On April 23, 2019, the U.S. Bankruptcy Court granted an order approving a claims process in the U.S. Proceedings (the "**Chapter 11 Claims Process**") and on April 24, 2019, the Honourable Regional Senior Justice Morawetz granted an order in the CCAA Proceedings (the "**Claims Procedure Order**") authorizing the Payless Canada Entities to undertake a parallel claims procedure to solicit and identify claims against the Payless Canada Entities and their present and former directors and officers.

f) The Claims Procedure Order provided for a "negative claims process" in which the Payless Canada Entities, with the assistance of the Monitor, provided claim statements (the "**Claim Statement**") to known creditors showing the amount owing according to the applicable Payless Canada Entity's books and records and which permitted a claimant to dispute that amount. To the extent that a party having or asserting a claim failed to file a notice of dispute with respect to the Claim Statement, the claim was deemed to be the amount set forth in the Claim Statement. Any claimant that did not receive a Claim Statement from the Monitor, was permitted to file a proof of claim.

g) The Claims Procedure Order provided that any additional reconciliation procedures would be subject to further order of the Court.

<u>The U.S. Plan</u>

h) On August 12, 2019 the U.S. Debtors filed a joint plan of reorganization and corresponding disclosure statement which were each amended on August 28, 2019 (the "**U.S. Plan**" and the "**U.S. Disclosure Statement**"). The U.S. Debtors

continue to engage in good faith negotiations with their stakeholders and remain optimistic that a resolution of certain contested issues will be reached. The U.S. Disclosure Statement hearing originally scheduled for September 11, 2019 has been adjourned and is now scheduled to be heard on September 18, 2019.

i) The Payless Canada Entities are not plan proponents under the U.S. Plan and intend to file a motion for dismissal of the Payless Canada Entities' U.S. Proceedings effective upon implementation of the U.S. Plan.

j) The U.S. Plan contemplates certain distributions to creditors including but not limited to:

   i. Certain priority claims will be paid in full;

   ii. Term Loan Lenders will receive cash or a combination of cash and ownership interests in the reorganized Payless Holdings LLCs;

   iii. If the general unsecured creditors vote to accept the U.S. Plan, the general unsecured creditors will receive their *pro rata* share of USD$4,000,000 cash less certain expenses and their *pro rata* share of a USD$5,000,000 note (the "**Liquidation Trust Note**") and the term loan lenders will waive any rights to receive distributions in respect of their deficiency claims; and

   iv. If the general unsecured creditors vote to reject the U.S. Plan, the general unsecured creditors will only receive their *pro rata* share of the Liquidation Trust Note less certain expenses, and the term loan lenders with deficiency claims will share in this distribution.

k) The U.S. Plan also describes the intention of the U.S. Debtors that unsecured creditors of the Payless Canada Entities will receive a proportionate recovery

similar to the recovery received by the general unsecured creditors of the U.S. Debtors (the "**Canadian GUC Amount**"), which amount will be distributed to unsecured creditors of the Payless Canada Entities through the CCAA Plan. Such distribution would require an agreement with the Term Loan Lenders to make a portion of its collateral in Canada available for distribution to unsecured creditors.

l) The Payless Canada Entities expect to provide the Court with additional information regarding the U.S. Plan as it becomes available.

The CCAA Plan

m) The terms and structure of the CCAA Plan are not yet final and are the subject of ongoing negotiations among the U.S. Debtors, the Payless Canada Entities and certain of their stakeholders (including the Term Loan Lenders) in order to coordinate, on a cross-border basis, with the U.S. Proceedings, a cost-effective means of making any distributions to creditors of the Payless Canada Entities.

n) The Payless Canada Entities need to keep pace with the timing in the U.S. in respect of the U.S. Plan and therefore the Payless Canada Entities intend to seek approval of the Meetings Order on September 17, 2019.

o) The Payless Canada Entities expect to file a supplemental affidavit attaching the CCAA Plan, as soon as it is available, and providing additional information in advance of the hearing on this Motion (the "**Supplemental Affidavit**").

p) At this time the key provisions of the CCAA Plan are expected to be as follows:

i. Each General Unsecured Creditor with a proven claim will receive a *pro rata* share of the funds available for distribution to General Unsecured Creditors of the Payless Canada Entities;

ii. Each Landlord will receive the lesser of (1) a fixed amount to be set forth in the CCAA Plan; or (2) the amount asserted in the Landlord's Notice of Dispute of Claim Statement, or, if no Notice of Dispute of Claim Statement was filed, then the amount in the Landlord's Claim Statement (as such terms are defined in the Claims Procedure Order);

iii. It is also anticipated that the CCAA Plan will require the creation of certain reserves;

iv. It is anticipated that the CCAA Plan will contain customary broad releases in favour of the Payless Canada Entities, the Term Loan Agent, the Term Loan Lenders and the Monitor and their respective directors, officers, agents, professionals and certain other parties;

v. Among other things, it anticipated that the CCAA Plan would be conditional upon the U.S. Plan becoming effective; and

vi. The Term Loan Lenders will be unaffected creditors under the CCAA Plan and any distributions to the Term Loans Lenders will be outside of the CCAA Plan.

The Proposed Meetings Order

q) The proposed Meetings Order establishes procedures for the calling and conduct of the Creditors' Meetings to approve of the CCAA Plan that are reasonable, appropriate and efficient in the circumstances, and provides for, among other things:

i. comprehensive notification of the Creditors' Meetings, the CCAA Plan and the Sanction Motion to affected creditors;

ii. the establishment of reasonable and appropriate deadlines, including a reasonable time to deliver a proxy for voting purposes;

iii. the creation of two classes namely the General Unsecured Creditors and the Landlords, who would consider and vote on the CCAA Plan;

iv. customary procedures for the conduct and voting at each Creditors Meeting including with respect to Disputed Voting Claims, including that a representative of the Monitor will preside as chair of each Creditors Meeting;

v. the process by which the Monitor will keep a separate record of votes cast by creditors with Disputed Voting Claims;

vi. the requirements for approval of the CCAA Plan, including that the CCAA Plan must be approved by the required majorities for each class; and

vii. the scheduling of the Sanction Motion, in the event the Plan is approved at the Creditors' Meetings.

r) The proposed Meetings Order also provides for certain streamlined and efficient claims resolution procedures solely for the purposes of voting and/or receiving a distribution under the CCAA Plan. The claims resolution procedures are intended to minimize professional costs of a claims review including but not limited to (i) the Payless Canada Entities, in consultation with the Monitor may deem a claim accepted for distribution purposes, (ii) a procedure for delivering notices of revision or disallowance and disputes thereof; and (iii) a process to refer claims to the Court for resolution.

Stay Extension and Cash Flow Statement

s) The Payless Canada Entities are seeking the Third Stay Extension until and including December 20, 2019 to permit them to finalize and implement a CCAA Plan.

t) The revised cash flow statement for the period until December 20, 2019 (the "**Cash Flow Statement**") indicates that the Payless Canada Entities are forecast to have sufficient liquidity to fund their post-filing obligations and the costs of their CCAA Proceedings during the requested Third Stay Extension.

u) The Payless Canada Entities are not aware of any stakeholders that would suffer any material prejudice if the Stay Period is extended as requested.

v) The Monitor is supportive of the relief sought in this motion.

w) Those grounds set out in the Affidavit of Adrian Frankum sworn September 10, 2019, and the exhibit thereto (the "**Frankum Affidavit**").

x) Those grounds set out in the Fifth Report, and the appendices thereto, to be filed.

y) The provisions of the CCAA and the inherent and equitable jurisdiction of this Court.

z) Rules 1.04, 1.05, 2.01, 2.03, 3.02, 16 and 37 of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194, as amended.

aa) Such further other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

a) the Frankum Affidavit;

b) the Fifth Report; and

c) such other material as counsel may advise and this Court may permit.

September 10, 2019

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TO: THE SERVICE LIST

TAB A

Court File No. CV-19-00614629-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.	)	TUESDAY, THE 17th
	)	
JUSTICE McEWEN	)	DAY OF SEPTEMBER, 2019

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

(the "**Applicants**")

MEETINGS ORDER

THIS MOTION, made by Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc. (collectively, the "**Applicants**", and together with Payless ShoeSource Canada LP, the "**Payless Canada Entities**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**CCAA**"), for an order, *inter alia*, (a) if necessary, abridging the time for service of the Notice of Motion and the Motion Record and validating service thereof; (b) accepting the filing of a Plan of Compromise and Arrangement (the "**Plan**") pursuant to the CCAA filed by the Payless Canada Entities dated September ●, 2019 and attached hereto at **Schedule "A"**; (c) authorizing the Payless Canada Entities to establish two voting classes, the General Unsecured Creditors class and the Landlords class for the purpose of considering and voting on the Plan; (d) authorizing the Payless Canada Entities to call, hold and conduct a meeting of the General Unsecured Creditors and a meeting of the Landlords (together, the "**Creditors' Meetings**") to consider and vote on a resolution to approve the Plan (the "**Plan Resolution**"); (e) approving the procedures to be followed with respect to the calling and conduct of the Creditors' Meetings; (f) setting the date for the hearing of the Payless Canada Entities' motion

seeking an order to sanction the Plan (the "**Sanction Order**"); and (g) approving a claims resolution procedure, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the affidavit of Adrian Frankum sworn on September 10, 2019, (the "**Frankum Affidavit**") including the exhibits thereto, the fifth report of FTI Consulting Canada Inc. in its capacity as court-appointed monitor ("**Monitor**") dated September ●, 2019 (the "**Fifth Report**"), and upon hearing the submissions of counsel for the Payless Canada Entities and the Monitor, and such other counsel as were present, no one else appearing although duly served as appears from the affidavit of service of Taschina Ashmeade, sworn September ●, 2019,

SERVICE

1. **THIS COURT ORDERS** that the time and method for service of the Notice of Motion and the Motion Record herein is hereby validated so that this Motion is properly returnable today and that service thereof upon any interested party other than the persons served with the Motion Record is hereby dispensed with.

2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined in this Meetings Order shall have the meanings ascribed to them in the Plan, the Order of the Ontario Superior Court of Justice (Commercial List) dated April 24, 2019 (the "**Claims Procedure Order**") or the Frankum Affidavit.

PLAN OF COMPROMISE AND ARRANGEMENT

3. **THIS COURT ORDERS** that the Plan is hereby accepted for filing, and the Payless Canada Entities are hereby authorized and directed to call the Creditors' Meetings for the purpose of having the Eligible Voting Creditors vote on the Plan in the manner set out herein.

4. **THIS COURT ORDERS** that the Payless Canada Entities may, at any time and from time to time prior to or after the Creditors' Meetings, amend, restate, modify and/or supplement the Plan, in accordance with the terms of the Plan.

FORMS OF DOCUMENTS

5. **THIS COURT ORDERS** that the Notice of Creditors' Meetings and Sanction Motion substantially in the form attached hereto as **Schedule "B"** (the "**Notice of Creditors' Meetings and Sanction Motion**"), the Proxy substantially in the form attached hereto as **Schedule "C"** (the "**Proxy**"), and the form of Plan Resolution substantially in the form attached hereto as **Schedule "D"**, are each hereby approved and the Payless Canada Entities, with the consent of the Monitor, are authorized to make such changes to such forms of documents as it considers necessary or desirable to conform the content thereof to the terms of the Plan or this Meetings Order.

CLASSIFICATION OF CREDITORS

6. **THIS COURT ORDERS** that for the purposes of considering and voting on the Plan, there shall be two classes: (i) the General Unsecured Creditor class; and (ii) the Landlord class.

NOTICE OF CREDITORS' MEETINGS

7. **THIS COURT ORDERS** that in order to effect notice of the Creditors' Meetings, the Monitor shall cause to be sent by email, regular pre-paid mail, or courier, copies of the Notice of Creditors' Meetings and Sanction Motion, the Proxy, the Fifth Report, this issued Meetings Order, the Plan, the U.S. Disclosure Statement and the Canadian Memorandum (the "**Information Package**") as soon as practicable after the granting of this Meetings Order and, in any event, no later than September [24], 2019 to each known Eligible Voting Creditor, at the address for such Eligible Voting Creditor set out in the books and records of the Payless Canada Entities, as noted

on the Notice of Dispute of Claim Statement or Proof of Claim filed by the Eligible Voting Creditor, or to such other address subsequently provided to the Monitor by such Eligible Voting Creditor.

8. **THIS COURT ORDERS** that the Monitor shall forthwith following the granting of this Meetings Order post an electronic copy of the Information Package (and any amendments made thereto in accordance with paragraph 7 hereof) on the Monitor's Website, send a copy of the Information Package to the Service List and provide a written copy to any Eligible Voting Creditor upon request.

9. **THIS COURT ORDERS** that on or before October [1], 2019 the Monitor shall cause the Notice of Creditors' Meetings to be published for a period of two (2) Business Days in *The Globe and Mail* (National Edition) and *La Presse*.

10. **THIS COURT ORDERS** that the delivery, posting and sending of the Information Package in the manner set out in paragraphs 7, 8 and 9, shall constitute good and sufficient service of this Meetings Order, the Plan and the Sanction Motion, and good and sufficient notice of each of the Creditors' Meetings on all Persons who may be entitled to receive notice thereof in these proceedings or who may wish to be present in person or by Proxy at any Creditors' Meeting or who may wish to appear in these proceedings, and no other form of notice or service need be made on such Persons.

11. **THIS COURT ORDERS** that no later than three (3) Business Days before the Creditors' Meetings, the Monitor shall serve a report regarding the Plan on the Service List and cause such report to be posted on the Monitor's Website.

CONDUCT AT THE CREDITORS' MEETINGS

12. **THIS COURT ORDERS** that the Payless Canada Entities are hereby authorized to call, hold and conduct the meeting of the General Unsecured Creditors on October [23], 2019 at [10:00

a.m.] (Toronto time) and the meeting of the Landlords on October [23], 2019 at [10:15 a.m.] (Toronto time) respectively, at the offices of Cassels Brock & Blackwell LLP, for the purpose of considering, and if deemed advisable by the General Unsecured Creditor class and Landlord class, voting in favour of, with or without variation, the Plan Resolution to approve the Plan.

13. **THIS COURT ORDERS** that a representative of the Monitor, designated by the Monitor in consultation with the Payless Canada Entities, shall preside as the chair of each of the Creditors' Meetings (the "**Chair**") and, subject to any further Order of this Court, shall decide all matters relating to the conduct of the Creditors' Meetings.

14. **THIS COURT ORDERS** that the Chair, in consultation with the Payless Canada Entities, is authorized to accept and rely upon Proxies, or such other forms as may be acceptable to the Chair.

15. **THIS COURT ORDERS** that the quorum required at each of the Creditors' Meetings shall be one (1) Eligible Voting Creditor with a Voting Claim present at such meeting in person or by Proxy (the "**Requisite Quorum**").

16. **THIS COURT ORDERS** that the Monitor may appoint in its sole discretion scrutineers for the supervision and tabulation of the attendance at, Requisite Quorum at and votes cast at each of the Creditors' Meetings (the "**Scrutineers**"). A Person designated by the Monitor shall act as secretary at each of the Creditors' Meetings (the "**Secretary**").

17. **THIS COURT ORDERS** that if (a) the Requisite Quorum is not present at each of the Creditors' Meetings, or (b) either of the Creditors' Meetings is postponed by the request of the Payless Canada Entities in consultation with the Supporting Term Loan Lenders or by vote of the majority in value of General Unsecured Creditors or Landlords holding Voting Claims in person or by Proxy at the applicable Creditors' Meeting, then the Creditors' Meetings shall be adjourned

by the Chair to such time and place as the Chair deems necessary or desirable with the consent of the Payless Canada Entities.

18. **THIS COURT ORDERS** that the Chair, with the consent of the Payless Canada Entities, and in consultation with the Supporting Term Loan Lenders, be, and is hereby, authorized to adjourn, postpone or otherwise reschedule the Creditors' Meetings on one or more occasions to such time(s), date(s) and place(s) as the Chair with the consent of the Payless Canada Entities and in consultation with the Supporting Term Loan Lenders, deems necessary or desirable (without the need to first convene such Creditors' Meetings). None of the Payless Canada Entities, the Chair or the Monitor shall be required to deliver any notice of the adjournment of either of the Creditors' Meetings or adjourned Creditors' Meetings, provided that the Monitor shall:

(a) announce the adjournment of either of the Creditors' Meetings or adjourned Creditors' Meetings, as applicable;

(b) post notice of the adjournment at the originally designated time and location of each of the Creditors' Meetings or adjourned Creditors' Meetings, as applicable;

(c) forthwith post notice of the adjournment on the Monitor's Website; and

(d) provide notice of the adjournment to the Service List forthwith.

19. **THIS COURT ORDERS** that any Proxies validly delivered in connection with either of the Creditors' Meetings shall be accepted as Proxies in respect of any adjourned Creditors' Meetings.

20. **THIS COURT ORDERS** that the only Persons entitled to attend and speak at either of the Creditors' Meetings are Eligible Voting Creditors (or their respective duly appointed proxyholder), representatives of the Monitor and the Payless Canada Entities, the Supporting Term Loan Lenders and the Term Loan Agent, the Chair, the Secretary and Scrutineers, and all such parties'

respective legal counsel and advisors. Any other Person may be admitted to either of the Creditors' Meetings on invitation of the Payless Canada Entities or the Chair.

VOTING PROCEDURE AT THE CREDITORS' MEETINGS

21. **THIS COURT ORDERS** that, after consultation with the Payless Canada Entities, the Chair and the Monitor be and are hereby authorized to direct a vote by confidential written ballot or by such other means as the Chair or Monitor may consider appropriate, with respect to the Plan Resolution to approve the Plan.

22. **THIS COURT ORDERS** that any Proxy for a General Unsecured Creditor and Landlord must be (a) received by the Monitor by 10:00 am (Toronto time) on October [21], 2019, or 48 hours (excluding Saturdays, Sundays and statutory holidays) prior to any adjourned, postponed or rescheduled Creditors' Meeting (the "**Proxy Deadline**").

23. **THIS COURT ORDERS** that, in the absence of instruction to vote for or against the approval of the Plan Resolution in a duly signed and returned Proxy, the Proxy shall be deemed to include instructions to vote for the approval of the Plan Resolution, provided the Proxy holder does not otherwise exercise its right to vote at the applicable Creditors' Meetings.

24. **THIS COURT ORDERS** that to the extent that the Monitor is in receipt of more than one Proxy in respect of the same Eligible Voting Creditor, the last submitted duly signed and returned Proxy, shall be deemed to be such Eligible Voting Creditor's instructions with respect to the Plan.

25. **THIS COURT ORDERS** that each Eligible Voting Creditor shall be entitled to one vote equal to the aggregate dollar value of its Voting Claim plus its Disputed Voting Claim, if any. For greater certainty, each Eligible Voting Creditor that casts a vote at the applicable Creditors' Meeting in accordance with this Order shall be counted as an individual Eligible Voting Creditor

for the purposes of that Creditors' Meeting, even if that Eligible Voting Creditor is an Eligible Voting Creditor in respect of multiple Affected Claims.

26. **THIS COURT ORDERS** that only General Unsecured Creditors (other than Intercompany Claims) and Landlords shall be entitled to vote on the Plan.

27. **THIS COURT ORDERS** that notwithstanding anything to the contrary in this Order, (i) the Term Loan Lenders and the Term Loan Agent shall not be entitled to vote in respect of any portion of the Term Loan Claims, and shall not be taken into account in determining whether the Required Majorities are obtained; and (ii) holders of Intercompany Claims and Equity Claims shall not be entitled to vote in respect of their Intercompany Claims or Equity Claims and shall not be taken into account in determining whether the Required Majorities are obtained.

28. **THIS COURT ORDERS** that a Voting Claim or Disputed Voting Claim shall not include fractional numbers and shall be rounded down to the nearest whole Dollar amount.

29. **THIS COURT ORDERS** that an Eligible Voting Creditor may transfer or assign the whole of its Claim prior to the applicable Creditors' Meeting, provided that none of the Payless Canada Entities nor the Monitor shall be obligated to give notice to or otherwise deal with the transferee or assignee of such Claim in respect thereof, including allowing such transferee or assignee of an Eligible Voting Creditor to vote at the applicable Creditors' Meeting, unless and until written notice of such transfer or assignment, together with evidence satisfactory to the Monitor, in its sole discretion, of such transfer or assignment, has been received by the Monitor and the Monitor has provided written confirmation acknowledging the transfer or assignment of such Claim, no later than 10:00 am (Toronto time) on the date that is two (2) Business Days prior to the Creditors' Meetings. Thereafter, such transferee or assignee shall, for all purposes in accordance with the Claims Procedure Order and this Meetings Order, constitute an "Eligible Voting Creditor" in respect of such Claim, and shall be bound by any and all notices given to the transferor or assignor

and steps taken in respect of such Claim. Any such transferee or assignee is not entitled to set-off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such transferee or assignee to the Payless Canada Entities. Where a Claim has been transferred or assigned in part, the transferor or assignor shall retain the right to vote at the applicable Creditors' Meeting in respect of the full amount of the Claim as determined for voting purposes in accordance with this Meetings Order, and the transferee or assignee shall have no voting rights at the Creditors' Meetings in respect of such Claim.

30. **THIS COURT ORDERS** that an Affected Creditor may transfer or assign the whole of such Claim after the applicable Creditors' Meeting provided that none of the Payless Canada Entities nor the Monitor shall be obligated to make any distributions to any such transferee or assignee or otherwise deal with such transferee or assignee as an Affected Creditor, in respect thereof unless and until written notice of such transfer or assignment, together with evidence satisfactory to the Monitor, in its sole discretion, of such transfer or assignment, has been received by the Monitor and the Monitor has provided written confirmation acknowledging the transfer or assignment of such Claim. Thereafter, such transferee or assignee shall, for all purposes in accordance with the Claims Procedure Order, this Meetings Order and the Plan, constitute an Affected Creditor, and shall be bound by any notices given or steps taken in respect of such Claim.

DISPUTED VOTING CLAIMS

31. **THIS COURT ORDERS** that the dollar value of a Disputed Voting Claim of an Eligible Voting Creditor for voting purposes at the applicable Creditors' Meeting shall be (i) for Creditors who filed a Notice of Dispute of Claim Statement, the dollar value of such Disputed Voting Claim as set out in such Eligible Voting Creditor's Notice of Dispute of Claim Statement previously delivered by the Monitor pursuant to the Claims Procedure Order or (ii) for creditors who have filed a Proof of Claim, the dollar value set out in the Proof of Claim, in each case, without prejudice

to the determination of the dollar value of such Eligible Voting Creditor's Claim for distribution purposes in accordance with the Claims Procedure Order and this Meetings Order.

32. **THIS COURT ORDERS** that the Monitor shall keep a separate record of votes cast by Eligible Voting Creditors in respect of Disputed Voting Claims and shall report to the Court with respect thereto at the Sanction Motion.

APPROVAL OF THE PLAN

33. **THIS COURT ORDERS** that in order to be approved, the Plan must receive an affirmative vote by each of the Required Majorities.

34. **THIS COURT ORDERS** that following the votes at the Creditors' Meetings, the Monitor shall tally the votes and determine whether the Plan has been approved by each of the Required Majorities.

35. **THIS COURT ORDERS** that the results of all votes provided at each of the Creditors' Meetings shall be binding on all Affected Creditors, whether or not any such Affected Creditor was present or voted at the applicable Creditors' Meeting.

SANCTION MOTION

36. **THIS COURT ORDERS** that the Monitor shall serve on the Service List and file a report to the Court as soon as practicable after the Creditors' Meetings (the "**Monitor's Report Regarding the Creditors' Meetings**") with respect to:

(a) the results of voting on the Plan Resolution at each of the Creditors' Meetings;

(b) whether each of the Required Majorities has approved the Plan;

(c) the separate tabulation for Disputed Voting Claims required by paragraph 32 herein; and

(d) in its discretion, any other matter relating to the Payless Canada Entities' motion seeking the Sanction Order (the "**Sanction Motion**").

37. **THIS COURT ORDERS** that an electronic copy of the Monitor's Report Regarding the Creditors' Meetings, the Plan, including any Plan modifications, and a copy of the materials filed in respect of the Sanction Motion shall be posted on the Monitor's Website prior to the Sanction Motion.

38. **THIS COURT ORDERS** that in the event the Plan has been approved by each of the Required Majorities, the Payless Canada Entities may bring the Sanction Motion before this Court on October [29], 2019, or such later date as the Monitor may advise the Service List in these proceedings, provided that such later date shall be acceptable to the Payless Canada Entities, the Monitor and the Supporting Term Loan Lenders.

39. **THIS COURT ORDERS** that any Person intending to oppose the Sanction Motion shall (i) file or have filed with the Court a Notice of Appearance and serve such Notice of Appearance on the Service List at least seven (7) Business Days before the date set for the Sanction Motion; and (ii) serve on the Service List a notice setting out the basis for such opposition and a copy of the materials to be used to oppose the Sanction Motion that are available at least seven (7) Business Days before the date set for the Sanction Motion, or such shorter time as the Court, by Order, may allow.

40. **THIS COURT ORDERS** that in the event that the Sanction Motion is adjourned, only those Persons appearing on the Service List as of the date of service shall be served with notice of the adjourned date.

41. **THIS COURT ORDERS** that, subject to any further Order of the Court, in the event of any conflict, inconsistency, ambiguity or difference between the provisions of the Plan and this

Meetings Order, the terms, conditions and provisions of the Plan shall govern and be paramount, and any such provision of this Meetings Order shall be deemed to be amended to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

ADJUDICATION OF CLAIMS FOR DISTRIBUTION PURPOSES

42. **THIS COURT ORDERS** that any acceptance, revision or rejection of any Claim by the Payless Canada Entities in accordance with this Meetings Order and the Claims Procedure Order will be solely for the purposes of voting and/or receiving a distribution under any plan of arrangement or compromise put forward by the Payless Canada Entities in these proceedings, and, for greater certainty, the claims adjudication process contained in this Meetings Order does not apply to Unaffected Claims.

43. **THIS COURT ORDERS** that, notwithstanding anything to the contrary contained in this Meetings Order, the Claims Procedure Order, or any other order of the Court in these proceedings, the Payless Canada Entities and the Monitor shall not accept, reject, revise and settle any Claim ranking or purporting to rank *pari passu* with, or in priority to, the Term Loan Claims (excluding the Term Loan Lenders Subordinated Claim) without the consent of the Supporting Term Loan Lenders or further Order of this Court.

44. **THIS COURT ORDERS** that if the Payless Canada Entities, in consultation with the Monitor, intend to revise or reject a Claim, the Monitor shall notify the Claimant who has delivered such Proof of Claim that such Claim has been revised or rejected, and the reasons therefore, by sending a notice substantially in the form attached as **Schedule "E"** hereto (a "**Notice of Revision or Disallowance**") to the Claimant, and in the case of a Director/Officer Claim, with a copy to the applicable Director or Officer, unless otherwise ordered by this Court on application by the Monitor.

45. **THIS COURT ORDERS** that where a Claimant to whom a Notice of Revision or Disallowance has been delivered in accordance with paragraph 44 hereof does not file a completed notice of dispute substantially in the form attached as **Schedule "F"** (a "**Notice of Dispute**") by the time set out in paragraph 46, such Claimant's Claim, shall be deemed to be as set out in the Notice of Revision or Disallowance issued to such Claimant and no Person shall have any further right to dispute same.

46. **THIS COURT ORDERS** that any Claimant to whom a Notice of Revision or Disallowance has been delivered in accordance with paragraph 44, and who intends to dispute such notice, shall:

(a) deliver a completed Notice of Dispute, along with the reasons for the dispute, together with any additional material upon which the Claimant intends to rely, to the Monitor by no later than fifteen (15) days after the date on which the Claimant is deemed to receive the Notice of Revision or Disallowance, or such other date as may be agreed to by the Payless Canada Entities in writing, and in such event the Payless Canada Entities, in consultation with the Monitor, shall attempt to settle the dispute raised in the Notice of Dispute through consensual negotiations; and

(b) in the event that a dispute raised in a Notice of Dispute is not settled within a time period or in a manner satisfactory to the Payless Canada Entities and the Monitor, the Payless Canada Entities in consultation with the Monitor shall refer the dispute raised in the Notice of Dispute to a claims officer or the Court (at the Payless Canada Entities' election in consultation with the Monitor) for adjudication.

47. **THIS COURT ORDERS** that the Payless Canada Entities, in consultation with the Monitor, may attempt to consensually resolve any Claim (including any Claim for which a Notice of Dispute of Claims Statement, Proof of Claim or Notice of Revisions or Disallowance has been delivered) and may refer any Claim to a claims officer, subject to further order of the Court, or the Court for adjudication by sending written notice to the Claimant at any time.

48. **THIS COURT ORDERS** that the Payless Canada Entities shall not be required to review, reject or accept any Claim and may, in consultation with the Monitor, deem any Disputed Voting Claim to be a Proven Claim in the amount asserted by the Claimant.

49. **THIS COURT ORDERS** that, notwithstanding anything contained in this Meetings Order or the Claims Procedure Order and given that the Payless Canada Entities are not subject to a bankruptcy or receivership proceeding at this time, any Claimant that does not deliver a Notice of Dispute of Claim Statement in connection with a Employee Claim Statement, shall not be barred from claiming additional amounts from Her Majesty in right of Canada or the Minister of National Revenue in respect of his or her entitlement to any future amounts claimable under WEPPA (an "**Additional WEPPA Claim**") should WEPPA apply, provided that in no circumstances shall any Person other than Her Majesty in right of Canada or the Minister of National Revenue have any liability whatsoever for any Additional WEPPA Claim.

50. **THIS COURT ORDERS** that copies of all forms delivered hereunder, as applicable, shall be maintained by the Monitor. The Monitor shall promptly provide copies of all such forms received by the Monitor in connection with this Meetings Order including any Proxies or Notices of Dispute to counsel for the Payless Canada Entities, Cassels Brock & Blackwell LLP, by email to Monique Sassi (**msassi@casselsbrock.com**).

51. **THIS COURT ORDERS** that the forms attached hereto as Schedule "E" (Notice of Revision or Disallowance) and as Schedule "F" (Notice of Dispute), are each hereby approved and the Payless Canada Entities, with the consent of the Monitor, are authorized to make such changes to such forms of documents as it considers necessary or desirable to conform the content thereof to the terms of this Order.

MONITOR'S ROLE

52. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under: (i) the CCAA; (ii) the Initial Order; (iii) the Claims Procedure Order; and (iv) any other order of the Court, is hereby directed and empowered to take such other actions and fulfill such other roles as are authorized by this Meetings Order.

53. **THIS COURT ORDERS** that: (i) in carrying out the terms of this Meetings Order, the Monitor shall have all the protections given to it by the CCAA, the Initial Order, the Claims Procedure Order, any other order of the Court, or as an officer of the Court, including the stay of proceedings in its favour; (ii) the Monitor shall incur no liability or obligation as a result of carrying out the provisions of this Meetings Order, save and except for any gross negligence or wilful misconduct on its part; (iii) the Monitor shall be entitled to rely on the books and records of the Payless Canada Entities and any information provided by the Payless Canada Entities and any information acquired by the Monitor as a result of carrying out its duties under this Meetings Order without independent investigation; and (iv) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

GENERAL PROVISIONS

54. **THIS COURT ORDERS** that the Payless Canada Entities and the Monitor shall use reasonable discretion as to the adequacy of compliance with respect to the manner in which any forms hereunder are completed and executed and the time in which they are submitted and may waive strict compliance with the requirements of this Meetings Order including with respect to the completion, execution and time of delivery of required forms.

55. **THIS COURT ORDERS** that the Payless Canada Entities or the Monitor may, in consultation with the Supporting Term Loan Lenders, from time to time, apply to this Court to amend, vary, supplement or replace this Meetings Order or for advice and directions concerning

the discharge of their respective powers and duties under this Meetings Order or the interpretation or application of this Meetings Order.

56. **THIS COURT ORDERS** that any notice or other communication to be given under this Meetings Order by an Affected Creditor to the Monitor or the Payless Canada Entities shall be in writing in substantially the form, if any, provided for in this Meetings Order and will be sufficiently given only if given by prepaid ordinary mail, registered mail, courier, personal delivery or email addressed to:

Counsel to the Payless Canada Entities:	Cassels Brock & Blackwell LLP Scotia Plaza, 40 King Street West Suite 2100 Toronto, ON M5H 3C2 Attention: Ryan C. Jacobs and Jane O. Dietrich Email: rjacobs@casselsbrock.com jdietrich@casselsbrock.com
The Monitor:	FTI Consulting Canada Inc. 79 Wellington Street West Toronto Dominion Centre, Suite 2010, P.O. Box 104 Toronto, ON M5K 1G8 Attention: Greg Watson, Paul Bishop and Jim Robinson Email: paylesscanada@fticonsulting.com
With a copy to Monitor's Counsel:	Bennett Jones LLP 100 King Street West, Suite 3400 Toronto, ON M5X 1A4 Attention: Sean Zweig and Michael S. Shakra Email: zweigs@bennettjones.com shakram@bennettjones.com

57. **THIS COURT ORDERS** that any notice or other communication to be given under this Meetings Order shall be deemed to have been received: (a) if sent by prepaid ordinary mail or registered mail, on the third Business Day after mailing in Ontario, the fifth Business Day after mailing within Canada (other than within Ontario), and the tenth Business Day after mailing

internationally; (b) if sent by courier or personal delivery, on the next Business Day following dispatch; and (c) if delivered by facsimile transmission or email by 5:00 p.m. (Toronto time) on a Business Day, on such Business Day and if delivered after 5:00 p.m. (Toronto time) or other than on a Business Day, on the following Business Day.

58. **THIS COURT ORDERS** that, in the event that the day on which any notice or communication required to be delivered pursuant to this Meetings Order is not a Business Day, then such notice or communication shall be required to be delivered on the next Business Day.

59. **THIS COURT ORDERS** that if, during any period during which notices or other communications are being given pursuant to this Meetings Order, a postal strike or postal work stoppage of general application should occur, such notices or other communications sent by ordinary or registered mail and then not received shall not, absent further Order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery or e-mail in accordance with this Order.

60. **THIS COURT ORDERS** that all references to time in this Meetings Order shall mean prevailing local time in Toronto, Ontario and any references to an event occurring on a Business Day shall mean prior to 5:00 p.m. (Toronto time) on the Business Day unless otherwise indicated.

61. **THIS COURT ORDERS** that references to the singular shall include the plural, references to the plural shall include the singular and to any gender shall include the other gender.

62. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative bodies, having jurisdiction in Canada, in the United States of America or in any other foreign jurisdiction to give effect to this Meetings Order and to assist the Payless Canada Entities, the Monitor and their respective agents in carrying out the terms of this Meetings

Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Payless Canada Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Payless Canada Entities in any foreign proceeding, or to assist the Payless Canada Entities and the Monitor and their respective agents in carrying out the terms of this Order.

_____

Schedule "A"

Plan of Compromise and Arrangement of the Payless Canada Entities
(TO BE FILED)

Schedule "B"

NOTICE OF CREDITORS' MEETING AND SANCTION MOTION

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

PLAN OF COMPROMISE AND ARRANGEMENT

NOTICE OF CREDITORS' MEETINGS AND SANCTION MOTION

TO: The General Unsecured Creditors and Landlords of Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc. (the "**Applicants**", and with Payless ShoeSource Canada LP, the "**Payless Canada Entities**").

NOTICE IS HEREBY GIVEN that a meeting of the General Unsecured Creditors and a meeting of the Landlords will be held on October [23], 2019 at [10:00 a.m.] (Toronto time) and [10:15 a.m.] (Toronto time), October [23], 2019, respectively, at the offices of Cassels Brock & Blackwell LLP (the "**Creditors' Meetings**") for the following purposes:

1. to consider and, if deemed advisable, to pass, with or without variation, a resolution (the "**Plan Resolution**") approving the Plan of Compromise and Arrangement of the Payless Canada Entities pursuant to the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") dated September [9], 2019 (as amended, restated, modified and/or supplemented from time to time in accordance with the terms thereof, the "**Plan**"); and

2. to transact such other business as may properly come before either of the Creditors' Meetings or any adjournment or postponement thereof.

The Creditors' Meetings are being held pursuant to an order (the "**Meetings Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made on September [17], 2019.

Capitalized terms used and not otherwise defined in this Notice have the respective meanings given to them in the Plan.

The Plan contemplates the compromise of Claims of the Affected Creditors. Quorum for each of the Creditors' Meetings has been set by the Meetings Order as the presence, in person or by Proxy, (i) at the meeting of the General Unsecured Creditors, of one General Unsecured Creditor with a Voting Claim and (ii) at the meeting of the Landlords, of one Landlord with a Voting Claim.

In order for the Plan to be approved and binding in accordance with the CCAA, the Plan Resolution must be approved by that number of the General Unsecured Creditors and Landlords representing at least a majority in number of Voting Claims, whose General Unsecured Claims and Landlord Claims represent at least two-thirds in value of the Voting Claims of General Unsecured Creditors and Landlords who validly vote (in person or by Proxy) on the Plan

Resolution at the applicable Creditors' Meetings or were deemed to vote on the Plan Resolution as provided for in the Meetings Order (each a "**Required Majority**"). Each Eligible Voting Creditor will be entitled to one vote at the applicable Creditors' Meetings, which vote will have the value of such person's Voting Claim or Disputed Voting Claim as determined in accordance with the Claims Procedure Order and the Meetings Order. If approved by each of the Required Majorities, the Plan must also be sanctioned by the Court under the CCAA. Subject to the satisfaction of the other conditions precedent to implementation of the Plan, all General Unsecured Creditors and Landlords will then receive the treatment set forth in the Plan.

Forms and Proxies

A General Unsecured Creditor or Landlord may attend at the applicable Creditors' Meetings in person or may appoint another person as its proxyholder by inserting their name or the name of such person in the space provided in the form of Proxy provided to General Unsecured Creditors and Landlords by the Monitor, or by completing another valid form of Proxy.

In order to be effective, Proxies must be received by the Monitor at FTI Consulting Canada Inc., by no later than [10:00 a.m.] on October [21], 2019 or 48 hours (excluding Saturdays, Sundays and statutory holidays) prior to any adjourned, postponed, or rescheduled Creditors' Meeting at 79 Wellington Street West, Toronto Dominion Centre, Suite 2010, P.O. Box 2104, Toronto, ON M5K 1G8 (Attention: [Ellen Dong]), email: paylesscanada@fticonsulting.com prior to the Proxy Deadline. Persons appointed as proxyholders need not be General Unsecured Creditors or Landlords.

If a General Unsecured Creditor or Landlord at the applicable Creditors' Meeting specifies a choice with respect to voting on the Plan Resolution on a Proxy, the Proxy will be voted in accordance with the specification so made. **In absence of such specification, a Proxy will be voted FOR the Plan Resolution provided that the proxyholder does not otherwise exercise its right to vote at the applicable Creditors' Meetings**.

NOTICE IS ALSO HEREBY GIVEN that if the Plan is approved by each of the Required Majorities at the Creditors' Meetings, the Payless Canada Entities intend to bring a motion before the Court on October [29], 2019 at [10:00 a.m.] (Toronto time) or such later date as may be posted on the Monitor's Website, at the Court located at 330 University Avenue, Toronto, Ontario M5G 1R8. The motion will be seeking the granting of the Sanction Order sanctioning the Plan under the CCAA and for ancillary relief consequent upon such sanction. Any Eligible Voting Creditor that wishes to appear or be represented, and to present evidence or arguments, at such Court hearing must file with the Court a Notice of Appearance and serve such Notice of Appearance on the Service List at least seven (7) Business Days before such Court hearing. Any Affected Creditor that wishes to oppose the relief sought at such Court hearing shall serve on the Service List a notice setting out the basis for such opposition and a copy of the materials to be used at such hearing at least seven (7) Business Days before the date set for such hearing, or such shorter time as the Court, by Order, may allow. A copy of the Service List may be obtained from the Monitor's website at http://cfcanada.fticonsulting.com/paylesscanada/ (the "**Monitor's Website**") together with copies of other materials related to this process.

This Notice is given by the Payless Canada Entities pursuant to the Meetings Order.

DATED this ● day of September, 2019.

Schedule "C"

FORM OF PROXY

PROXY AND INSTRUCTIONS
FOR GENERAL UNSECURED CREDITORS AND LANDLORDS

IN THE MATTER OF THE PROPOSED
PLAN OF COMPROMISE AND ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

MEETINGS OF AFFECTED CREDITORS

to be held pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made on September [17], 2019 (the "**Meetings Order**") in connection with the Plan of Compromise and Arrangement of Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc. (the "**Applicants**", and with Payless ShoeSource Canada LP, the "**Payless Canada Entities**") dated September ●, 2019 (as amended, restated, modified and/or supplemented from time to time, the "**Plan**")

on October [23], 2019 at [10:00 a.m.] (Toronto time) (General Unsecured Creditors) and October [23], 2019 at [10:15 a.m.] (Toronto time) (Landlords) at

CASSELS BROCK & BLACKWELL LLP
COUNSEL TO THE PAYLESS CANADA ENTITIES
40 King Street West, Suite 2100
Toronto, ON M5H 3C2

and at any adjournment, postponement or other rescheduling thereof (the "**Creditors' Meetings**")

PLEASE COMPLETE, SIGN AND DATE THIS PROXY AND RETURN IT TO THE MONITOR, FTI CONSULTING CANADA INC. BY [10:00 A.M.] (TORONTO TIME) ON OCTOBER [21], 2019, OR 48 HOURS (EXCLUDING SATURDAYS, SUNDAYS AND STATUTORY HOLIDAYS) PRIOR TO ANY ADJOURNED, POSTPONED OR RESCHEDULED CREDITORS' MEETING (THE "**PROXY DEADLINE**"). PLEASE RETURN OR DEPOSIT YOUR ORIGINAL PROXY SO THAT IT IS ACTUALLY RECEIVED BY THE MONITOR ON OR BEFORE THE PROXY DEADLINE.

Please use this Proxy form if you do not wish to attend the applicable Creditors' Meetings to vote in person but wish to appoint a proxyholder to attend the applicable Creditors' Meetings, vote your Voting Claim or Disputed Voting Claim to accept or reject the Plan and otherwise act for and on your behalf at the applicable Creditors' Meetings and any adjournment(s), postponement(s) or rescheduling(s) thereof.

The Plan is included in the Information Package delivered by the Monitor to all Eligible Voting Creditors, copies of which you have received. All capitalized terms used but not defined in this Proxy shall have the meanings ascribed to such terms in the Plan.

You should review the Plan before you vote. In addition, on September [17], 2019, the Court issued the Meetings Order establishing certain procedures for the conduct of the Creditors' Meetings, a copy of which is included in the Information Package. The Meetings Order contains

important information regarding the voting process. Please read the Meetings Order and the instructions sent with this Proxy prior to submitting this Proxy.

If the Plan is approved by the Required Majorities, is sanctioned by the Court and is implemented, it will be binding on you whether or not you vote.

APPOINTMENT OF PROXYHOLDER AND VOTE

By checking one of the two boxes below, the undersigned Eligible Voting Creditor hereby revokes all proxies previously given and nominates, constitutes and appoints either (*if no box is checked, the Monitor will act as your proxyholder*):

☐ _____, or

☐ a representative of FTI Consulting Canada Inc. solely in its capacity as Monitor of Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP,

as proxyholder, with full power of substitution, to attend, vote and otherwise act for and on behalf of the undersigned at the: (*mark as many as may apply*)

☐ meeting of the General Unsecured Creditors

☐ meeting of the Landlords

and at adjournment(s), postponement(s) and rescheduling(s) thereof, and to vote the amount of the Eligible Voting Creditors' Voting Claim or Disputed Voting Claim. Without limiting the generality of the power hereby conferred, the person named as proxyholder is specifically directed to vote as shown below. The person named as proxyholder is also directed to vote at the proxyholder's discretion and otherwise act for and on behalf of the undersigned with respect to any amendments or variations to the Plan and to any matters that may come before the applicable Creditors' Meeting or at any adjournment, postponement or rescheduling thereof and to vote the amount of the Eligible Voting Creditors Voting Claim as follows (*mark only one*):

☐ Vote **FOR** the approval of the Plan, or

☐ Vote **AGAINST** the approval of the Plan

Please note that if no specification is made above, the Eligible Voting Creditor will be deemed to have voted FOR approval of the Plan at the applicable Creditors' Meetings provided unless the Eligible Voting Creditor otherwise exercises its right to vote at the applicable Creditors' Meeting.

DATED at _____ this _____ day of _____, 2019.

AFFECTED CREDITOR'S SIGNATURE:

(Print Legal Name of Eligible Voting Creditor)

(Print Legal Name of Assignee, if applicable)

(Signature of the Eligible Voting Creditor/Assignee or an Authorized Signing Officer of the Eligible Voting Creditor/Assignee)

(Print Name and Title of Authorized Signing Officer of the Eligible Voting Creditor/Assignee, if applicable)

(Mailing Address of the Eligible Voting Creditor/Assignee)

(Telephone Number and Email of the Eligible Voting Creditor/Assignee or Authorized Signing Officer of the Eligible Voting Creditor/Assignee)

YOUR PROXY MUST BE RECEIVED BY THE MONITOR AT THE ADDRESS LISTED BELOW OR BEFORE THE PROXY DEADLINE.

FTI CONSULTING CANADA INC.
MONITOR OF PAYLESS SHOESOURCE CANADA INC., PAYLESS SHOESOURCE CANADA GP INC. AND PAYLESS SHOESOURCE CANADA LP

79 Wellington Street West
Suite 2010
P.O. Box 104
Toronto, ON M5K 1G8

Attention: Ellen Dong
Email: paylesscanada@fticonsulting.com

IF YOU HAVE ANY QUESTIONS REGARDING THIS PROXY OR THE VOTING PROCEDURES, OR IF YOU NEED AN ADDITIONAL COPY OR ADDITIONAL COPIES OF THE ENCLOSED MATERIALS, PLEASE CONTACT THE MONITOR AT paylesscanada@fticonsulting.com OR VISIT THE MONITOR'S WEBSITE AT http://cfcanada.fticonsulting.com/paylesscanada/.

INSTRUCTIONS FOR COMPLETION OF PROXY FOR GENERAL UNSECURED CREDITORS AND LANDLORDS

1. All capitalized terms used but not defined in this Proxy shall have the meanings ascribed to such terms in the Plan of Compromise and Arrangement of Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc. (the "**Applicants**", and with Payless ShoeSource Canada LP, the "**Payless Canada Entities**") dated September [9], 2019 (the "**Plan**"), a copy of which you have received.

2. The aggregate amount of your Claim in respect of which you are entitled to vote (your "**Voting Claim**") shall be your Proven Claim, or with respect to a Disputed Voting Claim, the amount as determined by the Payless Canada Entities and the Monitor in accordance with the Claims Procedure Order and the Meetings Order.

3. Holders of General Unsecured Claims or Landlord Claims (as defined in the Plan) are entitled to vote only at the applicable Creditors' Meeting.

4. Check the appropriate box to vote for or against the Plan. **If you do not check either box, you will be deemed to have voted FOR approval of the Plan provided you do not otherwise exercise your right to vote at the applicable Creditors' Meetings**.

5. Each Eligible Voting Creditor who has a right to vote at the applicable Creditors' Meetings has the right to appoint a person (who need not be an Eligible Voting Creditor) to attend, act and vote for and on behalf of the Eligible Voting Creditor and such right may be exercised by inserting in the space provided the name of the person to be appointed, or to select a representative of the Monitor as its proxyholder. If no proxyholder is selected, the Eligible Voting Creditor will be deemed to have appointed any officer of FTI Consulting Canada Inc., in its capacity as Monitor, or such other person as FTI Consulting Canada Inc. may designate, as proxyholder of the Eligible Voting Creditor, with power of substitution, to attend on behalf of and act for the Eligible Voting Creditor at the applicable Creditors' Meetings to be held in connection with the Plan and at any and all adjournments, postponements or other rescheduling thereof.

6. Please read and follow these instructions carefully. Your completed Proxy must actually be received: (i) by the Monitor at FTI Consulting Canada Inc., Monitor of Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP, 79 Wellington Street West, Suite 2010, P.O. Box 104, Toronto, ON M5K 1G8 (Attention: Ellen Dong), e-mail: **paylesscanada@fticonsulting.com** prior to [10:00 a.m.] (Toronto time) on October [21], 2019, or 48 hours (excluding Saturdays, Sundays and statutory holidays) which is the Proxy Deadline, prior to the time of any adjournment, postponement or rescheduling of the applicable Creditors' Meetings (the "**Proxy Deadline**"). If your Proxy is not received by the Proxy Deadline, unless such time is extended, your Proxy will not be counted.

7. Sign the Proxy - your original signature is required on the Proxy to appoint a proxyholder and vote at the applicable Creditors' Meetings. If you are completing the proxy as a duly authorized representative of a corporation or other entity, indicate your relationship with such corporation or other entity and the capacity in which you are signing, and if subsequently requested, provide proof of your authorization to so sign. In addition, please provide your name, mailing address, telephone number and e-mail address.

8. If you need additional Proxies, please immediately contact the Monitor.

9. If multiple Proxies are received from the same person with respect to the same Claims prior to the Proxy Deadline, the latest dated, validly executed Proxy timely received will supersede and revoke any earlier received Proxy. However, if a holder of Claims casts Proxies received by the Monitor dated with the same date, but which are voted inconsistently, such Proxies will not be counted. If a Proxy is not dated in the space provided, it shall be deemed dated as of the date it is received by the Monitor.

10. If an Eligible Voting Creditor validly submits a Proxy to the Monitor and subsequently attends the applicable Creditors' Meetings and votes in person inconsistently, such Eligible Voting Creditor's vote at the applicable Creditors' Meetings will supersede and revoke the earlier received Proxy.

11. Proxies may be accepted for purposes of an adjourned, postponed or other rescheduled Creditors' Meetings if received by the Monitor by the Proxy Deadline.

12. Any Proxy that is illegible or contains insufficient information to permit the identification of the claimant will not be counted.

13. After the Proxy Deadline, no Proxy may be withdrawn or modified, except by an Eligible Voting Creditor voting in person at the applicable Creditors' Meetings, without the prior consent of the Monitor and the Payless Canada Entities.

IF YOU HAVE ANY QUESTIONS REGARDING THIS PROXY OR THE VOTING PROCEDURES, OR IF YOU NEED AN ADDITIONAL COPY OR ADDITIONAL COPIES OF THE ENCLOSED MATERIALS, PLEASE CONTACT THE MONITOR AT paylesscanada@fticonsulting.com OR VISIT THE MONITOR'S WEBSITE AT http://cfcanada.fticonsulting.com/paylesscanada/.

Schedule "D"

FORM OF RESOLUTION

BE IT RESOLVED THAT:

1. The Plan of Compromise and Arrangement of Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc. and with Payless ShoeSource Canada LP (collectively, the **Payless Canada Entities**), dated September ●, 2019 (the "**Plan**"), which Plan has been presented to this meeting (as such Plan may be amended, restated, supplemented and/or modified as provided for in the Plan), be and it is hereby accepted, approved, agreed to and authorized; and

2. Any one director or officer of each of the Payless Canada Entities or the Chief Restructuring Organization (as defined in the Plan) be and is hereby authorized and directed, for and on behalf of the applicable Payless Canada Entity (whether under its respective corporate seal or otherwise), to execute and deliver, or cause to be executed and delivered, any and all documents and instruments and to take or cause to be taken such other actions as he or she may deem necessary or desirable to implement this resolution and the matters authorized hereby, including the transactions required by the Plan, such determination to be conclusively evidenced by the execution and delivery of such documents or other instruments or the taking of any such actions.

Schedule "E"

NOTICE OF REVISION OR DISALLOWANCE

Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc., and Payless ShoeSource Canada LP (the "Payless Canada Entities") and/or their Directors or Officers

---

Capitalized Terms not defined herein have the meanings given to them in the Order of the Ontario Superior Court of Justice (Commercial List) dated September [17], 2019 (the "**Meetings Order**") or the Claims Procedure Order dated April 24, 2019 ("**Claims Procedure Order**").

I. PARTICULARS OF CLAIMANT

Claim Reference Number: [Insert Claim Reference Number]

To: _____

(the "**Claimant**")

II. DISPUTE OF CLAIM SET OUT IN CLAIM STATEMENT

Pursuant to the Claims Procedure Order and the Meetings Order, the Payless Canada Entities and the Monitor hereby give you notice that they have reviewed your Proof of Claim and have revised or disallowed all or part of your purported Claim. Subject to further dispute by you in accordance with the Claims Procedure Order, your Claim will be as follows:

Applicable Applicant or Director/Officer	Claim per Proof of Claim	Revised Amount Allowed for Distribution Purposes	Classification of Claims (Secured/ Unsecured)

III. Reasons for Revision or Disallowance:

IV. SERVICE OF NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE

If you intend to dispute this Notice of Revision or Disallowance, you must, no later than 5:00 p.m. (prevailing time in Toronto) on the day that is 15 Calendar Days after this Notice of Revision or Disallowance is deemed to have been received by you (in accordance with paragraph 30 of the Claims Procedure Order), deliver a Notice of Dispute of Revision or Disallowance to the Monitor by ordinary prepaid mail, registered mail, courier, personal delivery or electronic transmission to the address below.

FTI Consulting Canada Inc. as Monitor of the Payless Canada Entities
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8
Phone: 416 649 8096
Toll Free: 1 855 718 5255

In accordance with the Meetings Order, notices shall be deemed to be received by the Monitor (a) if sent by prepaid ordinary mail or registered mail, on the third Business Day after mailing in Ontario, the fifth Business Day after mailing within Canada (other than within Ontario), and the tenth Business Day after mailing internationally; (b) if sent by courier or personal delivery, on the next Business Day following dispatch; and (c) if delivered by facsimile transmission or email by 5:00 p.m. on a Business Day, on such Business Day and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

The form of Notice of Dispute of Revision or Disallowance is enclosed and can also be accessed on the Monitor's website http://cfcanada.fticonsulting.com/paylesscanada.

IF YOU FAIL TO FILE A NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.

DATED this _____ day of _____, 2019.

FTI Consulting Canada Inc., solely in its capacity as Court-appointed Monitor of the Payless Canada Entities, and not in its personal or corporate capacity.

Per: _____

For more information see **http://cfcanada.fticonsulting.com/paylesscanada**, or contact the Monitor by telephone at 1 855 718 5255.

Schedule "F"

NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE

Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc., and Payless ShoeSource Canada LP (the "Payless Canada Entities") and/or their Directors or Officers

---

Capitalized terms not defined herein have the meanings given to them in the Order of the Ontario Superior Court of Justice (Commercial List) dated September 17, 2019 (the "**Meetings Order**") or the Order of the Ontario Superior Court of Justice (Commercial List) dated April 24, 2019 (the "**Claims Procedure Order**").

I. PARTICULARS OF CLAIMANT

Claim Reference Number:

Full Legal Name of Claimant: _____

Full Mailing Address of Claimant: _____

Telephone Number: _____

Email Address: _____

Attention (Contact Person): _____

Have you acquired this Claim by assignment?

Yes: ❑ No: ❑ *(if yes, attach documents evidencing assignment)*

If Yes, Full Legal Name of Original Claimant(s): _____

II. DISPUTE OF CLAIM SET OUT IN NOTICE OF REVISION OR DISALLOWANCE

The Claimant hereby disputes the classification, amount and/or nature of the revised or disallowed amount set out in the Notice of Revision or Disallowance and asserts as set out in the following table:

Applicable Applicant or Director/Officer	Claim per Proof of Claim	Revised Amount Allowed for Voting Purposes	Revised Amount Allowed for Distribution Purposes

III. REASONS FOR DISPUTE

Provide full particulars below as to the basis for the Claimant's dispute of the amount as set out in the Notice of Revision or Disallowance and provide supporting documentation. This includes, without limitation, amounts, description of transaction(s) or agreement(s) giving rise to the dispute, the date and number of all invoices and supporting documentation, and particulars of all credits, discounts, rebates and similar items claimed. The particulars provided must support the value of the Notice of Dispute of Revision or Disallowance as stated by the Claimant in the table above.

_____

_____

_____

_____

_____

_____

_____

_____

DATED this _____ day of _____, 2019.

_____

Signature of Claimant or its Authorized Signatory

IV. NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE

This Notice of Dispute of Revision or Disallowance MUST be delivered to the Monitor at the below address such that it is received by the Monitor by no later than **11:59 p.m. (Toronto Time)** on ●, **2019**:

FTI Consulting Canada Inc. as Monitor of the Payless Canada Entities
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8
Phone: 416 649 8096
Toll Free: 1 855 718 5255
Fax: 416 649 8101
E-mail: paylesscanada@fticonsulting.com

If a completed Notice of Dispute of Revision or Disallowance is not received by the Monitor by the deadline stated above, you shall be forever barred from disputing the classification, amount or nature of any Claim of a different classification or nature or in excess of the amount specified in the Claim against any of the Payless Canada Entities, its Directors and its Officers and all Claims shall be forever barred and extinguished. **IF A NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE IS NOT RECEIVED BY THE MONITOR WITHIN THE PRESCRIBED TIME PERIOD, THE CLAIM AS SET OUT IN THE CLAIM STATEMENT WILL BE DEEMED TO BE THE CLAIM OF THE CLAIMANT AND WILL BE FINAL AND BINDING ON THE CLAIMANT FOR ALL PURPOSES.**

Court File No. CV-19-00614629-00CL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

MEETINGS ORDER

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40 King Street West
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Fax: 416. 640.3207
nlevine@casselsbrock.com

Lawyers for Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP

TAB B

Court File No. CV-19-00614629-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE	)	TUESDAY, THE 17TH
	)	
JUSTICE McEWEN	)	DAY OF SEPTEMBER, 2019

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

(the "**Applicants**")

ORDER
(THIRD STAY EXTENSION)

THIS MOTION made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an Order, *inter alia*: (i) lifting the stay of proceedings (the "**Stay of Proceedings**") granted in the Initial Order of the Honourable Regional Senior Justice Morawetz dated February 19, 2019 (the "**Initial Order**") for a limited purpose; (ii) extending the Stay Period (as defined in the Initial Order) to and including December 20, 2019; and (iii) approving the Fifth Report (as defined below) and the activities of FTI Consulting Canada Inc. ("**FTI**") in its capacity as court-appointed monitor ("**Monitor**") and the fees and disbursements of the Monitor and its counsel, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicants, the Affidavit of Adrian Frankum, sworn September 10, 2019 (the "**Frankum Affidavit**"), the fifth report of FTI in its capacity as Monitor of the Applicants and Payless ShoeSource Canada LP (collectively, the "**Payless Canada Entities**") dated September ●, 2019 (the "**Fifth Report**"), and on hearing the submissions of counsel for the Payless Canada Entities, the Monitor, and such other parties as

were present, no one else appearing although duly served as appears from the affidavit of service of Taschina Ashmeade sworn September ●, 2019, filed;

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein be and is hereby abridged and validated so that the Motion is properly returnable today.

2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Initial Order or the Frankum Affidavit.

STAY EXTENSION

3. **THIS COURT ORDERS** that the Stay Period be and is hereby extended until and including December 20, 2019.

LIFTING STAY OF PROCEEDINGS

4. **THIS COURT ORDERS** that to the extent necessary, the Stay of Proceedings is hereby lifted for the limited purpose, of allowing the Payless Canada Entities to apply to the U.S. Court to dismiss the Payless Canada Entities' U.S. Proceedings.

CASH FLOW STATEMENT

5. **THIS COURT ORDERS** that from and after the date hereof all references to Cash Flow Statement in the Initial Order shall mean the cash flow statement attached to the Fifth Report, as such Cash Flow Statement may be amended from time to time pursuant to a further Order of this Court or an Order in the U.S. Proceedings.

APPROVAL OF MONITOR'S FIFTH REPORT, ACTIVITIES, FEES AND DISBURSEMENTS

6. **THIS COURT ORDERS** that the Fifth Report and the activities of the Monitor, as applicable, referred to therein, be and are hereby approved; provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

7. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, as set out in the affidavits of Paul Bishop sworn September ●, 2019 and Sean H. Zweig sworn September ●, 2019 be and are hereby approved.

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or elsewhere, to give effect to this Order and to assist each of the Payless Canada Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to each of the Payless Canada Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist each of the Payless Canada Entities and the Monitor and their respective agents in carrying out the terms of this Order.

9. **THIS COURT ORDERS** that each of the Payless Canada Entities and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that Payless ShoeSource Canada Inc. is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

Court File No. CV-19-00614629-00CL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

ORDER
(THIRD STAY EXTENSION)

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Lawyers for Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP

Court File No. CV-19-00614629-00CL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION

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Lawyers for Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP

TAB 2

Court File No. CV-19-00614629-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

(the "**Applicants**")

AFFIDAVIT OF ADRIAN FRANKUM

SWORN SEPTEMBER 10, 2019

I, Adrian Frankum, of the city of New York, in the State of New York, **MAKE OATH AND SAY**:

1. I am a Senior Managing Director at Ankura Consulting Group, LLC, the Chief Restructuring Organization ("**CRO**") of Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP (collectively, the "**Payless Canada Entities**"). I also serve as the Restructuring Officer of Payless Holdings LLC (the ultimate parent company of the Payless Canada Entities) and twenty-five (25) of its affiliated companies (the "**U.S. Debtors**"). As such, I am familiar with the Payless Canada Entities' day-to-day operations, business, financial affairs, and books and records and I have personal knowledge of the Payless Canada Entities and the matters to which I depose in this affidavit. Where I do not possess personal knowledge, I have stated the source of my information and, in all such cases, believe it to be true.

2. I swear this affidavit in support of a motion by the Applicants for:

(a) an order (the "**Meetings Order**") substantially in the form attached hereto as Schedule "A", *inter alia*:

(i) accepting the filing of the Payless Canada Entities' Plan of Compromise and Arrangement (the "**CCAA Plan**");

(ii) authorizing the Payless Canada Entities to establish two (2) classes of affected creditors for the purpose of considering and voting on the CCAA Plan: (i) a general unsecured creditor class ("**General Unsecured Creditors**"); and (ii) a landlord class (the "**Landlords**");

(iii) authorizing the Payless Canada Entities to call, hold and conduct (i) a meeting of the General Unsecured Creditors and (ii) a meeting of the Landlords (together, the "**Creditors' Meetings**") to consider and vote on a resolution (the "**Plan Resolution**") to approve the CCAA Plan, and approving the procedures to be followed with respect to the Creditors' Meetings;

(iv) setting the date for the hearing of the Payless Canada Entities' motion for an order to sanction the CCAA Plan (the "**Sanction Order**") should the CCAA Plan be approved for filing and approved by the required majorities of affected creditors at the Creditors' Meetings; and

(v) approving procedures for the reconciliation of certain claims.

(b) an order, substantially in the form attached hereto as Schedule "B" (the "**Stay Extension Order**"), *inter alia*:

(i) lifting the stay of proceedings (the "**Stay of Proceedings**") granted in the Initial Order of the Honourable Regional Senior Justice Morawetz dated February 19, 2019 (the "**Initial Order**") for a limited purpose;

(ii) extending the Stay Period (as defined in the Initial Order) to and including December 20, 2019; (the "**Third Stay Extension**");

(iii) approving the fifth report of the Monitor (as defined below) to be filed (the "**Fifth Report**"), and the activities of the Monitor as described therein; and

(iv) approving the fees and disbursements of the Monitor and its counsel as set out and described in the Fifth Report.

3. Unless indicated otherwise, capitalized terms not defined in this affidavit have the meaning given to them in the Initial Order or the proposed Meetings Order.

4. As described in detail below, the U.S. Debtors have filed a plan in the U.S. Proceedings (as defined below). In light of the expected timing of the U.S. confirmation hearing (currently scheduled for the end of October) and the need for the Payless Canada Entities to proceed on a similar timeline, the Payless Canada Entities intend to seek approval of the Meetings Order on September 17, 2019.

5. The terms and structure of the CCAA Plan are not yet final and the subject of ongoing negotiations among the U.S. Debtors and Payless Canada Entities and their stakeholders (including the Term Loan Lenders). The CCAA Plan has therefore not been included with these motion materials. The Payless Canada Entities expect to file a supplemental affidavit attaching the proposed CCAA Plan and providing additional information (the "**Supplemental Affidavit**") in advance of the hearing on this Motion.

BACKGROUND

6. Payless Holdings LLC, through its subsidiaries and related parties (collectively, "**Payless**"), was the largest specialty family footwear retailer in the Western Hemisphere, which offered a wide range of shoes and accessory items at affordable prices. The Payless Canada Entities comprised the Canadian operating arm of the Payless global business and, as at February 19, 2019 (the "**Filing Date**"), sold Payless footwear and merchandise throughout Canada from over 240 retail stores across 10 provinces.

7. On February 18, 2019, the U.S. Debtors (including the Payless Canada Entities) commenced insolvency proceedings (the "**U.S. Proceedings**") by filing voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code. The U.S. Proceedings are pending before the United States Bankruptcy Court for the Eastern District of Missouri (the "**U.S. Bankruptcy Court**").

8. On the Filing Date, Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc. sought and obtained the Initial Order under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). The Initial Order's protections extend to Payless ShoeSource Canada LP as the operating entity of the Payless Canada Entities. A copy of the Initial Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") is attached hereto as **Exhibit "A"**.

9. Among other things, the Initial Order granted an initial stay of proceedings in favour of the Payless Canada Entities up to and including March 21, 2019 (the "**Stay Period**") and appointed FTI Consulting Canada Inc. as monitor in these CCAA proceedings (in such capacity, the "**Monitor**"). As described in detail below, on March 20, 2019, the Court granted an order extending the Stay Period up to and including June 7, 2019, and on June 4, 2019, the Court granted a further extension of the Stay Period which is currently set to expire on September 20, 2019.

Liquidation Sales

10. On February 21, 2019, the Court granted an order approving a liquidation consulting agreement with a contractual joint venture comprised of Great American Group, LLC and Tiger Capital Group, LLC (together, the "**Consultant**") dated February 12, 2019 pursuant to which the U.S. Debtors and the Payless Canada Entities engaged the Consultant to advise them, in both the U.S. Proceedings and the CCAA Proceedings, with respect to the liquidation of inventory and certain fixtures.

11. The liquidation sales in the U.S. and Canada have concluded and the Payless Canada Entities have vacated all of their Canadian stores and the Canadian corporate head office. The global Payless corporate office in Topeka, Kansas remains open and provides corporate services required by the Payless Canada Entities.

The U.S. and Canadian Claims Procedures

12. On April 23, 2019, the U.S. Bankruptcy Court granted an order approving a claims process in the U.S. Proceedings (the "**Chapter 11 Claims Process**"). The Chapter 11 Claims Process contained notification procedures for the Chapter 11 Claims Process, procedures for filing proofs of claim, and bar dates by which claims in respect of the U.S. Debtors must be filed. The bar date in respect of general, prepetition claims was June 7, 2019. The Payless Canada Entities were specifically carved out of the Chapter 11 Claims Process.

13. On April 24, 2019, the Court granted an order in the CCAA Proceedings (the "**Claims Procedure Order**") authorizing the Payless Canada Entities to undertake a parallel claims procedure to solicit and identify claims against the Payless Canada Entities and their present and former Directors and Officers. Subject to certain exceptions, the deadline to file a Proof of Claim (as defined in the Claims Procedure Order) or Notice of Dispute of Claim Statement (as

defined below) was June 7, 2019. Attached hereto as **Exhibit "B"** is a copy of the Claims Procedure Order, without schedules.

14. The Claims Procedure Order provided for a "negative claims process" in which the Payless Canada Entities, with the assistance of the Monitor, provided claim statements (each a "**Claim Statement**") to certain of their known creditors showing the amount owing according to the applicable Payless Canada Entity's books and records. To the extent that a party having or asserting a claim failed to file a notice of dispute with respect to the Claim Statement (a "**Notice of Dispute of Claim Statement**"), the claim was deemed to be the amount set forth in the Claim Statement. Any claimant that did not receive a Claim Statement from the Monitor, was permitted to assert a Claim against the Payless Canada Entities or the Directors or Officers by filing a Proof of Claim.

15. The Claims Procedure Order provided that any additional reconciliation procedures would be subject to further order of the Court.

16. The Notices of Dispute of Claim Statement and Proofs of Claim are detailed in the Fifth Report and can be summarized as follows:

(a) 2184 Claim Statements (including amended Claim Statements) sent by the Monitor;

(b) 288 Notices of Dispute of Claim Statement received by the Monitor; and

(c) 130 Proofs of Claim received by the Monitor.

<u>The U.S. Plan</u>

17. Following completion of the liquidation sales in the U.S. and Canada, Payless, with its advisors, has focused on the reorganization of the remaining business and emergence from these cross-border insolvency proceedings.

18. On August 12, 2019, the U.S. Debtors filed a joint plan of reorganization and corresponding disclosure statement, which were each amended on August 28, 2019 (the "**U.S. Plan**" and the "**U.S. Disclosure Statement**"). Attached hereto are copies of the U.S. Disclosure Statement and U.S. Plan as **Exhibit "C"** and **Exhibit "D"** respectively. Since that date, the U.S. Debtors have engaged in good faith negotiations with their stakeholders and remain optimistic that a resolution of certain contested issues may be reached. The U.S. Disclosure Statement hearing originally scheduled for September 11, 2019 has been adjourned and continued to September 18, 2019 to provide additional time for such negotiations.

19. The Payless Canada Entities are not plan proponents under the U.S. Plan and therefore the provisions of the U.S. Plan do not pertain to the Payless Canada Entities. The Payless Canada Entities intend to file a motion for dismissal of the Payless Canada Entities' U.S. Proceedings effective upon implementation of the U.S. Plan and intend to address the resolution of claims and any distribution to Canadian creditors through a CCAA Plan.

20. The current U.S. Plan can be summarized as follows:[1]

(a) Purpose: The U.S. Plan seeks to (i) de-lever the U.S. Debtors' capital structure and preserve the U.S. Debtors' profitable business segments, (ii) implement a global settlement of any and all claims, including causes of action related to the U.S. Debtors' business; and (iii) provide a distribution to general unsecured creditors of the U.S. Debtors.

(b) Distributions: The U.S. Plan contemplates distributions to the creditors of the U.S. Debtors including but not limited to the following:

[1] Terms in this section not otherwise defined herein have the meanings ascribed to such terms in the U.S. Plan.

(i) Administrative Claims (post-filing claims entitled to priority under U.S. law), Other Priority Claims (claims entitled to priority) and Other Secured Claims, will be paid in full in cash;

(ii) Term Loan Lenders (defined below) holding tranche A-1 secured claims in the amount of their *pro rata* share of [USD$67,000,000] in cash;[2]

(iii) Term Loan Lenders holding tranche A-2 secured claims can elect to receive their *pro rata* share of common ownership units in the reorganized Payless Holdings LLC, or cash in the amount of 10% of their allowed tranche A-2 claims;

(iv) If general unsecured creditors vote to accept the U.S. Plan, the general unsecured creditors will receive their *pro rata* share of USD$4,000,000 cash less certain expenses and their *pro rata* share of a USD$5,000,000 note (the "**Liquidation Trust Note**") and the Term Loan Lenders will waive any rights to receive distributions in respect of their deficiency claims;

(v) If the general unsecured creditors vote to reject the U.S. Plan, the general unsecured creditors will only receive their *pro rata* share of the Liquidation Trust Note less certain expenses, and the Term Loan Lenders with deficiency claims will share in this distribution;

(vi) Intercompany claims will be reinstated or cancelled as determined by the U.S. Debtors and the Requisite Plan Support Parties, and with respect to the Payless Canada Entities, with the consent of the Payless Canada Entities;

[2] Such amount remains subject to finalization in the U.S. Plan.

(vii) Intercompany equity interests will be reinstated or cancelled as determined by the U.S. Debtors and the Requisite Plan Support Parties; and

(viii) Equity interests in Payless Holdings LLC will be cancelled for no consideration.

21. The U.S. Plan also describes the intention of the U.S. Debtors that unsecured creditors of the Payless Canada Entities will receive a proportionate recovery similar to the recovery received by the general unsecured creditors of the U.S. Debtors (the "**Canadian GUC Amount**"), which amount will be distributed to unsecured creditors of the Payless Canada Entities pursuant to the CCAA Plan. Any such distribution requires the agreement of the Term Loan Lenders to make a portion of its collateral in Canada available for distribution to unsecured creditors. The Payless Canada Entities expect to provide the Court with additional information regarding the U.S. Plan as it becomes available.

THE CCAA PLAN

22. The Payless Canada Entities continue to work with the Term Loan Lenders, the Monitor and other stakeholders in developing a CCAA Plan which will coordinate, on a cross-border basis, with the U.S. Proceedings, a cost-effective means of making certain distributions to creditors of the Payless Canada Entities. The terms and structure of the CCAA Plan are not yet final and are the subject of ongoing negotiations among the U.S. Debtors, the Payless Canada Entities and certain of their stakeholders (including the Term Loan Lenders).

23. As described above, the U.S. Debtors have filed the U.S. Plan and have scheduled the U.S. confirmation hearing for the end of October. In order to keep pace with the timing in the U.S., the Payless Canada Entities have brought this motion seeking, among other relief, approval of the Meetings Order prior to having finalized the CCAA Plan. The Payless Canada

Entities expect to provide further details of the CCAA Plan as soon as it is available and will provide this Court with a copy thereof in the Supplemental Affidavit. Below is a high-level summary of the matters expected to be dealt with in the CCAA Plan.

Cooperation with the Term Loan Agent and Term Loan Lenders

24. The Payless Canada Entities, as guarantors, are indebted to the lenders under the Term Loan Credit Facility (the "**Term Loan Lenders**") in the aggregate amount of USD$277.2 million as of the Filing Date under and in respect of the Term Loan Credit Facility. The Payless Canada Entities understand that the Monitor has received an opinion from its independent counsel that, subject to the typical assumptions and qualifications, the security in respect of the Term Loan Credit Facility is valid and enforceable. At this time, the Payless Canada Entities anticipate that the Term Loan Lenders will be unaffected creditors under the CCAA and that distributions to the Term Loan Lenders will be made outside of the CCAA Plan.

25. The primary purpose of the CCAA Plan is to provide a mechanism to make a distribution to unsecured creditors of the Payless Canada Entities of an amount which the Term Loan Lenders may agree to make available for distribution to them.

Calculation of the Distribution to Unsecured Creditors

26. It is anticipated by the Payless Canada Entities that the CCAA Plan will distribute the Canadian GUC Amount to unsecured creditors of the Payless Canada Entities. While not a perfect calculus, the Canadian GUC Amount is expected to represent a good faith effort by the Payless Canada Entities, the CRO and the Monitor to provide Canadian unsecured creditors with a recovery similar to that available to U.S. unsecured creditors.

27. In light of the different procedures and valuation methods that apply to claims on either side of the border, the U.S. Debtors and the Payless Canada Entities, with the assistance of the

Monitor, are working to compare the total amount of claims asserted in the Chapter 11 Claims Process and pursuant to the Claims Procedure Order. Although a formal claims reconciliation process has not yet been undertaken, the preliminary methodology is as follows:

(a) all suspected duplicate claims were eliminated;

(b) all unliquidated claims were estimated at zero;

(c) all intercompany claims were disregarded;

(d) the restructuring period claim in respect of each Canadian lease was calculated under the landlord formula provided in the United States Bankruptcy Code which limits landlord claims to the greater of one lease year or 15 percent, not to exceed three years, of the remaining lease term plus any pre-filing amounts owed; and

(e) all other claims were assumed allowed in full in the amounts set out in the U.S. schedules, the U.S. proofs of claim, the Claim Statements or the Proofs of Claim.

Based on the calculations above, and subject to reaching an agreement with the Term Loan Lenders, the Payless Canada Entities and the Monitor expect to finalize calculations for the Canadian GUC Amount in connection with the CCAA Plan.

Treatment of Affected Creditors

28. As set out in the draft Meetings Order, it is contemplated that the CCAA Plan will provide for two voting classes: (i) the General Unsecured Creditor class and (ii) the Landlord class.

29. Each General Unsecured Creditor with a proven claim will receive a *pro rata* share of the funds made available for distribution to General Unsecured Creditors of the Payless Canada Entities.

30. The Landlords in respect of the Payless Canada Entities are cumulatively the largest unsecured creditor group of the Payless Canada Entities. The Monitor received 254 Notices of Dispute of Claim Statement from the Landlords, the review and valuation of which would likely consume much if not all, of any amount that may be made available for distribution to unsecured creditors. Given the complexity in reviewing and determining such claims, it is anticipated that the CCAA Plan will classify Landlords in a separate class for voting purposes and provide that each Landlord will receive from an amount to be made available for distribution to unsecured creditors the lesser of:

(a) a fixed amount to be set forth in the CCAA Plan; or

(b) the amount asserted in the Landlord's Notice of Dispute of Claim Statement, or, if no Notice of Dispute of Claim Statement was filed, then the amount in the Landlord's Claim Statement (as such terms are defined in the Claims Procedure Order).

Additional Provisions

31. It is also anticipated that the CCAA Plan will require the creation of certain reserves. The nature and amount of these reserves is still under negotiation.

32. As is customary for proceedings of this size and nature, it is anticipated that the CCAA Plan will contain broad releases in favour of the Payless Canada Entities, the Term Loan Agent, the Term Loan Lenders and the Monitor and their respective directors, officers, agents, professionals and certain other parties.

33. Among other things, it anticipated that the CCAA Plan would be conditional upon the U.S. Plan becoming effective.

THE PROPOSED MEETINGS ORDER

34. The Meetings Order has been crafted in anticipation of a timely agreement on the terms of the CCAA Plan and authorizes the Payless Canada Entities to convene the meetings of the two (2) classes of creditors compromised of the (i) General Unsecured Creditor class and (ii) the Landlord class to consider and vote on the CCAA Plan. This timeline allows the Payless Canada Entities to proceed to sanction shortly after the U.S. confirmation (currently scheduled for October 21 and 22, 2019)

35. The Payless Canada Entities propose that the Creditors' Meetings will be held at the offices of Cassels Brock & Blackwell LLP, counsel to the Payless Canada Entities, on October 23, 2019. The meeting of the General Unsecured Creditors will take place on that date at 10:00 am (Toronto time) and the meeting of the Landlords will take place thereafter at 10:15 am (Toronto time).

Notification

36. The Meetings Order provides for extensive notification of the Creditors' Meetings to Affected Creditors. It is proposed that the Monitor will:

(a) as soon as practicable after the granting of the Meetings Order and by no later than September 24, 2019, send the Notice of Creditors' Meetings and Sanction Motion, the proxy, the Fifth Report, the issued Meetings Order, the CCAA Plan, an information memorandum (the "**Canadian Memorandum**") and the U.S. Disclosure Statement (the "**Information Package**") to each affected creditor at the address for such affected creditor pursuant to the books and records of the Payless Canada Entities, as noted in a Notice of Dispute of Claim Statement or Proof of Claim or such address as subsequently provided to the Monitor by an affected creditor. fanti

(b) forthwith post an electronic copy of the Information Package to the Monitor's Website;

(c) send the Information Package to the Service List;

(d) provide a written copy of the Information Package to any affected creditor upon request by such affected creditor; and

(e) cause the Notice of Creditors' Meetings to be published for a period of two (2) Business Days in *The Globe and Mail (National Edition)* and *La Presse* on or before October 1, 2019.

37. No later than three (3) Business Days before the Creditors' Meetings, the Monitor shall also serve a report regarding the CCAA Plan on the Service List and cause such report to be posted on the Monitor's Website.

Conduct of the Creditors' Meetings

38. The proposed Meetings Order provides that, after consultation with the Payless Canada Entities, a designated representative of the Monitor will preside as the Chair of the Creditors' Meetings and, subject to any further Order of this Court, will decide all matters relating to the conduct of the Creditors' Meetings. The Monitor may appoint Scrutineers for the supervision and tabulation of the attendance at, quorum at and votes cast at the Creditors' Meetings. A party designated by the Monitor will act as Secretary at the Creditors' Meetings.

39. The only parties entitled to attend and speak at the Creditors' Meetings are Eligible Voting Creditors (or their duly appointed proxyholders), representatives of the Monitor, the Payless Canada Entities, the Supporting Term Loan Lenders, the Term Loan Agent, the Chair, Secretary, Scrutineers and all such parties respective legal counsel and advisors. Any other Person may be admitted to the Creditors' Meetings on invitation of the Chair.

Voting for Affected Creditors

40. The voting procedures were designed to provide a fair and equitable opportunity for Eligible Voting Creditors to register their votes for or against the CCAA Plan. The Meetings Order provides, *inter alia*:

(a) after consultation with the Payless Canada Entities, the Chair and the Monitor will direct a vote on the Plan Resolution to approve the CCAA Plan and any amendments or variations thereto made in accordance with the Meetings Order and the CCAA Plan;

(b) the quorum required at the Creditors' Meetings will be one (1) Eligible Voting Creditor with a Voting Claim present at such meeting in person or by proxy;

(c) Eligible Voting Creditors will be permitted to attend the Creditors' Meeting in person or may appoint another person to attend the applicable Creditors' Meeting as its proxyholder in accordance with the process provided in the Meetings Order. The Meetings Order contains provisions outlining the requirements for Eligible Voting Creditors to vote by proxy, and sets out the procedure and deadlines for submitting a proxy; and

(d) an Eligible Voting Creditor can transfer or assign the whole of its claim prior to the applicable Creditors' Meeting for voting purposes, provided that none of the Payless Canada Entities nor the Monitor will be obligated to give notice to or otherwise deal with the transferee or assignee of such claim unless the transferee or assignee has complied with the procedures in the CCAA Plan and Meetings Order.

41. Any proxy for a General Unsecured Creditor or Landlord must be (a) received by the Monitor by 10:00 am (Toronto time) on October 21, 2019, or 48 hours (excluding Saturdays, Sundays and statutory holidays) prior to any adjourned, postponed or rescheduled Creditors' Meeting.

Approval and Court Sanction of the CCAA Plan

42. The Monitor will provide a report to the Court as soon as practicable after the Creditors' Meetings with respect to: (i) the results of voting at each of the Creditors' Meetings on the Plan Resolution; (ii) whether each of the Required Majorities has approved the CCAA Plan; (iii) the separate tabulation of votes cast by Eligible Voting Creditors holding Disputed Voting Claims; and (iv) in its discretion, any other matter relating to the Payless Canada Entities' motion seeking sanction of the CCAA Plan ("**Sanction Motion**").

43. The Payless Canada Entities propose that, in the event that the CCAA Plan is approved by the Required Majorities, the Payless Canada Entities will bring a motion on October 29, 2019 to seek the Sanction Order.

44. The proposed Meetings Order provides that any Person intending to oppose the Sanction Motion must: (i) file or have filed with the Court a Notice of Appearance and serve such Notice of Appearance on the Service List at least seven (7) Business Days before the date set for the Sanction Motion; and (ii) serve on the Service List a notice setting out the basis for such opposition and a copy of the materials to be used to oppose the Sanction Motion that are available at least seven (7) Business Days before the date set the Sanction Motion, or such shorter time as the Court, by Order, may allow.

Claims Resolution Procedures

45. The Claims Procedure Order provides that any Claimant who failed to file a Notice of Dispute of Claim Statement by the applicable bar date would have their Claim determined in the amount set out in the Claim Statement. The Claims Procedure Order further provides that any further claims determination procedures will be subject to an Order of this Court.

46. The Meetings Order contains additional procedures for the reconciliation of Claims to allow the Payless Canada Entities to make distributions to creditors. The procedures are intended to be streamlined and efficient in order to minimize the professional costs of the claims review.

47. The claim adjudication process is solely for the purposes of voting and/or receiving a distribution under the CCAA Plan. It does not apply to unaffected claims. Further, the Meetings Order provides that the Payless Canada Entities and the Monitor shall not accept, reject, revise and settle any claim ranking or purporting to rank *pari passi* with, or in priority to, the Term Loan Claims (other than the Term Loan Lenders Subordinated Claim) without the consent of the Supporting Term Loan Lenders.

48. With respect to affected claims, the Payless Canada Entities, in consultation with the Monitor, may deem a claim accepted for distribution purposes. This procedure will be particularly relevant to Landlords who are expected to receive a fixed distribution per lease under the CCAA Plan.

49. With respect to the Notices of Dispute of Claim Statement filed by parties other than the Landlords, the Payless Canada Entities, in consultation with the Monitor, will work to consensually resolve such Claims.

50. With respect to the Proofs of Claim that were received, the Payless Canada Entities may determine to revise or reject a Proof of Claim by sending a Notice of Revision or Disallowance (as defined in the Meetings Order) to the Claimant. If the Claimant wishes to challenge the

Notice of Revision or Disallowance, the Claimant must file a Notice of Dispute with the Monitor by no later than 15 days after the delivery of the Notice of Revision of Disallowance.

51. In the event that the parties cannot reach a resolution with respect to a Notice of Dispute of Claim Statement or a Notice of Dispute, the Payless Canada Entities may refer such dispute to the Court or to a claims officer, subject to further order of the Court.

STAY EXTENSION AND LIFTING OF STAY OF PROCEEDINGS

52. On March 20, 2019, the Court granted an order extending the Stay Period up to and including June 7, 2019. On June 4, 2019 the Court granted a further extension to the Stay Period up to and including September 20, 2019.

53. The Payless Canada Entities are seeking to lift the Stay of Proceedings, to the extent necessary, to allow the Payless Canada Entities to apply to the U.S. Court to dismiss the Payless Canada Entities' U.S. Proceedings in order to implement the U.S. Plan.

54. For all other purposes, the Payless Canada Entities are seeking the Third Stay Extension until and including December 20, 2019 to permit them to finalize and implement a CCAA Plan. The Payless Canada Entities expect to work closely with their advisors and the Monitor to meet the conditions to implementation by that date.

55. The Payless Canada Entities, with the assistance of the Monitor, are preparing a revised cash flow statement for the period until December 20, 2019 (the "**Cash Flow Statement**"). The Cash Flow Statement will be appended to the Fifth Report.

56. As will be reflected in the Cash Flow Statement, the Payless Canada Entities are forecast to have sufficient liquidity to fund their post-filing obligations and the costs of their CCAA Proceedings during the Third Stay Extension. The Payless Canada Entities expect to

return to Court in advance of the expiry of the Third Stay Extension to seek additional relief in connection with the resolution of these proceedings.

CONCLUSION

57. It is my belief that each of the Payless Canada Entities has acted, and continues to act, in good faith and with due diligence. The Payless Canada Entities continue to carry on their business in compliance with the CCAA and the orders of the Court made in the CCAA Proceedings.

58. I do not believe that any of the Payless Canada Entities' stakeholders will suffer material prejudice if the Third Stay Extension or the Meetings Order is granted as requested.

59. I swear this affidavit in support of the Payless Canada Entities' motion for the Meetings Order and the Stay Extension Order and for no other or improper purpose.

SWORN BEFORE ME at the)
City of Topeka, in the)
State of Kansas, this)
10th day of September, 2019)
)

Notary Public

My Commission Expires 12-2-20

Adrian Frankum

DEBORAH A. ORTEGA NOTARY PUBLIC STATE OF KANSAS

Court File No. CV-19-00614629-00CL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

Affidavit of Adrian Frankum

Sworn September 10, 2019

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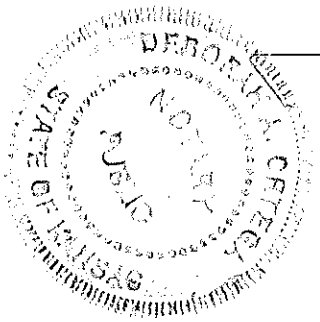
Lawyers for Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP

TAB A

This is **Exhibit "A"**
to the Affidavit of **Adrian Frankum**
sworn and subscribed to before me
this **10th day of September 2019**



(insert notary stamp)

My Commission Expires 12-2-20

Court File No.
CV-19-00614629-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE REGIONAL	)	TUESDAY, THE 19th
	)	
SENIOR JUSTICE MORAWETZ	)	DAY OF FEBRUARY, 2019

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

(the "**Applicants**")

INITIAL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Stephen Marotta sworn February 18, 2019 (the "**Marotta Affidavit**") and the Exhibits thereto, and the pre-filing report dated February 19, 2019 of FTI Consulting Canada Inc. ("**FTI**"), in its capacity as the proposed Monitor of the Payless Canada Entities (as defined below) (the "**Pre-Filing Report**") and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants and Payless ShoeSource Canada LP (each a "**Payless Canada Entity**" and collectively, the "**Payless Canada Entities**"), counsel to FTI, counsel to Wells Fargo Bank, National Association (the "**ABL Agent**"), counsel to the ad hoc group of lenders under the Term Loan Credit Facility (as defined in the Marotta Affidavit), counsel to Cortland Products Corp. (the "**Term Loan Agent**") and counsel to the Liquidation Consultant (as defined in the Marotta Affidavit), and no one appearing for any other party

although duly served as appears from the affidavit of service of Monique Sassi sworn February 19, 2019 and on reading the consent of FTI to act as the Monitor,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies. Although not an Applicant, Payless ShoeSource Canada LP shall be bound by this Order as though it were an Applicant, enjoy the benefits of the protections and authorizations provided by this Order and shall be subject to the restrictions contained herein.

PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that the Payless Canada Entities, individually or collectively, shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the Payless Canada Entities shall remain in possession and control of their respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, each of the Payless Canada Entities shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. Each of the Payless Canada Entities shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, advisors, experts, accountants, counsel and such other persons (collectively, the "**Assistants**") currently retained or employed by or with respect to it, with liberty to retain such further Assistants, including without limitation, a real estate advisor to assist in the monetization of the Payless Canada Entities' real property leases, as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Payless Canada Entities shall be entitled to continue to utilize the central cash management system currently in place as described in the Marotta Affidavit or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by each of the Payless Canada Entities of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Payless Canada Entities, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that each of the Payless Canada Entities' existing depository and disbursement banks (collectively, the "**Banks**") is authorized to debit the applicable Payless Canada Entity's accounts in the ordinary course of business without the need for further order of this Court for: (i) all cheques drawn on the Payless Canada Entities' accounts which are cashed at such Bank's counters or exchanged for cashier's cheques by the payees thereof prior to the date of this Order; (ii) all cheques or other items deposited in one of Payless Canada Entities' accounts with such Bank prior to the date of this Order which have been dishonoured or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Payless Canada Entities were responsible for such items prior to the date of this Order; and (iii) all undisputed pre-filing amounts outstanding as of the date hereof, if any, owed to any Bank as service charges for the maintenance of the Cash Management System.

7. THIS COURT ORDERS that any of the Banks may rely on the representations of the applicable Payless Canada Entity with respect to whether any cheques or other payment order drawn or issued by the Payless Canada Entities prior to the date of this Order should be honoured pursuant to this or any other order of this Court, and such Bank shall not have any liability to any party for relying on such representations by the applicable Payless Canada Entities as provided for herein.

8. THIS COURT ORDERS that (i) those certain existing deposit agreements between the Banks shall continue to govern the post-filing cash management relationship between the Payless Canada Entities and the Banks, and that all of the provisions of such agreements, including, without limitation, the termination and fee provisions, shall remain in full force and effect, and (ii) either the Payless Canada Entities or the Banks may, without further Order of this Court, implement changes to the Cash Management Systems and procedures in the ordinary course of business pursuant to terms of those certain existing deposit agreements, including, without limitation, the opening and closing of bank accounts.

9. THIS COURT ORDERS that each of the Payless Canada Entities shall be entitled but not required to pay the following expenses and satisfy the following obligations whether incurred prior to, on or after the date of this Order to the extent such expenses are incurred and payable by such Payless Canada Entity:

(a) all outstanding and future wages, salaries, employee benefits (including, without limitation, employee medical, dental, vision, insurance and similar benefit plans or arrangements), vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements, and all other payroll and benefits processing and servicing expenses;

(b) the fees and disbursements of any Assistants retained or employed by or with respect to any of the Payless Canada Entities in respect of these proceedings, in accordance with the terms of their respective engagements; and

(c) with the consent of the Monitor, amounts owing for goods or services supplied to the Payless Canada Entities prior to the date of this Order by third party suppliers if, in the opinion of the Payless Canada Entities following consultation with the Monitor, such payment is necessary to maintain the uninterrupted operations of the Business.

10. THIS COURT ORDERS that, except as otherwise provided to the contrary herein each of the Payless Canada Entities shall be entitled but not required to pay all reasonable expenses incurred by such Payless Canada Entity in carrying on the Business in the ordinary course on or

after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and

(b) payment for goods or services actually supplied to such Payless Canada Entity following the date of this Order.

11. THIS COURT ORDERS that each of the Payless Canada Entities shall remit, in accordance with legal requirements, or pay:

(a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

(b) all goods and services taxes, harmonized sales taxes, or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by such Payless Canada Entity in connection with the sale of goods and services by such Payless Canada Entity, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not remitted until on or after the date of this Order, and

(c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by any of the Payless Canada Entities.

12. THIS COURT ORDERS that, except (i) as specifically permitted herein; or (ii) for repayments of the obligations owing under the ABL Credit Facility (as defined in the Marotta Affidavit) in the amounts noted as Canadian Excess Proceeds in the Cash Flow Statement attached to the Pre-Filing Report, as such Cash Flow Statement may be amended from time to time pursuant to a further Order of this Court or an Order in the U.S. Proceedings, each of the Payless Canada Entities is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any of the Payless Canada Entities to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

12A. THIS COURT ORDERS that the payments to be made by each of the Payless Canada Entities as authorized by this Order shall be materially consistent with the Cash Flow Statement, including without limitation the establishment and funding of the Reserve (as detailed in the Cash Flow Statement) in a separate Payless Canada Entity bank account (the "**Reserve Account**"). Payments shall only be made from the Reserve Account with the consent of the Monitor to satisfy those items for which the Reserve was established, or by further Order of the Court. For greater certainty, no Reserve amounts shall constitute Canadian Excess Proceeds or be otherwise used to repay the ABL Credit Facility without further Order of the Court, regardless of whether such amounts have been deposited into the Reserve Account.

12B. THIS COURT ORDERS that the Payless Canada Entities, in consultation with the Monitor, shall provide periodic reporting to the ABL Agent and the Term Loan Agent on a weekly basis (unless otherwise agreed) until the ABL Credit Facility (in the case of reporting to the ABL Agent) and the Term Loan Credit Facility (in the case of reporting to the Term Loan Agent) is repaid in full, with respect to the actual and projected receipts and disbursements of the Payless Canada Entities in a form to be agreed upon between the Payless Canada Entities each of the ABL Agent and the Term Loan Agent, in consultation with the Monitor.

RESTRUCTURING

13. THIS COURT ORDERS that each of the Payless Canada Entities shall, subject to such requirements as are imposed by the CCAA, have the right to:

(a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding $100,000 in any one transaction or $500,000 in the aggregate; and

(b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and

(c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit each of the Payless Canada Entities to proceed with an orderly restructuring of the Business.

REAL PROPERTY LEASES

14. THIS COURT ORDERS that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Payless Canada Entity which is responsible for such payment shall pay, without duplication, all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) but, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of any of the Payless Canada Entities or any affiliate thereof, the making of this Order, or the commencement of any insolvency proceeding (including, without limitation, the U.S. Proceedings, as defined in the Cross-Border Protocol) in respect of any of the Payless Canada Entities or any affiliate thereof in the United States or any other foreign jurisdiction (a "**Foreign Proceeding**") or as otherwise may be negotiated between the applicable Payless Canada Entity and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

15. THIS COURT ORDERS that the relevant Payless Canada Entity shall provide each of the relevant landlords with notice of the relevant Payless Canada Entity's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased

premises to observe such removal and, if the landlord disputes the relevant Payless Canada Entity's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the relevant Payless Canada Entity, or by further Order of this Court upon application by the Payless Canada Entities on at least two (2) days notice to such landlord and any such secured creditors. If any of the Payless Canada Entities disclaims or resiliates the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to the relevant Payless Canada Entity's claim to the fixtures in dispute.

16. THIS COURT ORDERS that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA by any of the Payless Canada Entities, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the relevant Payless Canada Entity and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the relevant Payless Canada Entity in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

17. ~~THIS COURT ORDERS that, notwithstanding anything to the contrary in any real property lease or elsewhere, the Payless Canada Entities shall have no obligation to stock or restock and/or operate from any of its locations.~~ Intentionally deleted

NO PROCEEDINGS AGAINST ANY OF THE PAYLESS CANADA ENTITIES, THE BUSINESS OR THE PROPERTY

18. THIS COURT ORDERS that until and including March 21, 2019, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of any of the Payless Canada Entities or the Monitor, or affecting any of the Business or the Property,

except with the written consent of the applicable Payless Canada Entity(ies) and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Payless Canada Entities or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

19. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of any of the Payless Canada Entities or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the applicable Payless Canada Entity(ies) and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower any of the Payless Canada Entities to carry on any business which such entity is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

20. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Payless Canada Entities, except with the written consent of the applicable Payless Canada Entity(ies) and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

21. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with any of the Payless Canada Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefits services, customs clearing, warehouse and logistics, insurance, transportation services, utility or other services to the Business or any of the Payless Canada Entities, are hereby restrained until

further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by any of the Payless Canada Entities, and that each of the Payless Canada Entities shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the appropriate Payless Canada Entity(ies) in accordance with normal payment practices of such Payless Canada Entity(ies) or such other practices as may be agreed upon by the supplier or service provider and each of the appropriate Payless Canada Entity(ies) and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

22. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to any of the Payless Canada Entities. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

23. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the Payless Canada Entities with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of any of the Payless Canada Entities whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligation.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

24. THIS COURT ORDERS that each of the Payless Canada Entities shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of each of the Payless Canada Entities after the commencement of the within

proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

25. THIS COURT ORDERS that the directors and officers of each of the Payless Canada Entities shall, as security for the indemnity provided in paragraph 24 of this Order, be entitled to the benefit of and are hereby granted (i) a charge on the funds in the Reserve Account in the amount of the funds held in the Reserve Account at any point in time (the "**Directors' Reserve Charge**") and (ii) a charge on the Property which charge shall not exceed a maximum amount of USD$4 million until March 21, 2019 and thereafter shall automatically reduce without any further order of this Court, to the maximum amount of USD$2 million (the "**Directors' General Charge**" and together with the Directors' Reserve Charge, the "**Directors' Charge**"). The Directors' Charge shall have the priority set out in paragraphs 45 and 47 herein.

26. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) each of the Payless Canada Entities' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 24 of this Order.

APPROVAL OF THE CRO ENGAGEMENT

27. THIS COURT ORDERS that the agreement dated as of January 24, 2019 pursuant to which the Payless Canada Entities have engaged Ankura Consulting Group, LLC ("**Ankura**") to act as Chief Restructuring Organization (the "**CRO**") through the services of Stephen Marotta, Adrian Frankum and other employees of Ankura, a copy of which is attached as Exhibit "**H**" to the Marotta Affidavit as may be amended by the parties thereto with the consent of the Monitor (the "**CRO Engagement Letter**"), and the appointment of the CRO pursuant to the terms thereof, are hereby approved, including, without limitation, the payment of the fees and expenses contemplated thereby.

28. THIS COURT ORDERS that, subject to the provisions of the CCAA, this Order and any subsequent Order of this Court, the CRO is authorized to exercise and perform the powers,

responsibilities and duties as described in the CRO Engagement Letter and subject to the terms thereof, together with such other powers, responsibilities and duties as may be agreed upon by the CRO and approved by this Court (collectively, the "**CRO Powers**"), including, without limitation, the power to:

(a) make decisions with respect to the day to day aspects of the management and operations of the Business, including, without limitation, organization, human resources, marketing, sales, operations, supply chain, finance and administration, in such manner and take such actions and steps, as the CRO deems reasonably necessary and appropriate, and execute such documents and writings as required to cause or permit each of the Payless Canada Entities to do all things authorized, directed and permitted pursuant to the CCAA, the terms of this Order, and any subsequent Orders of this Court, subject to the terms of those Orders;

(b) subject to the terms of this Order, realize and dispose of the Property of each of the Payless Canada Entities on behalf of such Payless Canada Entity(ies), including, without limitation, to negotiate and enter into agreements on behalf of each of the Payless Canada Entities with respect to the sale or other disposition of all or any part of the Property;

(c) represent each of the Payless Canada Entities in any negotiations with any other stakeholders and their professional constituencies, including vendors and suppliers;

(d) assist the Payless Canada Entities with store closures and liquidations;

(e) evaluate the short-term company-prepared cash flows and financing requirements of the Payless Canada Entities as they relate to these proceedings;

(f) assist the Payless Canada Entities in the preparation and oversight of financial statements and schedules, monthly operating reports, and other information required in these proceedings, as applicable;

(g) assist the Payless Canada Entities in obtaining court approval and administration of financing including developing forecasts and information, and any insolvency related claims management and reconciliation process;

(h) work with the Payless Canada Entities, and their retained professionals, as appropriate, to assess any offer(s) made to one or more of the Payless Canada Entities;

(i) communicate with and provide information to the Monitor, and its advisors, regarding the Business and affairs of each of the Payless Canada Entities;

(j) assist the Monitor, as requested by the Monitor, in connection with the powers given to the Monitor; and

(k) work with the Assistants and the Monitor in respect of all of the foregoing;

provided that, in each case such actions, agreements, expenses and obligations shall be construed to be those of the appropriate Payless Canada Entity and not of the CRO personally.

29. THIS COURT ORDERS that none of the CRO, Stephen Marotta, Adrian Frankum or such other employees of Ankura, shall be or be deemed to be a director, officer or employee of any of the Payless Canada Entities.

30. THIS COURT ORDERS that the CRO shall ~~not, as a result of the performance of its obligations and duties in accordance with the terms of the CRO Engagement Letter and this Order, be deemed to be in Possession (as defined below) of any of the Property within the meaning of any Environmental Legislation (as defined below); provided, however, if the CRO is nevertheless later found to be in Possession of any Property, then the CRO, as the case may be, shall be deemed to be a Person who has been lawfully appointed to take, or has lawfully taken, possession or control of such Property for the purposes of section 14.06(1.l)(c) of the *Bankruptcy and Insolvency Act of Canada* (the "**BIA**") and shall be entitled to the benefits and protections in relation to the applicable Payless Canada Entity and such Property as provided by section 14.06(2) of the BIA to a "trustee" in relation to an insolvent Person and its property.~~ if deemed to be in possession or control

31. THIS COURT ORDERS that nothing in the CRO Engagement Letter or this Order shall be construed as resulting in the CRO being an employer, successor employer, responsible person or operator within the meaning of any statute, regulation or rule of law, or equity for any purpose whatsoever.

32. THIS COURT ORDERS that the CRO shall not have any liability with respect to any losses, claims, damages or liabilities, of any nature or kind, to any Person from and after the date of this Order except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct on the part of the CRO, provided further that in no event shall the liability of the CRO exceed the quantum of the fees paid to the CRO.

33. THIS COURT ORDERS that no action or other proceeding shall be commenced directly, or by way of counterclaim, third party claim or otherwise, against or in respect of the CRO, and all rights and remedies of any Person against or in respect of the CRO are hereby stayed and suspended, except with the written consent of the CRO and the Monitor, or with leave of this Court on notice to the Payless Canada Entities, the Monitor, and the CRO. Notice of any such motion seeking leave of this Court shall be served upon the Payless Canada Entities, the Monitor, and the CRO at least ten (10) days prior to the return date of any such motion for leave.

34. THIS COURT ORDERS that the obligations of each of the Payless Canada Entities to the CRO pursuant to the CRO Engagement Letter shall be treated as unaffected and may not be compromised in any Plan or proposal filed under the BIA in respect of any of the Payless Canada Entities.

35. THIS COURT ORDERS that (i) any indemnification obligations of any of the Payless Canada Entities in favour of the CRO and (ii) payment obligations of any of the Payless Canada Entities to the CRO shall be entitled to the benefit of and shall form part of the Administration Charge (as defined below) set out herein.

APPOINTMENT OF MONITOR

36. THIS COURT ORDERS that FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Business and financial affairs of each of the Payless Canada Entities with the powers and obligations set out in the CCAA or set forth herein and that each of the Payless Canada Entities and its shareholders, officers, directors, and Assistants and the CRO shall advise the Monitor of all material steps taken by such Payless Canada Entity pursuant to this Order, and shall co-operate fully with the Monitor in the exercise

of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

37. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

(a) monitor each of the Payless Canada Entities' receipts and disbursements;

(b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

(c) advise each of the Payless Canada Entities in its development of the Plan and any amendments to the Plan;

(d) assist each of the Payless Canada Entities, to the extent required by the Payless Canada Entity, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

(e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of each of the Payless Canada Entities, to the extent that is necessary to adequately assess the Payless Canada Entities' business and financial affairs or to perform its duties arising under this Order;

(f) assist each of the Payless Canada Entities with respect to any Foreign Proceeding and monitor and report to this Court, as it deems appropriate, on the Foreign Proceeding;

(g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and

(h) perform such other duties as are required by this Order or by this Court from time to time.

38. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

39. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and similar legislation in other provinces and territories and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

40. THIS COURT ORDERS that the Monitor shall provide any creditor of any of the Payless Canada Entities with information provided by such Payless Canada Entity in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by any of the Payless Canada Entities is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the applicable Payless Canada Entity(ies) may agree.

41. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save

and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

42. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Payless Canada Entities shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Payless Canada Entities as part of the costs of these proceedings. The Payless Canada Entities are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Payless Canada Entities in accordance with the payment terms, including the use of retainers as previously paid, as agreed between or on behalf of the Payless Canada Entities and such parties.

43. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

44. THIS COURT ORDERS that the CRO, the Monitor, counsel to the Monitor, and counsel to the Payless Canada Entities shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of USD$2 million, as security for the professional fees and disbursements incurred by the CRO, the Monitor, counsel to the Monitor, and counsel for the Payless Canada Entities at each of their standard rates and charges and on the terms set forth in their respective engagement letters, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 45 and 47 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

45. THIS COURT ORDERS that the priorities of the Directors' Charge and the Administration Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of USD$2 million); and

Second – Directors' Charge (for the amounts set out in paragraph 25 hereof).

46. THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge or the Administration Charge (collectively, the "**Charges**") shall not be required, and that the

Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

47. THIS COURT ORDERS that each of the Directors' Charge and the Administration Charge (each as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person notwithstanding the order of perfection or attachment, other than any validly perfected security interest under the *Personal Property Security Act* (Ontario) or such other applicable provincial legislation that has not been served with notice of this Order. For the avoidance of doubt: (i) the Administration Charge and (ii) the Directors' Charge shall rank in priority to the security interest of the ABL Agent and the Term Loan Agent.

48. THIS COURT ORDERS that the Payless Canada Entities shall be entitled, on a subsequent motion on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrance over which the Charges have not obtained priority.

49. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, none of the Payless Canada Entities shall grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge or the Administration Charge, unless the applicable Payless Canada Entity(ies) also obtains the prior written consent of the Monitor and the beneficiaries of the Directors' Charge and/or the Administration Charge, as applicable, or further Order of this Court.

50. THIS COURT ORDERS that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy or receivership order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar

provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds any of the Payless Canada Entities, and notwithstanding any provision to the contrary in any Agreement:

(a) the creation of the Charges shall not create or be deemed to constitute a breach by any of the Payless Canada Entities of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any obligation or Agreement caused by or resulting from the creation of the Charges; and

(c) the payments made by any of the Payless Canada Entities pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

51. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Payless Canada Entity(ies) interest in such real property leases.

CROSS-BORDER PROTOCOL

52. THIS COURT ORDERS that the cross-border protocol in the form attached as Schedule "A" hereto (the "**Cross-Border Protocol**") is hereby approved and shall become effective upon its approval by the United States Bankruptcy Court for the Eastern District of Missouri, and the parties to these proceedings and any other Person shall be governed by and shall comply with the Cross-Border Protocol.

SERVICE AND NOTICE

53. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in *The Globe and Mail* (National Edition) and *Le Devoir* a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against any of the Payless Canada Entities of more than

$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

54. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL http://cfcanada.fticonsulting.com/paylesscanada/ (the "**Website**").

55. THIS COURT ORDERS that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in this proceeding (the "**Service List**"). The Monitor shall post the Service List, as may be updated from time to time, on the Website, provided that the Monitor shall have no liability in respect of the accuracy of, or the timeliness of making any changes to, the Service List.

56. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Payless Canada Entities and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to any of the Payless Canada Entities' creditors or other interested parties at their respective addresses as last shown on the records of any of the Payless Canada Entities and that any such service or distribution shall be deemed to be received (a) if sent by courier, on the next business day following the date of forwarding thereof, (b) if delivered by personal delivery or facsimile or other electronic transmission, on the day so delivered, and (c) if sent by ordinary mail, on the third business day after mailing.

57. THIS COURT ORDERS that the Payless Canada Entities and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and

orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Payless Canada Entities' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations,* Reg. 81000-2-175 (SOR/DORS).

GENERAL

58. THIS COURT ORDERS that each of the Payless Canada Entities or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions concerning the discharge of its powers and duties under this Order or in the interpretation or application of this Order.

59. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the Payless Canada Entities, the Business or the Property.

60. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or elsewhere, to give effect to this Order and to assist each of the Payless Canada Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to each of the Payless Canada Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist each of the Payless Canada Entities and the Monitor and their respective agents in carrying out the terms of this Order.

61. THIS COURT ORDERS that each of the Payless Canada Entities and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that Payless ShoeSource Canada Inc. is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

62. THIS COURT ORDERS that any interested party (including any of the Payless Canada Entities and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

63. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

FEB 19 2019

PER / PAR:

Schedule "A"

CROSS-BORDER INSOLVENCY PROTOCOL

This cross-border insolvency protocol (the "Protocol") shall govern the conduct of all parties in interest in the Insolvency Proceedings (as such term is defined herein).

The Guidelines for Communication and Cooperation Between Courts in Cross-Border Insolvency Matters (the "Guidelines"), annexed as "Schedule A" hereto, shall be incorporated by reference and form part of this Protocol. To the extent there is any discrepancy between the Protocol and the Guidelines, this Protocol shall prevail.

A. Background

1. On February 18, 2019 (the "Petition Date"), Payless Holdings LLC and certain of its subsidiaries and affiliates (collectively, the "Debtors")[1] commenced cases (collectively, the "U.S. Proceedings") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Eastern District of Missouri.

2. On February 19, 2019, certain of the Debtors, specifically Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc., (together with Payless ShoeSource Canada LP, the "Canadian Debtors"), also sought protection in Canada (the "Canadian Proceedings" and

[1] The Debtors (as defined herein) in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Payless Holdings LLC [5704]; Payless Intermediate Holdings LLC [5190]; WBG-PSS Holdings LLC [0673]; Payless Inc. [3160]; Payless Finance, Inc. [2101]; Collective Brands Services, Inc. [7266]; PSS Delaware Company 4, Inc. [1466]; Shoe Sourcing, Inc. [4075]; Payless ShoeSource, Inc. [4097]; Eastborough, Inc. [2803]; Payless Purchasing Services, Inc. [3043]; Payless ShoeSource Merchandising, Inc. [0946]; Payless Gold Value CO, Inc. [3581]; Payless ShoeSource Distribution, Inc. [0944]; Payless ShoeSource Worldwide, Inc. [6884]; Payless NYC, Inc. [4126]; Payless ShoeSource of Puerto Rico, Inc. [9017]; Payless Collective GP, LLC [2940]; Collective Licensing, LP [1256]; Collective Licensing International LLC [5451]; Clinch, LLC [9836]; Collective Brands Franchising Services, LLC [3636]; Payless International Franchising, LLC [6448]; PSS Canada, Inc. [4969]; Payless ShoeSource Canada Inc. [4180]; Payless ShoeSource Canada GP Inc. [4182]; and Payless ShoeSource Canada LP [4179]. With respect to certain taxing authorities, the Debtors' address is 2001 Bryan Street, Suite 800, Dallas, TX 75201. However, the location of Debtor Payless Holdings LLC's corporate headquarters and the Debtors' service address is: c/o Payless ShoeSource Inc., 3231 S.E. 6th Avenue, Topeka, Kansas 66607.

together with the U.S. Proceedings, the "Insolvency Proceedings") by filing an application under *the Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") with the Ontario Superior Court of Justice (Commercial List) (the "Canadian Court" and together with the U.S. Court, the "Courts" and each individually, a "Court"). The remaining Debtors in these chapter 11 cases are domiciled in the United States (the "U.S. Debtors").

3. The Canadian Debtors sought an initial order from the Canadian Court (as may be amended from time to time, the "CCAA Order"), *inter alia*, (a) granting the Canadian Debtors relief under the CCAA; (b) appointing FTI Consulting Canada Inc. as monitor of the Canadian Debtors (the "Monitor"), with the rights, powers, duties and limitations upon liabilities set forth in the CCAA Order; and (c) granting a stay of proceedings in respect of the Canadian Debtors.

4. The Debtors continue to operate and maintain their businesses as debtors in possession pursuant to Bankruptcy Code sections 1107 and 1108. The Office of the United States Trustee (the "U.S. Trustee") may appoint an official committee of unsecured creditors (if appointed, the "U.S. Creditors' Committee") in the U.S. Proceedings.

B. Purpose and Goals

5. While the U.S. Proceedings and the Canadian Proceedings are full and separate proceedings pending in the United States of America (the "U.S.") and Canada, the implementation of basic administrative procedures and cross-border guidelines is both necessary and desirable to coordinate certain activities in the Insolvency Proceedings, protect the rights of parties thereto and ensure the maintenance of the Court's independent jurisdiction and comity. Accordingly, this Protocol has been developed to promote the following mutually desirable goals and objectives in the Insolvency Proceedings:

(a) harmonize and coordinate activities in the Insolvency Proceedings before the Courts;

(b) promote the orderly and efficient administration of the Insolvency Proceedings to, among other things, maximize the efficiency of the Insolvency Proceedings, reduce the costs associated therewith and avoid duplication of effort;

(c) honor the independence and integrity of the Courts and other courts and tribunals of the U.S. and Canada, respectively;

(d) promote international cooperation and respect for comity among the Courts, the Debtors, the U.S. Creditors' Committee, the U.S. Representatives (defined below), the Canadian Representatives (defined below and together with the U.S. Representatives, the "Estate Representatives"), the U.S. Trustee and other creditors and interested parties in the Insolvency Proceedings;

(e) facilitate the fair, open and efficient administration of the Insolvency Proceedings for the benefit of all of the creditors and interested parties of the Debtors, wherever located; and

(f) implement a framework of general principles to address basic administrative issues arising out of the cross-border and international nature of the Insolvency Proceedings.

C. Comity and Independence of the Courts

6. The approval and implementation of this Protocol shall not divest or diminish the U.S. Court's and the Canadian Court's independent jurisdiction over the subject matter of the

U.S. Proceedings and the Canadian Proceedings, respectively. By approving and implementing this Protocol, neither the U.S. Court, the Canadian Court, the Debtors, the Estate Representatives nor any creditors or interested parties shall be deemed to have approved or engaged in any infringement on the sovereignty of the U.S. or Canada.

7. The U.S. Court shall have sole and exclusive jurisdiction and power over the conduct of the U.S. Proceedings and the hearing and determination of matters arising in the U.S. Proceedings. The Canadian Court shall have sole and exclusive jurisdiction and power over the conduct of the Canadian Proceedings and the hearing and determination of matters arising in the Canadian Proceedings.

8. In accordance with the principles of comity and independence established in the preceding paragraphs, nothing contained herein shall be construed to:

(a) increase, decrease or otherwise modify the independence, sovereignty or jurisdiction of the U.S. Court, the Canadian Court or any other court or tribunal in the U.S. or Canada, including the ability of any such court or tribunal to provide appropriate relief under applicable law on an ex parte or "limited notice" basis;

(b) require the U.S. Court to take any action that is inconsistent with its obligations under the laws of the U.S.;

(c) require the Canadian Court to take any action that is inconsistent with its obligations under the laws of Canada;

(d) require any of the Debtors, the Monitor, the U.S. Creditors' Committee, the Estate Representatives or the U.S. Trustee to take any action or refrain from taking any action that would result in a breach of any duty imposed on them by any applicable law;

(e) authorize any action that requires the specific approval of one or both of the Courts under the Bankruptcy Code or the CCAA after appropriate notice and a hearing (except to the extent that such action is specifically described in this Protocol); or

(f) preclude any of the Debtors, the Monitor, the U.S. Creditors' Committee, the Estate Representatives, the U.S. Trustee, or any creditor or other interested party

from asserting such party's substantive rights under the applicable laws of the U.S., Canada or any other relevant jurisdiction including, without limitation, the rights of interested parties or affected persons to appeal from the decisions taken by one or both of the Courts.

9. Subject to the terms hereof, the Debtors, the U.S. Creditors' Committee, the Estate Representatives and their respective employees, members, agents and professionals shall respect and comply with the independent, non-delegable duties imposed upon them by the Bankruptcy Code, the CCAA, the CCAA Order and other applicable laws and orders of the Courts, as applicable.

D. Cooperation

10. To assist in the efficient administration of the Insolvency Proceedings and in recognizing that a Debtor may be a creditor of another Debtor's estate, the Debtors and the Estate Representatives shall where appropriate:

(a) reasonably cooperate with each other in connection with actions taken in both the U.S. Court and the Canadian Court; and

(b) take any other reasonable steps to coordinate the administration of the U.S. Proceedings and the Canadian Proceedings for the benefit of the Debtors' respective estates and stakeholders, including, without limitation, developing in consultation with the U.S. Creditors' Committee and seeking approval of any cross-border claims protocol by the Canadian and U.S. Courts.

11. To harmonize and coordinate the administration of the Insolvency Proceedings, the U.S. Court and the Canadian Court each may coordinate activities with and defer to the judgment of the other Court, where appropriate and feasible. In furtherance of the foregoing:

(a) The U.S. Court and the Canadian Court may communicate with one another, with or without counsel present, with respect to any procedural or substantive matter relating to the Insolvency Proceedings;

(b) Where the issue of the proper jurisdiction or Court to determine an issue is raised by an interested party in either of the Insolvency Proceedings with respect to a

motion or an application filed in either Court, the Court before which such motion or application was initially filed may contact the other Court to determine an appropriate process by which the issue of jurisdiction will be determined. Such process shall be subject to submissions by the Debtors, the Estate Representatives, the U.S. Creditors' Committee, the Monitor, the U.S. Trustee and any interested party before any determination on the issue of jurisdiction is made by either Court; and

(c) The Courts may, but are not obligated to, coordinate activities in the Insolvency Proceedings such that the subject matter of any particular action, suit, request, application, contested matter or other proceeding is determined in a single Court.

12. The U.S. Court and the Canadian Court may conduct joint hearings with respect to any matter relating to the conduct, administration, determination or disposition of any aspect of the U.S. Proceedings and the Canadian Proceedings, including the interpretation or implementation of this Protocol if both Courts consider such joint hearings to be necessary or advisable and, in particular, to facilitate or coordinate with the proper and efficient conduct of the U.S. Proceedings and the Canadian Proceedings. With respect to any such joint hearing, unless otherwise ordered, the following procedures will be followed:

(a) a telephone or video link shall be established so that both the U.S. Court and the Canadian Court shall be able to simultaneously hear the proceedings in the other Court;

(b) notices, submissions, applications, or motions by any party that are or become the subject of a joint hearing of the Courts (collectively, "Pleadings") shall be made or filed initially only to the Court in which such party is appearing and seeking relief. Promptly after the scheduling of any joint hearing, the party submitting such Pleadings to one Court shall file courtesy copies with the other Court. In any event, Pleadings seeking relief from both Courts shall be filed with both Courts.

(c) any party intending to rely on any written evidentiary materials in support of a submission to the U.S. Court or the Canadian Court in connection with any joint hearing shall file such materials, which shall be identical insofar as possible and shall be consistent with the procedure and evidentiary rules and requirements of each Court, in advance of the time of such hearing or the submissions of such application;

(d) If a party has not previously appeared in or attorned or does not wish to attorn to the jurisdiction of either Court, it shall be entitled to file such materials without, by the act of filing, being deemed to have attorned to the jurisdiction of the Court in which such material is filed, so long as it does not request in its materials or submissions any affirmative relief from the Court to which it does not wish to attorn;

(e) the Judge of the U.S. Court and the Justice of the Canadian Court who will hear any such application or motion shall be entitled to communicate with each other in advance of the hearing on the application or motion, with or without counsel being present, to establish guidelines for the orderly submission of pleadings, papers and other materials and the rendering of decisions by the U.S. Court and the Canadian Court, and to address any related procedural, administrative or preliminary matters; and

(f) the Judge of the U.S. Court and the Justice of the Canadian Court, having heard any such application, shall be entitled to communicate with each other after the hearing on such application or motion, without counsel present, for the purpose of determining whether consistent rulings can be made by both Courts, and coordinating the terms upon which such rulings shall be made, as well as to address any other procedural or non-substantive matter relating to such applications or motions.

13. Notwithstanding the terms of the preceding paragraph, the Protocol recognizes that the U.S. Court and the Canadian Court are independent courts. Accordingly, although the Courts will seek to cooperate and coordinate with each other in good faith, each of the Courts shall be entitled at all times to exercise its independent jurisdiction and authority with respect to:

(a) the conduct of the parties appearing in matters presented to such Court; and

(b) matters presented to such Court, including without limitation, the right to determine if matters are properly before such Court.

14. In the interest of cooperation and coordination of these proceedings, each Court shall recognize and consider all privileges applicable to communications between counsel and parties, including those contemplated by the common interest doctrine or like privileges, which would be applicable in each respective Court. Such privileges in connection with

communications shall be applicable in both Courts with respect to all parties to these proceedings having any requisite common interest.

15. Where one Court has jurisdiction over a matter which requires the application of the law of the jurisdiction of the other Court in order to determine an issue before it, the Court with jurisdiction over such matter may, among other things, hear expert evidence or seek the advice and direction of the other Court in respect of the foreign law to be applied, subject to paragraph 38 herein.

E. Retention and Compensation of Estate Representatives and Professionals

16. The Monitor, its officers, directors, employees, counsel, agents, and any other professionals related therefor, wherever located (collectively, the "Monitor Parties") and any other estate representatives in the Canadian Proceedings and their counsel and other professionals (collectively with the Monitor Parties, the "Canadian Representatives") shall all be subject to the sole and exclusive jurisdiction of the Canadian Court with respect to all matters, including:

(a) the Canadian Representatives' appointment and tenure in office;

(b) the retention and compensation of the Canadian Representatives;

(c) the Canadian Representatives' liability, if any, to any person or entity, including the Canadian Debtors and any third parties, in connection with the Insolvency Proceedings; and

(d) the hearing and determination of any matters relating to the Canadian Representatives arising in the Canadian Proceedings under the CCAA or other applicable Canadian law.

17. Additionally, the Canadian Representatives, and the Debtors' Canadian counsel:

(a) shall be compensated for their services solely in accordance with the CCAA and other applicable Canadian law or orders of the Canadian Court; and

(b) shall not be required to seek approval of their compensation in the U.S. Court.

18. The Monitor Parties shall be entitled to the protections of Bankruptcy Code section 306 and the same protections and immunities in the U.S. as those granted to them under the CCAA and the CCAA Order. In particular, except as otherwise provided in any subsequent order entered in the Canadian Proceedings, the Monitor Parties shall incur no liability or obligations as a result of the appointment of the Monitor, the carrying out of its duties or the provisions of the CCAA and the CCAA Order by the Monitor Parties, except any such liability arising from actions of the Monitor Parties constituting gross negligence or willful misconduct.

19. Any estate representative appointed in the U.S. Proceedings, including without limitation, any restructuring officer appointed under Bankruptcy Code section 306, the U.S. Creditors' Committee and any examiner or trustee appointed pursuant to Bankruptcy Code section 1104, and their respective counsel and other professionals (collectively, the "U.S. Representatives"), shall be subject to the sole and exclusive jurisdiction of the U.S. Court with respect to all matters, including:

(a) the U.S. Representatives' tenure in office;

(b) the U.S. Representatives' retention and compensation;

(c) the U.S. Representatives' liability, if any, to any person or entity, including the U.S. Debtors and any third parties, in connection with the Insolvency Proceedings; and

(d) the hearing and determination of any other matters relating to the U.S. Representatives arising in the U.S. Proceedings under the Bankruptcy Code or other applicable laws of the U.S.

20. Nothing in this Protocol creates any fiduciary duty, duty of care or other duty owed by the U.S. Representatives to the stakeholders in the Canadian Proceedings or by the

Canadian Representatives to the stakeholders in the U.S. Proceedings that they would not otherwise have in the absence of this Protocol.

21. The U.S. Representatives shall not be required to seek approval of their retention in the Canadian Court. Additionally, the U.S. Representatives:

(a) shall be compensated for their services solely in accordance with the Bankruptcy Code and other applicable laws of the United States or orders of the U.S. Court; and

(b) shall not be required to seek approval of their compensation in the Canadian Court.

22. Any professionals retained by or with the approval of the Debtors for Canadian related advice, activities performed in Canada or in connection with the Canadian Proceeding, including, in each case, counsel, financial advisors, accountants, consultants and experts (collectively, the "Canadian Professionals") shall be subject to the sole and exclusive jurisdiction of the Canadian Court. Accordingly, the Canadian Professionals: (a) shall be subject to the procedures and standards for retention and compensation applicable in the Canadian Court under the CCAA, the CCAA Order any other applicable Canadian law or orders of the Canadian Court; and (b) shall not be required to seek approval of their retention or compensation in the U.S. Court. The Debtors will include the identity and the amount of payments with respect to the Canadian Professionals in the Debtors' monthly operating reports.

23. Any professionals retained by or with approval of the Debtors for activities performed in the U.S. or in connection with the U.S. Proceedings, including, in each case, counsel, financial advisors, accountants, consultants and experts (collectively, the "U.S. Professionals") shall be subject to the sole and exclusive jurisdiction of the U.S. Court. Accordingly, the U.S. Professionals: (a) shall be subject to the procedures and standards for

retention and compensation applicable in the U.S. Court under the Bankruptcy Code and any other applicable laws of the U.S. or orders of the U.S. Court; and (b) shall not be required to seek approval of their retention of compensation in the Canadian Court.

24. Any professionals retained by the U.S. Creditors' Committee, including, in each case, counsel and financial advisors (collectively, the "Committee Professionals") shall be subject to the sole and exclusive jurisdiction of the U.S. Court. Accordingly, the Committee Professionals: (a) shall be subject to the procedures and standards for retention and compensation applicable in the U.S. Court under the Bankruptcy Code and any other applicable laws of the U.S. or orders of the U.S. Court; and (b) shall not be required to seek approval of their retention of compensation in the Canadian Court.

F. Rights to Appear and Be Heard

25. Each of the Debtors, their creditors and other interested parties in the Insolvency Proceedings, including the Canadian Representatives, and the U.S. Representatives shall have the right and standing to:

(a) appear and be heard in either the U.S. Court or the Canadian Court in the Insolvency Proceedings to the same extent as a creditor and other interested party domiciled in the forum country, but solely to the extent such party is a creditor or other interested party in the subject forum, subject to any local rules or regulations generally applicable to all parties appearing in the forum; and

(b) subject to 25(a) above, file notices of appearance or other papers with the Clerk of the U.S. Court or the Canadian Court in the Insolvency Proceedings; *provided, however*, that any appearance or filing may subject a creditor or interested party to the jurisdiction of the Court in which the appearance or filing occurs; provided further, that appearance by the U.S. Creditors' Committee in the Canadian Proceedings shall not form a basis for personal jurisdiction in Canada over the members of the U.S. Committee. Notwithstanding the foregoing, and in accordance with the policies set forth above:

(i) the Canadian Court shall have jurisdiction over the U.S. Representatives and the U.S. Trustee solely with respect to the particular matters as to

which the U.S. Representatives or the U.S. Trustee appear before the Canadian Court; and

(ii) the U.S. Court shall have jurisdiction over the Canadian Representatives solely with respect to the particular matters as to which the Canadian Representatives appear before the U.S. Court.

26. Solely with respect to consensual due diligence the U.S. Creditors' Committee will execute confidentiality agreements in the form to be agreed to by the Canadian Debtors and the U.S. Creditors' Committee.

G. Claims Protocol

27. It may be necessary to implement a specific claims protocol to address, among other things and without limitation, the timing, process, jurisdiction and applicable governing law to be applied to the resolution of claims filed by the Debtors' creditors (including intercompany claims) in the Canadian Proceedings and the U.S. Proceedings. In such event, and in recognition of the inherent complexities of the intercompany claims that may be asserted in the Insolvency Proceedings, the Debtors shall submit a specific claims protocol.

H. Notice

28. Notice of any motion, application or other pleading or paper filed in one or both of the Insolvency Proceedings relating to matters addressed by this Protocol and notice of any related hearings or other proceedings shall be given by appropriate means (including, where circumstances warrant, by courier or electronic forms of communication) to the following:

(a) all creditors and other interested parties in accordance with the practice of the jurisdiction where the papers are filed or the proceedings are to occur and order of the applicable court ; and

(b) to the extent not otherwise entitled to receive notice under subpart (a) of this paragraph, to:

(i) U.S. Counsel to the Debtors, Akin Gump Stauss Hauer & Feld LLP, Bank of America Tower, 1 Bryant Park, New York, NY 10036, USA (Attn: Meredith Lahaie and Kevin Zuzolo) and Armstrong Teasdale LLP, 7700 Forsyth Blvd., Suite 1800, St. Louis, MO 63105, USA (Attn: Erin Edelman and John Willard);

(ii) Canadian Counsel to the Debtors, Cassels Brock & Blackwell LLP, 2100, 40 King Street West, Toronto, ON Canada, M5H 3C2 (Attn: Ryan Jacobs, Jane Dietrich, Natalie Levine);

(iii) the Monitor, FTI Consulting Canada Inc., TD Waterhouse Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104, Toronto, ON Canada, M5K 1G8 (Attn: Greg Watson, Paul Bishop), and its counsel, Bennett Jones LLP, 3400, One First Canadian Place, Toronto, ON Canada, M5X 1A4 (Attn: Sean Zweig, Kevin J. Zych);

(iv) Counsel to the ABL Agent, Choate Hall & Stewart LLP, Two International Place, Boston, MA 02110 (Attn: Kevin Simard, Doug Gooding and Jonathan Marshall); Thompson Coburn LLP, One US Bank Plaza, St. Louis, MO 63101 (Attn: Mark Bossi); and Norton Rose Fulbright Canada LLP, Suite 3800, Royal Bank Plaza, South Tower, 200 Bay Street, P.O Box 84, Toronto, ON Canada, M5J 2Z4 (Attn: Tony Reyes and David Amato);

(v) Counsel to the Ad Hoc Term Lender Committee, Kramer Levin Naftalis & Frankel LLP, 1177 Avenue of the Americas, New York, NY 10036, USA (Attn: Stephen D. Zide); Doster, Ullom & Boyle, LLC, 16090 Swingley Ridge Road, Suite 620, Chesterfield, Missouri 63017, USA (Attn: Gregory D. Willard); and Fasken Martineau DuMoulin LLP, Bay Adelaide Centre, 333 Bay Street, Suite 2400, P.O. Box 20, Toronto, ON Canada, M5H 2T6 (Attn: Stuart Brotman)

(vi) Counsel to any statutory committee or any other official appointed in the U.S. Proceedings;

(vii) the Office of the United States Trustee for Eastern District of Missouri;

(viii) such other parties as may be designated by either Court from time to time.

29. Notice in accordance with this paragraph may be designated by either of the Courts from time to time. Notice in accordance with this paragraph shall be given by the party otherwise responsible for effecting notice in the jurisdiction where the underlying papers are

filed or the proceedings are to occur. In addition to the foregoing, upon request, the U.S. Debtors or the Canadian Debtors shall provide the U.S. Court or the Canadian Court, as the case may be, with copies of any orders, decisions, opinions or similar papers issued by the other Court in the Insolvency Proceedings.

30. When any cross-border issues or matters addressed by this Protocol are to be addressed before a Court, notices shall be provided in the manner and to the parties referred to in paragraph 28 above.

I. Recognition of Stays of Proceedings

31. The Canadian Court hereby recognizes the validity of the stay of proceedings and actions against or respecting the U.S. Debtors and their property under Bankruptcy Code section 362 (the "U.S. Stay"). In implementing the terms of this paragraph, the Canadian Court may consult with the U.S. Court regarding the interpretation, extent, scope and applicability of the U.S. Stay, and any orders of this U.S. Court modifying or granting relief from the U.S. Stay.

32. The U.S. Court hereby recognizes the validity of the stay of proceedings and actions against or respecting the Canadian Debtors, its property and the current and former directors and officers of the Canadian Debtors under the CCAA and the CCAA Order (the "Canadian Stay"). In implementing the terms of this paragraph, the U.S. Court may consult with the Canadian Court regarding the interpretation, extent, scope and applicability of the Canadian Stay, and any orders of the Canadian Court modifying or granting relief from the Canadian Stay.

33. Nothing contained herein shall affect or limit the Debtors or other parties' rights to assert the applicability or non-applicability of the U.S. Stay or the Canadian Stay to any particular proceeding, property, asset, activity or other matter, wherever pending or located. Subject to the terms hereof: (a) any motion with respect to the application of the stay of

proceedings issued by the Canadian Court in the CCAA Proceeding shall be heard and determined by the Canadian Court and (b) any motion with respect to the application of the stay under Bankruptcy Code section 362 shall be heard and determined by the U.S. Court.

J. Effectiveness; Modification

34. This Protocol shall become effective only upon its approval by both the U.S. Court and the Canadian Court.

35. This Protocol may not be supplemented, modified, terminated or replaced in any manner except by the U.S. Court and the Canadian Court after notice and a hearing. Notice of any legal proceeding to supplement, modify, terminate or replace this Protocol shall be given in accordance with the notice provision contained in this Protocol.

K. Procedure for Resolving Disputes Under the Protocol

36. Disputes relating to the terms, intent or application of this Protocol may be addressed by interested parties to either the U.S. Court, the Canadian Court or both Courts upon notice as set forth in paragraphs 28 and 29 above. In rendering a determination in any such dispute, the Court to which the issue is addressed:

(a) shall consult with the other Court; and

(b) may, in its sole discretion, either:

(i) render a binding decision after such consultation;

(ii) defer to the determination of the other Court by transferring the matter, in whole or in part, to the other Court; or

(iii) seek a joint hearing of both Courts.

37. Notwithstanding the foregoing, each Court in making a determination shall have regard to the independence, comity or inherent jurisdiction of the other Court established under existing law.

38. In implementing the terms of the Protocol, the U.S. Court and the Canadian Court may, in their sole, respective discretion, provide advice or guidance to each other with respect to legal issues in accordance with the following procedures:

(a) The U.S. Court or the Canadian Court, as applicable, may determine that such advice or guidance is appropriate under the circumstances;

(b) The Court issuing such advice or guidance shall provide it to the non-issuing Court in writing;

(c) Copies of such written advice or guidance shall be served by the applicable Court in accordance with paragraph 28 hereof; and

(d) The Courts may jointly decide to invite the Debtors, the Estate Representatives, the U.S. Trustee, the Monitor and any other affected or interested party to make submissions to the appropriate Court in response to or in connection with any written advice or guidance received from the other Court.

39. For clarity, the provisions of paragraph 38 shall not be construed to restrict the ability of the U.S. Court or the Canadian Court to confer, as provided above, whenever they deem it appropriate to do so.

L. Preservation of Rights

40. Except as specifically provided herein, neither the terms of this Protocol nor any actions taken under the terms of this Protocol shall (a) prejudice or affect the powers, rights, claims and defenses of the Debtors and their estates, the Estate Representatives, the U.S. Trustee, the Monitor or any of the Debtors' creditors under applicable law, including the Bankruptcy Code, the CCAA and the Orders of the Courts or (b) preclude or prejudice the rights of any

person to assert or pursue such person's substantive rights against any other person under the applicable laws of the United States or Canada.

41. The question of the degree of standing of the U.S. Creditors' Committee in the Canadian Court remains an open issue. This Protocol is without prejudice to the question one way or the other.

Schedule A

GUIDELINES FOR COMMUNICATION AND COOPERATION BETWEEN COURTS IN CROSS-BORDER INSOLVENCY MATTERS

INTRODUCTION

A. The overarching objective of these Guidelines is to improve in the interests of all stakeholders the efficiency and effectiveness of cross-border proceedings relating to insolvency or adjustment of debt opened in more than one jurisdiction ("Parallel Proceedings") by enhancing coordination and cooperation amongst courts under whose supervision such proceedings are being conducted. These Guidelines represent best practice for dealing with Parallel Proceedings.

B. In all Parallel Proceedings, these Guidelines should be considered at the earliest practicable opportunity.

C. In particular, these Guidelines aim to promote:

(i) the efficient and timely coordination and administration of Parallel Proceedings;
(ii) the administration of Parallel Proceedings with a view to ensuring relevant stakeholders' interests are respected;
(iii) the identification, preservation, and maximisation of the value of the debtor's assets, including the debtor's business;
(iv) the management of the debtor's estate in ways that are proportionate to the amount of money involved, the nature of the case, the complexity of the issues, the number of creditors, and the number of jurisdictions involved in Parallel Proceedings;
(v) the sharing of information in order to reduce costs; and
(vi) the avoidance or minimisation of litigation, costs, and inconvenience to the parties[2] in Parallel Proceedings.

D. These Guidelines should be implemented in each jurisdiction in such manner as the jurisdiction deems fit.[3]

E. These Guidelines are not intended to be exhaustive and in each case consideration ought to be given to the special requirements in that case.

F. Courts should consider in all cases involving Parallel Proceedings whether and how to implement these Guidelines. Courts should encourage and where necessary direct, if they have the power to do so, the parties to make the necessary applications to the court to facilitate such implementation by a protocol or order derived from these Guidelines, and encourage them to act so as to promote the objectives and aims of these Guidelines wherever possible.

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[2] The term "parties" when used in these Guidelines shall be interpreted broadly.
[3] Possible modalities for the implementation of these Guidelines include practice directions and commercial guides.

ADOPTION & INTERPRETATION

Guideline 1: In furtherance of paragraph F above, the courts should encourage administrators in Parallel Proceedings to cooperate in all aspects of the case, including the necessity of notifying the courts at the earliest practicable opportunity of issues present and potential that may (a) affect those proceedings; and (b) benefit from communication and coordination between the courts. For the purpose of these Guidelines, "administrator" includes a liquidator, trustee, judicial manager, administrator in administration proceedings, debtor-in-possession in a reorganisation or scheme of arrangement, or any fiduciary of the estate or person appointed by the court.

Guideline 2: Where a court intends to apply these Guidelines (whether in whole or in part and with or without modification) in particular Parallel Proceedings, it will need to do so by a protocol or an order,[4] following an application by the parties or pursuant to a direction of the court if the court has the power to do so.

Guideline 3: Such protocol or order should promote the efficient and timely administration of Parallel Proceedings. It should address the coordination of requests for court approvals of related decisions and actions when required and communication with creditors and other parties. To the extent possible, it should also provide for timesaving procedures to avoid unnecessary and costly court hearings and other proceedings.

Guideline 4: These Guidelines when implemented are not intended to:

(i) interfere with or derogate from the jurisdiction or the exercise of jurisdiction by a court in any proceedings including its authority or supervision over an administrator in those proceedings;

(ii) interfere with or derogate from the rules or ethical principles by which an administrator is bound according to any applicable law and professional rules;

(iii) prevent a court from refusing to take an action that would be manifestly contrary to the public policy of the jurisdiction; or

(iv) confer or change jurisdiction, alter substantive rights, interfere with any function or duty arising out of any applicable law, or encroach upon any applicable law.

Guideline 5: For the avoidance of doubt, a protocol or order under these Guidelines is procedural in nature. It should not constitute a limitation on or waiver by the court of any powers, responsibilities, or authority or a substantive determination of any matter in controversy before the court or before the other court or a waiver by any of the parties of any of their substantive rights and claims.

Guideline 6: In the interpretation of these Guidelines or any protocol or order under these Guidelines, due regard shall be given to their international origin and to the need to promote good faith and uniformity in their application.

COMMUNICATION BETWEEN COURTS

[4] In the normal case, the parties will agree on a protocol derived from these Guidelines and obtain the approval of each court in which the protocol is to apply.

Guideline 7: A court may receive communications from a foreign court and may respond directly to them. Such communications may occur for the purpose of the orderly making of submissions and rendering of decisions by the courts, and to coordinate and resolve any procedural, administrative or preliminary matters relating to any joint hearing where Annex A is applicable. Such communications may take place through the following methods or such other method as may be agreed by the two courts in a specific case:

(i) Sending or transmitting copies of formal orders, judgments, opinions, reasons for decision, endorsements, transcripts of proceedings or other documents directly to the other court and providing advance notice to counsel for affected parties in such manner as the court considers appropriate.

(ii) Directing counsel or other appropriate person to transmit or deliver copies of documents, pleadings, affidavits, briefs or other documents that are filed or to be filed with the court to the other court in such fashion as may be appropriate and providing advance notice to counsel for affected parties in such manner as the court considers appropriate.

(iii) Participating in two-way communications with the other court, by telephone or video conference call or other electronic means, in which case Guideline 8 should be considered.

Guideline 8: In the event of communications between courts, other than on administrative matters, unless otherwise directed by any court involved in the communications whether on an *ex parte* basis or otherwise, or permitted by a protocol, the following shall apply:

(i) In the normal case, parties may be present.

(ii) If the parties are entitled to be present, advance notice of the communications shall be given to all parties in accordance with the rules of procedure applicable in each of the courts to be involved in the communications.

(iii) The communications between the courts shall be recorded and may be transcribed. A written transcript may be prepared from a recording of the communications that, with the approval of each court involved in the communications, may be treated as the official transcript of the communications.

(iv) Copies of any recording of the communications, of any transcript of the communications prepared pursuant to any direction of any court involved in the communications, and of any official transcript prepared from a recording may be filed as part of the record in the proceedings and made available to the parties and subject to such directions as to confidentiality as any court may consider appropriate.

(v) The time and place for communications between the courts shall be as directed by the courts. Personnel other than judges **in** each court may communicate with each other to establish appropriate arrangements for the communications without the presence of the parties.

Guideline 9: A court may direct that notice of its proceedings be given to parties in proceedings in another jurisdiction. All notices, applications, motions, and other materials served for purposes of the proceedings before the court may be ordered to be provided to such other parties by

making such materials available electronically in a publicly accessible system or by facsimile transmission, certified or registered mail or delivery by courier, or in such other manner as may be directed by the court in accordance with the procedures applicable _in the court.

APPEARANCE IN COURT

Guideline 10: A court may authorise a party, or an appropriate person, to appear before and be heard by a foreign court, subject to approval of the foreign court to such appearance.

Guideline 11: If permitted by its law and otherwise appropriate, a court may authorise a party to a foreign proceeding, or an appropriate person, to appear and be heard by it without thereby becoming subject to its jurisdiction.

CONSEQUENTIAL PROVISIONS

Guideline 12: A court shall, except on proper objection on valid grounds and then only to the extent of such objection, recognise and accept as authentic the provisions of statutes, statutory or administrative regulations, and rules of court of general application applicable to the proceedings in other jurisdictions without further proof. For the avoidance of doubt, such recognition and acceptance does not constitute recognition or acceptance of their legal effect or implications.

Guideline 13: A court shall, except upon proper objection on valid grounds and then only to the extent of such objection, accept that orders made in the proceedings in other jurisdictions were duly and properly made or entered on their respective dates and accept that such orders require no further proof for purposes of the proceedings before it, subject to its law and all such proper reservations as in the opinion of the court are appropriate regarding proceedings by way of appeal or review that are actually pending in respect of any such orders. Notice of any amendments, modifications, extensions, or appellate decisions with respect to such orders shall be made to the other court(s) involved in Parallel Proceedings, as soon as it is practicable to do so.

Guideline 14: A protocol, order or directions made by a court under these Guidelines is subject to such amendments, modifications, and extensions as may be considered appropriate by the court, and to reflect the changes and developments from time to time in any Parallel Proceedings. Notice of such amendments, modifications, or extensions shall be made to the other court(s) involved in Parallel Proceedings, as soon as it is practicable to do so.

ANNEX A (JOINT HEARINGS)

Annex A to these Guidelines relates to guidelines on the conduct of joint hearings. Annex A shall be applicable to, and shall form a part of these Guidelines, with respect to courts that may signify their assent to Annex A from time to time. Parties are encouraged to address the matters set out in Annex A in a protocol or order.

ANNEX A: JOINT HEARINGS

A court may conduct a joint hearing with another court. In connection with any such joint hearing, the following shall apply, or where relevant, be considered for inclusion in a protocol or order:

(i) The implementation of this Annex shall not divest nor diminish any court's respective independent jurisdiction over the subject matter of proceedings. By implementing this Annex, neither a court nor any party shall be deemed to have approved or engaged in any infringement on the sovereignty of the other jurisdiction.

(ii) Each court shall have sole and exclusive jurisdiction and power over the conduct of its own proceedings and the hearing and determination of matters arising in its proceedings.

(iii) Each court should be able simultaneously to hear the proceedings in the other court. Consideration should be given as to how to provide the best audio-visual access possible.

(iv) Consideration should be given to coordination of the process and format for submissions and evidence filed or to be filed in each court.

(v) A court may make an order permitting foreign counsel or any party in another jurisdiction to appear and be heard by it. If such an order is made, consideration needs to be given as to whether foreign counsel or any party would be submitting to the jurisdiction of the relevant court and/or its professional regulations.

(vi) A court should be entitled to communicate with the other court in advance of a joint hearing, with or without counsel being present, to establish the procedures for the orderly making of submissions and rendering of decisions by the courts, and to coordinate and resolve any procedural, administrative or preliminary matters relating to the joint hearing.

(vii) A court, subsequent to the joint hearing, should be entitled to communicate with the other court, with or without counsel present, for the purpose of determining outstanding issues. Consideration should be given as to whether the issues include procedural and/or substantive matters. Consideration should also be given as to whether some or all of such communications should be recorded and preserved.

CV-19-00614629-00CL

Court File No.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

INITIAL ORDER

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Lawyers for Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP

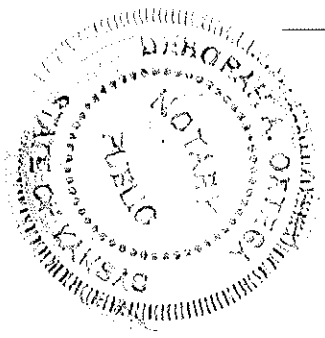
TAB B

This is **Exhibit "B"**
to the Affidavit of **Adrian Frankum**
sworn and subscribed to before me
this **10th day of September 2019**

Deborah A. Otte

(insert notary stamp)

My Commission Expires 12-2-20



Court File No. CV-19-00614629-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE	)	WEDNESDAY THE 24th
	)	
REGIONAL SENIOR JUSTICE MORAWETZ	)	DAY OF APRIL, 2019

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

(the "**Applicants**")

ORDER
(CLAIMS PROCEDURE ORDER)

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), was heard this day at 330 University Avenue, Toronto, Ontario by way of Court Call.

ON READING the Notice of Motion of the Applicants, the affidavit of Adrian Frankum sworn April 17, 2019 and the third report of FTI Consulting Canada Inc. ("**FTI**") in its capacity as monitor of the Applicants and Payless ShoeSource Canada LP (collectively, the "**Payless Canada Entities**") dated April 18, 2019, and on hearing the submissions of counsel for the Payless Canada Entities, FTI in its capacity as court-appointed monitor ("**Monitor**"), and such other parties as were present by Court Call, no one else appearing although duly served as appears from the affidavit of service of Taschina Ashmeade sworn April 18, 2019 filed;

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time and method for service and notice of this Motion is hereby abridged and validated and this Motion is properly returnable today without further service or notice thereof.

2. **THIS COURT ORDERS** that, for the purposes of this Order (the "**Claims Procedure Order**"), in addition to terms defined elsewhere herein, the following terms shall have the following meanings:

(a) "**Additional WEPPA Claim**" has the meaning set forth in paragraph 23 of this Claims Procedure Order;

(b) "**Affiliate**" means, in relation to a party, a body corporate;

(i) which is directly or indirectly controlled by such party; or

(ii) which directly or indirectly controls such party; or

(iii) which is, directly or indirectly, controlled by a body corporate that also, directly or indirectly controls such party.

For the purpose of this definition, "**control**" of a body corporate means the direct or indirect power to direct, administer and dictate policies or management of such body corporate, it being understood and agreed that control of a body corporate can be exercised without direct or indirect ownership of fifty percent (50%) or more of its voting shares, provided always that the ownership of the right to exercise fifty percent (50%) or more of the voting rights of a given body corporate shall be deemed to be effective control hereunder. For the avoidance of doubt, the joint venture partners of the U.S. Debtors shall not be "Affiliates" for purposes of this Order;

(c) "**Amended Claim Statement**" has the meaning set forth in paragraph 21 of this Claims Procedure Order

(d) "**Assessments**" means Claims of Her Majesty the Queen in Right of Canada or of any province or territory or municipality or any other taxation authority in any Canadian or foreign jurisdiction, including, without limitation, amounts which may arise or have arisen under any notice of assessment, notice of reassessment,

notice of objection, notice of appeal, audit, investigation, demand or similar request from any taxation authority;

(e) "**Business Day**" means a day, other than a Saturday, Sunday or statutory holiday, on which banks are generally open for business in Toronto, Ontario;

(f) "**CCAA Proceedings**" means these proceedings in respect of the Payless Canada Entities pursuant to the CCAA;

(g) "**Chapter 11 Claims Procedure**" means the claims process approved by the U.S. Bankruptcy Court pursuant to an order granted April 23, 2019 to be conducted within the U.S. Proceedings in respect of the U.S. Debtors other than the Payless Canada Entities;

(h) "**Chapter 11 Proof of Claim**" means a proof of claim against any of the Payless Canada Entities filed in the Chapter 11 Claims Procedure;

(i) "**Claim**" means:

(i) any right or claim of any Person against any of the Payless Canada Entities, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind of any of the Payless Canada Entities in existence on the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, unknown, by guarantee, by surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessment and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts that existed prior to the Filing Date and any other claims that would have been claims provable in bankruptcy had such Payless Canada Entity become bankrupt on the Filing Date, including for greater certainty any Equity Claim and any claim against any of the Payless Canada Entities for indemnification by any Director or Officer in respect of a Director/Officer

Claim (but excluding any such claim for indemnification that is covered by the Directors' Charge (as defined in the Initial Order)), in each case, where such monies remain unpaid as of the date hereof (each, a "**Prefiling Claim**", and collectively, the "**Prefiling Claims**");

(ii) any right or claim of any Person against any of the Payless Canada Entities in connection with any indebtedness, liability or obligation of any kind whatsoever owed by any of the Payless Canada Entities to such Person arising out of (A) the restructuring, disclaimer, resiliation, termination or breach by any of the Payless Canada Entities on or after the Filing Date of any contract, lease or other agreement or arrangement whether written or oral or (B) the termination of employment with any of the Payless Canada Entities on or after the Filing Date, whether arising by contract, under statute or otherwise (each, a "**Restructuring Period Claim**", and collectively, the "**Restructuring Period Claims**"); and

(iii) any right or claim of any Person against one or more of the Directors and/or Officers howsoever arising, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessment and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer (each a "**Director/Officer Claim**", and collectively, the "**Director/Officer Claims**"),

including any Claim arising through subrogation against any Payless Canada Entity or Director or Officer, provided however, that in any case "Claim" shall not include an Excluded Claim;

(j) "**Claim Document Package**" means a document package that contains a copy of the Instruction Letter, the Notice to Claimants, a Claim Statement and Notice of Dispute of Claim Statement (in respect of a document package delivered to a Listed Claimant), a Proof of Claim (in respect of a document package delivered to a Claimant other than a Listed Claimant), and such other materials as the Monitor and the Payless Canada Entities may consider appropriate or desirable;

(k) "**Claim Statement**" means a General Claim Statement, Employee Claim Statement or Landlord Claim Statement, substantially in the form attached hereto as Schedule "D-1", Schedule "D-2" or Schedule "D-3", as applicable;

(l) "**Claimant**" means any Person having or asserting a Claim;

(m) "**Claims Bar Date**" means 11:59 p.m. (Central Time) on June 7, 2019, or such later date as may be ordered by the Court;

(n) "**Claims Procedure**" means the procedures outlined in this Claims Procedure Order in connection with the solicitation and assertion of Claims against any of the Payless Canada Entities or the Directors or Officers or any of them, as amended or supplemented by further order of the Court;

(o) "**Court**" means the Ontario Superior Court of Justice (Commercial List);

(p) "**D&O Indemnity Claim**" means any existing or future right of any Director or Officer against any of the Payless Canada Entities which arose or arises as a result of a Listed Claim or any Person filing a Proof of Claim in respect of such Director or Officer for which such Director or Officer is entitled to be indemnified by the Payless Canada Entities;

(q) "**Directors**" means all current and former directors (or their estates) of any of the Payless Canada Entities, in such capacity, or persons who may be deemed to be or have been, whether by statute, operation of law or otherwise, Directors, and "**Director**" means any one of them;

(r) "**Employee Claim Statement**" means an Employee Claim Statement substantially in the form attached hereto as Schedule "D-2";

(s) "**Equity Claim**" has the meaning set forth in Section 2(1) of the CCAA;

(t) "**Excluded Claim**" means:

(i) any Claim secured by any of the Charges (as that term is defined in the Initial Order);

(ii) any Claim of a U.S. Debtor or other Affiliate of the U.S. Debtors; and

(iii) and for greater certainty, shall include any Excluded Claim arising through subrogation;

(u) "**Filing Date**" means February 19, 2019;

(v) "**General Claim Statement**" means a General Claim substantially in the form attached hereto as Schedule "D-1";

(w) "**Initial Order**" means the Initial Order under the CCAA dated February 19, 2019, as amended, restated or varied from time to time;

(x) "**Instruction Letter**" means the instruction letter to Claimants, in substantially the form attached as Schedule "A" hereto, regarding completion by Claimants of the Proof of Claim and the Notice of Dispute of Claim Statement;

(y) "**Landlord Claim Statement**" means a Landlord Claim Statement substantially in the form attached hereto as Schedule "D-3";

(z) "**Listed Claim**" has the meaning set forth in paragraph 18 of this Claims Procedure Order or on Schedule D-1, Scheduled D-2 or Schedule D-3 hereto, as applicable;

(aa) "**Listed Claimants**" means a Claimants to whom a General Claim Statement, Employee Claim Statement or a Landlord Claim Statement is delivered pursuant to paragraph 18 of this Claims Procedure Order;

(bb) "**Known Claimants**" means with respect to any of the Payless Canada Entities, or the Directors or Officers or any of them:

(i) those Claimants that the books and records of any of the Payless Canada Entities disclose were owed monies by any of the Payless Canada Entities as of the Filing Date, where such monies remain unpaid in full or in part as of the date hereof;

(ii) any Person who commenced a legal proceeding against any of the Payless Canada Entities or one or more Directors or Officers in respect of a Claim, which legal proceeding was commenced and served prior to the Filing Date;

(iii) any Person who has filed a Chapter 11 Proof of Claim as of the date of this Claims Procedure Order; and

(iv) any other Claimant of whom the Payless Canada Entities have knowledge as at the date of this Claims Procedure Order and for whom the Payless Canada Entities have a current address or other contact information;

(cc) "**Meeting**" means a meeting of the Claimants of the Payless Canada Entities called for the purpose of considering and voting in respect of a Plan, if any;

(dd) "**Monitor**" has the meaning set out in the recitals hereto;

(ee) "**Monitor's Website**" means the website maintained by the Monitor at http://cfcanada.fticonsulting.com/paylesscanada/ ;

(ff) "**Notice of Dispute of Claim Statement**" means a notice in substantially the form attached hereto as Schedule "E";

(gg) "**Notice to Claimants**" means the notice to Claimants for publication in substantially the form attached as Schedule "B" hereto;

(hh) "**Officers**" means all current and former officers (or their estates) of any of the Payless Canada Entities, in such capacity, or persons who may be deemed to be or have been, whether by statute, operation of law or otherwise, Officers and "**Officer**" means any one of them;

(ii) "**Payless Canada Entities**" means Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc., and Payless ShoeSource Canada LP and each a "**Payless Canada Entity**";

(jj) "**Person**" means any individual, partnership, limited partnership, joint venture, trust, corporation, unincorporated organization, government or agency or instrumentality thereof, or any other corporate, executive, legislative, judicial,

regulatory or administrative entity howsoever designated or constituted, including, without limitation, any present or former shareholder, supplier, customer, employee, agent, client, contractor, lender, lessor, landlord, sub-landlord, tenant, sub-tenant, licensor, licensee, partner or advisor;

(kk) "**Plan**" means any plan of compromise or arrangement or plan of reorganization filed by or in respect of any or all of the Payless Canada Entities, as may be amended, supplemented or restated from time to time in accordance with the terms thereof;

(ll) "**Prime Clerk**" means Prime Clerk LLC, the U.S. Debtors' notice and claims agent in the U.S. Proceedings;

(mm) "**Proof of Claim**" means a proof of claim form in substantially the form attached hereto as Schedule "C";

(nn) "**Restructuring Period Claims Bar Date**" means, in respect of a Restructuring Period Claim, 11:59 p.m. (Central Time) on the date that is the later of (i) the Claims Bar Date and (ii) thirty (30) days after the date on which the Monitor sends a Claim Document Package with respect to a Restructuring Period Claim to a Claimant;

(oo) "**Service List**" means the service list maintained by the Monitor in respect of these CCAA Proceedings;

(pp) "**U.S. Bankruptcy Court**" means the United States Bankruptcy Court for the Eastern District of Missouri;

(qq) "**U.S. Debtors**" means Payless Holdings LLC; Payless Intermediate Holdings LLC; WBG-PSS Holdings LLC; Payless Inc.; Payless Finance, Inc.; Collective Brands Services, Inc.; PSS Delaware Company 4, Inc.; Shoe Sourcing, Inc.; Payless ShoeSource, Inc.; Eastborough, Inc.; Payless Purchasing Services, Inc.; Payless ShoeSource Merchandising, Inc.; Payless Gold Value CO, Inc.; Payless ShoeSource Distribution, Inc.; Payless ShoeSource Worldwide, Inc.; Payless NYC, Inc.; Payless ShoeSource of Puerto Rico, Inc.; Payless Collective GP, LLC; Collective Licensing, L.P.; Collective Licensing International LLC; Clinch, LLC; Collective Brands Franchising Services, LLC; Payless International Franchising, LLC; PSS Canada, Inc.; Payless ShoeSource Canada Inc.; Payless ShoeSource

Canada GP Inc.; and Payless ShoeSource Canada LP and such other entities as are or may be debtors for purposes of the U.S. Proceedings;

(rr) "**U.S. Proceedings**" means the proceedings commenced on February 18, 2019 by the U.S. Debtors under chapter 11 of title 11 of the United States Code in the U.S. Bankruptcy Court; and

(ss) "**WEPPA**" means the *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s. 1.

GENERAL PROVISIONS

3. **THIS COURT ORDERS** that all references to time herein shall mean Toronto time and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein.

4. **THIS COURT ORDERS** that all references to the word "including" shall mean "including without limitation".

5. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes the other gender.

6. **THIS COURT ORDERS** that the Claims Procedure and the forms of Notice to Claimants, Instruction Letter, Proof of Claim, General Claim Statement, Employee Claim Statement, Landlord Claim Statement, and Notice of Dispute of Claim Statement are hereby approved and, if applicable, arrangements shall be made for French language translations of such forms. Notwithstanding the foregoing, the Payless Canada Entities with the consent of the Monitor may, from time to time, make non-substantive changes to the forms as the Payless Canada Entities may consider necessary or desirable.

7. **THIS COURT ORDERS** that the Payless Canada Entities and the Monitor are hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and may waive strict compliance with the requirements of this Claims Procedure Order as to completion, execution and submission of such forms and to request any further documentation from a Claimant that the Payless Canada Entities or the Monitor may require.

8. **THIS COURT ORDERS** that all Claims shall be denominated in Canadian dollars. Any Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of

Canada daily average exchange rate on the Filing Date, which for United States dollar is USD 1.328:CAD 1.

9. **THIS COURT ORDERS** that there shall be no presumption of validity or deeming of the amount due in respect of amounts claimed in any Assessment.

10. **THIS COURT ORDERS** that copies of all forms delivered hereunder, as applicable, shall be maintained by the Monitor. The Monitor shall promptly provide copies of all Proofs of Claim and Notices of Dispute of Claim Statement received by the Monitor in connection with the Claims Procedure to counsel for the Payless Canada Entities, Cassels Brock & Blackwell LLP, by email to Taschina Ashmeade (tashmeade@casselsbrock.com).

ROLE OF THE MONITOR

11. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA, the Initial Order and any other orders of the Court in the CCAA Proceedings, shall assist the Payless Canada Entities in the administration of the Claims Procedure provided for herein and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Claims Procedure Order.

12. **THIS COURT ORDERS** that the Monitor shall (i) have all protections afforded to it by the CCAA, this Claims Procedure Order, the Initial Order, any other Orders of the Court in the CCAA Proceedings and other applicable law in connection with its activities in respect of this Claims Procedure Order, including the stay of proceedings in its favour provided pursuant to the Initial Order; and (ii) incur no liability or obligation as a result of carrying out the provisions of this Claims Procedure Order, including in respect of its exercise of discretion as to the completion, execution or time of delivery of any documents to be delivered hereunder, other than in respect of gross negligence or wilful misconduct.

13. **THIS COURT ORDERS** that the Payless Canada Entities, the Officers, the Directors and their respective employees, agents and representatives and any other Person given notice of this Claims Procedure Order shall fully cooperate with the Monitor in the exercise of its powers and the discharge of its duties and obligations under this Claims Procedure Order.

NOTICE TO CLAIMANTS

14. **THIS COURT ORDERS** that:

(a) the Monitor shall, not later than five (5) Business Days following the granting of the Claims Procedure Order, deliver on behalf of the Payless Canada Entities to each of the Known Claimants a copy of the Claim Document Package;

(b) the Monitor shall cause to be published on or before May 1, 2019, the Notice to Claimants in the following newspapers: (i) *The Globe and Mail* (National Edition); and (ii) *Le Devoir*;

(c) the Monitor shall post a copy of this Claims Procedure Order, the Applicants' Motion Record in respect of this Claims Procedure Order, and the Claim Document Package on the Monitor's Website;

(d) the Monitor shall deliver as soon as reasonably possible following receipt of a request therefor, a copy of the Claim Document Package to any Person claiming to be a Claimant and requesting such material in writing; and

(e) any notices of disclaimer or resiliation delivered to Claimants by the Payless Canada Entities or the Monitor after the date of this Order shall be accompanied by a Claim Document Package and upon becoming aware of any other circumstance giving rise to a Restructuring Period Claim, the Monitor shall send a Claim Document Package to the Claimant or may direct the Claimant to the documents posted on the Monitor's Website in respect of such Restructuring Period Claim.

15. **THIS COURT ORDERS** that the Monitor shall be entitled to rely on the accuracy and completeness of the information obtained from the books and records of the Payless Canada Entities regarding the Known Claimants. For greater certainty, the Monitor shall have no liability in respect of the information provided to it or otherwise obtained by it regarding the Known Claimants and shall not be required to conduct any independent inquiry and investigation with respect to that information.

PROOFS OF CLAIM

16. **THIS COURT ORDERS** that subject to paragraphs 18 to 22 below, to be effective, every Claimant asserting a Claim against any of the Payless Canada Entities or the Directors or Officers or any of them shall set out its aggregate Claim in a Proof of Claim, including supporting documentation, and deliver that Proof of Claim to the Monitor so that it is actually

received by the Monitor by no later than the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable.

17. **THIS COURT ORDERS** that if a Chapter 11 Proof of Claim is inadvertently filed in respect of any of the Payless Canada Entities and such Chapter 11 Proof of Claim would have been timely filed in accordance with the Chapter 11 Claims Procedure if such procedure applied to it, such Chapter 11 Proof of Claim will be deemed to be a Proof of Claim that has been timely delivered to the Monitor in accordance with the Claims Procedure. If in respect of any of the Payless Canada Entities (i) a Claimant has delivered a Proof of Claim to the Monitor in accordance with the Claims Procedure and has also filed a Chapter 11 Proof of Claim, the Proof of Claim delivered in accordance with the Claims Procedure shall govern, and (ii) a Claim Statement has been delivered to a Claimant and such Claimant has also filed a Chapter 11 Proof of Claim, the Claim Statement and the procedures related thereto specified in paragraphs 18 to 22 shall govern.

CLAIM STATEMENT

18. **THIS COURT ORDERS** that the Payless Canada Entities may elect, in consultation with the Monitor, to deliver a Claim Statement to Known Claimants by requesting that the Monitor include such Claim Statement in the Claim Document Package delivered to such Known Claimant pursuant to paragraph 14. Such Claim Statement shall be in substantially the form attached hereto as Schedule "D-1", Schedule "D-2", or Schedule "D-3" as applicable, and shall specify the classification, amount and nature of such Known Claimant's Claim as determined by the Payless Canada Entities, in consultation with the Monitor, based on the books and records of the Payless Canada Entities (the "**Listed Claim**").

19. **THIS COURT ORDERS** that any Claimant who does not dispute the classification, amount or nature of the Listed Claim set forth in the Claim Statement delivered to such Claimant is not required to take any further action and the Claim of such Claimant shall, subject to paragraph 21, be deemed to be the Listed Claim.

20. **THIS COURT ORDERS** that any Claimant who wishes to dispute the classification, amount and/or nature of the Listed Claim set forth in the Claim Statement delivered to such Claimant or to assert an additional Claim in relation to the Payless Canada Entities other than the Listed Claim shall be required to deliver a Notice of Dispute of Claim Statement to the

Monitor so that it is actually received by the Monitor by no later than the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable.

21. **THIS COURT ORDERS** that if, after the date on which a Claim Statement is initially delivered to a Claimant, the Payless Canada Entities, in consultation with the Monitor, determines that it is appropriate to change the classification, amount or nature of the Listed Claim set forth in such Claim Statement, the Monitor shall cause an amended Claim Statement (an "**Amended Claim Statement**") to be delivered to such Claimant, which Amended Claim Statement and the revised Listed Claim specified therein shall thereafter supersede any previous Claim Statement delivered to such Claimant. If the Claimant wishes to dispute the classification, amount and/or nature of the Listed Claim set forth in the Amended Claim Statement, such Claimant shall be required to deliver a Notice of Dispute of Claim Statement so that it is actually received by the Monitor on or before the later of (i) the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, and (ii) thirty (30) days after the date on which the Amended Claim Statement is delivered to the Claimant.

22. **THIS COURT ORDERS** that any Claimant that does not deliver a Notice of Dispute of Claim Statement in respect of a Claim Statement or an Amended Claim Statement, if applicable, pursuant to paragraphs 20 and 21, as applicable, shall be forever barred from disputing the classification, amount and/or nature of the Listed Claim set forth in the Claim Statement or Amended Claim Statement, as applicable, and any Claim of a different classification or nature or in excess of the amount specified in the Claim Statement or Amended Claim Statement, as applicable, shall be forever barred and extinguished.

23. **THIS COURT ORDERS** that, notwithstanding anything contained in this Order and given that the Payless Canada Entities are not subject to a bankruptcy or receivership proceeding at this time, any Claimant that does not deliver a Notice of Dispute of Claim Statement in connection with an Employee Claim Statement, shall not be barred from claiming additional amounts from Her Majesty in right of Canada or the Minister of National Revenue in respect of his or her entitlement to any future amounts claimable under WEPPA (an "**Additional WEPPA Claim**") should WEPPA apply, provided that in no circumstances shall any Person other than Her Majesty in right of Canada or the Minister of National Revenue have any liability whatsoever for any Additional WEPPA Claim.

D&O INDEMNITY CLAIMS

24. **THIS COURT ORDERS** that to the extent that any Director/Officer Claim is filed in accordance with this Claims Procedure or a Listed Claim includes a Director/Officer Claim, a corresponding D&O Indemnity Claim shall be deemed to have been timely filed in respect of each of each Director/Officer Claim. For the avoidance of doubt, Directors and Officers shall not be required take any action or to file Proof of Claim in respect of such D&O Indemnity Claim.

CLAIMS BARRED

25. **THIS COURT ORDERS** that, subject to paragraphs 18 to 22, any Person that does not deliver a Proof of Claim in respect of a Claim in the manner required by this Claims Procedure Order so that it is actually received by the Monitor on or before the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable:

(a) shall not be entitled to attend or vote at a Meeting in respect of such Claim;

(b) shall not be entitled to receive any distribution in respect of such Claim pursuant to a Plan or otherwise;

(c) shall not be entitled to any further notice in the CCAA Proceedings (unless it has otherwise sought to be included on the Service List); and

(d) shall be and is hereby forever barred from making or enforcing such Claim against the Payless Canada Entities, or the Directors or Officers or any of them, and such Claim shall be and is hereby extinguished without any further act or notification.

For greater certainty, this paragraph shall not apply to Excluded Claims and the rights of any Person (including the Payless Canada Entities) with respect to Excluded Claims are expressly reserved.

SET-OFF

26. **THIS COURT ORDERS** that nothing in this Claims Procedure Order shall affect any right of set-off that any of the Payless Canada Entities may have against any Person.

TRANSFER OF CLAIMS

27. **THIS COURT ORDERS** that if the holder of a Claim transfers or assigns the whole of such Claim to another Person, neither the Monitor nor the Payless Canada Entities shall be obligated to give notice or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until written notice of such transfer or assignment, together with evidence satisfactory to the Monitor, in its sole discretion, of such transfer or assignment, has been received by the Monitor and the Monitor has provided written confirmation acknowledging the transfer or assignment of such Claim, and thereafter such transferee or assignee shall for the purposes hereof constitute the "Claimant" in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Claims Procedure Order prior to receiving written confirmation by the Monitor acknowledging such assignment or transfer. After the Monitor has delivered a written confirmation acknowledging the notice of the transfer or assignment of a Claim, the Payless Canada Entities and the Monitor shall thereafter be required only to deal with the transferee or assignee and not the original holder of the Claim. A transferee or assignee of a Claim takes the Claim subject to any defences and rights of set-off to which the Payless Canada Entities may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set-off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to the Payless Canada Entities. Reference to transfer in this Claims Procedure Order includes a transfer or assignment whether absolute or intended as security.

28. **THIS COURT ORDERS** that if a Claimant or any subsequent holder of a Claim, who in any such case has previously been acknowledged by the Monitor as the holder of the Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person, such transfers or assignments shall not create separate Claims and such Claims shall continue to constitute and be dealt with as a single Claim notwithstanding such transfers or assignments. The Payless Canada Entities and the Monitor shall not, in each case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim, provided such Claimant may, by notice in writing delivered to the Monitor, direct that subsequent dealings in respect of such Claim, but only as a whole, shall be dealt with by a specified Person and in such event, such Person shall be bound

by any notices given or steps taken in respect of such Claim with such Claimant or in accordance with the provisions of this Claims Procedure Order.

DETERMINATION OF CLAIMS

29. **THIS COURT ORDERS** that, except as contemplated by paragraphs 19 and 22, the applicable procedures for reviewing and determining Claims, if any, shall be established by further Order of the Court.

SERVICE AND NOTICE

30. **THIS COURT ORDERS** that the Payless Canada Entities and the Monitor may, unless otherwise specified by this Claims Procedure Order, serve and deliver or cause to be served and delivered the Claim Document Package, any letters, notices or other documents to Claimants or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or email to such Persons or their counsel (including counsel of record in any ongoing litigation) at the physical or electronic address, as applicable, last shown on the books and records of the Payless Canada Entities or set out in such Claimant's Proof of Claim or Notice of Dispute of Claim Statement, if one has been filed. Any such service and delivery shall be deemed to have been received: (i) if sent by ordinary mail, on the third Business Day after mailing within Canada, and the fifth Business Day after mailing internationally; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered by facsimile transmission or email by 5:00 p.m. on a Business Day, on such Business Day and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

31. **THIS COURT ORDERS** that any notice or communication required to be provided or delivered by a Claimant to the Monitor under this Claims Procedure Order shall be in writing in substantially the form, if any, provided for in this Claims Procedure Order and will be sufficiently given only if delivered by prepaid registered mail, courier, personal delivery or email addressed to:

FTI Consulting Canada Inc. as Monitor of the Payless Canada Entities
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8

E-mail: paylesscanada@fticonsulting.com

Any such notice or communication delivered by a Claimant shall be deemed to be received upon actual receipt thereof before 5:00 p.m. on a Business Day or if delivered outside of normal business hours, the next Business Day.

32. **THIS COURT ORDERS** that the posting of materials on the Monitor's Website pursuant to paragraph 14(c), the publication of the Notice to Claimants and the mailing of the Claim Document Packages as set out in this Claims Procedure Order shall constitute good and sufficient notice to Claimants of the Claims Bar Date, the Restructuring Period Claims Bar Date and the other deadlines and procedures set forth herein, and that no other form of notice or service need be given or made on any Person, and no other document or material need be served on any Person in respect of the claims procedure described herein.

33. **THIS COURT ORDERS** that in the event that this Claims Procedure Order is subsequently amended by further Order of the Court, the Payless Canada Entities shall serve notice of such amendment on the Service List in these proceedings and the Monitor shall post such further Order on the Monitor's Website and such posting shall constitute adequate notice to all Persons of such amendment.

GENERAL

34. **THIS COURT ORDERS** that notwithstanding any other provisions of this Claims Procedure Order, the solicitation by the Monitor or the Payless Canada Entities of Proofs of Claim, the delivery of Claim Document Packages to Known Claimants, and the filing by any Person of any Proof of Claim or Notice of Dispute of Claim Statement shall not, for that reason only, grant any Person any standing in the CCAA Proceedings or rights under a Plan.

35. **THIS COURT ORDERS** that nothing in this Claims Procedure Order shall prejudice the rights and remedies of any Directors or Officers or other Persons under the Directors' Charge or any applicable insurance policy or prevent or bar any Person from seeking recourse against or payment from the Payless Canada Entities' insurance and any Director's or Officer's liability insurance policy or policies that exist to protect or indemnify the Directors or Officers or other Persons, whether such recourse or payment is sought directly by the Person asserting a Claim from the insurer or derivatively through the Director or Officer or the Payless Canada Entities; provided, however, that nothing in this Claims Procedure Order shall create any rights in favour of such Person under any policies of insurance nor shall anything in this Claims Procedure Order limit, remove, modify or alter any defence to such Claim available to the insurer pursuant

to the provisions of any insurance policy or at law; and further provided that any Claim or portion thereof for which the Person receives payment directly from, or confirmation that the Person is covered by, the Payless Canada Entities' insurance or any Director's or Officer's liability insurance or other liability insurance policy or policies that exist to protect or indemnify the Directors or Officers or other Persons shall not be recoverable as against the Payless Canada Entities or Director or Officer, as applicable.

36. **THIS COURT ORDERS** that nothing in this Claims Procedure Order shall constitute or be deemed to constitute an allocation or assignment of Claims into particular classes for the purpose of the Plan and, for greater certainty, the treatment of Claims, or any other claims and the classification of creditors for voting and distribution purposes, shall be subject to the terms of a Plan or further Order of this Court.

37. **THIS COURT ORDERS** that the Payless Canada Entities or the Monitor may from time to time apply to this Court to amend, vary, supplement or replace this Claims Procedure Order or for advice and directions concerning the discharge of their respective powers and duties under this Claims Procedure Order or the interpretation or application of this Claims Procedure Order.

38. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or outside Canada to give effect to this Claims Procedure Order and to assist the Payless Canada Entities, the Monitor and their respective agents in carrying out the terms of this Claims Procedure Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Payless Canada Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Claims Procedure Order, to grant representative status to the Payless ShoeSource Canada Inc. in any foreign proceeding, or to assist the Payless Canada Entities and the Monitor and their respective agents in carrying out the terms of this Claims Procedure Order.

39. **THIS COURT ORDERS** that this Claims Procedure Order and all of its provisions are effective as of 12:01 a.m. Toronto Time on the date of this Claims Procedure Order.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

APR 24 2019

PER / PAR:

G.B. Morawetz RSJ

Court File No. CV-19-00614629-00CL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

ORDER
(CLAIMS PROCEDURE ORDER)

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Lawyers for Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP

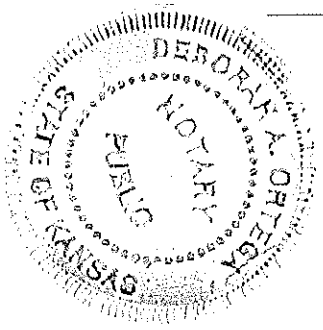
TAB C

This is **Exhibit "C"**
to the Affidavit of **Adrian Frankum**
sworn and subscribed to before me
this **10th day of September 2019**

Deborah A. Ortega

(insert notary stamp)

My Commission Expires 12-2-20



UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:	)	Chapter 11
Payless Holdings LLC, *et al.*,	)	Case No. 19-40883-659
	)	Jointly Administered
Debtors.	)	

DISCLOSURE STATEMENT FOR FIRST AMENDED JOINT PLAN OF REORGANIZATION OF PAYLESS HOLDINGS LLC AND ITS DEBTOR AFFILIATES PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE

THIS IS NOT A SOLICITATION OF ACCEPTANCE OR REJECTION OF THE PLAN. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL BUT HAS NOT BEEN APPROVED BY THE COURT.

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Counsel to the Debtors and Debtors in Possession, acting at the direction of the Special Committee

IMPORTANT INFORMATION FOR YOU TO READ

THE DEADLINE TO VOTE ON THE PLAN IS [OCTOBER 15, 2019], AT 4:00 P.M. CENTRAL TIME.

FOR YOUR VOTE TO BE COUNTED, YOUR BALLOT MUST BE ACTUALLY RECEIVED BY THE NOTICING AND CLAIMS AGENT BEFORE THE VOTING DEADLINE AS DESCRIBED HEREIN.

This Disclosure Statement provides information regarding the Debtors' Plan, which the Debtors seek to have confirmed in the Bankruptcy Court. A copy of the Plan is attached hereto as Exhibit A. Unless otherwise noted, all capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the Plan.

The consummation and effectiveness of the Plan are subject to certain material conditions precedent described herein. There is no assurance that the Bankruptcy Court will confirm the Plan or, if the Bankruptcy Court does confirm the Plan, that the conditions necessary for the Plan to go effective will be satisfied or otherwise waived.

You are encouraged to read this Disclosure Statement (including Article VIII hereof entitled "Plan-Related Risk Factors") and the Plan in their entirety before submitting your Ballot to vote on the Plan.

The Bankruptcy Court's approval of this Disclosure Statement does not constitute a guarantee by the Bankruptcy Court of the accuracy or completeness of the information contained herein or an endorsement by the Bankruptcy Court of the merits of the Plan.

Summaries of the Plan and statements made in this Disclosure Statement are qualified in their entirety by reference to the Plan. The summaries of the financial information and the documents annexed to this Disclosure Statement or otherwise incorporated herein by reference are qualified in their entirety by reference to those documents. The statements contained in this Disclosure Statement are made only as of the date of this Disclosure Statement, and there is no assurance that the statements contained herein will be correct at any time after such date. Except as otherwise provided in the Plan or in accordance with applicable law, the Debtors are under no duty to update or supplement this Disclosure Statement.

The Debtors are providing the information in this Disclosure Statement to Holders of Claims and Equity Interests for purposes of soliciting votes to accept or reject the Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code. In the event of any inconsistency between the Disclosure Statement and the Plan, the relevant provisions of the Plan will govern. Nothing in this Disclosure Statement may be relied upon or used by any entity for any other purpose. Before deciding whether to vote for or against the Plan, each Holder entitled to vote should carefully consider all of the information in this Disclosure Statement, including the Plan-Related Risk Factors described in Article VIII.

The Debtors urge each Holder of a Claim or Equity Interest to consult with its own advisors with respect to any legal, financial, securities, tax, or business advice in reviewing this Disclosure Statement, the Plan, and each proposed transaction contemplated by the Plan.

This Disclosure Statement contains, among other things, summaries of the Plan, certain statutory provisions, certain events in the Debtors' Chapter 11 Cases, and certain documents related to the Plan, attached hereto and/or incorporated by reference herein. Although the Debtors believe that these summaries are fair and accurate, they are qualified in their entirety to the extent that they do not set forth the entire text of such documents or statutory provisions or every detail of such events. In the event of any inconsistency or discrepancy between a description in this Disclosure Statement and the terms and provisions of the Plan or any other documents incorporated herein by reference, the Plan or such other documents will govern for all purposes. Factual information contained in this Disclosure Statement has been provided by the Debtors' management except where otherwise specifically noted. The Debtors do not represent or warrant that the information contained herein or attached hereto is without any material inaccuracy or omission.

The Debtors have prepared this Disclosure Statement in accordance with section 1125 of the Bankruptcy Code, Bankruptcy Rule 3016(b), and Local Bankruptcy Rule 3017, and this Disclosure Statement is not necessarily prepared in accordance with U.S. federal or state securities laws, or other similar laws.

In preparing this Disclosure Statement, the Debtors relied on financial data derived from the Debtors' books and records and on various assumptions regarding the Debtors' businesses. Although the Debtors believe that such financial information fairly reflects the financial condition of the Debtors as of the date hereof and that the assumptions regarding future events reflect reasonable business judgments, the Debtors make no representations or warranties as to the accuracy of the financial information contained in this Disclosure Statement or assumptions regarding the Debtors' businesses and their future results and operations. The Debtors expressly caution readers not to place undue reliance on any forward looking statements contained herein.

This Disclosure Statement does not constitute, and should not be construed as, an admission of fact, liability, stipulation, or waiver by the Debtors or any other party. The Debtors may seek to investigate, file, and prosecute Claims and may object to Claims after the Confirmation or Effective Date of the Plan irrespective of whether this Disclosure Statement identifies such Claims or objections to Claims.

The Debtors are making the statements and providing the financial information contained in this Disclosure Statement as of the date hereof, unless otherwise specifically noted. Although the Debtors may subsequently update the information in this Disclosure Statement, the Debtors have no affirmative duty to do so, and expressly disclaim any duty to publicly update any forward looking statements, whether as a result of new information, future events, or otherwise. Holders of Claims and Equity Interests reviewing this Disclosure Statement should not infer that, at the time of their review, the facts set forth herein have not changed since this Disclosure Statement was filed. Information contained herein is subject to completion, modification, or amendment. The Debtors reserve the right to file an amended or modified Plan and related Disclosure Statement from time to time, subject to the terms of the Plan.

The Debtors have not authorized any Entity to give any information about or concerning the Plan other than that contained in this Disclosure Statement. The Debtors have not authorized any representations concerning the Debtors or the value of their property other than as set forth in this Disclosure Statement.

If the Bankruptcy Court confirms the Plan and the Effective Date occurs, the terms of the Plan and the restructuring transactions contemplated by the Plan will bind the Debtors, any Person acquiring property under the Plan, all Holders of Claims and Interests (including those Holders of Claims and Interests that do not submit Ballots to accept or reject the Plan or that are not entitled to vote on the Plan), and any other Person or Entity as may be ordered by the Bankruptcy Court in accordance with the applicable provisions of the Bankruptcy Code.

SPECIAL NOTICE REGARDING U.S. SECURITIES LAWS

Neither this Disclosure Statement nor the Plan have been filed with the United States Securities and Exchange Commission (the "SEC") or any state or provincial authority. The Plan has not been approved or disapproved by the SEC or any state or provincial securities commission and neither the SEC nor any state securities commission has passed upon the accuracy or adequacy of this Disclosure Statement or the merits of the Plan. Any representation to the contrary is a criminal offense.

This Disclosure Statement has been prepared pursuant to section 1125 of the Bankruptcy Code and Bankruptcy Rule 3016(b) and is not necessarily in accordance with federal, state or provincial securities laws or other similar laws. The securities to be issued on or after the Effective Date will not have been the subject of a registration statement filed with the SEC under the Securities Act of 1933, as amended (the "Securities Act") or any securities regulatory authority of any state under any state securities law ("Blue Sky Laws") and such securities may be issued pursuant to applicable exemptions under the federal securities laws. To the extent exemptions from registration under section 1145 of the Bankruptcy Code or applicable federal securities law do not apply, the securities may not be offered or sold except pursuant to a valid exemption or upon registration under the Securities Act.

This Disclosure Statement contains "forward looking statements". Such statements consist of any statement other than a recitation of historical fact and can be identified by the use of forward looking terminology such as "may," "expect," "anticipate," "estimate," or "continue" or the negative thereof or other variations thereon or comparable terminology. You are cautioned that all forward looking statements are necessarily speculative and there are certain risks and uncertainties that could cause actual events or results to differ materially from those referred to in such forward looking statements. The Liquidation Analysis, distribution projections, and other information contained herein and attached hereto are estimates only, and the timing and amount of actual distributions to Holders of Allowed Claims may be affected by many factors that cannot be predicted. Any analyses, estimates, or recovery projections may or may not turn out to be accurate.

Making investment decisions based on the information contained in this Disclosure Statement and/or the Plan is therefore highly speculative. The Debtors recommend that potential recipients of any securities issued pursuant to the Plan consult their own legal counsel concerning the securities laws governing the transferability of any such securities.

QUESTIONS AND ADDITIONAL INFORMATION

If you would like to obtain copies of this Disclosure Statement, the Plan, or any of the documents attached hereto or referenced herein, or have questions about the solicitation and voting process or these Chapter 11 Cases generally, please contact:

Prime Clerk LLC regarding the Chapter 11 Cases by (a) calling the Debtors' restructuring hotline at 844-339-4268; (b) emailing pssinfo@primeclerk.com; (c) visiting the Debtors' restructuring website at: https://cases.primeclerk.com/pss; and/or (d) writing to Prime Clerk LLC at Payless Balloting Center c/o Prime Clerk LLC, One Grand Central Place, 60 East 42nd Street, Suite #1440, New York, NY 10165.

The Canadian Debtors are not plan proponents under the Plan. The Canadian Debtors intend to file a motion for dismissal of the Canadian Debtors' Chapter 11 Cases to be effective upon implementation of the Plan and intend to separately bring forward a motion in the Canadian Court for approval of a plan of compromise or arrangement under the *CCAA*, all as outlined in further detail below. For information regarding the Canadian Debtors, please visit: http://cfcanada.fticonsulting.com/paylesscanada/.

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THE DEBTORS HEREBY ADOPT AND INCORPORATE EACH EXHIBIT ATTACHED TO THIS DISCLOSURE STATEMENT BY REFERENCE AS THOUGH FULLY SET FORTH HEREIN.

I.
EXECUTIVE SUMMARY

A. INTRODUCTION

Payless ShoeSource Inc., a Missouri corporation, together with 26 of its affiliates as debtors and debtors in possession (collectively, the "Original Debtors"), each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Missouri on February 18, 2019 (the "Original Petition Date" and the "Original Chapter 11 Cases"). Two of the Original Debtors' affiliates[1] (the "July Debtors" and, together with the Original Debtors, the "Debtors") filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Missouri on July 7, 2019 (the "July Petition Date," the July Chapter 11 Cases" and, together with the Original Chapter 11 Cases, the "Chapter 11 Cases"). The Debtors' Chapter 11 Cases are jointly administered under lead case name Payless Holdings LLC and lead case number 19-40883-659.

On February 19, 2019 (the "Filing Date"), Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc. sought and obtained an initial order (the "Initial Order") under the *Companies' Creditors Arrangement Act* (Canada) (the "CCAA") from the Canadian Court. The Initial Order's protections extend to Payless ShoeSource Canada LP (collectively, with Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc., the "Canadian Debtors"). The Canadian Debtors were among the Original Debtors in the Original Chapter 11 Cases. The Canadian Debtors are not plan proponents under the Plan (as defined below). The Canadian Debtors intend to file a motion for dismissal of the Canadian Debtors' Chapter 11 Cases to be effective upon implementation of the Plan and intend to separately bring forward a motion in Canada for approval of a plan of compromise or arrangement under the *CCAA*. For purposes of the Plan and this Disclosure Statement (as defined below), "Debtors" refers to the July Debtors and the Original Debtors, excluding the Canadian Debtors.

Before soliciting acceptances of a proposed chapter 11 plan of reorganization, section 1125 of the Bankruptcy Code requires a debtor to prepare a disclosure statement that contains information of a kind, and in sufficient detail, to permit a hypothetical reasonable investor to make an informed judgment regarding acceptance of the plan of reorganization.

Accordingly, the Debtors submit this disclosure statement (this "Disclosure Statement"), pursuant to section 1125 of the Bankruptcy Code, to Holders of Claims against and Interests in the Debtors in connection with the solicitation of votes for acceptance of the *Joint Plan of Reorganization of Payless Holdings LLC and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* (the "Plan") [Docket No. X], dated August 12, 2019, as amended, supplemented, or modified from time to time in accordance with its terms. A copy of the Plan is attached hereto as **Exhibit A** and incorporated herein by reference. The Plan constitutes a separate chapter 11 plan for each of the Debtors.

On [__], 2019, the Bankruptcy Court entered an order [Docket No. [__]] (the "Disclosure Statement Order") (a) approving the Disclosure Statement as containing adequate information, (b) approving, among other things, the dates, procedures, and forms applicable to the process of soliciting votes on and providing notice of the Plan and certain vote tabulation procedures, (c) establishing the deadline for filing objections to the Plan, and (d) scheduling the Confirmation Hearing. The Disclosure Statement Order is attached hereto as **Exhibit C**.

A hearing to consider confirmation of the Plan is scheduled to be held before the Honorable Kathy A. Surratt-States at [X], October ___, 2019 at the Bankruptcy Court, Thomas F. Eagleton U.S. Courthouse, 111 S. 10th Street, 4th Floor, Courtroom 7 North, St. Louis, MO 63102. Additional information with respect to Confirmation is provided in Article VII of this Disclosure Statement.

This Disclosure Statement includes information about, without limitation, (i) the Debtors' business, prepetition operations, financial history, and events leading up to these Chapter 11 Cases, (ii) the significant events that occurred thus far in these Chapter 11 Cases, (iii) the anticipated recoveries of Creditors under the Plan, (iv) the procedures by which the Debtors intend to solicit and tabulate votes on the Plan, (v) the Plan Confirmation process, (vi) certain risk factors to be considered before voting on the Plan, and (vii) discussions relating to certain securities

[1] Specifically, Collective Brands Logistics Limited and Payless Sourcing, LLC.

registration and tax consequences of the Plan. The descriptions and summaries of certain provisions of, and financial transactions contemplated by, the Plan being proposed by the Debtors relate to the Plan filed with the Bankruptcy Court on August 12, 2019. The Plan remains subject to ongoing negotiations between the Debtors and their stakeholders and may be modified.

This Executive Summary is only a general overview of this Disclosure Statement and the material terms of, and transactions proposed by, the Plan. The Executive Summary is qualified in its entirety by reference to the more detailed discussions appearing elsewhere in this Disclosure Statement and the exhibits attached to this Disclosure Statement (including the Plan) and the Plan Supplement. The Debtors urge all parties to read this Executive Summary in conjunction with the entire Disclosure Statement, the Plan, and the Plan Supplement.

B. KEY CONSTITUENT SUPPORT FOR THE PLAN AND GLOBAL SETTLEMENT

The Plan is supported by certain term lenders under the Debtors' Prepetition Term Loan Facility (the "Supporting Term Lenders"), Axar Capital Management ("Axar" and, together with its Affiliates, the "Axar Entities") and Alden Global Capital ("Alden", and, together with its Affiliates, the "Alden Entities").[2]

The Debtors believe that there are substantial reasons to vote to **ACCEPT** the Plan.

The liquidation of the Debtors' North America brick and mortar business has been completed. Although the result of the liquidation of the North America brick and mortar business was positive, the Debtors and the Plan Support Parties acknowledge that the continuation of these Chapter 11 Cases will drain finite estate resources, which may make a reorganization more difficult to achieve. Further, the Debtors and the Plan Support Parties believe that the Plan should be approved expeditiously in order to preserve the Company's remaining business channels, which is an important component of the going-forward business, and value preservation and creation.

Consummation of the Plan will significantly de-lever the Debtors' capital structure and serve to preserve the Company's profitable business segments. The Reorganized Debtors will be well positioned to compete in the retail industry with the segments of the Company best primed to do so.

C. PLAN OVERVIEW

1. Purpose and Effect of the Plan

The Debtors are reorganizing under chapter 11 of the Bankruptcy Code. Under chapter 11 of the Bankruptcy Code, a debtor may reorganize its business for the benefit of its stakeholders. The consummation of a plan of reorganization is the principal objective of a chapter 11 case. A plan of reorganization sets forth how a debtor will treat claims and equity interests.

A bankruptcy court's confirmation of a plan of reorganization binds the debtor, any entity or person acquiring property under the plan, any creditor of or equity security holder in a debtor, and any other entities and persons to the extent ordered by the bankruptcy court pursuant to the terms of the confirmed plan, whether or not such entity or person is impaired pursuant to the plan, has voted to accept the plan, or receives or retains any property under the plan.

Each of the Debtors is a proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code. The Plan does not contemplate the substantive consolidation of the Estates. Instead, the Plan, although proposed jointly, constitutes a separate plan for each of the Debtors in these Chapter 11 Cases. Holders of Allowed Claims against each of the Debtors will receive the same recovery provided to other Holders of Allowed Claims in the applicable Class and will be entitled to their share of assets available for distribution to such Class.

[2] The Supporting Term Lenders, the Axar Entities and the Alden Entities together make up the "Plan Support Parties". Certain decisions or actions under the Plan require the support of Axar, Alden, and either Invesco or Octagon (the "Requisite Plan Support Parties"). Specifically, any decision or action requiring support of the Requisite Plan Support Parties that materially or adversely affects any of Axar, Alden, Invesco or Octagon in a manner different from other Plan Support Parties will require the consent of the party treated differently. Further any decision or action on which the Requisite Plan Support Parties have consent or approval rights that materially and adversely affects the holders of Tranche A-1 Term Loan Secured Claims or in any way modifies the treatment of the Tranche A-1 Term Loan Secured Claims will require the consent of holders of over 67% of the Tranche A-1 Term Loan Secured Claims.

The feasibility of the Plan is premised upon, among other things, the Debtors' ability to achieve the goals of their long-range business plan, make the distributions contemplated under the Plan and pay certain continuing obligations in the ordinary course of the Reorganized Debtors' business. The Reorganized Debtors' financial projections are set forth on **Exhibit D**.[3] Although the Debtors believe the projections are reasonable and appropriate, they include a number of assumptions and are subject to a number of risk factors and to significant uncertainty. Actual results may differ from the projections, and the differences may be material.

2. Financial Restructurings Under the Plan

As of the Petition Date, the Debtors' capital structure included approximately $470 million in aggregate principal amount of outstanding debt, primarily consisting of: (a) approximately $156.7 million in aggregate principal amount revolving loans and FILO loans under the Prepetition ABL Credit Facility (as defined below) as well as approximately $36 million of undrawn letters of credit outstanding under the Prepetition ABL Credit Facility (the "Standby Letters of Credit"); and (b) approximately $277.2 million in secured debt under a term loan credit agreement (the "Term Loan Facility").

If the Plan is confirmed, Payless (as defined herein) will emerge from these Chapter 11 Cases with approximately [89]% less funded debt. Payless' pro forma exit capital structure will consist of a New First Lien Facility and New Second Lien Facility, and New Common Units in Reorganized Holdings, as set forth below (in millions):[4]

Specifically, the Plan contemplates the following restructuring transactions:

- New First Lien Facility and New Second Lien Facility.
- Each Holder of a Tranche A-1 Term Loan Secured Claim will receive its pro rata share of [$67,000,000] in Cash.
- Each Holder of a Tranche A-2 Term Loan Secured Claim will receive its Pro Rata share of 100% of New Common Units, unless such Holder exercises the Cash Election.
- Each Holder of a General Unsecured Claim will receive its Pro Rata share of the Liquidating Trust Distributable Assets.[5]
- All Equity Interests in Payless Holdings LLC will be extinguished with no consideration paid.

3. Recovery Analysis

In developing the Plan, the Debtors gave due consideration to various alternatives and engaged in significant discussions with representatives and/or professionals of the senior secured lenders under their prepetition term loans, whom the Debtors believe will be the primary economic stakeholders in the Reorganized Debtors. With the assistance of their professional advisors, the Debtors also conducted a careful review of their current operations, prospects as an ongoing business, financial projections, and the go-forward business plan developed by management. Based on this analysis, the Debtors concluded that recoveries to the Debtors' stakeholders will be maximized by reorganization as two businesses: (i) an IPCo, which will license the Payless brand and related intellectual property, manage source for and expand the Company's existing Amazon channel and provide sourcing

[3] The Debtors' business plan and projections also incorporate forecasts of operating performance for the foreign franchise and joint venture businesses that relate to entities that are not Debtors in these Chapter 11 Cases.

[4] The Debtors will also assume some existing capital leases and similar obligations.

[5] Provided, however, that if Class 5 votes to accept the Plan, the Tranche A-1 Term Loan Deficiency Claims and the Tranche A-2 Term Loan Deficiency Claims shall not receive, but shall waive the right to receive, distributions under Class 5 of the Plan; and, provided further, if Class 5 votes to reject the Plan the Tranche A-1 Term Loan Deficiency Claims and the Tranche A-2 Term Loan Deficiency Claims shall receive distributions under Class 5 of the Plan.

for the LatAm Business;[6] and (ii) the LatAm Business, which will continue to be majority owned by IPCo and will continue to operate retail operations in Latin America and South America.

During the Chapter 11 Cases and as described herein, the Debtors and their advisors, at the direction of the Special Committee and as outlined further below, facilitated discussions among, and negotiated with, the Debtors' secured creditor constituencies and their respective advisors, regarding a potential global settlement of any and all Claims, including any Causes of Action or potential Cause of Action related to the Debtors' business and capital structure. While those negotiations continue, the Plan sets forth the basic framework for a global settlement. Absent a global settlement among stakeholders, litigating confirmation, including litigating who has standing to pursue Causes of Action and the actual pursuit of such claims, the Debtors' Plan confirmation timeline could be derailed, which would lead to increased expenses and a possible liquidation. **Accordingly, the Debtors believe, as supported by the analysis underlying the estimate of the Debtors' enterprise value set forth in Exhibit F, that the Plan is in the best interest of all creditors.**

The Debtors also believe that any alternative to Confirmation of the Plan, such as an attempt by another party to file a competing plan or any plan that does not contemplate a global settlement of all potential claims related to, among others, the Debtors' business, capital structure, and Claims, would result in significant delays, litigation, and additional costs, could negatively affect value by causing unnecessary uncertainty with the Debtors' key customer and supplier constituencies, and could potentially lead to a liquidation by the Debtors, in which case substantially all Holders of Claims would do materially worse or receive no recovery at all. In the event that the parties are unable to reach a consensus for global settlement among all constituencies, the Debtors reserve the right to pursue any and all Causes of Action.

ACCORDINGLY, FOR ALL OF THESE AND THE OTHER REASONS DESCRIBED HEREIN, THE DEBTORS URGE YOU TO TIMELY RETURN YOUR BALLOT ACCEPTING THE PLAN.

D. TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN

The table below summarizes the classification and treatment of Claims and Interests under the Plan. These summaries are qualified in their entirety by reference to the provisions of the Plan. For a more detailed description of the treatment of Claims and Interests under the Plan, see Section IV.B hereof.

The table below also sets forth the estimated percentage recovery for Holders of Claims and Interests in each Class and the Debtors' estimates of the amount of Claims that will ultimately become Allowed in each Class based upon (a) review by the Debtors of their books and records, (b) all Claims scheduled by the Debtors (as modified by the Bankruptcy Court through certain hearings), and (c) consideration of the provisions of the Plan that affect the allowance of certain Claims.

The estimated aggregate Claim amounts in each Class and the estimated percentage recoveries in the table below are set forth for the Debtors on a consolidated basis.

THE ESTIMATED PROJECTED RECOVERIES SET FORTH IN THE TABLE BELOW ARE ESTIMATES ONLY AND ARE THEREFORE SUBJECT TO CHANGE.

SUMMARY OF CLAIMS AND INTERESTS AND ESTIMATED RECOVERIES

Class	Claim/Equity Interest	Status	Estimated Amount of Allowed Claims[7]	Estimated Percent Recovery Under the Plan[8]

[6] Pursuant to the Plan, "LatAm Business" means the business operations of the LatAm JV entities as coordinated by Payless ShoeSource Worldwide, Inc. through Collective Brands Cooperatief U.A. and the LatAm JV Partners.

[7] All dollar amounts in millions.

[8] Recoveries are based on the estimated midpoint enterprise value and do not take into account dilution caused by the Management Equity Incentive Plan.

SUMMARY OF CLAIMS AND INTERESTS AND ESTIMATED RECOVERIES

Class	Claim/Equity Interest	Status	Estimated Amount of Allowed Claims[7]	Estimated Percent Recovery Under the Plan[8]
1	Other Priority Claims	Unimpaired	[-]	
2	Other Secured Claims	Unimpaired	[0]	
3	Tranche A-1 Term Loan Secured Claims	Impaired	[$82,921,000]	
4	Tranche A-2 Term Loan Secured Claims	Impaired	[$208,181,000]	
5	General Unsecured Claims	Impaired	[$337,196,586][9]	
6	Intercompany Claims	Impaired	[-]	
7	Existing Equity Interests in Payless	Impaired	N/A	
8	Intercompany Interests	Impaired	N/A	

E. PLAN TIMELINE AND RELATED CONTINGENCIES

Although the Debtors believe that the restructuring proposed in the Plan is the best option for maximizing stakeholder recoveries, the effectiveness of the Plan is subject to a number of conditions and there are certain material risks to the Debtors' ability to implement the Plan and consummate near-term creditor distributions. The Plan will be consummated on the Effective Date so long as certain conditions precedent are satisfied or waived in accordance with Article VIII of the Plan, including:

- The Plan must be, in form and substance, reasonably acceptable to the Debtors and the Requisite Plan Support Parties.
- The Plan Supplement documents must be, in form and substance, reasonably acceptable to the Debtors and the Requisite Plan Support Parties.
- The proposed form of order confirming the Plan shall be, in form and substance, reasonably acceptable to the Debtors and the Requisite Plan Support Parties.

In addition, the Plan is subject to certain contingencies and risk factors, which are set forth in Article VIII hereof.

[9] This amount does not include unsecured deficiency claims asserted by the Holders of Tranche A-2 Term Secured Claims.

II.
BACKGROUND TO THESE RESTRUCTURING PROCEEDINGS

A. CORPORATE HISTORY AND CURRENT STRUCTURE

Founded in 1956, Payless Holdings LLC is the parent company for each other Debtor in these Chapter 11 Cases and certain direct and indirect Affiliates which are not debtors in these Chapter 11 Cases (collectively, the "Company" or "Payless"). Payless is an iconic footwear retailer selling quality shoes at affordable prices in a self-select environment. As of the Petition Date, Payless had nearly 3,400 stores in more than 40 countries across the world and was a globally-recognized brand. As of the Petition Date, Payless operated through its three business segments (North America, Latin America, and franchised stores).

Historically, Payless offered its budget-conscious customers outstanding value on basic, on-trend and special occasion footwear through a national assisted-service store footprint, localized assortment, and a low-cost integrated-sourcing business model, including a significant online presence. This business model depended upon (a) identifying and developing on-trend merchandise, (b) developing strong relationships with branding partners, and (c) maintaining an overseas sourcing network that could develop and produce products at a scale and cost necessary to serve Payless' customers.

Payless historically had a strong seasonal cadence, as evidenced by its four key selling seasons: Easter, sandals, back-to-school, and Holiday. Because these periods fall relatively evenly throughout the course of the year, Payless' selling periods create a broad, even flow of business throughout the year, even though the composition of the business varies widely depending on the time of the year. This has served over many years to create a largely continuous overall flow of product from overseas suppliers through Payless' supply chain to customers.

Like many retailers, in the last five years the Debtors have faced challenging market conditions. As outlined in further detail below, these challenges, among others, led to the commencement of chapter 11 cases (the "Prior Cases") by the Debtors' and the Canadian Debtors' predecessors in interest (the "Prior Debtors") in this Court, which were jointly administered under the caption *In re Payless Holdings LLC*, No. 17-42667.

B. PREPETITION BUSINESSES AND OPERATIONS

The Debtors' operations were historically extensive and spanned across Asia, Africa, the Middle East, Latin America, Europe, and the United States.

1. North America

Historically, Payless' North American business represented a majority of the Debtors' store base. As of the Petition Date, the North America business included more than 2,500 wholly-owned stores in the United States, Puerto Rico, and Canada.

Due to the industry-wide shift away from brick-and-mortar stores, the North America business (brick and mortar and e-commerce businesses) experienced a precipitous decline in EBITDA, with 2018 EBITDA totaling negative $63 million and 2017 EBITDA totaling negative $4 million. Payless North America also provides an extensive range of operational and corporate services to the Latin America and franchise business segments, including product development and sourcing, retail operations, marketing, IT, finance, tax, and legal assistance. In connection with the GOB Sales (as defined below) for the North America business, the Debtors are in the process of strategically transitioning certain of the operational and corporate services that Payless North America currently provides to the Latin America and franchise segments.

Prior to the Petition Date, the Company and its advisors analyzed the Company's capital structure and potential alternatives, including the impact of reducing the store footprint in North America to various levels depending on store profitability. This analysis showed that achieving any profitable North America store base would require meaningful improvements in merchandizing margin, stabilized comparable store sales, and significant capital investment. As a result, the Company determined to prepare for an orderly wind down of the North America business through the store closing sales (the "GOB Sales"), as described in further detail below.

2. Latin America

Nineteen years after opening its first store in Latin America, Payless has become the largest specialty footwear retailer in the region. Payless Latin America has experienced stable growth since its inception, opening over 20 new stores per year on average and generating 5% annual revenue growth since 2013. It is also highly profitable, generating consolidated EBITDA of $39.4 million in 2018, and contributing EBITDA of $23.3 million towards Payless' overall profitability despite accounting for only 16% of Payless' store footprint in 2018. Payless currently operates approximately 420 stores in Latin America and enjoys leadership positions in each relevant market.

Many of Payless' Latin America operations are governed by joint venture agreements and related ancillary agreements, pursuant to which Payless receives certain sourcing and other corporate fees, as well as dividends, on a periodic basis, in exchange for use of the Debtors' intellectual property, sourcing, operational management and information technology. In exchange, the joint venture agreements have allowed Payless to utilize its partners' significant local market knowledge to buy, plan, and distribute their products. The Latin America business continues to perform well notwithstanding the challenges that faced the North America brick and mortar business.

3. Franchised Store Segment

Finally, Payless' franchise segment consists of stores operated by franchisees in several countries in Africa, Asia, and the Middle East. Since opening their first franchise stores in 2009, the Debtors' franchise business has grown to over 350 stores. The franchise stores are held to the same high standards as the Company's wholly-owned and joint venture stores and provide a similar customer experience. The Company receives royalty fees, which typically range from 6% to 8% of the franchisee's net revenue, pursuant to applicable franchise agreements. The franchise business requires minimal upfront risk, capital requirements, and overhead expenses, as it has historically leveraged the existing North America operations and sourcing capabilities to support the business segment.

4. Procurement and Global Supply Chain

Payless depends heavily on its supply chain and has unique relationships with its vendors, primarily based out of China and Vietnam. The Company has developed long-standing relationships (in some cases extending over 15 years) and highly streamlined processes with key supplier factories. Coordination across factories, distributors, shippers, carriers, warehousemen and stores is vital to the ability of the Company's remaining business segments to operate. The Company has worked tirelessly during these Chapter 11 Cases to preserve relationships and, thereby, the global supply chain in order to preserve the ability of the Debtors' Latin American and franchise business segments to operate.

C. PREPETITION ORGANIZATIONAL STRUCTURE, CAPITALIZATION, AND INDEBTEDNESS

Payless was first traded publicly in 1962, and was taken private in May 2012. As set forth in the structure chart attached hereto as **Exhibit B**, Payless Holdings LLC currently owns, directly or indirectly, each other Debtor.

1. Prepetition Capital Structure and Indebtedness

As of the Petition Date, Payless' prepetition capital structure included approximately $470 million in aggregate principal amount of outstanding debt as of the Petition Date, primarily consisting of: (a) approximately $156.7 million in aggregate principal amount revolving loans and FILO loans under the Prepetition ABL Credit Facility (as defined below) as well as approximately $36 million through the Standby Letters of Credit; and (b) approximately $277.2 million in secured debt under the Term Loan Facility. Certain non-debtor affiliates or subsidiaries included in the capital structure have additional outstanding indebtedness, including: (x) Payless CA Management Limited, which owes approximately $45.4 million in aggregate principal amount of secured debt outstanding under a first lien term loan (the "CA Credit Agreement"); (y) Payless ShoeSource of Trinidad Unlimited, which owes approximately $900,000 in aggregate principal amount pursuant to a demand loan (the "Trinidad Demand Loan"); and (z) Payless ShoeSource Ecuador Cia. Ltda., which owes approximately $5.7 million in aggregate principal amount pursuant to a credit agreement (the "Ecuador Loan").

(a) The Prepetition ABL Credit Facility

As of the Petition Date, Payless Inc., Payless Finance, Inc., Payless ShoeSource, Inc. and Payless ShoeSource Distribution, Inc., as borrowers, the other Original Debtors party thereto as guarantors, Wells Fargo Bank, National Association ("Wells Fargo"), as collateral agent and administrative agent, Wells Fargo as FILO agent, and the lenders party thereto from time to time were parties to that certain Credit Agreement (the "Prepetition ABL Credit Facility Lenders"), dated as of August 10, 2017 (as amended, restated, modified, and/or supplemented and as in effect immediately prior to the Petition Date, the "Prepetition ABL Credit Facility"). The Prepetition ABL Credit Facility provided for (x) a senior secured revolving credit facility, with a maximum availability of $250 million, subject to borrowing base limitations and (y) a $35 million FILO loan. The Prepetition ABL Credit Facility was secured by a first priority lien over certain of the Debtors' assets including, among other things and subject to certain limitations, accounts, cash, inventory, and real property (such collateral package, the "ABL Priority Collateral"). The Prepetition ABL Credit Facility was also secured by a junior lien on the remaining assets of the Debtors including, among other things and subject to certain limitations, equipment and intellectual property (such collateral package, the "Term Priority Collateral"). As of the Petition Date, an aggregate balance of approximately $156.7 million remained outstanding under the Prepetition ABL Credit Facility as well as approximately $36 million in Standby Letters of Credit. The Prepetition ABL Credit Facility was paid off on April 10, 2019.

(b) The Term Loan

Payless Inc., Payless Finance, Inc., Payless ShoeSource, Inc., and Payless ShoeSource Distribution, Inc., as borrowers, the other Original Debtors party thereto as guarantors, Cortland Products Corp., as administrative and collateral agent, and the lenders party thereto from time to time are parties to that certain Term Loan and Guarantee Agreement, dated as of August 10, 2017 (as amended, restated, modified, and/or supplemented and as in effect immediately prior to the Petition Date, the "Term Loan Agreement"). The Term Loan Agreement originally provided for $280 million of term loans secured by a first priority lien on the Term Priority Collateral and a second priority lien on the ABL Priority Collateral. The Term Loan Agreement is comprised of two tranches: Tranche A-1 in an original principal amount of $80 million and Tranche A-2 in an original principal amount of $200 million, which bear interest at different rates and mature on different dates. Tranche A-1 bears interest at LIBOR (as defined in the Term Loan Agreement) plus 8.00% per annum and matures on February 10, 2022 and Tranche A-2 bears interest at LIBOR (as defined in the Term Loan Agreement) plus 9.00% per annum and matures on August 10, 2022. An aggregate principal amount of $277.2 million was outstanding as of the Petition Date under the Term Loan Facility.

(c) Intercreditor Agreements

The Debtors' prepetition indebtedness under the Prepetition ABL Credit Facility and the Term Loan Agreement was also subject to an intercreditor agreement, generally referred to as the ABL/Term Loan Intercreditor Agreement.[10] The ABL/Term Loan Intercreditor Agreement governed the relative contractual rights of lenders under the Prepetition ABL Credit Facility and the Term Loan Facility.

(d) Unsecured Claims

As of the Petition Date, the Debtors estimated that they owed approximately $225 million to unsecured creditors, consisting primarily of amounts owed to vendors and suppliers. Additional unsecured claims have been filed for, among other things, rejection of executory contracts and unexpired leases.

D. EVENTS LEADING UP TO THE CHAPTER 11 FILING

1. The Prior Cases

On April 4, 2017, the Prior Debtors commenced the Prior Cases in this Court. All of the Prior Cases closed before the Petition Date except for the Prior Cases of Payless Holdings LLC (Case No. 17-42267) and Payless

[10] The "ABL/Term Loan Intercreditor Agreement" means that certain intercreditor agreement dated as of August 10, 2017 (as amended, supplemented, restated, amended and restated or otherwise modified from time to time) by and among Wells Fargo Bank, National Association, as administrative agent for the lenders under the Prepetition ABL Credit Agreement and Cortland Products Corp., the administrative agent and collateral agent under the Term Loan, and acknowledged by the Original Debtors.

ShoeSource Worldwide Inc. (Case No. 17-42288). As of the Petition Date, the Prior Cases were limited to final claims reconciliation and the administration of distributions to unsecured creditors.

Beginning in early 2015, the Prior Debtors experienced a top-line sales decline driven primarily by (a) a set of significant and detrimental non-recurring events, (b) foreign exchange rate volatility, and (c) challenging retail market conditions. These pressures led to the Prior Debtors' inability to both service their prepetition secured indebtedness and remain current with their trade obligations. Industry-wide declines in sales and traffic during 2015 and 2016 compounded these challenges. The Prior Debtors' weaker-than-anticipated financial performance forced management to curtail certain capital and marketing investments required to combat the broader challenges facing the retail industry. To address these challenges, the Prior Debtors took steps to evaluate and implement cost-reduction initiatives.

In early 2017 (prior to the commencement of the Prior Cases), the Prior Debtors negotiated a restructuring support agreement with the support of a majority of their prepetition secured lenders. On July 27, 2017, the Court confirmed the *Debtors' Fifth Amended Plan of Reorganization*, No. 17-42267 [Docket No. 1507] (Bankr. E.D. Mo. 2017) (as supplemented, the "Prior Plan") and on July 28, 2017, the Canadian Court granted an order recognizing and enforcing the Prior Plan in Canada. The Prior Plan effective date occurred on August 10, 2017.

The Prior Cases accomplished three main objectives: (a) approximately $435 million in funded debt was eliminated; (b) approximately 675 underperforming brick and mortar stores were closed and liquidated; and (c) approximately $50 million in annual expenditure savings was realized through landlord concessions and modification of existing leases.

2. Challenges Subsequent to the 2017 Plan Effective Date

Upon emergence from the Prior Cases, the Debtors sought to capitalize on the deleveraging of their balance sheet with additional cost-reduction measures, including reviewing marketing expenses, downsizing their corporate office, reevaluating the budget for every department, and reducing their capital expenditures plan. Notwithstanding these measures, the Debtors have continued to experience a top-line sales decline driven primarily by inventory flow disruption during the 2017 holiday season, same store sales declines resulting in excess inventory, and challenging retail market conditions.

In the year following the Prior Debtors' emergence from chapter 11, the Debtors faced unanticipated delays from key supplier factories. Given the significant volume of made-to-order shoes, the Debtors depended heavily on receiving regular shipments of product from their existing vendors. Due to interruptions in production during the Prior Cases, the Debtors' key supplier factories took longer than expected to procure the raw materials and workers required for the Debtors to deliver their products in a timely manner. The delayed production caused a major inventory flow disruption during the 2017 holiday season and a computer systems breakdown in the summer of 2018 significantly affected the back to school season, leading to diminished sales and same store sales declines.

The Debtors also faced an oversupply of inventory in the fall of 2018 leading into the winter of 2019. As a result, the Debtors were forced to sell merchandise at steep markdowns, which depressed margins and drained liquidity. Customers filled their closets with these deeply discounted products, which served to reduce customer demand for new product. In total, millions of pairs of shoes were sold at below market prices in order to realign inventory and product mix. These challenges, and the general trend toward online shopping, contributed to a decline in EBITDA for Payless' North America brick and mortar stores for 2018 at negative $66 million compared to negative $11 million in 2017 and $51 million in 2016.

Moreover, Payless was unable to fulfill its plan for omni-channel development and implementation, *i.e.*, the integration of physical store presence with online digital presence to create a seamless, fully integrated shopping experience for customers. As of the Petition Date, the completion of this unified customer experience had been limited to approximately two hundred stores. Without a robust omni-channel offering, Payless was unable to keep up with the shift in customer demand and preference for online shopping versus the traditional brick-and-mortar environment. In addition, the Debtors' liquidity constraints prevented the Debtors from investing in their store portfolio to open, relocate, or remodel targeted stores to keep up with competitors. All of the foregoing pressures prevented the Payless North America business from achieving profitability in eighteen months pre-petition.

3. Efforts to Address Liquidity Challenges

The Original Debtors negotiated with their prepetition lenders for additional credit under their existing Prepetition ABL Credit Facility and the strategic infusion of capital through a debt offering to lenders under their Term Loan Facility to build liquidity reserves in light of mounting operational issues. In March 2018, the Debtors executed that certain First Amendment and Joinder to Credit Agreement dated as of March 1, 2018, which among other things increased the aggregate FILO commitment under the Prepetition ABL Credit Facility from $10 million to $35 million (the "ABL Amendment").

Subsequently, in August 2018, Payless began to explore potential transaction structures that would enable it to obtain capital, manage their vendor issues, and right size their balance sheet. Initially, the Debtors pursued an equity offering open to all of the current equity holders of Payless. Due to the Company's declining financial performance, none of the equity holders participated in the equity offering. As such, the Debtors sought to develop an alternative transaction structure including a combined equity-debt offering. Alden, which holds approximately 66.5% of the total outstanding equity of Payless, agreed to explore alternative financing options with the Company. On October 2, 2018, Alden provided an approximately $45.5 million delayed draw term loan to non-debtor affiliate, Payless CA Management Limited, which was offered to all Term Loan lenders pursuant to the terms of the Term Loan Facility. All of the Term Loan lenders declined to participate in the transaction, except for Alden. The funds from this loan, which were ultimately upstreamed to fund ordinary-course business operations of the Debtors and their subsidiaries, provided a much-needed injection of capital.

After emerging from the Prior Cases, the Debtors also engaged in employee reduction measures in light of their financial performance and operational needs. In the fall of 2017, the Debtors reduced their headquarters staff by approximately 170 employees located at the Debtors' corporate headquarters in Topeka. In the winter of 2018, the Debtors terminated an additional 49 employees in field organization positions. Between August 2018 and the Petition Date, the Debtors eliminated approximately 37 employees in their finance department and almost 50 employees in their merchandising and design department. Finally, the Debtors eliminated 65 store leaders and 10 group leaders in certain of their retail locations.

In October 2018, the Debtors also explored opportunities to sell their corporate headquarters located at 3231 S.E. 6th Avenue, Topeka, Kansas. Following an auction, the Debtors agreed on terms with a proposed buyer and, on December 27, 2018, entered into purchase and sale agreement to sell the headquarters for approximately $2 million. The purchase and sale agreement provided the Debtors with a leaseback on a portion of the building, including their data center, dock area, and limited office space, with extensions as needed as the Debtors wind down their North America business. The sale closed on February 14, 2019 after the requisite consents and releases from the Debtors' lenders were obtained.

4. Exploration of Strategic Alternatives and Restructuring Initiatives

Notwithstanding the measures taken above, Payless was unable to return to profitability. While the Latin America and franchise businesses continued to perform well, the Debtors' North America brick and mortar business suffered from same store sales declines and declining store productivity. As a result, in December 2018, the Company engaged PJ Solomon, L.P. ("Solomon"), as investment banker to perform a review of the go forward business plan and explore strategic alternatives. The Company also engaged Ankura Consulting Group, LLC ("Ankura") as financial advisor. Solomon and Ankura worked together with Akin Gump Strauss Hauer & Feld LLP ("Akin Gump"), to develop a restructuring strategy for the Company's businesses.

The Company and its advisors analyzed the Company's capital structure and potential alternatives, including the impact of reducing the store footprint in North America to various levels depending on store profitability. The analysis showed that achieving any profitable North America store base would require meaningful improvements in merchandizing margin, stabilized comparable store sales, and significant capital investment. The Company's efforts shifted to preparing for an orderly wind down of the North America business.

5. Appointment of Independent Managers

In January 2019, to ensure a thorough and fair process with respect to the Debtors' review of their strategic alternatives, the board of managers of Payless Holdings LLC (the "Board") appointed Patrick Bartels and Scott

Vogel to the Board as disinterested managers (the "Independent Managers").[11] Both of the Independent Managers have extensive experience serving on boards in distressed situations. The Independent Managers were delegated the exclusive power and authority of the Board to conduct a full and complete review and analysis of all transactions entered into by the Debtors (including their subsidiaries and affiliates), on the one hand, and Alden and its affiliates, on the other and any other matters delegated to the Independent Managers by the Board. The Independent Managers subsequently retained Seward & Kissel LLP ("S&K") as independent counsel to assist the Independent Managers in their review. As set forth below, in connection with the *Order With Respect to the Retention and Appointment of Akin Gump Strauss Hauer & Feld and Seward & Kissel as Counsel to the Debtors Settling Application to Employ* (the "Akin and S&K Retention Order") [Docket No. 983] a special committee of the Board of Managers comprised solely of the Independent Managers (the "Special Committee") was appointed and a negotiated and filed protocol was implemented for the investigation of insider transactions, review and handling of transactions involving insiders and information sharing. This is all set forth in further detail below at Article III.C.7. Following the entry of the Akin and S&K Retention Order, the Special Committee retained FTI Consulting, Inc. ("FTI") as its financial advisor.

[11] Following their initial term, the Independent Managers were elected to serve as members of the Board pursuant to the written consent of the majority of the outstanding Class A shares of Payless Holdings LLC, dated February 11, 2019.

III.
ADMINISTRATION OF THE RESTRUCTURING PROCEEDINGS

A. OVERVIEW OF THE CROSS BORDER RESTRUCTURING PROCEEDINGS

1. Overview of Chapter 11

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. In addition to permitting debtor rehabilitation, chapter 11 promotes equality of treatment for similarly situated holders of claims and interests, subject to the priority of distributions prescribed by the Bankruptcy Code. Commencement of a chapter 11 case creates an estate that is comprised of all of the legal and equitable interests of the debtor as of the filing of a chapter 11 petition.

The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a "debtor in possession." The consummation of a plan is the principal objective of a chapter 11 case. A plan sets forth the means for satisfying claims against and interests in a debtor. Confirmation of a plan by the Bankruptcy Court makes the plan binding upon the debtor, any entity acquiring property under the plan, any holder of a claim against or interest in a debtor and all other entities as may be ordered by the Bankruptcy Court in accordance with the applicable provisions of the Bankruptcy Code. The order approving confirmation of a plan prohibits creditors and equity holders of a debtor from seeking to pursue claims and interests against or in a debtor except as provided for in the confirmed plan.

Pursuant to section 1125 of the Bankruptcy Code, acceptance or rejection of a plan may not be solicited after the commencement of a chapter 11 case until such time as a bankruptcy court has approved a disclosure statement as containing adequate information. Pursuant to section 1125(a) of the Bankruptcy Code, "adequate information" is information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding the plan. The Debtors are submitting this Disclosure Statement in satisfaction of the applicable disclosure requirements under section 1125 of the Bankruptcy Code.

2. Overview of CCAA

The CCAA is a federal statute of Canada that allows a company facing financial trouble, or a group of affiliated companies, the opportunity to restructure their affairs. By allowing the company to restructure its financial affairs through a plan of compromise or arrangement, the CCAA provides the company with an opportunity to avoid bankruptcy and settle with its creditors.

The CCAA process begins with an application to the Canadian Court by the company requesting protection under the CCAA. The Canadian Court may grant an order ordering a stay of proceedings, which provides the company with a period of time to restructure its affairs (the "Stay of Proceedings"). The Canadian Court may extend the Stay of Proceedings upon the company's application to the Canadian Court. Typically, the Canadian Court will extend the Stay of Proceedings if it considers it appropriate in the circumstances and if the company can demonstrate that it is acting in good faith and is diligently pursuing its restructuring efforts. During the Stay of Proceedings, the company will often continue operating in the ordinary course in addition to its restructuring activities.

A monitor is an independent and impartial third party appointed by the Canadian Court to monitor the company's ongoing operations and report to the Canadian Court on the restructuring process and developments. The monitor's duties are set out in an order granted by the Canadian Court. The monitor must report to the Canadian Court and stakeholders, the company's activities and financial affairs, certain significant restructuring initiatives and assist the company in its restructuring efforts and preparation of a plan of compromise or arrangement.

The CCAA provides that with the approval of the Canadian Court, a debtor company may propose a plan of compromise or arrangement to its creditors and in some cases, its shareholders. For the plan to be effective, a majority of the creditors in each class by number and with 2/3 of by dollar value (in each case, determined by stakeholders actually voting), must approve the plan. If the debtor company's stakeholders vote in favor of the plan, the company will present the plan to the Canadian Court in what is known as a "sanction hearing." If a plan is

sanctioned by the Canadian Court, the debtor company may implement the plan and undertake the transactions set out therein.

3. Cross Border Implications

The Restructuring Proceedings involve both Canadian and U.S. Debtors. Stays were sought and obtained under the Bankruptcy Code and the CCAA. There was a protocol approved given the cross-border nature of the Restructuring Proceedings (the "Cross-Border Protocol") and there were and are stakeholders in Canada, the U.S. and elsewhere. The proceedings under Chapter 11 and those under the CCAA are intended to be coordinated to the fullest possible extent.

As noted in further detail below, the Canadian Debtors are not plan proponents under the Plan. The Canadian Debtors intend to file a motion for dismissal of the Canadian Debtors' Chapter 11 Cases to be effective upon implementation of the Plan and intend to separately bring forward a motion in the Canadian Court for approval of a plan of compromise or arrangement under the CCAA.

B. FIRST AND SECOND DAY RELIEF

On or around the Petition Date, in addition to filing voluntary petitions for relief, the Debtors also filed a number of motions (the "First Day Motions") with the Bankruptcy Court seeking relief designed to, among other things, prevent interruptions to the Debtors' business, ease the strain on the Debtors' relationships with certain essential constituents, including employees, vendors, customers and utility providers, provide access to much needed working capital, and allow the Debtors to retain certain advisors to assist them with the administration of the Chapter 11 Cases. At the first day hearing conducted on February 19, 2019 and in the days that followed, the Bankruptcy Court entered several orders approving the First Day Motions. An additional hearing was held on March 14, 2019 at which the Bankruptcy Court considered the approval of the First Day Motions on a final basis and certain additional relief requested by the Debtors.

On the Filing Date, the Canadian Debtors obtained the Initial Order, which granted an initial stay of proceedings in favor of the Canadian Debtors until and including March 21, 2019 (the "Stay Period") and appointed FTI Consulting Canada Inc. as monitor in the CCAA proceedings. The Stay Period has been extended twice, most recently to September 20, 2019, and is subject to further extension. The Initial Order also granted relief similar to the relief requested in a number of the First Day Motions.

1. Procedural Motions

To facilitate a smooth and efficient administration of these Chapter 11 Cases, the Bankruptcy Court entered certain "procedural" orders, by which the Bankruptcy Court (a) approved the joint administration of the Debtors' Chapter 11 Cases; (b) scheduled an expedited first day hearing; (c) granted leave to exceed the page limitation in the Debtors' First Day Motions; (d) authorized the Debtors to prepare a list of creditors and file a consolidated list of their 50 largest unsecured creditors; (e) approved an extension of time to file their Schedules; and (f) approved certain procedures for the rejection and assumption of contracts and leases.

2. Stabilizing Operations

Recognizing that any interruption of the Debtors' business, even for a brief period of time, would negatively impact their operations, customer relationships, and GOB Sales, the Debtors sought and obtained orders authorizing them to:

- pay prepetition wages, salaries and other compensation, reimbursable employee expenses, and employee medical and similar benefits [Docket No. 627];
- determine adequate assurance for future utility service and establish procedures for utility providers to object to such assurance [Docket No. 582];
- continue insurance coverage, including performance under their self-insurance programs, and enter into new insurance policies, if necessary [Docket No. 583];

- continue and renew their surety bond program [Docket No. 601];
- establish procedures for certain transfers and declarations of worthlessness with respect to common stock [Docket No 782];
- begin the orderly liquidation of North American stores and set forth procedures for ongoing liquidation efforts [Docket No 619];
- maintain their existing cash management systems [Docket No. 783];
- continue their relationship with certain prepetition vendors in order to ensure the continuation of vital supply services during the aforementioned liquidation [Docket No. 600]; and
- remit and pay certain taxes and fees [Docket No. 584].

3. Postpetition Financing and Use of Cash Collateral

Following the First Day Hearing, the Court entered an interim order (i) authorizing use of cash collateral, (ii) granting adequate protection, and (iii) modifying the automatic stay (the "Interim Cash Collateral Order") [Docket No. 138]. Specifically, the Interim Cash Collateral Order authorized the Debtors to use Cash Collateral (as defined in Section 363(a) of the Bankruptcy Code) on the terms described in the Interim Cash Collateral Order to administer the Chapter 11 Cases and fund their operations in accordance with a budget.[12] The Court entered an order (the "Final Cash Collateral Order") [Docket No. 795] granting the relief provided for in the Interim Cash Collateral Order on a final basis, subject to the terms and conditions of the Final Cash Collateral Order, on April 4, 2019.

On February 22, 2019 the Debtors filed the *Debtors' Motion for Entry of Interim and Final Orders (i) Authorizing the Debtors to Obtain Postpetition Financing, (ii) granting Liens and Providing Superpriority Administrative Expense Status, (iii) Modifying the Automatic Stay, (iv) Scheduling a Final Hearing, and (v) Granting Related Relief* [Docket No. 216] (the "DIP Motion"). The Court granted the relief sought in the DIP Motion on an interim basis on February 25, 2019 (the "Interim DIP Order") [Docket No. 265] and on a final basis on April 4, 2019 (the "Final DIP Order") [Docket No. 797]. The relief granted in the Interim DIP Order and the Final DIP Order does not apply to the Canadian Debtors.

The Interim DIP Order and the Final DIP Order authorized the Debtors (other than the July Debtors) to obtain senior secured postpetition financing on a superpriority basis in the aggregate principal amount of $25,390,710.66 (the "DIP Facility," and the term loans thereunder, the "DIP Loans"). The DIP Facility and DIP Loans were subject to the terms and conditions of that certain Senior Secured Superpriority Priming Debtor-in-Possession Term Loan and Guarantee Agreement, dated as of March 24, 2019, by and among Payless Inc., as borrower, Payless Holdings LLC and certain of its subsidiaries party thereto, as guarantors, the financial institutions from time to time party thereto, as lenders, and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent (the "DIP Credit Agreement"). The Canadian Debtors were not borrowers or guarantors under the DIP Credit Agreement.

The DIP Facility consisted of (a) a $17 million initial draw; (b) an additional $4 million draw upon entry of the Interim DIP Order; and (c) an additional $4 million draw upon entry of the Final DIP Order. The proceeds of the DIP Facility allowed the Debtors to administer these Chapter 11 Cases and fund their operations, including preserving critical vendor relationships and suppliers in order to preserve the Debtors' Latin America and franchise businesses. The Debtors repaid the DIP Facility in full on May 3, 2019.

4. Employment and Compensation of Professionals

With authorization from the Bankruptcy Court, the Debtors retained the following professional advisors to assist the Debtors in carrying out their duties as debtors in possession and to represent their interests in the Chapter 11 Cases: (a) Akin Gump, as restructuring counsel [Docket No. 1115]; (b) Armstrong Teasdale LLP, as co-counsel [Docket No. 602]; (c) Solomon, as investment banker [Docket No. 606]; (d) Ankura, as restructuring advisor, which

[12] A summary of which was attached to the Interim Cash Collateral Order.

provided the Debtors with a Chief Restructuring Officer (Stephen Marotta of Ankura) and a Restructuring Officer (Adrian Frankum of Ankura) [Docket No. 605]; (e) A&G Realty Partners, LLC as real estate advisor [Docket No. 628]; (f) Malfitano Advisors, LLC as asset disposition advisor and consultant [Docket No. 604]; (g) S&K, as counsel acting at the direction of the Independent Managers [Docket No. 1114]; (h) Reevemark, LLC, as corporate communications consultants [Docket No. 603]; (i) Ernst & Young LLP as tax services provider; and (j) FTI, as financial advisor acting at the direction of the Independent Managers [Docket No. 1276].

The Debtors also sought and received approval of Prime Clerk LLC ("Prime Clerk") as the Noticing and Claims Agent [Docket No. 572] and filed an application to retain Prime Clerk LLC as Solicitation and Administrative Agent for the Prior Cases [Docket No. 829].

Pursuant to the Cross Border Protocol approved by this Court and the Canadian Court, the Debtors' Canadian Counsel, Cassels, Brock & Blackwell LLP, and Ankura, in its capacity as Chief Restructuring Organization of the Canadian Debtors, have been retained pursuant to the Canadian Court's retention procedures.

C. OTHER MATERIAL EVENTS IN THESE CHAPTER 11 CASES

1. July Filing

As described above, on the Original Petition Date, the Original Debtors commenced the Original Chapter 11 Cases with the goal of maximizing value for all stakeholders by conducting an orderly wind-down of the North American brick and mortar business and pursuing a reorganization of the Latin America and franchise business segments. In connection with this strategy, the Original Debtors completed the GOB Sales on June 30, 2019 and shifted their attention to resizing and restructuring the Company's operations to efficiently support the go-forward Latin America and franchise businesses. As a result, the Debtors commenced the July Chapter 11 cases in order to facilitate the reorganization efforts and to provide the creditors of the July Debtors with the opportunity to participate in the Chapter 11 Cases.

On the July Petition Date, the July Debtors filed certain motions, specifically: (a) the *Debtors' Motion Seeking Entry of an Order (I) Directing Supplemental Joint Administration of Chapter 11 Cases and (II) Granting Related Relief* (the "July Debtors' Joint Administration Motion") [Docket No. 1304]; (b) the *Debtors' Motion Pursuant to Section 105(a) of the Bankruptcy Code for an Order Directing that Certain Orders in the Chapter 11 Case of Payless Holdings LLC Be Made Applicable to the Debtors in Subsequently Filed Cases* (the "Deeming Motion") [Docket No. 1306]; and (c) the *Debtors' Motion for an Order Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof Solely With Respect to the July Debtors* (the "July Debtors' Bar Date Motion") [Docket No. 1307], as well as the *Supplemental Declaration of Stephen Marotta in Support of Chapter 11 Petitions of July Debtors* [Docket No. 1305].

The July Debtors' Joint Administration Motion requested that the Court enter an order directing the supplemental joint administration of the July Chapter 11 Cases with the Original Chapter 11 Cases. The Court granted the relief requested in the July Debtors' Joint Administration Motion on July 19, 2019 [Docket No. 1363]. The Deeming Motion requested that the Court enter an order directing that the relief requested and granted pursuant to the First Day Motions apply to the July Chapter 11 Cases. The Court granted the relief requested in the Deeming Motion on July 19, 2019 [Docket No. 1364]. The July Debtors' Bar Date Motion requested that the Court enter an order establishing certain bar dates for filing proofs of claim and approving the form and manner of notice thereof with respect to the July Debtors. The Court granted the relief requested in the July Debtors' Bar Date Motion on July 19, 2019 [Docket No. 1366].

2. Claims Bar Date and the Debtors' Schedules

On April 4, 2019, the Original Debtors (excluding the Canadian Debtors) filed the *Debtors' Motion for an Order Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof* [Docket No. 774], (the "Bar Date Motion") seeking to establish June 7, 2019, as the deadline by which all persons and entities must file and serve Proofs of Claim[13] against the Original Debtors in these Chapter 11 Cases (the

[13] As used herein, the "Proofs of Claim" constitute all Proofs of Claim asserting claims that arose on or prior to the Petition Date, including claims asserted pursuant to section 503(b)(9) of the Bankruptcy Code.

"Original Debtors' General Bar Date"). Additionally, the Debtors' requested that the Court establish August 19, 2019, as the deadline by which all governmental units must file and serve Proofs of Claim asserting prepetition claims against any of the Original Debtors (excluding the Canadian Debtors) in these Chapter 11 Cases (the "Original Debtors' Government Bar Date"). The Bankruptcy Court granted the Bar Date Motion on May 3, 2019 [Docket No. 969].

As outlined above, the July Debtors sought separate relief under the July Debtors' Bar Date Motion, and therefore claims solely against the July Debtors are to be filed pursuant to the Supplemental Bar Date and the Supplemental Governmental Bar Date. The Bankruptcy Court granted the July Debtors' Bar Date Motion on July 19, 2019 [Docket No. 1366].

Further, pursuant to the *Order Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof Solely With Respect to the July Debtors*, any claims against a July Debtor that arose or is deemed to have arisen prior to the July Petition Date must be filed on or before 11:59 p.m., prevailing Central Time on August 30, 2019 (the "Supplemental Bar Date"). Any governmental unit asserting a claim against the July Debtors must file such proof of claim on or before 11:59 p.m., Central Time, on January 3, 2020 (the "Supplemental Governmental Bar Date").

The Original Debtors filed their Schedules of Assets and Liabilities and Statements of Financial Affairs and related declarations on April 1, 2019 [Docket Nos. 732 – 741 and 743-760]. The July Debtors filed their Schedules of Assets and Liabilities and Statements of Financial Affairs and related declarations on July 15, 2019 [Docket Nos. 1330 and 1331].

To facilitate a parallel claims process in Canada, the Canadian Debtors sought and obtained an order of the Canadian Court dated April 24, 2019 (the "Claims Procedure Order") to undertake a claims procedure to solicit and identify claims against the Canadian Debtors and their present and former directors and officers. Subject to certain exceptions, the deadline to file Proofs of Claim or to dispute a claim statement delivered under the Claims Procedure Order was June 7, 2019, unless otherwise extended pursuant to the Claims Procedure Order.

3. Executory Contracts and Unexpired Leases

As set forth in the *Debtors' Motion For Entry of an Order (I) Extending the Time Within Which the Debtors Must Assume or Reject Unexpired Leases of Nonresidential Real Property and (II) Granting Related Relief* [Docket No. 772] (the "Lease Rejection Extension Motion"), as of the Petition Date, the Debtors were a party to approximately 2,400 unexpired non-residential real property leases, most of which related to the Debtors' brick and mortar retail stores across North America. Further, the Debtors were and are party to a substantial number of executory contracts. In connection with their restructuring efforts, the Debtors are working to maximize the value of their estates, which, among other things, involves a careful and comprehensive evaluation of all aspects of the Debtors' leases and supply chain. The Debtors intend to utilize the tools afforded a chapter 11 debtor to achieve the necessary cost savings and operational effectiveness envisioned in their revised strategic business plan, including modifying or, in some cases eliminating, burdensome or underutilized agreements and leases in addition to those rejected or to be rejected in connection with the GOB Sales.

The Canadian Debtors have disclaimed all of their real property leases. No contract counterparty has timely filed an application to contest a disclaimer with the Canadian Court and therefore, under the CCAA, the Canadian Debtors have not requested or obtained any relief from the Canadian Court in connection with the lease disclaimers.

4. Lease Renegotiation and Store Closing Process

On the Petition Date, the Debtors filed the *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Assume the Consulting Agreement, (II) Approving Procedures for Store Closing Sales, and (III) Granting Related Relief* [Docket No. 24] (the "Store Closing Motion") seeking to implement a key component of their liquidation strategy by closing their North American retail locations. The Bankruptcy Court approved the Store Closing Motion on an interim basis on February 20, 2019 [Docket No. 119] and on a final basis on March 20, 2019 [Docket No. 619], pursuant to which the Debtors began the liquidation of all North American stores. On May 8, 2019, the Debtors filed a motion seeking approval to extend the store closing sales as to certain

locations [Docket No. 987] (the "Supplemental Store Closing Motion"). The Bankruptcy Court approved the Supplemental Store Closing Motion on May 31, 2019 [Docket No. 1121]. The Supplemental Store Closing Motion does not apply to the Canadian Debtors, as the liquidation sales in Canada terminated prior to May 1, 2019.

On February 21, 2019, the Canadian Court granted an order approving the liquidation consulting agreement in Canada. The liquidation sales in Canada concluded on April 30, 2019. As of May 31, 2019, the Payless Canada Entities have vacated all of the Canadian locations.

Pursuant to the Final Cash Collateral Order, the Debtors have agreed to treat an amount equal to 85% of the rent for the period from February 18 to February 28, 2019 (the "Stub Rent") as an Administrative Claim ("Allowed Stub Rent Claim") and to pay the amount of the Allowed Stub Rent Claim that exceeds any overpayment for rent received by the Debtors' landlords for the then-current billing cycle, calculated on a *per diem* basis, on account of the remaining days after the effective date of the rejection of the unexpired lease of non-residential real property ("Rejection Date") in the then-current billing cycle ("Reimbursement Rent"). The Debtors agreed to pay the amount of the Allowed Stub Rent Claim that exceeds the Reimbursement Rent within fifteen (15) days of the later of (a) the effective date of the stub rent agreement or (b) the Rejection Date. As Administrative Claims, the amount of the Allowed Stub Rent Claims that exceeds the respective amount of Reimbursement Rent is required to be paid in full under the Plan.

5. Appointment of the Creditors' Committee and Retention of Professionals

On March 1, 2019, the United States Trustee appointed the Official Committee of Unsecured Creditors (the "Creditors' Committee") pursuant to section 1102 of the Bankruptcy Code [Docket No. 359]. As of the date hereof, the Creditors' Committee consists of (a) Moda Shoe, Ltd.; (b) Xiamen C&D Light Industry Co, Ltd.; (c) Huge Development, Ltd.; (d) C and C Accord, LTD.; (e) Simon Property Group, Inc.; (f) Brookfield Property REIT, Inc.; and (g) Yaquelin Garcia.

With authorization from the Bankruptcy Court, the Creditors' Committee retained the following professional advisors to assist the Creditors' Committee in carrying out its duties and to represent their interests in the Chapter 11 Cases: (a) Pachulski Stang Ziehl & Jones LLP, as lead counsel [Docket No. 962]; (b) Polsinelli P.C. as co-counsel [Docket No. 964]; and (c) Province, Inc., as financial advisor [Docket No. 963].

6. Meeting of Creditors

The meeting of creditors to the Original Debtors pursuant to Bankruptcy Code section 341 was held on April 8, 2019. In accordance with Bankruptcy Rule 9001(5) (which requires, at a minimum, that one representative of the Debtors appear at such meeting of creditors for the purpose of being examined by the United States Trustee and other attending parties in interest), one representative of the Debtors as well as counsel to the Debtors attended the meeting and answered questions posed by the United States Trustee and other parties in interest present at the meeting.

A meeting of creditors to the July Debtors has been scheduled for August 14, 2019 pursuant to Bankruptcy Code section 341 [Docket No. 1365].

7. Special Committee Appointment

As outlined above, the Independent Managers were appointed pursuant to a unanimous written consent of the Board on January 29, 2019 (the "January Consent"). The January Consent delegated to the Independent Managers the exclusive power and authority of the Board to conduct a full and complete review and analysis of all transactions between the Debtors, on the one hand, and the Alden Entities, on the other (the "Insider Investigation"). Following the filing of the bankruptcy cases, S&K continued to work with the Independent Managers in conducting the Insider Investigation, and also coordinated with the newly appointed Committee with respect to its investigation of potential estate causes of action.

While the Insider Investigation was in its early stages, certain creditor parties raised questions about the scope of the investigation and the role of various parties with respect to the investigation. Those issues were resolved in the context of the retention of Akin Gump and S&K. The Akin and S&K Retention Order provided,

among other things, that the Special Committee consisting of the Independent Managers be established by the Board, and that the Special Committee's mandate with respect to Insider Investigation was expanded to investigate, prosecute, release or settle any claim or causes of action in which the Alden Entities or any past or current manager of the Board are or may be implicated. In addition, pursuant to the Akin and S&K Retention Order, the Special Committee was also granted the exclusive authority on behalf of the Board to review, consider, negotiate, adopt or approve any document, action or transaction (including this plan of reorganization) in which the Alden Entities or any manager of the Board is or may be interested or implicated (the "Insider Transactions"). The role of the Special Committee, as contemplated by the Akin and S&K Retention Order, was contemporaneously enacted by unanimous written consent of the Board on May 8, 2019. The Special Committee subsequently retained FTI as its financial advisor to advise it with respect of the Insider Investigation and the Insider Transactions.

(a) Insider Investigation

As stated, beginning in February 2019, and continuing throughout the pendency of the Chapter 11 Cases, the Independent Managers, including, as of May 8, 2019, in the form of the Special Committee, and their advisors have been diligently conducting the Insider Investigation. Throughout the process, S&K and FTI (from and after May 7, 2019) have regularly met with and advised the Special Committee concerning the information gathered during the Insider Investigation, as well as near- and long-term steps concerning the Insider Investigation.

Prior to the Petition Date, at the direction of the Independent Managers, S&K requested materials from the Debtors on matters related to the Insider Investigation and conducted initial interviews of key persons with knowledge of the Debtors' prepetition activities and transactions. Thereafter and throughout the Chapter 11 Cases, S&K has requested supplemental materials from the Debtors and served informal and/or formal document requests on 8 additional entities and persons involved in the Debtors' prepetition activities and significant related-party transactions, including the Debtors' equity owners and current and former managers and officers. In that regard, the Special Committee also sought and obtained an order pursuant to Rule 2004 of the Bankruptcy Code authorizing expedited discovery, which was entered by the Bankruptcy Court on May 20, 2019. As of the date hereof, the Special Committee's advisors have received and reviewed more than 440,000 pages of documents.

In addition, as part of the Insider Investigation, the Special Committee's advisors have spoken with or interviewed some twenty persons with knowledge of the Debtors' prepetition activities and significant related party transactions, including certain of the Debtors' advisors, employees, current and former managers, officers and employees and representatives from the Alden Entities. The Insider Investigation is an iterative process and is continuing. The Special Committee is scheduled to interview certain additional key persons in order to complete the Insider Investigation.

The Special Committee and the Committee have cooperated on matters related to the Insider Investigation. Specifically, the Special Committee shared with the Committee's advisors various materials that it has collected and has coordinated with and included the Committee's advisors on witness interviews. To facilitate that process, the Special Committee and the Committee, among others, negotiated a confidentiality agreement and protective order to facilitate and expedite the production, exchange and treatment of any confidential material in connection with the Insider Investigation, as well as the Chapter 11 Cases more broadly. The Special Committee will continue to provide the Committee advisors with additional various materials it may receive and coordinate and include the Committee advisors on any interviews it conducts.

Given the ongoing nature of the Insider Investigation, the Debtors (at the direction of the Special Committee) reserve all rights, in the reasonable exercise of their business judgment, to pursue, prosecute, settle, release, abandon or otherwise resolve any potential claims or causes of action that are identified by the Insider Investigation. For the avoidance of doubt, the Debtors' release of the Released Parties, as well as the propriety of any exculpation or third-party release provisions, are subject to the conclusion of the Insider Investigation and all of the Debtors' rights (at the direction of the Special Committee) are reserved.

(b) Informational Barrier Protocol

In connection with its appointment, the Special Committee negotiated and adopted written protocols to ensure that appropriate informational barriers were established and enforced to prevent the inappropriate disclosure of insider information to certain Board members and the Alden Entities (the "Informational Barrier Protocols"). The

Informational Barrier Protocols were filed with the Bankruptcy Court on May 22, 2019, and provide that the Special Committee has the exclusive authority to determine what information is considered insider information and if and when such information can be disclosed to screened parties, and put in place procedures for the disclosure of both insider and non-insider information. In compliance with the Informational Barrier Protocols, S&K and FTI have routinely met with and advised the Special Committee about the sharing of information throughout the cases.

(c) Insider Transactions/Plan

Further to the authority granted to the Special Committee in connection with Insider Transactions, the Special Committee has led the consideration of, and negotiations related to, the formulation of the terms of the Plan. The Special Committee's advisors, together with the Debtors' advisors, worked together to prepare the business plan, valuation and recovery analyses that were presented to the Special Committee for review and consideration, and which comprise the foundation for the terms of the Plan. Relevant analyses and materials were also provided to the various creditor constituencies in furtherance of discussions toward a consensual Plan.

IV.
SUMMARY OF THE PLAN

THIS SECTION IV IS INTENDED ONLY TO PROVIDE A SUMMARY OF THE KEY TERMS, STRUCTURE, CLASSIFICATION, TREATMENT, AND IMPLEMENTATION OF THE PLAN, AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE ENTIRE PLAN AND EXHIBITS THERETO. ALTHOUGH THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT INCLUDE SUMMARIES OF THE PROVISIONS CONTAINED IN THE PLAN AND IN DOCUMENTS REFERRED TO THEREIN, THIS DISCLOSURE STATEMENT DOES NOT PURPORT TO BE A PRECISE OR COMPLETE STATEMENT OF ALL SUCH TERMS AND PROVISIONS, AND SHOULD NOT BE RELIED ON FOR A COMPREHENSIVE DISCUSSION OF THE PLAN. INSTEAD, REFERENCE IS MADE TO THE PLAN AND ALL SUCH DOCUMENTS FOR THE FULL AND COMPLETE STATEMENTS OF SUCH TERMS AND PROVISIONS. THE PLAN ITSELF (INCLUDING ATTACHMENTS) WILL CONTROL THE TREATMENT OF CREDITORS AND EQUITY SECURITY HOLDERS UNDER THE PLAN. TO THE EXTENT THERE ARE ANY INCONSISTENCIES BETWEEN THIS SECTION IV AND THE PLAN (INCLUDING ATTACHMENTS), THE LATTER SHALL GOVERN.

A. GENERAL BASIS FOR THE PLAN

Each of the Debtors is a proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code. The Plan, though proposed jointly, constitutes a separate chapter 11 plan of reorganization proposed by each Debtor. Therefore, the classifications set forth in Article III of the Plan shall be deemed to apply separately with respect to each Plan proposed by each Debtor.

The terms of the Debtors' Plan are based upon, among other things, the Debtors' assessment of their ability to achieve the goals of their business plan and make the distributions contemplated under the Plan. Under the Plan, Claims against and Interests in the Debtors are divided into separate Classes according to their relative seniority, legal nature, and other criteria, and the Plan proposes recoveries for Holders of Claims against and Equity Interests in the Debtors in such Classes, if any. The Debtors believe that the Plan maximizes value for all stakeholders.

B. PROPOSED TREATMENT OF EACH CLASS OF CLAIMS AND INTERESTS

As set forth in Articles II and III of the Plan and in accordance with sections 1122 and 1123(a)(1) of the Bankruptcy Code, all Claims and Interests (other than Administrative Claims, Priority Tax Claims and Professional Fee Claims, which are unclassified Claims under the Plan) are classified into Classes for all purposes, including voting, Confirmation, and distributions pursuant to the Plan. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class. A Claim or Interest is also classified in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and has not been paid, released, or otherwise satisfied prior to the Effective Date.

1. Administrative, Priority Tax and Professional Fee Claims

Unclassified Claim	Plan Treatment	Estimated Percent Recovery Under the Plan
Administrative Claims	Unimpaired	100%
Priority Tax Claims	Unimpaired	100%
Professional Fee Claims	Unimpaired	100%

(a) Administrative Claims

Except with respect to Administrative Claims that are Professional Fee Claims, and except to the extent that an Administrative Claim has already been paid during the Chapter 11 Cases or a Holder of an Allowed Administrative Claim and the applicable Debtor(s) agree to less favorable treatment, each Holder of an Allowed

Administrative Claim shall be paid in full in Cash on the unpaid portion of its Allowed Administrative Claim on the latest of: (a) on or as soon as reasonably practicable after the Effective Date if such Administrative Claim is Allowed as of the Effective Date; (b) on or as soon as reasonably practicable after the date such Administrative Claim is Allowed; and (c) the date such Allowed Administrative Claim becomes due and payable, or as soon thereafter as is reasonably practicable; *provided* that Allowed Administrative Claims that arise in the ordinary course of the Debtors' businesses shall be paid in the ordinary course of business in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to such transactions. Notwithstanding the foregoing, no request for payment of an Administrative Claim need be filed with respect to an Administrative Claim previously Allowed by Final Order. Notwithstanding any provision of the Plan to the contrary, no Governmental Unit shall be required to file a request for the payment of an expense described in 11 U.S.C. § 503(b)(1)(B) or (C) as a condition of it being allowed as an administrative expense.

(b) Administrative Claims Bar Date

All requests for payment of an Administrative Claim (other than Professional Fee Claims and the Canadian Postpetition Loans) that accrued on or before the Effective Date must be filed with the Bankruptcy Court and served on the Debtors no later than the Administrative Claims Bar Date, provided, however, pursuant to the Original Debtors Claims Bar Date Order and the July Debtors Claims Bar Date Order, Administrative Claims related to executory contracts or unexpired leases that have been rejected by the Debtors are required to be filed by the later of (a) the Original Debtors Bar Date or the Supplemental General Bar Date (as applicable) and (b) 11:59 p.m., prevailing Central Time, on the date that is thirty (30) days following entry of the relevant order or deemed effective date of the rejection of such rejected contract or unexpired lease. Holders of Administrative Claims that are, based on the preceding sentence, required to, but do not, file and serve a request for payment of such Administrative Claims by such date shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtors, the Reorganized Debtors, or their property and such Administrative Claims shall be deemed discharged as of the Effective Date.

The Debtors or Reorganized Debtors, in their sole and absolute discretion, may settle Administrative Claims in the ordinary course of business without further Bankruptcy Court approval. The Debtors or Reorganized Debtors may also choose to object to any Administrative Claim no later than 90 days from the Administrative Claims Bar Date, subject to extensions by the Bankruptcy Court, agreement in writing of the parties, or on motion of a party in interest approved by the Bankruptcy Court. Subject to the withdrawal or settlement of such Administrative Claim, unless the Debtors or the Reorganized Debtors (or other party with standing) object to a timely-filed and properly served Administrative Claim, such Administrative Claim will be deemed allowed in the amount requested. In the event that the Debtors or the Reorganized Debtors object to an Administrative Claim, the parties may confer to try to reach a settlement and, failing that, the Bankruptcy Court will determine whether such Administrative Claim should be allowed and, if so, in what amount.

(c) Professional Compensation

(i) Final Fee Applications

All final requests for Professional Fee Claims shall be filed no later than 30 days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts of such Professional Fee Claims shall be determined by the Bankruptcy Court.

(ii) Professional Fee Escrow Account

On the Effective Date, the Reorganized Debtors shall establish and fund, or cause to be funded, the Professional Fee Escrow Account with Cash equal to the aggregate Professional Fee Reserve Amount for all Retained Professionals. The Professional Fee Escrow Account shall be maintained in trust solely for the Retained Professionals. Such funds shall not be considered property of the Estates of the Debtors or the Reorganized Debtors. The amount of Professional Fee Claims owing to the Retained Professionals shall be paid in Cash to such Retained Professionals by the Reorganized Debtors from the Professional Fee Escrow Account as soon as reasonably practicable after such Professional Fee Claims are Allowed by a Final Order. When all such Allowed amounts owing to Retained Professionals have been paid in full, any remaining amount in the Professional Fee Escrow

Account shall promptly be paid to the Reorganized Debtors without any further action or order of the Bankruptcy Court.

(iii) Professional Fee Reserve Amount

To receive payment for unbilled fees and expenses incurred through the Effective Date, the Retained Professionals shall estimate their Accrued Professional Compensation prior to and as of the Effective Date and shall deliver such estimate to the Debtors on or before the Effective Date. If a Retained Professional does not provide such estimate, the Reorganized Debtors may estimate the unbilled fees and expenses of such Retained Professional; provided that such estimate shall not be considered an admission or limitation with respect to the fees and expenses of such Retained Professional. The total amount so estimated as of the Effective Date shall comprise the Professional Fee Reserve Amount.

(iv) Post-Effective Date Fees and Expenses

Except as otherwise specifically provided in the Plan, from and after the Effective Date, each Debtor and Reorganized Debtor (as applicable) shall pay in Cash the reasonable legal fees and expenses incurred by such Debtor or Reorganized Debtor (as applicable) after the Effective Date in the ordinary course of business and without any further notice to or action, order or approval of the Bankruptcy Court. The Debtors and Reorganized Debtors (as applicable) shall pay, within ten Business Days after submission of a detailed invoice to the Debtors or Reorganized Debtors (as applicable), such reasonable claims for compensation or reimbursement of expenses incurred by the Retained Professionals of the Debtors and Reorganized Debtors (as applicable). If the Debtors or Reorganized Debtors (as applicable), dispute the reasonableness of any such invoice, the Debtors or Reorganized Debtors (as applicable) or the affected professional may submit such dispute to the Bankruptcy Court for a determination of the reasonableness of any such invoice, and the disputed portion of such invoice shall not be paid until the dispute is resolved. The undisputed portion of such reasonable fees and expenses shall be paid as provided herein. Upon the Effective Date, any requirement that Retained Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and each Debtor or Reorganized Debtor (as applicable) may employ and pay any Retained Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

(v) Substantial Contribution Compensation and Expenses

Except as otherwise specifically provided in the Plan, any Entity that requests compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Cases pursuant to sections 503(b)(3), (4), and (5) of the Bankruptcy Code must file an application and serve such application on counsel for the Debtors or Reorganized Debtors, as applicable, and as otherwise required by the Bankruptcy Court, the Bankruptcy Code, and the Bankruptcy Rules on or before the Administrative Claims Bar Date.

(d) Priority Tax Claims

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, compromise, settlement, release, and discharge of, and in exchange for, each Allowed Priority Tax Claim, each Holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code.

(e) United States Trustee Statutory Fees

The Debtors or Reorganized Debtors, as appropriate, shall pay all United States Trustee quarterly fees under 28 U.S.C. § 1930(a)(6), plus interest due and payable under 31 U.S.C. § 3717 on all disbursements, including Plan payments and disbursements made by the Debtors or Reorganized Debtors, in and outside the ordinary course of the Debtors' or Reorganized Debtors' businesses, until the entry of a Final Order, dismissal of the Chapter 11 Cases or conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code. For the avoidance of doubt, quarterly fees shall not be assessed against disbursements made from the Liquidating Trust.

2. Classified Claims and Interests

(a) Proposed Distributions to Holders of Allowed Claims and Equity Interests

The Plan contemplates the following distributions to Holders of Allowed Claims and Equity Interests, among other recoveries:

Class 1 –Other Priority Claims	**Treatment**. On the Effective Date, or in the ordinary course of business as and when due, except to the extent a Holder of an Allowed Other Priority Claim has already been paid during the Chapter 11 Cases or such Holder of an Allowed Other Priority Claim, together with the Debtors and the Requisite Consenting Lenders, agrees to less favorable treatment, in full and final satisfaction, settlement, release, and discharge of and in exchange for its Allowed Other Priority Claim, each Holder of an Allowed Other Priority Claim shall receive payment in full, in Cash, of the unpaid portion of its Administrative, Priority Tax, or Allowed Other Priority Claim. **Voting**. Unimpaired. Each Holder of an Other Priority Claim will be conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, each Holder of an Allowed Other Priority Claim will not be entitled to vote to accept or reject the Plan.
Class 2 – Other Secured Claims	**Treatment**. On or after the Effective Date, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for each allowed Other Secured Claim, each holder or any such Claim (i) shall receive payment in Cash in an amount equal to such Claim, (ii) shall receive the collateral underlying such Claim, or (iii) shall receive such other treatment so as to render such Claim unimpaired pursuant to section 1124 of the Bankruptcy Code. **Voting**. Unimpaired; not entitled to vote to accept or reject the Plan.
Class 3 – Tranche A-1 Term Loan Claims	**Treatment**. On the Effective Date, each holder of an Allowed Tranche A-1 Term Loan Claim shall receive, in full satisfaction, settlement, release and discharge of, and in exchange for such Claim, its *pro rata* share of [$67,000,000] in Cash. **Voting**. Impaired; entitled to vote to accept or reject the Plan.
Class 4 – Tranche A-2 Term Loan Secured Claims	**Treatment**. On the Effective Date, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for each Tranche A-2 Term Loan Secured Claim, each holder of Tranche A-2 Term Loan Secured Claim shall receive its *pro rata* share of 100% of the New Common Units (as defined below), unless such Holder exercises the Cash Election at the time of voting on the Plan, in which case such Holder shall receive Cash in the amount of 10% of such Holder's allowed Tranche A-2 Term Loan Secured Claim in lieu of receiving New Common Units under the Plan. **Voting**. Impaired; entitled to vote to accept or reject the Plan.
Class 5 –General Unsecured Claims	**Treatment**. On or as soon as reasonably practicable after the Effective Date (and subject to the allowance, objection, and distribution procedures set forth in the Plan and the Liquidating Trust Agreement), except to the extent that a holder agrees to less favorable treatment, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for each allowed General Unsecured Claim, each holder of any such Claim shall receive its *pro rata* share

	of: (a) if Class 5 votes to accept the Plan, the Liquidating Trust Distributable Assets, which shall consist of $4 million Cash and the Liquidating Trust Note, less the Liquidating Trust Expenses and any deductions pursuant to the Liquidating Trust Assets Deduction Procedures. Provided further that, if Class 5 votes to accept the Plan, the Tranche A-1 Term Loan Deficiency Claims and the Tranche A-2 Term Loan Deficiency Claims shall not receive, and shall waive the right to receive, distributions under Class 5 of the Plan and the Reorganized Debtors shall reconcile the Class 5 Claims and pay certain expenses related thereto pursuant to Article VII.B of the Plan; or, (b) if Class 5 votes to reject the Plan, the Liquidating Trust Distributable Note, less the Liquidating Trust Expenses and any deductions pursuant to the Liquidating Trust Assets Deduction Procedures. Provided further that, if Class 5 votes to reject the Plan, the Tranche A-1 Term Loan Deficiency Claims and the Tranche A-2 Term Loan Deficiency Claims shall receive distributions under Class 5 of the Plan, and the Liquidating Trustee shall reconcile the Class 5 Claims and pay all expenses related thereto pursuant to Article VII.B of the Plan. **Voting**. Impaired; entitled to vote to accept or reject the Plan.
Class 6 – Intercompany Claims	**Treatment**. Each Intercompany Claim shall either be (a) reinstated as of the Effective Date or (b) cancelled, in which case no distribution shall be made on account of such Intercompany Claim, in each case as determined by the Debtors. **Voting**. Deemed to accept the Plan; not entitled to vote to accept or reject the Plan.
Class 7 – Existing Equity Interests in Payless	**Treatment**. All Existing Equity Interests in Payless, whether represented by stock, preferred share purchase rights, warrants, options, membership units or otherwise, will be cancelled, released, and extinguished and the Holders of such Existing Equity Interests will receive no distribution under the Plan on account thereof. **Voting**. Impaired; deemed to reject the Plan.
Class 8 –Intercompany Interests	**Treatment**. Each Intercompany Interest shall either be (a) reinstated as of the Effective Date or (b) cancelled, in which case no distribution shall be made on account of such Intercompany Interest, in each case as determined by the Debtors. **Voting**. Deemed to accept the Plan; not entitled to vote to accept or reject the Plan.

C. POST-EMERGENCE CAPITAL STRUCTURE

The Debtors' capital structure at emergence will consist of:

- **New First Lien Facility and New Second Lien Facility** of [$65,000,000].
- **New Common Units** of [x] units of Reorganized Payless.

D. CERTAIN MEANS FOR IMPLEMENTATION OF THE PLAN

1. Restructuring Transactions

The Plan provides that, on the Effective Date or as soon as reasonably practicable thereafter, the Reorganized Debtors may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including: (a) the execution and delivery of appropriate agreements, certificates or other documents or instruments of merger, consolidation, conversion, or reorganization containing terms that are consistent with the terms of the Plan and that satisfy the requirements of applicable law; (b) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any property, right, liability, duty, or obligation on terms consistent with the terms of the Plan; (c) the filing of appropriate certificates or articles of incorporation, merger, conversion, or consolidation with the appropriate governmental authorities pursuant to applicable law; and (d) all other actions that the Reorganized Debtors determine are necessary or appropriate.

Under the Plan the Debtors are authorized but not directed to, in an orderly manner, abandon, dissolve, liquidate or cause to be liquidated any Debtor entities, subsidiaries or Affiliates as the Debtors decide would be in the best interests of the Estates, provided however, that with respect to the Canadian Debtors, such action shall be subject to an order of the Canadian Court during the pendency of the Canadian Proceedings.

2. The New First Lien Facility

On the Effective Date, the Reorganized Debtors will enter into definitive documentation, with respect to the New First Lien Facility in an aggregate amount up to $[35] million as a first lien facility. No New First Lien Debt shall be secured by any of the assets of the CA Loan Parties.

Confirmation of the Plan shall be deemed to constitute approval of the New First Lien Facility and the New First Lien Facility Documents (including all transactions contemplated thereby and all actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtors in connection therewith, including the payment of all fees, indemnities, and expenses provided for therein) and, subject to the occurrence of the Effective Date, authorization for the Reorganized Debtors to enter into and perform their obligations under the New First Lien Facility Documents and such other documents as may be reasonably required or appropriate, in each case, in accordance with the New First Lien Facility Documents.

On the Effective Date, the New First Lien Facility Documents shall constitute legal, valid, binding, and authorized obligations of the Reorganized Debtors, enforceable in accordance with their terms. The financial accommodations to be extended pursuant to the New First Lien Facility Documents are being extended, and shall be deemed to have been extended, in good faith, for legitimate business purposes, are reasonable, shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever, and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any other applicable non-bankruptcy law. On the Effective Date, all of the liens and security interests to be granted in accordance with the New First Lien Facility Documents (a) shall be legal, binding, and enforceable liens on, and security interests in, the collateral granted thereunder in accordance with the terms of the New First Lien Facility Documents, (b) shall be deemed automatically attached and perfected on the Effective Date, subject only to such liens and security interests as may be permitted under the New First Lien Facility Documents, and (c) shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any applicable non bankruptcy law. The Reorganized Debtors and the Entities granted such liens and security interests are authorized to make all filings and recordings, and to obtain all

governmental approvals and consents necessary to establish, attach, and perfect such liens and security interests under the provisions of the applicable state, provincial, federal, or other law (whether domestic or foreign) that would be applicable in the absence of the Plan and the Confirmation Order (it being understood that perfection shall occur automatically by virtue of the entry of the Confirmation Order, and any such filings, recordings, approvals, and consents shall not be required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such liens and security interests to third parties. To the extent that any Holder of a Secured Claim that has been satisfied or discharged in full pursuant to the Plan, or any agent for such Holder, has filed or recorded publicly any liens and/or security interests to secure such Holder's Secured Claim, then as soon as practicable on or after the Effective Date, such Holder (or the agent for such Holder) shall take any and all steps requested by the Debtors, the Reorganized Debtors, or any administrative agent under the New First Lien Facility Documents that are necessary to cancel and/or extinguish such liens and/or security interests.

3. The New Second Lien Facility

The New Second Lien Debt Commitment Party shall enter into the New Second Lien Debt Commitment Agreement with the Debtors to provide the second lien secured loan facility portion of the New Second Lien Facility in an amount of $[30] million. The New Second Lien Debt Commitment Agreement is subject to the liens of the New First Lien Facility. No New Second Lien Debt shall be secured by any of the assets of the CA Loan Parties.

Confirmation of the Plan shall be deemed to constitute approval of the New Second Lien Facility and the New Second Lien Facility Documents (including all transactions contemplated thereby and all actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtors in connection therewith, including the payment of all fees, indemnities, and expenses provided for therein) and, subject to the occurrence of the Effective Date, authorization for the Reorganized Debtors to enter into and perform their obligations under the New Second Lien Facility Documents and such other documents as may be reasonably required or appropriate, in each case, in accordance with the New Second Lien Facility Documents.

On the Effective Date, the New Second Lien Facility Documents shall constitute legal, valid, binding, and authorized obligations of the Reorganized Debtors, enforceable in accordance with their terms. The financial accommodations to be extended pursuant to the New Second Lien Facility Documents are being extended, and shall be deemed to have been extended, in good faith, for legitimate business purposes, are reasonable, shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever, and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any other applicable non-bankruptcy law. On the Effective Date, all of the liens and security interests to be granted in accordance with the New Second Lien Facility Documents (a) shall be legal, binding, and enforceable liens on, and security interests in, the collateral granted thereunder in accordance with the terms of the New Second Lien Facility Documents, (b) shall be deemed automatically attached and perfected on the Effective Date, subject only to such liens and security interests as may be permitted under the New Second Lien Facility Documents, and (c) shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any applicable non-bankruptcy law. The Reorganized Debtors and the Entities granted such liens and security interests are authorized to make all filings and recordings, and to obtain all governmental approvals and consents necessary to establish, attach, and perfect such liens and security interests under the provisions of the applicable state, provincial, federal, or other law (whether domestic or foreign) that would be applicable in the absence of the Plan and the Confirmation Order (it being understood that perfection shall occur automatically by virtue of the entry of the Confirmation Order, and any such filings, recordings, approvals, and consents shall not be required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such liens and security interests to third parties. To the extent that any Holder of a Secured Claim that has been satisfied or discharged in full pursuant to the Plan, or any agent for such Holder, has filed or recorded publicly any liens and/or security interests to secure such Holder's Secured Claim, then as soon as practicable on or after the Effective Date, such Holder (or the agent for such Holder) shall take any and all steps requested by the Debtors, the Reorganized Debtors, or any administrative agent under the New Second Lien Facility Documents that are necessary to cancel and/or extinguish such liens and/or security interests.

4. Cash Election Commitment

The Axar Entities and the Alden Entities have entered into the Cash Election Commitment Agreement, pursuant to which (i) Axar has committed to make the Axar Cash Election Payment, and (ii) with respect to any amount by which the aggregate amount of the Cash Election to be paid to the Cash Electors under the Plan exceeds the Axar Cash Election Payment, (a) the Alden Entities shall have an option to fund up to 50% of such amount, and (b) the Axar Entities shall fund 50% of such amount plus any amount for which the Alden Entities do not exercise the option to fund.

On the Effective Date, the Axar Entities and the Alden Entities shall receive, as applicable, the New Common Units that each Tranche A-2 Term Loan Lender that makes the Cash Election would have received had such Tranche A-2 Term Loan Lender not made the Cash

5. The CA Loan

Pursuant to the Plan, the CA Credit Agreement and any other applicable documentation related to the CA Loan shall be amended to ensure that interest in all Interest Periods (as defined in the CA Credit Agreement) following October 2, 2019 shall be paid in cash as currently provided in the CA Credit Agreement.

Further, amortization of the CA Loan shall occur following the Effective Date, payable on the first anniversary of the Effective Date and every six (6) months thereafter (or, if such date is not a business day, the business day immediately preceding such date), in an aggregate annual amount equal to 5% of the original principal amount in the year beginning with the first anniversary after the Effective Date and 10% for each year thereafter. The remaining aggregate principal amount of the CA Loan will be payable in full at maturity.

Covenants, events of default, and representations under the CA Credit Agreement will also be modified pursuant to the Plan.

6. Corporate Existence

Subject to any restructuring transactions as permitted under Article IV.B of the Plan, each Debtor shall continue to exist on and after the Effective Date as a separate corporation, limited liability company, partnership, or other form of entity, as the case may be, with all the powers of a corporation, limited liability company, partnership, or other form of entity, as the case may be, pursuant to the applicable law in the jurisdiction in which each applicable Debtor is incorporated or formed and pursuant to the respective certificate of incorporation and bylaws (or other similar formation and governance documents) in effect prior to the Effective Date, except to the extent such certificate of incorporation or bylaws (or other similar formation and governance documents) are amended by or in connection with the Plan or otherwise, and, to the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan and require no further action or approval (other than any requisite filings required under applicable state, provincial, or federal law).

As further provided in Article IV.B of the Plan, the Debtors are authorized to, in an orderly manner, abandon, dissolve, liquidate or cause to be liquidated any Debtor entities, subsidiaries or Affiliates as the Debtors decide would be in the best interests of the Estates.

7. Vesting of Assets in the Reorganized Debtors

Subject to Article IV.G of the Plan, and except as otherwise provided in the Plan or in any agreement, instrument, or other document incorporated in the Plan, on the Effective Date, all property in each Estate, all causes of action, and any property acquired by any of the Debtors pursuant to the Plan shall vest in each respective Reorganized Debtor, free and clear of all liens, Claims, charges, or other encumbrances. For the avoidance of doubt, the Reorganized Debtors shall have no property interest in the funds in the Liquidating Trust and such funds shall not be considered property of the Reorganized Debtors and any liens, charges, or other encumbrances granted under the Plan shall not extend to an interest in the funds held in the Liquidating Trust. On and after the Effective Date, except as otherwise provided in the Plan, each Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

8. Cancellation of Prepetition Term Loan Facility, Prepetition ABL Credit Facility, DIP Credit Agreement and Equity Interests

On the Effective Date, except as otherwise specifically provided for in the Plan: (a) the obligations of the Debtors under the Prepetition Term Loan Facility, the Prepetition ABL Credit Facility, the DIP Credit Facility, and any other certificate, equity security, share, note, bond, indenture, purchase right, option, warrant, or other instrument or document directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest in the Debtors giving rise to any Claim or Equity Interest (except such certificates, notes, or other instruments or documents evidencing indebtedness or obligation of or ownership interest in the Debtors that are reinstated pursuant to the Plan), shall be cancelled solely as to the Debtors and their Affiliates, and all documentation in respect of those enumerated facilities is terminated, except as expressly provided below, and the Reorganized Debtors and their Affiliates shall not have any continuing obligations thereunder; and (b) the obligations of the Debtors and their Affiliates pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificate or articles of incorporation or similar documents governing the shares, certificates, notes, bonds, indentures, purchase rights, any options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of or ownership interest in the Debtors (except such agreements, certificates, notes, or other instruments evidencing indebtedness or obligation of or ownership interest in the Debtors that are specifically reinstated pursuant to the Plan) shall be released and discharged. Notwithstanding the foregoing:

- The Prepetition Term Loan Facility shall continue in effect solely for the purpose of: (i) allowing Holders of the Prepetition Term Loan Claims to receive the distributions provided for under the Plan and distributions from the Canadian Debtors; (ii) allowing the Prepetition Term Loan Agent to receive distributions from the Debtors and the Canadian Debtors and to make further distributions to the Holders of such Claims on account of such Claims, as set forth in Article VI.A of the Plan, including any potential distributions based on liens that Holders of Class 4 Claims hold over intercompany receivables with the Canadian Debtors; (iii) allowing the Prepetition Term Loan Agent to seek to enforce its security against the Canadian Debtors; and (iv) preserving the Prepetition Term Loan Agents' right to indemnification pursuant and subject to the terms of the Prepetition Term Loan Facility in respect of any Claim or Cause of Action asserted against the Prepetition Term Loan Agents; *provided* that any Claim or right to payment on account of such indemnification shall be an Administrative Claim; and the Canadian Debtors shall cancel any post-petition intercompany receivables payable by the Debtors unless the Debtors elect to repay such receivable, subject to the lien of the Holders of Class 4 Claims.

- The Prepetition ABL Credit Facility and the DIP Facility shall continue solely for the purpose of preserving the rights of Wells Fargo, the DIP Agent and DIP Facility Agent and the DIP Lenders to indemnification pursuant to and subject to the respective agreements.

- The Prepetition Term Loan Facility Agent, the DIP Agent, and Wells Fargo, as collateral agent and administrative agent, for the Prepetition ABL Credit Facility, are authorized to execute any and all documentation necessary or desirable to evidence the termination of the Prepetition Term Loan Facility, the DIP Facility and the Prepetition ABL Credit Facility.

- The Debtors are authorized to file any necessary security interest and/or lien releases or terminations to evidence the termination of the Prepetition Term Loan Facility, the DIP Facility and the Prepetition ABL Credit Facility.

- The foregoing shall not affect the cancellation of units issued pursuant to the Plan nor any other units held by one Debtor in the capital of another Debtor.

9. Sources of Cash for Plan Distributions and Transfers of Funds Among Debtors

The Cash necessary for the Reorganized Debtors to make Cash payments required pursuant to the Plan will be funded from three sources: (1) proceeds from the New First Lien Facility and New Second Lien Facility; (2) Cash on hand as of the Effective Date; and (3) cash from the Axar Cash Election Payment and any other Cash to be paid by the Axar Entities and the Alden Entities under the Cash Election Commitment Agreement.

In making such Cash payments, the Debtors and the Reorganized Debtors will be entitled to transfer funds between and among themselves as they determine to be necessary or appropriate to enable the Reorganized Debtors to satisfy their obligations under the Plan. Except as set forth in the Plan, any changes in intercompany account balances resulting from such transfers will be accounted for and settled in accordance with the Debtors' historical intercompany account settlement practices and will not violate the terms of the Plan.

From and after the Effective Date, the Reorganized Debtors, subject to any applicable limitations set forth in any post-Effective Date financing, shall have the right and authority without further order of the Bankruptcy Court, to raise additional capital and obtain additional financing as the boards of directors of the applicable Reorganized Debtors deem appropriate.

10. Effectuating Documents and Further Transactions

The Debtors or the Reorganized Debtors, as applicable, may take all actions to execute, deliver, file, or record such contracts, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of the Plan, including, without limitation, the distribution of the securities to be issued pursuant hereto in the name of and on behalf of the Reorganized Debtors, without the need for any approvals, authorizations, actions, or consents except for those expressly required pursuant hereto. The secretary, any assistant secretary and any director of each Debtor shall be authorized to certify or attest to any of the foregoing actions. Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to the Plan that would otherwise require approval of the shareholders, directors, or members of the Debtors shall be deemed to have been so approved and shall be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the shareholders, directors, managers or partners of the Debtors, or the need for any approvals, authorizations, actions or consents.

11. Issuance of New Equity

(a) New Common Units

On the Effective Date, Reorganized Payless shall issue New Common Units in accordance with the terms of the Plan and the New Organizational Documents, without the need for any further corporate or member action.

Pursuant to the New Organizational Documents, Reorganized Payless will further be authorized, but not required, to issue New Incentive Units pursuant to the Management Incentive Plan.

Upon the Effective Date, (i) the New Common Units shall not be registered under the Securities Act, and shall not be listed for public trading on any securities exchange, and (ii) none of the Reorganized Debtors will be a reporting company under the Exchange Act. The New Common Units will be issued pursuant to section 1145 of the Bankruptcy Code or another available exemption from registration under the Securities Act, and the New Common Units may be resold without registration under the Securities Act or other applicable securities laws by the recipients thereof without further registration, subject to certain restrictions under the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act, if applicable, and affiliates under applicable securities laws. Transfers of New Common Units will not otherwise (i) require approval of the New Board or (ii) be subject to other restrictions except for (a) the obligation of transferees to become party to the New Operating Agreement and (b) the right of first refusal on certain transfers of New Common Units by Alden and Axar, as set forth in the New Operating Agreement.

The distribution of New Common Units pursuant to the Plan may be made by delivery of one or more certificates representing such new units as described herein, by means of book entry registration on the books of the transfer agent of New Common Units or by means of book entry exchange through the facilities of a transfer agent satisfactory to the Debtors in accordance with the customary practices of such agent, as and to the extent practicable.

(b) Tag, Drag and Preemptive Rights

Significant Holders shall have customary tag-along rights on transfers by either the Alden Entities (and their transferees) or the Axar Entities (and their transferees) of 25% or more of the Alden Entities or the Axar Entities respective holdings of New Common Units in a single transaction. The tag-along rights of any Significant

Holder shall be with respect to the percentage of its holdings equal to the percentage of the holdings of the Alden Entities or the Axar Entities that the Alden Entities or the Axar Entities seek to transfer. A Significant Holder shall retain its right to these customary tag-along rights so long as such Significant Holder owns at least 51% of the New Common Units that it owned as of the Effective Date (or acquired following the Effective Date at which time it became the holder of 5% or more of the New Common Units.)

All Holders of New Common Units shall have customary preemptive rights and other minority protections. In addition to rights to compel a sale of Reorganized Payless in Section IV.D.11, customary drag-along rights shall apply to the sale in a single transaction of a majority of the New Common Units which drag-along rights may be exercised in the first three years following the Effective Date by Holders of at least 75% of the issued and outstanding New Common Units and following the third anniversary of the Effective Date by Holders of a majority of the issued and outstanding New Common Units. Holders of New Common Units will not be required to make capital contributions to Reorganized Payless.

The foregoing shall be set forth in further detail in the New Organizational Documents.

(c) Private Companies

On the Effective Date, the Reorganized Debtors shall be private, non-SEC reporting companies.

12. Simultaneous and Future Transactions

(a) LatAm Business

Under the Plan, the LatAm Business shall be retained as property of the Reorganized Debtors as of the Effective Date, and all obligations of the Debtors' direct or indirect non-Debtor subsidiaries that own or control the LatAm Business shall remain outstanding and continue in effect.

(b) Royalty, Licensing, Service and Sourcing Agreements

All of the Debtors' royalty, licensing, services and sourcing agreements shall be assumed and retained as property of the Reorganized Debtors as of the Effective Date.

(c) Canadian Debtors

The Canadian Debtors are not plan proponents under the Plan. The Debtors or Reorganized Debtors shall cause the Canadian Debtors to bring forward a motion for approval of a plan of compromise or arrangement under the *CCAA* (the "CCAA Plan") in the Canadian Court. The CCAA Plan shall be in form and substance acceptable to the Prepetition Term Loan Agent, the Requisite Plan Support Parties, the Monitor, and the Canadian Debtors. In connection with implementation of the CCAA Plan: (a) the Prepetition Term Loan Agent shall consent to release its security over funds held by the Canadian Debtors in an amount to be determined, but which amount will provide a recovery to unsecured creditors of the Canadian Debtors on a similar *pro rata* basis as the recovery received by General Unsecured Creditors of the Debtors (the "Canadian GUC Amount"); (b) the Canadian Debtors will consent to the appointment of a receiver, upon application by the Prepetition Term Loan Agent, over the proceeds of the Canadian Postpetition Loans, once received by the Canadian Debtors, and any other funds provided therefore pursuant to the CCAA Plan, but excluding the Canadian GUC Amount; and (c) the Canadian Debtors will cancel the claims of the Debtors against the Canadian Debtors, or otherwise resolve such intercompany claims in a manner acceptable to the Debtors or the Reorganized Debtors and the Canadian Debtors.

(d) Collective Brands Logistics Limited

Collective Brands Logistics Limited and Payless Sourcing LLC are authorized, but not directed, to commence or continue the liquidation process of their business and assets (including deregistration, liquidation, dissolution, bankruptcy and/or abandonment of any of their direct or indirect subsidiaries, branches or representative offices) in any relevant courts in or otherwise as appropriate in the subject jurisdictions. [In exchange for the treatment of the Holders of General Unsecured Claims of Collective Brands Logistics Limited and Payless Sourcing LLC pursuant to Class 5 of this Plan, Collective Brands Logistics Limited and Payless Sourcing LLC shall be authorized (i) to assume and assign any executory contracts or unexpired leases pursuant to Section V, (ii) transfer

any shares of its direct or indirect subsidiaries, and (iii) transfer, and take any and all steps to transfer, any assets (including assets of any of its direct or indirect subsidiaries, branches or representative offices which assets include, without limitation, any real property leases or any rental deposits or prepaid expenses thereunder), in each instance free and clear of all liens, claims and encumbrances, to Dynamic Assets Limited and/or any of its direct or indirect subsidiaries, branches or representative offices under this Plan].

Collective Brands Logistics Limited and Payless Sourcing LLC are further authorized, but not directed, to reject that certain:

- Restated Joint Business Agreement dated December 21, 2016 between Payless Sourcing, LLC and Collective Brands Logistics Limited; and

- Declaration of Trust dated December 21, 2016 between Collective Brands Logistics, Limited as trustee and Payless Sourcing as beneficiary, and take any and all such steps as may be necessary to give effect to the rejection or unwinding of those agreements.

By this Plan, Collective Brands Logistics Limited and Payless Sourcing LLC are authorized, in their discretion, to (i) transfer, and take any and all steps to transfer, any, or all necessary, employees (including any contractors) of their direct or indirect subsidiaries, branches or representative offices to Dynamic Assets Limited and/or any of its direct or indirect subsidiaries, branches or representative offices, (ii) appoint, remove or replace any director, representative, branch manager or other office holder of their direct or indirect subsidiaries, branches or representative offices. Payless Sourcing LLC is further authorized to wind up or administratively deregister Collective Brands Services Limited ("CBSL"),[14] by (i) rejecting the CBIHL Declaration of Trust and (ii) commencing or continuing the liquidation process of CBSL and any of its business and assets (including deregistration, liquidation, dissolution, bankruptcy and/or abandonment of any of its direct or indirect subsidiaries, branches or representative offices.

All Intercompany Claims between Collective Brands Logistics Limited and Payless Sourcing LLC on the one hand, and the remaining Debtors on the other hand, shall be deemed released as of the Effective Date.

(e) Transactions with Affiliates

There shall be no Affiliate Transactions (as defined in the Plan) unless approved by all members of the New Board, excluding the New Board member designated by the applicable member (or its affiliate) that is party to the Affiliate Transaction. In addition, the New Board member designated by such applicable member shall be excluded from all deliberations on any such Affiliate Transaction. The foregoing shall be set forth in further detail in the New Organizational Documents.

(f) Compelled Sale of the Company

After the third anniversary of the Effective Date, either the Alden Entities or the Axar Entities (so long as the Alden Entities and the Axar Entities, respectively, own at least 51% of the New Common Units that it owned as of the Effective Date) may compel the Reorganized Debtors to sell all of their remaining assets through a competitive process managed by independent third-party financial advisors or investment bankers. After the fourth anniversary of the Effective Date, the Holders of at least 25% of the New Common Units (without regard to New Incentive Units) may compel the Reorganized Debtors to sell all of their remaining assets through a competitive process managed by independent third-party financial advisors or investment bankers.

The Axar Entities, the Alden Entities, the Invesco Entities, and the Octagon Entities shall have any right of first refusal or similar right to purchase any or all of the assets of the Reorganized Debtors, but each may submit proposals to purchase such assets, *provided*, *however*, that if any of the Axar Entities, the Alden Entities, the Invesco Entities, or the Octagon Entities participate in the sale process, such participant or participants shall be excluded

[14] Specifically, Payless Sourcing LLC is party to the Declaration of Trust dated November 26, 2016 between Collective Brands International Holdings, Limited II ("CBIHL") as trustee and Payless Sourcing LLC, as beneficiary, pursuant to which CBIHL holds shares in CBSL on trust for Payless Sourcing LLC (the "CBIHL Declaration of Trust").

from management of the process and will not have access to any advisors retained in connection with the process other than in its capacity as a bidding party. Any sale to any of the Axar Entities, the Alden Entities, the Invesco Entities, or the Octagon Entities will require the delivery of a fairness option by the third party financial advisor or investment bank retained to manage such sale.

The foregoing shall be set forth in further detail in the New Organizational Documents.

13. Section 1145 Exemption

Pursuant to section 1145 of the Bankruptcy Code and/or, to the extent that section 1145 of the Bankruptcy Code is unavailable, section 4(a)(2) of the Securities Act, and/or the safe harbor of Regulation D promulgated thereunder, or such other exemption as may be available from any applicable registration requirements, the offering, issuance, and distribution of any securities pursuant to the Plan shall be exempt from, among other things, the registration requirements of section 5 of the Securities Act to the maximum extent permitted thereunder and any other applicable law requiring registration by virtue of section 1145 of the Bankruptcy Code, prior to the offering, issuance, distribution, or sale of securities. In addition, to the maximum extent provided under section 1145 of the Bankruptcy Code, to the extent applicable, any and all New Common Units contemplated by the Plan will be freely tradable and transferable by any initial recipient thereof, subject to certain exceptions if the recipient (x) is an "affiliate" of the Reorganized Debtors (as defined in rule 144(a)(1) under the Securities Act), (y) has been such an "affiliate" within 90 days of such transfer, and (z) is an "underwriter" as defined in section 1145(b) of the Bankruptcy Code.

14. New Organizational Documents

On or immediately prior to the Effective Date, the organizational documents of each of the Debtors shall be amended and restated, as may be necessary to effectuate the transactions contemplated by the Plan, in a manner consistent with section 1123(a)(6) of the Bankruptcy Code and shall otherwise be satisfactory to the Requisite Consenting Lenders. Each of the Reorganized Debtors will file its New Organizational Documents with the applicable Secretaries of State and/or other applicable authorities in its respective state, province, or country of incorporation in accordance with the corporate laws of the respective state, province, or country of incorporation. The New Organizational Documents will prohibit the issuance of non-voting equity securities, to the extent required under section 1123(a)(6) of the Bankruptcy Code.

15. Exemption from Certain Transfer Taxes and Recording Fees

To the fullest extent permitted by section 1146(a) of the Bankruptcy Code, any transfer of property from a Debtor to a Reorganized Debtor or to any Entity pursuant to, in contemplation of, or in connection with the Plan or pursuant to: (1) the issuance, distribution, transfer, or exchange of any debt, securities, or other interest in the Debtors or the Reorganized Debtors; (2) the creation, modification, consolidation, or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means; (3) the making, assignment, or recording of any lease or sublease; (4) the grant of collateral as security for any or all of the New First Lien Facility and New Second Lien Facility, as applicable; or (5) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, sales or use tax, or other similar tax or governmental assessment, and the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment. All filing or recording officers (or any other Person with authority over any of the foregoing), wherever located and by whomever appointed, shall comply with the requirements of section 1146(c) of the Bankruptcy Code, shall forgo the collection of any such tax or governmental assessment, and shall accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

16. Directors and Officers of Reorganized Payless and Other Reorganized Debtors

On the Effective Date, the board shall consist of the following Initial Directors: (i) one director and/or manager appointed by Axar, (ii) one director and/or manager appointed by Alden, (iii) one director and/or manager jointly appointed by Invesco and Octagon, and (iv) an Independent Director and/or manager jointly appointed by Axar, Alden, Octagon, and Invesco no later than ten (10) days prior to the deadline to object to confirmation of this Plan (the "New Board"). As set forth in the New Organizational Documents, in the event Invesco and Octagon, together with their respective affiliates, cease to hold any New Common Units, the Independent Director's seat on the New Board shall be filled through annual election by the Holders of a majority of the New Common Units, and such director shall have industry experience, and shall be independent and have no prior or current relationship with any of the remaining original designees.

The full processes for election of members of the New Board and replacement of members of the New Board will be provided for in the New Operating Agreement. For so long as the New Board is composed of four directors, to the extent a decision or action of Reorganized Payless is approved by two members of the New Board, and two members of the New Board oppose a decision or action, such decision or action may, at the request of the members of the New Board approving such action, be put to a vote of Holders of issued and outstanding New Common Units, and if approved by Holders of at least 90% of the issued and outstanding New Common Units, shall be deemed approved; provided that, in the event Invesco and Octagon collectively cease to hold any New Common Units but the New Board continues to be comprised of four directors the foregoing reference to 90% shall be reduced to 75%.

The following are decisions and actions that, if approved by the New Board acting by less than unanimous consent, will require approval of holders of at least 75% of the issued and outstanding New Common Units: (i) the sale of the LatAm Business, (ii) the consummation by Reorganized Payless of a transaction resulting in a change of control of Reorganized Payless, (iii) the acquisition by Reorganized Payless of another unaffiliated entity or business, whether via merger, the acquisition of equity or the assets of such entity, which transaction has a purchase price in an amount greater than 25% of the equity value of Reorganized Payless at such time (prior to consummation of such transaction), (iv) the sale or disposition by Reorganized Payless of assets of Reorganized Payless outside of the ordinary course of business for a sale price greater than 25% of the equity value of Reorganized Payless at such time (prior to consummation of such sale or disposition), (v) a fundamental change to the nature of Reorganized Payless's business, and (vi) the issuance of more than 20% of New Common Units (subject to certain customary issuance exceptions as apply to preemptive rights referenced above), provided, however that the foregoing approvals shall not apply to a compelled sale of Reorganized Payless as set forth in the Plan.

So long as the Octagon Entities continue to own at least 51% of the New Common Units that they owned as of the Effective Date, Octagon shall have New Board observation rights. So long as the Invesco Entities continue to own at least 51% of the New Common Units that they owned as of the Effective Date, Invesco shall have New Board observation rights.

The foregoing shall be set forth in additional detail in the New Organizational Documents.

17. Preservation of Causes of Action

In accordance with section 1123(b) of the Bankruptcy Code, but subject to Article IX of the Plan, the Reorganized Debtors shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, and the Reorganized Debtors' rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date, other than the Causes of Action released by the Debtors pursuant to the releases and exculpations contained in the Plan, including Article IX. The Reorganized Debtors may pursue such Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtors. **No Entity may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Cause of Action against it as any indication that the Debtors or the Reorganized Debtors, as applicable, will not pursue any and all available Causes of Action against it. The Debtors or the Reorganized Debtors, as applicable, expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan, including Article IV.P and Article IX of the Plan.** Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Bankruptcy Court

order, the Reorganized Debtors expressly reserve all Causes of Action, for later adjudication, and, therefore no preclusion doctrine, including the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise) or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or the Effective Date.

The Reorganized Debtors reserve and shall retain the Causes of Action notwithstanding the rejection or repudiation of any Executory Contract or Unexpired Lease during the Chapter 11 Cases or pursuant to the Plan. In accordance with section 1123(b)(3) of the Bankruptcy Code, any Causes of Action that a Debtor may hold against any Entity shall vest in the applicable Reorganized Debtor, except as otherwise expressly provided in the Plan. The applicable Reorganized Debtors, through their authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action. The Reorganized Debtors shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order or approval of the Bankruptcy Court.

18. Directors and Officers Insurance Policies and Agreements

Notwithstanding anything in the Plan to the contrary, effective as of the Effective Date, the Reorganized Debtors shall be deemed to have assumed all unexpired D&O Liability Insurance Policies with respect to the Debtors' directors, managers, officers, and employees serving on or prior to the Petition Date pursuant to section 365(a) of the Bankruptcy Code. Entry of the Confirmation Order will constitute the Bankruptcy Court's approval of the Reorganized Debtors' assumption of each of the unexpired D&O Liability Insurance Policies. Notwithstanding anything to the contrary contained in the Plan, Confirmation of the Plan shall not discharge, impair, or otherwise modify any indemnity obligations assumed by the foregoing assumption of the D&O Liability Insurance Policies, and each such indemnity obligation will be deemed and treated as an Executory Contract that has been assumed by the Reorganized Debtors under the Plan as to which no Proof of Claim need be filed.

After the Effective Date, the Reorganized Debtors shall not terminate or otherwise reduce the coverage under any D&O Liability Insurance Policy (including such tail coverage liability insurance) in effect and all members, managers, directors, and officers of the Debtors or the Canadian Debtors who served in such capacity at any time prior to the Effective Date of the Plan shall be entitled to the full benefits of any such policy for the full term of such policy regardless of whether such members, managers, directors, and/or officers remain in such positions after the Effective Date of the Plan.

On the Effective Date, the Reorganized Debtors shall purchase a customary D&O tail policy.

On the Effective Date, Reorganized Payless will enter into indemnification agreements with each of the members of the New Board, with such indemnification agreements being in form acceptable to Alden, Axar, Invesco, and Octagon.

19. Compensation and Benefits Programs

Unless otherwise provided herein or in the Confirmation Order, or any applicable agreements binding on the Debtors, all employee wages, compensation, and benefit programs in place as of the Effective Date with the Debtors shall be assumed by the Reorganized Debtors and shall remain in place as of the Effective Date, and the Reorganized Debtors will continue to honor such agreements, arrangements, programs, and plans. Notwithstanding the foregoing, pursuant to section 1129(a)(13) of the Bankruptcy Code, from and after the Effective Date, all retiree benefits (as such term is defined in section 1114 of the Bankruptcy Code), if any, shall continue to be paid in accordance with applicable law.

(a) Management Incentive Plan

Promptly on or as soon as practicable after the Effective Date, the New Board will adopt and implement the Management Incentive Plan (the "Management Incentive Plan"), the terms of which shall be in form and substance acceptable to the Requisite Plan Support Parties and approved by the New Board. The New Board will determine the number of New Incentive Units to be available for award under the Management Incentive Plan and the allocation of New Incentive Units, if any.

(b) Continuation of Retiree Benefits

The Reorganized Debtors' obligations with respect to the payment of "retiree benefits" (as that term is defined in section 1114(a) of the Bankruptcy Code) shall continue for the duration of the periods the Debtors have obligated themselves to provide such benefits, if any, subject to any contractual rights to terminate or modify such benefits. All rights of the Reorganized Debtors with respect to such obligations are fully reserved.

(c) Workers' Compensation Programs

As of the Effective Date, the Debtors and the Reorganized Debtors shall continue to honor their obligations under: (i) all applicable workers' compensation laws in states in which the Reorganized Debtors operate; and (ii) the Debtors' written contracts, agreements, agreements of indemnity, self-insurer workers' compensation bonds, policies, programs, and plans for workers' compensation and workers' compensation insurance, including without limitation, any Insurance Policies providing workers' compensation insurance coverage to the Debtors. Notwithstanding the foregoing, the Debtors and Reorganized Debtors reserve the right to object to Claims asserted pursuant to applicable workers' compensation programs and to seek to reduce any bonds, letters of credit, or other security related to such programs.

All Proofs of Claims on account of workers' compensation shall be deemed withdrawn automatically and without any further notice to or action, order, or approval of the Bankruptcy Court; *provided, however*, that nothing in the Plan shall limit, diminish, or otherwise alter the Debtors' or Reorganized Debtors' defenses, Causes of Action, or other rights under applicable non-bankruptcy law with respect to any such contracts, agreements, policies, programs and plans, and all rights of the Reorganized Debtors with respect to such obligations are fully reserved; *provided, further*, that nothing herein shall be deemed to impose any obligations on the Debtors in addition to what is provided for under applicable state law.

20. Transaction Expenses[15]

On the Effective Date, the Debtors shall pay in full in Cash the Transaction Expenses.

21. Additional Governance and Related Terms

The New Organizational Documents will reflect such additional governance and related terms regarding the Reorganized Debtors as set forth in the Corporate Governance Term Sheet, including, without limitation, with respect to management of the Reorganized Debtors, the structure, designation, replacement, and voting requirements of the New Board, and certain other corporate governance terms.

E. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

1. Assumption and Rejection of Executory Contracts and Unexpired Leases, Generally

On the Effective Date, executory contracts and unexpired leases listed on the Schedule of Assumed Executory Contracts and Unexpired Leases filed with the Plan Supplement shall be assumed. The Debtors are deemed to reject any unexpired executory contracts unexpired leases not expressly assumed on the Schedule of Assumed Executory Contracts and Unexpired Leases. The Debtors shall have the right to remove any executory contracts and unexpired leases from the Schedule of Assumed Executory Contracts and Unexpired Leases at any time prior to the Effective Date, and any such removed executory contracts and unexpired leases shall be deemed rejected as of the Effective Date.

Entry of the Confirmation Order by the Bankruptcy Court shall, subject to and upon the occurrence of the Effective Date, constitute a Bankruptcy Order approving the assumptions or rejections of the Executory Contracts and Unexpired Leases assumed or rejected pursuant to the Plan. Each Executory Contract and Unexpired Lease assumed pursuant to Article V.A of the Plan or by any order of the Bankruptcy Court shall be vested in and be fully

[15] Under the Plan, transaction expenses means any outstanding fees and expenses of the Plan Support Parties, including all outstanding fees and expenses of Kramer Levin Naftalis & Frankel LLP, Doster Ullom & Boyle LLC, AlixPartners, Houlihan Lokey, Dechert LLP, Carmody MacDonald P.C., and Strook & Strook & Lavan LLP (the "Transaction Expenses").

enforceable by the Reorganized Debtors in accordance with its terms, unless otherwise agreed by the Debtors and the applicable counterparty to the Executory Contract or Unexpired Lease, and except as such terms are modified by any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal law.

2. Indemnification Obligations

On the Effective Date, except as otherwise provided by the Plan, all indemnification provisions, consistent with applicable law and in effect as of the Petition Date, (whether in the bylaws, certificates of incorporation or formation, limited liability company agreements, other organizational documents, board resolutions, indemnification agreements, employment contracts, or otherwise) for the current directors, officers, managers, employees, attorneys, accountants, investment bankers, and other professionals of the Debtors, as applicable, shall be assumed, which assumption shall be irrevocable, and shall survive the Effective Date.

3. Directors and Officers Insurance Policies and Agreements

Pursuant to Article IV.Q of the Plan, notwithstanding anything in the Plan to the contrary, effective as of the Effective Date, the Reorganized Debtors shall be deemed to have assumed all unexpired D&O Liability Insurance Policies.

4. Insurance Policies and Surety Bonds

Notwithstanding anything to the contrary in the Disclosure Statement, the Plan, the Plan Supplement, the New First Lien Facility Documents and New Second Lien Facility Documents, the Confirmation Order, the Claims Bar Date Order, any Claim objection, any other document related to any of the foregoing, or any other order of the Bankruptcy Court (including, without limitation, any other provision that purports to be preemptory or supervening, grants an injunction or release, confers Bankruptcy Court jurisdiction, or requires a party to opt out of any releases): (a) on the Effective Date, the Reorganized Debtors shall be deemed to have assumed all Insurance Policies (other than the D&O Liability Insurance Policies, which shall receive the treatment set forth in Article V.C of the Plan) and all obligations thereunder, regardless of when they arise; and (b) except as set forth in Article V.C of the Plan, nothing (x) alters, modifies, or otherwise amends the terms and conditions of (or the coverage provided by) any of such Insurance Policies or (y) alters or modifies the duty, if any, that the insurers or third-party administrators have to pay claims covered by such Insurance Policies and their right to seek payment or reimbursement from the Debtors (or after the Effective Date, the Reorganized Debtors) or draw on any collateral or security therefor. For the avoidance of doubt, insurers and third-party administrators shall not need to nor be required to file or serve a Cure objection or a request, application, Claim, Proof of Claim, or motion for payment and shall not be subject to any Claims Bar Date or similar deadline governing Cure Claims or Claims.

Notwithstanding any other provision of the Plan, on the Effective Date, (1) all of the Debtors' obligations and commitments to any surety bond provider, including without limitation, obligations under any related indemnity agreements, shall be deemed reaffirmed and shall be continuing obligations of the Reorganized Debtors; (2) all bonded obligations of the Debtors for which such surety bonds secure performance by the Debtors shall be deemed assumed by the Debtors and shall be unimpaired by the Plan or Confirmation Order; and (3) to the extent any of the obligations and commitments set forth in this provision are secured by collateral, such collateral shall remain in place. Nothing in the Plan or Confirmation Order shall be deemed to (1) modify or impair the rights of any party under the Debtors' surety bonds, related indemnity agreements, or applicable law; (2) require any surety bond provider to issue any new surety bonds or extensions or renewals of any surety bonds; or (3) affect the sureties' respective rights (only to the extent such rights exist with respect to the surety bonds, indemnity agreements or under applicable law) to require the Reorganized Debtors to execute and deliver to the Sureties new indemnity agreements containing such new or additional terms as the Sureties may require in their discretion. Notwithstanding the foregoing, the Debtors and Reorganized Debtors reserve the right to object to the Claims secured by such surety bond and seek to reduce such surety bonds in accordance with the objections.

5. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases and Claims Based on Rejection of Executory Contracts and Unexpired Leases

The Debtors shall file the Schedule of Assumed Executory Contracts and Unexpired Leases (including the proposed Cure Claim amounts) with the Plan Supplement. Any monetary defaults under each Executory Contract

and Unexpired Lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the default amount in Cash on the Effective Date, subject to the limitation described below, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute between the Debtors and a counterparty to any Executory Contracts or Unexpired Leases that is not resolved between the parties regarding (1) the amount of any payments to cure such a default, (2) the ability of the Reorganized Debtors or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or (3) any other matter pertaining to assumption, the Cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order or orders resolving the dispute and approving the assumption, which Final Order or orders may, for the avoidance of doubt, be entered (and any related hearing may be held) after the Effective Date.

The Debtors will cause notices of proposed assumption and proposed Cure Claims to be served by overnight delivery service upon the applicable contract counterparty affected by such notices and by email upon counsel of record for the applicable contract counterparty, if any. Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assumption or related Cure Claim must be filed, served, and actually received by the Debtors no later than fourteen (14) days after service of the notice of proposed assumption and proposed Cure Claims. Any such objections will be scheduled to be heard by the Bankruptcy Court at the Debtors' or Reorganized Debtors', as applicable, first scheduled omnibus hearing after which such objection is timely filed. Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed assumption or Cure Claim will be deemed to have assented to such assumption or Cure Claim. To the extent any such dispute regarding the assumption of an Executory Contract or Unexpired Lease is not consensually resolved by the parties or otherwise resolved prior to the Effective Date, such assumption will be deemed to occur retroactively to the date of the Confirmation Hearing if approved by the Bankruptcy Court. To the extent any such dispute regarding the assumption of an Executory Contract or Unexpired Lease is not consensually resolved by the parties or otherwise resolved prior to the Effective Date, such assumption will be deemed to occur retroactively to the date of the Confirmation Hearing if approved by the Bankruptcy Court. Notwithstanding the foregoing, all landlords' rights to recover amounts which have accrued or come due between the Cure objection deadline and the effective date of assumption are reserved.

Any Cure Claim shall be deemed fully satisfied, released, and discharged upon payment by the Debtors of any one of the following: (1) amounts listed on the Debtors' Schedule of Assumed Executory Contracts and Unexpired Leases (if no objections to the Cure Claim is filed within the applicable objection period), (2) amounts agreed to by the Debtors and the applicable counterparty, or (3) amounts as ordered by the Bankruptcy Court; provided, however, that nothing shall prevent the Reorganized Debtors from paying any Cure despite the failure of the relevant counterparty to file such request for payment of such Cure. The Reorganized Debtors may settle any Cure without any further notice to or action, order, or approval of the Bankruptcy Court.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including, without limitation, defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the Effective Date.

Any Proofs of Claim filed with respect to an Executory Contract, Unexpired Lease, or Insurance Policy that has been assumed pursuant to the provisions of the Plan shall be deemed satisfied upon the Debtors' curing of any and all defaults related thereto, without further notice to or action, order, or approval of the Bankruptcy Court.

Unless otherwise provided by a Final Order of the Bankruptcy Court, all Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, pursuant to the Plan or the Confirmation Order, if any, must be filed with the Bankruptcy Court within thirty (30) days after the earliest to occur of (1) the date of entry of an order of the Bankruptcy Court (including the Confirmation Order) approving such rejection, (2) if applicable, the effective date of such rejection set forth in the Debtors' corresponding notice of rejection, or (3) the Effective Date. **Any Claims arising from the rejection of an Executory Contract or Unexpired Lease not filed with the Bankruptcy Court within the earliest applicable deadline will be**

automatically disallowed, forever barred from assertion, and shall not be enforceable against the Debtors or the Reorganized Debtors, the Estates, or their property without the need for any objection by the Reorganized Debtors or further notice to, or action, order, or approval of the Bankruptcy Court or any other Entity, and any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully satisfied, released, and discharged, notwithstanding anything in the Schedules or a Proof of Claim to the contrary.

6. Preexisting Obligations to the Debtors Under Executory Contracts and Unexpired Leases

Rejection of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall not constitute a termination of preexisting obligations owed to the Debtors or the Reorganized Debtors, as applicable, under such Executory Contracts or Unexpired Leases. In particular, notwithstanding any non-bankruptcy law to the contrary, the Reorganized Debtors expressly reserve and do not waive any right to receive, or any continuing obligation of a counterparty to provide, warranties or continued maintenance obligations on goods previously purchased by the Debtors contracting from non-Debtor counterparties to rejected Executory Contracts or Unexpired Leases.

7. Modifications, Amendments, Supplements, Restatements, or Other Agreements

Unless otherwise provided in the Plan, each Executory Contract or Unexpired Lease that is assumed shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and Executory Contracts and Unexpired Leases related thereto, if any, including easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated or is rejected or repudiated under the Plan.

Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtors during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection therewith.

8. Contracts and Leases Entered Into After the Petition Date

Contracts and leases entered into after the Petition Date by any Debtor, including any Executory Contracts and Unexpired Leases assumed by such Debtor, and any agreements entered into with creditors pursuant to the interim and final orders authorizing the Debtors to pay prepetition claims of critical vendors, carriers, warehousemen, and section 503(b)(9) claimants, will be performed by the applicable Debtor or the Reorganized Debtor liable thereunder in the ordinary course of its business. Accordingly, such contracts and leases (including any assumed Executory Contracts and Unexpired Leases) will survive and remain unaffected by entry of the Confirmation Order.

9. Reservation of Rights

Neither the exclusion nor inclusion of any Executory Contract or Unexpired Lease on the Schedule of Assumed Executory Contract and Unexpired Leases, nor anything contained in the Plan, shall constitute an admission by the Debtors that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that any of the Reorganized Debtors has any liability thereunder. If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Debtors or the Reorganized Debtors, as applicable, shall have 30 days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease under the Plan.

10. Nonoccurrence of Effective Date

In the event that the Effective Date does not occur, the Bankruptcy Court shall retain jurisdiction with respect to any request to extend the deadline for assuming or rejecting Unexpired Leases pursuant to section 365(d)(4) of the Bankruptcy Code.

F. DISTRIBUTIONS ON ACCOUNT OF CLAIMS

1. Claims Allowed as of the Effective Date

Except as otherwise provided in the Plan, a Final Order, or as agreed to by the relevant parties, the Reorganized Debtors shall make initial distributions under the Plan on account of Allowed Claims (other than Class 5 Claims) as soon as practicable after the Initial Distribution Date; provided, however, notwithstanding anything else to the contrary, that distributions under the Plan to Class 3 and Class 4 shall take place on the Effective Date.

2. The Liquidating Trust

(a) Formation of the Liquidating Trust

(i) On the Effective Date, the Liquidating Trust will be established pursuant to the Liquidating Trust Agreement and become effective for the sole purpose of liquidating and administering the Liquidating Trust Assets and making distributions to Holders of Class 5 Claims as provided for under the terms of the Plan in accordance with Treas. Reg. § 301.7701-4(d).

(ii) The Liquidating Trust shall have a separate existence from the Debtors. On the Effective Date, the Liquidating Trust Assets shall be transferred into the Liquidating Trust. The Confirmation Order shall provide that the Reorganized Debtors shall not have a property interest in the Liquidating Trust and such assets shall not be considered property of the Reorganized Debtors and any liens, charges, or other encumbrances granted under the Plan shall not extend to an interest in the funds held in the Liquidating Trust. The Liquidating Trust shall not be deemed a successor in interest of the Debtors for any purpose other than as specifically set forth herein or in the Liquidating Trust Agreement.

(iii) Subject to, and to the extent set forth in the Plan, the Confirmation Order, the Liquidating Trust Agreement or other agreement (or any other order of the Bankruptcy Court pursuant to, or in furtherance of, the Plan), the Liquidating Trust Agreement shall contain provisions customary to trust agreements utilized in comparable circumstances, including, without limitation, any and all provisions necessary to ensure the continued treatment of the Liquidating Trust as a grantor trust and the Liquidating Trust Beneficiaries as the grantors and owners thereof for federal income tax purposes. The Liquidating Trust Agreement may provide powers, duties, and authorities in addition to those explicitly stated herein, but only to the extent that such powers, duties, and authorities do not affect the status of the Liquidating Trust as a "liquidating trust" for United States federal income tax purposes.

(iv) The Liquidating Trust has no objective to, and will not, engage in a trade or business and will conduct its activities consistent with the Plan and the Liquidating Trust Agreement.

(v) On the Effective Date, the Liquidating Trustee, on behalf of the Debtors, shall execute the Liquidating Trust Agreement and shall take all other steps necessary to establish the Liquidating Trust pursuant to the Liquidating Trust Agreement and consistent with the Plan.

(vi) The Liquidating Trust and the Liquidating Trustee will each be a representative of the Estates with respect to the Liquidating Trust Assets under Bankruptcy Code section 1123(b)(3)(B), and the Liquidating Trustee will be the trustee of the Liquidating Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), and, as such, the Liquidating Trustee succeeds to all of the rights, powers and obligations of a trustee in bankruptcy with respect to collecting, maintaining, administering and liquidating the Liquidating Trust Assets.

(vii) On the Effective Date, and in accordance with sections 1123 and 1141 of the Bankruptcy Code and pursuant to the terms of the Plan, all title and interest in all of the Liquidating Trust Assets, as well as the rights and powers of each Debtor in such Liquidating Trust Assets, shall automatically vest in the Liquidating Trust, free and clear of all Claims and Interests for the benefit of the Liquidating Trust Beneficiaries. Upon the transfer of the Liquidating Trust Assets, the Debtors shall have no interest in or with respect to the Liquidating Trust Assets or the Liquidating Trust. Upon delivery of the Liquidating Trust Assets to the Liquidating Trust, the Debtors and their predecessors, successors and assigns, shall be discharged and released from all liability with respect to the delivery of such distributions and shall have no reversionary or further interest in or with respect to the Liquidating Trust Assets or the Liquidating Trust. Notwithstanding the foregoing, for purposes of section 553 of the Bankruptcy Code, the transfer of the Liquidating Trust Assets to the Liquidating Trust shall not affect the mutuality of obligations which otherwise may have existed prior to the effectuation of such transfer. Such transfer shall be exempt from any stamp, real estate transfer, mortgage reporting, sales, use, or other similar tax, pursuant to section 1146(a) of the Bankruptcy Code. The Liquidating Trustee shall agree to accept and hold the Liquidating Trust Assets in the Liquidating Trust for the benefit of the Liquidating Trust Beneficiaries, subject to the terms of the Plan and the Liquidating Trust Agreement.

(b) The Liquidating Trustee

The Liquidating Trustee will be the exclusive trustee of the Liquidating Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate of each of the Debtors appointed pursuant to Bankruptcy Code section 1123(b)(3)(B). The duties and powers of the Liquidating Trustee shall include all powers necessary to implement the Plan and to administer the Liquidating Trust Assets, including, without limitation, the duties and powers listed within the Plan. The powers, rights and responsibilities of the Liquidating Trustee will be specified in the Liquidating Trust Agreement. The Liquidating Trustee will have the right and authority, without the need for Bankruptcy Court approval (unless otherwise indicated), to distribute the Liquidating Trust Assets and to carry out and implement other actions in accordance with the provisions of the Plan and the Liquidating Trust Agreement.

(c) Liquidating Trust Assets Deduction Procedures

The Liquidating Trust Assets shall be decreased, by the amount of (i) the professional fees and expenses of the professionals for the Creditors' Committee above the Debtors' budgeted amounts set forth in the budget attached as Exhibit A to the *Amended Final Order Pursuant to 11 U.S.C. §§105, 361, 362, 363, 364, 507 and 552 (1) Authorizing Use of Cash Collateral, (2) Granting Adequate Protection, and (3) Modifying Automatic Stay* [Docket No. 1428] to the extent incurred on or after September 1, 2019, plus (ii) professional fees and expenses of the professionals for the Creditors' Committee to the extent incurred on or after September 1, 2019 related to objections by the Creditors' Committee to the Plan or Disclosure Statement, including related discovery, plus (iii) to the extent incurred on or after September 1, 2019, fees and expenses of all other estate-compensated professionals incurred in response to the Creditors' Committee objections and discovery described in item (ii) above. All deductions made pursuant to these Liquidating Trust Assets Deduction Procedures will be made first from any Cash allocation portion of the Liquidating Trust Assets, then from any other portion of the Liquidating Trust Assets.

(d) Fees and Expenses of the Liquidating Trust

The Liquidating Trust Expenses will be paid out of the Liquidating Trust Assets, except as provided in Article VII.B. of the Plan. The Liquidating Trustee, on behalf of the Liquidating Trust, may, without further order of the Bankruptcy Court, retain third-party professionals to assist in carrying out its duties hereunder and may compensate and reimburse the expenses of these professionals without further order of the Bankruptcy Court from the Liquidating Trust Assets.

(e) Tax Treatment

The Liquidating Trust is intended to qualify as a liquidating trust within the meaning of Treasury Regulations section 301.7701-4(d), for the benefit of the Holders of Class 5 Claims entitled to distributions, and otherwise as one or more disputed ownership funds within the meaning of Treasury Regulations section 1.468B-9(b)(1). Accordingly, for all federal income tax purposes the transfer of the Liquidating Trust Assets to the Liquidating Trust will be treated as: (a) to the extent of pending payments, a transfer of the pending payments directly from the Debtors to the Holders of such Allowed Claims followed by the transfer of such pending payments by the Holders of Allowed Claims to the Liquidating Trust in exchange for rights to distributions from the Liquidating Trust; and (b) to the extent of amounts that are not pending payments, as a transfer to one or more disputed ownership funds. The Holders of Allowed Claims entitled to distributions will be treated for federal income tax purposes as the grantors and deemed owners of their respective shares of the Liquidating Trust Assets in the amounts of the pending payments and any earnings thereof. The Liquidating Trustee will be required by the Liquidating Trust Agreement to file federal tax returns for the Liquidating Trust as a grantor trust with respect to pending payments and as one or more disputed ownership funds with respect to all other funds or other property held by the Liquidating Trust pursuant to applicable Treasury Regulations, and any income of the Liquidating Trust will be treated as subject to tax on a current basis. The Liquidating Trust Agreement will provide that the Liquidating Trustee will pay such taxes from the Liquidating Trust Assets. The Liquidating Trust Agreement will provide that termination of the trust will occur no later than five years after the Effective Date, unless the Bankruptcy Court approves an extension upon a finding that such an extension is necessary for the Liquidating Trust to complete its aims.

(f) Indemnification

The Liquidating Trustee (and each of its agents and professionals) shall be indemnified in accordance with the terms of the Liquidating Trust Agreement.

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

(a) Payments and Distributions on Disputed Claims

Except as otherwise provided in the Plan, a Final Order, or as agreed to by the relevant parties, distributions under the Plan on account of a Disputed Claim that becomes an Allowed Claim after the Effective Date shall be made on the first Periodic Distribution Date after the Disputed Claim becomes an Allowed Claim. Payments to Holders of Allowed General Unsecured Claims shall be made pursuant to the Liquidating Trust.

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

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

Notwithstanding any provision otherwise in the Plan and except as otherwise agreed to by the relevant parties, no partial payments and no partial distributions shall be made with respect to a Disputed Claim until all such disputes in connection with such Disputed Claim have been resolved by settlement or Final Order. In the event that there are Disputed Claims requiring adjudication and resolution, the Reorganized Debtors or Liquidating Trustee as applicable, shall establish appropriate reserves for potential payment of such Claims.

4. Timing and Calculation of Amounts to Be Distributed

Except as otherwise provided in the Plan, on the Initial Distribution Date (or if a Claim is not an Allowed Claim on the Effective Date, on or as soon as practicable after the date that such a Claim becomes an Allowed Claim), each Holder of an Allowed Claim against the Debtors shall receive the full amount of the distributions that the Plan provides for Allowed Claims in the applicable Class.

If and to the extent that there are Disputed Claims, distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in the applicable class treatment or in Article VI of the Plan. Except as otherwise provided in the Plan, Holders of Claims shall not be entitled to interest, dividends, or accruals on the distributions provided for in the Plan, regardless of whether such distributions are delivered on or at any time after the Effective Date.

5. Delivery and Distributions and Undeliverable or Unclaimed Distributions

(a) Record Date for Distributions

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

(b) Delivery of Distributions in General

Except as otherwise provided in the Plan, the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable shall make distributions to Holders of Allowed Claims at the address for each such Holder as indicated on the Debtors' records as of the date of any such distribution; provided, however, that the manner of such distributions shall be determined at the discretion of the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable; and provided further, that the address for each Holder of an Allowed Claim shall be the address set forth in any Proof of Claim filed by that Holder.

(c) Delivery of Distributions to Prepetition Term Loan Claims

Except as set forth in Article VI.E of the Plan, the Prepetition Term Loan Agent shall be deemed to be the Holder of all Prepetition Term Claims, as applicable, for purposes of distributions to be made hereunder, and all distributions on account of such Prepetition Term Loan Claims shall be made to or on behalf of the Prepetition Term Loan Agent. The Prepetition Term Loan Agent shall hold or direct such distributions for the benefit of the Holders of Prepetition Term Loan Claims, as applicable. As soon as practicable following compliance with the requirements set forth in this Article VI of the Plan, the Prepetition Term Loan Agent shall arrange to deliver or direct the delivery of such distributions for which it is the deemed Holder to or on behalf of such Holders of Allowed Term Loan Claims. Notwithstanding anything in the Plan to the contrary, and without limiting the exculpation and release provisions of the Plan, the Prepetition Term Loan Agent shall not have any liability to any person with respect to distributions made or directed to be made by the Prepetition Term Loan Agent.

(d) Distributions by Distribution Agents (if any)

The Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, shall have the authority, in their sole discretion, to enter into agreements with one or more Distribution Agents to facilitate the distributions required hereunder. To the extent the Debtors, the Reorganized Debtors and/or the Liquidating Trustee, as applicable, do determine to utilize a Distribution Agent to facilitate the distributions under the Plan to Holders of Allowed Claims, any such Distribution Agent would first be required to: (a) affirm its obligation to facilitate the prompt distribution of any documents; (b) affirm its obligation to facilitate the prompt distribution of any recoveries or distributions required under the Plan; (c) waive any right or ability to setoff, deduct from or assert any lien or encumbrance against the distributions required under the Plan to be distributed by such Distribution Agent; and (d) post a bond, obtain a surety bond, or provide some other form of security for the performance of its duties, the costs

and expenses of procuring which shall be borne by the Debtors, the Reorganized Debtors or the Liquidating Trust, as applicable.

The Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, shall pay to the Distribution Agents all reasonable and documented fees and expenses of the Distribution Agents without the need for any approvals, authorizations, actions, or consents. The Distribution Agents shall submit detailed invoices to the Debtors, the Reorganized Debtors, or the Liquidating Trust as applicable, for all fees and expenses for which the Distribution Agent seeks reimbursement and the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, shall pay those amounts that they, in their sole discretion, deem reasonable, and shall object in writing to those fees and expenses, if any, that the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, deem to be unreasonable. In the event that the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, object to all or any portion of the amounts requested to be reimbursed in a Distribution Agent's invoice, the Debtors, the Reorganized Debtors or the Liquidating Trust, as applicable, and such Distribution Agent shall endeavor, in good faith, to reach mutual agreement on the amount of the appropriate payment of such disputed fees and/or expenses. In the event that the Debtors, the Reorganized Debtors or the Liquidating Trust, as applicable, and a Distribution Agent are unable to resolve any differences regarding disputed fees or expenses, either party shall be authorized to move to have such dispute heard by the Bankruptcy Court.

(e) Minimum Distributions

Notwithstanding anything herein to the contrary, the Reorganized Debtors or the Liquidating Trustee, as applicable, shall not be required to make distributions or payments of less than $10 (whether Cash or otherwise) and shall not be required to make partial distributions or payments of fractions of dollars. Whenever any payment or distribution of a fraction of a dollar or fractional share of New Common Units under the Plan would otherwise be called for, the actual payment or distribution will reflect a rounding of such fraction to the nearest whole dollar or share of New Common Units (up or down), with half dollars and half shares of New Common Units or less being rounded down.

No Distribution Agent shall have any obligation to make a distribution on account of an Allowed Claim if: (a) the aggregate amount of all distributions authorized to be made on the Periodic Distribution Date in question is or has an economic value less than $25,000, unless such distribution is a final distribution; or (b) the amount to be distributed to the specific Holder of an Allowed Claim on such Periodic Distribution Date does not constitute a final distribution to such Holder and is or has an economic value of less than $10, which shall be treated as an undeliverable distribution under Article VI.E of the Plan.

(f) Undeliverable Distributions

(i) Holding of Certain Undeliverable Distributions

If any distribution to a Holder of an Allowed Claim made in accordance herewith is returned to the Reorganized Debtors or the Liquidating Trustee, as applicable (or their Distribution Agent) as undeliverable, no further distributions shall be made to such Holder unless and until the Reorganized Debtors or the Liquidating Trust, as applicable (or their Distribution Agent) are notified in writing of such Holder's then current address, at which time all currently due missed distributions shall be made to such Holder on the next Periodic Distribution Date. Undeliverable distributions shall remain in the possession of the Reorganized Debtors or the Liquidating Trust, as applicable, subject to Article VI.E of the Plan, until such time as any such distributions become deliverable. Undeliverable distributions shall not be entitled to any additional interest, dividends or other accruals of any kind on account of their distribution being undeliverable.

(ii) Failure to Claim Undeliverable Distributions

After the Effective Date, the Reorganized Debtors or the Liquidating Trustee, as applicable, shall file with the Bankruptcy Court a list of the Holders of undeliverable distributions. This list shall be maintained and updated periodically in the sole discretion of the Reorganized Debtors or the Liquidating Trustee, as applicable, for as long as the Chapter 11 Cases stay open. Any Holder of an Allowed Claim, irrespective of when a Claim becomes an Allowed Claim, that does not notify the Reorganized Debtors or the Liquidating Trust, as applicable, of such Holder's then current address in accordance herewith within 30 days of the filing of the list of undeliverable

distributions, shall have its Claim for such undeliverable distribution discharged and shall be forever barred, estopped and enjoined from asserting any such Claim against the Reorganized Debtors or the Liquidating Trust, as applicable, or their property.

In such cases, (i) any Cash or New Common Units held for distribution on account of Allowed Claims shall be redistributed to Holders of Allowed Claims in the applicable Class on the next Periodic Distribution Date and (ii) any Cash held for distribution to other creditors shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and become property of the Reorganized Debtors, free of any Claims of such Holder with respect thereto. For the avoidance of doubt, any undeliverable distributions out of the Liquidating Trust shall be returned to the Liquidating Trust and will not go to the Reorganized Debtors. Nothing contained herein shall require the Reorganized Debtors or the Liquidating Trust, as applicable, to attempt to locate any Holder of an Allowed Claim.

(iii) Failure to Present Checks

Checks issued by the Distribution Agent on account of Allowed Claims shall be null and void if not negotiated within 180 days after the issuance of such check. In an effort to ensure that all Holders of Allowed Claims receive their allocated distributions, the Reorganized Debtors or the Liquidating Trustee, as applicable, shall file with the Bankruptcy Court a list of the Holders of any un-negotiated checks no later than 120 days after the issuance of such checks. This list shall be maintained and updated periodically in the sole discretion of the Reorganized Debtors or the Liquidating Trustee, as applicable, for as long as the Chapter 11 Cases stay open. Requests for reissuance of any check shall be made directly to the Distribution Agent by the Holder of the relevant Allowed Claim with respect to which such check originally was issued.

Any Holder of an Allowed Claim holding an un-negotiated check that does not request reissuance of such un-negotiated check within 160 days after the date of mailing or other delivery of such check shall have its Claim for such un-negotiated check discharged and be discharged and forever barred, estopped and enjoined from asserting any such Claim against the Reorganized Debtors or their property. In such cases, any Cash held for payment on account of such Claims shall be property of the Reorganized Debtors or the Liquidating Trust, as applicable, free of any Claims of such Holder with respect thereto. Nothing contained herein shall require the Reorganized Debtors to attempt to locate any Holder of an Allowed Claim.

6. Compliance with Withholding and Reporting Tax Requirements/Allocations

(a) Withholding Rights

In connection with the Plan, any party issuing any instrument or making any Distributions described in the Plan shall comply with all applicable withholding and reporting requirements imposed by any federal, state, or local taxing authority, and all Distributions pursuant to the Plan and all related agreements shall be subject to any such withholding or reporting requirements. In the case of a non-Cash Distribution that is subject to withholding, the distributing party may withhold an appropriate portion of such distributed property and either (i) sell such withheld property to generate Cash necessary to pay over the withholding tax (or reimburse the distributing party for any advance payment of the withholding tax), or (ii) pay the withholding tax using its own funds and retain such withheld property. Any amounts withheld pursuant to the preceding sentence shall be deemed to have been distributed to and received by the applicable recipient for all purposes of the Plan. Notwithstanding the foregoing, each holder of an Allowed Claim or any other Entity that receives a Distribution pursuant to the Plan shall have responsibility for any taxes imposed by any governmental unit, including, without limitation, income, withholding, and other taxes, on account of such Distribution. Any party issuing any instrument or making any Distribution pursuant to the Plan has the right, but not the obligation, not to make a Distribution until such holder has made arrangements satisfactory to such issuing or disbursing party for payment of any such tax obligations. Moreover, the Reorganized Debtors or the Liquidating Trustee, as applicable, reserve the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support and other spousal awards, liens, and encumbrances.

(b) Forms

Any party entitled to receive any property as an issuance or Distribution under the Plan shall, upon request, deliver to the Disbursing Agent or such other Entity designated by the Liquidating Trustee (which Entity shall

subsequently deliver to the Disbursing Agent any applicable IRS Form W-8 or Form W-9 received) an appropriate Form W-9 or (if the payee is a foreign Entity) Form W-8. If such request is made by the Liquidating Trustee, the Disbursing Agent, or such other Entity designated by the Liquidating Trustee or Disbursing Agent and the holder fails to comply before the earlier of (i) the date that is one hundred and eighty (180) days after the request is made and (ii) the date that is one hundred and eighty (180) days after the date of Distribution, the amount of such Distribution shall irrevocably revert to the applicable Liquidating Trustee and any Claim in respect of such Distribution shall be discharged and forever barred from assertion against such Liquidating Trustee or its respective property.

(c) Allocation of Distributions between Principal and Interest

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

7. Setoffs

Subject to Article IV of the Plan, the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, may withhold (but not setoff except as set forth below) from the distributions called for hereunder on account of any Allowed Claim an amount equal to any Claims, Equity Interests, rights, and Causes of Action of any nature that the Debtors, the Reorganized Debtors or the Liquidating Trust, as applicable, may hold against the Holder of any such Allowed Claim. In the event that any such Claims, Equity Interests, rights, and Causes of Action of any nature that the Debtors, the Reorganized Debtors or the Liquidating Trust, as applicable, may hold against the Holder of any such Allowed Claim are adjudicated by Final Order or otherwise resolved, the Debtors or the Liquidating Trustee may, pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, set off against any Allowed Claim and the distributions to be made pursuant hereto on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim), the amount of any adjudicated or resolved Claims, Equity Interests, rights, and Causes of Action of any nature that the Debtors, the Reorganized Debtors or the Liquidating Trust, as applicable, may hold against the Holder of any such Allowed Claim, but only to the extent of such adjudicated or resolved amount. Neither the failure to effect such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors, the Reorganized Debtors or the Liquidating Trust, as applicable, of any such Claims, Equity Interests, rights, and Causes of Action that the Debtors, the Reorganized Debtors or the Liquidating Trust, as applicable may possess against any such Holder, except as specifically provided herein.

8. Foreign Currency Exchange Rate

Except as otherwise provided in a Bankruptcy Court order, as of the Effective Date, any Claim asserted in currency other than U.S. dollars shall be automatically deemed converted to the equivalent U.S. dollar value using the exchange rate for the applicable currency as published in *The Wall Street Journal*, National Edition, on the Petition Date.

9. Claims Paid or Payable by Third Parties

(a) Claims Paid by Third Parties

The Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, shall reduce in full a Claim, and such Claim shall be disallowed without a Claims objection having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtor, Reorganized Debtor or the Liquidating Trust. Subject to the last sentence of this paragraph, to the extent a Holder of a Claim receives a distribution from the Debtors, Reorganized Debtors or the Liquidating Trust, as applicable, on account of such Claim and also receives payment from a party that is not a Debtor, a Reorganized Debtor or the Liquidating Trust on account of such Claim, such Holder shall, within two weeks of receipt thereof, repay or return the distribution to the applicable Reorganized Debtor or the Liquidating Trust, to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the total amount of such Claim as of the date of any such distribution under the Plan.

If the Debtors become aware of the payment by a third party, the Debtors, Reorganized Debtors or the Liquidating Trustee, as applicable, will send a notice of wrongful payment to such party requesting return of any excess payments and advising the recipient of the provisions of the Plan requiring turnover of excess estate funds. The failure of such Holder to timely repay or return such distribution shall result in the Holder owing the applicable Reorganized Debtor or the Liquidating Trust annualized interest at the Federal Judgment Rate on such amount owed for each Business Day after the two-week grace period specified above until the amount is repaid.

(b) Claims Payable by Third Parties

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' Insurance Policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such Insurance Policy. To the extent that one or more of the Debtors' insurers agrees to satisfy in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, the applicable portion of such Claim may be expunged without a Claims objection having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

(c) Applicability of Insurance Policies

Except as otherwise provided in the Plan, distributions to Holders of Allowed Claims shall be made in accordance with the provisions of any applicable Insurance Policy. Nothing contained in the Plan shall constitute or be deemed a waiver of any Cause of Action that the Debtors or any Entity may hold against any other Entity, including any insurer(s) under any Insurance Policy, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any rights or defenses, including coverage defenses, held by such insurers under the Insurance Policies.

G. RESOLUTION OF CONTINGENT, UNLIQUIDATED, OR DISPUTED CLAIMS

1. Allowance of Claims

After the Effective Date, the Reorganized Debtors in all events, or the Liquidating Trust (solely if Class 5 rejects the Plan), shall have and retain any and all rights and defenses the Debtors had with respect to any Claim or Interest immediately before the Effective Date.

2. Claims Administration Responsibilities

Except as set forth in the immediately following paragraph with regard to Class 5 Claims or as otherwise set forth in the Plan, after the Effective Date, the Reorganized Debtors or the Liquidating Trust, as applicable, shall have the authority: (1) to file, withdraw, or litigate to judgment objections to Claims or Interests; (2) to settle or compromise any Disputed Claim without any further notice to or action, order, or approval by the Bankruptcy Court; and (3) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court.

If Class 5 accepts the Plan, the Reorganized Debtors, in consultation with the Liquidating Trustee, will have sole authority as set forth in the preceding paragraph to object to and reconcile Class 5 Claims. The Reorganized Debtors will have no obligation to object to any Class 5 Claim in an amount less than [$1 million]. If Class 5 accepts the Plan, the Reorganized Debtors will pay all costs and expenses of the Noticing and Claims Agent and the Distribution Agent in connection with the Class 5 Claims. If Class 5 votes to reject the Plan, the Liquidating Trustee shall also have the authority, as set forth in the preceding paragraph, to object to and reconcile any Class 5 Claim and the expenses of the Noticing and Claims Agent and Distribution Agent with regard to Class 5 Claims shall be a Liquidating Trust Expense paid by the Liquidating Trust.

3. Estimation of Claims

Before or after the Effective Date, the Debtors, Reorganized Debtors, or Liquidating Trustee, as applicable, may (but are not required to) at any time request that the Bankruptcy Court estimate any Claim that is contingent or unliquidated pursuant to section 502(c) of the Bankruptcy Code for any reason, regardless of whether any party previously has objected to such Claim or Interest or whether the Bankruptcy Court has ruled on any such objection,

and the Bankruptcy Court shall retain jurisdiction to estimate any such Claim or Interest, including during the litigation of any objection to any Claim or Interest or during the appeal relating to such objection. Notwithstanding any provision otherwise in the Plan, a Claim that has been expunged from the Claims Register, but that either is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim or Interest, that estimated amount shall constitute a maximum limitation on such Claim or Interest for all purposes under the Plan (including for purposes of distributions), and the relevant Reorganized Debtor may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim or Interest.

4. Adjustment to Claims Without Objection

Any Claim or Interest that has been paid or satisfied, or any such Claim or Interest that has been cancelled, or otherwise expunged (including pursuant to the Plan), may be adjusted or expunged (including on the Claims Register, to the extent applicable) by the Reorganized Debtors or the Liquidating Trustee, as applicable, without a Claims objection having to be filed and without any further notice to or action, order or approval of the Bankruptcy Court.

5. Time to File Objections to Claims

Any objections to Claims shall be filed on or before the Claims Objection Bar Date.

6. Disallowance of Claims

All Claims filed on account of an Indemnification Obligation to a director, officer, or employee shall be deemed satisfied and expunged from the Claims Register as of the Effective Date to the extent such Indemnification Obligation is assumed (or honored or reaffirmed, as the case may be) pursuant to the Plan, without any further notice to or action, order, or approval of the Bankruptcy Court.

Except as provided in the Plan or otherwise agreed, any and all Proofs of Claim filed after the Claims Bar Date shall be deemed disallowed and expunged as of the Effective Date without any further notice to or action, order, or approval of the Bankruptcy Court, and Holders of such Claims may not receive any distributions on account of such Claims, unless on or before the Confirmation Hearing such late Claim has been deemed timely filed by a Final Order.

7. No Distribution Pending Allowance

If an objection to a Claim or portion thereof is filed as set forth in Article VII.E of the Plan, no payment or distribution provided under the Plan shall be made on account of such Claim or portion thereof unless and until such Disputed Claim becomes an Allowed Claim.

8. Distribution After Allowance

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, distributions (if any) shall be made to the Holder of such Allowed Claim in accordance with the provisions of the Plan. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, the Distribution Agent shall provide to the Holder of such Claim the distribution (if any) to which such Holder is entitled under the Plan as of the Effective Date, without any interest, dividends, or accruals to be paid on account of such Claim unless required under applicable bankruptcy law.

H. THE DEBTOR RELEASE, THIRD-PARTY RELEASE, INJUNCTION, AND EXCULPATION

1. Compromise and Settlement

Pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim may have with respect to any Allowed Claim or Interest, or any distribution to be made on

account of such Allowed Claim or Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and Holders of Claims and Interests and is fair, equitable, and reasonable. In accordance with the provisions of the Plan, pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019(a), without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Reorganized Debtors may compromise and settle Claims against them and Causes of Action against other Entities.

2. Subordinated Claims

The allowance, classification, and treatment of all Allowed Claims and Equity Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Equity Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Reorganized Debtors reserve the right to re-classify any Allowed Claim or Interest in accordance with any contractual, legal or equitable subordination relating thereto.

3. Discharge of Claims and Termination of Equity Interests

Pursuant to and to the fullest extent permitted by section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, the distributions, rights and treatment that are provided in the Plan shall be in full and final satisfaction, settlement, release and discharge, effective as of the Effective Date, of all Claims (including any Intercompany Claims resolved or compromised after the Effective Date by the Reorganized Debtors), Equity Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Equity Interests from and after the Petition Date, whether known or unknown, against, liabilities of, liens on, obligations of, rights against, and Equity Interests in, the Debtors, the Reorganized Debtors, or any of their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Equity Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any liability (including withdrawal liability) to the extent such Claims or Equity Interests relate to services performed by current or former employees of the Debtors prior to the Effective Date and arise from a termination of employment or a termination of any employee or retiree benefit program regardless of whether such termination occurred prior to or after the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim or Interest based upon such Claim, debt, right, or Interest is filed or deemed filed pursuant to section 501 of the Bankruptcy Code; (2) a Claim or Interest based upon such Claim, debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (3) the Holder of such a Claim or Interest has accepted the Plan. Except as otherwise provided herein, any default by the Debtors or their Affiliates with respect to any Claim or Interest that existed immediately prior to or on account of the filing of the Chapter 11 Cases shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the discharge of all Claims and Equity Interests subject to the occurrence of the Effective Date.

4. Release of Liens

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to Article III of the Plan and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, liens, pledges or other security interests against any property of the Estates shall be fully released and discharged, and all of the right, title, and interest of any Holder of such mortgages, deeds of trust, liens, pledges, or other security interests shall revert to the Reorganized Debtors and their successors and assigns.

5. Debtor Release[16]

Pursuant to section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, for good and valuable consideration, including the service of the Released Parties in facilitating the expeditious reorganization of the Debtors and the implementation of the restructuring contemplated by the Plan, effective as of the Effective Date, the Debtors, the Reorganized Debtors, and any Person seeking to exercise the rights of the Estates, including, without limitation, any successor to the Debtors or any estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code shall be deemed to forever release, waive, and discharge the Released Parties of any and all claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, contingent or fixed, existing or hereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws or otherwise, including, without limitation, those that any of the Debtors, the Reorganized Debtors, the Estates, or their Affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any claim or Equity Interest, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Estates, the conduct of the Debtors' businesses, the Chapter 11 Cases, the Canadian Proceedings, the purchase, sale, or rescission or the purchase or sale of any security of the Debtors or the Reorganized Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, the business or contractual arrangements between any of the Debtors and any Released Party, the restructuring of claims and Equity Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, the Plan Supplement, the Disclosure Statement, or related agreements, instruments, or other documents, or upon any other act or omission, transaction, or occurrence relating to the foregoing taking place on or before the Effective Date of the Plan.

Notwithstanding anything to the contrary herein, the "Debtor Release" shall not operate to waive or release any Causes of Action of any Debtor: (1) arising under any contract, instrument, agreement, release, or document delivered pursuant to the Plan, or (2) expressly set forth in and preserved by the Plan, the Plan Supplement, or related documents.

The parties acknowledge that the compromise and release of direct and estate causes of action against the Released Parties under the Plan results in the distributions available to unsecured creditors.

Any claims or causes of action to avoid a transfer of property or an obligation incurred by the Debtors arising under chapter 5 of the Bankruptcy Code, including sections 544, 545, 547, 548, 549, 551 and 553(b) of the Bankruptcy Code, shall be retained by the Reorganized Debtors except to the extent expressly released under the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained herein, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the claims released by the Debtor Release; (3) in the best interests of the Debtors and all Holders of Claims and Equity Interests; (4) fair, equitable and reasonable; (5) given and made after reasonable investigation by the Debtors and after notice and opportunity for hearing; and (6) a bar to any of the Debtors or the Reorganized Debtors asserting any claim released by the Debtor Release against any of the Released Parties.

[16] The Debtors' investigation, at the direction of the Special Committee, into potential Claims and Causes of Action belonging to the Estates is ongoing. The releases by the Debtors are subject to the conclusion of the investigation and determination with respect to any potential Claims or Causes of Action, if any, identified therein, and the Debtors expressly reserve the right to pursue or settle any such Claims or Causes of Action and do not release any such Claims and Causes of Action pending completion of the Insider Investigation.

6. Third-Party Release[17]

Except as otherwise specifically provided in the Plan, for good and valuable consideration, including the service of the Released Parties in facilitating the expeditious reorganization of the Debtors and the implementation of the restructuring contemplated by the Plan, effective as of the Effective Date, the Releasing Parties as defined in the Plan (regardless of whether a Releasing Party is a Released Party) shall be deemed to forever release, waive, and discharge the Released Parties of any and all claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims asserted on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, contingent or fixed, existing or hereafter arising, in law, at equity, or otherwise, whether for tort, contract, violations of federal or state securities laws or otherwise, including, without limitation, those that any of the Debtors, the Reorganized Debtors, the Estates, or their Affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim or Equity Interest, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Estates, the conduct of the Debtors' businesses, the Chapter 11 Cases, the Canadian Proceedings, the purchase, sale, or rescission or the purchase or sale of any security of the Debtors or the Reorganized Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, the business or contractual arrangements between any of the Debtors and any Released Party, the restructuring of Claims and Equity Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, the Plan Supplement, the Disclosure Statement, or related agreements, instruments, or other documents, or upon any other act or omission, transaction, or occurrence relating to the foregoing taking place on or before the Effective Date of the Plan.

Notwithstanding anything contained herein to the contrary, the foregoing release does not release any post-Effective Date obligations of any party under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Third-Party Release, which includes by reference each of the related provisions and definitions contained herein, and further, shall constitute the Bankruptcy Court's finding that the Third-Party Release is: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the claims released by the Releasing Parties; (3) in the best interests of the Debtors and all Holders of Claims and Equity Interests; (4) fair, equitable and reasonable; (5) given and made after notice and opportunity for hearing; and (6) a bar to any of the Releasing Parties asserting any Claim released by the Third-Party Release against any of the Released Parties.

7. Exculpation[18]

Upon and effective as of the Effective Date, the Debtors and their directors, officers, employees, attorneys, investment bankers, financial advisors, restructuring consultants, and other professional advisors and agents will be deemed to have solicited acceptances of this Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including section 1125(e) of the Bankruptcy Code.

Except with respect to any acts or omissions expressly set forth in and preserved by the Plan, the Plan supplement, or related documents, the Exculpated Parties shall neither have nor incur any liability to any Entity for any prepetition or postpetition act taken or omitted to be taken in connection with, or arising from or relating in any way to, the Chapter 11 Cases or the Canadian Proceedings, including, without limitation, the operation of the Debtors' businesses during the pendency of these Chapter 11 Cases;

[17] The Debtors' investigation, at the direction of the Special Committee, into potential Claims and Causes of Action is ongoing. The releases by the Releasing Parties are subject to the conclusion of the investigation and determination with respect to any potential Claims or Causes of Action, if any, identified therein, and the Debtors expressly reserve the right to pursue or settle any such Claims or Causes of Action and do not release any Claims and Causes of Action pending completion of the Insider Investigation.

[18] The Debtors' investigation, at the direction of the Special Committee, into potential Claims and Causes of Action is ongoing. The exculpation set forth in this paragraph is subject to the conclusion of the investigation and determination with respect to any potential Claims or Causes of Action, if any, identified therein, and the Debtors expressly reserve the right to pursue or settle any such Claims or Causes of Action and do not release any Claims or Causes of Action pending completion of the Insider Investigation.

formulating, negotiating, preparing, disseminating, implementing, and/or effecting the DIP Documents, the Disclosure Statement, and the Plan (including the Plan Supplement and any related contract, instrument, release, or other agreement or document created or entered into in connection therewith); the solicitation of votes for the Plan and the pursuit of Confirmation and Consummation of the Plan; the administration of the Plan and/or the property to be distributed under the Plan; the offer and issuance of any securities under the Plan; and/or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors. In all respects, each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her, or its respective duties under, pursuant to, or in connection with, the Plan.

8. Injunction

The satisfaction, release, and discharge pursuant to Article IX of the Plan shall also act as an injunction against any Person commencing or continuing any action, employment of process or act to collect, offset, or recover any claim or Cause of Action satisfied, released, or discharged under the Plan or the Confirmation Order to the fullest extent authorized or provided by the Bankruptcy Code, including, without limitation, to the extent provided for or authorized by sections 524 and 1141 thereof.

I. MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN

1. Modification of Plan

Subject to the limitations contained in the Plan: (1) the Debtors reserve the right, with the consent of the Requisite Plan Support Parties, and in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan prior to the entry of the Confirmation Order, including amendments or modifications to satisfy section 1129(b) of the Bankruptcy Code; and (2) after the entry of the Confirmation Order, the Debtors or the Reorganized Debtors, as the case may be, may, upon the order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

2. Effect of Confirmation on Modifications

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan since the solicitation thereof are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

3. Revocation of Plan

The Debtors reserve the right to revoke or withdraw the Plan prior to the entry of the Confirmation Order and to file subsequent plans of reorganization. If the Debtors revoke or withdraw the Plan, or if entry of the Confirmation Order or the Effective Date does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan, assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant hereto shall be deemed null and void; and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any claims by or against, or any Equity Interests in, such Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtors or any other Entity; or (c) constitute an admission of any sort by the Debtors or any other Entity.

J. IMPORTANT SECURITIES LAW DISCLOSURE

1. General Disclosure

Section 1145(a)(1) of the Bankruptcy Code exempts the offer and sale of securities under a plan of reorganization from registration under section 5 of the Securities Act and state laws if three principal requirements are satisfied: (a) the securities must be issued "under a plan" of reorganization by the debtor or its successor under a plan or by an affiliate participating in a joint plan of reorganization with the debtor; (b) the recipients of the securities must hold a claim against, an interest in, or a claim for administrative expenses in the case concerning the debtor or such affiliate; and (c) the securities must be issued in exchange for the recipient's claim against or interest

in the debtor, or such affiliate, or "principally" in such exchange and "partly" for cash or property. In reliance upon this exemption, the Debtors believe that the offer and sale, under the Plan of the New Common Units will be exempt from registration under the Securities Act and Blue Sky Laws with respect to any such Holder who is not deemed to be an "underwriter" as defined in section 1145(b) of the Bankruptcy Code. Accordingly, such New Common Units may be resold without registration under the Securities Act, unless the holder is an "underwriter" (as discussed below) with respect to such securities, as that term is defined in 1145 of the Bankruptcy Code. In addition, such New Common Units governed by section 1145 of the Bankruptcy Code generally may be able to be resold without registration under applicable Blue Sky Laws pursuant to various exemptions provided by the respective securities laws of those states; however, the availability of such exemptions cannot be known unless individual Blue Sky Laws are examined.

Section 1145(b)(1) of the Bankruptcy Code defines an "underwriter" as one who, except with respect to "ordinary trading transactions" of an entity that is not an "issuer":

- purchases a claim against, an interest in, or a claim for an administrative expense against the debtor, if that purchase is with a view to distributing any security received in exchange for such a Claim or Interest;
- offers to sell securities offered under a plan of reorganization for the Holders of those securities;
- offers to buy those securities from the Holders of the securities, if the offer to buy is (i) with a view to distributing those securities; and (ii) under an agreement made in connection with the plan of reorganization, the completion of the plan of reorganization, or with the offer or sale of securities under the plan of reorganization; or
- is an issuer with respect to the securities, as the term "issuer" is defined in section 2(a)(11) of the Securities Act.

In addition, a Person who receives a fee in exchange for purchasing an issuer's securities could also be considered an underwriter within the meaning of section 2(a)(11) of the Securities Act. You should confer with your own legal advisors to help determine whether or not you are an "underwriter."

The definition of an "issuer" for purposes of whether a Person is an underwriter under section 1145(b)(1)(D) of the Bankruptcy Code, by reference to section 2(a)(11) of the Securities Act, includes as "statutory underwriters" all persons who, directly or indirectly, through one or more intermediaries, control, are controlled by, or are under common control with, an issuer of securities. The reference to "issuer," as used in the definition of "underwriter" contained in section 2(a)(11) of the Securities Act, is intended to cover "Controlling Persons" of the issuer of the securities. "Control," as defined in Rule 405 of the Securities Act, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise. Accordingly, an officer or director of a reorganized debtor or its successor under a plan of reorganization may be deemed to be a "Controlling Person" of the debtor or successor, particularly if the management position or directorship is coupled with ownership of a significant percentage of the reorganized debtors' or its successor's voting securities. In addition, the legislative history of section 1145 of the Bankruptcy Code suggests that a creditor who owns 10% or more of a class of securities of a reorganized debtor may be presumed to be a "Controlling Person" and, therefore, an underwriter.

Resales of the New Common Units issued to Holders deemed to be "underwriters" (which definition includes "Controlling Persons") are not exempted by section 1145 of the Bankruptcy Code from registration under the Securities Act or other applicable law. Under certain circumstances, Holders of such New Common Units who are deemed to be "underwriters" may be entitled to resell their New Common Units pursuant to the limited safe harbor resale provisions of Rule 144 of the Securities Act. Generally, Rule 144 of the Securities Act would permit the public sale of securities received by such Person if the required holding period has been met and, under certain circumstances, current information regarding the issuer is publicly available and volume limitations, manner of sale requirements and certain other conditions are met. Whether any particular Person would be deemed to be an "underwriter" (including whether the Person is a "Controlling Person") with respect to such New Common Units would depend upon various facts and circumstances applicable to that Person. Accordingly, the Debtors express no

view as to whether any Person would be deemed an "underwriter" with respect to the New Common Units issued to Holders and, in turn, whether any Person may freely resell such New Common Units.

2. Management Incentive Plan

Pursuant to the Plan, promptly on or as soon as practicable after the Effective Date, the New Board will adopt and implement the Management Incentive Plan, the terms of which shall be in form and substance acceptable to the Requisite Plan Support Parties and approved by the New Board. The New Board will determine the number of New Incentive Units to be available for award under the Management Incentive Plan and the allocation of New Incentive Units, if any.

PERSONS WHO RECEIVE SECURITIES UNDER THE PLAN ARE URGED TO CONSULT THEIR OWN LEGAL ADVISOR WITH RESPECT TO THE RESTRICTIONS APPLICABLE UNDER THE FEDERAL OR STATE SECURITIES LAWS AND THE CIRCUMSTANCES UNDER WHICH SECURITIES MAY BE SOLD IN RELIANCE ON SUCH LAWS.

THE FOREGOING SUMMARY DISCUSSION IS GENERAL IN NATURE AND HAS BEEN INCLUDED IN THIS DISCLOSURE STATEMENT SOLELY FOR INFORMATIONAL PURPOSES. WE MAKE NO REPRESENTATIONS CONCERNING, AND DO NOT PROVIDE, ANY OPINIONS OR ADVICE WITH RESPECT TO THE SECURITIES OR THE BANKRUPTCY MATTERS DESCRIBED IN THIS DISCLOSURE STATEMENT. IN LIGHT OF THE UNCERTAINTY CONCERNING THE AVAILABILITY OF EXEMPTIONS FROM THE RELEVANT PROVISIONS OF FEDERAL AND STATE SECURITIES LAWS, WE ENCOURAGE EACH HOLDER AND PARTY-IN-INTEREST TO CONSIDER CAREFULLY AND CONSULT WITH ITS OWN LEGAL ADVISORS WITH RESPECT TO ALL SUCH MATTERS. BECAUSE OF THE COMPLEX, SUBJECTIVE NATURE OF THE QUESTION OF WHETHER A SECURITY IS EXEMPT FROM THE REGISTRATION REQUIREMENTS UNDER THE FEDERAL OR STATE SECURITIES LAWS OR WHETHER A PARTICULAR HOLDER MAY BE AN UNDERWRITER, WE MAKE NO REPRESENTATION CONCERNING THE ABILITY OF A PERSON TO DISPOSE OF THE SECURITIES ISSUED UNDER THE PLAN.

V.
VALUATION AND FINANCIAL PROJECTIONS

THE VALUATIONS SET FORTH HEREIN REPRESENT ESTIMATED DISTRIBUTABLE VALUE AND DO NOT NECESSARILY REFLECT VALUES THAT COULD BE ATTAINABLE IN THE PUBLIC OR PRIVATE MARKETS. THE VALUE OF THE NEW COMMON UNITS DOES NOT PURPORT TO BE AN ESTIMATE OF THE POST-REORGANIZATION MARKET VALUE.

A. ESTIMATION OF PAYLESS' ENTERPRISE VALUE

In connection with developing the Plan, the Debtors directed Solomon to perform various indicative financial analyses to assess the estimated enterprise value of Payless on a going-concern basis upon emergence from chapter 11 pursuant to the Plan. A summary of Solomon's estimation of Payless' enterprise value is attached hereto as **Exhibit F** (the "Estimation of Payless' Enterprise Value").

The Estimation of Payless' Enterprise Value is subject to various important qualifiers and assumptions that are set forth in **Exhibit F**.

B. FINANCIAL PROJECTIONS

As discussed more fully in Article VII.A.5 herein, the Debtors believe the Plan meets the feasibility requirement set forth in section 1129(a)(11) of the Bankruptcy Code, as Confirmation is not likely to be followed by liquidation or the need for further financial reorganization of the Reorganized Debtors. In connection with developing the Plan, and for purposes of determining whether the Plan satisfies the "feasibility" standard, the Debtors, with the assistance of Ankura, prepared the financial projections for the fiscal years of 2019 through 2021 set forth on **Exhibit D** (the "Financial Projections"). In general, as illustrated by the Financial Projections, the Debtors believe that with a significantly de-leveraged capital structure, the Reorganized Debtors will operate a successful business with sufficient liquidity to fund obligations as they arise, thereby maintaining value. Accordingly, the Debtors believe the Plan satisfies the feasibility requirement of section 1129(a)(11) of the Bankruptcy Code.

The Financial Projections are subject to various important qualifiers and assumptions that are set forth in the Financial Projections.

No representations can be made as to the accuracy of the Financial Projections or the Reorganized Debtors' ability to achieve the projected results. Therefore, the Financial Projections may not be relied upon as a guaranty or other assurance of the actual results that will occur. The inclusion of the Financial Projections herein should not be regarded as an indication that the Debtors considered or consider the Financial Projections to reliably predict future performance.

The Financial Projections are subjective in many respects, and thus are susceptible to interpretations and periodic revisions based on actual experience and recent developments. The Debtors do not intend to update or otherwise revise the Financial Projections to reflect the occurrence of future events, even in the event that assumptions underlying the Financial Projections are not borne out. The Financial Projections should be read in conjunction with the assumptions and qualifications set forth herein.

C. LIQUIDATION ANALYSIS

As discussed more fully in Article VII.A.4, hereof, the Debtors believe that the Plan satisfies the "best interests" test of section 1129(a)(7) of the Bankruptcy Code. In connection with developing the Plan, and for purposes of determining whether the Plan satisfies the "best interest" test, the Debtors, with the assistance of Solomon and Ankura, prepared the Liquidation Analysis attached here to as **Exhibit E** (the "Liquidation Analysis"). In general, as illustrated by the Liquidation Analysis, the Debtors believe that the Plan provides all Holders of a Claim or Interest property of a value that is equal to or greater than such Holder would receive in a liquidation.

The Liquidation Analysis is subject to various important qualifiers and assumptions that are set forth in the Liquidation Analysis.

VI.
SOLICITATION AND VOTING PROCEDURES

On [October__], 2019, the Bankruptcy Court entered the Disclosure Statement Order by which the Bankruptcy Court approved, among other things, procedures and documents for the solicitation of acceptances on the Plan, certain key dates and deadlines relating to the voting and Confirmation and procedures for tabulating votes. For purposes of this Article VI, capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Disclosure Statement Order. The procedures and instructions for voting on the Plan are set forth in the exhibits annexed to the Disclosure Statement Order. The Disclosure Statement Order is incorporated herein by reference and should be read in conjunction with this Disclosure Statement and in formulating a decision to vote to accept or reject the Plan.

This discussion of the Solicitation and Voting PROCESS is a summary.
PLEASE REFER TO THE DISCLOSURE STATEMENT ORDER ATTACHED AS **EXHIBIT c**
FOR A MORE COMPREHENSIVE DISCUSSION OF THE SOLICITATION AND VOTING PROCESS.

1. Solicitation Packages

Pursuant to the Disclosure Statement Order, Holders of Claims who are eligible to vote to accept or reject the Plan will receive appropriate solicitation materials (the "General Solicitation Package"), including:

- a copy of the Solicitation Procedures;
- the Confirmation Hearing Notice;
- a cover letter, describing the contents of the General Solicitation Package and urging the Holders of Claims in each of the Voting Classes to vote to accept the Plan;
- an appropriate form of Ballot for Holders of Claims;
- the approved Disclosure Statement (with all exhibits attached thereto, including the Plan and the exhibits attached thereto); and
- a letter from the Creditors' Committee with a recommendation on how unsecured creditors should vote on the Plan.

The Solicitation Packages will provide the Disclosure Statement and Plan in electronic format (*i.e.*, CD ROM or flash drive) and all other contents of the Solicitation Packages, including Ballots, in paper format. Any Holder of a Claim or Interest may obtain, at no charge, a paper copy of the documents otherwise provided by (a) accessing Prime Clerk's website at https://cases.primeclerk.com/pss.

2. Voting Rights

Classes Entitled to Vote. Under the provisions of the Bankruptcy Code, not all Holders of claims against and equity interests in a debtor are entitled to vote on a chapter 11 plan. As shown in the table below, the Debtors **are** soliciting votes to accept the Plan only from Holders of Claims in Classes 3, 4 and 5 (the "Voting Classes") because Holders of Claims in the Voting Classes are Impaired under the Plan and, may, in certain circumstances, receive a distribution under the Plan. Accordingly, Holders of Claims in the Voting Classes have the right to vote to accept or reject the Plan. If your Claim or Interest is not included in one of these Classes, you are not entitled to vote and you will not receive a Solicitation Package.

Each of the Voting Classes will have accepted the Plan if: (1) the Holders of at least two thirds in dollar amount of the Allowed Claims actually voting in each Class for each Debtor, as applicable, have voted to accept the Plan; and (2) the Holders of more than one half in number of the Allowed Claims actually voting in each Class for each Debtor, as applicable, have voted to accept the Plan. Additionally, if Prime Clerk receives no votes to accept or reject the Plan with respect to any particular Class of Claims, the Debtors may seek to deem such class as having accepted the Plan.

The following table provides a summary of the status and voting rights of each Class (and, therefore, of each Holder within such Class) under the Plan:

Class	Claim/Equity Interest	Status	Voting Rights
3	Tranche A-1 Term Loan Secured Claims	Impaired	Entitled to Vote
4	Tranche A-2 Term Loan Secured Claims	Impaired	Entitled to Vote
5	General Unsecured Claims	Impaired	Entitled to Vote

Classes not Entitled to Vote. Under the Bankruptcy Code, Holders of Claims or Interests are not entitled to vote if such Claims or Interests are Unimpaired under the Plan or if they will receive no distribution of property under the Plan. Based on this standard, the following Classes of Claims and Interests for each Debtor, as applicable, will not be entitled to vote on the Plan and the Holders of such Claims and Interests will not be solicited to vote on the Plan.

Class	Claim/Equity Interest	Status	Voting Rights
1	Other Priority Claims	Unimpaired	Deemed to Accept
2	Other Secured Claims	Unimpaired	Deemed to Accept
6	Intercompany Claims	Impaired	Deemed to Accept
7	Existing Equity Interests in Payless	Impaired	Deemed to Reject
8	Intercompany Interests	Impaired	Deemed to Accept

3. Record Date

The Record Date is August 30, 2019 for all Claims filed before such date, or, for any Claims filed after such date, the Claims Bar Date. This means that it will be determined (a) which Holders of Claims in Classes 3, 4 and 5 are entitled to vote to accept or reject the Plan and (b) whether Claims have been properly assigned or transferred under Bankruptcy Rule 3001(e) such that an assignee can vote as the Holder of a Claim by the Record Date.

4. Voting Deadline

The Voting Deadline is 4:00 p.m. prevailing Central Time on [October 15, 2019]. In order to be counted as votes to accept or reject the Plan, all Ballots must be properly executed, completed and delivered (either by using the return envelope provided, by first class mail, overnight courier or personal delivery) so that each Ballot is *actually received* on or before the Voting Deadline by either the Noticing and Claims Agent or the Solicitation and Subscription Agent at the applicable address:

Payless Balloting Center
c/o Prime Clerk LLC
One Grand Central Place
60 East 42nd Street, Suite #1440
New York NY 10165

5. Ballots Not Counted

The following Ballots will not be counted toward Confirmation of the Plan: (a) any Ballot that is illegible or contains insufficient information to permit the identification of the Holder of the Claim or transmitted by facsimile or other electronic means; (b) any Ballot cast by an entity that is not entitled to vote on the Plan; (c) any Ballot cast for a Claim listed in the Schedules as contingent, unliquidated or disputed for which the applicable bar date has passed and no proof of claim was timely filed; (d) any Ballot cast for a Claim that is subject to an objection pending as of the Record Date (unless temporarily allowed in accordance with the Disclosure Statement Order); (e) any Ballot sent to the Debtors, the Debtors' agents/representatives (other than the Noticing and Claims Agent), the Indenture Trustee or the Debtors' financial or legal advisors; (e) any unsigned Ballot; or (f) any Ballot not marked to accept or reject the Plan or marked both to accept and reject the Plan.

IF YOU HAVE ANY QUESTIONS ABOUT THE SOLICITATION OR VOTING PROCESS, PLEASE CONTACT THE NOTICING AND CLAIMS AGENT OR THE SOLICITATION AND SUBSCRIPTION AGENT, AS APPLICABLE. ANY BALLOT RECEIVED AFTER THE VOTING DEADLINE WILL NOT BE COUNTED UNLESS THE DEADLINE IS EXTENDED BY THE DEBTORS.

VII.
CONFIRMATION AND CONSUMMATION OF THE PLAN

A. STATUTORY REQUIREMENTS FOR CONFIRMATION OF THE PLAN

1. Confirmation Hearing

The Confirmation Hearing is scheduled to commence on [October [X], 2019], at 10:00 a.m. prevailing Central Time. The Confirmation Hearing will be held before the Honorable Kathy A. Surratt-States, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Eastern District of Missouri, Thomas F. Eagleton U.S. Courthouse, 111 S. 10th Street, 4th Floor, Courtroom 7 North, St. Louis, MO 63102. The Bankruptcy Court may adjourn the Confirmation Hearing from time to time without further notice. Objections to Confirmation of the Plan must be filed and served on the Debtors, and certain other parties, by no later than [October [X], 2019], at 4:00 p.m. (prevailing Central Time) in accordance with the notice of the Confirmation Hearing, attached to the Disclosure Statement Order as **Exhibit 2** and incorporated herein by reference. Unless an objection to the Plan is timely served and filed, it may not be considered by the Bankruptcy Court.

The "Plan Objection Deadline" is 4:00 p.m. prevailing Central Time on [October [X], 2019]. This means that written objections to Confirmation of the Plan, if any, which conform to the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules, must be filed, together with a proof of service, with the Bankruptcy Court and served on all parties that have requested notice in these cases pursuant to Bankruptcy Rule 2002, so as to be *actually received* on or before the Plan Objection Deadline by such parties.

2. Effect of Confirmation

Following Confirmation, subject to Article VIII of the Plan, the Plan will be consummated on the Effective Date. Among other things, on the Effective Date, certain release, injunction, exculpation and discharge provisions set forth in Article IX will become effective. As such, it is important to read the provisions contained in Article IX of the Plan very carefully so that you understand how Confirmation and Consummation of the Plan – which effectuates such provisions – will affect you and any Claim you may hold against the Debtors so that you cast your vote accordingly. **Additionally, for a more detailed description of the provisions set forth in Article IX of the Plan, please refer to Section IV.I herein.**

PLEASE TAKE NOTICE that, the "Third-Party Release"[19] set forth in Article IX.F of the Plan is a consensual release as to most of the Released Parties. The Releasing Parties are bound by the "Third-Party Release" pursuant to Article IX.F of the Plan. "Releasing Parties" means, collectively, (a) the Debtors, (b) the Plan Support Parties, (c) the DIP Lenders, (d) the DIP Agents, [(e) the Prepetition Term Loan Lenders and Prepetition Term Loan Agent] (f) the Prepetition ABL Credit Facility Lenders and Wells Fargo, (g) all Holders of Claims and Interests that are deemed unimpaired and presumed to accept the Plan, (h) all Holders of Claims who either (1) vote to accept or (2) receive a Ballot providing them the right to opt out of any applicable releases but abstain from voting on the Plan or otherwise do not elect pursuant to such Ballot to opt out of the Third-Party Release, (i) all Holders of Claims and Interests who are not entitled to vote on the Plan but receive a notice advising them of their ability to opt out of the Third-Party Release but who do not elect to opt out of the Third-Party Release, (j) all other Holders of Claims and Interests to the maximum extent permitted by law, and (k) with respect to the Debtors, the Reorganized Debtors, and each of the Entities in clauses (a) through (j), each such Entity's current and former Affiliates, and each such Entity's and their current and former Affiliates' current and former directors, managers, officers, principals, members, employees, equity Holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, assigns, subsidiaries, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, and each of the foregoing Entities in clauses (a) through (k), each such Entity's current and former Affiliates, and each such Entity's and their current and former Affiliates' current and former directors, managers, officers,

[19] The Debtors' investigation, at the direction of the Special Committee, into potential Claims and Causes of Action is ongoing. The Releases by the Releasing Parties are subject to the conclusion of the investigation and determination with respect to any potential Claims or Causes of Action, if any, identified therein, and the Debtors expressly reserve the right to pursue or settle any such Claims or Causes of Action and do not release any Claims or Causes of Action pending the outcome of the Insider Investigation.

principals, members, employees, equity Holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, assigns, subsidiaries, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals.

THE PLAN WILL BIND ALL HOLDERS OF CLAIMS AGAINST AND INTERESTS IN THE DEBTORS TO THE FULLEST EXTENT AUTHORIZED OR PROVIDED UNDER THE BANKRUPTCY CODE, INCLUDING SECTIONS 524 AND 1141 THEREOF, AND BY ALL OTHER APPLICABLE LAW.

3. Confirmation Requirements

At the Confirmation Hearing, the Bankruptcy Court will determine whether the Plan satisfies the requirements of section 1129 of the Bankruptcy Code. The Debtors believe that the Plan will satisfy all of the statutory requirements of chapter 11 of the Bankruptcy Code and that they have complied or will have complied with all of the requirements of chapter 11 of the Bankruptcy Code. Specifically, the Debtors believe that the Plan will satisfy the applicable confirmation requirements of section 1129 of the Bankruptcy Code, including those set forth below.

- The Plan complies with the applicable provisions of the Bankruptcy Code.
- The Debtors, as the Plan proponents, have complied with the applicable provisions of the Bankruptcy Code.
- The Plan has been proposed in good faith and not by any means forbidden by law.
- Any payment made or to be made under the Plan for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, has been or will be disclosed to the Bankruptcy Court, and any such payment: (1) made before the confirmation of the Plan is reasonable; or (2) is subject to the approval of the Bankruptcy Court as reasonable, if it is to be fixed after confirmation of the Plan.
- With respect to each Class of Claims, each Holder of an Impaired Claim has accepted the Plan or will receive or retain under the Plan on account of such Claim property of a value as of the Effective Date of the Plan that is not less than the amount that such Holder would receive or retain if the Debtors were liquidated on that date under chapter 7 of the Bankruptcy Code. With respect to each Class of Interests, each Holder of an Impaired Interest has accepted the Plan or will receive or retain under the Plan on account of such Interest property of a value as of the Effective Date of the Plan that is not less than the amount that such Holder would receive or retain if the Debtors were liquidated on that date under chapter 7 of the Bankruptcy Code.
- Each Class of Claims or Interests that is entitled to vote on the Plan has either accepted the Plan or is not Impaired under the Plan, or the Plan can be confirmed without the approval of such voting Class of Claims or Interests pursuant to section 1129(b) of the Bankruptcy Code.
- Except to the extent that the Holder of a particular Claim will agree to a different treatment of its Claim, the Plan provides that: (1) Holders of Claims specified in sections 507(a)(2) and 507(a)(3) will receive, under different circumstances, Cash equal to the amount of such Claim either on the Effective Date (or as soon as practicable thereafter), no later than 30 days after the Claim becomes Allowed, or pursuant to the terms and conditions of the transaction giving rise to the Claim; (2) Holders of Claims specified in sections 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of the Bankruptcy Code will receive on account of such Claims Cash equal to the Allowed amount of such Claim on the Effective Date of the Plan (or as soon thereafter as is reasonably practicable) or Cash payable over no more than six months after the Petition Date; and (3) Holders of Claims specified in section 507(a)(8) of the Bankruptcy Code will receive on account of such Claim regular installment payments of Cash of a total value, as of the Effective Date of the Plan, equal to the Allowed amount of such Claim over a period ending not later than five years after the Petition Date.

- At least one Class of Impaired Claims has accepted the Plan, determined without including any acceptance of the Plan by any "insider," as that term is defined by section 101(31) of the Bankruptcy Code, holding a Claim in that Class.

- With respect to each Class, each Holder of a Claim or an Equity Interest in the Class either (i) has accepted the Plan or (ii) will receive or retain under the Plan property of a value that is not less than the amount that the Holder would receive or retain if the Debtors liquidated under chapter 7.

- Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors or any successors thereto under the Plan, unless the Plan contemplates such liquidation or reorganization.

- The Debtors have paid or the Plan provides for the payment of the required filing fees pursuant to 28 U.S.C. § 1930 to the clerk of the Bankruptcy Court.

4. Best Interests of Creditors Test/Liquidation Analysis

Often called the "best interests" test, section 1129(a)(7) of the Bankruptcy Code requires that a bankruptcy court find as a condition to confirmation, that a chapter 11 plan provides, with respect to each class, that each holder of a claim or an equity interest in the class either (i) has accepted the plan or (ii) will receive or retain under the plan property of a value that is not less than the amount that the Holder would receive or retain if the debtors liquidated under chapter 7.

If no plan can be Confirmed, the Debtors' Chapter 11 Cases may be converted to cases under chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be elected or appointed to liquidate the assets of the Debtors for distribution in accordance with the priorities established by the Bankruptcy Code. A discussion of the effects that a chapter 7 liquidation would have on the recoveries of Holders of Claims and the Debtors' Liquidation Analysis is described herein and attached hereto as **Exhibit E**.

Thus, the Plan satisfies the requirements of section 1129(a)(7) of the Bankruptcy Code with respect to such Classes.

5. Feasibility Requirements

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of a plan of reorganization is not likely to be followed by the liquidation, or the need for further financial reorganization of the debtor, or any successor to the debtor (unless such liquidation or reorganization is proposed in the plan of reorganization). To determine whether the Plan meets this feasibility requirement, the Debtors have analyzed their ability to meet their respective obligations under the Plan. As part of this analysis, the Debtors have prepared certain Financial Projections, which projections and the assumptions upon which they are based are attached hereto as **Exhibit D**. These Financial Projections relate to the expected performance of the Reorganized Debtors under the Plan. Based on these Financial Projections and the fact that the Debtors will have sufficient funds upon Confirmation to make all payments required under the Plan, the Debtors believe that the deleveraging contemplated by the Plan meets the feasibility requirement of section 1129(a)(11) of the Bankruptcy Code.

6. Acceptance by Impaired Classes

The Bankruptcy Code requires, as a condition to confirmation, that, except as described in the following section, each class of claims or equity interests that is impaired under a plan, accept the plan. A class that is not "impaired" under a plan is deemed to have accepted the plan and, therefore, solicitation of acceptances with respect to such class is not required. Pursuant to section 1124 of the Bankruptcy Code, a class is "impaired" unless the plan: (a) leaves unaltered the legal, equitable, and contractual rights to which the claim or the equity interest entitles the holder of such claim or equity interest; (b) cures any default and reinstates the original terms of such obligation; or (c) provides that, on the consummation date, the holder of such claim or equity interest receives cash equal to the allowed amount of that claim or, with respect to any equity interest, any fixed liquidation preference to which the holder of such equity interest is entitled to any fixed price at which the debtor may redeem the security.

Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a class of impaired claims as acceptance by Holders of at least two-thirds in dollar amount and more than one-half in number of claims in that class, but for that purpose counts only those who actually vote to accept or to reject the plan. Thus, a class of claims will have voted to accept the plan only if two-thirds in amount and a majority in number actually voting cast their ballots in favor of acceptance.

Claims in Classes 1 and 2 are Unimpaired under the Plan, and, as a result, the Holders of such Claims are deemed to have accepted the Plan. Holders of Claims and Interests in Classes 6 and 8 are deemed to have accepted the Plan. Holders of Claims and Interests in Class 7 are deemed to have rejected the Plan.

Claims in Classes 3, 4, and 5 are Impaired under the Plan, and as a result, the Holders of Claims in such Classes are entitled to vote on the Plan. Pursuant to section 1129 of the Bankruptcy Code, the Holders of Claims in the Voting Classes must accept the Plan for the Plan to be confirmed without application of the "fair and equitable test" to such Classes, and without considering whether the Plan "discriminates unfairly" with respect to such Classes, as both standards are described directly below. As stated above, Classes of Claims will have accepted the Plan if the Plan is accepted by at least two-thirds in amount and a majority in number of the Claims of each such Class (other than any Claims of creditors designated under section 1126(e) of the Bankruptcy Code) that have voted to accept or reject the Plan.

7. Confirmation Without Acceptance by All Impaired Classes

Section 1129(b) of the Bankruptcy Code allows a bankruptcy court to confirm a plan even if all impaired classes have not accepted it; *provided, however,* that the plan has been accepted by at least one impaired class. Pursuant to section 1129(b) of the Bankruptcy Code, notwithstanding an impaired class's rejection or deemed rejection of the plan, the plan will be confirmed, at the plan proponent's request, in a procedure commonly known as a "cramdown" so long as the plan does not "discriminate unfairly" and is "fair and equitable" with respect to each class of claims or equity interests that is impaired under, and has not accepted, the plan.

If any Impaired Class rejects the Plan, the Debtors reserve the right to seek to confirm the Plan utilizing the "cramdown" provision of section 1129(b) of the Bankruptcy Code. To the extent that any Impaired Class rejects the Plan or is deemed to have rejected the Plan, the Debtors will request Confirmation of the Plan, as it may be modified from time to time, under section 1129(b) of the Bankruptcy Code.

(a) No Unfair Discrimination

The "unfair discrimination" test applies to classes of claims or interests that are of equal priority and are receiving different treatment under a plan. The test does not require that the treatment be the same or equivalent, but that treatment be "fair." In general, bankruptcy courts consider whether a plan discriminates unfairly in its treatment of classes of claims of equal rank (*e.g.*, classes of the same legal character). Bankruptcy courts will take into account a number of factors in determining whether a plan discriminates unfairly. A plan could treat two classes of unsecured creditors differently without unfairly discriminating against either class.

(b) Fair and Equitable

The "fair and equitable" test applies to classes of different priority and status (*e.g.*, secured versus unsecured) and includes the general requirement that no class of claims receive more than 100% of the amount of the allowed claims in the class. As to the dissenting class, the test sets different standards depending upon the type of claims or equity interests in the class.

The Debtors submit that if the Debtors "cramdown" the Plan pursuant to section 1129(b) of the Bankruptcy Code, the Plan will be structured so that it does not "discriminate unfairly" and satisfies the "fair and equitable" requirement. With respect to the unfair discrimination requirement, all Classes under the Plan are provided treatment that is substantially equivalent to the treatment that is provided to other Classes that have equal rank. The Debtors believe that the Plan and the treatment of all Classes of Claims and Interests under the Plan satisfy the foregoing requirements for nonconsensual Confirmation of the Plan:

- Secured Claims. The condition that a plan be "fair and equitable" to a non-accepting class of secured claims may be satisfied, among other things, if a debtor demonstrates that: (i) the holders of such secured claims retain the liens securing such claims to the extent of the allowed amount of the claims, whether the property subject to the liens is retained by the debtor or transferred to another entity under the plan; and (ii) each holder of a secured claim in the class receives deferred cash payments totaling at least the allowed amount of such claim with a present value, as of the effective date of the plan, at least equivalent to the value of the secured claimant's interest in the debtor's property subject to the liens.

- Unsecured Claims. The condition that a plan be "fair and equitable" to a non-accepting class of unsecured claims includes the requirement that either: (i) the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or (ii) the holder of any claim or any interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or junior interest any property.

- Equity Interests. The condition that a plan be "fair and equitable" to a non-accepting class of unsecured claims includes the requirement that either: (i) the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or (ii) the holder of any claim or any interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or junior interest any property:

B. CONDITIONS FOR CONSUMMATION OF THE PLAN

The Plan will be consummated on the Effective Date so long as certain conditions precedent are satisfied or waived in accordance with the Article VIII.A-B of the Plan, including:

- The Bankruptcy Court shall have approved this Disclosure Statement as containing adequate information with respect to the Plan within the meaning of Bankruptcy Code section 1125.

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

- The Definitive Documents must be, in form and substance, reasonably acceptable to the Debtors and the Requisite Plan Support Parties.

- All documents and agreements necessary to implement the Plan, including in respect of the New First Lien Facility and New Second Lien Facility, shall have (a) been tendered for delivery and (b) been effected or executed. All conditions precedent to the effectiveness of such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements, and the commitment fees described in Article IV.H of the Plan shall have been paid.

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

- The Professional Fee Escrow Account shall have been established and funded.

- The Liquidating Trust Agreement has been executed.

- To the extent necessary, an order of the Canadian Proceedings shall have been obtained, in form and reasonably satisfactory to the Debtors and the Canadian Debtors, permitting the treatment of the Intercompany Claims set out herein with respect to the Canadian Debtors.

C. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

1. Liquidation Under Chapter 7 of the Bankruptcy Code

If no chapter 11 plan can be confirmed, the Chapter 11 Cases may be converted to a case under chapter 7 of the Bankruptcy Code in which case, a trustee would be elected or appointed to liquidate the Debtors' assets. A discussion of the effect that a chapter 7 liquidation would have on the recovery of Holders of Claims is set forth in Section VII.A herein, titled "Statutory Requirements for Confirmation of the Plan." In performing the liquidation analysis, the Debtors have assumed that all Holders of Claims will be determined to have "claims" that are entitled to share in the proceeds from any such liquidation. The Debtors believes that liquidation under chapter 7 would result in (i) smaller distributions being made to creditors than those provided for in the Plan because of the additional administrative expenses involved in the appointment of a trustee and attorneys and other professionals to assist such trustee, (ii) additional expenses and claims, some of which would be entitled to priority, which would be generated during the liquidation and from the rejection of unexpired leases and executory contracts in connection with the cessation of the Debtors' operations, (iii) the failure to realize the greater, going-concern value of all of the Debtors' assets, and (iv) major tax liabilities that result from taxable income recognized due to excess loss accounts, as discussed below in "IX. CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN – B. Consequences to the Debtors and Reorganized Debtors – 3. Excess Loss Accounts"

2. Filing of an Alternative Plan of Reorganization

If the Plan is not confirmed, the Debtors or any other party in interest could attempt to formulate a different plan of reorganization. Such a plan might involve either a reorganization and continuation of the Debtors' business or an orderly liquidation of their assets. During the negotiations prior to the filing of the Plan, the Debtors explored various alternatives to the Plan.

The Debtors believe that the Plan enables the Debtors to emerge from chapter 11 successfully and expeditiously, preserves their business and allows creditors to realize the highest recoveries under the circumstances. In a liquidation under chapter 11 of the Bankruptcy Code, the assets of the Debtors would be sold in an orderly fashion over a more extended period of time than in a liquidation under chapter 7, and a trustee need not be appointed. Accordingly, creditors would receive greater recoveries than in a chapter 7 liquidation. Although a chapter 11 liquidation is preferable to a chapter 7 liquidation, the Debtors believe that a liquidation under chapter 11 is a much less attractive alternative to creditors than the Plan because the Plan provides for a greater return to creditors. In any liquidation, creditors would be paid their distribution in Cash, whereas, under the Plan, some creditors will receive a part of their distribution in New Common Units (if issued).

VIII.
PLAN-RELATED RISK FACTORS

PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN, ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN SHOULD READ AND CONSIDER CAREFULLY EACH OF THE FACTORS SET FORTH HEREIN, AS WELL AS ALL OTHER INFORMATION SET FORTH OR OTHERWISE REFERENCED IN THIS DISCLOSURE STATEMENT. WHILE NUMEROUS, THESE RISK FACTORS SHOULD NOT BE CONSTRUED AS THE ONLY RISKS RELATING TO THE DEBTORS' BUSINESSES AND/OR THE PLAN.

The following provides a summary of various important considerations and risk factors associated with the Plan. However, it is not exhaustive. In considering whether to vote for or against the Plan, Holders of Claims in Voting Classes should read and carefully consider the factors set forth below and all other information set forth or otherwise referenced or incorporated by reference in this Disclosure Statement.

A. RISKS RELATING TO CONFIRMATION OF THE PLAN

1. Parties in Interest May Object to the Plan's Classification of Claims and Interests

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an equity interest in a particular class only if such claim or equity interest is substantially similar to the other claims or equity interests in such class. The Debtors believe that the classification of the Claims and Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because the Debtors created Classes of Claims and Interests, each encompassing Claims and Interests that are substantially similar to the other Claims and Interests in each such Class. Nevertheless, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

2. Failure to Satisfy Vote Requirements

If votes are received in number and amount sufficient to enable the Bankruptcy Court to confirm the Plan, the Debtors intend to seek, as promptly as practicable thereafter, Confirmation of the Plan. In the event that sufficient votes are not received, the Debtors may seek to confirm an alternative chapter 11 plan. There can be no assurance that the terms of any such alternative chapter 11 plan would be similar or as favorable to the Holders of Allowed Claims as those proposed in the Plan.

3. Nonconsensual Confirmation

In the event that any impaired class of Claims or Interests does not accept a chapter 11 plan, a bankruptcy court may nevertheless confirm a plan at the proponents' request if at least one impaired class (as defined under section 1124 of the Bankruptcy Code) has accepted the plan (with such acceptance being determined without including the vote of any "insider" in such class), and, as to each impaired class that has not accepted the plan, the Bankruptcy Court determines that the plan "does not discriminate unfairly" and is "fair and equitable" with respect to the dissenting impaired class(es). The Debtors believe that the Plan satisfies these requirements, and the Debtors may request such nonconsensual Confirmation in accordance with subsection 1129(b) of the Bankruptcy Code. Nevertheless, there can be no assurance that the Bankruptcy Court will reach this conclusion. In addition, the pursuit of nonconsensual Confirmation or Consummation of the Plan may result in, among other things, increased expenses relating to professional compensation.

4. The Debtors May Not Be Able to Secure Confirmation of the Plan.

Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation of a chapter 11 plan, and requires, among other things, a finding by the Bankruptcy Court that: (a) such plan "does not unfairly discriminate" and is "fair and equitable" with respect to any non-accepting classes; (b) confirmation of such plan is not likely to be followed by a liquidation or a need for further financial reorganization unless such liquidation or reorganization is contemplated by the plan; and (c) the value of distributions to non-accepting Holders of claims and equity interests within a particular class under such plan will not be less than the value of distributions such Holders would receive if the debtors were liquidated under chapter 7 of the Bankruptcy Code.

There can be no assurance that the requisite acceptances to confirm the Plan will be received. Even if the requisite acceptances are received, there can be no assurance that the Bankruptcy Court will confirm the Plan. A non-accepting Holder of an Allowed Claim or an Allowed Interest might challenge either the adequacy of this Disclosure Statement or whether the balloting procedures and voting results satisfy the requirements of the Bankruptcy Code or Bankruptcy Rules. Even if the Bankruptcy Court determined that this Disclosure Statement, the balloting procedures and voting results were appropriate, the Bankruptcy Court could still decline to confirm the Plan if it found that any of the statutory requirements for Confirmation had not been met. If the Plan is not confirmed, it is unclear what distributions, if any, Holders of Allowed Claims and Allowed Equity Interests would receive with respect to their Allowed Claims and Allowed Interests.

The Debtors, subject to the terms and conditions of the Plan, reserve the right to modify the terms and conditions of the Plan as necessary for Confirmation. Any such modifications could result in a less favorable treatment of any Class than the treatment currently provided in the Plan. Such less favorable treatment could include a distribution of property to the Class affected by the modification of a lesser value than currently provided in the Plan or no distribution of property whatsoever under the Plan. Changes to the Plan may also delay the confirmation of the Plan and the Debtors' emergence from bankruptcy.

5. The Debtors May Object to the Amount or Classification of a Claim

Except as otherwise provided in the Plan, the Debtors reserve the right to object to the amount or classification of any Claim under the Plan. The estimates set forth in this Disclosure Statement cannot be relied upon by any Holder of a Claim where such Claim is or may be subject to an objection. Any Holder of a Claim that is or may be subject to an objection thus may not receive its expected share of the estimated distributions described in this Disclosure Statement.

6. Continued Risk Upon Confirmation

Even if a chapter 11 plan of reorganization is consummated, the Debtors will continue to face a number of risks, including certain risks that are beyond their control, such as further industry deterioration or other changes in economic conditions, and increasing expenses. Some of these concerns and effects typically become more acute when a case under the Bankruptcy Code continues for a protracted period without indication of how or when the case may be completed. As a result of these risks and others, there is no guarantee that a chapter 11 plan of reorganization reflecting the Plan will achieve the Debtors' stated goals.

In addition, at the outset of the Chapter 11 Cases, the Bankruptcy Code gave the Debtors the exclusive right to propose the Plan and prohibited creditors and others from proposing a plan. The Debtors will have retained the exclusive right to propose the Plan upon filing their petitions for chapter 11 relief. If the Bankruptcy Court terminates that right, however, or the exclusivity period expires, there could be a material adverse effect on the Debtors' ability to achieve confirmation of the Plan in order to achieve the Debtors' stated goals.

Furthermore, even if the Debtors' debts are reduced and/or discharged through the Plan, the Debtors may need to raise additional funds through public or private debt or equity financing or other various means to fund the Debtors' business after the completion of the proceedings related to the Chapter 11 Cases. Adequate funds may not be available when needed or may not be available on favorable terms.

7. The Chapter 11 Cases May be Converted to Cases Under Chapter 7 of the Bankruptcy Code

If the Bankruptcy Court finds that it would be in the best interest of creditors and/or the debtor in a chapter 11 case, the Bankruptcy Court may convert a chapter 11 bankruptcy case to a case under chapter 7 of the Bankruptcy Code. In such event, a chapter 7 trustee would be appointed or elected to liquidate the debtor's assets for distribution in accordance with the priorities established by the Bankruptcy Code. The Debtors believe that liquidation under chapter 7 would result in significantly smaller distributions being made to creditors than those provided for in a chapter 11 plan because of (a) the likelihood that the assets would have to be sold or otherwise disposed of in a disorderly fashion over a short period of time rather than reorganizing or selling in a controlled manner affecting the business as a going concern, (b) additional administrative expenses involved in the appointment of a chapter 7 trustee, and (c) additional expenses and Claims, some of which would be entitled to

priority, that would be generated during the liquidation, and including Claims resulting from the rejection of Unexpired Leases and other Executory Contracts in connection with cessation of operations.

8. Contingencies Could Affect Votes of Impaired Classes to Accept or Reject the Plan

The distributions available to Holders of Allowed Claims under the Plan can be affected by a variety of contingencies, including, without limitation, whether the Bankruptcy Court orders certain Allowed Claims to be subordinated to other Allowed Claims. The occurrence of any and all such contingencies, which could affect distributions available to Holders of Allowed Claims and Allowed Equity Interests under the Plan, will not affect the validity of the vote taken by the Impaired Classes to accept or reject the Plan or require any sort of revote by the Impaired Classes.

9. Release, Injunction, and Exculpation Provisions May Not Be Approved

Article IX of the Plan provides for certain releases, injunctions, and exculpations. All of the releases, injunctions, and exculpations provided in the Plan, if any, are subject to objection by parties in interest and may not be approved. If they are not approved, the Plan may lose the support of certain parties and likely cannot be confirmed and likely cannot go effective. Moreover, the Debtors' investigation, at the direction of the Special Committee, into potential Claims and Causes of Action is ongoing. The releases and exculpation set forth in the Plan are subject to the conclusion of that investigation and determination with respect to any potential Claims or Causes of Action belonging to the Estates, if any, identified therein, and the Debtors expressly reserve the right to pursue or settle any such Claims or Causes of Action and do not release any such Claims or Causes of Action pending completion of the Insider Investigation.

B. RISKS RELATING TO RECOVERIES UNDER THE PLAN

1. The Recovery to Holders of Allowed Claims Cannot be Stated With Absolute Certainty.

This Disclosure Statement contains various projections concerning the Reorganized Debtors' operations, including the Financial Projections, that are, by their nature, forward looking, and which projections are necessarily based on certain assumptions and estimates regarding the anticipated future performance of the Reorganized Debtors, including, without limitation, their ability to maintain or increase revenue and gross margins, control future operating expenses, or make necessary capital, as well as assumptions concerning general business and economic conditions and overall industry performance and trends, which the Debtors are unable to control. Should any or all of these assumptions or estimates ultimately prove to be incorrect or not materialize, the actual future experiences of the Reorganized Debtors may turn out to be different from the Financial Projections. Also, because the Liquidation Analysis, distribution projections, and other information contained herein and attached hereto are estimates only, the timing and amount of actual distributions to Holders of Allowed Claims may be affected by many factors that cannot be predicted.

Further, because the Claims Bar Date has not yet occurred, the Claims estimates set forth herein are based on various assumptions and the best information available to the Debtors at this time. Accordingly, they are estimates. The actual amounts of Allowed Claims may differ significantly from those estimates should one or more underlying assumption prove to be incorrect. Such differences may adversely affect the percentage recovery to Holders of such Allowed Claims under the Plan. Moreover, the estimated recoveries set forth herein are necessarily based on numerous assumptions, the realization of many of which are beyond the Debtors' control, including, without limitation, (a) the successful reorganization of the Debtors, (b) an assumed date for the occurrence of the Effective Date, (c) the Debtors' ability to achieve the operating and financial results included in the Financial Projections, (d) the Debtors' ability to maintain adequate liquidity to fund operations, and (e) the assumption that capital and equity markets remain consistent with current conditions.

The actual amounts of Allowed Claims may differ significantly from those estimates should one or more underlying assumption prove to be incorrect, which could affect the percentage recovery to Holders of such Allowed Claims under the Plan, in some instances adversely. Also, the estimated recoveries to Holders of Allowed Claims are not intended to represent the private sale values of the Reorganized Debtors' securities.

2. Risk of Non-Occurrence of the Effective Date

The Debtors can provide no assurance as to the timing or as to whether the Effective Date will, in fact, occur. The occurrence of the Effective Date is subject to certain conditions precedent as described in Article VIII.B of the Plan, including, among others, those relating to Consummation of the Plan, as well as the receipt of certain regulatory approvals. Failure to meet any of these conditions could result in the Plan not being consummated or the Confirmation Order being vacated.

C. RISKS RELATING TO THE DEBTORS' BUSINESSES

1. Prolonged Continuation of the Chapter 11 Cases Is Likely To Harm the Debtors' Business.

The prolonged continuation of these Chapter 11 Cases is likely to adversely affect the Debtors' business and operations. So long as the Chapter 11 Cases continue, senior management of the Debtors will be required to spend a significant amount of time and effort dealing with the Debtors' reorganization instead of focusing exclusively on business operations. Prolonged continuation of the Chapter 11 Cases will also make it more difficult to attract and retain management and other key personnel necessary to the success and growth of the Debtors' business. In addition, so long as the Chapter 11 Cases continue, the Debtors will be required to incur substantial costs for professional fees and other expenses associated with the proceedings. The prolonged continuation of the Chapter 11 Cases may also require the Debtors to seek additional financing in order to service their debt and other obligations. It may not be possible for the Debtors to obtain additional financing during the pendency of the Chapter 11 Cases on commercially favorable terms or at all. If the Debtors were to require additional financing during the Chapter 11 Cases and were unable to obtain the financing on favorable terms or at all, it is unlikely the Debtors could successfully reorganize.

2. The Value of New Common Units Cannot Be Stated With Absolute Certainty.

Despite the Debtors' best efforts to value the New Common Units, various uncertainties, including market conditions, the Debtors' inability to implement their business plan, and lack of a market for the New Common Units may cause fluctuations or variations in value of the New Common Units not fully accounted for herein.

In addition, the value of the New Common Units may be impacted by changes to the Reorganized Debtors' post-emergence capital structure.

3. The Chapter 11 Cases May Affect the Tax Liability of Reorganized Debtors.

In connection with the Debtors' emergence from these Chapter 11 Cases, it is likely that the Debtors' tax attributes will be significantly reduced due to the cancellation of indebtedness income, with any remaining tax attributes subject to limitation under Sections 382 and 383 of the IRC.

4. The Restructuring of the Debtors May Adversely Affect the Debtors' Tax Attributes

Under federal income tax law, a corporation is generally permitted to deduct from taxable income NOLs carried forward from prior years. As of the tax year ending February 2, 2019, the Debtors had approximately $251 million of U.S. federal NOLs, $341 million of U.S. state NOLs, $88 million of federal tax credits, and $48 million of 163(j) Deductions. The Debtors' ability to utilize their NOL carryforwards and other tax attributes to offset future taxable income and to reduce federal income tax liability is subject to certain requirements and restrictions. In general, such NOLs and other tax attributes could be reduced by the amount of discharge of indebtedness arising in a chapter 11 case under section 108 of the IRC or to offset any taxable gains recognized by the Debtors attributable to the restructuring transactions. In addition, if the Debtors experience an "ownership change," as defined in section 382 of the IRC, then their ability to use the NOL carryforwards may be substantially limited, which could have a negative impact on the Debtors' financial position and results of operations. Generally, there is an "ownership change" if one or more stockholders owning 5% or more of a corporation's common stock have aggregate increases in their ownership of such stock of more than 50 percentage points over the prior three-year period. Following the implementation of a plan of reorganization, it is possible that an "ownership change" may be deemed to occur. Under section 382 of the IRC, absent an applicable exception, if a corporation undergoes an "ownership change," the amount of its NOLs that may be utilized to offset future taxable income generally is subject to annual limitation.

The Debtors currently expect that their net operating loss carryforwards and other tax attributes may be significantly reduced, eliminated, or limited in connection with the restructuring transactions, through a combination of one or more of the above factors.

5. The Reorganized Debtors May be Adversely Affected by Potential Litigation, Including Litigation Arising Out of the Chapter 11 Cases

The Debtors are currently subject to or interested in certain legal proceedings, some of which may adversely affect the Debtors. In the future, the Reorganized Debtors may become party to litigation. In general, litigation can be expensive and time consuming to bring or defend against. Such ligation could result in settlements or damages that could significantly affect the Reorganized Debtors' financial results. It is also possible that certain parties will commence litigation with respect to the treatment of their Claims under the Plan. It is not possible to predict the potential litigation that the Reorganized Debtors may become party to, nor the final resolution of such litigation. The impact of any such litigation on the Reorganized Debtors' businesses and financial stability, however, could be material.

6. The Debtors May Not Perform in Accordance with the Financial Projections

As set forth in **Exhibit D**, the Financial Projections are inherently subject to risks and uncertainties. Such risk factors, many of which are beyond the control of the Company, could cause actual results to differ materially from the Financial Projections. A material deviation from the Financial Projections may have a negative impact on the Debtors' ongoing business performance. If the Debtors do not achieve the projected levels of same store sales, they may have inadequate capital to operate their business and service their debt during the periods covered by the Financial Projections, and there could be a need for further restructuring.

7. Changes in U.S. Trade Policy, Including the Imposition of Tariffs and the Resulting Consequences, May Have a Material Adverse Impact on the Debtors' Business and Results of Operations

The Debtors rely on manufacturers located in foreign countries, including China, for significant amounts of merchandise. The Debtors' business may be materially adversely affected by risks associated with international trade, including the impact of tariffs recently imposed by the U.S. with respect to certain consumer goods imported from China.

Global sourcing of many of the products sold by the Debtors is an important factor in driving higher operating profit. During 2018, the Debtors purchased approximately 70% of their products directly from overseas vendors, including 28% from vendors located in China. Additionally a significant amount of the Debtors' merchandise is manufactured abroad. The Debtors' ability to identify qualified vendors and to access products in a timely and efficient manner is a significant challenge, especially with respect to goods sourced outside the U.S. Global sourcing and foreign trade involve numerous risks and uncertainties beyond the Debtors' control, including increased shipping costs, increased import duties, more restrictive quotas, loss of most favored nation trading status, currency and exchange rate fluctuations, work stoppages, transportation delays, economic uncertainties such as inflation, foreign government regulations, political unrest and protests, natural disasters, war, terrorism, trade restrictions and tariffs (including retaliation by the U.S. against foreign practices or by foreign countries against U.S. practices), the financial stability of vendors, or merchandise quality issues. U.S. policy on trade restriction is ever-changing and may result in new laws, regulations or treaties that increase the costs of importing goods and/or limit the scope of available foreign vendors. These and other issues affecting the Debtors' international venders could materially adversely affect the Debtors' business and financial performance.

On March 22, 2018, President Trump, pursuant to section 301 of the Trade Act of 1974, directed the U.S. Trade Representative ("USTR") to impose tariffs on $50 billion worth of imports from China. On June 15, 2018, the USTR announced its intention to impose an incremental tariff of 25% on $50 billion worth of imports from China comprised of (1) 818 product lines valued at $34 billion ("List 1") and (2) 284 additional product lines valued at $16 billion ("List 2"). The List 1 tariffs went into effect on July 6, 2018 and the List 2 tariffs went into effect on August 23, 2018 (with respect to 279 of the 284 originally targeted product lines). On July 10, 2018, the USTR announced its intention to impose an incremental tariff of 10% on another $200 billion worth of imports from China comprised of 6,031 additional product lines ("List 3") following the completion of a public notice and comment

period. On August 1, 2018, President Trump instructed the USTR to consider increasing the tariff on the List 3 products from 10% to 25%. On September 17, 2018, the USTR released the final List 3 covering 5,745 full or partial lines of the 6,031 originally targeted product lines and announced that the List 3 tariffs will be implemented in two phases. On September 24, 2018, a 10% incremental tariff went into effect with respect to the List 3 products. The List 3 tariff was scheduled to increase to 25% on January 1, 2019. However, on December 1, 2018, there was a delay in the implementation of the List 3 tariff increase until March 1, 2019, to allow Chinese and U.S. leaders to begin negotiations on various policy issues. On March 5, 2019, the USTR further delayed the implementation of List 3 tariff increase until further notice. The List 3 tariffs increased to 25% on May 10, 2019. On May 17, 2019, USTR announced its intention to impose additional ad valorem tariffs of up to 25% on approximately $300 billion worth of imports of products of China comprised of 3,805 full and partial tariff subheadings ("List 4") following the completion of a public notice and comment period. List 4 covers essentially all products not currently covered by Lists 1, 2 and 3, but excludes pharmaceuticals, certain pharmaceutical inputs, select medical goods, rare earth materials, and critical minerals. President Trump has stated that the tariffs on List 4 will go into effect on September 1, 2019.

Certain of the Debtors' products and components of the Debtors' products that are imported from China are currently included in the product lines subject to the tariffs currently in effect or proposed. As a result, the Debtors are evaluating the potential impact of the tariffs currently in effect or proposed on their supply chain, costs, sales and profitability and are considering strategies to mitigate such impact, including reviewing sourcing options, filing requests for exclusion from the tariffs with the USTR for certain product lines and working with the Debtors' vendors and merchants. Given the uncertainty regarding the scope and duration of the tariffs, as well as the potential for additional trade actions by the U.S. or other countries, the impact on the Debtors' operations and results is uncertain and could be significant. The Debtors can provide no assurance that any strategies the Debtors implement to mitigate the impact of such tariffs or other trade actions will be successful. To the extent that the Debtors' supply chain, costs, sales or profitability are negatively affected by the tariffs or other trade actions, the Debtors' business, financial condition and results of operations may be materially adversely affected.

8. The Debtors' Business is Subject to the Risks of International Operations

The Debtors have material international operations. Compliance with applicable U.S. and foreign laws and regulations, such as import and export requirements, anti-corruption laws, tax laws, foreign exchange controls and cash repatriation restrictions, data privacy and data localization requirements, environmental laws, labor laws and anti-competition regulations, increases the costs of doing business in foreign jurisdictions. Although the Debtors have implemented policies and procedures to comply with these laws and regulations, a violation by the Debtors' employees, contractors or agents could nevertheless occur. In some cases, compliance with the laws and regulations of one country could violate the laws and regulations of another country. Violations of these laws and regulations could materially adversely affect the Debtors' brand, international growth efforts and business. The Debtors also could be significantly affected by other risks associated with international activities including, but not limited to, economic and labor conditions, increased duties, taxes and other costs, political instability, protests, and unrest, and international trade disputes.

9. The Debtors Rely on Third Parties to Manufacture and Distribute Their Products

The Debtors depend on third party manufacturers to manufacture the merchandise that they sell. If these manufacturers are unable to secure sufficient supplies of raw materials, produce products that meet the Debtors' quality standards or maintain adequate manufacturing and shipping capacity, they may be unable to provide the Debtors with timely delivery of products. In addition, if the prices charged by these third parties increase for reasons such as increases in the price of raw materials, increases in labor costs or currency fluctuations, the Debtors' cost of manufacturing would increase, adversely affecting their results of operations. The Debtors also depend on third parties to transport and deliver their products. Due to the fact that the Debtors do not have any independent transportation or delivery capabilities of their own, if these third parties are unable to transport or deliver the Debtors' products for any reason, or if they increase the price of their services, the Debtors' operations and financial performance would be adversely affected.

Holders of Claims should carefully review Article IX hereof, to determine how the tax implications of the Chapter 11 Cases and treatment of Allowed Claims under the Plan could adversely affect the Reorganized Debtors and such Holders.

D. DISCLOSURE STATEMENT DISCLAIMER

1. No Representations Made Outside this Disclosure Statement Are Authorized.

The information contained in this Disclosure Statement is for purposes of soliciting acceptances of the Plan and may not be relied upon for any other purposes. Except as otherwise provided herein or in the Plan, no representations relating to the Debtors, the Chapter 11 Cases or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code. Any representations or inducements made to secure your acceptance or rejection of the Plan that are other than as contained in, or included with, this Disclosure Statement, should not be relied upon by you in arriving at your decision. You should promptly report unauthorized representations or inducements to the counsel to the Debtors, the counsel to the Creditors' Committee and the United States Trustee.

2. The Debtors Relied on Certain Exemptions from Registration Under the Securities Act.

This Disclosure Statement has not been filed with the SEC or any state regulatory authority. Neither the SEC nor any state regulatory authority has passed upon the accuracy or adequacy of this Disclosure Statement, or the exhibits or the statements contained herein, and any representation to the contrary is unlawful. This Disclosure Statement has been prepared pursuant to section 1125 of the Bankruptcy Code and Bankruptcy Rule 3016(b) and is not necessarily in accordance with the requirements of federal or state securities laws or other similar laws.

The offer of New Common Units under the Plan has not been registered under the Securities Act or similar state securities or "blue sky" laws. To the maximum extent permitted by section 1145 of the Bankruptcy Code, the Securities Act and other applicable non-bankruptcy law, the issuance of the New Common Units or any shares reserved for issuance under the Management Equity Incentive Plan, will be exempt from registration under the Securities Act by virtue of section 1145 of the Bankruptcy Code, Section 4(a)(2) of the Securities Act, Rule 701 promulgated under the Securities Act, or a "no sale" under the Securities Act as described herein.

3. The Information Herein Was Provided by the Debtors and Relied Upon by Their Advisors.

The Debtors have used their reasonable business judgment to ensure the accuracy of the information, including financial information, provided in this Disclosure Statement, the Plan and related documents. Nonetheless, the Debtors cannot, and do not, confirm the current accuracy of every statement appearing in this Disclosure Statement.

Statements contained in this Disclosure Statement are made by the Debtors as of the date hereof, unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has not been a change in the information set forth herein since that date. **Although the Debtors may subsequently update the information in this Disclosure Statement, the Debtors have no affirmative duty to do so unless ordered to do so by the Bankruptcy Court.**

The financial information contained in this Disclosure Statement has not been audited. In preparing this Disclosure Statement, the Debtors relied on financial data derived from their books and records that was available at the time of such preparation. While the Debtors believe that such financial information fairly reflects the financial condition of the Debtors, the Debtors are unable to warrant or represent that the financial information contained herein and attached hereto is without inaccuracies.

Counsel to and other advisors retained by the Debtors have relied upon information provided by the Debtors in connection with the preparation of this Disclosure Statement. Although counsel to and other advisors retained by the Debtors have performed certain limited due diligence in connection with the preparation of this Disclosure Statement, they have not verified independently the information contained herein.

4. No Legal or Tax Advice Is Provided to You by this Disclosure Statement.

This Disclosure Statement is not legal advice to you. The contents of this Disclosure Statement should not be construed as legal, business or tax advice. Each Holder of a Claim or an Equity Interest should consult his or her own legal counsel and tax advisor with regard to any legal, tax and other matters concerning his or her Claim or

Equity Interest. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to Confirmation of the Plan.

5. No Admissions Are Made by This Disclosure Statement.

The information and statements contained in this Disclosure Statement will neither constitute an admission of any fact or liability by any Entity (including, without limitation, the Debtors) nor be deemed evidence of the tax or other legal effects of the Plan on the Debtors, the Reorganized Debtors, Holders of Allowed Claims or Equity Interests or any other parties in interest. The vote by a Holder of an Allowed Claim for or against the Plan does not constitute a waiver or release of any Claims or rights of the Debtors or the Reorganized Debtors (or any party in interest, as the case may be) to object to that Holder's Allowed Claim, or recover any preferential, fraudulent or other voidable transfer or assets, regardless of whether any Claims or Causes of Action of the Debtors or their respective Estates are specifically or generally identified herein.

In addition, no reliance should be placed on the fact that a particular litigation claim or projected objection to a particular Claim or Equity Interest is, or is not, identified in this Disclosure Statement. The Debtors or the Reorganized Debtors may seek to investigate, file and prosecute Claims and Equity Interest and may object to Claims after the Confirmation or Effective Date of the Plan irrespective of whether this Disclosure Statement identifies such Claims or Objections to Claims.

IX.
CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

A. BRIEF OVERVIEW AND DISCLOSURE

The following discussion is a summary of certain U.S. federal income tax consequences of the consummation of the Plan to the Debtors, the Reorganized Debtors, and to certain U.S. Holders and Non-U.S. Holders (each as defined below) of Claims entitled to vote on the Plan, and it does not address the U.S. federal income tax consequences to Holders of Claims who are Unimpaired or otherwise not entitled to vote on the Plan. This summary is based on the Internal Revenue Code of 1986, as amended (the "IRC"), the U.S. Treasury Regulations promulgated thereunder (the "Treasury Regulations"), judicial decisions, revenue rulings and revenue procedures of the U.S. Internal Revenue Service (the "IRS") and any other published administrative rules and pronouncements of the IRS, all as in effect on the date of this Disclosure Statement and all of which are subject to change or differing interpretations of applicable tax law may have retroactive effect and could significantly affect the U.S. federal income tax consequences describe below. Due to the lack of definitive judicial and administrative authority in a number of areas, substantial uncertainty may exist with respect to some of the tax consequences described below. No opinion of counsel has been obtained and the Debtors do not intend to seek a ruling from the IRS as to any of the tax consequences of the Plan discussed below. The discussion below is not binding upon the IRS or the courts. No assurance can be given that the IRS would not assert, or that a court would not sustain, a different position than any position discussed herein.

This summary does not address non-U.S., state, local, or non-income tax consequences of the Plan (including such consequences with respect to the Debtors or the Reorganized Debtors), nor does it purport to address all aspects of U.S. federal income taxation that may be relevant to a Holder in light of its individual circumstances or to a Holder that may be subject to special tax rules (such as persons who are related to the Debtors within the meaning of the IRC, persons liable for alternative minimum tax, U.S. Holders whose functional currency is not the U.S. dollar, U.S. expatriates, certain former citizens or long-term residents of the United States, broker-dealers, banks, mutual funds, insurance companies, financial institutions, retirement plans, small business investment companies, regulated investment companies, real estate investment trusts, tax-exempt organizations, controlled foreign corporations, passive foreign investment companies, partnerships (or other entities treated as partnerships or other pass-through entities), beneficial owners of partnerships (or other entities treated as partnerships or other pass-through entities), subchapter S corporations, Holders of Claims or who will hold the New Common Units or the New First Lien Facility and New Second Lien Term Loan Facility, as part of a straddle, hedge, conversion transaction, or other integrated investment, persons using a mark-to-market method of accounting, and Holders of Claims who are themselves in bankruptcy). Furthermore, this summary assumes that a Holder of a Claim holds only Claims in a single Class and holds such a Claim only as a "capital asset" (within the meaning of section 1221 of the IRC). This summary also assumes that the Claims to which any of the Debtors are a party will be respected for U.S. federal income tax purposes in accordance with their form, and that the Claims constitute interests in the Debtors "solely as a creditor" for purposes of section 897 of the IRC. This discussion does not address the U.S. federal income tax consequences to Holders (a) whose Claims are Unimpaired or otherwise entitled to payment in full under the Plan, or (b) that are deemed to accept or deemed to reject the Plan. Additionally, this discussion does not address any consideration being received other than in a person's capacity as a Holder of a Claim. For the avoidance of doubt, this summary does not discuss the treatment of the receipt of the New Incentive Units pursuant to the Management Incentive Plan.

For purposes of this discussion, the term "U.S. Holder" means a Holder of a Claim (including a beneficial owner of a Claim), that is, for U.S. federal income tax purposes, (i) an individual citizen or resident of the United States, (ii) a corporation, or other entity treated as a corporation, created or organized in or under the laws of the United States or any state thereof or the District of Columbia, (iii) a trust if (a) a court within the United States is able to exercise primary jurisdiction over the trust's administration and one or more U.S. persons (within the meaning of section 7701(a)(30) of the IRC) have the authority to control all substantial decisions of the trust or (b) such trust has made a valid election under applicable Treasury Regulations to be treated as a U.S. person for U.S. federal income tax purposes, or (iv) an estate, the income of which is includible in gross income for U.S. federal income tax purposes regardless of its source.

For purposes of this discussion, a "Non-U.S. Holder" is any Holder of a Claim that is neither a U.S. Holder nor a partnership (or other entity treated as a partnership or other pass-through entity for U.S. federal income tax

purposes). In the case of a Holder that is classified as a partnership for U.S. federal income tax purposes, the tax treatment of a partner generally will depend upon the status of the partner and the activities of the partner or the partnership. If you are a partner (or other beneficial owner) of a partnership (or other entity treated as a partnership or other pass-through entity) that is, or will be, a Holder of a Claim, then you should consult your own tax advisors.

The following discussion assumes that each Holder of a Claim holds its Claim as a "capital asset" within the meaning of Section 1221 of the IRC.

ACCORDINGLY, THE FOLLOWING SUMMARY OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES PERTAINING TO YOU. ALL HOLDERS OF CLAIMS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS AS TO THE U.S. FEDERAL, STATE, LOCAL, NON-U.S., NON-INCOME, AND OTHER TAX CONSEQUENCES OF THE PLAN.

B. CONSEQUENCES TO THE DEBTORS AND REORGANIZED DEBTORS

1. Cancellation of Indebtedness Income and Reduction of Tax Attributes

In general, absent an exception, a debtor will realize and recognize cancellation of debt income ("COD Income") upon satisfaction of its outstanding indebtedness for total consideration less than the amount of such indebtedness. The amount of COD Income, in general, is the excess of (a) the adjusted issue price of the indebtedness satisfied over (b) the sum of (x) the amount of Cash paid, (y) the adjusted issue price of any new indebtedness of the taxpayer issued and (z) the fair market value of any new consideration given in satisfaction of such indebtedness at the time of the exchange. The amount of COD Income, if any, and, accordingly, the amount of tax attributes required to be reduced, will depend on the fair market value (or, in the case of debt instruments, the adjusted issue price) of various forms of consideration to be received by Holders of Claims under the Plan. These amounts cannot be known with certainty until after the Effective Date and, as a result, the total amount of attribute reduction as a result of the Plan cannot be determined until after the Effective Date.

A debtor will not, however, be required to include any amount of COD Income in gross income if the debtor is under the jurisdiction of a court in a case under chapter 11 of the Bankruptcy Code and the discharge of debt occurs pursuant to that proceeding, as would be the case if the Plan were approved. Instead, as a consequence of such exclusion, a debtor must reduce certain of its tax attributes by the amount of COD Income that it excluded from gross income pursuant to Section 108 of the IRC. In general, tax attributes will be reduced in the following order: (a) net operating losses ("NOLs") and NOL carryforwards; (b) most tax credits; (c) capital loss carryovers; (d) tax basis in assets (but not below the amount of liabilities to which the Reorganized Debtor remains subject immediately after the discharge); (e) passive activity loss and credit carryovers; and (f) foreign tax credits. Alternatively, a debtor with COD Income may elect first to reduce the basis of its depreciable assets pursuant to Section 108(b)(5) of the IRC**,** though it has not been determined whether the Debtors would make this election. The applicable Treasury Regulations do not currently treat the carryforward of disallowed interest deductions under section 163(j) of the IRC as subject to attribute reduction. Except as provided below in "3. Excess Loss Accounts", any excess COD Income over the amount of available tax attributes will generally not give rise to U.S. federal income tax and will generally have no other U.S. federal income tax impact.

In the context of an affiliated group of corporations filing a consolidated return, the tax rules provide for a complex ordering mechanism in determining how the tax attributes of one member can be reduced by the COD Income of another member. Treasury Regulations applicable to an affiliated group of corporations, like the Debtors, provide that the tax attributes of each member that is excluding COD Income are first subject to reduction before reducing tax attributes of other members of such group. To the extent the debtor member's tax basis in stock of a lower-tier member of the affiliated group is reduced, a "look through rule" requires that a corresponding reduction be made to the tax attributes of the lower-tier member. If a debtor member's excluded COD Income exceeds its tax attributes, the excess COD Income is applied to reduce certain remaining consolidated tax attributes of the affiliated group. Any excess COD Income over the amount of available tax attributes is not subject to U.S. federal income tax and generally has no other U.S. federal income tax impact.

Because the Plan provides that Holders of certain Claims will receive shares of the New Common Units, the amount of COD Income, and accordingly the amount of tax attributes required to be reduced, will depend on the fair market value (or, in the case of debt instruments, the adjusted issue price) of various forms of consideration to be received by Holders of Claims under the Plan. These amounts cannot be known with certainty until after the Effective Date and, as a result, the total amount of attribute reduction as a result of the Plan cannot be determined until after the Effective Date. Following this reduction, the Debtors expect that, subject to the limitations discussed herein and subject to whether the Debtors decide to reduce first the basis in their depreciable assets, they may not have NOL carryforwards remaining after emergence from chapter 11, but will have other significant tax attributes remaining.

2. Limitation of NOL Carryforwards and Other Tax Attributes

As of the tax year ending February 2, 2019, the Debtors had approximately $251 million of U.S. federal NOLs, $341 million of U.S. state NOLs, $88 million of federal tax credits, and $48 million of interest deductions that have been deferred under section 163(j) of the Tax Code (the "163(j) Deductions"). After giving effect to the reduction in tax attributes pursuant to excluded COD Income described above, the Reorganized Debtors' ability to use any remaining tax attributes post-emergence will be subject to certain limitations under sections 382 and 383 of the IRC.

Under the transactions contemplated by the Plan, the Debtors would not be expected to recognize any taxable gain or loss as a result of the implementation of the Plan. Subject to the discussion above regarding attribute reduction as a result of COD Income, and the discussion below regarding excess loss accounts, the Debtors' tax basis in their assets would remain unchanged. Further, the 163(j) Deductions may remain available for use following the implementation of the Plan, subject to the discussion below regarding section 382 of the IRC.

Under Section 382 and 383 of the IRC, if a corporation undergoes an "ownership change," the amount of any remaining NOL carryforwards, tax credit carryforwards, 163(j) Deductions, and possibly certain other attributes (potentially including losses and deductions that have accrued economically but are unrecognized as of the date of the ownership change) of the Debtors allocable to periods prior to the Effective Date (collectively, "Pre-Change Losses") that may be utilized to offset future taxable income generally is subject to an annual limitation. For this purpose, if a corporation (or consolidated group) has a net unrealized built-in loss at the time of an ownership change (taking into account most assets and items of "built-in" income and deductions), then generally built-in losses (including amortization or depreciation deductions attributable to such built-in losses) recognized during the following five years (up to the amount of the original net unrealized built-in loss) will be treated as Pre-Change Losses and similarly will be subject to the annual limitation. In general, a corporation's (or consolidated group's) net unrealized built-in loss will be deemed to be zero unless it is greater than the lesser of (a) $10 million, or (b) 15% of the fair market value of its assets (with certain adjustments) before the ownership change. As discussed in greater detail herein, the Debtors anticipate that the issuance of the New Common Units pursuant to the Plan will result in an "ownership change" of the Debtors for these purposes, and that the Debtors' use of their Pre-Change Losses will be subject to limitation unless an exception to the general rules of Section 382 of the IRC applies.

(a) General Section 382 Annual Limitation

This discussion refers to the limitation determined under Section 382 of the IRC in the case of an "ownership change" as the "Section 382 Limitation." In general, the annual Section 382 Limitation on the use of Pre-Change Losses in any "post-change year" is equal to the product of (a) the fair market value of the stock of the corporation immediately before the "ownership change" (with certain adjustments) multiplied by (b) the "long-term tax-exempt rate" (which is the highest of the adjusted federal long-term rates in effect for any month in the 3-calendar-month period ending with the calendar month in which the "ownership change" occurs, currently 2.31% for August 2019). If the Debtors are in a net unrealized built in gain position, the Section 382 Limitation may be increased to the extent that the Debtors recognize certain built-in gains in their assets during the five-year period following the ownership change, or are treated as recognizing built-in gains pursuant to the safe harbors provided in IRS Notice 2003-65. Section 383 of the IRC applies a similar limitation to capital loss carryforwards and tax credits. Any unused limitation may be carried forward, thereby increasing the annual limitation in the subsequent taxable year. As discussed below, however, special rules may apply in the case of a corporation which experiences an ownership change as the result of a bankruptcy proceeding.

The issuance under the Plan of the New Common Units, along with the cancellation of Existing Equity Interests through the Plan, is expected to cause an ownership change with respect to the Debtors on the Effective Date. As a result, unless an exception applies, Section 382 of the IRC will apply to limit the Debtors' use of any remaining Pre-Change Losses after the Effective Date. This limitation is independent of, and in addition to, the reduction of tax attributes described in the preceding section resulting from the exclusion of COD Income.

(b) Special Bankruptcy Exceptions

Special rules may apply in the case of a corporation that experiences an "ownership change" as a result of a bankruptcy proceeding. One exception to the foregoing annual limitation rules generally applies when shareholders and so-called "qualified creditors" of a debtor company in chapter 11 receive, in respect of their claims, at least 50% of the vote and value of the stock of a debtor corporation (or a controlling corporation if also in chapter 11) as reorganized pursuant to a confirmed chapter 11 plan (the "382(l)(5) Exception"). Under the 382(l)(5) Exception, a debtor's Pre-Change Losses are not limited on an annual basis but, instead, the debtor's NOL carryforwards would be reduced by the amount of any interest deductions claimed during any taxable year ending during the three taxable years period preceding the effective date of the plan of reorganization, and during the part of the taxable year prior to and including the effective date of the plan of reorganization, in respect of all debt converted into stock in the reorganization. If the 382(l)(5) Exception applies and the Reorganized Debtors undergo another ownership change within two years after the Effective Date, then the debtor's Pre-Change Losses thereafter would be effectively eliminated in their entirety.

Where the 382(l)(5) Exception is not applicable (either because a debtor does not qualify for it or a debtor otherwise elects not to utilize the 382(l)(5) Exception), another exception will generally apply (the "382(l)(6) Exception"). Under the 382(l)(6) Exception, the annual limitation will be calculated by reference to the lesser of (a) the value of the debtor corporation's new stock (with certain adjustments) immediately after the ownership change or (b) the value of such debtor corporation's assets (determined without regard to liabilities) immediately before the ownership change. This calculation differs from the ordinary rule that requires the fair market value of a debtor corporation that undergoes an ownership change to be determined before the events giving rise to the change. The 382(l)(6) Exception also differs from the 382(l)(5) Exception in that, under the 382(l)(6) Exception, the debtor corporation is not required to reduce its NOL carryforwards by interest deductions claimed within the prior three-year period, and the debtor may undergo a change of ownership within two years without automatically triggering the effective elimination of its Pre-Change Losses (rather, the resulting limitation would be determined under the regular rules for ownership changes).

Regardless of whether the Reorganized Debtors take advantage of the 382(l)(6) Exception or the 382(l)(5) Exception, the Reorganized Debtors' use of any Pre-Change Losses after the Effective Date may be adversely affected if an "ownership change" within the meaning of Section 382 of the IRC were to occur after the Effective Date.

The Debtors have not determined whether the 382(l)(5) Exception will be available or, if it is available, whether the Reorganized Debtors will elect out of its application.

3. Excess Loss Accounts

Generally, when corporations are members of an affiliated group filing a consolidated return, a parent corporation's basis in the stock of a subsidiary in such a group is (a) increased by the sum of (i) income of such subsidiary and (ii) contributions to such subsidiary, and (b) reduced by the sum of (i) losses or deductions of such subsidiary that are used by the affiliated group and (ii) distributions from such subsidiary. In the case that the amount described in clause (b) above exceeds the amount described in clause (a) above, and such excess is greater than the parent corporation's basis in the subsidiary stock before the adjustments specified in clauses (a)-(b) are made, the amount by which such excess is greater than the parent corporation's basis in the subsidiary stock is called an "excess loss account" and is treated as negative basis for U.S. federal income tax purposes. The affiliated group must recognize income equal to the excess loss account in the subsidiary's stock in certain events, including (x) to the extent the subsidiary recognizes COD Income that is excluded from gross income pursuant to section 108 of the Code (as discussed above), and the affiliated group does not reduce its tax attributes by such excluded COD Income, and (y) if the stock of the subsidiary is treated as disposed of for no consideration. Alternatively, if a corporation sells the stock of a subsidiary in which it has an excess loss account, its taxable gain recognized on the disposition

will be increased by such amount. It is possible that a Debtor will exclude COD Income in excess of available tax attributes and that there could be an excess loss account in the stock of that Debtor. In that case, the Debtors will recognize taxable income in the amount of such excess COD Income, but not to exceed the amount of the excess loss account.

Similarly, in the event that a subsidiary within a an affiliated group is owed a debt (whether evidenced by a note or an intercompany account), and all or part of the debt is forgiven, it generally would be treated as a constructive distribution, which would have the effect of reducing the basis (or increasing the excess loss account) of the immediate parent corporation in the subsidiary. In the event that such debt is not forgiven, but the creditor subsidiary liquidates without the obligation being satisfied or, under the facts, suffers a *de facto* liquidation (such as by becoming dormant, not having meaningful assets, or no longer conducting any meaningful business).

The immediate corporate parents of several U.S. subsidiaries within the Debtors' affiliated group have excess loss accounts and/or owe significant intercompany balances to the subsidiaries, largely due to distributions or advances made prior to the Prior Cases. The proposed Plan contemplates continued business operations integral to the overall business of Debtors by the subsidiaries for which there are excess loss accounts. Accordingly, the Debtors believe that any material excess loss accounts should not be triggered in the proposed restructuring under the Plan. In the event of an actual or de facto liquidation of these subsidiaries, very large tax liabilities would result, and, could prevent confirmation of the proposed Plan. If the Plan were to be converted to Chapter 7, those excess loss accounts would be recognized and recoveries to unsecured creditors would be reduced by the amount of such tax liabilities.

4. Transfer of Assets to a Liquidating Trust

Pursuant to the Plan, on or before the Effective Date, a Liquidating Trust will be established for the sole purpose of liquidating and administering the Liquidating Trust Assets and making distributions to holders of Class 5 Claims in accordance with Treasury Regulations Section 301.7701-4(d). On the Effective Date, all of the Liquidating Trust Assets of the holders of Class 5 Claims will be transferred to the Liquidating Trust. For U.S. federal income tax purposes, the transfer of the Liquidating Trust Assets to the Liquidating Trust generally is treated as equivalent to a sale of the assets at then fair market value. *See* Section E.— "Tax Treatment of the Liquidating Trusts and Holders of Beneficial Interests Therein," below.

Although the Debtors may recognize taxable income in connection with the transfer of the Liquidating Trust Assets to the Liquidating Trust and their liquidation (which is intended to occur prior to December 31, 2019), the Debtors expect to have sufficient available NOLs and/or other tax attributes to avoid any meaningful U.S. federal, state, local or foreign income tax liability.

5. Other Income and Uncertainty of Debtors' Tax Treatment

No assurance can be given that the IRS will agree with the Debtors' interpretations of the tax rules applicable to, or tax positions taken with respect to, the transactions undertaken to effect the Plan. If the IRS were to successfully challenge any such interpretation or position, the Debtors may recognize additional taxable income for U.S. federal income tax purposes, and the Debtors may not have sufficient deductions, losses or other attributes for U.S. federal income tax purposes to fully offset such income.

C. CONSEQUENCES TO U.S. HOLDERS OF ALLOWED CLAIMS

The U.S. federal income tax consequences to a U.S. Holder of a Claim will depend, in part, on whether the Claim surrendered constitutes a "security" of a Debtor for U.S. federal income tax purposes.

Neither the IRC nor the Treasury Regulations promulgated thereunder defines the term "security." Whether a debt instrument constitutes a "security" is determined based on all relevant facts and circumstances, but most authorities have held that the length of the term of a debt instrument at initial issuance is an important factor in determining whether such instrument is a security for U.S. federal income tax purposes. These authorities have indicated that a term of less than five years is evidence that the instrument is not a security, whereas a term of ten years or more is evidence that it is a security. There are numerous other factors that could be taken into account in determining whether a debt instrument is a security, including the available collateral, the creditworthiness of the

obligor, the subordination or lack thereof with respect to other creditors, the right to vote or otherwise participate in the management of the obligor, convertibility of the instrument into an interest of the obligor, whether payments of interest are fixed, variable, or contingent, and whether such payments are made on a current basis or accrued. Note that the Tranche A-2 Term Loan has a term of exactly five years, and thus might be eligible for treatment as a "security." **Due to the inherently factual nature of the determination, U.S. Holders are urged to consult their tax advisors regarding the status of the Tranche A-1 Term Loan Secured Claims or Tranche A-2 Term Loan Secured Claims as "securities" for U.S. federal income tax purposes.**

1. U.S. Federal Income Tax Consequences to the U.S. Holders of Allowed Prepetition Term Loan Claims

Pursuant to the Plan, each U.S. Holder of a Tranche A-1 Term Loan Claim shall receive its *pro rata* share of [$67,000,000]. Each U.S. Holder of a Tranche A-2 Term Loan Secured Claim shall receive its *pro rata* share of 100% of the New Common Units, unless such Holder timely and validly elects to receive cash in the amount of 10% of such Holder's Allowed Tranche A-2 Term Loan Secured Claim in accordance with the Plan pursuant to the Cash Election Agreement in lieu of receiving New Common Units.

(a) Exchange of an Allowed Prepetition Tranche A-2 Term Loan Secured Claim for New Common Units

If the Tranche A-2 Term Loan Secured Claim qualifies as a "security" of Payless, then the U.S. Holder of this Claim should be treated as receiving its distribution under the Plan in a "recapitalization" for U.S. federal income tax purposes. Other than with respect to any amounts received that are attributable to accrued but untaxed interest, the U.S. Holder should recognize no gain or loss upon receipt of the New Common Units. The U.S. Holder should obtain a tax basis in the New Common Units equal to the adjusted tax basis of the U.S. Holders' exchanged Claim. The holding period for New Common Units received should include the holding period for the exchanged Claim.

If the Tranche A-2 Term Loan Secured Claim does not constitute a "security," then the U.S. Holder of this Claim will be treated as receiving its distribution under the Plan in a taxable exchange under section 1001 of the IRC. Other than with respect to any amounts received that are attributable to accrued but untaxed interest, the U.S. Holder should recognize gain or loss in an amount equal to the difference, if any, between (a) the fair value of the New Common Units received and (b) the U.S. Holder's adjusted tax basis in its Claim. The character of such gain as capital gain or ordinary income will be determined by a number of factors including the tax status of the U.S. Holder, the rules regarding "market discount" (as discussed below) and accrued but untaxed interest, whether the Claim constitutes a capital asset in the hands of the U.S. Holder, and whether and to what extent the U.S. Holder had previously claimed a bad debt deduction with respect to its Claim. If recognized gain or loss is capital in nature, it generally would be long-term capital gain if the U.S. Holder held its Claim for more than one year at the time of the exchange. The holding period for the New Common Units received should begin on the day following the Effective Date. Subject to the rules regarding accrued but untaxed interest, the U.S. Holder should obtain a tax basis in the New Common Units equal to the fair market value of the New Common Units.

(b) Exchange of an Allowed Prepetition Tranche A-2 Term Loan Secured Claim for Cash and an Allowed Prepetition Tranche A-1 Term Loan Claim

For Tranche A-1 Term Loan Claims and for U.S. Holders of Tranche A-2 Term Loan Claims who make a Cash Election, such exchanges should be treated as a taxable exchange under Section 1001 of the IRC. The U.S. Holder should recognize capital gain or loss equal to the difference between (i) the Cash received and (ii) the U.S. Holder's adjusted tax basis in its claim. Such gain or loss should be capital in character (subject to the "market discount" rules described below) and should be long-term capital gain or loss if the debts constituting the surrendered Tranche A-1 Term Loan Claim or Tranche A-2 Term Loan Claim with Cash Election, as applicable, were held for more than one year. To the extent that a portion of the Tranche A-1 Term Loan Claim or Tranche A-2 Term Loan Claim, as applicable, is allocable to accrued but untaxed interest, the U.S. Holder may recognize ordinary interest income. See "Accrued Interest" below.

2. Holders of Allowed General Unsecured Claims

Pursuant to the Plan, each U.S. Holder of an Allowed General Unsecured Claim shall receive its pro rata share of the Liquidating Trust, as further described above. In general, a holder of an Allowed General Unsecured Claim will recognize gain or loss with respect to its Allowed General Unsecured Claim in an amount equal to the difference between (i) the sum of the amount of any Cash and the fair market value of its undivided interest in the Liquidating Trust Assets consistent with its economic rights in the trust received in respect of its Claim (other than any consideration attributable to a Claim for accrued but unpaid interest or original issue discount ("OID")) and (ii) the adjusted tax basis of the Claim exchanged therefor (other than any tax basis attributable to accrued but unpaid interest or accrued OID previously included in the holder's taxable income). Pursuant to the Plan, the Liquidating Trustee will in good faith value the assets transferred to the Liquidating Trust, and all parties to the Liquidating Trusts (including holders of Allowed General Unsecured Claims receiving Liquidating Trust Interests) must consistently use such valuation for all U.S. federal income tax purposes. To the extent that a portion of the Allowed General Unsecured Claim, as applicable, is allocable to accrued but untaxed interest, the U.S. Holder may recognize ordinary interest income. See "Accrued Interest" below.

In the event of the subsequent disallowance of any Disputed General Unsecured Claim or the reallocation of undeliverable distributions, it is possible that a holder of a previously Allowed Claim may receive additional distributions in respect of its Claim. Accordingly, it is possible that the recognition of any loss realized by a holder with respect to an Allowed General Unsecured Claim may be deferred until all General Unsecured Claims are Allowed or Disallowed. Alternatively, it is possible that a holder will have additional gain in respect of any additional distributions received. *See also* Section C.3.—"Tax Treatment of the Liquidating Trust and Holders of Beneficial Interests Therein – Tax Reporting for Assets Allocable to Disputed Claims," below.

After the Effective Date, a holder's share of any collections received on the assets of the Liquidating Trust (other than as a result of the subsequent disallowance of Disputed Claims or the reallocation of undeliverable distributions) should not be included, for federal income tax purposes, in the holder's amount realized in respect of its Allowed Claim but should be separately treated as amounts realized in respect of such holder's ownership interest in the underlying assets of the Liquidating Trust.

If gain or loss is recognized, such gain or loss may be long-term capital gain or loss if the Allowed General Unsecured Claim disposed of is a capital asset in the hands of the holder and has been held for more than one year. Each holder of an Allowed General Unsecured Claim should consult its tax advisor to determine whether gain or loss recognized by such holder will be long-term capital gain or loss and the specific tax effect thereof on such holder. The character of any gain or loss depends on, among other things, the origin of the holder's Allowed General Unsecured Claim, when the holder receives payment in respect of such Allowed General Unsecured Claim, whether the holder reports income using the accrual or cash method of tax accounting, whether the holder acquired its Allowed General Unsecured Claim at a discount, whether the holder has taken a bad debt deduction with respect to such Allowed General Unsecured Claim, and/or whether (as intended and herein assumed) the Plan implements the liquidation of the Debtors for U.S. federal income tax purposes.

A holder's aggregate tax basis in its undivided interest in the Liquidating Trust Assets will equal the fair market value of such interest increased by its share of the Debtors' liabilities to which such assets remain subject upon transfer to the Liquidating Trust, and a holder's holding period generally will begin the day following establishment of the Liquidating Trust.

3. Issue Price

The determination of "issue price" for purposes of this analysis will depend, in part, on whether the debt instruments issued to a U.S. Holder or the property surrendered under the Plan are traded on an "established securities market" at any time during the 60-day period ending thirty (30) days after the Effective Date. In general, a debt instrument (or the stock or securities exchanged therefor) will be treated as traded on an established market if (a) it is listed on (i) a qualifying national securities exchange, (ii) certain qualifying interdealer quotation systems, or (iii) certain qualifying non-U.S. securities exchanges; (b) it appears on a system of general circulation that provides a reasonable basis to determine fair market value; or (c) in certain situations the price quotations are readily available from dealers, brokers or traders. The issue price of a debt instrument that is traded on an established market (or that is issued for stock or securities so traded) would be the fair market value of such debt instrument (or

such stock or securities so traded) on the issue date as determined by such trading. The issue price of a debt instrument that is neither so traded nor issued for stock or securities so traded would be its stated principal amount (provided that the interest rate on the debt instrument exceeds the applicable federal rate published by the IRS).

4. Accrued Interest

To the extent that any amount received by a U.S. Holder of a surrendered Allowed Claim under the Plan is attributable to accrued but untaxed interest and such amount has not previously been included in the U.S. Holder's gross income, such amount should be taxable to the U.S. Holder as ordinary interest income for U.S. federal income tax purposes. Conversely, a U.S. Holder of a surrendered Allowed Claim may be able to recognize a deductible loss to the extent that any accrued interest on the Claims was previously included in the U.S. Holder's gross income but was not paid in full by the Debtors. Such loss may be ordinary, but the tax law is unclear on this point.

The extent to which the consideration received by a U.S. Holder of a surrendered Allowed Claim will be attributable to accrued interest on the debts constituting the surrendered Allowed Claim is unclear. Certain legislative history indicates that an allocation of consideration as between principal and interest provided in a chapter 11 plan of reorganization is binding for U.S. federal income tax purposes, while certain Treasury Regulations generally treat a payment under a debt instrument first as a payment of accrued and untaxed interest and then as a payment of principal. Application of this rule to a final payment on a debt instrument being discharged at a discount in bankruptcy is unclear.

Pursuant to the Plan, distributions in respect of Allowed Claims shall be allocated first to the principal amount of such Claims (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claims, to any portion of such Claims for accrued but unpaid interest. However, the provisions of the Plan are not binding on the IRS or a court with respect to the appropriate tax treatment for creditors.

5. Market Discount

Under the "market discount" provisions of Sections 1276 through 1278 of the IRC, some or all of any gain realized by a U.S. Holder exchanging the debt instruments constituting its Allowed Claim may be treated as ordinary income (instead of capital gain), to the extent of the amount of "market discount" on the debt instruments constituting the exchanged Allowed Claim.

In general, a debt instrument is considered to have been acquired with "market discount" if it is acquired other than on original issue and if the U.S. Holder's initial tax basis in the debt instrument is less than (a) the sum of all remaining payments to be made on the debt instrument, excluding "qualified stated interest" or (b) in the case of a debt instrument issued with original issue discount ("OID"), its adjusted issue price, in each case, by at least a de minimis amount (equal to 0.25% of the sum of all remaining payments to be made on the debt instrument, excluding qualified stated interest, multiplied by the number of remaining whole years to maturity).

Any gain recognized by a U.S. Holder on the taxable disposition of an Allowed Claim (determined as described above) of debts that it acquired with market discount should be treated as ordinary income to the extent of the market discount that accrued thereon while such Claims were considered to be held by the U.S. Holder (unless the U.S. Holder elected to include market discount in income as it accrued).

U.S. federal income tax laws enacted in December 2017 added section 451 of the IRC. This new provision generally would require accrual method U.S. Holders that prepare an "applicable financial statement" (as defined in section 451 of the IRC) to include certain items of income (such as market discount) no later than the time such amounts are reflected on such a financial statement. The application of this rule to income of a debt instrument with market discount is effective for taxable years beginning after December 31, 2018. However, the IRS recently announced in Notice 2018-80 that it intends to issue proposed Treasury Regulations confirming that taxpayers may continue to defer income (including market discount income) for tax purposes until there is a payment or sale at a gain. Accordingly, although market discount may have to be included in income currently as it accrues for financial accounting purposes, taxpayers may continue to defer the income for tax purposes. U.S. Holders are urged to consult their own tax advisors concerning the application of the market discount rules to their Claims.

6. Medicare Tax

Certain U.S. Holders that are individuals, estates, or trusts are required to pay an additional 3.8% tax on, among other things, gains from the sale or other disposition of capital assets. U.S. Holders that are individuals, estates, or trusts should consult their tax advisors regarding the effect, if any, of this tax provision on their ownership and disposition of any consideration to be received under the Plan.

7. Limitations on Use of Capital Losses

U.S. Holders of Claims who recognize capital losses as a result of the distributions under the Plan will be subject to limits on their use of capital losses. For non-corporate U.S. Holders, capital losses may be used to offset any capital gains (without regard to holding periods) plus ordinary income to the extent of the lesser of (1) $3,000 ($1,500 for married individuals filing separate returns) or (2) the excess of the capital losses over the capital gains. A non-corporate U.S. Holder may carry over unused capital losses and apply them to capital gains and a portion of their ordinary income for an unlimited number of years. For corporate U.S. Holders, losses from the sale or exchange of capital assets may only be used to offset capital gains. A corporate U.S. Holder that has more capital losses than can be used in a tax year may be allowed to carry over the excess capital losses for use in other tax years. Corporate U.S. Holders may only carry over unused capital losses for the five years following the capital loss year, but are allowed to carry back unused capital losses to the three years preceding the capital loss year.

8. U.S. Federal Income Tax Consequences to U.S. Holder Regarding Owning and Disposing of New Common Units

(a) Ownership and Disposition of New Common Units

(i) Dividends on New Common Units

Any distributions made on account of the New Common Units will constitute dividends for U.S. federal income tax purposes to the extent of the current or accumulated earnings and profits of the entity issuing the New Common Units, as determined under U.S. federal income tax principles. "Qualified dividend income" received by a non-corporate U.S. Holder is subject to preferential tax rates. To the extent that a U.S. Holder receives distributions that would otherwise constitute dividends for U.S. federal income tax purposes but that exceed such current and accumulated earnings and profits, such distributions will be treated first as a non-taxable return of capital reducing the U.S. Holder's basis in the New Common Units. Any such distributions in excess of the U.S. Holder's basis in its shares (determined on a share-by-share basis) generally will be treated as capital gain.

Subject to applicable limitations, distributions treated as dividends paid to U.S. Holders that are corporations generally will be eligible for the dividends-received deduction. However, the dividends-received deduction is only available if certain holding period requirements are satisfied. The length of time that a shareholder has held its stock is reduced for any period during which the shareholder's risk of loss with respect to the stock is diminished by reason of the existence of certain options, contracts to sell, short sales, or similar transactions. In addition, to the extent that a corporation incurs indebtedness that is directly attributable to an investment in the stock on which the dividend is paid, all or a portion of the dividends received deduction may be disallowed.

(ii) Sale, Redemption, or Repurchase of New Common Units

Unless a non-recognition provision applies, and subject to the market discount rules discussed above, U.S. Holders generally will recognize capital gain or loss upon the sale, redemption, or other taxable disposition of the New Common Units. Such capital gain will be long-term capital gain if at the time of the sale, redemption, or other taxable disposition, the U.S. Holder held the New Common Units for more than one year. Long-term capital gains of an individual taxpayer generally are taxed at preferential rates. The deductibility of capital losses is subject to certain limitations as described above.

D. U.S. FEDERAL INCOME TAX CONSEQUENCES TO NON-U.S. HOLDERS OF ALLOWED CLAIMS

1. Gain Recognition

Any gain income realized by a Non-U.S. Holder on the exchange of its Claim generally will not be subject to U.S. federal income taxation, unless (a) the Non-U.S. Holder is an individual who was present in the United States for a hundred and eighty-three (183) days or more during the taxable year in which the exchange occurs and certain other conditions are met or (b) such gain is effectively connected with the conduct by such Non-U.S. Holder of a trade or business in the United States (and if an income tax treaty applies, such gain is attributable to a permanent establishment maintained by such Non-U.S. Holder in the United States).

If the first exception applies, the Non-U.S. Holder generally will be subject to U.S. federal income tax at a rate of 30% (or at a reduced rate or exemption from tax under an applicable income tax treaty) on the amount by which such Non-U.S. Holder's capital gains allocable to U.S. sources exceed capital losses allocable to U.S. sources during the taxable year of the exchange. If the second exception applies, the Non-U.S. Holder generally will be subject to U.S. federal income tax with respect to any gain in the same manner as a U.S. Holder (except that the Medicare tax would generally not apply). In addition, if such a Non-U.S. Holder is a corporation, it may be subject to a branch profits tax equal to 30% (or at a reduced rate or exemption from tax under an applicable income tax treaty) of its effectively connected earnings and profits for the taxable year, subject to certain adjustments.

2. Accrued but Untaxed Interest (or OID)

Payments made to a Non-U.S. Holder under the Plan that are attributable to accrued but untaxed interest (or OID) generally will not be subject to U.S. federal income or withholding tax; *provided*, that (a) such Non-U.S. Holder is not a bank, (b) such Non-U.S. Holder does not actually or constructively own 10% or more of the total combined voting power of all classes of the stock of Payless or Reorganized Payless, as applicable, and (c) the withholding agent has received or receives, prior to payment, appropriate documentation (generally, IRS Form W-8BEN or W-8BEN-E, as applicable, or other applicable IRS Form W-8) establishing that the Non-U.S. Holder is not a U.S. person, unless such interest (or OID) is effectively connected with the conduct by the Non-U.S. Holder of a trade or business within the United States (in which case, *provided* the Non-U.S. Holder provides a properly executed IRS Form W-8ECI (or successor form) to the withholding agent, the Non-U.S. Holder (i) generally will not be subject to withholding tax, but (ii) will be subject to U.S. federal income tax in the same manner as a U.S. Holder (unless an applicable income tax treaty provides otherwise), and a Non-U.S. Holder that is a corporation for U.S. federal income tax purposes may also be subject to a branch profits tax with respect to such Non-U.S. Holder's effectively connected earnings and profits that are attributable to the accrued but untaxed interest (or OID) at a rate of 30% (or at a reduced rate or exemption from tax under an applicable income tax treaty)).

A Non-U.S. Holder that does not qualify for exemption from withholding tax with respect to accrued but untaxed interest (or OID) that is not effectively connected income generally will be subject to withholding of U.S. federal income tax at a 30% rate (or at a reduced rate or exemption from tax under an applicable income tax treaty, *provided* certification requirements as discussed below under "U.S. Federal Income Tax Consequences to Non-U.S. Holders of Owning and Disposing of New Common Units — Dividends on New Common Units" are satisfied) on payments that are attributable to accrued but untaxed interest (or OID). For purposes of providing a properly executed IRS Form W-8BEN or W-8BEN-E, as applicable, or other applicable IRS Form W-8, special procedures are provided under applicable Treasury Regulations for payments through qualified foreign intermediaries or certain financial institutions that hold customers' securities in the ordinary course of their trade or business.

3. U.S. Federal Income Tax Consequences to Non-U.S. Holders of Owning and Disposing of New Common Units

(a) Dividends on New Common Units

Any distributions made with respect to the New Common Units will constitute dividends for U.S. federal income tax purposes to the extent of the current or accumulated earnings and profits of the entity issuing the New Common Units, as determined under U.S. federal income tax principles. Except as described below, dividends paid with respect to the New Common Units held by a Non-U.S. Holder that are not effectively connected with such

Non-U.S. Holder's conduct of a U.S. trade or business (and if an income tax treaty applies, are not attributable to a permanent establishment maintained by such Non-U.S. Holder in the United States) will be subject to U.S. federal withholding tax at a rate of 30% (or at a reduced rate or exemption from tax under an applicable income tax treaty). A Non-U.S. Holder generally will be required to satisfy certain IRS certification requirements in order to claim a reduction of or exemption from withholding under a tax treaty by filing IRS Form W-8BEN or W-8BEN-E, as applicable (or a successor form), or other applicable IRS Form W-8, upon which the Non-U.S. Holder certifies, under penalties of perjury, its status as a non-U.S. person and its entitlement to the lower treaty rate or exemption from tax with respect to such payments. Dividends paid with respect to New Common Units held by a Non-U.S. Holder that are effectively connected with a Non-U.S. Holder's conduct of a U.S. trade or business (and if an income tax treaty applies, are attributable to a permanent establishment maintained by such Non-U.S. Holder in the United States) generally will not be subject to withholding tax, *provided* the Non-U.S. Holder provides a properly executed IRS Form W-8ECI (or a successor form). However, such dividends generally will be subject to U.S. federal income tax in the same manner as a U.S. Holder, and a Non-U.S. Holder that is a corporation for U.S. federal income tax purposes may also be subject to a branch profits tax with respect to such Non-U.S. Holder's effectively connected earnings and profits that are attributable to the dividends at a rate of 30% (or at a reduced rate or exemption from tax under an applicable income tax treaty).

(b) Sale, Redemption, or Repurchase of New Common Units

A Non-U.S. Holder generally will not be subject to U.S. federal income tax with respect to any gain realized on the sale or other taxable disposition (including a cash redemption) of New Common Units unless: (a) such Non-U.S. Holder is an individual who is present in the United States for a hundred eighty-three (183) days or more in the taxable year of disposition and certain other conditions are met; (b) such gain is effectively connected with such Non-U.S. Holder's conduct of a U.S. trade or business (and if an income tax treaty applies, such gain is attributable to a permanent establishment maintained by such Non-U.S. Holder in the United States); or (c) Reorganized Payless is or has been during a specified testing period a "U.S. real property holding corporation" for U.S. federal income tax purposes.

If the first exception applies, the Non-U.S. Holder generally will be subject to U.S. federal income tax at a rate of 30% (or at a reduced rate or exemption from tax under an applicable income tax treaty) on the amount by which such Non-U.S. Holder's capital gains allocable to U.S. sources exceed capital losses allocable to U.S. sources during the taxable year of disposition of New Common Units. If the second exception applies, the Non-U.S. Holder generally will be subject to U.S. federal income tax with respect to such gain in the same manner as a U.S. Holder, and a Non-U.S. Holder that is a corporation for U.S. federal income tax purposes may also be subject to a branch profits tax with respect to earnings and profits effectively connected with a U.S. trade or business that are attributable to such gains at a rate of 30% (or at a reduced rate or exemption from tax under an applicable income tax treaty). Based on the Reorganized Debtors' current business plans and operations, the Debtors do not anticipate that Payless is or was, or that any of the Reorganized Debtors will be a "U.S. real property holding corporation" for U.S. federal income tax purposes.

4. FATCA

Under the Foreign Account Tax Compliance Act ("FATCA"), foreign financial institutions and certain other foreign entities must report certain information with respect to their U.S. account holders and investors or be subject to withholding on the receipt of "withholdable payments." For this purpose, "withholdable payments" are generally U.S.-source payments of fixed or determinable, annual or periodical income (including dividends, if any, on shares of New Common Units). Additionally, although FATCA withholding may also apply to gross proceeds of a disposition of property of a type that can produce U.S.-source interest or dividends, recently proposed U.S. Treasury Regulations suspend withholding on such gross proceeds payments indefinitely (which rule would apply to the New Common Units). FATCA withholding will apply even if the applicable payment would not otherwise be subject to U.S. federal nonresident withholding tax.

BOTH U.S. HOLDERS AND NON-U.S. HOLDERS SHOULD CONSULT THEIR TAX ADVISORS REGARDING THE POSSIBLE IMPACT OF THE FATCA RULES ON SUCH HOLDERS' EXCHANGE OF ANY OF THEIR CLAIMS PURSUANT TO THE PLAN.

E. TAX TREATMENT OF THE LIQUIDATING TRUST AND HOLDERS OF BENEFICIAL INTERESTS THEREIN

As indicated above, the Liquidating Trustee will transfer the Liquidating Trust Assets to the Liquidating Trust on behalf of the Holders of Allowed General Unsecured Claims. The foregoing discussion does not generally address the consequences to non-U.S. holders; accordingly, such holders should consult their tax advisors with respect to the U.S. federal income tax consequences of the Plan, including owning an interest in the Liquidating Trust.

1. Classification of the Liquidating Trust

The Liquidating Trust is intended to qualify as a "liquidating trust" for U.S. federal income tax purposes (other than in respect of any portion of the Liquidating Trust Assets allocable to, or retained on account of, Disputed Claims, as discussed below). In general, a liquidating trust is not a separate taxable entity but rather is treated for U.S. federal income tax purposes as a "grantor" trust (i.e., a pass-through entity). The IRS, in Revenue Procedure 94-45, 1994-2 C.B. 684, set forth the general criteria for obtaining an IRS ruling as to the grantor trust status of a liquidating trust under a chapter 11 plan. The Liquidating Trust will be structured with the intention of complying with such general criteria. Pursuant to the Plan, and in conformity with Revenue Procedure 94-45 all parties (including, without limitation, the Debtors, the Liquidating Trustee and Liquidating Trust Beneficiaries) shall treat the transfer of Liquidating Trust Assets to the Liquidating Trust as (1) a transfer of the Liquidating Trust Assets (subject to any obligations relating to those assets) directly to Liquidating Trust Beneficiaries (other than to the extent Liquidating Trust Assets are allocable to Disputed Claims), followed by (2) the transfer by such beneficiaries to the Liquidating Trust of Liquidating Trust Assets in exchange for Liquidating Trust Interests. Accordingly, except in the event of contrary definitive guidance, Liquidating Trust Beneficiaries shall be treated for U.S. federal income tax purposes as the grantors and owners of their respective share of Liquidating Trust Assets (other than such Liquidating Trust Assets as are allocable to Disputed Claims).

While the following discussion assumes that the Liquidating Trust would be so treated for U.S. federal income tax purposes, no ruling will be requested from the IRS concerning the tax status of the Liquidating Trust as a grantor trust. Accordingly, there can be no assurance that the IRS would not take a contrary position to the classification of the Liquidating Trust as a grantor trust. If the IRS were to challenge successfully such classification, the U.S. federal income tax consequences to the Liquidating Trusts and the Holders of Allowed General Unsecured Claims could vary from those discussed herein.

2. General Tax Reporting by the Liquidating Trust and Liquidating Trust Beneficiaries

For all U.S. federal income tax purposes, all parties must treat the Liquidating Trust as a grantor trust of which the holders of Liquidating Trust Interests are the owners and grantors, and treat the Liquidating Trust Beneficiaries as the direct owners of an undivided interest in the Liquidating Trust Assets (other than any assets allocable to Disputed Claims), consistent with their economic interests therein. The Liquidating Trustee will file tax returns for the Liquidating Trust treating the Liquidating Trust as a grantor trust pursuant to section 1.671-4(a) of the Treasury Regulations. The Liquidating Trustee also shall annually send to each holder of a Liquidating Trust Interest a separate statement regarding the receipts and expenditures of the Liquidating Trusts as relevant for U.S. federal income tax purposes.

Allocations of taxable income of the Liquidating Trust (other than taxable income allocable to any assets allocable to, or retained on account of, Disputed Claims, if such income is otherwise taxable at the Liquidated Trust) among the Liquidating Trust Beneficiaries will be determined by reference to the manner in which an amount of Cash equal to such taxable income would be distributed (were such Cash permitted to be distributed at such time) if, immediately prior to such deemed distribution, the Liquidating Trust had distributed all its assets (valued at their tax book value, and, if applicable, other than assets allocable to Disputed Claims) to the Liquidating Trust Beneficiaries, adjusted for prior taxable income and loss and taking into account all prior and concurrent distributions from the Liquidating Trust. Similarly, taxable loss of the Liquidating Trust will be allocated by reference to the manner in which an economic loss would be borne immediately after a liquidating distribution of the remaining Liquidating Trust Assets. The tax book value of the Liquidating Trust Assets for purposes of allocating taxable income and loss shall equal their fair market value on the date of the transfer of the Liquidating Trust Assets to the Liquidating Trust,

adjusted in accordance with tax accounting principles prescribed by the IRC, applicable Treasury Regulations, and other applicable administrative and judicial authorities and pronouncements.

As soon as reasonably practicable after the transfer of the Liquidating Trust Assets to the Liquidating Trust, the Liquidating Trustee shall make a good faith valuation of the Liquidating Trust Assets. All parties to the Liquidating Trust (including, without limitation, the Debtors, Holders of Allowed General Unsecured Claims, and the Liquidating Trust Beneficiaries) must consistently use such valuation for all U.S. federal income tax purposes. The valuation will be made available, from time to time, as relevant for tax reporting purposes.

Taxable income or loss allocated to a Liquidating Trust Beneficiary will be treated as income or loss with respect to such Liquidating Trust Beneficiary's undivided interest in the Liquidating Trust Assets, and not as income or loss with respect to its prior Allowed General Unsecured Claim. The character of any income and the character and ability to use any loss will depend on the particular situation of the Liquidating Trust Beneficiary.

The U.S. federal income tax obligations of a holder with respect to its Liquidating Trust Interest are not dependent on the Liquidating Trust distributing any Cash or other proceeds. Thus, a holder may incur a U.S. federal income tax liability with respect to its allocable share of the Liquidating Trust's income even if the Liquidating Trust does not make a concurrent distribution to the holder. In general, other than in respect of Cash retained on account of Disputed Claims and distributions resulting from undeliverable distributions (the subsequent distribution of which still relates to a holder's Allowed General Unsecured Claim), a distribution of Cash by the Liquidating Trust will not be separately taxable to a Liquidating Trust Beneficiary since the beneficiary is already regarded for U.S. federal income tax purposes as owning the underlying assets (and was taxed at the time the Cash was earned or received by the Liquidating Trust). Holders are urged to consult their tax advisors regarding the appropriate U.S. federal income tax treatment of any subsequent distributions of Cash originally retained by the Liquidating Trust on account of Disputed Claims.

The Liquidating Trustee will comply with all applicable governmental withholding requirements. Thus, in the case of any Liquidating Trust Beneficiaries that are not U.S. persons, the Liquidating Trustee may be required to withhold up to 30% of the income or proceeds allocable to such persons, depending on the circumstances (including whether the type of income is subject to a lower treaty rate). As indicated above, the foregoing discussion of the U.S. federal income tax consequences does not generally address the consequences to non-U.S. holders; accordingly, such holders should consult their tax advisors with respect to the U.S. federal income tax consequences of the Plan, including owning an interest in the Liquidating Trust.

3. Tax Reporting for Assets Allocable to Disputed Claims

Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the receipt by the Liquidating Trustee of an IRS private letter ruling if the Liquidating Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Liquidating Trustee), the Liquidating Trustee (A) may elect to treat any Liquidating Trust Assets allocable to, or retained on account of, Disputed Claims (*i.e.*, a Disputed Claim Reserve) as a "disputed ownership fund" governed by section 1.468B-9 of the Treasury Regulations, if applicable, and (B) to the extent permitted by applicable law, will report consistently for state and local income tax purposes.

Accordingly, if a "disputed ownership fund" election is made with respect to a Disputed Claim Reserve, such reserve will be subject to tax annually on a separate entity basis on any net income earned with respect to the Liquidating Trust Assets (including any gain recognized upon the disposition of such assets). All distributions from such reserves (which distributions will be net of the expenses, including taxes, relating to the retention or disposition of such assets) will be treated as received by holders in respect of their Claims as if distributed by the Debtors. All parties (including, without limitation, the Debtors, the Liquidating Trustee and the Liquidating Trust Beneficiaries) will be required to report for tax purposes consistently with the foregoing.

A Disputed Claim Reserve will be responsible for payment, out of the assets of the Disputed Claim Reserve, of any taxes imposed on the Disputed Claim Reserve or its assets. In the event, and to the extent, any Cash in the Disputed Claim Reserve is insufficient to pay the portion of any such taxes attributable to the taxable income arising from the assets of such reserve (including any income that may arise upon the distribution of the assets in such reserve), assets of the Disputed Claim Reserve may be sold to pay such taxes.

F. INFORMATION REPORTING AND BACKUP WITHHOLDING

The Debtors will withhold all amounts required by law to be withheld from payments of interest and dividends. The Debtors will comply with all applicable reporting requirements of the IRC. In general, information reporting requirements may apply to distributions or payments made to a Holder of a Claim under the Plan. Additionally, under the backup withholding rules, a Holder of a Claim may be subject to backup withholding with respect to distributions or payments made pursuant to the Plan unless, in the case of a U.S. Holder, such U.S. Holder provides a properly executed IRS Form W-9 or, in the case of Non-U.S. Holder, such Non-U.S. Holder provides a properly executed applicable IRS Form W-8 (or otherwise establishes such Non-U.S. Holder's eligibility for an exemption). The current backup withholding rate is 24%. Backup withholding is not an additional tax but is, instead, an advance payment that may entitle such Holder against whom such withholding is made to a refund from the IRS to the extent the withholding results in an overpayment of tax, provided that the required information is provided to the IRS.

In addition, from an information reporting perspective, U.S. Treasury Regulations generally require disclosure by a taxpayer on its U.S. federal income tax return of certain types of transactions in which the taxpayer participated, including, among other types of transactions, certain transactions that result in the taxpayer's claiming a loss in excess of specified thresholds. Holders are urged to consult their tax advisors regarding these regulations and whether the transactions contemplated by the Plan would be subject to these Treasury Regulations and require disclosure on the Holders' tax returns.

THE FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN ARE COMPLEX. THE FOREGOING SUMMARY DOES NOT DISCUSS ALL ASPECTS OF U.S. FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO A PARTICULAR HOLDER OF A CLAIM IN LIGHT OF SUCH HOLDER'S CIRCUMSTANCES AND INCOME TAX SITUATION. ALL HOLDERS OF CLAIMS AND EQUITY INTERESTS SHOULD CONSULT WITH THEIR TAX ADVISORS AS TO THE PARTICULAR TAX CONSEQUENCES TO THEM OF THE TRANSACTIONS CONTEMPLATED BY THE PLAN, INCLUDING THE APPLICABILITY AND EFFECT OF ANY STATE, LOCAL, NON-U.S., NON-INCOME, OR OTHER TAX LAWS, AND OF ANY CHANGE IN APPLICABLE TAX LAWS.

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X.
RECOMMENDATION

In the opinion of the Debtors, the Plan is preferable to the alternatives described in this Disclosure Statement because it provides for a larger distribution to the Debtors' creditors than would otherwise result in a liquidation under chapter 7 of the Bankruptcy Code. In addition, any alternative other than Confirmation of the Plan could result in extensive delays and increased administrative expenses resulting in smaller distributions to Holders of Allowed Claims than that which is proposed under the Plan. Accordingly, the Debtors recommend that Holders of Claims entitled to vote on the Plan support Confirmation of the Plan and vote to accept the Plan.

Respectfully submitted,

/s/ Stephen Marotta

Payless Holdings LLC
(for itself and on behalf of each of the Debtors)

By: Stephen Marotta

Title: Chief Restructuring Officer

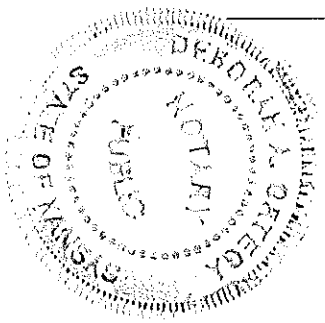
Dated: August 28, 2019

TAB D

This is **Exhibit "D"**
to the Affidavit of **Adrian Frankum**
sworn and subscribed to before me
this **10th day of September 2019**

Deborah A. Ortega

(insert notary stamp)



My Commission Expires 12-2-20

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:	)	Case No. 19-40883-659
	)	Chapter 11
PAYLESS HOLDINGS LLC, *et al.*,	)	
	)	Jointly Administered
	)	
Debtors.	)	
	)	

FIRST AMENDED JOINT PLAN OF REORGANIZATION OF PAYLESS HOLDINGS LLC AND ITS DEBTOR AFFILIATES PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE

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INTRODUCTION

Payless Holdings LLC and 26[1] of its debtor affiliates as debtors and debtors in possession (collectively, the "Debtors") propose the following joint plan of reorganization for the resolution of the outstanding claims against, and regarding the equity interests in, the Debtors. These Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to an order of the Bankruptcy Court.

Reference is made to the Disclosure Statement, filed contemporaneously with the Plan, for a discussion of the Debtors' history, businesses, results of operations, historical financial information, projections, and contemplated future operations, as well as a summary and analysis of the Plan and certain related matters, including distributions to be made under the Plan. Each of the Debtors is a proponent of the Plan contained herein within the meaning of section 1129 of the Bankruptcy Code.

ARTICLE I.

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

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

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

The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

[1] For purposes of this Plan, "Debtors" excludes the Canadian Debtors (as defined below). The Canadian Debtors intend to file a motion for dismissal of the Canadian Debtors' Chapter 11 Cases to be effective upon implementation of the Plan, and intend to separately bring forward a motion in the Canadian Court for approval of a plan of compromise or arrangement under the CCAA, all as outlined in further detail below. A list of Debtors under this Plan is attached hereto as Schedule 1.

B. Defined Terms

The following terms shall have the following meanings when used in capitalized form herein:

1. "Accrued Professional Compensation" means, at any given time, all accrued, contingent, and/or unpaid fees and expenses (including success fees) for legal, financial advisory, accounting, and other services and reimbursement of expenses that are awardable and allowable under Bankruptcy Code sections 328, 330, 331, or 363 or otherwise rendered allowable before the Effective Date by any Retained Professional in the Chapter 11 Cases. To the extent that the Bankruptcy Court or any higher court of competent jurisdiction denies or reduces by a Final Order any amount of a Retained Professional's fees or expenses, then those reduced or denied amounts shall no longer constitute Accrued Professional Compensation. For the avoidance of doubt, Accrued Professional Compensation includes unbilled fees and expenses incurred on account of services provided by Retained Professionals that have not yet been submitted for payment, except to the extent that such fees and expenses are either denied or reduced by a Final Order by the Bankruptcy Court or any higher court of competent jurisdiction.

2. "Administrative Claim" means a Claim for costs and expenses of administration of the Debtors' Estates pursuant to Bankruptcy Code sections 503(b), 507(a)(2), 507(b) or 1114(e)(2), other than a Professional Fee Claim, including: (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estates and operating the businesses of the Debtors; and (b) all Allowed requests for compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Cases pursuant to Bankruptcy Code sections 503(b)(3), (4), and (5).

3. "Administrative Claims Bar Date" means the first Business Day that is 30 days following the Effective Date, except as specifically set forth in the Plan or a Final Order, provided, however, pursuant to the Original Debtors Claims Bar Date Order and the July Debtors Claims Bar Date Order, Administrative Claims related to executory contracts or unexpired leases that have been rejected by the Debtors are required to be filed by the later of (a) the Original Debtors Bar Date or the Supplemental General Bar Date (as applicable) and (b) 11:59 p.m., prevailing Central Time, on the date that is thirty (30) days following entry of the relevant order or deemed effective date of the rejection of such rejected contract or unexpired lease.

4. "Affiliate" has the meaning set forth in Bankruptcy Code section 101(2).

5. "Affiliate Transaction" means a transaction or the entry into or thereafter, amendment, modification or termination of any contract, agreement, undertaking, loan, advance, or guarantee between the Reorganized Debtors, or any affiliate thereof, on the one hand, and any of the Axar Entities, the Alden Entities, the Invesco Entities, or the Octagon Entities on the other hand.

6. "Alden" means Alden Global Capital.

7. "Alden Entities" means Alden together with its Affiliates.

8. "Allowed" means, with respect to Claims: (a) any Claim, proof of which is timely filed by the applicable Claims Bar Date or which, pursuant to the Bankruptcy Code or a Final Order is not required to be filed; (b) any Claim that is listed in the Schedules as of the Effective Date as neither contingent, unliquidated, nor disputed, and for which no Proof of Claim has been timely filed; or (c) any Claim Allowed pursuant to the Plan; *provided*, *however*, that with respect to any Claim described in clause (a) above, such Claim shall be considered Allowed only if and to the extent that with respect to any Claim no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court or such an objection is so interposed and the Claim shall have been Allowed for distribution purposes only by a Final Order. Any Claim that has been or is hereafter listed in the Schedules as contingent, unliquidated, or disputed, and for which no Proof of Claim has been timely filed, is not considered Allowed and shall be expunged without further action by the Debtors or the Reorganized Debtors and without any further notice to or action, order or approval of the Bankruptcy Court.

9. "Axar" means Axar Capital Management.

10. "Axar Cash Election Payment" means the Axar Entities' purchase of New Common Units that would otherwise have been distributed to the Cash Electors, at a price equal to the cash amount to be paid to the Cash Electors under the Plan, until the number of New Common Units to be received by the Axar Entities under the Plan equals the number of New Common Units to be received by the Alden Entities under the Plan.

11. "Axar Entities" means Axar together with its Affiliates.

12. "Ballots" means the ballots accompanying the Disclosure Statement upon which certain Holders of Impaired Claims entitled to vote shall, among other things, indicate their acceptance or rejection of the Plan in accordance with the Plan and the procedures governing the solicitation process, and which must be actually received on or before the Voting Deadline.

13. "Bankruptcy Code" means title 11 of the United States Code, 11 U.S.C. §§ 101–1532, as now in effect or hereafter amended.

14. "Bankruptcy Court" means the United States Bankruptcy Court for the Eastern District of Missouri.

15. "Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, 28 U.S.C. § 2075, as applicable to the Chapter 11 Cases, and the general, local and chambers rules of the Bankruptcy Court.

16. "Business Day" means any day, other than a Saturday, Sunday or "legal holiday" (as defined in Bankruptcy Rule 9006(a)).

17. "CA Credit Agreement" means the Term Loan and Guarantee Agreement, dated as of October 2, 2018, by and among Payless CA Management Limited, as borrower, the guarantors and lenders from time to time party thereto, and Alden Global Opportunities Master Fund, L.P., as agent.

18. "CA Loan" means the loan under the CA Credit Agreement.

19. "CA Loan JV Entities" means the LatAm JV Entities other than Payless ShoeSource Andean Holdings, Payless ShoeSource Peru Holding, S.L., and each of their direct and indirect subsidiaries.

20. "CA Loan Parties" means any Loan Parties under the CA Credit Agreement.

21. "Canadian Court" means the Ontario Superior Court of Justice (Commercial List).

22. "Canadian Debtors" means Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP, which are Affiliates of the Debtors.

23. "Canadian GUC Amount" has the meaning set forth in Article IV.L.2.

24. "Canadian Postpetition Loans" means the postpetition loans from Payless ShoeSource Canada LP to Payless Finance, Inc., which loans are reflected on the books and records of the Debtors and the Canadian Debtors and bear interest at a rate of 6% per annum.

25. "Canadian Proceedings" means the CCAA proceedings commenced by the Canadian Debtors.

26. "Cash" means the legal tender of the United States of America or the equivalent thereof.

27. "Cash Election" means the election, available to Holders of Tranche A-2 Term Loan Secured Claims at the time of voting on the Plan, to receive Cash in the amount of 10% of such Holder's allowed Tranche A-2 Term Loan Secured Claim in accordance with the terms of the Plan in lieu of receiving New Common Units under the Plan.

28. "Cash Electors" means Holders of Tranche A-2 Term Loan Secured Claims who exercise the Cash Election, pursuant to the terms of the Plan.

29. "Cash Election Commitment Agreement" means the agreement pursuant to which (i) Axar has committed to make the Axar Cash Election Payment, and (ii) with respect to any amount by which the aggregate amount of the Cash Election to be paid to the Cash Electors under the Plan exceeds the Axar Cash Election Payment, (a) the Alden Entities shall have an option to fund up to 50% of such amount, and (b) the Axar Entities shall fund 50% of such amount plus any amount for which the Alden Entities do not exercise the option to fund.

30. "Causes of Action" means any action, claim, cause of action, controversy, demand, right, action, lien, indemnity, guaranty, suit, obligation, liability, damage, judgment, account, defense, offset, power, privilege, license, and franchise of any kind or character whatsoever, whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law. For the avoidance of doubt, "Causes of Action" includes: (a) any right of setoff, counterclaim, or

recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Interests; (c) any Claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress, and usury, and any other defenses set forth in Bankruptcy Code section 558; and (e) any state or foreign law fraudulent transfer or similar claim.

31. "CCAA" means the *Companies' Creditors Arrangement Act* (Canada).

32. "CCAA Plan" has the meaning set forth in Article IV.L.2.

33. "Chapter 11 Cases" means (a) when used with reference to a particular Debtor, the chapter 11 case pending for that Debtor under chapter 11 of the Bankruptcy Code in the Bankruptcy Court and (b) when used with reference to all Debtors, the procedurally consolidated chapter 11 cases pending for the Debtors in the Bankruptcy Court.

34. "Chief Restructuring Organization" means Ankura Consulting Group, LLC in its capacity as the Canadian Court-appointed Chief Restructuring Organization of the Canadian Debtors.

35. "Claim" means any claim against a Debtor as defined in Bankruptcy Code section 101(5).

36. "Claims Bar Date" means, as applicable, (a) the Original Debtors Bar Date, (b) the July Debtors Bar Date, (c) the Governmental Bar Date, (d) the July Debtors Governmental Bar Date or (e) such other period of limitation as may be specifically fixed by an order of the Bankruptcy Court for filing such Claims, pursuant to the Original Debtors Claims Bar Date Order, the July Debtors Claims Bar Date Order or such other order entered by the Bankruptcy Court.

37. "Claims Objection Bar Date" means, for each Claim, the later of (a) 180 days after the Effective Date and (b) such other period of limitation as may be specifically fixed by an order of the Bankruptcy Court for Objecting to such Claims.

38. "Claims Register" means the official register of Claims maintained by the Clerk of the Court for the United States Bankruptcy Court for the Eastern District of Missouri.

39. "Class" means a category of Holders of Claims or Equity Interests as set forth in Article III of the Plan pursuant to section Bankruptcy Code 1122(a).

40. "Compensation and Benefits Programs" means all employment and severance policies, and all compensation and benefit plans, policies, and programs and other arrangements (and all amendments and modifications thereto), in each case in place as of the Effective Date, applicable to the Debtors' employees, former employees, retirees, and non-employee directors and employees, former employees, and retirees of their subsidiaries, including, without limitation, all savings plans, retirement plans, health care plans, disability plans, severance benefit plans, incentive plans, and life, accidental death, and dismemberment insurance plans.

41. "Confirmation" means the entry of the Confirmation Order on the docket of the Chapter 11 Cases, subject to all conditions specified in Article VIII.A of the Plan having been satisfied or waived pursuant to Article VIII.C of the Plan.

42. "Confirmation Date" means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases, within the meaning of Bankruptcy Rules 5003 and 9021.

43. "Confirmation Hearing" means the hearing held by the Bankruptcy Court on Confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be continued from time to time.

44. "Confirmation Order" means the order confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

45. "Consummation" means the occurrence of the Effective Date.

46. "Corporate Governance Term Sheet" means the term sheet agreed upon by the Plan Support Parties regarding the corporate governance of the Reorganized Debtors, included as part of the Plan Supplement.

47. "Creditors' Committee" means the official committee of unsecured creditors of the Debtors appointed by the Office of the United States Trustee for the Eastern District of Missouri in the Chapter 11 Cases on March 1, 2019, pursuant to Bankruptcy Code section 1102, comprising the Creditors' Committee Members, as may be reconstituted from time to time.

48. "Creditors' Committee Members" means the members of the Creditors' Committee, as may be reconstituted from time to time, in each case, solely in their respective capacities as such, namely: (a) Moda Shoe, Ltd.; (b) Xiamen C&D Light Industry Co, Ltd.; (c) Huge Development, Ltd.; (d) C and C Accord, Ltd.; (e) Simon Property Group, Inc.; (f) Brookfield Property REIT, Inc.; and (g) Yaquelin Garcia.

49. "Cure" means the payment of Cash by the applicable Debtors, or the distribution of other property (as the applicable Debtors and the counterparty to the Executory Contract or Unexpired Lease may agree or the Bankruptcy Court may order), as necessary to (a) cure a monetary default by the Debtors in accordance with the terms of an Executory Contract or Unexpired Lease of the Debtors and (b) permit the Debtors to assume such Executory Contract or Unexpired Lease under Bankruptcy Code sections 365 and 1123.

50. "Cure Claim" means a monetary Claim based upon the Debtors' defaults under any Executory Contract or Unexpired Lease at the time such contract or lease is assumed by the Debtors pursuant to Bankruptcy Code section 365.

51. "Cure Notice" means a notice of a proposed amount of a Cure Claim in connection with an Executory Contract or Unexpired Lease to be assumed under the Plan pursuant to section 365 of the Bankruptcy Code, which notice shall include (a) procedures for objecting to proposed assumptions of Executory Contracts and Unexpired Leases, (b) Cure

Claims to be paid in connection therewith, and (c) procedures for resolution by the Bankruptcy Court of any related disputes.

52. "Debtor" means one of the Debtors, in its individual capacity as a debtor in these Chapter 11 Cases.

53. "Debtors" means Payless Holdings LLC and its affiliated debtors and debtors in possession other than the Canadian Debtors.

54. "Debtors in Possession" means, collectively, the Debtors, as debtors in possession in these Chapter 11 Cases.

55. "Definitive Documents" means all documents (including any related orders, agreements, instruments, certificates, articles, schedules, or exhibits) that are contemplated by the Plan and that are otherwise necessary or desirable to implement, effectuate, or otherwise relate to the restructuring contemplated by the Plan, including, without limitation: (a) the Plan; (b) the Disclosure Statement; (c) the motion seeking approval of the Disclosure Statement and the Disclosure Statement Order; (d) the Confirmation Order; (e) the New First Lien Facility Documents; (f) the New Second Lien Facility Documents; (g) the New Organizational Documents; and (h) the Cash Election Commitment Agreement.

56. "DIP Agent" means Wilmington Savings Fund Society, FSB.

57. "DIP Credit Agreement" means the terms and conditions of that certain Senior Secured Superpriority Priming Debtor-in-Possession Term Loan and Guarantee Agreement, dated as of March 24, 2019, by and among Payless Inc., as borrower, Payless Holdings LLC and certain of its subsidiaries party thereto, as guarantors, the DIP Lenders, and the DIP Facility Agent.

58. "DIP Facility" means the senior secured postpetition financing received by the Debtors under the DIP Credit Agreement.

59. "DIP Facility Agent" means Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders.

60. "DIP Lenders" means the banks, financial institutions, and other lenders under the DIP Facility.

61. "Disclosure Statement" means the *Disclosure Statement for the Joint Plan of Reorganization of Payless Holdings LLC and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code*, as amended, supplemented, or modified from time to time, including all exhibits and schedules thereto and references therein that relate to the Plan, that is prepared and distributed in accordance with the Bankruptcy Code, Bankruptcy Rules, and any other applicable law.

62. "Disclosure Statement Order" means the order of the Bankruptcy Court approving the Disclosure Statement.

63. "Disputed Claim" means, with respect to any Claim, any Claim that is not yet Allowed.

64. "Distribution Agent" means any Entity or Entities chosen by the Debtors, which Entities may include, without limitation, the Noticing and Claims Agent, to make or to facilitate distributions required by the Plan, with the exception of distributions to Class 5 Claims by the Liquidating Trust under the Liquidating Trust Agreement.

65. "Distribution Record Date" means the date for determining which Holders of Claims are eligible to receive distributions hereunder and shall be the Voting Deadline or such other date as designated in an order of the Bankruptcy Court.

66. "D&O Liability Insurance Policies" means all insurance policies for current and former director and officer liability maintained by the Debtors.

67. "Effective Date" means the day that is the first Business Day after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect; and (b) all conditions specified in Article VIII.B of the Plan have been satisfied or waived pursuant to Article VIII.C of the Plan.

68. "Entity" has the meaning set forth in Bankruptcy Code section 101(15).

69. "Equity Interest" means the common stock, preferred stock, limited liability company interests, membership interests, and any other equity, ownership, or profits interest of any Debtor and any options, warrants, rights, or other securities or agreements to acquire the common stock, preferred stock, limited liability company interests, membership interests, or other equity, ownership, or profits interests of any Debtor (whether or not arising under or in connection with any employment agreement), including any claim against the Debtors subject to subordination pursuant to Bankruptcy Code section 510(b) arising from or related to any of the foregoing; *provided, however*, that Equity Interest does not include any Intercompany Interest.

70. "Estate" means, as to each Debtor, the estate created for the Debtor in its Chapter 11 Case pursuant to Bankruptcy Code section 541.

71. "Exculpated Parties" means, collectively, the Reorganized Debtors and the Released Parties.

72. "Exculpation" means the exculpation provision set forth in Article IX.G of the Plan.

73. "Executory Contract" means a contract to which one or more of the Debtors is a party that is subject to assumption or rejection under Bankruptcy Code sections 365 or 1123.

74. "Existing Equity Interests" means the common stock, preferred stock, limited liability company interests, membership interests, and any other equity, ownership, or profits interest of Payless Holdings LLC and any options, warrants, rights, or other securities or agreements to acquire the common stock, preferred stock, limited liability company interests, membership interests, or other equity, ownership, or profits interests of Payless Holdings LLC

(whether or not arising under or in connection with any employment agreement), including any claim against Payless Holdings LLC subject to subordination pursuant to Bankruptcy Code section 510(b) arising from or related to any of the foregoing; provided, however, that Existing Equity Interest does not include any Intercompany Interest.

75. "Federal Judgment Rate" means the federal judgment rate in effect as of the Petition Date, compounded annually.

76. "Final DIP Order" means that certain *Final Order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief*, entered by the Bankruptcy Court on April 4, 2019 [Docket No. 797].

77. "Final Order" means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction with respect to the subject matter, as entered on the docket in any Chapter 11 Case or the docket of any court of competent jurisdiction, that has not been reversed, stayed, modified, or amended, and as to which the time to appeal, or seek certiorari or move for a new trial, reargument, or rehearing has expired and no appeal or petition for certiorari or other proceedings for a new trial, reargument, or rehearing been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been timely filed has been withdrawn or resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be filed relating to such order shall not cause such order to not be a Final Order.

78. "General Unsecured Claims" means any other Claims against any Debtor that are not otherwise paid in full during the Chapter 11 Cases pursuant to an order of the Bankruptcy Court and are not: (a) an Administrative Claim; (b) a Priority Tax Claim; (c) Other Priority Claim; (d) an Other Secured Claim; (e) a Tranche A-1 Term Loan Secured Claim; (f) a Tranche A-2 Term Loan Secured Claim; (g) an Intercompany Claim; (h) an Existing Equity Interest; or (i) an Intercompany Interest.

79. "General Unsecured Creditors" means Holders of General Unsecured Claims.

80. "Governmental Bar Date" means 11:59 p.m. prevailing Central Time on August 19, 2019, or such other period of limitation as may be specifically fixed by an order of the Bankruptcy Court.

81. "Governmental Unit" shall have the meaning set forth in Bankruptcy Code section 101(27).

82. "Holder" means an Entity holding a Claim against or an Interest in any of the Debtors.

83. "Impaired" means any impaired Claim or Interest in an Impaired Class within the meaning of Bankruptcy Code section 1124.

84. "Impaired Class" means an impaired Class within the meaning of Bankruptcy Code section 1124.

85. "Indemnification Obligation" means a Debtor's obligation under an Executory Contract assumed in the Chapter 11 Cases or otherwise to indemnify directors, officers, employees, or agents of such Debtor who served in such capacity at any time, with respect to or based upon any act or omission taken or omitted in any of such capacities, or for or on behalf of any Debtor, pursuant to and to the maximum extent provided by such Debtor's respective certificate of incorporation, articles of incorporation, certificate of formation, limited liability company agreement, bylaws, indemnification agreements, director or observer agreements, similar corporate documents and applicable law, in effect as of the Petition Date.

86. "Independent Director" means an independent director and/or manager with relevant industry expertise and no prior or then current relationship with the Axar Entities, the Alden Entities, the Octagon Entities, or the Invesco Entities, who shall be appointed in accordance with the Definitive Documents.

87. "Initial Directors" means the four directors and/or managers who shall be appointed as of the Effective Date by Axar, Alden, Invesco and Octagon, as described under the Plan, to the board of directors of Reorganized Payless.

88. "Initial Distribution Date" means the date that is as soon as practicable after the Effective Date, but no later than 180 days after the Effective Date, when distributions under the Plan shall commence.

89. "Insider Investigation" means the investigation, conducted by the Special Committee on behalf of the Debtors, of any Claims or Causes of Action in which the Alden Entities or any past or current manager of the Payless Holdings LLC board of managers are or may be implicated.

90. "Insurance Policies" means all insurance policies that have been issued at any time to or that provide coverage to any of the Debtors (excluding any D&O Liability Insurance Policies) and all agreements, documents, or instruments related thereto.

91. "Intercompany Claim" means, collectively, any Claim held by a Debtor against another Debtor or an Affiliate of a Debtor or any Claim held by an Affiliate of a Debtor against a Debtor, provided, however, that for purposes of this Plan, the Canadian Postpetition Loans shall not be Intercompany Claims.

92. "Intercompany Interest" means an Equity Interest in a Debtor held by another Debtor.

93. "Interest" means, collectively, Equity Interests and Intercompany Interests.

94. "Interim Compensation Order" means that certain *Order (I) Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Retained Professionals and (II) Granting Related Relief*, entered by the Bankruptcy Court on April 3, 2019 [Docket

No. 786], as may be amended from time to time, including by an order entered by the Bankruptcy Court approving the retention of a specific Retained Professional.

95. "Invesco" means Invesco Senior Secured Management, Inc.

96. "Invesco Entities" means Invesco, together with its Affiliates.

97. "July Debtors" means Collective Brands Logistics Limited and Payless Sourcing, LLC.

98. "July Debtors Bar Date" means 11:59 p.m. prevailing Central Time on August 30, 2019.

99. "July Debtors Claims Bar Date Order" means that certain *Order Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof* for claims with respect to the July Debtors, entered by the Bankruptcy Court on July 19, 2019 [Docket No. 1366], as may be amended from time to time.

100. "July Debtors Government Bar Date" means January 3, 2020, at 11:59 p.m., prevailing Central Time, as the bar date by which governmental units must file a Proof of Claim against the July Debtors.

101. "JV" means a joint venture agreement, to which a Debtor entity is a party.

102. "LatAm Business" the business operations of the LatAm JV Entities as coordinated by Payless ShoeSource Worldwide, Inc. through Collective Brands Coöperatief U.A. and the LatAm JV Partners.

103. "LatAm JV Partners" means, collectively, (a) PLP, S.A., (b) South America Local Partners, S.A., (c) Pataya Inc., (d) Bluestone Financials Inc., and (e) Patagonia Capital Limited, and with respect to each of the foregoing entities in clauses (a) through (e), such entities' predecessors, successors, and assigns, wholly-owned subsidiaries, managed accounts, or funds, current or former officers, directors, principals, shareholders, members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, and other professionals, and such entities' respective heirs, executors, estates, servants, and nominees, in each case, solely in their capacity as such.

104. "LatAm JV Entities" means, collectively, (a) Payless ShoeSource (BVI) Holdings, Ltd., (b) Payless ShoeSource Andean Holdings, (c) Payless Colombia (BVI) Holdings, LTD., (d) Payless ShoeSource Peru Holding, S.L., (e) Payless ShoeSource Honduras S. DE R.L., (f) Payless ShoeSource, Limitada (Costa Rica), (g) PSS International (Costa Rica) Sourcing S.R.L., (h) Payless ShoeSource de la Republica Dominicana, S.R.L., (i) Payless ShoeSource of St. Lucia, Ltd, (j) Payless ShoeSource Overseas S.R.L., (k) Payless ShoeSource of El Salvador Ltda. De C.V., (l) Payless ShoeSource Trinidad Unlimited, (m) Payless ShoeSource Jamaica Limited, (n) Payless ShoeSource (Barbados) SRL, (o) Payless ShoeSource Dominica Ltd., (p) Payless ShoeSource St. Kitts Ltd., (q) Payless ShoeSource Uruguay SRL, (r) Payless ShoeSource Ecuador CIA Ltda, (s) Payless ShoeSource Spain, S.L., (t) Payless ShoeSource PSS de

Colombia S.A.S., (u) Payless ShoeSource Peru S.R.L., (v) Payless ShoeSource Limitada y Compania Limitada (Nicaragua), (w) Payless ShoeSource (Barbados) SRL Antigua Branch, (x) Payless ShoeSource (Barbados) SRL Grenada Branch, (y) Payless ShoeSource (Barbados) SRL St. Lucia Branch, (z) Payless ShoeSource (Barbados) SRL St. Vincent Branch, (aa) Payless ShoeSource de Guatemala LTDA., and (bb) Payless ShoeSource (Panama) S.A. and such entities' predecessors, successors, and assigns, wholly-owned subsidiaries, managed accounts, or funds, current or former officers, directors, principals, shareholders, members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, and other professionals, and such entities' respective heirs, executors, estates, servants, and nominees, in each case, solely in their capacity as such.

105. "Liquidating Trust" means the trust established pursuant to Article VI.B.1, to hold the Liquidating Trust Assets and make distributions on account of Class 5 Claims.

106. "Liquidating Trust Agreement" means the trust agreement, to be dated as of or prior to the Effective Date, between the Debtors and the Liquidating Trustee, governing the Liquidating Trust.

107. "Liquidating Trust Assets" means (i) if Class 5 votes to Accept the Plan $4 million in Cash and the Liquidating Trust Note; or (ii) if Class 5 votes to Reject the Plan the Liquidating Trust Note, provided, however, that in either case the Liquidating Trust Assets shall be subject to the Liquidating Trust Assets Deduction Procedures.

108. "Liquidating Trust Assets Deduction Procedures" means procedures under which the Liquidating Trust Assets shall be subject to being decreased, as provided for in Section VI.B.3.

109. "Liquidating Trust Beneficiaries" means the holders of an interest in the Liquidating Trust.

110. "Liquidating Trust Distributable Assets" means the Liquidating Trust Assets available for distribution to General Unsecured Creditors, depending on the Class 5 vote, less the Liquidating Trust Expenses and any deductions pursuant to the Liquidating Trust Assets Deduction Procedures.

111. "Liquidating Trust Expenses" means any and all reasonable fees, costs and expenses (including without limitation insurance fees, taxes and escrow expenses) incurred by the Liquidating Trust or the Liquidating Trustee (or any professional or other Entity retained by the Liquidating Trustee) on or after the Effective Date in connection with any of their duties under the Plan and the Liquidating Trust Agreement.

112. "Liquidating Trust Note" means a note for $5 million with a two year term. $2 million will be paid one year after the Effective Date and $3 million two years after the Effective Date. Interest on the Liquidating Trust Note will accrue at 10% per annum and be paid in arrears annually when the payments of principal are made.

113. "Liquidating Trustee" means the natural person appointed by the Debtors in consultation with the Creditors' Committee to act as trustee of the Liquidating Trust in accordance with the terms of the Plan, the Confirmation Order and the Liquidating Trust Agreement, or any successor appointed in accordance with the terms of the Plan and the Liquidating Trust Agreement.

114. "Local Bankruptcy Rules" means the Local Rules of Bankruptcy Procedure for the Eastern District of Missouri.

115. "Management Incentive Plan" means that certain post-Effective Date director, manager, and service provider incentive compensation program to be approved and implemented by the New Board as set forth in Article IV.R hereof.

116. "Monitor" means FTI Consulting Canada, Inc., in its capacity as court-appointed Monitor of the Canadian Debtors.

117. "New Board" means the board of directors and/or managers of Reorganized Payless, which board of directors and/or managers shall, as of the Effective Date, be comprised of (i) one director and/or manager appointed by Axar, (ii) one director and/or manager appointed by Alden, (iii) one director and/or manager jointly appointed by Invesco and Octagon, and (iv) an Independent Director jointly appointed by Axar, Alden, Octagon, and Invesco.

118. "New Common Units" means new common ownership units to be issued by Reorganized Payless on the Effective Date.

119. "New Incentive Units" means incentive ownership units that may be issued pursuant to the Management Incentive Plan.

120. "New First Lien Debt" means exit financing in the form of the New First Lien Facility.

121. "New First Lien Facility" means the first lien senior secured debt facility in an amount of [$35] million, that may take the form of a loan, high-yield notes, a bridge facility or other arrangement, to be entered into by the Reorganized Debtors and the lender(s) thereunder as contemplated in Article IV.C of this Plan, pursuant to the New First Lien Facility Documents.

122. "New First Lien Facility Documents" means the documentation providing for the New First Lien Facility, which documentation shall be set forth in the Plan Supplement.

123. "New Operating Agreement" means the new operating agreement (amended and restated or otherwise) or similar agreement of Reorganized Payless.

124. "New Organizational Documents" means the forms of the certificates or articles of incorporation, limited liability company agreement, bylaws, or such other applicable formation documents of each of the Reorganized Debtors in form and substance acceptable to the Requisite Plan Support Parties.

125. "New Second Lien Debt" means exit financing in the form of the New Second Lien Facility.

126. "New Second Lien Debt Commitment" means the commitment of the New Second Lien Debt Commitment Party to provide part of the New Second Lien Debt in the form of a $[30] million second lien secured loan facility.

127. "New Second Lien Debt Commitment Agreement" means a commitment agreement to be entered into by the New Second Lien Debt Commitment Party with the Debtors to provide part of the New Second Lien Facility.

128. "New Second Lien Debt Commitment Party" means [ ].

129. "New Second Lien Facility" means the second lien senior secured debt facility, that may take the form of a loan, high-yield notes, a bridge facility or other arrangement, to be entered into by the Reorganized Debtors and the lender(s) thereunder as contemplated in Article IV.D. of this Plan, pursuant to the New Second Lien Facility Documents.

130. "New Second Lien Facility Documents" means the documentation providing for the New Second Lien Facility, which documentation shall be set forth in the Plan Supplement.

131. "Noticing and Claims Agent" means Prime Clerk LLC, in its capacity as notice and claims agent for the Debtors, pursuant to that certain *Order Authorizing Retention and Appointment of Prime Clerk LLC as Notice and Claims Agent* Nunc Pro Tunc *to the Petition Date*, entered by the Bankruptcy Court on March 15, 2019 [Docket No. 572], as may be amended from time to time.

132. "Octagon" means Octagon Credit Investors, LLC.

133. "Octagon Entities" means Octagon, together with its Affiliates.

134. "Original Debtors" means the twenty-seven (27) Debtors that filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code on February 18, 2019.

135. "Original Debtors Claims Bar Date" (a) 11:59 p.m. prevailing Central Time on June 7, 2019.

136. "Original Debtors Claims Bar Date Order" means that certain *Order Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof* entered by the Bankruptcy Court on May 3, 2019 [Docket No. 969], as may be amended from time to time.

137. "Other Priority Claim" means any Claim accorded priority in right of payment under section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim or Claims entitled to administrative expense priority pursuant to section 503(b)(9) of the Bankruptcy Code.

138. "Other Secured Claim" means any secured Claim against the Debtors not specifically described in the Plan.

139. "Payless" means Payless Holdings LLC, along with its Affiliates.

140. "Periodic Distribution Date" means the date on which distributions are made to Holders of then-Allowed Claims biannually after the Initial Distribution Date.

141. "Person" has the meaning set forth in Bankruptcy Code section 101(41).

142. "Petition Date" means February 18, 2019, the date on which the Original Debtors commenced the Chapter 11 Cases.

143. "Plan" means the *First Amended Joint Plan of Reorganization of Payless Holdings LLC and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* dated August 28, 2019, as amended, supplemented, or modified from time to time in accordance with its terms.

144. "Plan Supplement" means the compilation of documents and forms of documents, schedules and exhibits, in each case, in a form reasonably satisfactory to the Requisite Plan Support Parties, as amended, modified or supplemented from time to time in accordance with the terms of the Plan and applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, comprising, without limitation, the following documents (a) the New First Lien Facility Agreement and New Second Lien Facility Agreement, (b) the Schedule of Assumed Executory Contracts and Unexpired Leases, (c) a list of retained Causes of Action, (d) the New Organizational Documents, (e) the calculation of the Canadian Postpetition Loans; (f) the Liquidating Trust Agreement; (g) the documents and agreements necessary to implement the Cash Election Commitment Agreement; and (h) the Corporate Governance Term Sheet.

145. "Plan Support Parties" means the Supporting Term Lenders, together with the Axar Entities and the Alden Entities.

146. "Prepetition ABL Credit Facility Agreement" means that certain credit agreement, dated as of August 10, 2017 (as amended, restated, modified, and/or supplemented and as in effect immediately prior to the Petition Date) with Payless Inc., Payless Finance, Inc., Payless ShoeSource, Inc. and Payless ShoeSource Distribution, Inc., as borrowers, the other Debtors party thereto as guarantors, Wells Fargo as collateral agent and administrative agent, Wells Fargo as FILO agent, and the lenders party thereto from time to time.

147. "Prepetition ABL Credit Facility Lenders" means the lenders party from time to time to the Prepetition ABL Credit Facility.

148. "Prepetition Term Loan Facility" means that certain Term Loan and Guarantee Agreement, dated as of August 10, 2017, by and among WBG – PSS Holdings LLC, Payless, Payless Finance, Inc., Payless ShoeSource, Inc. and Payless ShoeSource Distribution, Inc., as borrowers, the subsidiary guarantors party thereto, the lenders from time to time party thereto, and the Prepetition Term Loan Agent.

149. "Prepetition Term Loan Agent" means Cortland Products Corp.

150. "Prepetition Term Loan Lenders" means the banks, financial institutions and other lenders under the Prepetition Term Loan Facility.

151. "Priority Tax Claim" means any Claim of a Governmental Unit of the kind specified in Bankruptcy Code section 507(a)(8).

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

153. "Professional Fee Claim" means a Claim by a Retained Professional seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under sections 330, 331, 363, 503(b)(2), 503(b)(3), 503(b)(4), or 503(b)(5) of the Bankruptcy Code.

154. "Professional Fee Escrow Account" means an interest-bearing escrow account in an amount equal to the Professional Fee Reserve Amount funded and maintained by the Reorganized Debtors on and after the Effective Date solely for the purpose of paying all Allowed and unpaid fees and expenses of Retained Professionals in the Chapter 11 Cases.

155. "Professional Fee Reserve Amount" means the aggregate Accrued Professional Compensation through the Effective Date as estimated by the Retained Professionals in accordance with Article II.C.3 hereof.

156. "Proof of Claim" means a proof of claim filed against any of the Debtors in the Chapter 11 Cases.

157. "Record Date" means August 30, 2019 for all Claims filed before such date, or, for any Claims filed after such date, the Claims Bar Date.

158. "Reinstated" or "Reinstatement" means, with respect to Claims and Interests, the treatment provided for in Bankruptcy Code section 1124.

159. "Released Parties" means, collectively, (a) the Debtors, (b) the Canadian Debtors, (c) the Reorganized Debtors, (d) the Plan Support Parties; (e) the members of the Creditors' Committee, solely in their capacity as such; (f) the DIP Facility Agent and DIP Facility Lenders, (g) the Prepetition Term Loan Agent and Prepetition Term Loan Lenders, (h) the Prepetition ABL Credit Facility Lenders and Wells Fargo, (i) the Chief Restructuring Organization, (j) the Monitor, and each of their respective affiliates, officers, directors, predecessors, successors and assigns, managers, principals, members, employees, agents, partners, attorneys, accountants, investment bankers, consultants and other professionals.[2]

[2] The Debtors' investigation, at the direction of the Special Committee, into potential Claims and Causes of Action belonging to the Estates is ongoing. The releases by the Debtors are subject to the conclusion of the investigation and determination with respect to any potential Claims or Causes of Action, if any, identified therein, and the Debtors expressly reserve the right to pursue or settle any such Claims or Causes of Action and do not release any such Claims and Causes of Action pending completion of the Insider Investigation.

160. "Releasing Parties" means, collectively, (a) the Debtors, (b) the Plan Support Parties, (c) the DIP Lenders, (d) the DIP Agent and DIP Facility Agent, (e) the Prepetition Term Loan Lenders, (f) the Prepetition Term Loan Agent, (g) the Prepetition ABL Credit Facility Lenders and Wells Fargo, (h) all Holders of Claims and Equity Interests that are deemed unimpaired and presumed to accept the Plan, (i) all Holders of Claims who either (1) vote to accept the Plan or (2) receive a Ballot providing them the right to opt out of any applicable releases but abstain from voting on the Plan or otherwise do not elect pursuant to such Ballot to opt out of the Third-Party Release, (j) all Holders of Claims and Equity Interests who are not entitled to vote on the Plan but receive a notice advising them of their ability to opt out of the Third-Party Release but who do not elect to opt out of the Third-Party Release, (k) all other Holders of Claims and Equity Interests to the maximum extent permitted by law, and (l) with respect to the Debtors, the Reorganized Debtors, and each of the Entities in clauses (a) through (k), each such Entity's current and former Affiliates, and each such Entity's and their current and former Affiliates' current and former directors, managers, officers, principals, members, employees, equity Holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, assigns, subsidiaries, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals.

161. "Reorganized Debtors" means the Debtors, in each case, or any successor thereto, by merger, consolidation or otherwise, on or after the Effective Date.

162. "Reorganized Payless" means Payless Holdings LLC, as reorganized pursuant to and under the Plan, or a new corporation or limited liability company that may be formed to directly or indirectly acquire all of the assets and/or stock of the Debtors, or any successor thereto, by merger, consolidation, or otherwise, on or after the Effective Date.

163. "Requisite Plan Support Parties" means Axar, Alden, and either Invesco or Octagon, provided that, any decision or action requiring support of the Requisite Plan Support Parties that materially or adversely affects any of Axar, Alden, Invesco or Octagon in a manner different from other Plan Support Parties will require the consent of the party treated differently. Further, any decision or action on which the Requisite Plan Support Parties have consent or approval rights that materially and adversely affects the Holders of Tranche A-1 Term Loan Secured Claims or in any way modifies the treatment of the Tranche A-1 Term Loan Secured Claims will require the consent of Holders of over 67% of the Tranche A-1 Term Loan Secured Claims.

164. "Retained Professional" means any Entity: (a) employed in these Chapter 11 Cases pursuant to a Final Order in accordance with sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered prior to the Effective Date, pursuant to sections 327, 328, 329, 330, 331, or 363 of the Bankruptcy Code; or (b) for which compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

165. "Schedule of Assumed Executory Contracts and Unexpired Leases" means the schedule of certain Executory Contracts and Unexpired Leases to be assumed by the Debtors pursuant to the Plan, as amended by the Debtors from time to time prior to the Effective Date.

The Debtors will be deemed to reject any contracts and unexpired leases not expressly assumed in the Schedule of Assumed Executory Contracts and Unexpired Leases.

166. "Schedules" mean, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases, and statements of financial affairs filed by the Original Debtors on April 1, 2019 and by the July Debtors on July 15, 2019, pursuant to Bankruptcy Code section 521 and in substantial accordance with the Official Bankruptcy Forms, as the same may have been amended, modified or supplemented from time to time.

167. "SEC" means the United States Securities and Exchange Commission.

168. "Section 510(b) Claim" means any Claim against the Debtors arising from the rescission of a purchase or sale of a security of the Debtors or an Affiliate of the Debtors, for damages arising from the purchase or sale of such a security or for reimbursement or contribution allowed under Bankruptcy Code section 502 on account of such a Claim.

169. "Secured" means, when referring to a Claim, a Claim: (a) secured by a lien on property in which the applicable Estate has an interest, which lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor's interest in such Estate's interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to Bankruptcy Code section 506(a); or (b) otherwise Allowed pursuant to the Plan as a Secured Claim.

170. "Securities Act" means the United States Securities Act of 1933, as amended.

171. "Significant Holders" means Holders of 5% or more of the New Common Units as of the Effective Date, including any initial transferee who thereafter holds 5% or more of the New Common Units.

172. "Supporting Term Lenders" means the ad hoc group of lenders under the Prepetition Term Loan Facility as identified in the *Verified Statement of Kramer Levin Naftalis & Frankel and Doster, Ullom & Boyle, LLC Pursuant to Federal Rule of Bankruptcy Procedure 2019*, dated March 13, 2019 [Docket No. 533], and their Affiliates.

173. "Third-Party Release" means the releases set forth in Article IX.F.

174. "Tranche A-1 Term Loan Deficiency Claims" means any and all Claims arising under the Tranche A-1 Term Loan, as such term is defined in the Prepetition Term Loan Facility that are not Tranche A-1 Term Loan Secured Claims.

175. "Tranche A-1 Term Loan Secured Claims" means any and all Secured Claims arising under the Tranche A-1 Term Loan, as such term is defined in the Prepetition Term Loan Facility.

176. "Tranche A-2 Term Loan Deficiency Claims" means any and all Claims arising under the Tranche A-2 Term Loan, as such term is defined in the Prepetition Term Loan Facility that are not Tranche A-2 Term Loan Secured Claims.

177. "Tranche A-2 Term Loan Secured Claims" means any and all Secured Claims arising under the Tranche A-2 Term Loan, as such term is defined in the Prepetition Term Loan Facility.

178. "Transaction Expenses" means any outstanding fees and expenses of the Prepetition Term Loan Agent and Plan Support Parties, including all outstanding fees and expenses of the Kramer Levin Naftalis & Frankel LLP, Doster Ullom & Boyle LLC, AlixPartners, Houlihan Lokey, Dechert LLP, Carmody MacDonald P.C., and Strook & Strook & Lavan LLP.

179. "Unexpired Lease" means a lease to which one or more of the Debtors is a party that is subject to assumption or rejection under Bankruptcy Code sections 365 or 1123.

180. "Unimpaired" means any unimpaired Claim or Interest in an Unimpaired Class within the meaning of Bankruptcy Code section 1124.

181. "Unimpaired Class" means an unimpaired Class within the meaning of Bankruptcy Code section 1124.

182. "United States Trustee" means the United States Trustee for the Eastern District of Missouri.

183. "Voting Classes" means, collectively, Classes 3, 4 and 5.

184. "Voting Deadline" means 4:00 p.m. prevailing Central Time on October [15], 2019.

185. "Wells Fargo" means Wells Fargo Bank, National Association.

ARTICLE II.

ADMINISTRATIVE CLAIMS, PRIORITY TAX CLAIMS, PROFESSIONAL FEE CLAIMS, AND UNITED STATES TRUSTEE STATUTORY FEE

In accordance with Bankruptcy Code section 1123(a)(1), Administrative Claims, Priority Tax Claims and Professional Fee Claims have not been classified and thus are excluded from the Classes of Claims and Equity Interests set forth in Article III.

A. Administrative Claims

Except with respect to Administrative Claims that are Professional Fee Claims and except to the extent that an Administrative Claim has already been paid during the Chapter 11 Cases or a Holder of an Allowed Administrative Claim and the applicable Debtor(s) agree to less favorable treatment, each Holder of an Allowed Administrative Claim shall be paid in full in Cash on the unpaid portion of its Allowed Administrative Claim on the latest of: (a) on or as soon as reasonably practicable after the Effective Date if such Administrative Claim is Allowed as of the Effective Date; (b) on or as soon as reasonably practicable after the date such Administrative Claim is Allowed; and (c) the date such Allowed Administrative Claim becomes

due and payable, or as soon thereafter as is reasonably practicable; *provided* that Allowed Administrative Claims that arise in the ordinary course of the Debtors' businesses shall be paid in the ordinary course of business in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to such transactions. Notwithstanding the foregoing, no request for payment of an Administrative Claim need be filed with respect to an Administrative Claim previously Allowed by Final Order. Notwithstanding any provision of the Plan to the contrary, no Governmental Unit shall be required to file a request for the payment of an expense described in 11 U.S.C. § 503(b)(1)(B) or (C) as a condition of it being allowed as an administrative expense.

For the avoidance of doubt, the Canadian Postpetition Loans shall be allowed Administrative Claims and shall be paid on the Effective Date.

B. Administrative Claims Bar Date

All requests for payment of an Administrative Claim (other than Professional Fee Claims and the Canadian Postpetition Loans) that accrued on or before the Effective Date must be filed with the Bankruptcy Court and served on the Debtors no later than the Administrative Claims Bar Date, provided, however, pursuant to the Original Debtors Claims Bar Date Order and the July Debtors Claims Bar Date Order, Administrative Claims related to executory contracts or unexpired leases that have been rejected by the Debtors are required to be filed by the later of (a) the Original Debtors Bar Date or the Supplemental General Bar Date (as applicable) and (b) 11:59 p.m., prevailing Central Time, on the date that is thirty (30) days following entry of the relevant order or deemed effective date of the rejection of such rejected contract or unexpired lease. Holders of Administrative Claims that are, based on the preceding sentence, required to, but do not, file and serve a request for payment of such Administrative Claims by such date shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtors, the Reorganized Debtors or their property, and such Administrative Claims shall be deemed discharged as of the Effective Date.

The Debtors or Reorganized Debtors, in their sole and absolute discretion, may settle Administrative Claims in the ordinary course of business without further Bankruptcy Court approval. The Debtors or Reorganized Debtors may also choose to object to any Administrative Claim no later than 90 days from the Administrative Claims Bar Date, subject to extensions by the Bankruptcy Court, agreement in writing of the parties, or on motion of a party in interest approved by the Bankruptcy Court. Subject to the withdrawal or settlement of such Administrative Claim, unless the Debtors or the Reorganized Debtors (or other party with standing) object to a timely-filed and properly served Administrative Claim, such Administrative Claim will be deemed allowed in the amount requested. In the event that the Debtors or the Reorganized Debtors object to an Administrative Claim, the parties may confer to try to reach a settlement and, failing that, the Bankruptcy Court will determine whether such Administrative Claim should be allowed and, if so, in what amount.

C. Professional Compensation

1. Final Fee Applications

All final requests for Professional Fee Claims shall be filed no later than 30 days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts of such Professional Fee Claims shall be determined by the Bankruptcy Court.

2. Professional Fee Escrow Account

On the Effective Date, the Reorganized Debtors shall establish and fund, or cause to be funded, the Professional Fee Escrow Account with Cash equal to the aggregate Professional Fee Reserve Amount for all Retained Professionals. The Professional Fee Escrow Account shall be maintained in trust solely for the Retained Professionals. Such funds shall not be considered property of the Estates of the Debtors or the Reorganized Debtors. The amount of Professional Fee Claims owing to the Retained Professionals shall be paid in Cash to such Retained Professionals by the Reorganized Debtors from the Professional Fee Escrow Account as soon as reasonably practicable after such Professional Fee Claims are Allowed by a Final Order. When all such Allowed amounts owing to Retained Professionals have been paid in full, any remaining amount in the Professional Fee Escrow Account shall promptly be paid to the Reorganized Debtors without any further action or order of the Bankruptcy Court.

3. Professional Fee Reserve Amount

To receive payment for unbilled fees and expenses incurred through the Effective Date, the Retained Professionals shall estimate their Accrued Professional Compensation prior to and as of the Effective Date and shall deliver such estimate to the Debtors on or before the Effective Date. If a Retained Professional does not provide such estimate, the Reorganized Debtors may estimate the unbilled fees and expenses of such Retained Professional; *provided* that such estimate shall not be considered an admission or limitation with respect to the fees and expenses of such Retained Professional. The total amount so estimated as of the Effective Date shall comprise the Professional Fee Reserve Amount.

4. Post-Effective Date Fees and Expenses

Except as otherwise specifically provided in the Plan, from and after the Effective Date, each Debtor and Reorganized Debtor (as applicable) shall pay in Cash the reasonable legal fees and expenses incurred by such Debtor or Reorganized Debtor (as applicable) after the Effective Date in the ordinary course of business and without any further notice to or action, order or approval of the Bankruptcy Court. The Debtors and Reorganized Debtors (as applicable) shall pay, within ten Business Days after submission of a detailed invoice to the Debtors or Reorganized Debtors (as applicable), such reasonable claims for compensation or reimbursement of expenses incurred by the Retained Professionals of the Debtors and Reorganized Debtors (as applicable). If the Debtors or Reorganized Debtors (as applicable), dispute the reasonableness of any such invoice, the Debtors or Reorganized Debtors (as applicable) or the affected professional may submit such dispute to the Bankruptcy Court for a determination of the reasonableness of any such invoice, and the disputed portion of such invoice shall not be paid until the dispute is

resolved. The undisputed portion of such reasonable fees and expenses shall be paid as provided herein. Upon the Effective Date, any requirement that Retained Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and each Debtor or Reorganized Debtor (as applicable) may employ and pay any Retained Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

5. Substantial Contribution Compensation and Expenses

Except as otherwise specifically provided in the Plan, any Entity that requests compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Cases pursuant to sections 503(b)(3), (4), and (5) of the Bankruptcy Code must file an application and serve such application on counsel for the Debtors or Reorganized Debtors, as applicable, and as otherwise required by the Bankruptcy Court, the Bankruptcy Code, and the Bankruptcy Rules on or before the Administrative Claims Bar Date.

D. Priority Tax Claims

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, compromise, settlement, release, and discharge of, and in exchange for, each Allowed Priority Tax Claim, each Holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in Bankruptcy Code section 1129(a)(9)(C).

E. United States Trustee Statutory Fees

The Debtors or Reorganized Debtors, as appropriate, shall pay all United States Trustee quarterly fees under 28 U.S.C. § 1930(a)(6), plus interest due and payable under 31 U.S.C. § 3717 on all disbursements made by the Debtors or Reorganized Debtors, including Plan payments and disbursements in and outside the ordinary course of the Debtors' or Reorganized Debtors' businesses, until the entry of a Final Order, dismissal of the Chapter 11 Cases, or conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code. For the avoidance of doubt, quarterly fees shall not be assessed against disbursements made from the Liquidating Trust.

ARTICLE III.

CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS

A. Summary

This Plan constitutes a separate chapter 11 plan of reorganization for each Debtor. Except for the Claims addressed in Article II above (or as otherwise set forth herein), all Claims against and Interests in a particular Debtor are placed in Classes for each of the Debtors. In accordance with section 1123(a)(1) of the Bankruptcy Code, the Debtors have not classified Administrative Claims, Priority Tax Claims, and Professional Fee Claims as described in Article II.

The categories of Claims and Interests listed below classify Claims and Interests for all purposes, including, without limitation, voting, Confirmation, and distribution pursuant hereto and pursuant to Bankruptcy Code sections 1122 and 1123(a)(1). The Plan deems a Claim or Interest to be classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of such Claim or Interest qualifies within the description of such different Class. A Claim or an Interest is in a particular Class only to the extent that any such Claim or Interest is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date.

1. Summary of Classification and Treatment of Classified Claims and Interests

Class	Claim	Status	Voting Rights
1	Other Priority Claims	Unimpaired	Deemed to Accept
2	Other Secured Claims	Unimpaired	Deemed to Accept
3	Tranche A-1 Term Loan Secured Claims	Impaired	Entitled to Vote
4	Tranche A-2 Term Loan Secured Claims	Impaired	Entitled to Vote
5	General Unsecured Claims	Impaired	Entitled to Vote
6	Intercompany Claims	Impaired	Deemed to Accept
7	Existing Equity Interests	Impaired	Deemed to Reject
8	Intercompany Interests	Impaired	Deemed to Accept

B. Classification and Treatment of Claims and Interests

1. Class 1 – Other Priority Claims

(a) *Classification*: Class 1 consists of Other Priority Claims against the Debtors.

(b) *Treatment*: Each Holder of an Allowed Other Priority Claim shall be paid in full in cash on the Effective Date, or in the ordinary course of business as and when due, or otherwise receive treatment consistent with the provisions of section 1129(a) of the Bankruptcy Code.

(c) *Voting*: Unimpaired; not entitled to vote to accept or reject the Plan.

2. Class 2 – Other Secured Claims

(a) *Classification*: Class 2 consists of Other Secured Claims against the Debtors.

(b) *Treatment*: On or after the Effective Date, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for each allowed Other Secured Claim, each Holder of any such Claim (i) shall receive payment in

Cash in an amount equal to such Claim, (ii) shall receive the collateral underlying such Claim, or (iii) shall receive such other treatment so as to render such Claim unimpaired pursuant to section 1124 of the Bankruptcy Code.

(c) *Voting*: Unimpaired; not entitled to vote to accept or reject the Plan.

3. Class 3 – Tranche A-1 Term Loan Secured Claims

(a) *Classification*: Class 3 consists of Tranche A-1 Term Loan Secured Claims against the Debtors.

(b) *Allowance*: The Tranche A-1 Term Loan Secured Claims shall be deemed Allowed Claims in the amount of [].

(c) *Treatment*: On the Effective Date, each holder of an Allowed Tranche A-1 Term Loan Secured Claim shall receive, in full satisfaction, settlement, release and discharge of, and in exchange for such Claim, its *pro rata* share of [$67,000,000] in Cash.

(d) *Voting*: Impaired; entitled to vote to accept or reject the Plan.

4. Class 4 – Tranche A-2 Term Loan Secured Claims

(a) *Classification*: Class 4 consists of Tranche A-2 Term Loan Secured Claims against the Debtors.

(b) *Allowance*: The Tranche A-2 Term Loan Secured Claims shall be allowed in the aggregate principal amount of $[].

(c) *Treatment*: On the Effective Date, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for each Tranche A-2 Term Loan Secured Claim, each Holder of a Tranche A-2 Term Loan Secured Claim shall receive its *pro rata* share of 100% of the New Common Units, unless such Holder exercises the Cash Election at the time of voting on the Plan, in which case such Holder shall receive Cash in the amount of 10% of such Holder's allowed Tranche A-2 Term Loan Secured Claim in lieu of receiving New Common Units under the Plan.

(d) *Voting*: Impaired; entitled to vote to accept or reject the Plan.

5. Class 5 – General Unsecured Claims

(a) *Classification*: Class 5 consists of General Unsecured Claims against the Debtors.

(b) *Treatment*: On or as soon as reasonably practicable after the Effective Date (and subject to the allowance, objection, and distribution procedures set forth in the Plan), except to the extent that a Holder agrees to less favorable treatment, in

full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for each allowed General Unsecured Claim, each Holder of any such Claim shall receive its *pro rata* share of:

(i) if Class 5 votes to accept the Plan, the Liquidating Trust Distributable Assets, which shall consist of $4 million Cash and the Liquidating Trust Note, less the Liquidating Trust Expenses and any deductions pursuant to the Liquidating Trust Assets Deduction Procedures. Provided further that, if Class 5 votes to accept the Plan, the Tranche A-1 Term Loan Deficiency Claims and the Tranche A-2 Term Loan Deficiency Claims shall not receive, and shall waive the right to receive, distributions under Class 5 of the Plan and the Reorganized Debtors shall reconcile the Class 5 Claims and pay certain expenses related thereto pursuant to Article VII.B of the Plan; or,

(ii) if Class 5 votes to reject the Plan, the Liquidating Trust Note, less the Liquidating Trust Expenses and any deductions pursuant to the Liquidating Trust Assets Deduction Procedures. Provided further that, if Class 5 votes to reject the Plan, the Tranche A-1 Term Loan Deficiency Claims and the Tranche A-2 Term Loan Deficiency Claims shall receive distributions under Class 5 of the Plan, and the Liquidating Trustee shall reconcile the Class 5 Claims and pay all expenses related thereto pursuant to Article VII.B of the Plan.

(c) *Voting*: Impaired; entitled to vote to accept or reject the Plan.

6. Class 6 – Intercompany Claims

(a) *Classification*: Class 6 consists of all Intercompany Claims.

(b) *Treatment*: Each Intercompany Claim shall either be (a) reinstated as of the Effective Date or (b) cancelled, in which case no distribution shall be made on account of such Intercompany Claim, in each case as determined by the Debtors and the Requisite Plan Support Parties.

(c) *Voting*: Deemed to accept the Plan; not entitled to vote to accept or reject the Plan.

7. Class 7 – Existing Equity Interests in Payless

(a) *Classification*: Class 7 consists of Existing Equity Interests.

(b) *Treatment*: All Existing Equity Interests in Payless Holdings LLC, whether represented by stock, preferred share purchase rights, warrants, options, membership units or otherwise, will be cancelled, released, and extinguished and the Holders of such Existing Equity Interests will receive no distribution under the Plan on account thereof.

(c) *Voting*: Impaired; deemed to reject the Plan.

8. Class 8 – Intercompany Interests

(a) *Classification*: Class 8 consists of all Intercompany Interests.

(b) *Treatment*: Each Intercompany Interest shall either be (a) reinstated as of the Effective Date or (b) cancelled, in which case no distribution shall be made on account of such Intercompany Interest, in each case as determined by the Debtors and the Requisite Plan Support Parties.

(c) *Voting*: Deemed to accept the Plan; not entitled to vote to accept or reject the Plan.

C. Special Provision Governing Unimpaired Claims

Subject to Article IV.Q, nothing under the Plan shall affect the Debtors' or the Reorganized Debtors' rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

D. Acceptance or Rejection of the Plan

1. Presumed Acceptance of Plan

Classes 1 and 2 are Unimpaired under the Plan, and are, therefore, presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Classes 6 and 8 are presumed to have accepted the Plan.

2. Voting Classes

Each Holder of an Allowed Claim in each of Classes 3, 4 and 5 shall be entitled to vote to accept or reject the Plan.

3. Presumed Rejection of Plan

Class 7 is presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code.

E. Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code

The Plan will satisfy section 1129(a)(10) of the Bankruptcy Code and, as necessary, the Debtors will seek confirmation of the Plan under section 1129(b) of the Bankruptcy Code with respect to any rejecting class of Claims or Equity Interests.

F. Elimination of Vacant Classes

Any Class of Claims that is not occupied as of the date of commencement of the Confirmation Hearing by the Holder of an Allowed Claim or a Claim temporarily Allowed under Bankruptcy Rule 3018 (*i.e.*, no Ballots are cast in a Class entitled to vote on the Plan) shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for

purposes of determining acceptances or rejection of the Plan by such Class pursuant to Bankruptcy Code section 1129(a)(8).

ARTICLE IV.

MEANS FOR IMPLEMENTATION OF THE PLAN

A. General Settlement of All Claims

As discussed further in the Disclosure Statement and as otherwise provided herein, pursuant to Bankruptcy Code section 1123 and Bankruptcy Rule 9019, and in consideration for the classification, distributions, releases, and other benefits provided under the Plan, upon the Effective Date, the provisions of the Plan shall constitute a good-faith compromise and settlement of all Claims, Equity Interests, Causes of Action, and controversies released, settled, compromised, discharged, or otherwise resolved pursuant to the Plan. The Plan shall be deemed a motion to approve the good-faith compromise and settlement of all such Claims, Interests, Causes of Action, and controversies pursuant to Bankruptcy Rule 9019, and the entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of such compromise and settlement under section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, as well as a finding by the Bankruptcy Court that such settlement and compromise is fair, equitable, reasonable, and in the best interests of the Debtors and their Estates. Distributions made to Holders of Allowed Claims in any Class are intended to be final.

B. Restructuring Transactions

On the Effective Date or as soon as reasonably practicable thereafter, the Reorganized Debtors may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including: (1) the execution and delivery of appropriate agreements, certificates or other documents or instruments of merger, consolidation, conversion, or reorganization containing terms that are consistent with the terms of the Plan and that satisfy the requirements of applicable law; (2) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any property, right, liability, duty, or obligation on terms consistent with the terms of the Plan; (3) the filing of appropriate certificates or articles of incorporation, merger, conversion, or consolidation with the appropriate governmental authorities pursuant to applicable law; and (4) all other actions that the Reorganized Debtors determine are necessary or appropriate.

By this Plan, the Debtors are authorized but not directed to, in an orderly manner, abandon, dissolve, liquidate or cause to be liquidated any Debtor entities, subsidiaries or Affiliates as the Debtors decide would be in the best interests of the Estates, provided however, that with respect to the Canadian Debtors, such action shall be subject to an order of the Canadian Court during the pendency of the Canadian Proceedings.

C. The New First Lien Facility and Approval of the New First Lien Facility

On the Effective Date, the Reorganized Debtors will enter into definitive documentation, with respect to the New First Lien Facility in an aggregate amount up to $[35] million as a first

lien facility. No New First Lien Debt shall be secured by any of the assets of the CA Loan Parties.

Confirmation of the Plan shall be deemed to constitute approval of the New First Lien Facility and the New First Lien Facility Documents (including all transactions contemplated thereby and all actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtors in connection therewith, including the payment of all fees, indemnities, and expenses provided for therein) and, subject to the occurrence of the Effective Date, authorization for the Reorganized Debtors to enter into and perform their obligations under the New First Lien Facility Documents and such other documents as may be reasonably required or appropriate, in each case, in accordance with the New First Lien Facility Documents.

On the Effective Date, the New First Lien Facility Documents shall constitute legal, valid, binding, and authorized obligations of the Reorganized Debtors, enforceable in accordance with their terms. The financial accommodations to be extended pursuant to the New First Lien Facility Documents are being extended, and shall be deemed to have been extended, in good faith, for legitimate business purposes, are reasonable, shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever, and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any other applicable non-bankruptcy law. On the Effective Date, all of the liens and security interests to be granted in accordance with the New First Lien Facility Documents (a) shall be legal, binding, and enforceable liens on, and security interests in, the collateral granted thereunder in accordance with the terms of the New First Lien Facility Documents, (b) shall be deemed automatically attached and perfected on the Effective Date, subject only to such liens and security interests as may be permitted under the New First Lien Facility Documents, and (c) shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any applicable non bankruptcy law. The Reorganized Debtors and the Entities granted such liens and security interests are authorized to make all filings and recordings, and to obtain all governmental approvals and consents necessary to establish, attach, and perfect such liens and security interests under the provisions of the applicable state, provincial, federal, or other law (whether domestic or foreign) that would be applicable in the absence of the Plan and the Confirmation Order (it being understood that perfection shall occur automatically by virtue of the entry of the Confirmation Order, and any such filings, recordings, approvals, and consents shall not be required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such liens and security interests to third parties. To the extent that any Holder of a Secured Claim that has been satisfied or discharged in full pursuant to the Plan, or any agent for such Holder, has filed or recorded publicly any liens and/or security interests to secure such Holder's Secured Claim, then as soon as practicable on or after the Effective Date, such Holder (or the agent for such Holder) shall take any and all steps requested by the Debtors, the Reorganized Debtors, or any administrative agent under the New First Lien Facility Documents that are necessary to cancel and/or extinguish such liens and/or security interests.

D. The New Second Lien Facility and Approval of the New Second Lien Facility

The New Second Lien Debt Commitment Party shall enter into the New Second Lien Debt Commitment Agreement with the Debtors to provide the second lien secured loan facility portion of the New Second Lien Facility in an amount of $[30] million. The New Second Lien Debt Commitment Agreement is subject to the liens of the New First Lien Facility. No New Second Lien Debt shall be secured by any of the assets of the CA Loan Parties.

Confirmation of the Plan shall be deemed to constitute approval of the New Second Lien Facility and the New Second Lien Facility Documents (including all transactions contemplated thereby and all actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtors in connection therewith, including the payment of all fees, indemnities, and expenses provided for therein) and, subject to the occurrence of the Effective Date, authorization for the Reorganized Debtors to enter into and perform their obligations under the New Second Lien Facility Documents and such other documents as may be reasonably required or appropriate, in each case, in accordance with the New Second Lien Facility Documents.

On the Effective Date, the New Second Lien Facility Documents shall constitute legal, valid, binding, and authorized obligations of the Reorganized Debtors, enforceable in accordance with their terms. The financial accommodations to be extended pursuant to the New Second Lien Facility Documents are being extended, and shall be deemed to have been extended, in good faith, for legitimate business purposes, are reasonable, shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever, and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any other applicable non-bankruptcy law. On the Effective Date, all of the liens and security interests to be granted in accordance with the New Second Lien Facility Documents (a) shall be legal, binding, and enforceable liens on, and security interests in, the collateral granted thereunder in accordance with the terms of the New Second Lien Facility Documents, (b) shall be deemed automatically attached and perfected on the Effective Date, subject only to such liens and security interests as may be permitted under the New Second Lien Facility Documents, and (c) shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any applicable non-bankruptcy law. The Reorganized Debtors and the Entities granted such liens and security interests are authorized to make all filings and recordings, and to obtain all governmental approvals and consents necessary to establish, attach, and perfect such liens and security interests under the provisions of the applicable state, provincial, federal, or other law (whether domestic or foreign) that would be applicable in the absence of the Plan and the Confirmation Order (it being understood that perfection shall occur automatically by virtue of the entry of the Confirmation Order, and any such filings, recordings, approvals, and consents shall not be required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such liens and security interests to third parties. To the extent that any Holder of a Secured Claim that has been satisfied or discharged in full pursuant to the Plan, or any agent for such Holder, has filed or recorded publicly any liens and/or security interests to secure such Holder's Secured Claim, then as soon as practicable on or after the Effective Date, such Holder (or the agent for such Holder) shall take any and all steps requested

by the Debtors, the Reorganized Debtors, or any administrative agent under the New Second Lien Facility Documents that are necessary to cancel and/or extinguish such liens and/or security interests.

E. Cash Election Commitment

The Axar Entities and the Alden Entities have entered into the Cash Election Commitment Agreement, pursuant to which (i) Axar has committed to make the Axar Cash Election Payment, and (ii) with respect to any amount by which the aggregate amount of the Cash Election to be paid to the Cash Electors under the Plan exceeds the Axar Cash Election Payment, (a) the Alden Entities shall have an option to fund up to 50% of such amount, and (b) the Axar Entities shall fund 50% of such amount plus any amount for which the Alden Entities do not exercise the option to fund.

On the Effective Date, the Axar Entities and the Alden Entities shall receive, as applicable, the New Common Units that each Tranche A-2 Term Loan Lender that makes the Cash Election would have received had such Tranche A-2 Term Loan Lender not made the Cash Election.

F. The CA Loan

The CA Credit Agreement and any other applicable documentation related to the CA Loan shall be amended to ensure that:

- Interest in all Interest Periods (as defined in the CA Credit Agreement) following October 2, 2019 shall be paid in Cash as currently provided in the CA Credit Agreement;

- Amortization of the CA Loan shall occur following the Effective Date, payable on the first anniversary of the Effective Date and every six (6) months thereafter (or, if such date is not a business day, the business day immediately preceding such date), in an aggregate annual amount equal to 5% of the original principal amount in the year beginning with the first anniversary after the Effective Date and 10% of the original principal amount for each year thereafter. The remaining aggregate principal amount of the CA Loan will be payable in full at maturity;

- Covenants, events of default, and representations under the CA Credit Agreement shall be modified to include:

    - A negative pledge on all assets of the CA Loan Parties that are not pledged as collateral for the CA Loan;

    - Proceeds of the following transactions shall be used to mandatorily prepay the principal amount under the CA Loan until paid in full: (i) any sale of assets of any of the CA Loan Parties including any interests in the CA Loan JV Entities, (ii) any equity issuance by PSS Latin America Holdings or any of its direct or indirect subsidiaries (including any CA Loan JV Entities), or (iii) prohibited debt issuances at the CA Loan Parties;

- The principal amount of the CA Loan will become immediately due and payable upon the sale of all or substantially all of the assets of the CA Loan Parties;

- Dividends and other restricted payments from the CA Loan Parties will be subject to an overall dollar limitation of [TBD] until the CA Loan is paid in full;

- The change of control event of default will be triggered if (i) the borrower under the CA Loan ceases to directly own 100% of any interests in the LatAm JV Entities owned by the borrower as of the Effective Date, (ii) PSS Latin America Holdings ceases to directly own 100% of Payless CA, (iii) Reorganized Payless, or substantially all of its assets, are sold, or (iv) any Person other than the Alden Entities acquires more than 50% of the New Common Units as a result of the purchase of New Common Units, other than where more than 50% of the New Common Units is acquired by such Person from the Alden Entities in a transaction in which the purchase of New Common Units is not open to all other Holders of New Common Units on a pro rata basis;

- The ability of the CA Loan Parties to transfer assets as investments to subsidiaries, or enter into sale-leaseback transactions, shall be subject to an overall dollar limitation of [TBD];

- The ability of any CA Loan Parties to transfer any material portion of the LatAm Business shall be prohibited, unless such transfer results in proceeds sufficient to repay the CA Loan pursuant to its terms;

- The existing $25 million debt and lien baskets shall be eliminated; and

- Non-arm's-length transactions with non-guarantor subsidiaries shall be prohibited.

- The insolvency or bankruptcy of any of the Reorganized Debtors, the CA Loan Parties, or any of their subsidiaries shall be an event of default.

G. Corporate Existence

Subject to any restructuring transactions as permitted under Article IV.B, each Debtor shall continue to exist on and after the Effective Date as a separate corporation, limited liability company, partnership, or other form of entity, as the case may be, with all the powers of a corporation, limited liability company, partnership, or other form of entity, as the case may be, pursuant to the applicable law in the jurisdiction in which each applicable Debtor is incorporated or formed and pursuant to the respective certificate of incorporation and bylaws (or other similar formation and governance documents) in effect prior to the Effective Date, except to the extent such certificate of incorporation or bylaws (or other similar formation and governance documents) are amended by or in connection with the Plan or otherwise, and, to the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan and

require no further action or approval (other than any requisite filings required under applicable foreign, state, provincial, or federal law).

As provided in Article IV.B, the Debtors are authorized by this Plan to, in an orderly manner, abandon, dissolve, liquidate or cause to be liquidated any Debtor entities, subsidiaries or Affiliates as the Debtors decide would be in the best interests of the Estates.

H. Vesting of Assets in the Reorganized Debtors

Subject to Article IV.Q, and except as otherwise provided in the Plan or in any agreement, instrument, or other document incorporated in the Plan, on the Effective Date, all property in each Estate, all Causes of Action, and any property acquired by any of the Debtors pursuant to the Plan shall vest in each respective Reorganized Debtor, free and clear of all liens, Claims, charges, or other encumbrances. On and after the Effective Date, except as otherwise provided in the Plan, each Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

I. Cancellation of Prepetition Term Loan Facility, Prepetition ABL Credit Facility Agreement, DIP Credit Agreement and Equity Interests

On the Effective Date, except as otherwise specifically provided for in the Plan: (1) the obligations of the Debtors under the Prepetition Term Loan Facility, the Prepetition ABL Credit Facility, the DIP Credit Facility and any other certificate, equity security, share, note, bond, indenture, purchase right, option, warrant, or other instrument or document directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest in the Debtors giving rise to any Claim or Equity Interest (except such certificates, notes, or other instruments or documents evidencing indebtedness or obligation of or ownership interest in the Debtors that are Reinstated pursuant to the Plan), shall be cancelled solely as to the Debtors and their Affiliates, and all documentation in respect of those enumerated facilities is terminated, except as expressly provided below, and the Reorganized Debtors and their Affiliates shall not have any continuing obligations thereunder; and (2) the obligations of the Debtors and their Affiliates pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificate or articles of incorporation or similar documents governing the shares, certificates, notes, bonds, indentures, purchase rights, options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of or ownership interest in the Debtors (except such agreements, certificates, notes, or other instruments evidencing indebtedness or obligation of or ownership interest in the Debtors that are specifically Reinstated pursuant to the Plan) shall be released and discharged. Notwithstanding the foregoing:

- The Prepetition Term Loan Facility shall continue in effect solely for the purpose of: (i) allowing Holders of the Prepetition Term Loan Claims to receive the distributions provided for under the Plan and distributions from the Canadian Debtors; (ii) allowing the Prepetition Term Loan Agent to receive distributions from the Debtors and the Canadian Debtors and to make further distributions to the Holders of such Claims on account of such Claims, as set forth in Article VI.A of the Plan; (iii) allowing the

Prepetition Term Loan Agent to seek to enforce its security against the Canadian Debtors; and (iv) preserving the Prepetition Term Loan Agents' right to indemnification pursuant and subject to the terms of the Prepetition Term Loan Facility in respect of any Claim or Cause of Action asserted against the Prepetition Term Loan Agents;

- The Prepetition ABL Credit Facility and the DIP Facility shall continue solely for the purpose of preserving the rights of Wells Fargo, the DIP Agent and DIP Facility Agent and the DIP Lenders to indemnification pursuant to and subject to the respective agreements.

- The Prepetition Term Loan Facility Agent, the DIP Agent, and Wells Fargo, as collateral agent and administrative agent, for the Prepetition ABL Credit Facility, are authorized to execute any and all documentation necessary or desirable to evidence the termination of the Prepetition Term Loan Facility, the DIP Facility and the Prepetition ABL Credit Facility.

- The Debtors are authorized to file any necessary security interest and/or lien releases or terminations to evidence the termination of the Prepetition Term Loan Facility, the DIP Facility and the Prepetition ABL Credit Facility.

- The foregoing shall not affect the cancellation of units issued pursuant to the Plan nor any other units held by one Debtor in the capital of another Debtor.

J. Sources of Cash for Plan Distributions and Transfers of Funds Among Debtors

The Cash necessary for the Reorganized Debtors to make Cash payments required pursuant to the Plan will be funded from three sources: (1) proceeds from the New First Lien Facility and New Second Lien Facility; (2) Cash on hand as of the Effective Date; and (3) Cash from the Axar Cash Election Payment and any other Cash to be paid by the Axar Entities and the Alden Entities under the Cash Election Commitment Agreement.

In making such Cash payments, the Debtors and the Reorganized Debtors will be entitled to transfer funds between and among themselves, as they determine to be necessary or appropriate, to enable the Reorganized Debtors to satisfy their obligations under the Plan. Except as set forth in the Plan, any changes in intercompany account balances resulting solely from such transfers will be accounted for and settled in accordance with the Debtors' historical intercompany account settlement practices and will not violate the terms of the Plan.

From and after the Effective Date, the Reorganized Debtors, subject to any applicable limitations set forth in any post-Effective Date financing, shall have the right and authority without further order of the Bankruptcy Court, to raise additional capital and obtain additional financing as the boards of directors of the applicable Reorganized Debtors deem appropriate.

K. Effectuating Documents and Further Transactions

The Debtors or the Reorganized Debtors, as applicable, may take all actions to execute, deliver, file, or record such contracts, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the

provisions of the Plan, including, without limitation, the distribution of the securities to be issued pursuant hereto in the name of and on behalf of the Reorganized Debtors, without the need for any approvals, authorizations, actions, or consents except for those expressly required pursuant hereto. The secretary, any assistant secretary and any director of each Debtor shall be authorized to certify or attest to any of the foregoing actions. Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to the Plan that would otherwise require approval of the shareholders, directors, or members of the Debtors shall be deemed to have been so approved and shall be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the shareholders, directors, managers, or partners of the Debtors, or the need for any approvals, authorizations, actions or consents.

L. Issuance of New Equity

1. New Common Units

On the Effective Date, Reorganized Payless shall issue New Common Units in accordance with the terms of the Plan and the New Organizational Documents, without the need for any further corporate or member action.

Pursuant to the New Organizational Documents, Reorganized Payless will further be authorized, but not required, to issue New Incentive Units pursuant to the Management Incentive Plan (as described below).

Upon the Effective Date, (i) the New Common Units shall not be registered under the Securities Act, and shall not be listed for public trading on any securities exchange, and (ii) none of the Reorganized Debtors will be a reporting company under the Exchange Act. The New Common Units will be issued pursuant to section 1145 of the Bankruptcy Code or another available exemption from registration under the Securities Act, and the New Common Units may be resold without registration under the Securities Act and other applicable securities laws by the recipients thereof without further registration, subject to certain restrictions under the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act, if applicable, and affiliates under applicable securities laws. Transfers of New Common Units will not otherwise (i) require approval of the New Board or (ii) be subject to other restrictions except for (a) the obligation of transferees to become party to the New Operating Agreement and (b) the right of first refusal on certain transfers of New Common Units by Alden and Axar, as set forth in the New Operating Agreement.

The distribution of New Common Units pursuant to the Plan may be made by delivery of one or more certificates representing such new units as described herein, by means of book entry registration on the books of the transfer agent of New Common Units or by means of book entry exchange through the facilities of a transfer agent satisfactory to the Debtors in accordance with the customary practices of such agent, as and to the extent practicable.

2. Tag, Drag and Preemptive Rights

Significant Holders shall have customary tag-along rights on transfers by either the Alden Entities (and their transferees) or the Axar Entities (and their transferees) of 25% or more of the

Alden Entities or the Axar Entities respective holdings of New Common Units in a single transaction. The tag-along rights of any Significant Holder shall be with respect to the percentage of its holdings equal to the percentage of the holdings of the Alden Entities or the Axar Entities that the Alden Entities or the Axar Entities seek to transfer, as the case may be. A Significant Holder shall retain its right to these customary tag-along rights so long as such Significant Holder owns at least 51% of the New Common Units that it owned as of the Effective Date (or acquired following the Effective Date at which time it became the holder of 5% or more of the New Common Units.)

All holders of New Common Units shall have customary preemptive rights and other minority protections. In addition to rights to compel a sale of Reorganized Payless set forth in Article IV.L.6, customary drag-along rights shall apply to the sale in a single transaction of a majority of the New Common Units, which drag-along rights may be exercised in the first three years following the Effective Date by holders of at least 75% of the issued and outstanding New Common Units and following the third anniversary of the Effective Date by holders of a majority of the issued and outstanding New Common Units. Holders of New Common Units will not be required to make capital contributions to Reorganized Payless.

The foregoing shall be set forth in further detail in the New Organizational Documents.

3. Private Companies

On the Effective Date, the Reorganized Debtors shall be private, non-SEC reporting companies.

M. Simultaneous and Future Transactions

1. LatAm Business

Under the Plan, the LatAm Business shall be retained as property of the Reorganized Debtors as of the Effective Date, and all obligations of the Debtors' direct or indirect non-Debtor subsidiaries that own or control the LatAm Business shall remain outstanding and continue in effect.

2. Royalty, Licensing, Sourcing and Service Agreements

All of the Debtors' royalty, licensing, services and sourcing agreements shall be assumed and retained as property of the Reorganized Debtors as of the Effective Date.

3. Canadian Debtors

The Canadian Debtors are not plan proponents under the Plan. The Debtors or Reorganized Debtors shall cause the Canadian Debtors to bring forward a motion for approval of a plan of compromise or arrangement under the *CCAA* (the "CCAA Plan") in the Canadian Court. The CCAA Plan shall be in form and substance acceptable to the Prepetition Term Loan Agent, the Requisite Plan Support Parties, the Monitor, and the Canadian Debtors. In connection with implementation of the CCAA Plan: (a) the Prepetition Term Loan Agent shall consent to release its security over funds held by the Canadian Debtors in an amount to be determined, but

which amount will provide a recovery to unsecured creditors of the Canadian Debtors on a similar pro rata basis as the recovery received by General Unsecured Creditors of the Debtors (the "Canadian GUC Amount"); (b) the Canadian Debtors will consent to the appointment of a receiver, upon application by the Prepetition Term Loan Agent, over the proceeds of the Canadian Postpetition Loans, once received by the Canadian Debtors, and any other funds provided therefore pursuant to the CCAA Plan, but excluding the Canadian GUC Amount; and (c) the Canadian Debtors will cancel the claims of the Debtors against the Canadian Debtors, or otherwise resolve such intercompany claims in a manner acceptable to the Debtors or the Reorganized Debtors and the Canadian Debtors.

4. Collective Brands Logistics Limited

Collective Brands Logistics Limited and Payless Sourcing LLC are authorized, but not directed, to commence or continue the liquidation process of their business and assets (including deregistration, liquidation, dissolution, bankruptcy and/or abandonment of any of their direct or indirect subsidiaries, branches or representative offices) in any relevant courts in or otherwise as appropriate in the subject jurisdictions. In exchange for the treatment of the Holders of General Unsecured Claims of Collective Brands Logistics Limited and Payless Sourcing LLC pursuant to Class 5 of this Plan, Collective Brands Logistics Limited and Payless Sourcing LLC shall be authorized (i) to assume and assign any executory contracts or unexpired leases pursuant to Section V, (ii) transfer any shares of its direct or indirect subsidiaries, and (iii) transfer, and take any and all steps to transfer, any assets (including assets of any of its direct or indirect subsidiaries, branches or representative offices which assets include, without limitation, any real property leases or any rental deposits or prepaid expenses thereunder), in each instance free and clear of all liens, claims and encumbrances, to Dynamic Assets Limited and/or any of its direct or indirect subsidiaries, branches or representative offices under this Plan.

Collective Brands Logistics Limited and Payless Sourcing LLC are further authorized, but not directed, to reject that certain:

- Restated Joint Business Agreement dated December 21, 2016 between Payless Sourcing, LLC and Collective Brands Logistics Limited; and
- Declaration of Trust dated December 21, 2016 between Collective Brands Logistics, Limited as trustee and Payless Sourcing as beneficiary, and take any and all such steps as may be necessary to give effect to the rejection or unwinding of those agreements.

By this Plan, Collective Brands Logistics Limited and Payless Sourcing LLC are authorized, in their discretion, to (i) transfer, and take any and all steps to transfer, any, or all necessary, employees (including any contractors) of their direct or indirect subsidiaries, branches or representative offices to Dynamic Assets Limited and/or any of its direct or indirect subsidiaries, branches or representative offices, (ii) appoint, remove or replace any director, representative, branch manager or other office holder of their direct or indirect subsidiaries, branches or representative offices. Payless Sourcing LLC is further authorized to wind up or

administratively deregister Collective Brands Services Limited ("CBSL"),[3] by (i) rejecting the CBIHL Declaration of Trust and (ii) commencing or continuing the liquidation process of CBSL and any of its business and assets (including deregistration, liquidation, dissolution, bankruptcy and/or abandonment of any of its direct or indirect subsidiaries, branches or representative offices.

All Intercompany Claims between Collective Brands Logistics Limited and Payless Sourcing LLC on the one hand, and the remaining Debtors on the other hand, shall be deemed released as of the Effective Date.

5. Transactions With Affiliates

There shall be no Affiliate Transactions unless approved by all members of the New Board, excluding the New Board member designated by the applicable member (or its affiliate) that is party to the Affiliate Transaction. In addition, the New Board member designated by such applicable member shall be excluded from all deliberations on any such Affiliate Transaction. The foregoing shall be set forth in further detail in the New Organizational Documents.

6. Compelled Sale of the Company

After the third anniversary of the Effective Date, either the Alden Entities or the Axar Entities (so long as the Alden Entities and the Axar Entities, respectively, own at least 51% of the New Common Units that it owned as of the Effective Date) may compel the Reorganized Debtors to sell all of their remaining assets through a competitive process managed by independent third party financial advisors or investment bankers. After the fourth anniversary of the Effective Date, the holders of at least 25% of the New Common Units (without regard to New Incentive Units) may compel the Reorganized Debtors to sell all of their remaining assets through a competitive process managed by independent third party financial advisors or investment bankers.

The Axar Entities, the Alden Entities, the Invesco Entities, and the Octagon Entities shall have any right of first refusal or similar right to purchase any or all of the assets of the Reorganized Debtors, but each may submit proposals to purchase such assets, *provided, however*, that if any of the Axar Entities, the Alden Entities, the Invesco Entities, or the Octagon Entities participate in the sale process, such participant or participants shall be excluded from management of the process and will not have access to any advisors retained in connection with the process other than in its capacity as a bidding party. Any sale to any of the Axar Entities, the Alden Entities, the Invesco Entities, or the Octagon Entities will require the delivery of a fairness option by the third party financial advisor or investment bank retained to manage such sale.

The foregoing shall be set forth in further detail in the New Organizational Documents.

[3] Specifically, Payless Sourcing LLC is party to the Declaration of Trust dated November 26, 2016 between Collective Brands International Holdings, Limited II ("CBIHL") as trustee and Payless Sourcing LLC, as beneficiary, pursuant to which CBIHL holds shares in CBSL on trust for Payless Sourcing LLC (the "CBIHL Declaration of Trust").

N. Section 1145 Exemption

Pursuant to section 1145 of the Bankruptcy Code and/or, to the extent that section 1145 of the Bankruptcy Code is unavailable, section 4(a)(2) of the Securities Act, and/or the safe harbor of Regulation D promulgated thereunder, or such other exemption as may be available from any applicable registration requirements, the offering, issuance, and distribution of any securities pursuant to this Plan shall be exempt from, among other things, the registration requirements of section 5 of the Securities Act to the maximum extent permitted thereunder and any other applicable law requiring registration by virtue of section 1145 of the Bankruptcy Code, prior to the offering, issuance, distribution, or sale of securities. In addition, to the maximum extent provided under section 1145 of the Bankruptcy Code, to the extent applicable, any and all New Common Units contemplated by the Plan and any and all settlement agreements incorporated therein will be freely tradable and transferable by any initial recipient thereof, subject to certain exceptions if the recipient (x) is an "affiliate" of the Reorganized Debtors (as defined in rule 144(a)(1) under the Securities Act), (y) has been such an "affiliate" within 90 days of such transfer, and (z) is an "underwriter" as defined in section 1145(b) of the Bankruptcy Code.

O. New Organizational Documents

On or immediately prior to the Effective Date, the organizational documents of each of the Debtors shall be amended and restated, as may be necessary to effectuate the transactions contemplated by the Plan, in a manner consistent with section 1123(a)(6) of the Bankruptcy Code. Each of the Reorganized Debtors will file its New Organizational Documents with the applicable Secretaries of State and/or other applicable authorities in its respective state, province, or country of incorporation in accordance with the corporate laws of the respective state, province, or country of incorporation. The New Organizational Documents will prohibit the issuance of non-voting equity securities to the extent required under section 1123(a)(6) of the Bankruptcy Code.

P. Exemption from Certain Transfer Taxes and Recording Fees

To the fullest extent permitted by section 1146(a) of the Bankruptcy Code, any transfer of property from a Debtor to a Reorganized Debtor or to any Entity pursuant to, in contemplation of, or in connection with the Plan or pursuant to: (1) the issuance, distribution, transfer, or exchange of any debt, securities, or other interest in the Debtors or the Reorganized Debtors; (2) the creation, modification, consolidation, or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means; (3) the making, assignment, or recording of any lease or sublease; (4) the grant of collateral as security for any or all of the New First Lien Facility and New Second Lien Facility, as applicable; or (5) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, sales or use tax, or other similar tax or governmental

assessment, and the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment. All filing or recording officers (or any other Person with authority over any of the foregoing), wherever located and by whomever appointed, shall comply with the requirements of section 1146(c) of the Bankruptcy Code, shall forgo the collection of any such tax or governmental assessment, and shall accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

Q. Directors and Officers of Reorganized Payless and Other Reorganized Debtors

On the Effective Date, the New Board shall consist of the following Initial Directors: (i) one director and/or manager appointed by Axar; (ii) one director and/or manager appointed by Alden; (iii) one director and/or manager jointly appointed by Invesco and Octagon; and (iv) an Independent Director jointly appointed by Axar, Alden, Octagon, and Invesco no later than ten (10) days prior to the deadline to object to confirmation of this Plan. As set forth in detail in the New Organizational Documents, in the event Invesco and Octagon, together with their respective affiliates, cease to hold any New Common Units, the Independent Director's seat on the New Board shall be filled through annual election by the Holders of a majority of the New Common Units, and such director and/or manager shall have relevant industry experience, and shall be independent and have no prior or then current relationship with any of the remaining pre-existing designees.

The full processes for election of members of the New Board and replacement of members of the New Board will be provided for in the New Operating Agreement. For so long as the New Board is composed of four directors, to the extent a decision or action of Reorganized Payless is approved by two members of the New Board, and two members of the New Board oppose a decision or action, such decision or action may, at the request of the members of the New Board approving such action, be put to a vote of Holders of issued and outstanding New Common Units, and if approved by Holders of at least 90% of the issued and outstanding New Common Units, shall be deemed approved; provided that, in the event Invesco and Octagon collectively cease to hold any New Common Units but the New Board continues to be comprised of four directors, the foregoing reference to 90% shall be reduced to 75%.

The following are decisions and actions that, if approved by the New Board acting by less than unanimous consent, will require approval of holders of at least 75% of the issued and outstanding New Common Units: (i) the sale of the LatAm Business, (ii) the consummation by Reorganized Payless of a transaction resulting in a change of control of Reorganized Payless, (iii) the acquisition by Reorganized Payless of another unaffiliated entity or business, whether via merger, the acquisition of equity or the assets of such entity, which transaction has a purchase price in an amount greater than 25% of the equity value of Reorganized Payless at such time (prior to consummation of such transaction), (iv) the sale or disposition by Reorganized Payless of assets of Reorganized Payless outside of the ordinary course of business for a sale price greater than 25% of the equity value of Reorganized Payless at such time (prior to consummation of such sale or disposition), (v) a fundamental change to the nature of Reorganized Payless's business, and (vi) the issuance of more than 20% of New Common Units (subject to certain

customary issuance exceptions as apply to preemptive rights referenced above), provided, however that the foregoing approvals shall not apply to a compelled sale of Reorganized Payless as set forth below in the Article IV.L.6.

So long as the Octagon Entities continue to own at least 51% of the New Common Units that they owned as of the Effective Date, Octagon shall have New Board observation rights. So long as the Invesco Entities continue to own at least 51% of the New Common Units that they owned as of the Effective Date, Invesco shall have New Board observation rights.

The foregoing shall be set forth in additional detail in the New Organizational Documents.

R. Preservation of Causes of Action

In accordance with section 1123(b) of the Bankruptcy Code, but subject to Article IX below, the Reorganized Debtors shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, and the Reorganized Debtors' rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date, other than the Causes of Action released by the Debtors pursuant to the releases and exculpations contained in the Plan, including Article IX. The Reorganized Debtors may in their sole discretion pursue such Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtors. **No Entity may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Cause of Action against it as any indication that the Debtors or the Reorganized Debtors, as applicable, will not pursue any and all available Causes of Action against it. The Debtors or the Reorganized Debtors, as applicable, expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan, including Article IV.Q and Article IX of the Plan.** Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Bankruptcy Court order, the Reorganized Debtors expressly reserve all Causes of Action, for later adjudication, and, therefore no preclusion doctrine, including the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise) or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or the Effective Date.

The Reorganized Debtors reserve and shall retain the Causes of Action notwithstanding the rejection or repudiation of any Executory Contract or Unexpired Lease during the Chapter 11 Cases or pursuant to the Plan. In accordance with section 1123(b)(3) of the Bankruptcy Code, any Causes of Action that a Debtor may hold against any Entity shall vest in the applicable Reorganized Debtor, except as otherwise expressly provided in the Plan, including Article IV.Q and Article IX of the Plan. The applicable Reorganized Debtors, through their authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action. The Reorganized Debtors shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order or approval of the Bankruptcy Court.

S. Directors and Officers Insurance Policies and Agreements

Notwithstanding anything in the Plan to the contrary, effective as of the Effective Date, the Reorganized Debtors shall be deemed to have assumed all unexpired D&O Liability Insurance Policies with respect to the Debtors' directors, managers, officers, and employees serving on or prior to the Petition Date pursuant to Bankruptcy Code section 365(a). Entry of the Confirmation Order will constitute the Bankruptcy Court's approval of the Reorganized Debtors' assumption of each of the unexpired D&O Liability Insurance Policies. Notwithstanding anything to the contrary contained in the Plan, Confirmation of the Plan shall not discharge, impair, or otherwise modify any indemnity obligations assumed by the foregoing assumption of the D&O Liability Insurance Policies, and each such indemnity obligation will be deemed and treated as an Executory Contract that has been assumed by the Reorganized Debtors under the Plan as to which no Proof of Claim need be filed.

After the Effective Date, the Reorganized Debtors shall not terminate or otherwise reduce the coverage under any D&O Liability Insurance Policy (including such tail coverage liability insurance) in effect and all members, managers, directors, and officers of the Debtors or the Canadian Debtors who served in such capacity at any time prior to the Effective Date of the Plan shall be entitled to the full benefits of any such policy for the full term of such policy regardless of whether such members, managers, directors, and/or officers remain in such positions after the Effective Date of the Plan.

On the Effective Date, the Reorganized Debtors shall purchase a customary D&O tail policy.

On the Effective Date, Reorganized Payless will enter into indemnification agreements with each of the members of the New Board, with such indemnification agreements being in a form acceptable to Alden, Axar, Invesco and Octagon.

T. Compensation and Benefits Programs

Unless otherwise provided herein, in the Confirmation Order, or any applicable agreements binding on the Debtors, all employee wages, compensation, and benefit programs in place as of the Effective Date with the Debtors shall be assumed by the Reorganized Debtors and shall remain in place as of the Effective Date, and the Reorganized Debtors will continue to honor such agreements, arrangements, programs, and plans. Notwithstanding the foregoing, pursuant to section 1129(a)(13) of the Bankruptcy Code, from and after the Effective Date, all retiree benefits (as such term is defined in section 1114 of the Bankruptcy Code), if any, shall continue to be paid in accordance with applicable law.

1. <u>Management Incentive Plan</u>

Promptly on or as soon as practicable after the Effective Date, the New Board will adopt and implement a Management Incentive Plan, the terms of which shall be in form and substance acceptable to the Requisite Plan Support Parties and approved by the New Board. The New Board will determine the number of New Incentive Units, if any, to be available for award under the Management Incentive Plan and the allocation of New Incentive Units, if any.

2. Continuation of Retiree Benefits

The Reorganized Debtors' obligations with respect to the payment of "retiree benefits" (as that term is defined in section 1114(a) of the Bankruptcy Code) shall continue for the duration of the periods the Debtors have obligated themselves to provide such benefits, if any, subject to any contractual rights to terminate or modify such benefits. All rights of the Reorganized Debtors with respect to such obligations are fully reserved.

3. Workers' Compensation Programs

As of the Effective Date, the Debtors and the Reorganized Debtors shall continue to honor their obligations under: (i) all applicable workers' compensation laws in states in which the Reorganized Debtors operate; and (ii) the Debtors' written contracts, agreements, agreements of indemnity, self-insurer workers' compensation bonds, policies, programs, and plans for workers' compensation and workers' compensation insurance, including without limitation, any Insurance Policies providing workers' compensation insurance coverage to the Debtors. Notwithstanding the foregoing, the Debtors and Reorganized Debtors reserve the right to object to Claims asserted pursuant to applicable workers' compensation programs and to seek to reduce any bonds, letters of credit, or other security related to such programs.

All Proofs of Claims on account of workers' compensation shall be deemed withdrawn automatically and without any further notice to or action, order, or approval of the Bankruptcy Court; *provided, however*, that nothing in the Plan shall limit, diminish, or otherwise alter the Debtors' or Reorganized Debtors' defenses, Causes of Action, or other rights under applicable non-bankruptcy law with respect to any such contracts, agreements, policies, programs and plans, and all rights of the Reorganized Debtors with respect to such obligations are fully reserved; *provided, further*, that nothing herein shall be deemed to impose any obligations on the Debtors in addition to what is provided for under applicable state law.

U. Transaction Expenses

On the Effective Date, the Debtors shall pay in full in Cash the Transaction Expenses.

V. Additional Governance and Related Terms

The New Organizational Documents will reflect such additional governance and related terms regarding the Reorganized Debtors as set forth in the Corporate Governance Term Sheet, including, without limitation, with respect to the management of the Reorganized Debtors, the structure, designation, replacement, and voting requirements of the New Board, and certain other corporate governance terms.

ARTICLE V.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Assumption and Rejection of Executory Contracts and Unexpired Leases

On the Effective Date, executory contracts and unexpired leases listed on the Schedule of Assumed Executory Contracts and Unexpired Leases filed with the Plan Supplement shall be assumed. The Debtors are deemed to reject any unexpired executory contracts and unexpired leases not expressly assumed on the Schedule of Assumed Executory Contracts and Unexpired Leases. The Debtors shall have the right to remove any executory contracts and unexpired leases from the Schedule of Assumed Executory Contracts and Unexpired Leases at any time prior to the Effective Date, and any such removed executory contracts and unexpired leases shall be deemed rejected as of the Effective Date.

Entry of the Confirmation Order by the Bankruptcy Court shall, subject to and upon the occurrence of the Effective Date, constitute a Bankruptcy Order approving the assumptions or rejections of the Executory Contracts and Unexpired Leases assumed or rejected pursuant to the Plan. Each Executory Contract and Unexpired Lease assumed pursuant to this Article V.A or by any order of the Bankruptcy Court shall be vested in and be fully enforceable by the Reorganized Debtors in accordance with its terms, unless otherwise agreed by the Debtors and the applicable counterparty to the Executory Contract or Unexpired Lease, and except as such terms are modified by any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal law.

B. Indemnification Obligations

On the Effective Date, except as otherwise provided herein, all Indemnification Obligations, consistent with applicable law, (whether in the bylaws, certificates of incorporation or formation, limited liability company agreements, other organizational documents, board resolutions, indemnification agreements, employment contracts, or otherwise) for the current directors, officers, managers, employees, attorneys, accountants, investment bankers, and other professionals of the Debtors, as applicable, shall be assumed, which assumption shall be irrevocable, and shall survive the Effective Date.

C. Directors and Officers Insurance Policies and Agreements

Pursuant to Article IV.S hereof, notwithstanding anything in the Plan to the contrary, effective as of the Effective Date, the Reorganized Debtors shall be deemed to have assumed all unexpired D&O Liability Insurance Policies.

D. Insurance Policies and Surety Bonds

Notwithstanding anything to the contrary in the Disclosure Statement, the Plan, the Confirmation Order, the Claims Bar Date Order, any claim objection, any other document related to any of the foregoing, or any other order of the Bankruptcy Court (including, without limitation, any other provision that purports to be preemptory or supervening, grants an injunction or release, confers Bankruptcy Court jurisdiction, or requires a party to opt out of any

releases): (1) on the Effective Date, the Reorganized Debtors shall be deemed to have assumed all Insurance Policies (other than the D&O Liability Insurance Policies, which shall receive the treatment set forth in Article V.C of the Plan) and all obligations thereunder, regardless of when they arise; and (2) except as set forth in Article V.C of the Plan, nothing (a) alters, modifies, or otherwise amends the terms and conditions of (or the coverage provided by) any of such Insurance Policies or (b) alters or modifies the duty, if any, that the insurers or third-party administrators have to pay claims covered by such Insurance Policies and their right to seek payment or reimbursement from the Debtors (or after the Effective Date, the Reorganized Debtors) or draw on any collateral or security therefor. For the avoidance of doubt, insurers and third-party administrators shall not need to nor be required to file or serve a Cure objection or a request, application, Claim, Proof of Claim, or motion for payment and shall not be subject to any Claims Bar Date or similar deadline governing Cure Claims or Claims.

Notwithstanding any other provision of the Plan, on the Effective Date: (1) all of the Debtors' obligations and commitments to any surety bond provider, including without limitation, obligations under any related indemnity agreements, shall be deemed reaffirmed and shall be continuing obligations of the Reorganized Debtors; (2) all bonded obligations of the Debtors for which such surety bonds secure performance by the Debtors shall be deemed assumed by the Debtors and shall be unimpaired by the Plan or Confirmation Order; and (3) to the extent any of the obligations and commitments set forth in this provision are secured by collateral, such collateral shall remain in place. Nothing in the Plan or Confirmation Order shall be deemed to: (a) modify or impair the rights of any party under the Debtors' surety bonds, related indemnity agreements, or applicable law; (b) require any surety bond provider to issue any new surety bonds or extensions or renewals of any surety bonds; or (c) affect the sureties' respective rights (only to the extent such rights exist with respect to the surety bonds, indemnity agreements or under applicable law) to require the Reorganized Debtors to execute and deliver to the Sureties new indemnity agreements containing such new or additional terms as the Sureties may require in their discretion. Notwithstanding the foregoing, the Debtors and Reorganized Debtors reserve the right to object to the Claims secured by such surety bond and seek to reduce such surety bonds in accordance with the objections.

E. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases and Claims Based on Rejection of Executory Contracts and Unexpired Leases

The Debtors shall file the Schedule of Assumed Executory Contracts and Unexpired Leases with the Plan Supplement. Any monetary defaults under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the default amount in Cash on the Effective Date, subject to the limitation described below, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute between the Debtors and a counterparty to any Executory Contracts or Unexpired Leases that is not resolved between the parties regarding (1) the amount of any payments to cure such a default, (2) the ability of the Reorganized Debtors or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or (3) any other matter pertaining to assumption, the Cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order or orders resolving the dispute and

approving the assumption, which Final Order or orders may, for the avoidance of doubt, be entered (and any related hearing may be held) after the Effective Date.

The Debtors will cause notices of proposed assumption and proposed Cure Claims to be served by overnight delivery service upon the applicable contract counterparty affected by such notices and by email upon counsel of record for the applicable contract counterparty, if any. Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assumption or related Cure Claim must be filed, served, and actually received by the Debtors no later than fourteen (14) days after service of the notice of proposed assumption and proposed Cure Claims. Any such objections will be scheduled to be heard by the Bankruptcy Court at the Debtors' or Reorganized Debtors', as applicable, first scheduled omnibus hearing after which such objection is timely filed. Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed assumption or Cure Claim will be deemed to have assented to such assumption or Cure Claim. To the extent any such dispute regarding the assumption of an Executory Contract or Unexpired Lease is not consensually resolved by the parties or otherwise resolved prior to the Effective Date, such assumption will be deemed to occur retroactively to the date of the Confirmation Hearing if approved by the Bankruptcy Court. Notwithstanding the foregoing, all landlords' rights to recover amounts which have accrued or come due between the Cure objection deadline and the effective date of assumption are reserved.

Any Cure Claim shall be deemed fully satisfied, released, and discharged upon payment by the Debtors of any one of the following: (1) amounts listed on the Debtors' Schedule of Assumed Executory Contracts and Unexpired Leases (if no objections to the Cure Claim is filed within the applicable objection period), (2) amounts agreed to by the Debtors and the applicable counterparty, or (3) amounts as ordered by the Court; *provided, however*, that nothing shall prevent the Reorganized Debtors from paying any Cure despite the failure of the relevant counterparty to file such request for payment of such Cure. The Reorganized Debtors may settle any Cure without any further notice to or action, order, or approval of the Bankruptcy Court.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including, without limitation, defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the effective date of assumption. All Executory Contracts or Unexpired Leases not expressly assumed pursuant to this Plan shall be deemed rejected.

Any Proofs of Claim filed with respect to an Executory Contract, Unexpired Lease, or Insurance Policy that has been assumed pursuant to the provisions of the Plan shall be deemed satisfied upon the Debtors' curing of any and all defaults related thereto, without further notice to or action, order, or approval of the Bankruptcy Court.

Unless otherwise provided by a Final Order of the Bankruptcy Court, all Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, pursuant to the Plan or the Confirmation Order, if any, must be filed with the Bankruptcy Court within thirty (30) days after the earliest to occur of (1) the date of entry of an order of the Bankruptcy Court (including the Confirmation Order) approving such rejection, (2) if applicable,

the effective date of such rejection set forth in the Debtors' corresponding notice of rejection, or (3) the Effective Date. **Any Claims arising from the rejection of an Executory Contract or Unexpired Lease not filed with the Bankruptcy Court within the earliest applicable deadline will be automatically disallowed, forever barred from assertion, and shall not be enforceable against the Debtors or the Reorganized Debtors, the Estates, or their property without the need for any objection by the Reorganized Debtors or further notice to, or action, order, or approval of the Bankruptcy Court or any other Entity, and any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully satisfied, released, and discharged, notwithstanding anything in the Schedules or a Proof of Claim to the contrary.**

F. Preexisting Obligations to the Debtors Under Executory Contracts and Unexpired Leases

Rejection of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall not constitute a termination of preexisting obligations owed to the Debtors or the Reorganized Debtors, as applicable, under such Executory Contracts or Unexpired Leases. In particular, notwithstanding any non-bankruptcy law to the contrary, the Reorganized Debtors expressly reserve and do not waive any right to receive, or any continuing obligation of a counterparty to provide, warranties or continued maintenance obligations on goods previously purchased by the Debtors contracting from non-Debtor counterparties to rejected Executory Contracts or Unexpired Leases.

G. Modifications, Amendments, Supplements, Restatements, or Other Agreements

Unless otherwise provided in the Plan, each Executory Contract or Unexpired Lease that is assumed shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and Executory Contracts and Unexpired Leases related thereto, if any, including easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated or is rejected or repudiated under the Plan.

Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtors during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection therewith.

H. Contracts and Leases Entered Into After the Petition Date

Contracts and leases entered into after the Petition Date by any Debtor, including any Executory Contracts and Unexpired Leases assumed by such Debtor, and any agreements entered into with creditors pursuant to the interim and final orders authorizing the Debtors to pay prepetition claims of critical vendors, carriers, warehousemen, and section 503(b)(9) claimants [Docket Nos. 88, 600], will be performed by the applicable Debtor or the Reorganized Debtor liable thereunder in the ordinary course of its business. Accordingly, such contracts and leases (including any assumed Executory Contracts and Unexpired Leases) will survive and remain unaffected by entry of the Confirmation Order.

I. Reservation of Rights

Neither the exclusion nor inclusion of any Executory Contract or Unexpired Lease on the Schedule of Assumed Executory Contract and Unexpired Leases, nor anything contained in the Plan, shall constitute an admission by the Debtors that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that any of the Reorganized Debtors has any liability thereunder. If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Debtors or the Reorganized Debtors, as applicable, shall have 30 days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease under the Plan.

J. Nonoccurrence of Effective Date

In the event that the Effective Date does not occur, the Bankruptcy Court shall retain jurisdiction with respect to any request to extend the deadline for assuming or rejecting Unexpired Leases pursuant to Bankruptcy Code section 365(d)(4).

ARTICLE VI.

PROVISIONS GOVERNING DISTRIBUTIONS

A. Distributions for Claims Allowed as of the Effective Date

Except as otherwise provided in the Plan, a Final Order, or as agreed to by the relevant parties, the Reorganized Debtors shall make initial distributions under the Plan on account of Allowed Claims (other than Class 5 Claims) as soon as practicable after the Initial Distribution Date; provided, however, notwithstanding anything else to the contrary, distributions under the Plan to Class 3 and Class 4 shall take place on the Effective Date.

B. Liquidating Trust

1. Formation of the Liquidating Trust

(a) On the Effective Date, the Liquidating Trust will be established pursuant to the Liquidating Trust Agreement and become effective for the sole purpose of liquidating and administering the Liquidating Trust Assets and making distributions to holders of Class 5 Claims as provided for under the terms of the Plan in accordance with Treas. Reg. § 301.7701-4(d).

(b) The Liquidating Trust shall have a separate existence from the Debtors. On the Effective Date, the Liquidating Trust Assets shall be transferred into the Liquidating Trust. The Confirmation Order shall provide that the Reorganized Debtors shall not have a property interest in the Liquidating Trust and such funds shall not be considered property of the Reorganized Debtors and any liens, charges, or other encumbrances granted under the Plan shall not extend to an interest in the funds held in the Liquidating Trust. The Liquidating Trust shall not be deemed a successor in interest of the Debtors for any purpose other than as specifically set forth herein or in the Liquidating Trust Agreement.

(c) Subject to, and to the extent set forth in the Plan, the Confirmation Order, the Liquidating Trust Agreement or other agreement (or any other order of the Bankruptcy Court pursuant to, or in furtherance of, the Plan), the Liquidating Trust Agreement shall contain provisions customary to trust agreements utilized in comparable circumstances, including, without limitation, any and all provisions necessary to ensure the continued treatment of the Liquidating Trust as a grantor trust and the Liquidating Trust Beneficiaries as the grantors and owners thereof for federal income tax purposes. The Liquidating Trust Agreement may provide powers, duties, and authorities in addition to those explicitly stated herein, but only to the extent that such powers, duties, and authorities do not affect the status of the Liquidating Trust as a "liquidating trust" for United States federal income tax purposes. In the event of any conflict between the terms of this Section VI.B.1 and the terms of the Liquidating Trust Agreement as such conflicts relate to the establishment of the Liquidating Trust, the terms of this Section VI.B.1 shall govern.

(d) The Liquidating Trust has no objective to, and will not, engage in a trade or business and will conduct its activities consistent with the Plan and the Liquidating Trust Agreement.

(e) On the Effective Date, the Liquidating Trustee, on behalf of the Debtors, shall execute the Liquidating Trust Agreement and shall take all other steps necessary to establish the Liquidating Trust pursuant to the Liquidating Trust Agreement and consistent with the Plan.

(f) The Liquidating Trust and the Liquidating Trustee will each be a representative of the Estates with respect to the Liquidating Trust Assets under Bankruptcy Code section 1123(b)(3)(B), and the Liquidating Trustee will be the trustee of the Liquidating Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), and, as such, the Liquidating Trustee succeeds to all of the rights, powers and obligations of a trustee in bankruptcy with respect to collecting, maintaining, administering and liquidating the Liquidating Trust Assets.

(g) On the Effective Date, and in accordance with sections 1123 and 1141 of the Bankruptcy Code and pursuant to the terms of the Plan, all title and interest in all of the Liquidating Trust Assets, as well as the rights and powers of each Debtor in such Liquidating Trust Assets, shall automatically vest in the Liquidating Trust, free and clear of all Claims and Interests for the benefit of the Liquidating Trust Beneficiaries. Upon the transfer of the Liquidating Trust Assets, the Debtors shall have no interest in or with respect to the Liquidating Trust Assets or the Liquidating Trust. Upon delivery of the Liquidating Trust Assets to the Liquidating Trust, the Debtors and their predecessors, successors and assigns, shall be discharged and released from all liability with respect to the delivery of such distributions and shall have no reversionary or further interest in or with respect to the Liquidating Trust Assets or the Liquidating Trust. Notwithstanding the foregoing, for purposes of section 553 of the Bankruptcy Code, the transfer of the Liquidating Trust Assets to the Liquidating Trust shall not affect the mutuality of obligations which otherwise may have existed prior to the effectuation of such transfer. Such transfer shall be exempt from any stamp, real estate transfer, mortgage reporting,

sales, use, or other similar tax, pursuant to section 1146(a) of the Bankruptcy Code. The Liquidating Trustee shall agree to accept and hold the Liquidating Trust Assets in the Liquidating Trust for the benefit of the Liquidating Trust Beneficiaries, subject to the terms of the Plan and the Liquidating Trust Agreement.

2. The Liquidating Trustee

(a) The Liquidating Trustee will be the exclusive trustee of the Liquidating Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate of each of the Debtors appointed pursuant to Bankruptcy Code section 1123(b)(3)(B). The duties and powers of the Liquidating Trustee shall include all powers necessary to implement the Plan and to administer the Liquidating Trust Assets, including, without limitation, the duties and powers listed herein. The powers, rights and responsibilities of the Liquidating Trustee will be specified in the Liquidating Trust Agreement. The Liquidating Trustee will have the right and authority, without the need for Bankruptcy Court approval (unless otherwise indicated), to distribute the Liquidating Trust Assets and to carry out and implement other actions in accordance with the provisions of the Plan and the Liquidating Trust Agreement.

(b) Such power and authority of the Liquidating Trustee shall include, without limitation:

(i) if Class 5 rejects the Plan, except to the extent Claims have been previously Allowed, control and effectuate the Class 5 Claims reconciliation process, including to object to, seek to subordinate, compromise or settle any and all Class 5 Claims;

(ii) make Distributions to Holders of Allowed Class 5 Claims as set forth in the Plan;

(iii) determine Distribution Dates, in accordance with the Plan;

(iv) maintain the books and records and accounts of the Liquidating Trust;

(v) maintain the books and records and accounts of the Liquidating Trust;

(vi) invest Cash of the Liquidating Trust, and any income earned thereon; incur and pay reasonable and necessary expenses in connection with the performance of duties under the Plan, including the reasonable fees and expenses of professionals retained by the Liquidating Trustee;

(vii) administer the Liquidating Trust's tax obligations, including (I) filing tax returns and paying tax obligations, (II) requesting, if necessary, an expedited determination of any unpaid tax liability of the Liquidating Trust for all taxable periods of such Liquidating Trust through the

dissolution of the Liquidating Trust as determined under applicable tax laws, and (III) representing the interest and account of the Liquidating Trust before any taxing authority in all matters including, without limitation, any action, suit, proceeding or audit;

(viii) prepare and file any and all returns, reports, statements, or disclosures relating to the Liquidating Trust that are required under the Plan, by any governmental unit or applicable law;

(ix) maintain appropriate liability insurance for the Liquidating Trustee;

(x) pay statutory fees; and

(xi) perform other duties and functions that are consistent with the implementation of the Plan and the Liquidating Trust Agreement.

(c) Notwithstanding anything in the Plan or Liquidating Trust Agreement to the contrary, the Liquidating Trustee shall always act consistently with, and not contrary to, the purpose of the Liquidating Trust as set forth in this Section VI.B of the Plan. The Liquidating Trustee shall have fiduciary duties to the Liquidating Trust Beneficiaries consistent with the fiduciary duties that a member of an official committee appointed pursuant to section 1102 of the Bankruptcy Code has to the creditor constituents represented by such committee and shall exercise his, her or its responsibilities accordingly.

3. Liquidating Trust Assets Deduction Procedures

The Liquidating Trust Assets shall be decreased by the amount of (i) the professional fees and expenses of the professionals for the Creditors' Committee above the Debtors' budgeted amounts set forth in the budget attached as Exhibit A to the *Amended Final Order Pursuant to 11 U.S.C. §§105, 361, 362, 363, 364, 507 and 552 (1) Authorizing Use of Cash Collateral, (2) Granting Adequate Protection, and (3) Modifying Automatic Stay* [Docket No. 1428] to the extent incurred on or after September 1, 2019, plus (ii) professional fees and expenses of the professionals for the Creditors' Committee to the extent incurred on or after September 1, 2019 related to objections by the Creditors' Committee to the Plan or Disclosure Statement, including related discovery, plus (iii) to the extent incurred on or after September 1, 2019, fees and expenses of all other estate-compensated professionals incurred in response to the Creditors' Committee objections and discovery described in item (ii) above. All deductions made pursuant to these Liquidating Trust Assets Deduction Procedures will be made first from any Cash allocation portion of the Liquidating Trust Assets, then from any other portion of the Liquidating Trust Assets.

4. Fees and Expenses of the Liquidating Trust

The Liquidating Trust Expenses will be paid out of the Liquidating Trust Assets, except as provided in Article VII.B. The Liquidating Trustee, on behalf of the Liquidating Trust, may, without further order of the Bankruptcy Court, retain third party professionals to assist in

carrying out its duties hereunder and may compensate and reimburse the expenses of these professionals without further order of the Bankruptcy Court from the Liquidating Trust Assets.

5. Tax Treatment.

The Liquidating Trust is intended to qualify as a liquidating trust under Treasury Regulations section 301.7701-4(d), for the benefit of the Holders of Class 5 Claims entitled to distributions, and otherwise as one or more disputed ownership funds within the meaning of Treasury Regulations section 1.468B-9(b)(1). Accordingly, for all federal income tax purposes the transfer of the Liquidating Trust Assets to the Liquidating Trust will be treated as: (a) to the extent of pending payments, a transfer of the pending payments directly from the Debtors to the Holders of such Allowed Claims followed by the transfer of such pending payments by the Holders of Allowed Claims to the Liquidating Trust in exchange for rights to distributions from the Liquidating Trust; and (b) to the extent of amounts that are not pending payments, as a transfer to one or more disputed ownership funds. The Holders of Allowed Claims entitled to distributions will be treated for federal income tax purposes as the grantors and deemed owners of their respective shares of the Liquidating Trust Assets in the amounts of the pending payments and any earnings thereof. The Liquidating Trustee will be required by the Liquidating Trust Agreement to file federal tax returns for the Liquidating Trust as a grantor trust with respect to pending payments and as one or more disputed ownership funds with respect to all other funds or other property held by the Liquidating Trust pursuant to applicable Treasury Regulations, and any income of the Liquidating Trust will be treated as subject to tax on a current basis. The Liquidating Trust Agreement will provide that the Liquidating Trustee will pay such taxes from the Liquidating Trust Assets. The Liquidating Trust Agreement will provide that termination of the trust will occur no later than five years after the Effective Date, unless the Bankruptcy Court approves an extension upon a finding that such an extension is necessary for the Liquidating Trust to complete its aims.

6. Indemnification.

The Liquidating Trustee (and each of its agents and professionals) shall be indemnified in accordance with the terms of the Liquidating Trust Agreement.

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

1. Payments and Distributions on Disputed Claims

Except as otherwise provided in the Plan, a Final Order, or as agreed to by the relevant parties, distributions under the Plan on account of a Disputed Claim that becomes an Allowed Claim after the Effective Date shall be made on the first Periodic Distribution Date after the Disputed Claim becomes an Allowed Claim. Payments to Holders of Allowed General Unsecured Claims shall be made out of the Liquidating Trust.

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

2. Special Rules for Distributions to Holders of Disputed Claims

Notwithstanding any provision otherwise in the Plan and except as otherwise agreed to by the relevant parties, no partial payments and no partial distributions shall be made with respect to a Disputed Claim until all such disputes in connection with such Disputed Claim have been resolved by settlement or Final Order. In the event that there are Disputed Claims requiring adjudication and resolution, the Reorganized Debtors or Liquidating Trustee, as applicable, shall establish appropriate reserves for potential payment of such Claims.

D. Timing and Calculation of Amounts to Be Distributed

Except as otherwise provided herein, on the Initial Distribution Date (or if a Claim is not an Allowed Claim on the Effective Date, on or as soon as practicable after the date that such a Claim becomes an Allowed Claim), each Holder of an Allowed Claim against the Debtors shall receive the full amount of the distributions that the Plan provides for Allowed Claims in the applicable Class.

If and to the extent that there are Disputed Claims, distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in the applicable class treatment or in this Article VI. Except as otherwise provided in the Plan, Holders of Claims shall not be entitled to interest, dividends, or accruals on the distributions provided for in the Plan, regardless of whether such distributions are delivered on or at any time after the Effective Date.

E. Delivery and Distributions and Undeliverable or Unclaimed Distributions

1. Record Date for Distributions

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

2. Delivery of Distributions in General

Except as otherwise provided in the Plan, the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable shall make distributions to Holders of Allowed Claims at the address for each such Holder as indicated on the Debtors' records as of the date of any such distribution; provided, however, that the manner of such distributions shall be determined at the discretion of the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable; and provided further, that the address for each Holder of an Allowed Claim shall be the address set forth in any Proof of Claim filed by that Holder.

3. Delivery of Distributions to Prepetition Term Loan Lenders

Except as set forth in this Article VI.E.3, the Prepetition Term Loan Agent shall be deemed to be the Holder of all Prepetition Term Loan Lender Claims, as applicable, for purposes of distributions to be made hereunder, and all distributions on account of such Prepetition Term Loan Lender Claims shall be made to or on behalf of the Prepetition First Lien Agent. The Prepetition Term Loan Agent shall hold or direct such distributions for the benefit of the Holders of Allowed Prepetition Term Loan Lender Claims, as applicable. Notwithstanding anything in the Plan to the contrary, and without limiting the exculpation and release provisions of the Plan, the Prepetition Term Loan Agent shall not have any liability to any person with respect to distributions made or directed to be made by the Prepetition Term Loan Agent.

4. Distributions by Distribution Agents (if any)

The Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, shall have the authority, in their sole discretion, to enter into agreements with one or more Distribution Agents to facilitate the distributions required hereunder. To the extent the Debtors, the Reorganized Debtors and/or the Liquidating Trustee, as applicable, do determine to utilize a Distribution Agent to facilitate the distributions under the Plan to Holders of Allowed Claims, any such Distribution Agent would first be required to: (a) affirm its obligation to facilitate the prompt distribution of any documents; (b) affirm its obligation to facilitate the prompt distribution of any recoveries or distributions required under the Plan; (c) waive any right or ability to setoff, deduct from or assert any lien or encumbrance against the distributions required under the Plan to be distributed by such Distribution Agent; and (d) post a bond, obtain a surety bond, or provide some other form of security for the performance of its duties, the costs and expenses of procuring which shall be borne by the Debtors, the Reorganized Debtors or the Liquidating Trust, as applicable.

The Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, shall pay to the Distribution Agents all reasonable and documented fees and expenses of the Distribution Agents without the need for any approvals, authorizations, actions, or consents. The Distribution Agents shall submit detailed invoices to the Debtors, the Reorganized Debtors, or the Liquidating Trust as applicable, for all fees and expenses for which the Distribution Agent seeks reimbursement and the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, shall pay those amounts that they, in their sole discretion, deem reasonable, and shall object in writing to those fees and expenses, if any, that the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, deem to be unreasonable. In the event that the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, object to all or any portion of the amounts requested to be reimbursed in a Distribution Agent's invoice, the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, and such Distribution Agent shall endeavor, in good faith, to reach mutual agreement on the amount of the appropriate payment of such disputed fees and/or expenses. In the event that the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, and a Distribution Agent are unable to resolve any differences regarding disputed fees or expenses, either party shall be authorized to move to have such dispute heard by the Bankruptcy Court.

5. Minimum Distributions

Notwithstanding anything herein to the contrary, the Reorganized Debtors or the Liquidating Trustee, as applicable, shall not be required to make distributions or payments of less than $10 (whether Cash or otherwise) and shall not be required to make partial distributions or payments of fractions of dollars. Whenever any payment or distribution of a fraction of a dollar or fractional share of New Common Units under the Plan would otherwise be called for, the actual payment or distribution will reflect a rounding of such fraction to the nearest whole dollar or share of New Common Units (up or down), with half dollars and half shares of New Common Units or less being rounded down.

No Distribution Agent shall have any obligation to make a distribution on account of an Allowed Claim if: (a) the aggregate amount of all distributions authorized to be made on the Periodic Distribution Date in question is or has an economic value less than $25,000, unless such distribution is a final distribution; or (b) the amount to be distributed to the specific Holder of an Allowed Claim on such Periodic Distribution Date does not constitute a final distribution to such Holder and is or has an economic value of less than $10, which shall be treated as an undeliverable distribution under Article VI.E.

6. Undeliverable Distributions

(a) Holding of Certain Undeliverable Distributions

If any distribution to a Holder of an Allowed Claim made in accordance herewith is returned to the Reorganized Debtors or the Liquidating Trustee (or their Distribution Agent) as undeliverable, no further distributions shall be made to such Holder unless and until the Reorganized Debtors or the Liquidating Trustee (or their Distribution Agent) are notified in writing of such Holder's then current address, at which time all currently due missed distributions shall be made to such Holder on the next Periodic Distribution Date. Undeliverable distributions shall remain in the possession of the Reorganized Debtors or the Liquidating Trust, subject to Article VI.E.7(b) hereof, until such time as any such distributions become deliverable. Undeliverable distributions shall not be entitled to any additional interest, dividends, or other accruals of any kind on account of their distribution being undeliverable.

(b) Failure to Claim Undeliverable Distributions

After the Effective Date, the Reorganized Debtors or the Liquidating Trustee, as applicable, shall file with the Bankruptcy Court a list of the Holders of undeliverable distributions. This list shall be maintained and updated periodically in the sole discretion of the Reorganized Debtors or the Liquidating Trustee for as long as the Chapter 11 Cases stay open. Any Holder of an Allowed Claim, irrespective of when a Claim becomes an Allowed Claim, that does not notify the Reorganized Debtors or the Liquidating Trust, as applicable, of such Holder's then current address in accordance herewith within 30 days of the filing of the list of undeliverable distributions, shall have its Claim for such undeliverable distribution discharged and shall be forever barred, estopped and enjoined from asserting any such Claim against the Reorganized Debtors or the Liquidating Trust, as applicable or their property.

In such cases, (i) any Cash or New Common Units held for distribution on account of Allowed Claims shall be redistributed to Holders of Allowed Claims in the applicable Class on the next Periodic Distribution Date and (ii) any Cash held for distribution to other creditors shall be deemed unclaimed property under Bankruptcy Code section 347(b) and become property of the Reorganized Debtors, free of any Claims of such Holder with respect thereto. For the avoidance of doubt, any undeliverable distributions out of the Liquidating Trust shall be returned to the Liquidating Trust and will not go to the Reorganized Debtors. Nothing contained herein shall require the Reorganized Debtors to attempt to locate any Holder of an Allowed Claim.

(c) Failure to Present Checks

Checks issued by the Distribution Agent on account of Allowed Claims shall be null and void if not negotiated within 180 days after the issuance of such check. In an effort to ensure that all Holders of Allowed Claims receive their allocated distributions, the Reorganized Debtors or the Liquidating Trustee, as applicable, shall file with the Bankruptcy Court a list of the Holders of any un-negotiated checks no later than 120 days after the issuance of such checks. This list shall be maintained and updated periodically in the sole discretion of the Reorganized Debtors or the Liquidating Trustee, as applicable, for as long as the Chapter 11 Cases stay open. Requests for reissuance of any check shall be made directly to the Distribution Agent by the Holder of the relevant Allowed Claim with respect to which such check originally was issued.

Any Holder of an Allowed Claim holding an un-negotiated check that does not request reissuance of such un-negotiated check within 180 days after the date of mailing or other delivery of such check shall have its Claim for such un-negotiated check discharged and be discharged and forever barred, estopped and enjoined from asserting any such Claim against the Reorganized Debtors or their property. In such cases, any Cash held for payment on account of such Claims shall be property of the Reorganized Debtors or the Liquidating Trust, as applicable, free of any Claims of such Holder with respect thereto. Nothing contained herein shall require the Reorganized Debtors to attempt to locate any Holder of an Allowed Claim.

F. Compliance with Withholding and Reporting Tax Requirements/Allocations

1. Withholding Rights. In connection with the Plan, any party issuing any instrument or making any Distributions described in the Plan shall comply with all applicable withholding and reporting requirements imposed by any federal, state, or local taxing authority, and all Distributions pursuant to the Plan and all related agreements shall be subject to any such withholding or reporting requirements. In the case of a non-Cash Distribution that is subject to withholding, the distributing party may withhold an appropriate portion of such distributed property and either (i) sell such withheld property to generate Cash necessary to pay over the withholding tax (or reimburse the distributing party for any advance payment of the withholding tax), or (ii) pay the withholding tax using its own funds and retain such withheld property. Any amounts withheld pursuant to the preceding sentence shall be deemed to have been distributed to and received by the applicable recipient for all purposes of the Plan. Notwithstanding the foregoing, each holder of an Allowed Claim or any other Entity that receives a Distribution pursuant to the Plan shall have responsibility for any taxes imposed by any governmental unit, including, without limitation, income, withholding, and other taxes, on account of such Distribution. Any party issuing any instrument or making any Distribution pursuant to the Plan

has the right, but not the obligation, not to make a Distribution until such holder has made arrangements satisfactory to such issuing or disbursing party for payment of any such tax obligations. Moreover, the Reorganized Debtors or the Liquidating Trustee, as applicable, reserve the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support and other spousal awards, liens, and encumbrances.

2. Forms. Any party entitled to receive any property as an issuance or Distribution under the Plan shall, upon request, deliver to the Distribution Agent or such other Entity designated by the Liquidating Trustee (which Entity shall subsequently deliver to the Distribution Agent any applicable IRS Form W-8 or Form W-9 received) an appropriate Form W-9 or (if the payee is a foreign Entity) Form W-8. If such request is made by the Liquidating Trustee, the Distribution Agent, or such other Entity designated by the Liquidating Trustee or Distribution Agent and the holder fails to comply before the earlier of (i) the date that is one hundred and eighty (180) days after the request is made and (ii) the date that is one hundred and eighty (180) days after the date of Distribution, the amount of such Distribution shall irrevocably revert to the applicable Liquidating Trustee and any Claim in respect of such Distribution shall be discharged and forever barred from assertion against such Liquidating Trustee or its respective property.

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

G. Setoffs

Subject to Article IV.Q, the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, may withhold (but not setoff except as set forth below) from the distributions called for hereunder on account of any Allowed Claim an amount equal to any Claims, Equity Interests, rights, and Causes of Action of any nature that the Debtors, the Reorganized Debtors or the Liquidating Trust, as applicable, may hold against the Holder of any such Allowed Claim. In the event that any such Claims, Equity Interests, rights, and Causes of Action of any nature that the Debtors, the Reorganized Debtors or the Liquidating Trust, as applicable, may hold against the Holder of any such Allowed Claim are adjudicated by Final Order or otherwise resolved, the Debtors or the Liquidating Trustee may, pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, set off against any Allowed Claim and the distributions to be made pursuant hereto on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim), the amount of any adjudicated or resolved Claims, Equity Interests, rights, and Causes of Action of any nature that the Debtors, the Reorganized Debtors or the Liquidating Trust, as applicable, may hold against the Holder of any such Allowed Claim, but only to the extent of such adjudicated or resolved amount. Neither the failure to effect such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors, the Reorganized Debtors or the Liquidating Trust, as applicable, of any such Claims, Equity Interests, rights, and Causes of Action that the Debtors, the Reorganized Debtors or the Liquidating Trust, as applicable may possess against any such Holder, except as specifically provided herein.

H. Foreign Currency Exchange Rate

Except as otherwise provided in a Bankruptcy Court order, as of the Effective Date, any Claim asserted in currency other than U.S. dollars shall be automatically deemed converted to the equivalent U.S. dollar value using the exchange rate for the applicable currency as published in *The Wall Street Journal*, National Edition, on the Effective Date.

I. Claims Paid or Payable by Third Parties

1. Claims Paid by Third Parties

The Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, shall reduce in full a Claim, and such Claim shall be disallowed without a Claims objection having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtor, Reorganized Debtor or the Liquidating Trust, as applicable. Subject to the last sentence of this paragraph, to the extent a Holder of a Claim receives a distribution from the Debtors, the Reorganized Debtors, or the Liquidating Trust, as applicable, on account of such Claim and also receives payment from a party that is not a Debtor, a Reorganized Debtor or the Liquidating Trust, as applicable, on account of such Claim, such Holder shall, within two weeks of receipt thereof, repay or return the distribution to the applicable Reorganized Debtor or the Liquidating Trust, to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the total amount of such Claim as of the date of any such distribution under the Plan. If the Debtors become aware of the payment by a third party, the Debtors, the Reorganized Debtors or the Liquidating Trustee, as applicable, will send a notice of wrongful payment to such party requesting return of any excess payments and advising the recipient of the provisions of the Plan requiring turnover of excess estate funds. The failure of such Holder to timely repay or return such distribution shall result in the Holder owing the applicable Reorganized Debtor or the Liquidating Trust annualized interest at the Federal Judgment Rate on such amount owed for each Business Day after the two-week grace period specified above until the amount is repaid.

2. Claims Payable by Third Parties

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' Insurance Policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such Insurance Policy. To the extent that one or more of the Debtors' insurers agrees to satisfy in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, the applicable portion of such Claim may be expunged without a Claims objection having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

3. Applicability of Insurance Policies

Except as otherwise provided in the Plan, distributions to Holders of Allowed Claims shall be made in accordance with the provisions of any applicable Insurance Policy. Nothing contained in the Plan shall constitute or be deemed a waiver of any Cause of Action that the

Debtors or any Entity may hold against any other Entity, including any insurer(s) under any Insurance Policy, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any rights or defenses, including coverage defenses, held by such insurers under the Insurance Policies.

ARTICLE VII.

PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED AND DISPUTED CLAIMS

A. Allowance of Claims

After the Effective Date, the Reorganized Debtors in all events, or the Liquidating Trust (solely if Class 5 rejects the Plan), shall have and retain any and all rights and defenses the Debtors had with respect to any Claim or Interest immediately before the Effective Date.

B. Claims Administration Responsibilities

Except as set forth in the immediately following paragraph with regard to the Class 5 Claims or as otherwise set forth in the Plan, after the Effective Date, the Reorganized Debtors shall have the sole authority: (1) to file, withdraw, or litigate to judgment objections to Claims or Interests; (2) to settle or compromise any Disputed Claim without any further notice to or action, order, or approval by the Bankruptcy Court; and (3) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court.

If Class 5 accepts the Plan, the Reorganized Debtors, in consultation with the Liquidating Trustee, will have sole authority as set forth in the preceding paragraph to object to and reconcile Class 5 Claims. The Reorganized Debtors will have no obligation to object to any Class 5 Claim in an amount less than [$1 million]. If Class 5 accepts the Plan, the Reorganized Debtors will pay all costs and expenses of the Noticing and Claims Agent and the Distribution Agent in connection with the Class 5 Claims. If Class 5 votes to reject the Plan, the Liquidating Trustee shall also have the authority, as set forth in the preceding paragraph, to object to and reconcile any Class 5 Claim and the expenses of the Noticing and Claims Agent and Distribution Agent with regard to Class 5 Claims shall be a Liquidating Trust Expense paid by the Liquidating Trust.

C. Estimation of Claims

Before or after the Effective Date, the Debtors, Reorganized Debtors, or the Liquidating Trustee, as applicable, may (but are not required to) at any time request that the Bankruptcy Court estimate any Claim that is contingent or unliquidated pursuant to Bankruptcy Code section 502(c) for any reason, regardless of whether any party previously has objected to such Claim or Interest or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any such Claim or Interest, including during the litigation of any objection to any Claim or Interest or during the appeal relating to such objection. Notwithstanding any provision otherwise in the Plan, a Claim that has been expunged from the Claims Register, but that either is subject to appeal or has not been the subject of a Final

Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim or Interest, that estimated amount shall constitute a maximum limitation on such Claim or Interest for all purposes under the Plan (including for purposes of distributions), and the relevant Reorganized Debtor may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim or Interest.

D. Adjustment to Claims Without Objection

Any Claim or Interest that has been paid or satisfied, or any such Claim or Interest that has been cancelled, or otherwise expunged (including pursuant to the Plan), may be adjusted or expunged (including on the Claims Register, to the extent applicable) by the Reorganized Debtors or the Liquidating Trustee, as applicable, without a Claims objection having to be filed and without any further notice to or action, order or approval of the Bankruptcy Court.

E. Time to File Objections to Claims

Any objections to Claims shall be filed on or before the Claims Objection Bar Date.

F. Disallowance of Claims

All Claims filed on account of an indemnification obligation to a director, officer, or employee shall be deemed satisfied and expunged from the Claims Register as of the Effective Date to the extent such indemnification obligation is assumed (or honored or reaffirmed, as the case may be) pursuant to the Plan, without any further notice to or action, order, or approval of the Bankruptcy Court.

Except as provided herein or otherwise agreed, any and all Proofs of Claim filed after the Claims Bar Date shall be deemed disallowed and expunged as of the Effective Date without any further notice to or action, order, or approval of the Bankruptcy Court, and Holders of such Claims may not receive any distributions on account of such Claims, unless on or before the Confirmation Hearing such late Claim has been deemed timely filed by a Final Order.

G. No Distribution Pending Allowance

If an objection to a Claim or portion thereof is filed as set forth in Article VII.E, no payment or distribution provided under the Plan shall be made on account of such Claim or portion thereof unless and until such Disputed Claim becomes an Allowed Claim.

H. Distribution After Allowance

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, distributions (if any) shall be made to the Holder of such Allowed Claim in accordance with the provisions of the Plan. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, the Distribution Agent shall provide to the Holder of such Claim the distribution (if any) to which such Holder is entitled under the

Plan as of the Effective Date, without any interest, dividends, or accruals to be paid on account of such Claim unless required under applicable bankruptcy law.

ARTICLE VIII.

CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN

A. Conditions Precedent to the Confirmation of the Plan

The following shall be satisfied or waived as conditions precedent to the Confirmation of the Plan:

1. The Plan must be, in form and substance, reasonably acceptable to the Debtors and the Requisite Plan Support Parties.

2. The Plan Supplement documents must be, in form and substance, reasonably acceptable to the Debtors and the Requisite Plan Support Parties.

3. The proposed form of order confirming the Plan shall be, in form and substance, reasonably acceptable to the Debtors and the Requisite Plan Support Parties.

B. Conditions Precedent to Effective Date

The following shall be satisfied or waived as conditions precedent to the Effective Date:

1. The Bankruptcy Court shall have approved the Disclosure Statement as containing adequate information with respect to the Plan within the meaning of Bankruptcy Code section 1125.

2. The Confirmation Order shall have been entered and become a Final Order. The Confirmation Order shall provide that, among other things, the Debtors or the Reorganized Debtors, as appropriate, are authorized and directed to take all actions necessary or appropriate to consummate the Plan, including, without limitation, entering into, implementing, and consummating the contracts, instruments, releases, leases, indentures, and other agreements or documents created in connection with or described in the Plan.

3. The Definitive Documents must be, in form and substance, reasonably acceptable to the Debtors and the Requisite Plan Support Parties.

4. All documents and agreements, including in respect of the New First Lien Facility and New Second Lien Facility, necessary to implement the Plan, shall have (a) been tendered for delivery and (b) been effected or executed. All conditions precedent to the effectiveness of such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

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

6. The Professional Fee Escrow Account shall have been established and funded.

7. The Liquidating Trust Agreement has been executed.

8. To the extent necessary, an order in the Canadian Proceedings shall have been obtained, in form and substance reasonably satisfactory to the Debtors and the Canadian Debtors, permitting the treatment of the Intercompany Claims set out herein with respect to the Canadian Debtors.

C. Waiver of Conditions

The conditions to Confirmation and to Consummation set forth in this Article VIII may be waived by the Debtors, with the consent of the Requisite Plan Support Parties, without notice to parties in interest and without any further notice, leave, or order of the Bankruptcy Court or any formal action other than proceeding to confirm or consummate the Plan, provided however, that the condition set forth in section B-8 in this Article VIII cannot be waived without the consent of the Canadian Debtors unless the Intercompany Claim with respect to the Canadian Debtors is not affected by the Plan.

D. Substantial Consummation

"Substantial Consummation" of the Plan, as defined in 11 U.S.C. § 1101(2), shall be deemed to occur on the Effective Date.

E. Effect of Non Occurrence of Conditions to the Effective Date

If the Effective Date does not occur, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any claims by or Claims against or Equity Interests in the Debtors; (2) prejudice in any manner the rights of the Debtors, any Holders, or any other Entity; or (3) constitute an admission, acknowledgment, offer, or undertaking by the Debtors, any Holders, or any other Entity in any respect.

ARTICLE IX.

SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS

A. Compromise and Settlement

Pursuant to Bankruptcy Code section 363 and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan, including the releases set forth in this Article IX, shall constitute a good faith compromise of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim may have with respect to any Allowed Claim or Interest, or any

distribution to be made on account of such Allowed Claim or Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and Holders of Claims and Equity Interests and is fair, equitable, and reasonable. In accordance with the provisions of the Plan, pursuant to Bankruptcy Code section 363 and Bankruptcy Rule 9019(a), without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Reorganized Debtors may compromise and settle Claims against them and Causes of Action against other Entities.

B. Subordinated Claims

The allowance, classification, and treatment of all Allowed Claims and Equity Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Equity Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, Bankruptcy Code section 510(b), or otherwise. Pursuant to Bankruptcy Code section 510, the Reorganized Debtors reserve the right to re-classify any Allowed Claim or Interest in accordance with any contractual, legal or equitable subordination relating thereto.

C. Discharge of Claims and Termination of Equity Interests

Pursuant to and to the fullest extent permitted by Bankruptcy Code section 1141(d), and except as otherwise specifically provided in the Plan, the distributions, rights and treatment that are provided in the Plan shall be in full and final satisfaction, settlement, release and discharge, effective as of the Effective Date, of all Claims (including any Intercompany Claims resolved or compromised after the Effective Date by the Reorganized Debtors), Equity Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Equity Interests from and after the Petition Date, whether known or unknown, against, liabilities of, liens on, obligations of, rights against, and Equity Interests in, the Debtors, the Reorganized Debtors, or any of their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Equity Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any liability (including withdrawal liability) to the extent such Claims or Equity Interests relate to services performed by current or former employees of the Debtors prior to the Effective Date and arise from a termination of employment or a termination of any employee or retiree benefit program regardless of whether such termination occurred prior to or after the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim or Interest based upon such Claim, debt, right, or Interest is filed or deemed filed pursuant to section 501 of the Bankruptcy Code; (2) a Claim or Interest based upon such Claim, debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (3) the Holder of such a Claim or Interest has accepted the Plan. Except as otherwise provided herein, any default by the Debtors or their Affiliates with respect to any Claim or Interest that existed immediately prior to or on account of the filing of the Chapter 11 Cases shall be deemed cured on the Effective Date. The

Confirmation Order shall be a judicial determination of the discharge of all Claims and Equity Interests subject to the occurrence of the Effective Date.

D. Release of Liens

Except as otherwise provided in the Plan or in any contract, instrument, release, or other agreement or document entered into or delivered in connection with the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to Article III hereof and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, liens, pledges, or other security interests against any property of the Estates shall be fully released and discharged, and all of the right, title, and interest of any Holder of such mortgages, deeds of trust, liens, pledges, or other security interests shall revert to the Reorganized Debtors and their successors and assigns.

E. Debtor Release[4]

[Pursuant to Bankruptcy Code section 1123(b), and except as otherwise specifically provided in the Plan, for good and valuable consideration, including the service of the Released Parties in facilitating the expeditious reorganization of the Debtors and the implementation of the restructuring contemplated by the Plan, effective as of the Effective Date, the Debtors, the Reorganized Debtors, and any Person seeking to exercise the rights of the Estates, including, without limitation, any successor to the Debtors or any estate representative appointed or selected pursuant to Bankruptcy Code section 1123(b)(3) shall be deemed to forever release, waive, and discharge the Released Parties of any and all claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, contingent or fixed, existing or hereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws or otherwise, including, without limitation, those that any of the Debtors, the Reorganized Debtors, the Estates, or their Affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any claim or Equity Interest, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Estates, the conduct of the Debtors' businesses, the Chapter 11 Cases, the Canadian Proceedings, the purchase, sale, or rescission or the purchase or sale of any security of the Debtors or the Reorganized Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, the business or contractual arrangements between any of the Debtors and any Released Party, the restructuring of claims and Equity Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, the Disclosure Statement, or related agreements, instruments, or other documents, or upon any other act or omission, transaction, or occurrence relating to the foregoing taking place on or before the Effective Date of the Plan.

[4] The Debtors' investigation, at the direction of the Special Committee, into potential Claims and Causes of Action belonging to the Estates is ongoing. The releases by the Debtors are subject to the conclusion of the investigation and determination with respect to any potential Claims or Causes of Action, if any, identified therein, and the Debtors expressly reserve the right to pursue or settle any such Claims or Causes of Action and do not release any such Claims and Causes of Action pending completion of the Insider Investigation.

Notwithstanding anything to the contrary herein, the "Debtor Release" shall not operate to waive or release any Causes of Action of any Debtor: (1) arising under any contract, instrument, agreement, release, or document delivered pursuant to the Plan, or (2) expressly set forth in and preserved by the Plan, or related documents.

The parties acknowledge that the compromise and release of direct and estate causes of action against the Released Parties under the Plan results in the distributions available to unsecured creditors.

Any claims or causes of action to avoid a transfer of property or an obligation incurred by the Debtors arising under chapter 5 of the Bankruptcy Code, including sections 544, 545, 547, 548, 549, 551, and 553(b) of the Bankruptcy Code, shall be retained by the Reorganized Debtors except to the extent expressly released under the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained herein, *and further*, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the claims released by the Debtor Release; (3) in the best interests of the Debtors and all Holders of Claims and Equity Interests; (4) fair, equitable and reasonable; (5) given and made after reasonable investigation by the Debtors and after notice and opportunity for hearing; and (6) a bar to any of the Debtors or the Reorganized Debtors asserting any claim released by the Debtor Release against any of the Released Parties.]

F. Third-Party Release[5]

[Except as otherwise specifically provided in the Plan, for good and valuable consideration, including the service of the Released Parties in facilitating the expeditious reorganization of the Debtors and the implementation of the restructuring contemplated by the Plan, effective as of the Effective Date, the Releasing Parties (regardless of whether a Releasing Party is a Released Party) shall be deemed to forever release, waive, and discharge the Released Parties of any and all claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims asserted on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, contingent or fixed, existing or hereafter arising, in law, at equity, or otherwise, whether for tort, contract, violations of federal or state securities laws or otherwise, including, without limitation, those that any of the Debtors, the Reorganized Debtors, the Estates, or their Affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim or Equity Interest, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Estates, the conduct of the Debtors' businesses, the Chapter 11 Cases, the Canadian Proceedings, the purchase, sale, or rescission or the purchase or sale of any

[5] The Debtors' investigation, at the direction of the Special Committee, into potential Claims and Causes of Action is ongoing. The releases by the Releasing Parties are subject to the conclusion of the investigation and determination with respect to any potential Claims or Causes of Action, if any, identified therein, and the Debtors expressly reserve the right to pursue or settle any such Claims or Causes of Action and do not release any Claims and Causes of Action pending completion of the Insider Investigation.

security of the Debtors or the Reorganized Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, the business or contractual arrangements between any of the Debtors and any Released Party, the restructuring of Claims and Equity Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, the Disclosure Statement, or related agreements, instruments, or other documents, or upon any other act or omission, transaction, or occurrence relating to the foregoing taking place on or before the Effective Date of the Plan.

Notwithstanding anything contained herein to the contrary, the foregoing release does not release any post-Effective Date obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan.

For the avoidance of doubt, and notwithstanding anything to the contrary herein, the Third-Party Release includes a release of the Released Parties of any claim or Cause of Action. The consideration provided by the Released Parties are in settlement of any and all potential claims, Causes of Action, or liabilities against any of the Released Parties arising out of or relating to any act or omission, transaction, or occurrence relating to the Debtors or the Estates taking place on or before the Effective Date of the Plan.

The parties acknowledge that the compromise and release of direct and estate causes of action against the Released Parties under the Plan results in the distributions available to unsecured creditors.

Any claims or causes of action to avoid a transfer of property or an obligation incurred by the Debtors arising under chapter 5 of the Bankruptcy Code, including sections 544, 545, 547, 548, 549, 551, and 553(b) of the Bankruptcy Code, shall be retained by the Reorganized Debtors except to the extent expressly released under the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Third-Party Release, which includes by reference each of the related provisions and definitions contained herein, *and further*, shall constitute the Bankruptcy Court's finding that the Third-Party Release is: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the claims released by the Releasing Parties; (3) in the best interests of the Debtors and all Holders of Claims and Equity Interests; (4) fair, equitable and reasonable; (5) given and made after notice and opportunity for hearing; and (6) a bar to any of the Releasing Parties asserting any Claim released by the Third-Party Release against any of the Released Parties.]

G. Exculpation[6]

[Upon and effective as of the Effective Date, the Debtors and their directors, officers, employees, attorneys, investment bankers, financial advisors, restructuring consultants, and other professional advisors and agents will be deemed to have solicited acceptances of this Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including Bankruptcy Code section 1125(e).

Except with respect to any acts or omissions expressly set forth in and preserved by the Plan or related documents, the Exculpated Parties shall neither have nor incur any liability to any Entity for any prepetition or postpetition act taken or omitted to be taken in connection with, or arising from or relating in any way to, the Chapter 11 Cases or the Canadian Proceedings, including, without limitation, the operation of the Debtors' businesses during the pendency of these Chapter 11 Cases; formulating, negotiating, preparing, disseminating, implementing, and/or effecting the DIP Documents, the Disclosure Statement, and the Plan; the solicitation of votes for the Plan and the pursuit of Confirmation and Consummation of the Plan; the administration of the Plan and/or the property to be distributed under the Plan; the offer and issuance of any securities under the Plan; and/or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors. In all respects, each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her, or its respective duties under, pursuant to, or in connection with the Plan.]

H. Injunction

The satisfaction, release, and discharge pursuant to this Article IX of the Plan shall also act as an injunction against any Person commencing or continuing any action, employment of process or act to collect, offset, or recover any claim or Cause of Action satisfied, released, or discharged under the Plan or the Confirmation Order to the fullest extent authorized or provided by the Bankruptcy Code, including, without limitation, to the extent provided for or authorized by sections 524 and 1141 thereof.

ARTICLE X.

RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, or related to, the Chapter 11 Cases[7] and the Plan pursuant to Bankruptcy Code sections 105(a) and 1142, including jurisdiction to:

[6] The Debtors' investigation, at the direction of the Special Committee, into potential Claims and Causes of Action is ongoing. The exculpation set forth in this paragraph is subject to the conclusion of the investigation and determination with respect to any potential Claims or Causes of Action, if any, identified therein, and the Debtors expressly reserve the right to pursue or settle any such Claims or Causes of Action and do not release any Claims or Causes of Action pending completion of the Insider Investigation.

[7] For the avoidance of doubt, this provision excludes the Canadian Debtors.

1. Allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the Secured or unsecured status, priority, amount, or allowance of Claims or Equity Interests;

2. Decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Retained Professionals authorized pursuant to the Bankruptcy Code or the Plan;

3. Resolve any matters related to: (a) the assumption, assumption and assignment, or rejection of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor may be liable and to hear, determine, and, if necessary, liquidate, any Cure or Claims arising therefrom, including Cure or Claims pursuant to section 365 of the Bankruptcy Code; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed; and (c) any dispute regarding whether a contract or lease is or was executory or expired;

4. Ensure that distributions to Holders of Allowed Claims and Equity Interests are accomplished pursuant to the provisions of the Plan;

5. Adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving a Debtor that may be pending on the Effective Date;

6. Adjudicate, decide, or resolve any and all matters related to Causes of Action;

7. Adjudicate, decide, or resolve any and all matters related to section 1141 of the Bankruptcy Code;

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

9. Enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;

10. Resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with the interpretation or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;

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

12. Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the releases, injunctions, and other provisions contained in the Plan and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;

13. Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by the Holder of a Claim or Equity Interest for amounts not timely repaid;

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

15. Determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, indenture, or other agreement or document created in connection with the Plan or the Disclosure Statement;

16. Enter an order or final decree concluding or closing the Chapter 11 Cases;

17. Adjudicate any and all disputes arising from or relating to distributions under the Plan;

18. Consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;

19. Determine requests for the payment of Claims and Equity Interests entitled to priority pursuant to Bankruptcy Code section 507;

20. Hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan, or the Confirmation Order, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;

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

22. Hear and determine all disputes involving the existence, nature, or scope of the Debtors' discharge, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee or retiree benefit program, regardless of whether such termination occurred prior to or after the Effective Date;

23. Hear and determine any matters concerning the Liquidating Trust and the Liquidating Trust Agreement.

24. Enforce all orders previously entered by the Bankruptcy Court; and

25. Hear any other matter not inconsistent with the Bankruptcy Code.

ARTICLE XI.

MODIFICATION, REVOCATION AND WITHDRAWAL OF THE PLAN

A. Modification of Plan

Subject to the limitations contained in the Plan: (1) the Debtors reserve the right, with the consent of the Requisite Plan Support Parties, and in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan prior to the entry of the Confirmation Order, including amendments or modifications to satisfy Bankruptcy Code section 1129(b); and (2) after the entry of the Confirmation Order, the Debtors or the Reorganized Debtors, as the case may be, may, upon the order of the Bankruptcy Court, amend or modify the Plan, in accordance with Bankruptcy Code section 1127(b), or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

B. Effect of Confirmation on Modifications

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan since the solicitation thereof are approved pursuant to Bankruptcy Code section 1127(a) and do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

C. Revocation of Plan

The Debtors reserve the right to revoke or withdraw the Plan prior to the entry of the Confirmation Order and to file subsequent plans of reorganization. If the Debtors revoke or withdraw the Plan, or if entry of the Confirmation Order or the Effective Date does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan, assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant hereto shall be deemed null and void; and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any claims by or against, or any Equity Interests in, such Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtors or any other Entity; or (c) constitute an admission of any sort by the Debtors or any other Entity.

ARTICLE XII.

MISCELLANEOUS PROVISIONS

A. Immediate Binding Effect

Notwithstanding Bankruptcy Rules 3020(e), 6004(g), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan shall be immediately effective and enforceable and deemed binding upon the Debtors, the Reorganized Debtors, and any and all Holders of Claims or Equity Interests (irrespective of whether Holders of such Claims or Equity Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each

Entity acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors.

B. Additional Documents

On or before the Effective Date, the Debtors may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtors or Reorganized Debtors, as applicable, and all Holders of Claims or Equity Interests receiving distributions pursuant to the Plan and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

C. Reservation of Rights

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

D. Successors and Assigns

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

E. Service of Documents

After the Effective Date, the Debtors are authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have filed renewed requests for service.

In accordance with Bankruptcy Rules 2002 and 3020(c), within ten (10) Business Days of the date of entry of the Confirmation Order, the Debtors shall serve a notice of Confirmation by United States mail, first class postage prepaid, by hand, or by overnight courier service to all parties served with notice of the Confirmation Hearing; *provided, however*, that no notice or service of any kind shall be required to be mailed or made upon any Entity to whom the Debtors served the notice of the Confirmation Hearing, but received such notice returned marked "undeliverable as addressed," "moved, left no forwarding address" or "forwarding order expired," or similar reason, unless the Debtors have been informed in writing by such Entity, or are otherwise aware, of that Entity's new address.

To supplement the notice described in the preceding sentence, within twenty (20) days of the date of the Confirmation Order the Debtors shall publish notice of the Confirmation Hearing on one occasion in the national editions of *The New York Times*. Mailing and publication of the

notice of the Confirmation Hearing in the time and manner set forth in the this paragraph shall be good and sufficient notice under the particular circumstances and in accordance with the requirements of Bankruptcy Rules 2002 and 3020(c), and no further notice is necessary.

F. Term of Injunctions or Stays

Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to Bankruptcy Code sections 105 or 362 or any order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order) shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

G. Entire Agreement

On the Effective Date, the Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

H. Governing Law

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of Delaware, without giving effect to the principles of conflict of laws, shall govern the rights, obligations, construction, and implementation of the Plan, any agreements, documents, instruments, or contracts executed or entered into in connection with the Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control), and corporate governance matters; *provided, however*, that corporate governance matters relating to the Debtors or Reorganized Debtors, as applicable, not incorporated or organized in Delaware shall be governed by the laws of the place of incorporation or organization of the applicable Debtor or Reorganized Debtor, as applicable.

I. Exhibits

All exhibits and documents are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are filed, copies of such exhibits and documents shall have been available upon written request to the Debtors' counsel at the address above or by downloading such exhibits and documents from the Debtors' private website at https://cases.primeclerk.com/pss or the Bankruptcy Court's website at www.moeb.uscourts.gov. To the extent any exhibit or document is inconsistent with the terms of the Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit or non-document portion of the Plan shall control.

J. Nonseverability of Plan Provisions Upon Confirmation

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent

practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the consent of the Debtors; and (3) nonseverable and mutually dependent.

K. Closing of Chapter 11 Cases

The Reorganized Debtors shall, promptly after the full administration of a Chapter 11 Case, file with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close such Chapter 11 Case.

L. Conflicts

Except as set forth in the Plan, to the extent that any provision of the Disclosure Statement, or any other order (other than the Confirmation Order) referenced in the Plan (or any exhibits, appendices, supplements, or amendments to any of the foregoing), conflict with or are in any way inconsistent with any provision of the Plan, the Plan shall govern and control.

M. Dissolution of Creditors' Committee

The Creditors' Committee shall dissolve, and the members thereof shall be released and discharged from all rights and duties arising from, or related to, the Chapter 11 Cases on the Effective Date; *provided*, that the Creditors' Committee shall be deemed to remain in existence solely with respect to, and shall not be heard on any issue except, applications filed by the Retained Professionals pursuant to Bankruptcy Code sections 330 and 331. The Reorganized Debtors shall not be responsible for paying fees or expenses incurred by the members of or advisors to the Creditors' Committee after the Effective Date.

N. Section 1125(e) Good Faith Compliance

The Debtors, Reorganized Debtors, the Special Committee, and each of their respective representatives, shall be deemed to have acted in "good faith" under Bankruptcy Code section 1125(e).

O. Further Assurances

The Debtors, Reorganized Debtors, all Holders of Claims receiving distributions hereunder, and all other parties-in-interest shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan or the Confirmation Order.

P. No Stay of Confirmation Order

The Confirmation Order shall contain a waiver of any stay of enforcement otherwise applicable, including pursuant to Bankruptcy Rules 3020(e) and 7062.

Q. Waiver or Estoppel

Each Holder of a Claim or an Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Interest should be Allowed in a certain amount, in a certain priority, secured, or not subordinated by virtue of an agreement made with the Debtors or their counsel, or any other Entity, if such agreement was not disclosed in the Plan, the Disclosure Statement, or papers filed with the Bankruptcy Court prior to the Confirmation Date.

Respectfully submitted,

Date: August 28, 2019

By: *Stephen Marotta*
Name: Stephen Marotta
Title: Chief Restructuring Officer, Payless Holdings LLC

Schedule 1

DEBTOR	TAX I.D. NUMBER
Payless Holdings, LLC	80-0855704
Payless Intermediate Holdings LLC	46-1125190
WBG-PSS Holdings LLC	45-5170673
Payless Inc.	43-1813160
Payless Finance, Inc.	43-1622101
Collective Brands Services, Inc.	48-1227266
PSS Delaware Company 4, Inc.	48-1221466
Shoe Sourcing, Inc.	48-1234075
Payless ShoeSource, Inc.	48-0674097
Eastborough Inc.	48-1212803
Payless Purchasing Services, Inc.	48-1253043
Payless ShoeSource Merchandising, Inc.	48-1140946
Payless Gold Value CO, Inc.	46-1103581
Payless ShoeSource Distribution, Inc.	48-1140944
Payless ShoeSource Worldwide, Inc.	43-1646884
Payless NYC, Inc.	48-1194126
Payless ShoeSource of Puerto Rico, Inc.	66-0479017
Payless Collective GP, LLC	82-1302940
Collective Licensing, L.P.	20-4231256
Collective Licensing International, LLC	05-0585451
Clinch, LLC	27-2429836
Collective Brands Franchising Services, LLC	26-3883636
Payless International Franchising, LLC	27-3686448
PSS Canada, Inc.	74-2834969
Collective Brands Logistics Limited	98-0546466
Payless Sourcing, LLC	35-2579725

Court File No. CV-19-00614629-00CL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

Affidavit of Adrian Frankum

Sworn September 10, 2019

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