

**UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF LOUISIANA**

**IN RE**

**KOLOGIK, LLC, ET AL.,<sup>1</sup>  
DEBTORS.  
(JOINT ADMINISTRATION)**

**CASE NO. 24-10311  
CHAPTER 11**

**FIRST IMMATERIALLY AMENDED DISCLOSURE STATEMENT FOR  
LIQUIDATING PLAN OF THE DEBTORS RESOLVEKO, LLC, RESOLVEKO  
CAPITAL LLC, AND RESOLVEKO CAPITAL II, LLC, FORMERLY KNOWN AS  
KOLOGIK, LLC, KOLOGIK CAPITAL, LLC AND KOLOGIK CAPITAL II, LLC**

---

**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.**

Louis M. Phillips (#10505)  
One American Place  
301 Main Street, Suite 1600  
Baton Rouge, LA 70801-1916  
Telephone: (225) 381-9643  
Facsimile: (225) 336-9763  
Email: louis.phillips@kellyhart.com

and

Erin K. Arnold (LA #29069)  
Amelia L. Hurt (LA #36817)  
400 Poydras Street, Suite 1812  
New Orleans, LA 70130  
Telephone: (504) 522-1812  
Facsimile: (504) 522-1813  
Email: erin.arnold@kellyhart.com  
Email: amelia.hurt@kellyhart.co

---

<sup>1</sup> The debtors and debtors in possession these chapter 11 cases (the “Chapter 11 Cases”), along with the last four digits of their respective Employer Identification Numbers, are as follows: Kologik, LLC (3729), Case No. 24-10311; Kologik Capital, LLC (3729) Case No. 24-10312; and Kologik Capital II, LLC (3729), Case No. 24-10313. The Debtors’ mailing address is: 300 Main St., Ste. #1600, Baton Rouge, LA, 70801.

## **INTRODUCTORY DISCLOSURES**

THIS DISCLOSURE STATEMENT, WHICH HAS BEEN FILED BY THE DEBTORS, IN THEIR CAPACITY AS DEBTORS AND DEBTORS-IN-POSSESSION, CONTAINS A SUMMARY OF MATERIAL PROVISIONS OF THE LIQUIDATING PLAN OF THE DEBTORS RESOLVEKO, LLC, RESOLVEKO CAPITAL LLC, AND RESOLVEKO CAPITAL II, LLC, FORMERLY KNOWN AS KOLOGIK, LLC, KOLOGIK CAPITAL, LLC AND KOLOGIK CAPITAL II, LLC (the “PLAN”).

THIS DISCLOSURE STATEMENT ALSO SUMMARIZES CERTAIN FINANCIAL INFORMATION CONCERNING THE DEBTORS AND THE CLAIMS ASSERTED AGAINST THE DEBTORS IN THIS BANKRUPTCY CASE. WHILE THE DEBTORS BELIEVE THAT THIS DISCLOSURE STATEMENT CONTAINS ADEQUATE INFORMATION WITH RESPECT TO THE DOCUMENTS AND INFORMATION SUMMARIZED, HOLDERS OF CLAIMS AND EQUITY INTERESTS SHOULD CAREFULLY REVIEW THE ENTIRE PLAN AND EACH OF THE DOCUMENTS REFERENCED IN THIS DISCLOSURE STATEMENT AND SHOULD SEEK THE ADVICE OF THEIR OWN LEGAL COUNSEL AND OTHER ADVISORS BEFORE CASTING THEIR BALLOTS ON THE PLAN.

EXCEPT FOR THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT, AND THE EXHIBITS ATTACHED HERETO, NO REPRESENTATIONS CONCERNING THE DEBTORS, THE DEBTORS’ ASSETS AND LIABILITIES, THE PAST OPERATIONS OF THE DEBTORS, THE PLAN AND ITS TERMS, OR ALTERNATIVES TO THE PLAN ARE AUTHORIZED, NOR ARE ANY SUCH REPRESENTATIONS TO BE RELIED UPON IN ARRIVING AT A DECISION WITH RESPECT TO THE PLAN. ANY INFORMATION WITH RESPECT TO SUCH TOPIC AREAS THAT IS PROVIDED TO SECURE ACCEPTANCE OR REJECTION OF THE PLAN, WHICH IS NOT CONTAINED IN THESE SOLICITATION MATERIALS, IS UNAUTHORIZED AND SHOULD BE REPORTED IMMEDIATELY TO THE DEBTORS’ LEGAL COUNSEL.

UNLESS INDICATED OTHERWISE, THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF OR THE DATE OTHERWISE INDICATED HEREIN, AND NEITHER DELIVERY OF THIS DISCLOSURE STATEMENT NOR ANY RECOVERY MADE IN CONNECTION WITH THE PLAN WILL, UNDER ANY CIRCUMSTANCES, CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT SINCE THE DATE THIS DISCLOSURE STATEMENT AND THE MATERIALS RELIED UPON IN PREPARING THIS DISCLOSURE STATEMENT WERE COMPILED.

THE APPROVAL OF THIS DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT CONSTITUTE AN ENDORSEMENT BY THE BANKRUPTCY COURT OF THE PLAN OR A GUARANTEE OF THE ACCURACY AND COMPLETENESS OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT. THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE, AND MAY NOT BE CONSTRUED AS, AN ADMISSION OF FACT, LIABILITY, STIPULATION, OR WAIVER.

NOTHING CONTAINED IN THIS DISCLOSURE STATEMENT, EXPRESS OR IMPLIED, IS INTENDED TO GIVE RISE TO ANY COMMITMENT OR OBLIGATION OF THE PLAN PROPONENTS OR ANY OTHER PARTY, NOR WILL IT BE CONSTRUED AS CONFERRING UPON ANY PERSON ANY RIGHTS, BENEFITS, OR REMEDIES OF ANY NATURE WHATSOEVER. THIS DISCLOSURE STATEMENT IS INFORMATIONAL ONLY. ADDITIONALLY, HOLDERS OF CLAIMS AND INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL, OR TAX ADVICE. EACH CREDITOR AND INTEREST HOLDER SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL, AND TAX ADVISORS AS TO ANY MATTER CONCERNING THE PLAN, THE EFFECTS OF IMPLEMENTATION OF THE PLAN, AND THE VOTING PROCEDURES APPLICABLE TO THE PLAN.

IF THE PLAN IS CONFIRMED BY THE BANKRUPTCY COURT AND THE EFFECTIVE DATE OCCURS, ALL HOLDERS OF CLAIMS AND EQUITY INTERESTS (INCLUDING THOSE HOLDERS OF CLAIMS WHO DO NOT SUBMIT BALLOTS TO ACCEPT OR REJECT THE PLAN, OR WHO ARE NOT ENTITLED TO VOTE ON THE PLAN) WILL BE BOUND BY THE TERMS OF THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY.

**TABLE OF CONTENTS**

TABLE OF CONTENTS.....4

I. INTRODUCTION .....7

II. BACKGROUND .....9

    A. The Debtors’ Business .....9

    B. Pre-Petition Date Management .....10

    C. The Debtors’ Pre-Petition Date Capital and Debt Structure .....11

    D. The Debtors’ Equity Interests .....13

III. EVENTS LEADING TO CHAPTER 11 .....13

IV. KEY EVENTS DURING CHAPTER 11 CASE .....15

    A. First Day Pleadings .....15

    B. Bankruptcy Schedules and Statement of Financial Affairs .....17

    C. The Sale Motion.....17

    D. Claims Bar Date .....19

V. SUMMARY OF THE PLAN .....19

    A. Introduction.....19

    B. Overview of the Plan .....19

    C. Administrative Claims, Professional Fees, and Priority Tax Claims.....20

    D. Timing and Treatment of Administrative Claims and Professional Fees .....20

    E. Treatment and Payment of Allowed Priority Non-Tax Claims .....20

    F. Treatment of Allowed Priority Tax Claim.....20

    G. Treatment of Statutory Fees.....20

    H. Classification and Treatment of Claims and Interests .....21

    I. Claims Analysis and Treatment .....21

VI. MEANS FOR IMPLEMENTATION OF THE PLAN.....24

    A. Plan Funding .....24

    B. The Plan Agent .....24

    C. The Plan Agent Compensation and Replacement.....26

    D. Plan Expense Reserve .....27

    E. Dissolution of Board of Managers of the Debtors and Dissolution of the Debtors 27

    F. Exemption from Certain Taxes and Fees.....27

    G. Insurance Policies .....28

    H. Vesting of Assets and Causes of Action.....28

VII. DELIVERY OF DISTRIBUTIONS AND UNDELIVERABLE OR UNCLAIMED DISTRIBUTIONS. ....28

    A. Delivery of Plan Distributions in General .....28

    B. Undeliverable Distributions and Unclaimed Property .....29

    C. Manner of Payment Pursuant to the Plan.....29

VIII. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES .....29

    A. Assumption and Rejection .....29

    B. Rejection Claims .....30

    C. Cure of Assumed Executory Contracts and Unexpired Leases .....30

IX.	CLAIMS OBJECTIONS .....	31
A.	Prosecution of Objections to Claims.....	31
B.	Disallowance of Claims .....	31
C.	Plan Distributions after Allowance.....	31
D.	Setoffs .....	31
X.	INJUNCTION, EXCULPATION, AND INDEMNIFICATION .....	32
A.	Discharge of Debtors .....	32
B.	Plan Injunction.....	32
C.	Limited Protection of the Exculpated Parties .....	33
D.	Indemnification.....	33
XI.	MODIFICATION OF THE PLAN; REVOCATION.....	34
XII.	CONDITIONS PRECEDENT TO THE OCCURRENCE OF THE EFFECTIVE DATE; WAIVER.....	34
A.	Conditions Precedent to Confirmation.....	34
B.	Conditions Precedent to the Effective Date.....	34
1.	The Bankruptcy Court shall have entered the Confirmation Order and the Confirmation Order shall not have been stayed.....	35
C.	Waiver of Conditions.....	35
D.	Filing Notice of the Effective Date.....	35
XIII.	CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN AND SECURITIES LAW CONSIDERATIONS .....	35
A.	Generally.....	35
B.	Tax Consequences to Holders of Claims.....	36
1.	Realization and Recognition of Gain or Loss in General .....	36
2.	Accrued Interest.....	37
3.	Withholding .....	37
4.	Tax Consequences to Holders of Equity Interests .....	37
XIV.	VOTING; CONFIRMATION; ALTERNATIVE TO PLAN .....	38
A.	Confirmation Standards .....	38
B.	“Best Interests” Test .....	38
C.	Feasibility.....	39
D.	Cram Down.....	40
E.	Vote Required for Acceptance by a Class .....	41
F.	Voting Presumptions.....	41
G.	Voting Rights.....	41
H.	Alternatives to Confirmation Is Chapter 7 Liquidation .....	41
XV.	CERTAIN FACTORS TO BE CONSIDERED .....	42
A.	Objections to Plan and Confirmation.....	42
B.	Objections to Classification of Claims and Equity Interests .....	42
C.	Failure to Obtain Confirmation of the Plan .....	42
D.	Failure to Consummate or Effectuate a Plan .....	43
E.	Risk of Non-Occurrence of the Effective Date of the Plan .....	43
F.	Claims Estimation.....	43
G.	Certain Tax Considerations, Risks and Uncertainties.....	43
XVI.	VOTING PROCEDURES AND REQUIREMENTS .....	43
A.	Introduction.....	43

B. Voting .....44  
C. Reservation of Rights.....44  
D. Waivers of Defects, Irregularities, etc. ....44  
XVII. CONCLUSION .....45

## I. INTRODUCTION

The Debtors (ResolveKo, LLC, ResolveKo Capital LLC, and ResolveKo Capital II, LLC, formerly known as Kologik, LLC, Kologik Capital, LLC and Kologik Capital II, LLC), as Debtors and Debtors-in-possession, submit this disclosure statement (the “Disclosure Statement”) pursuant to section 1125 of title 11 of the Bankruptcy Code in connection with the solicitation of votes on the Liquidating Plan of the Debtors ResolveKo, LLC, ResolveKo Capital LLC, and ResolveKo Capital II, LLC, formerly known as Kologik, LLC, Kologik Capital, LLC and Kologik Capital II, LLC (the “Plan,” attached hereto as **Exhibit A - the Plan**). To the extent any inconsistencies exist between this Disclosure Statement and the Plan, the Plan governs.

Capitalized terms used but not defined herein have the meanings assigned to them in Article I of the Plan.

**WHO IS ENTITLED TO VOTE:** Under the Bankruptcy Code, only Holders of Claims or Equity Interests in “impaired” classes are entitled to vote on the Plan (unless, for reasons discussed in more detail below, such Holders are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code). Under section 1124 of the Bankruptcy Code, a class of claims or interests is deemed to be “impaired” under the Plan unless (i) the Plan leaves unaltered the legal, equitable, and contractual rights to which such claim or interest entitles the holder thereof or (ii) notwithstanding any legal right to an accelerated payment of such claim or interest, the Plan, among other things, cures all existing defaults (other than defaults resulting from the occurrence of events of bankruptcy) and reinstates the maturity of such claim or interest as it existed before the default.

The following table summarizes: (i) the designation of Claims and Equity Interests under the Plan, (ii) which Classes are Impaired and Unimpaired by the Plan, (iii) which Classes are entitled to vote and not entitled to vote on the Plan, and (iv) the estimated recoveries for holders of Claims. The table is qualified in its entirety by reference to the full text of the Plan. For a more detailed summary of the terms and provisions of the Plan, see Article IV—Summary of the Plan below.

This Disclosure Statement shall not be used as a basis for Allowance of any Claim.

<b>Class</b>	<b>Claim</b>	<b>Status</b>	<b>Voting Rights</b>
Class 1	Priority Non-Tax Claims	Unimpaired	Not Entitled to Vote (Deemed to Accept)
Class 2	Paid Secured Claim of Riva Ridge Master Fund, Ltd.	Unimpaired	Not Entitled to Vote (Paid in full per Order of Bankruptcy Court)
Class 3	Paid Secured Claim of LaFactor (as holder of Mississippi River Bank Notes)	Unimpaired	Not Entitled to Vote (Paid in full per Order of Bankruptcy Court)

Class 4	Mississippi River Bank	Impaired	Not Entitled to Vote (Contingent Claim for Indemnity Disallowed under Section 502(e))
Class 5	LaFactor, LLC (as former holder of Mississippi River bank Notes)	Impaired	Not Entitled to Vote (Contingent Claim for Indemnity Disallowed under Section 502(e))
Class 6	TSB Ventures, LLC	Impaired (Impaired by Carve-Out; possible lack of collateral; claims of Liquidating Debtors)	Entitled to Vote
Class 7	LaFactor, LLC	Impaired (Impaired by Carve-Out; possible lack of collateral; claims of Liquidating Debtors)	Entitled to Vote
Class 8	Jackson Smith Thomas	Impaired (Impaired by Carve-Out; possible lack of collateral; claims)	Entitled to Vote
Class 9	General Unsecured Claims	Impaired	Entitled to Vote
Class 10	Equity Interests	Impaired	Not Entitled to Vote (Deemed to Reject)

**DECIDING HOW TO VOTE ON THE PLAN:** All Holders of Claims are encouraged to read this Disclosure Statement, its exhibits, and the Plan carefully and in their entirety before, if applicable, deciding to vote either to accept or to reject the Plan. This Disclosure Statement contains important information about the Plan, considerations pertinent to acceptance or rejection of the Plan, and developments concerning the Chapter 11 Cases.

A Ballot to be used for voting to accept or reject the Plan is enclosed with this Disclosure Statement and transmitted to all Holders of Allowed Claims entitled to vote on the Plan (the “Voting Classes”). The Holders of Allowed Claims entitled to vote on the Plan should carefully review the Ballot and the instructions thereon, and must execute the Ballot, and return it to the address indicated thereon by the deadline to enable the Ballot to be considered for voting purposes. The Ballot is for voting purposes only and does not constitute and shall not be deemed a Proof of Claim or an assertion of a Claim.

IN ORDER FOR YOUR VOTE TO BE COUNTED, YOUR VOTE MUST BE RECEIVED BY THE VOTING AGENT AT THE ADDRESS SET FORTH BELOW ON OR BEFORE THE VOTING DEADLINE OF 5:00 P.M., PREVAILING CENTRAL TIME, ON DECEMBER 3, 2024, UNLESS EXTENDED BY THE DEBTORS. PLEASE NOTE: A FULL EXPLANATION OF THE VOTING REQUIREMENTS AND VOTING PROCEDURES IS FOUND IN ARTICLE IX OF THIS DISCLOSURE STATEMENT.

ARTICLE IX OF THIS DISCLOSURE STATEMENT PROVIDES ADDITIONAL DETAILS AND IMPORTANT INFORMATION REGARDING VOTING PROCEDURES AND REQUIREMENTS. PLEASE READ ARTICLE VIII OF THIS DISCLOSURE STATEMENT CAREFULLY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

## II. BACKGROUND

### A. The Debtors' Business

Before the Asset Sale (defined herein), the Debtors were headquartered in Baton Rouge, Louisiana (operating as "Kologik"), and operated as a software as service company that develops, acquires, and services software that connects law enforcement departments to the information they need to keep officers and communities safe by making it possible for multiple sources of intelligence to effectively speak to one another. Kologik's suite of public safety applications include Computer Aided Dispatch (CAD), Records Management (RMS), Jail Management (JMS), COPsync, Electronic Arrest Affidavit, Computerized Criminal History (CCH), and school safety.

Specifically, Kologik's key products were

A-Form Kiosk	Computerized	Criminal	Kologik JMS - Jail Roster
A-Form Management Application	History		Kologik WebMDT
ALEM IM/MASC	COPsync (Infoceptor)		Kologik.CommSysServer
ALEN AVL	COPsync Lite		Kologik.Integrations
ALEN CAD	COPsync TX		Kologik.IntegrationsApi
ALEN Court	CourtSync		Kologik.NIBRS
ALEN eTicket	Dataonix Portal		LEMS
ALEN Nlets	Dispatch Deluxe		Lineup
ALEN Payment Portal	Florida Arrest Affidavit		Placer Search
ALEN RMS	KLMobileServer		SIMS-ADMIN
ALEN-IDENTITY	Kologik CAD		SIMS-SERVER
Automated Arrest Form	Kologik Director		Template Admin
AVL History	Kologik Gateway		TLETS
CampusSafe	Kologik Integrator		WarrantSync
	Kologik JMS		

Of note, in November 2017, Capital nominally purchased certain assets, particularly the “CopSync Assets” through that certain bankruptcy case, *In re Copync, Inc.*, Case No. 17-1265 (Bankr. E.D. La. 2017) [the Order Approving Sale, Dkt. No. 125, later modified].

In connection with its key products, Kologik holds numerous pieces of registered intellectual property including patents, trademarks, copyrights, domain names (the “Intellectual Property”). Kologik has contracts for the use of its products with various law enforcement and public agencies throughout the country (the “Customers”). As of the Petition Date, the Debtors’ key customers included: Baton Rouge Police Department (LA); Bosque County Sheriff’s Office (TX); Caldwell County; Caldwell County Sheriff’s Office (TX); Caldwell County Sheriff’s Office (TX) Calhoun County Sheriff’s Department (FL); Cameron Police Department (TX); Fort Stockton Police Department (TX); Frio County Sheriff’s Office (TX); GCOM Software LLC (NY); GCOM Software LLC (NY); Hamilton County Sheriff’s Office (TX); Hammond Police Department (LA); Hardeman County Sheriff’s Department (TX); Jack County Sheriff’s Office (TX); Jackson Police Department (MS); Jackson Police Department (MS); La Salle County Sheriff’s Office (TX); Louisiana Department of Public Safety (LA) Magnolia Police Department (TX); Magnolia Police Department (TX); Miami-Dade County (FL); Midland ISD Police Department (TX); Minden Police Department (LA); Placer County Procurement (CA); Ponchatoula Police Department (LA); Premont Police Department (TX); Rains County Sheriff’s Office (TX); Rains County Sheriff’s Office (TX); Robstown Police Department (TX); San Luis Obispo County Sheriff’s Office (CA); Schleicher County Sheriff’s Office (TX); Shreveport Police Department (LA); Smith County Sheriff’s Office (TX); Surfside Beach Police Department (TX); Tool Police Department (TX); Tulia Police Department (TX); Upton County Sheriff’s Office (TX); Westlake Police Department (LA); and Winnsboro Police Department (TX).

As of the Petition Date, the Debtors had ongoing contracts with the Customers (the “Customer Contracts”) with material performance owed by Kologik and the applicable Customer owing under the Customer Contracts.

A complete listing of Customer Contracts is set forth in the “Assigned Agreement Schedule” which is Exhibit B to the *Emergency Motion for Entry of an Order (I) the Bid Protections Contained in Asset Purchase Agreement Between the Debtors As Seller and Kologik Acquisition, Inc.; (II) Approving the Assumption/Assignment Procedures; and (III) Granting Related Relief* (the “Bidding Protections Motion”).

In sum, Kologik marketed its products and entered into contracts with Customers who paid Kologik for use of and service related their use of the Kologik product (the “Customer Contracts”). The Customer Contracts were generally on a yearly basis , and Customers remitted payments to Kologik directly.

Pre-Petition Date Kologik employed 39 employees (the “Employees”). Of these, 7 were hourly and 32 were salaried. Kologik used ADP Total Source (“ADP”) as its Professional Employment Organization, such that ADP is the actual employer and benefits provider, and Kologik funded payroll.

## **B. Pre-Petition Date Management**

Kologik LLC was the operating entity of the Kologik structure. Kologik LLC was run by a board of Managers (the “Kologik Board”). Pre-Petition Date and before November, 2023, the Kologik Board for some time consisted of only two Managers as opposed to the required Five(5), Walter Morales, Chairman and James Hayes, Secretary. In November 2023, the Kologik, LLC operating agreement was amended to change the required number of Managers on the board to three (3), and Paul San Soucie, CEO was elected the third board member. Under the Kologik operating agreement, a vote of a majority percentage of Class B membership interests in Kologik was necessary to authorize a bankruptcy filing and/or sale of all or substantially all of the assets of Kologik. Kologik as the sole member of Capital and Capital II could authorize a bankruptcy filing and sale of all or substantially all of the assets of these two Debtors.

The management team of Kologik was Paul San Soucie, as Chief Executive Officer; Kim E. Thayer as Chief Restructuring Officer and Chief Financial Officer; and Karie Wohlgemuth as Chief Operating Officer (the “Officers”). The “Authorized Persons, under the Written Consent attached to the petitions commencing these cases are Paul San Soucie and Kim E. Thayer, and they are empowered to act on behalf of Kologik, LLC (and therefore on behalf of Kologik, LLC as some member of Kologik Capital and Kologik Capital II). Paul San Soucie is no longer employed by the Debtors as a result of the closing of the Sale (as defined below), and resigning to take a position with the purchaser. Mr. San Soucie also resigned from the board, leaving only two (2) Managers. The third seat has not been filled, and the board of managers is in a problematic state, necessitating that Kim E. Thayer be the authorized representative of the Debtors and their estates under the Plan. First, there are only two board members. Second, Mr Walter Morales has filed Claims and is either an Affiliate of or is a related party to certain claimants holding Disputed Claims. Therefore the board in reality could have currently only one (1) functioning manager, Mr. Hayes. Given the authorization by the board of managers to Kim E. Thayer the Plan proposes that she be the Plan Agent and also the representative of the Debtors and estates pre and post-Effective Date. Kim E. Thayer is the authorized signatory of the Plan and this Disclosure Statement.

### **C. The Debtors’ Pre-Petition Date Capital and Debt Structure**

In January 2016, Thinkstream Acquisition, LLC entered into a secured financing agreement with Mississippi River Bank (“MRB”), whereby Thinkstream Acquisition LLC granted MRB a continuing security interest in all accounts whether owned or acquired. MRB recorded a UCC-1 Financing Statement accordingly and has filed continuation statements maintaining its security interests (the “Initial MRB Security”).

In November of 2017, TSB Ventures, LLC (“TSB”) entered into a secured financing agreement with Thinkstream Acquisition LLC which granted TSB a continuing security interest in inventory, instruments, accounts, equipment, and general intangibles including all software. TSB recorded a UCC-1 Financing Statement accordingly and has filed continuation statements maintaining its security interests (the “TSB Security”).

As set forth herein, TSB is Kologik’s largest shareholder.

As mentioned previously, Thinkstream Acquisition LLC changed its name to Kologik LLC in 2018.

TSB and Kologik LLC and Capital entered into several Commercial Loan Agreement in 2018, 2019, and 2022 which were secured by TSB Security, which then included substantially all assets of Capital, and which were each a consolidation of the previous indebtedness.

On July 7, 2021, Kologik LLC, as borrower, and MRB, as lender, entered into that certain Promissory Note which evidences a revolving line of credit (the “MRB LOC Note”). The LOC Note is secured by, amongst other things, a first priority lien on substantially all of Kologik LLC’s assets (the “Additional MRB Security”). On October 28, 2022, Kologik LLC, as borrower, and Mississippi River Bank, as lender, entered that certain Promissory Note [Loan #0007] (the “MRB Note,” together with the MRB LOC Notes, the “MRB Notes”) which are secured by, amongst other things, the Additional MRB Security. MRB recorded a UCC-1 Financing Statement accordingly and has filed continuation statements maintaining its security interest in the Additional MRB Security.

Pursuant to that certain Payment and Assignment Agreement dated September 30, 2023, J. Bart Kelly, III (“Kelly”) purportedly obtained a security interest in Capital’s accounts after Kelly received an assignment from the law firm of McCarter & English for legal fees owed. On September 30, 2020, Kelly filed a UCC-1 Financing Statement with relation to the accounts of Capital. Mr. Kelly has not filed a proof of Claim and under the Plan, as of the Effective Date any Claim of Mr. Kelly will be Disallowed.

On December 27, 2021, Kologik LLC and Capital jointly and severally entered into that certain Secured Promissory Note with Riva Ridge Master Fund, LLC (“Riva”, the note, the “Riva Note”). The Riva Note is secured by, amongst other things, substantially all of Kologik LLC and Capital’s assets (the “Riva Security”). Riva recorded a UCC-1 Financing Statement accordingly and has filed continuation statements maintaining its security interest in the Riva Security.

On May 31, 2023, Kologik LLC and Lafactor, LLC (“Lafactor”) entered into that certain Secured Promissory Note, with Capital executing an accompanying Commercial Security Agreement (the “Lafactor Note”). The Lafactor Note is secured by, amongst other things, substantially all assets of Kologik LLC and Capital (the “Lafactor Security”). Lafactor recorded a UCC-1 Financing Statement accordingly and has filed continuation statements maintaining its security interest in the Lafactor Security.

Lafactor was holder of the MRB Notes, having purchased the MRB Notes prior to the filing of these Chapter 11 Cases.

Jackson Smith Thomas (“Thomas”), a member and former officer of Kologik holds a note of Kologik and also asserts an amount due from Kologik on the basis of funds put into the company some years ago while he was an officer) and has asserted a disputed claim. Within state court litigation upon his note claim prior to the filing of these Chapter 11 Cases Thomas obtained a disputed writ of attachment, and claims lien and privileges under Louisiana law thereupon.

Finally, online search results show an active UCC-1 filing in favor of Gordon Oaks Property & Investments, Inc. (“Gordon Oaks”), relating to the assets of ALEN, Inc., which sold its assets to Capital II. Gordon Oaks filed an Unsecured Claim, and therefore the Debtors have determined that Gordon Oaks does not Hold a Secured Claim

As set forth herein, after the Asset Sale, the Debtors paid off the two senior secured tranches of indebtedness to stop the accrual of exorbitant interest. Therefore, the MRB Notes and Riva Note have been paid off and the security interests cancelled.

#### **D. The Debtors' Equity Interests**

Kologik LLC's equity interests were held Class B membership interests in Kologik as follows:

Holder	Percentage Held
TSB Ventures, LLC	51.60%
Manada Technologies, Inc..	10%
Jackson Smith Thomas	8.6%
Matthew Teague	8.6%
The Estate of Joseph R. Alosa, Sr.	8.0%
M6 Capital Partners LLC	6.6%
Ryan Morales	6.6%

(Collectively, the "Holders of Equity Interests," each a "Holder of Equity Interests.")

Kologik LLC is the nominal 100% owner of Kologik Capital, LLC ("Capital") and Kologik Capital II, LLC ("Capital II"). Regarding Capital and Capital II, the Debtor Kologik, through Kim E. Thayer (hereinafter, "Thayer") and undersigned counsel make the following disclosures. Neither Capital nor Capital II has ever had books of account, never filed tax return, had no income (no books), recorded no transactions (again, no books), never had funds, and were not accounted for in any way as separate entities. Assets nominally purchased by Capital and Capital II were always booked as Assets of Kologik. There were no corporate minutes, meetings, operating agreements, or bank accounts. For these many reasons, this Disclosure Statement references these entities as "nominal" purchasers and owners of Assets. There has never been any accounting for these purported entities as actual entities.

### **III. EVENTS LEADING TO CHAPTER 11**

In November 2020, TSB, Kologik's largest member by percentage was required pay Victor Trahan \$4,500,000 as part of a settlement agreement between several Kologik shareholders including TSB Ventures, M6 Partners, Ryan Morales, Jackson Smith Thomas, and Matthew Teague and a former board member Worachote "Ob" Soonthornsima. At that time, the books of Kologik reflected an indebtedness owed by the company to TSB of several million more than the TSB debt to Trahan.

In December 2021, Kologik borrowed the funds under the Riva Note, and paid the \$4,500,000 amount to Trahan, and booked the transaction as a pay down of the Kologik debt to TSB.

Throughout 2022 and early 2023, Kologik experienced a further declining financial condition do to a combination of slower than expected customer sales, high interest rates, and an

expense structure that did not match its revenue. Kologik borrowed additional monies in late 2022 to ensure it could meet payroll. It is not certain that Kologik was ever a solvent Entity.

In 2023, Kologik began exploring selling its business as a going concern. For the next twelve (12) months, Kologik discussed an possible sale with a number of potential strategic and financial parties. These discussions generated multiple indications of interest. One of which resulted in a Letter of Intent (LOI) to purchase. Ultimately, Kologik was unable to close the transaction.

In 2023, Kologik decided it was necessary to engage the services of restructuring attorneys and selected the firm of Kelly Hart Pitre LP (“Kelly Hart”) to explore a bankruptcy process to reorganize the company and/or sell its assets.

From September 2023 to January 2024, Kologik continued trying to sell the company but could not due to the lack of interest with a company that would be required to do a sale through a Chapter 11 bankruptcy process.

In January 2024, Kologik decided to engage the services of an advisor and sale agent, and selected Rock Creek Advisors, LLC (“Rock Creek”) based upon its reputation and expertise in the field and experience with similarly situated companies. After Rock Creek was engaged, it began a robust sale process which Kologik assisted with including the preparation of sales and marketing materials and reached out to strategic prospects. In short form, Rock Creek engaged in a robust marketing and sale process over a six-week period that resulted in receiving eight (8) letters of intent, four (4) of which were raised through negotiations.

Ultimately, on March 14, 2024, the Kologik Board approved Kologik Software, Inc. as the winning bidder and, along with Kelly Hart and Rock Creek, began the negotiations of the Asset Purchase Agreement (the “APA”).

Pursuant to the APA, Kologik agreed to sell substantially all of its assets to Kologik Software, Inc. (the “Purchaser”). Under the APA, the Purchaser agreed to purchase and acquire from Kologik “Purchased Assets” free and clear of liens to the extent permissible under section 363(f) of the Bankruptcy Code where Purchased Assets is defined to include substantially all assets of Kologik including (without limitation) intellectual property, bank accounts, customer contracts, and leases. In return, Kologik was to receive a purchase price of \$24 million, subject to customary working capital adjustment and post-closing true-up, plus cash over the “Required Cash” to be retained by the Purchaser (\$275,000). Excluded from the Purchased Assets are any employee retention credits, which could have a value upwards of \$800,000. The APA further provided that the Employees would become employees of the Purchaser and will continue to service the Customer Contracts in substantially the same manner as before the closing of the Proposed Sale. The Purchaser also agreed to assume the Leases and that Kologik’s operations shall generally continue after the closing of the Proposed Sale in a similar manner, under new ownership.

In order to consummate the APA, the Debtors commenced the Chapter 11 Cases.

#### **IV. KEY EVENTS DURING CHAPTER 11 CASE**

Since the Petition Date, the Debtors have continued to operate their business and manage properties as Debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The following is a general summary of this Chapter 11 Cases.

##### **A. First Day Pleadings**

On April 23, 2024 (the “Petition Date”), the Debtors filed the following motions (the “First Day Motions”):

Emergency Motion for Order Under Bankruptcy Rule 1015(b) Directing Joint Administration of Chapter 11 Cases (the “Joint Administration Motion”);

In the Joint Administration Motion, the Debtors sought approval for the three cases to be administered under one singular caption for administrative purposes only.

Emergency Motion (A) For Authority To File A Consolidated List Of Creditors; (B) Approval Of The Limited Notice List; And (C) For Approval Of The Form And Manner Of Notifying Creditors Of The Commencement Of These Chapter 11 Cases And Other Information (the “Notice Procedures Motion”);

In the Notice Procedures Motion, the Debtors sought approval of a limited, consolidated mailing matrix consisting of: 1) The Office of the United States Trustee, Region V; 2) Office of the U.S. Attorney, Middle District of Louisiana; 3) IRS (Centralized Insolvency Operations and District Counsel); 4) Louisiana Dept. of Revenue; 5) Parties included on the Debtors’ consolidated list of the holders of the thirty (30) largest unsecured claims against the Debtors; 6) Debtors’ known holders of secured claims against the Debtors; 7) Debtors; 8) Any official committee; 9) Those persons who have formally appeared in the chapter 11 case and requested service pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure; and 10) Any known counsel for any of the forgoing.

Emergency Motion For Entry of Interim and Final Orders (a) Authorizing the Debtors to Main Existing Cash Management System; (b) Granting Administrative Expense Priority to Postpetition Intercompany Transfers; (c) Authorizing Payment of Bank Fees, and (d) Other Related Relief (the “Cash Management Motion”);

In the Cash Management Motion, the Debtors sought authorization to use their existing cash management system and pay prepetition bank fees as necessary.

Emergency Motion for Entry of an Order (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief (the “Employees Motion”);

In the Employees Motion, the Debtors sought authorization to (i) pay any prepetition Employee Wages and any reimbursable expenses accrued and unpaid as of the Petition Date and continue to pay Employee Wages reimbursable expenses as set forth herein; (ii) meet all Withholding Obligations and Payroll Processing Obligations, including those

accrued but unpaid prepetition obligations; and (iii) maintain Employee Benefits Programs in the ordinary course, including payment of certain prepetition obligations related thereto.

Emergency Motion For Entry of Interim and Final Orders (I) Authorizing the Debtors to Use Cash Collateral, (II) Granting Adequate Protection Pursuant to Prepetition Secured Parties, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief (the “Cash Collateral Motion”);

In the Cash Collateral Motion, the Debtors sought an order (i) authorizing the Debtors to continue to use cash collateral (as defined in section 363(a) of the Bankruptcy Code, “Cash Collateral”) and all other Prepetition Collateral in which any of the Prepetition Secured Parties have an interest under the Prepetition Agreements; (ii) granting adequate protection to the Prepetition Secured Parties with respect to such use of Cash Collateral and the other Prepetition Collateral; (iii) modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the Orders; (iv) waiving any applicable stays under the Bankruptcy Rules and provide for the immediate effectiveness of the Interim Order and the Final Order; (v) scheduling an interim hearing pursuant to Bankruptcy Rule 4001 to consider granting the relief requested in this Motion on an interim basis; and (vi) scheduling the Final Hearing to consider granting the relief requested in this Motion on a final basis.

Emergency Motion for Entry of Interim and Final Orders (1) Determining Adequate Assurance of Payment for Future Utility Services and (2) Restraining Utility Companies from Discontinuing, Altering, or Refusing Service (the “Utilities Motion”);

In the Utilities Motion, the Debtors sought an order: (a) prohibiting the Utility Companies from altering, refusing or discontinuing services to, or discriminating against the Debtors on account of pre-petition amounts due, pending entry of the Final Order; (b) determining that the Utility Companies have received adequate assurance of payment for future utility services, pending entry of the Final Order; (c) establishing certain procedures for determining requests for additional assurance; (d) granting related relief; and (e) scheduling a final hearing on the Utilities Motion.

Emergency Motion for Entry of Interim and Final Orders Authorizing Payment of Compensation Commensurate With Pre-Petition Payments to Specified Insiders (the “Insiders Motion”);

In the Insiders Motion, the Debtors sought authority to make post-petition payments to the Specified Insiders, commensurate with pre-petition payments, as follows: (i) their Compensation on a monthly basis and (ii) the Employee Benefits.

Emergency Motion for Entry of Interim and Final Orders Authorizing The Debtors’ Payment Of Pre-Petition Claims Of Certain Critical Vendors (the “Critical Vendor Motion”);

In the Critical Vendor Motion, the Debtors sought authority to pay the prepetition portions of any bills to certain vendors whose services were critical to the Debtors’ operations.

Emergency Application for Entry of Interim and Final Order Authorizing Retention and Employment of Kelly Hart as Counsel for the Debtors, Nunc Pro Tunc to the Petition Date (the “KH Employment Application”);

In the KH Employment Application, the Debtors sought approval to retain and employ Kelly Hart as counsel for the Debtors in these Chapter 11 Cases, nunc pro tunc to the Petition Date.

Emergency Application for Entry of Interim and Final Order Authorizing Retention and Employment of Rock Creek Advisors as Investment Bankers for the Debtors, Nunc Pro Tunc to the Petition Date (the “Rock Creek Employment Application”); and

In the Rock Creek Employment Application, the Debtors sought approval to employ Rock Creek as financial advisor and sales agent to the Debtors in these Chapter 11 Cases, nunc pro tunc to the Petition Date.

Emergency Motion for Entry of an Order (I) the Bid Protections Contained in Asset Purchase Agreement Between the Debtors As Seller and Kologik Acquisition, Inc.; (II) Approving the Assumption/Assignment Procedures; and (III) Granting Related Relief (the “Bidding Protections Motion”)

In the Bidding Protections Motion, the Debtors sought approval of certain Bidding Protections for the Purchaser contained in the APA and certain assumption and assignment procedures for the Customer Contracts and certain vendors contracts (the “Assumed Agreements”) pursuant to the APA.

The Bankruptcy Court set the First Day Motions for hearing on April 25, 2024 (the “First Day Motion Hearing”).

After the First Day Hearing, the Bankruptcy Court entered final orders granting the Joint Administration Motion, Notice Procedures Motion, the Employees Motion, the Rock Creek Employment Motion, and Bidding Protections Motion. The Bankruptcy Court also entered orders granting the Cash Management Motion, the Cash Collateral Motion, the Utilities Motion, the Insiders Motion, the Critical Vendor Motion, and the KH Employment Application on an interim basis and setting final hearings on each motion.

Given the lack of objection by the objections deadlines set by the Bankruptcy Court and the Bankruptcy Court having found good cause for granting each, the Cash Management Motion, the Utilities Motion, the Insiders Motion, the Critical Vendor Motion, and the KH Employment Application were subsequently granted on a final basis.

## **B. Bankruptcy Schedules and Statement of Financial Affairs**

On May 13, 2024, the Debtors each separately filed their Schedules and Statements of Financial Affairs.

## **C. The Sale Motion**

On the Petition Date, the Debtors also filed that certain Motion for Entry of an Order Authorizing and Approving (I) Sale Of Debtors’ Assets Free and Clear of All Claims, Liens, Encumbrances and Interests Pursuant to Asset Purchase Agreement, (II) Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (III) Granting Related Relief (the “Sale Motion”). The Sale Motion was set for hearing on June 3, 2024 (the “Sale

Hearing”), along with the Cash Collateral Motion. The Cash Collateral Motion also requested that pending the approval and closing of the APA, the proceeds therefrom be used to satisfy the Senior Secured Indebtedness (the Riva Note and MRB Notes).

No objection to the Sale Motion was filed. The Sale Hearing nonetheless went forward and the Debtors put on a full evidentiary presentation, including testimony from Mr. Kim E. Thayer and Mr. Paul San Soucie, as well as a proffer from Ms. Heidi Lipton.

The Bankruptcy Court ultimately granted the Sale Motion including: approving the APA, approving the sale of the Debtors’ Purchased Assets free and clear of all claims, liens, encumbrances, and interests; and approving the assumption and assignment of the Assignment Agreements, pursuant to the treatment set forth in the Bidding Protections Motion.

The Bankruptcy Court also granted the Cash Collateral Motion in a final basis, including approving the payoff the Senior Secured Indebtedness after closing of the APA.

On June 7, 2024, the Debtors closed the sale pursuant to the APA (“Sale”). After closing of the Sale, the Debtors made certain distributions as authorized by the Bankruptcy Court as follows:

KOLOGIK LLC  
SCHEDULE OF SALE PROCEEDS AND EXPENSES  
Prepared 6-12-24

Description	Amount	Cash In/(Out) By Kologik	Net Cash Received By Kologik	Cash Yet To Be Received/(Out)	Cash End Result to Kologik
<b>Receipts:</b>					
Sale Proceeds - Initial Downpayment	\$ 150,000.00	\$ 150,000.00			
Sale Proceeds - Wire of Escrowed Balance due of \$1M deposit	\$ 850,000.00	\$ 850,000.00			
Sale Proceeds on Closing Day	\$ 22,090,088.38	\$ 22,090,088.38			
Sale Proceeds - To Be Held In Escrow & True Up Net Working Capital**	\$ 554,000.00			\$ 554,000.00	
	\$ 23,644,088.38	\$ 23,090,088.38	\$ 23,090,088.38		
Net Working Capital Adjustment per APA	\$ 355,911.62				
Sale Price	\$ 24,000,000.00				
<b>Expenses:</b>					
Cash Leave Behind Agreed Upon	\$ 275,000.00	\$ (275,000.00)			
Riva Ridge Loan Payoff	\$ 9,149,176.32	\$ (9,149,176.32)			
LAFactor MRB Loans Payoff	\$ 1,351,107.31	\$ (1,351,107.31)			
Rock Creek Banker Fees	\$ 1,400,000.00	\$ (1,400,000.00)			
Rock Creek Banker Fees to Be Held in Escrow at KHP	\$ 21,575.00			\$ (21,575.00)	
Crowell & Moring Law Firm (Riva Ridge's Attorneys)	\$ 99,955.82	\$ (99,955.82)			
Stewart Robbins & Brown (LAFactor's Lawyers)	\$ 27,544.60	\$ (27,544.60)			
Rock Creek Expenses for Court Appearance	\$ 1,290.27			\$ (1,290.27)	
Alliant Americas - Tail Coverage for Media Tech E&O Policy	\$ 15,616.36	\$ (15,616.36)***			
	\$ 12,341,265.68	\$ (12,318,400.41)	\$ (12,318,400.41)		
			\$ 10,771,687.97	\$ 531,134.73	\$ 11,302,822.70

\*\* Within 90 Days of Sale, Net Working Capital to Be Trued Up

\*\*\* Portion of Budgeted Monthly Insurance Payment Made In Full with One Payment

As such, post-closing of the APA and after payment of the Senior Secured Indebtedness, the Debtors were left with \$11,302,822.70 (the “Sale Proceeds”).

In connection with the closing of the APA (which contemplated that the Purchaser would use the Kologik name), the Debtors filed certificates of name changes with the Louisiana Secretary of State and changed their names to ResolveKo, LLC (formerly Kologik, LLC), ResolveKo Capital, LLC (formerly Kologik Capital, LLC) and ResolveKo Capital II, LLC (formerly Kologik Capital II, LLC).

#### **D. Claims Bar Date**

Pursuant to the Debtors' Motion for Entry of an Order (I) Setting Bar Dates for Filing Proofs of Claim, Including Requests for Payment under Section 503(b)(9), and (II) Approving Form of Notice of Bar Date (the "Bar Date Motion"), the Bankruptcy Court set a general claims bar date of July 15, 2024.

Thirty-two (32) claims were filed in the Kologik LLC Bankruptcy Case. Three (3) claims were filed in the Kologik Capital, LLC Bankruptcy Case. These claims are referred to herein as the "Filed Claims."

After payment of the Senior Secured Indebtedness, claims of in excess of \$28 Million remain as Filed Claims. However the vast majority of the Filed Claims are Disputed Claims., with the Debtors' current projection being that the aggregate amount of Allowed Claims will be closer to approximately \$14.48

Submitted herewith as **Exhibit B -Claims Analysis** is the Debtors' Exhibit that shows a schedule of the Filed Claims, and a brief summary of the Debtors' current thinking on the validity of the Filed Claims. As shown by the Claims Analysis multiple Claims really do not assert claims against the Debtors (for example, see Claims 19 and 24 (totaling \$3.8 Million); or Claim 29 (for \$2.3 Million - no back-up or documentation to support the Claim, and the Debtors have no information within their books concerning such Claim); or Claim 31 for \$1.35 Million (Debtors believe there is a viable avoidance action to avoid any liability and have argued and alleged that the Claimant's termination was for cause); or Claim 23, for in excess of \$13.1 Million (Debtors have reviewed and their books reflect a Claim of \$7,803,607.59, a difference of approximately \$6.5 Million). These mentioned Filed Claims show a difference of \$13.95 Million. The Debtors intend to pursue objections to these claims (the "Claims Objections") unless Claims can be settled prior to hearing thereupon.

### **V. SUMMARY OF THE PLAN**

#### **A. Introduction**

THE SUMMARY OF THE PLAN SET FORTH BELOW IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE FULL TEXT OF THE PLAN. IN THE EVENT OF ANY INCONSISTENCY BETWEEN THE PROVISIONS OF THE PLAN AND THE SUMMARY CONTAINED HEREIN, THE TERMS OF THE PLAN WILL GOVERN. CREDITORS ARE ENCOURAGED TO THOROUGHLY REVIEW THE TERMS OF THE PLAN AND TO SEEK INDEPENDENT LEGAL OR FINANCIAL ADVICE REGARDING THE TERMS OR TREATMENT CONTAINED THEREIN.

#### **B. Overview of the Plan**

The Plan provides for the payment of unclassified Allowed Administrative Claims and Allowed Priority Claims, and ten (10) separate classifications of Claims and Equity Interests, four (4) of which are entitled to vote.

**C. Administrative Claims, Professional Fees, and Priority Tax Claims**

As provided in section 1123(a) of the Bankruptcy Code, Administrative Claims (including Professional Fee Claims) under section 507(a)(2) of the Bankruptcy Code and Priority Tax Claims under section 507(a)(8) of the Bankruptcy Code are not classified for purposes of voting on, or receiving Plan Distributions. Holders of Administrative Claims (including Professional Fee Claims) and Priority Tax Claims are not entitled to vote on the Plan but, rather, are treated separately in accordance with Article II of the Plan and under sections 1129(a)(9)(A) and (C) of the Bankruptcy Code.

**D. Timing and Treatment of Administrative Claims and Professional Fees**

Holders of Administrative Expense Claims other must file their Administrative Expense Claim (other than a Professional Fee Claim) on or prior to **5:00 p.m. (prevailing Central Time) on such date that is twenty-one (21) days after the Effective Date.**

**HOLDERS OF ADMINISTRATIVE CLAIMS THAT ARE REQUIRED TO FILE AND SERVE A REQUEST FOR PAYMENT OF SUCH ADMINISTRATIVE CLAIMS BY THE ADMINISTRATIVE BAR DATE THAT FAIL TO DO SO SHALL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING SUCH ADMINISTRATIVE CLAIMS AGAINST THE DEBTORS OR ITS RESPECTIVE PROPERTY OR THE LIQUIDATING DEBTORS.**

Total Professional Fee Claims through the Effective Date have not been finalized. The Debtors are including as **Exhibit C-Plan Budget** to this Disclosure Statement the Plan Budget which sets forth the estimates for projected the Professional Fee Claims through the Effective Date as well as any post-Effective Date Professional Fee Claims.

All Professional Fee Claim requests must be filed no later than sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

**E. Treatment and Payment of Allowed Priority Non-Tax Claims**

Any Allowed Priority Non-Tax Claim shall be paid by the Plan Agent in an amount in Cash Equal to the Allowed Priority Non-Tax Claim on the Distribution Date, unless the Holder of the Allowed Priority Non-Tax Claim and the Debtors or the Plan Agent, as applicable, agree to less favorable treatment.

**F. Treatment of Allowed Priority Tax Claim**

Any Allowed Priority Tax Claim shall be paid by the Debtors or Plan Agent, as applicable, shall be paid in an amount in Cash equal to the Allowed Priority Tax Claim on the Effective Date or if the Priority Tax Claim becomes an Allowed Priority Tax Claim after the Effective Date, on the Distribution Date, unless the Holder of the Allowed Priority Tax Claim and the Debtors or the Plan Agent, as applicable, agree to less favorable treatment.

**G. Treatment of Statutory Fees**

All Statutory Fees payable under 28 U.S.C. § 1930 will be paid in Cash in full by the Debtors pending the Effective Date and thereafter by the Plan Agent until the issuance of a Final Decree.

## **H. Classification and Treatment of Claims and Interests**

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes, including voting, Confirmation, and Plan Distribution pursuant hereto and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Equity Interest shall be deemed classified in a particular Class only to the extent that the Claim or Equity 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 Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that such Claim or Equity Interest is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date.

## **I. Claims Analysis and Treatment**

The Debtors have included their Claims Analysis in Exhibit B herewith. As shown in the Claims Analysis Exhibit, a majority of Claims filed will be objected to by the Debtors. While the Debtors are hopeful that many of the Claims Objections can be resolved on a consensual or mediated basis, they will prosecute the Claims Objections as expediently as allowed by the Court if no consensual resolution is reached.

In order to fund the administration of the Plan, there will be a carve out from Sale Proceeds in certain amounts in Cash necessary to fund the costs of administrating the Plan, including the Plan Agent compensation (the “Plan Expense Reserve”), in amount to be determined by the Plan Agent but as well be set forth in the Plan Supplement These amounts will be the amount necessary to fund Plan Expenses through the Dissolution, which will occur on or shortly after the Residual Distribution Date which will be the last date of Distributions under the Plan.

### **CLASS 1 – Priority Non-Tax Claims**

**Treatment:** On the later of the Effective Date and the date on which the Claim in Class 1 is Allowed, unless otherwise agreed by the Holder of an Allowed Claim in Class 1 and the Debtors or the Plan Agent, each holder of an Allowed Claim in Class 1 shall receive Cash on the Effective Date an amount equal to such Allowed Priority Non-Tax Claim.

### **CLASS 2 – Paid Secured Claim of Riva Ridge Master Fund, Ltd.**

**Treatment:** The Class 2 Claim, including principal, interest, fees and costs has been paid from Sale Proceeds in accordance with Orders of the Bankruptcy Court in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 2 Claim.

### **CLASS 3 – Paid Secured Claim of LaFactor (as holder of Mississippi River Bank Notes)**

**Treatment:** The Class 3 Claim, including principal, interest, fees and costs has been paid from Sale Proceeds in accordance with Orders of the Bankruptcy Court, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 3 Claim.

**CLASS 4 –Mississippi River Bank Contingent Claim for Indemnity**

**Treatment:** The Debtors consider the Class 4 Claim to be not Allowed as a matter of law, under Section 502(e) of the Bankruptcy Code. As well, the Class 4 Claim is duplicative of the Class 5 Claim, which is the Claim of LaFactor, LLC for indemnity under the same notes and loan agreements as claimed by the Holders of the Class 4 Claim. In the event the Bankruptcy Court determines by Final Order that the Class 4 Claim is non-duplicative and non-contingent, and Allows the Class 4 Secured Claim, and that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 4 Claim in cash and in full on the Distribution Date, or, if there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 4 Claim. The Class 4 Claim shall not be paid in priority over any Secured Claim that under applicable law is a Claim with priority Secured status.

**CLASS 5 –LaFactor, LLC Contingent Claim for Indemnity**

**Treatment:** The Debtors consider the Class 5 Claim to be not Allowed as a matter of law, under Section 502(e) of the Bankruptcy Code. As well, the Class 5 Claim is duplicative of the Class 4 Claim, which is the Claim of Mississippi River Bank for indemnity under the same notes and loan agreements as claimed by the Holder of the Class 5 Claim. In the Event the Bankruptcy Court determines by Final Order that the Class 5 Claim is non-duplicative and non-contingent, and Allows the Class 5 Secured Claim, and that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 5 Claim in cash and in full on the Distribution Date, or, if there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 5 Claim. The Class 5 Claim shall not be paid in priority over any Secured Claim that under applicable law is a Claim with priority Secured status.

**CLASS 6 –Secured Claim of TSB Ventures, LLC**

**Treatment:** The Class 6 Claim is a Disputed Claim. In the event the Bankruptcy Court by Final Order Allows the Class 6 Secured Claim, and rules that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 6 Claim in cash and in full on the Distribution Date, or, if

there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 6 Claim. The Class 6 Claim shall not be paid in priority over any Secured Claim that under applicable law is Claim with priority Secured status.

**CLASS 7 –Secured Claim of LaFactor, LLC**

**Treatment:** The Class 7 Claim is a Disputed Claim. In the event the Bankruptcy Court by Final Order Allows the Class 7 Secured Claim, and rules that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 7 Claim in cash and in full on the Distribution Date, or, if there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 7 Claim. The Class 7 Claim shall not be paid in priority over any Secured Claim that under applicable law is a Claim with priority Secured status.

**CLASS 8 –Secured Claim of Jackson Smith Thomas**

**Treatment:** The Class 8 Claim is a Disputed Claim. In the event the Bankruptcy Court by Final Order Allows the Class 8 Secured Claim, and rules that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 8 Claim in cash and in full on the Distribution Date, or, if there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 8 Claim. The Class 8 Claim shall not be paid in priority over any Secured Claim that under applicable law is a Claim with priority Secured status.

**CLASS 9 –General Unsecured Claims**

**Treatment:** Subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of Allowed Class 9 Claims in cash a Pro Rata share of the Available Cash on the Distribution Date, and a Pro Rata Share of the Remaining Amount on the Residual Distribution Date, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 9 Claim but no Class 9 Claim shall be paid in priority over any Allowed Claim in a senior Class.

**CLASS 10 –Membership/Equity Interests**

**Treatment:** The Holders of Class 10 Membership/Equity Interests shall receive no value under the Plan. The Membership/Equity Interests shall be extinguished on the Membership Extinguishment Date. Pending the Membership Extinguishment Date neither the Holders of Class 10 Interests nor the pre-Effective

Date Board of managers shall have any voting power or control, as the Plan Agent shall hold all voting power and control over the Liquidating Debtors and shall be the Entity representative of the Liquidating Debtors with full corporate authority to act.

## **VI. MEANS FOR IMPLEMENTATION OF THE PLAN**

### **A. Plan Funding**

The Distributions and Residual Distributions shall be funded with Available Cash and the proceeds from liquidation of any remaining Assets of the Liquidating Debtors.

### **B. The Plan Agent**

On the Effective Date, all property of the Debtors and of the Estates including all rights to object to Claims, all Avoidance Actions, Causes of Action, claims and causes of action identified in the Schedule of Retained Causes of Action to be filed with the Plan Supplement, alter-ego rights, derivative claims, breach of fiduciary duty claims, veil piercing rights, the right to pursue such claims and all other remaining property of the Estates as defined in section 541 of the Bankruptcy Code, including all Cash held and/or controlled by the Debtors on the Effective Date, equipment and other tangible and intangible property, shall be fully retained and vest in the Liquidating Debtors, free and clear of all liens, claims and encumbrances, except as otherwise provided in the Plan. The Plan Agent shall be the sole officer, director and shareholder of the Liquidating Debtors. On the Effective Date, the Liquidating Debtors shall be deemed to have satisfied all liabilities for purposes of dissolution under applicable state law. The Plan Agent is authorized, but not required, to execute and file all documents necessary to effectuate the dissolution of the Liquidating Debtor.

From and after the Effective Date of the Plan, subject to the limitations set forth below, the Liquidating Debtors, through the Plan Agent, are authorized to (i) take such actions as are necessary to complete an orderly wind-down of its operations, including completing any audits by the IRS or other taxing authorities; (ii) file claim objections; (iii) make distributions; (iv) prosecute Causes of Action owned by the Estate, including all claims and causes of action arising under the Bankruptcy Code; (v) pursue, liquidate and administer property of the Estate; (vi) file tax returns; and (vii) take such other action as provided for under the Plan..

The Plan Agent, on behalf of the Liquidating Debtors, shall have all of the rights, powers and privileges set forth in the Plan, the Confirmation Order or applicable bankruptcy or non-bankruptcy law. The Plan Agent is authorized and shall have the obligation to take all such actions as in her business judgment are necessary and appropriate to effectuate the purposes of the Plan, including but not limited to the following:

- Make all Distributions and Residual Distributions;
- Consistent with maintaining the value and liquidating the Assets of the Liquidating Debtors, invest in time or demand deposits, including certificates of deposit or like investments, including United States Treasury bonds and other securities guaranteed by the full faith and credit of the United States of America or any agency

thereof, issued and to be held by any bank approved as a depository institution by the United States Trustee's office;

- Supervise and administer the resolution, settlement and payment of Claims and Interests and the distributions to the holders of Allowed Claims in accordance with the Plan;
- Enter into any agreement required by or consistent with the Plan and perform all of the Liquidating Debtors' obligations thereunder;
- Abandon any of the Assets of the Liquidating Debtors if the Plan Agent concludes that such assets are of no benefit to the Creditors, upon notice and opportunity for hearing;
- Participate in or initiate any proceeding before the Bankruptcy Court or any other court of appropriate jurisdiction and participate as a party or otherwise in any administrative, arbitral or other non-judicial proceeding and litigate claims on behalf of the Liquidating Debtors, including without limitation all Avoidance Actions and all state and federal Causes of Action or any other litigation which constitute an Asset of the Liquidating Debtors, and pursue to settlement or judgment such actions;
- Participate as a party-in-interest in any proceeding before the Bankruptcy Court involving the Chapter 11 Cases;
- Act in the name of or in the place of the Liquidating Debtors in any action before the Bankruptcy Court or any other judicial or administrative body;
- Take actions and exercise remedies against any entity that owes money to the Liquidating Debtors, including without limitation, the remedies available under any deed of trust, security agreement, promissory note, bond, guarantee or other instrument or document; make compromises regarding any deed of trust, security agreement, promissory note, bond, guarantee or other instrument or document; and, declare or waive defaults regarding any deed of trust, security agreement, promissory note, bond, guarantee or other instrument or document;
- Select and employ such professionals, agents or employees as the Plan Agent deems necessary to assist in the administration of the affairs of the Liquidating Debtors and compensate such persons;
- Hold any unclaimed distribution or payment to the holder of an Allowed Claim in accordance with the Plan;
- Propose any amendment, modification or supplement to the Plan or the Liquidating Debtors' corporate governance documents;
- File dissolution documents with the appropriate governmental agencies to dissolve the Liquidating Debtors as of the Membership Extinguishment Date;

- Receive, conserve and manage the assets of the Liquidating Debtors and sell pursuant to section 363(f) of the Bankruptcy Code or otherwise dispose of such assets for a price and upon such terms and conditions as the Plan Agent deems most beneficial to the Holders of Claims and Interest Holders and execute such deeds, bills of sale, assignments and other instruments in connection therewith;
- Open and maintain bank accounts on behalf of or in the name of the Liquidating Debtors;
- Pay all taxes, make all tax withholdings and file tax returns and tax information returns and make tax elections by and on behalf of the Liquidating Debtors;
- Pay all lawful expenses, debts, charges and liabilities of the Liquidating Debtors;
- Enforce all provisions of the Plan;
- Protect, perfect and defend the title to any of the assets of the Liquidating Debtors and enforce any bonds, mortgages or other obligations or Liens owned by the Liquidating Debtors;
- Carry insurance coverage, including insurance to protect former officers and directors and the Plan Agent against claims brought against them;
- Establish the Plan Expense Reserve and maintain the Professional Fee Reserve;
- Oversee the preparation of any year end and short year tax returns; and
- Exercise such other powers and duties as are necessary or appropriate in the Plan Agent's discretion to accomplish the purposes of the Plan, and to take any and all actions and exercise any and all authority set forth within the Plan.

### **C. The Plan Agent Compensation and Replacement**

The Plan Agent may resign at any time by filing a written notice of resignation with the Bankruptcy Court. Any such resignation shall not become effective prior to sixty (60) days after the filing date of such notice unless the Plan Agent finds an acceptable replacement, and such replacement has been approved by Order of the Bankruptcy Court (after the reopening of the Bankruptcy Cases as necessary). In the event of the death of the Plan Agent, the counsel for the Liquidating Debtors are authorized to propose to the Bankruptcy Court a successor Plan Agent, and after notice and a hearing (upon reopening the Bankruptcy Cases), the Bankruptcy Court shall determine whether to approve the successor Plan Agent, or any other proposed Plan Agent submitted by the Liquidating Debtors' counsel. If no successor Plan Agent is approved (either upon submission by the Plan Agent proposing a replacement, or by counsel for the Liquidating Debtors in the event of death of the Plan Agent), Liquidating Debtors' counsel is authorized to seek conversion of the Bankruptcy Cases to cases under Chapter 7 of the Bankruptcy Code, or the Bankruptcy Court may convert the bankruptcy Cases to cases under Chapter 7 *sua sponte*.

The Plan Agent and all professionals employed by the Plan Agent shall be entitled to payment of their fees and reimbursement of all reasonable expenses on a monthly basis, without Bankruptcy Court approval, pursuant to the terms of their respective employment. The Plan Agent shall be paid a monthly salary of \$25,000, plus an amount equal to applicable self-employment and Medicare tax burden, and out of pocket expenses.

**D. Plan Expense Reserve**

The Plan Agent shall fund the Plan Expense Reserve on the Effective Date in an amount determined by the Plan Agent in accordance with the Plan Budget (included as Exhibit C) for the payment of the Plan Expenses. The Plan Agent is authorized to provide additional funding of the Plan Expense Reserve post-Effective Date in her reasonable discretion.

The Plan Agent may make any disbursement from the Plan Expense Reserve pursuant to the terms of the Plan without further order of the Bankruptcy Court or notice to any party. At such time as the Plan Agent determines, in her sole discretion, that the Plan Expense Reserve is no longer needed, upon the filing of her certification, the Cash set aside for the Plan Expense Reserve shall become Available Cash and disbursed according to the Plan.

**E. Dissolution of Board of Managers of the Debtors and Dissolution of the Debtors**

The Kologik Board shall be dissolved as of the Membership Extinguishment Date which is defined in the Plan to be “Residual Distribution Date” which means the date on which the Plan Agent shall make the Residual Distributions, which shall be no later than the later of sixty (60) days after the Distribution Date, or sixty (60) days after receipt by the Plan Agent of all funds associated with the ERC Claims, unless extended by order of the Bankruptcy Court.

But for the avoidance of doubt, given the status of the Kologik Board, after entry of the Confirmation Order, the Plan Agent shall be the sole party with authority to act on behalf the Liquidating Debtors.

The Plan Agent is expressly and specifically authorized to execute and file all documents necessary to effectuate the dissolution of the Liquidating Debtors under applicable non-bankruptcy law as of the Membership Extinguishment Date.

**F. Exemption from Certain Taxes and Fees**

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto 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, filing or recording fee, 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. Such exemption specifically applies to: (1) the creation of any mortgage, deed of trust, Lien, or other security interest; (2) the making or assignment of any lease or sublease; (3) any Restructuring Transaction; and/or (4) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan.

**G. Insurance Policies**

The Debtors are expressly assuming the insurance policies held by the Debtors as of the filing of the Plan as will be set forth in the Plan Supplement. The Plan Agent is authorized to purchase any additional insurance necessary to meet the indemnification obligations set forth in ARTICLE VIII of the Plan and the costs of such an insurance policy are Plan Expenses to be paid by the Plan Expense Reserve as are all other insurance payments due after the Confirmation Date.

**H. Vesting of Assets and Causes of Action**

On and after the Effective Date, all of the property and assets of the Debtors and of the Estate under section 541(a) of the Bankruptcy Code shall vest in the Liquidating Debtors, subject to the terms of the Plan. Unless any of the Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Bankruptcy Court Final Order, the Liquidating Debtors holds all those Causes of Action listed on the Retained Causes of Action filed with the plan Supplement. The Plan Agent shall determine whether to bring, settle, release, compromise, or enforce Causes of Action (or decline to do any of the foregoing), and shall not be required to seek further approval of the Bankruptcy Court for such action. The Debtors and the Plan agent expressly reserve all rights to prosecute any and all Causes of Action against any Entity that constitutes Property of the Estate, except as otherwise provided in the Plan. THE FAILURE TO LIST, DISCLOSE, DESCRIBE, IDENTIFY, OR REFER TO A RIGHT, CLAIM, CAUSE OF ACTION, DEFENSE, OR COUNTERCLAIM, OR POTENTIAL RIGHT, CLAIM, CAUSE OF ACTION, DEFENSE, OR COUNTERCLAIM, IN THE PLAN, THE SCHEDULES, OR ANY OTHER DOCUMENT FILED WITH THE BANKRUPTCY COURT SHALL IN NO MANNER WAIVE, ELIMINATE, MODIFY, RELEASE, OR ALTER ANY RIGHT OF THE LITIGATION TRUST TO COMMENCE, PROSECUTE, DEFEND AGAINST, SETTLE, AND REALIZE UPON ANY RIGHTS, CLAIMS, CAUSES OF ACTION, DEFENSES, OR COUNTERCLAIMS THAT THE DEBTORS HAS, OR MAY HAVE, AS OF THE EFFECTIVE DATE.

Except as otherwise specifically provided in the Plan, all property vested in the Liquidating Debtors shall as of the Effective Date be free and clear of all Liens, Claims and interests of any type or nature, except such as are provided for in the Plan.

**VII. Delivery of Distributions and Undeliverable or Unclaimed Distributions.**

**A. Delivery of Plan Distributions in General**

Except as otherwise provided with respect to Allowed Administrative Expense Claims, Professional Fee Claims, Statutory Fees, and Priority Tax Claims, all Distributions will be made in accordance with the Approved Allowed Claims and Distribution Schedule which means the Final Order of the Bankruptcy Court approving the final schedule of Allowed Claims, both Secured and Unsecured, including the payment addresses of the Holders of Allowed Claims, and the schedule of proposed Distributions to the Holders of Allowed Claims to be made on the Distribution Date.

The Distribution Date will be the fifth (5) Business Day after entry of the Final Decree, unless the Final Decree is stayed. The Debtors will seek entry of the Final Decree as soon as practicable after the entry of the Approved Allowed Claims and Distribution Schedule.

Additionally, any Remaining Amounts which are the final aggregate amount of Cash remaining with the Plan Agent after the payments made on the Distribution Date, and after payment of all Professional Fee Claims and post-Effective Date Professional Fee Claims, Plan Agent fees and expenses and any other expenses related to the collection of the ERC Claims, preparation and filing of tax returns (including the Final Tax Return), and the Dissolution, will be distributed by the Plan Agent on the Residual Distribution Date which again means the date on which the Plan Agent shall make the Residual Distributions, which shall be no later than the later of sixty (60) days after the Distribution Date, or sixty (60) days after receipt by the Plan Agent of all funds associated with the ERC Claims, unless extended by order of the Bankruptcy Court.

#### **B. Undeliverable Distributions and Unclaimed Property**

In the event that any Plan Distribution to any Holder is returned as undeliverable, no Distribution to such Holder shall be made unless and until the Liquidating Debtors or the Plan Agent, as applicable, has determined the then current address of such Holder, at which time such Distribution shall be made to such Holder without interest unless such Plan Distribution shall be of all or part of the Claims Return; provided, that such Plan Distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six months from the date the Plan Distribution is made, if not delivered. After such date, all unclaimed property or interests in property shall become Available Cash, as applicable, automatically and without need for a further order by the Bankruptcy Court and the Claim of any Holder to such property or interest in property, to the extent of such undeliverable Plan Distribution shall be released, settled, compromised, and forever barred.

#### **C. Manner of Payment Pursuant to the Plan**

Any payment in Cash to be made pursuant to the Plan shall be made at the election of the Plan Agent, by check, by wire transfer, or by electronic funds transfer.

### **VIII. Treatment of Executory Contracts and Unexpired Leases**

#### **A. Assumption and Rejection**

On the Effective Date, except as otherwise provided herein, all Executory Contracts or Unexpired Leases will be deemed rejected in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, other than: (1) those that are identified on the Schedule of Assumed Executory Contracts and Unexpired Leases contained in the Plan Supplement; (2) those that have been previously assumed or rejected by a Final Order; (3) those that are the subject of a motion to assume or reject Executory Contracts or Unexpired Leases that is pending on the Confirmation Date; (4) those that are subject to a motion to assume, or reject an Executory Contract or Unexpired Lease pursuant to which the requested effective date of such assumption or rejection is after the Effective Date; or (5) those that are otherwise assumed pursuant to the terms herein.

Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the assumptions or rejections of such Executory Contracts or Unexpired Leases as provided under the Plan or the Schedule of Assumed Executory Contracts and Unexpired Leases contained in the Plan Supplement, pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated, assumptions or rejections of Executory Contracts and Unexpired Leases pursuant to the Plan are effective as of the Effective Date. Any motions to assume Executory Contracts or Unexpired Leases pending on the Effective Date shall be subject to approval by a Final Order of the Bankruptcy Court on or after the Effective Date. 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 all rights related thereto, if any, including all 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 pursuant hereunder. 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.

**FOR THE AVOIDANCE OF DOUBT, NO INDEMNITY AGREEMENT OR INDEMNIFICATION OBLIGATION UNDER ANY CONTRACT, LOAN AGREEMENT, OPERATING AGREEMENT, ARTICLES OF ORGANIZATION, OR APPLICABLE LAW SHALL BE ASSUMED UNDER, BY OR THROUGH THE PLAN.**

**B. Rejection Claims**

Rejection Claims, if any, must be Filed or submitted in accordance with the order of the Bankruptcy Court approving such rejection or within thirty (30) days after the date of entry of such order. Any Rejection Claims not timely submitted within such time shall be automatically Disallowed, forever barred from assertion, and shall not be enforceable against, as applicable, the Debtors, the Estate or property of the foregoing, without the need for any objection by the Debtors or the Liquidating Debtors and without the need for any further notice to, or action, order, or approval of the Bankruptcy Court. Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims and shall be treated in accordance with Article III of the Plan, as applicable. Notwithstanding anything to the contrary herein, prior to the Effective Date, the Debtors may amend its decision with respect to the rejection of any Executory Contract or Unexpired Lease.

Rejection of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall not constitute a termination of pre-existing obligations owed to the Debtors under such contracts or leases. In particular, notwithstanding any nonbankruptcy law to the contrary, the Reorganized Debtors expressly reserves and does 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 contracting Debtors or the Reorganized Debtors, as applicable, from counterparties to rejected or repudiated Executory Contracts.

**C. Cure of Assumed Executory Contracts and Unexpired Leases**

Any Cure and/or Cure Claims, including any monetary defaults under an Executory Contract and Unexpired Lease, shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure in Cash on the Effective Date, such other date on which the assumption of such Executory Contract or Unexpired Lease by the Debtors or Plan Agent is approved by Final Order, or, subject to the limitations described below, on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute regarding (1) the Cure or (2) any other matter pertaining to assumption, any 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.

## **IX. CLAIMS OBJECTIONS**

### **A. Prosecution of Objections to Claims**

The Debtors assert that a consensual or mediated resolution can be reached on each of the Claims Objection would be in the best interest of all parties.. However, in the event that there is no consensual resolution of the Claim Objection, it shall proceed to adjudication by the Bankruptcy Court by trial on the merits as quickly as allowed by the Bankruptcy Court.

While it is an integral part of the Plan for certain claims objections to be filed prior to the Confirmation Hearing, the failure of the Debtors to object to a Claim before the Confirmation Hearing shall not prejudice the rights of the Debtors to object to a Claim before the Claims Objection Bar Date.

### **B. Disallowance of Claims**

Any Claims held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed Disallowed pursuant to section 502(d) of the Bankruptcy Code, and Holders of such Claims may not receive any distributions on account of such Claims until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court order with respect thereto has been entered and all sums due, if any, to the Debtors by that Entity have been turned over or paid to the Debtors (if prior to the Effective Date) or the Plan Agent, as applicable, on and after the Effective Date.

Except as provided herein or otherwise agreed, any and all Proofs of Claim submitted 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.

### **C. Plan Distributions after Allowance**

Again, all Distributions shall be made after the entry of Final Decree which the Debtors will seek to be entered as soon as practicable after the entry of the Approved Allowed Claims and Distribution Schedule.

### **D. Setoffs**

Except as otherwise expressly provided for in the Plan, the Debtors, Liquidating Debtors, or the Plan Agent, pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the Holder of a Claim, may offset against any Allowed Claim and the Plan Distributions to be made pursuant to the Plan on account of such Allowed Claim (before any Plan Distribution is made on account of such Allowed Claim), any claims, rights, and Causes of Action of any nature that the Debtors, Liquidating Debtors, or the Plan Agent may hold against the Holder of such Allowed Claim, to the extent such claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or before the Effective Date (whether pursuant to the Plan or otherwise); provided, that neither the failure to exercise such setoff rights nor the allowance of any Claim pursuant to the Plan shall constitute a waiver or release by the Debtors, Liquidating Debtors, or the Plan Agent, of any such claims, rights, and Causes of Action that the Debtors, Liquidating Debtors, or the Plan Agent, may possess against such Holder. In no event shall any Holder of Claims be entitled to exercise the right of setoff of any Claim against any claim, right, or Cause of Action of the Debtors, unless such Holder has timely submitted a Proof of Claim in accordance with the Plan or the applicable Bar Date preserving such right of setoff.

## **X. INJUNCTION, EXCULPATION, AND INDEMNIFICATION**

### **A. Discharge of Debtors**

The Plan is a Chapter 11 Plan of Liquidation. Therefore, pursuant to section 1141(d)(3), of the Bankruptcy Code the Debtors will not receive a discharge.

### **B. Plan Injunction.**

The entry of the Confirmation Order will operate as a general resolution with prejudice, as of the Dissolution, of all pending legal proceedings, if any, against the Debtors, the Liquidating Debtors, and their assets and properties and any proceedings not yet instituted against the Debtors or its assets and properties, except as otherwise provided in the Plan. Except as otherwise expressly provided in the Plan or the Confirmation Order, all Persons who have held, hold, or may hold Claims against the Debtors are permanently enjoined on and after Dissolution from: (a) commencing or continuing in any manner any action or other proceeding of any kind against the Debtors, or their property, the Liquidating Debtors or the Plan Agent, with respect to any such Claim or claim; (b) commencing or continuing in any manner any action or other proceeding of any kind against the Holders of Equity Interests arising out of, on the basis of, or in any way related to the Dissolution; (c) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order with respect to any such Claim against the Debtors or their property or the Liquidating Debtors or the Plan Agent; (d) creating, perfecting, or enforcing any encumbrance of any kind against the Debtors or their property, or the Liquidating Debtors or the Plan Agent, with respect to such Claim; (e) asserting any right of subrogation of any kind against any obligation due the Debtors, or the Liquidating Debtors or the Plan Agent, with respect to such Claim; and (f) asserting any right of setoff or recoupment against the Debtors, or the Liquidating Debtors or the Plan Agent except as specifically permitted by section 553 of the Bankruptcy Code and the terms of the Plan. Unless otherwise provided in the Plan or by order of the Bankruptcy Court, all injunctions or automatic stays provided for in these cases pursuant to section 105, if any, or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date will remain in full force and effect until the Effective Date.

**C. Limited Protection of the Exculpated Parties**

No Exculpated Party shall have or incur any liability to any Person or Entity under any theory of liability for any act or omission in connection with, relating to, or arising out of the Debtors' Chapter 11 Cases, the formulation, preparation, dissemination, negotiation, or filing of the Disclosure Statement, the Plan, the settlement of Claims or renegotiation of Executory Contracts or Unexpired Leases, the negotiation of the Plan, the Plan Supplement, or any contract, instrument, release, or other agreement, or document created or entered into in connection with the Disclosure Statement or the Plan (including any attachments or exhibits to any of the foregoing), the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of consummation of the Plan, the administration, consummation, and implementation of the Plan, the distribution of property under the Plan, or any transaction contemplated by the Plan or the Disclosure Statement, or in furtherance thereof, except for gross negligence or willful misconduct, but in all respects the Exculpated Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. In any action, suit or proceeding by any Person contesting any action by, or non-action of any Exculpated Party as constituting willful misconduct, gross negligence, or ultra vires activity or not being in good faith, the reasonable attorneys' fees and costs of the prevailing party will be paid by the losing party and as a condition to going forward with such action, suit, or proceeding at the outset thereof, all parties thereto will be required to provide appropriate proof and assurances of their capacity to make such payments of reasonable attorneys' fees and costs in the event they fail to prevail. The Exculpated Parties have, and upon completion of the Plan shall be deemed to have, participated in good faith and in compliance with applicable law with regard to the restructuring of Claims and Equity Interests in the Chapter 11 Cases.

**D. Indemnification.**

The Liquidating Debtors shall indemnify each Person identified as an Exculpated Party against any and all costs and expenses (including attorneys' fees) incurred by any of them in defending against post-Effective Date claims that are based on actions allegedly taken (or not taken) by them in their respective capacities relating to the Debtors, the Liquidating Debtors or the Plan; provided, however, that no Exculpated Party shall be entitled to indemnification under the Plan for the costs and expenses of defending a cause of action in which it is ultimately judicially determined that such Exculpated Party was grossly negligent or acted fraudulently or with willful misconduct in performing such Exculpated Person's duties hereunder or under any Final Order of the Bankruptcy Court or applicable law, or ultra vires activity. Any Exculpated Party entitled to indemnification under this section shall have a priority distribution right that is senior to the Holders of Allowed Claims against the Liquidating Debtors, and such rights shall be deemed Plan Expenses and provided for in the Plan Expense Reserve. The Plan Agent may use the Liquidating Debtors' Assets (as a Plan Expense) to purchase indemnification insurance to satisfy any potential indemnification claims that may arise under this section. Access to the Debtors' or Liquidating Debtors' insurance coverage, including D&O insurance, shall constitute indemnification hereunder to the extent of the limits of any policy, and any Exculpated Party having access to such insurance coverage shall exhaust such coverage before the Debtors or the Liquidating Debtors shall increase the Plan Expense Reserve.

## **XI. MODIFICATION OF THE PLAN; REVOCATION**

The Plan Proponents reserve the right to alter, amend, or modify the Plan or any exhibits hereto under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date, but only by unanimous agreement among them. After the Confirmation Date and prior to substantial consummation of the Plan, as defined in section 1101(2) of the Bankruptcy Code, the Plan Proponents, but only by unanimous agreement among them, may, under section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan, and related documents and agreements, the Disclosure Statement, or the Confirmation Order, and such matters as may be necessary to carry out the purposes and effects of the Plan so long as such proceedings do not materially adversely affect the treatment of Holders of Claims under the Plan; provided, however, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan occurring after the solicitation thereof and before the Confirmation Date are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or re-solicitation under Bankruptcy Rule 3019.

The Plan Proponents reserve the right to revoke or withdraw the Plan before the Confirmation Date or the Effective Date and to file subsequent plans under chapter 11 of the Bankruptcy Code, but only by unanimous agreement among them. If the Plan Proponents revoke or withdraw the Plan, then: (i) the Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption and assignment or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void; and (iii) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of the Debtors; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtors; provided, that such revocation or withdrawal shall not in any way limit, prejudice or affect the ability of the Debtors to consummate a sale transaction pursuant to section 363 of the Bankruptcy Code after revocation or withdrawal of the Plan, or the rights of the UCC or any Entity to object to any such sale transaction.

## **XII. CONDITIONS PRECEDENT TO THE OCCURRENCE OF THE EFFECTIVE DATE; WAIVER**

### **A. Conditions Precedent to Confirmation.**

The following shall constitute conditions precedent to Confirmation of the Plan:

1. The Bankruptcy Court shall have entered an Order approving the Disclosure Statement; and
2. The Confirmation Order shall be acceptable to the Debtors and otherwise be consistent with the terms and conditions described in the Plan.

### **B. Conditions Precedent to the Effective Date.**

The occurrence of the Effective Date is subject to satisfaction of the following conditions precedent (or conditions contemporaneous or subsequent with respect to actions which are to be taken contemporaneously with or immediately after the occurrence of the Effective Date), any of which may be waived in writing by the Plan Agent:

1. The Bankruptcy Court shall have entered the Confirmation Order and the Confirmation Order shall not have been stayed.

**C. Waiver of Conditions**

The conditions to Confirmation and Consummation set forth in Article XI of the Plan may be waived by the Plan Agent filing notice with the Bankruptcy Court and providing ten (10) days opportunity to object. Absence an objection the conditions are deemed waived. If an objection is filed, the Bankruptcy Court shall hear and determine if waiver is appropriate within seven (7) days.

**D. Filing Notice of the Effective Date**

Within three (3) days of the occurrence of the Effective Date, the Liquidating Debtors and/or Plan Agent shall file a joint notice of occurrence of the Effective Date in the record of the Chapter 11 Cases reflecting (i) that the foregoing conditions to the occurrence of the Effective Date have been satisfied or waived, (ii) specifying the date of the Effective Date, and (iii) acknowledging that the Effective Date has occurred on and as of said date.

**XIII. CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN AND SECURITIES LAW CONSIDERATIONS**

**A. Generally**

THE FOLLOWING DISCUSSION IS A SUMMARY OF CERTAIN OF THE SIGNIFICANT FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN TO THE DEBTORS, AND TO HOLDERS OF CLAIMS AND EQUITY INTERESTS AND IS BASED ON THE INTERNAL REVENUE CODE, TREASURY REGULATIONS PROMULGATED AND PROPOSED THEREUNDER, JUDICIAL DECISIONS AND PUBLISHED ADMINISTRATIVE RULES AND PRONOUNCEMENTS OF THE IRS AS IN EFFECT ON THE DATE HEREOF. CHANGES IN SUCH RULES OR NEW INTERPRETATIONS THEREOF COULD SIGNIFICANTLY AFFECT THE TAX CONSEQUENCES DESCRIBED BELOW. NO RULINGS HAVE BEEN REQUESTED FROM THE IRS. MOREOVER, NO LEGAL OPINIONS HAVE BEEN REQUESTED FROM COUNSEL WITH RESPECT TO ANY OF THE TAX ASPECTS OF THE PLAN.

THE FEDERAL, STATE, LOCAL AND OTHER TAX CONSEQUENCES OF THE PLAN TO THE HOLDERS OF CLAIMS AND EQUITY INTERESTS MAY VARY BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER. IN ADDITION, THIS DISCUSSION DOES NOT COVER ALL ASPECTS OF FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO THE DEBTORS OR THE HOLDERS OF ALLOWED CLAIMS OR EQUITY INTERESTS (SUCH AS HOLDERS WHO DO NOT ACQUIRE THEIR CLAIM ON ORIGINAL ISSUE), NOR DOES THE DISCUSSION DEAL WITH TAX ISSUES PECULIAR TO CERTAIN TYPES OF TAXPAYERS (SUCH AS DEALERS IN SECURITIES, S CORPORATIONS, LIFE INSURANCE COMPANIES, FINANCIAL INSTITUTIONS, TAX-

EXEMPT ORGANIZATIONS AND FOREIGN TAXPAYERS). NO ASPECT OF FOREIGN, STATE, LOCAL OR ESTATE AND GIFT TAXATION IS ADDRESSED.

THE FOLLOWING SUMMARY IS, THEREFORE, NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER OF A CLAIM OR EQUITY INTEREST. HOLDERS OF CLAIMS OR EQUITY INTERESTS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS FOR THE FEDERAL, STATE, LOCAL AND OTHER TAX CONSEQUENCES PECULIAR TO THEM UNDER THE PLAN. THE DEBTORS ASSUMES NO RESPONSIBILITY FOR THE TAX EFFECT THAT CONFIRMATION AND RECEIPT OF ANY DISTRIBUTION UNDER THE PLAN MAY HAVE ON ANY GIVEN CREDITOR OR OTHER PARTY IN INTEREST.

### **Tax Consequences to Holders of Claims**

#### **B. Realization and Recognition of Gain or Loss in General**

The federal income tax consequences of the implementation of the Plan to a Holder of a Claim will depend, among other things, upon the origin of the Holder's Claim, when the Holder's Claim becomes an Allowed Claim, when the Holder receives payment in respect of such Claim, whether the Holder reports income using the accrual or cash method of accounting, whether the Holder has taken a bad debt deduction or worthless security deduction with respect to such Claim, and whether the Holder's Claim constitutes a "security" for federal income tax purposes.

Generally, a Holder of an Allowed Claim will realize gain or loss on the exchange under the Plan of its Allowed Claim for stock and other property (such as Cash and new debt instruments), in an amount equal to the difference between (i) the sum of the amount of any Cash and the issue price of any debt instrument, (other than any consideration attributable to a Claim for accrued but unpaid interest), and (ii) the adjusted basis of the Allowed Claim exchanged therefor (other than basis attributable to accrued but unpaid interest previously included in the Holder's taxable income). The treatment of accrued but unpaid interest and amounts allocable thereto varies depending on the nature of the Holder's Claim and is discussed below.

Whether or not such realized gain or loss will be recognized (i.e., taken into account) for federal income tax purposes will depend in part upon whether such exchange qualifies as a recapitalization or other "reorganization" as defined in the Tax Code, which may in turn depend upon whether the Claim exchanged is classified as a "security" for federal income tax purposes. The term "security" is not defined in the Tax Code or in the Treasury Regulations. One of the most significant factors considered in determining whether a particular debt instrument is a security is the original term thereof. In general, the longer the term of an instrument, the greater the likelihood that it will be considered a security. As a general rule, a debt instrument having an original term of 10 years or more will be classified as a security, and a debt instrument having an original term of fewer than five years will not. Debt instruments having a term of at least five years but less than 10 years are likely to be treated as securities, but may not be, depending upon their resemblance to ordinary promissory notes, whether they are publicly traded, whether the instruments are secured, the financial condition of the Debtors at the time the debt instruments are issued, and other factors. Each Holder of an Allowed Claim should consult his or her own tax

advisor to determine whether his or her Allowed Claim constitutes a security for federal income tax purposes.

### **C. Accrued Interest**

Each Holder of an Allowed Claim is urged to consult its tax advisor regarding the allocation of consideration and deductibility of unpaid interest for tax purposes. The Plan does not provide that interest on any Claim will accrue from the Petition Date until the Effective Date.

### **D. Withholding**

All distributions to Holders of Claims under the Plan are subject to any applicable withholding. Under federal income tax law, interest, dividends, and other reportable payments may, under certain circumstances, be subject to “backup withholding” at a Twenty-Eight Percent (28%) rate. Backup withholding generally applies if the Holder (a) fails to furnish its social security number or other taxpayer identification number (“TIN”), (b) furnishes an incorrect TIN, (c) fails properly to report interest or dividends, or (d) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is its correct number and that it is not subject to backup withholding. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax. Certain persons are exempt from backup withholding, including, in certain circumstances, corporations and financial institutions.

### **E. Tax Consequences to Holders of Equity Interests**

The treatment afforded the Equity Interest Holders in Class 10 of the Plan does not account for any tax consequences to these Holders that may result from the cancellation of the Equity Interests. Equity Interest Holders in Class 10 may incur tax consequences resulting from their treatment under the Plan, the effects of the Asset Sale, and the possibility of cancellation of debt income (“CODI”). Holders of Class 10 Equity Interests are strongly urged to consult their tax advisors to determine any tax consequences that may result from the Plan.

The Debtors have not closed the books of Kologik, LLC (the other Debtors are disregarded for tax purposes), but the Debtors’ initial analysis of the effects of the Asset Sale (without the effects of any operational expenses, losses, interest and fees payments) is as follows:

The Debtors anticipate the resulting gains to be approximately:

- Accounts Receivable and related accounts: \$650,000 Ordinary Gain
- Fixed Assets: \$100,000 Ordinary Gain
- Goodwill: \$18,600,000 Capital Gain

These items of gain might be affected by the amount of interest paid, but also by the possible effects of CODI. It may be that the basis of the Holders of the Equity Interests are such that gain and CODI can be absorbed, and as well it may be that such Holders have suspended losses that they have been unable to utilize to offset income on their own tax returns. The Holders of Class 10 Equity Interests are urged strongly to consult their tax advisors.

#### **XIV. VOTING; CONFIRMATION; ALTERNATIVE TO PLAN**

##### **A. Confirmation Standards**

Pursuant to section 1128 of the Bankruptcy Code and Bankruptcy Rule 3017(c), the Bankruptcy Court has scheduled a Confirmation Hearing for December 12, 2024, at 9:00 a.m. Central Time. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for the announcement of the adjournment date made at the Confirmation Hearing or at any subsequently adjourned Confirmation Hearing. Objections to Confirmation of the Plan must be made in writing and must specify in detail the name and address of the objector, all grounds for the objection, and the amount and Class of the Claim. Any such objection must be filed with the Bankruptcy Court on or before December 3, 2024, at 5:00 p.m. Central Time. Objections to Confirmation of the Plan are governed by Bankruptcy Rule 9014.

To confirm the Plan, the Bankruptcy Code requires that the Bankruptcy Court make a series of findings concerning the Plan and the Debtors, including that:

- the Plan has classified Claims and Interests in a permissible manner;
- the Plan complies with the applicable provisions of the Bankruptcy Code;
- the Debtors have complied with the applicable provisions of the Bankruptcy Code;
- the Debtors, as proponent of the Plan, have proposed the Plan in good faith and not by any means forbidden by law;
- the disclosure required by section 1125 of the Bankruptcy Code has been made;
- the Plan has been accepted by the requisite votes of Creditors and Equity Interest Holders;
- the Plan is feasible and Confirmation will not likely be followed by the liquidation or the need for further financial reorganization of the Debtors or the Liquidating Debtors;
- the Plan is in the “best interests” of all Holders of Claims or Interests in an impaired Class by providing to Creditors or Interest Holders on account of such Claims or Interests property of a value, as of the Effective Date, that is not less than the amount that such Holder would receive or retain in a chapter 7 liquidation, unless each Holder of a Claim or Interest in such Class has accepted the Plan;
- all fees and expenses payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, have been paid or the Plan provides for the payment of such fees on the Effective Date; and
- the disclosures required under section 1129(a)(5) of the Bankruptcy Code concerning the identity and affiliations of persons who will serve as officers, directors and voting trustees of the Liquidating Debtors have been made.

##### **B. “Best Interests” Test**

The Bankruptcy Code requires that the Bankruptcy Court find that the Plan is in the best interest of all holders of Claims and Interests that are Impaired by the Plan and that have not accepted the Plan as a requirement to confirm the Plan. The “best interests” test, as set forth in section 1129(a)(11) of the Bankruptcy Code, requires the Bankruptcy Court to find either that all members of an Impaired Class of Claims or Interests have accepted the Plan or that the Plan will provide a member who has not accepted the Plan with a recovery of 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 under chapter 7 of the Bankruptcy Code on such date.

In chapter 7 liquidation, no junior class of Claims or Interests may be paid unless all classes of Claims or Interests senior to such junior class are paid in full. Section 510(a) of the Bankruptcy Code provides that subordination agreements are enforceable in a bankruptcy case to the same extent that such subordination is enforceable under applicable nonbankruptcy law. Therefore, no class of Claims or Interests that is contractually subordinated to another class would receive any payment on account of its Claims or Equity Interests, unless and until such senior classes were paid in full. Once the Bankruptcy Court ascertains the recoveries in liquidation of the Debtors’ secured and priority creditors, it would then determine the probable distribution to unsecured creditors from the remaining available proceeds of the liquidation. If this probable distribution has a value greater than the value of distributions to be received by the unsecured creditors under the Plan, then the Plan is not in the best interests of creditors and cannot be confirmed by the Bankruptcy Court.

The Debtors believe that the Plan affords Holders of Claims the potential for the greatest realization on the Debtors’ Assets and, therefore, is in the best interests of such Holders. As set forth in Exhibit C - Plan Budget, the costs of the administering the Plan will be less than the costs of a chapter 7 liquidation. This is because any chapter 7 trustee would necessarily have to also pursue the Claims Objections, but would be doing so without the institutional knowledge and deep familiarity with the Debtors’ books and records and affairs held by the Plan Agent. So either the chapter 7 trustee (or counsel) would have to hire Ms. Thayer or undertake an extensive, time consuming, and costly analysis and investigation to obtain anywhere near the level of familiarity that Ms. Thayer has with the Debtors and their affairs amassed over almost a year of daily work. Any chapter 7 trustee would also have to hire counsel. Further, a chapter 7 trustee would not be able to move the case as quickly through the claims allowance process as the Plan Agent and therefore there would be expenses relating to reporting and UST fees. On top of all these additional costs, the chapter 7 trustee would also be entitled to an approximate three percent (3%) statutory commission on any Distributions. As such, the Debtors assert that the Plan meets the best interest of creditors test.

### **C. Feasibility**

The Bankruptcy Code requires that Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of a Debtors. This is a liquidating plan and if the Plan is administered, it will culminate in the dissolution of the Debtors and no further proceeding will occur. While the Debtors have concluded that the Plan is the best alternative and will maximize recoveries by Holders of Claims, if the Plan is not confirmed, any other party in interest in the Chapter 11 Cases could attempt to formulate and propose a different plan, which the Debtors sees as a costly and non-fruitful prospect. Further, if no plan under chapter 11 of the Bankruptcy Code can be confirmed, the Chapter 11 Cases may be converted to a chapter

7 case, which as set forth above will have far greater costs of administration. The Debtors believes that Confirmation and consummation of the Plan and the occurrence of the Effective Date is preferable to the available alternatives.

#### **D. Cram Down**

If all of the applicable requirements for Confirmation of the Plan are met as set forth in section 1129(a) of the Bankruptcy Code except for subsection (8) thereof, the Debtors may request the Bankruptcy Court to confirm the Plan pursuant to section 1129(b) of the Bankruptcy Code, notwithstanding the requirements of section 1129(a)(8) of the Bankruptcy Code, on the basis that the Plan is fair and equitable and does not discriminate unfairly with respect to any Impaired Class that does not vote to accept the Plan.

To obtain confirmation, it must be demonstrated to a bankruptcy court that a plan “does not discriminate unfairly” and is “fair and equitable” with respect to each dissenting impaired class. A plan does not discriminate unfairly if the legal rights of a dissenting impaired class are treated in a manner consistent with the treatment of other classes whose legal rights are substantially similar to those of the dissenting impaired class and if no class receives more than it is entitled to for its claims. The Debtors believe the Plan satisfies this requirement.

The Bankruptcy Code establishes different “fair and equitable” tests for secured claims, unsecured claims, and holders of equity interests.

**Secured Claims.** with respect to treatment of a secured claim under a plan, “fair and equitable” means either (i) the impaired secured creditor retains its liens to the extent of its allowed claim and receives deferred cash payments at least equal to the allowed amount of its claims with a present value as of the effective date of a plan at least equal to the value of such creditor’s interest in the property securing its liens, (ii) property subject to the lien of the impaired secured creditor is sold free and clear of that lien, with that lien attaching to the proceeds of sale, and such lien proceeds are treated in accordance with clauses (i) and (iii) hereof, or (iii) the impaired secured creditor realizes the “indubitable equivalent” of its claim under a plan.

**Unsecured Claims.** with respect to treatment of an unsecured claim under a plan, “fair and equitable” means either, (i) each impaired unsecured creditor receives or retains property of a value equal to the amount of its allowed claim, or (ii) the holders of claims and interests that are junior to the claims of the dissenting class will not receive any property under a plan.

**Equity Interests.** With respect to the treatment of equity interests under a plan, “fair and equitable” means either (i) each equity interest holder will receive or retain under a plan property of a value equal to the greatest of the allowed amount of any fixed liquidation preference or redemption price, if any, of such equity interest or the value of the equity interest, or (ii) the holders of equity interests that are junior to the dissenting class of equity interests will not receive or retain any property under a plan on account of such junior equity interest.

The Debtors believes that the Plan can be confirmed on a non-consensual basis if the Holders of any Class of Claims entitled to vote on the Plan vote to reject the Plan (provided at least one Impaired Class of Claims entitled to vote votes to accept the Plan). If appropriate, the Debtors

will demonstrate at the Confirmation Hearing that the Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code as to any non-accepting Class.

**E. Vote Required for Acceptance by a Class**

The Bankruptcy Code defines acceptance of a plan by a class of Claims as acceptance by holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the allowed Claims of that class held by creditors, other than any entity designated under section 1129(e) of the Bankruptcy Code, who cast ballots for acceptance or rejection of the Plan.

Acceptance by Impaired Classes. Each Impaired Class of Claims that will (or may) receive or retain property or any interest in property under the Plan shall be entitled to vote to accept or reject the Plan. An Impaired Class of Claims shall have accepted the Plan if (i) the holders (other than any holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (ii) the holders (other than any holder designated under section 1126(e) of the Bankruptcy Code) of more than one-half (1/2) in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

**F. Voting Presumptions.**

Claims in Unimpaired Classes are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code and, therefore, are not entitled to vote to accept or reject the Plan.. Claims and Equity Interests in Classes that do not entitle the holders thereof to receive or retain any property under the Plan are conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and, therefore, are not entitled to vote to accept or reject the Plan. This is applicable to the Holders of Equity Interests in Class 10 are conclusively presumed to reject the Plan.

**G. Voting Rights.**

Pursuant to the provisions of the Bankruptcy Code, only Holders of Claims and Equity Interests in Classes that are (a) treated as “impaired” by a plan of reorganization and (b) entitled to receive a distribution under such plan are entitled to vote on the Plan. Under the Plan, only Holders of Claims in Classes 6 through 9 are entitled to vote on the Plan.

Notwithstanding the foregoing, only holders of Allowed Claims in the voting Classes are entitled to vote on the Plan. A Claim which is unliquidated, contingent, or disputed is not an Allowed Claim and is, therefore, not entitled to vote, unless and until the amount is estimated or determined, or the dispute is determined, resolved, or adjudicated in the Bankruptcy Court or another court of competent jurisdiction, or pursuant to agreement as may be permitted. However, the Bankruptcy Court may deem a contingent, unliquidated, or disputed Claim to be allowed on a provisional basis, for purposes only of voting on the Plan. If your Claim is contingent, unliquidated, or disputed, you will receive instructions for seeking temporary allowance of your Claim for voting purposes and it will be your responsibility to obtain an order provisionally allowing your Claim.

**H. Alternatives to Confirmation Is Chapter 7 Liquidation**

If the Debtors fails to obtain enough acceptances from Classes 6 through 9 to confirm the Plan, or the Plan is not subsequently confirmed and consummated, the alternative is liquidation of the Debtors under chapter 7 of the Bankruptcy Code.

As set forth herein proceeding under chapter 7 would impose significant additional monetary and time costs on the Debtors' Estates.

**THE PLAN PROPONENTS BELIEVE THAT THE PLAN AFFORDS SUBSTANTIALLY GREATER RECOVERY TO HOLDERS OF CLAIMS AND NO WORSE TREATMENT OF EQUITY INTERESTS THAN SUCH HOLDERS WOULD RECEIVE IF THE DEBTORS WERE LIQUIDATED UNDER CHAPTER 7 OF THE BANKRUPTCY CODE.**

## **XV. CERTAIN FACTORS TO BE CONSIDERED**

Prior to voting to accept or reject the plan, all holders of Claims should read and carefully consider the risk factors set forth below, as well as all other information set forth or otherwise referenced in this disclosure statement. These risk factors should not, however, be regarded as constituting the only risks involved in connection with the Plan and its implementation. Additional risks and uncertainties not presently known to the Debtors or that it currently deems immaterial may also harm its Estate.

### **A. Objections to Plan and Confirmation**

Section 1129 of the Bankruptcy Code provides certain requirements for a chapter 11 plan to be confirmed. Parties-in-interest may object to confirmation of the Plan based on an alleged failure to fulfill these requirements or other reasons.

### **B. Objections to Classification of Claims and Equity Interests**

Section 1122 of the Bankruptcy Code provides that a plan of reorganization may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests in such class. The Debtors believes that the classification of Claims and Equity Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because each class of Claims and Equity Interests encompass Claims or Interests that are substantially similar to the other Claims or Equity Interests in each such class.

### **C. Failure to Obtain Confirmation of the Plan**

The Debtors cannot ensure it will receive enough acceptances to confirm the Plan. But, even if the Debtors does receive enough acceptances, there can be no assurance that the Bankruptcy Court will confirm the Plan. Even if enough acceptances are received and, with respect to those Classes deemed to have rejected the Plan, the requirements for "cramdown" are met, the Bankruptcy Court, which as a court of equity may exercise substantial discretion, may choose not to confirm the Plan or may require additional solicitations or consents prior to confirming the Plan. Section 1129 of the Bankruptcy Code requires, among other things, that the value of distributions to dissenting holders of Claims and Interests may not be less than the value such holders would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. Although the Debtors believes that the Plan will meet such tests, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

The Debtors' ability to propose and confirm an alternative plan is uncertain. Confirmation of any alternative plan under chapter 11 of the Bankruptcy Code would likely take significantly more time and result in delays in the ultimate distributions to the holders of Claims. If confirmation of an alternative plan is not possible, the Debtors would likely be liquidated under chapter 7. Based upon the Debtors' analysis, liquidation under chapter 7 would result in distributions of reduced value, if any, to holders of Claims.

**D. Failure to Consummate or Effectuate a Plan**

Consummation of the Plan is conditioned upon, among other things, entry of the Confirmation Order and entry of the Approved Allowed Claims and Distribution Schedule. As of the date of this Disclosure Statement, there can be no assurance that any or all of the foregoing conditions will be met or that the other conditions to consummation, if any, will be satisfied. Accordingly, even if the Plan is confirmed by the Bankruptcy Court, there can be no assurance that the Plan will be consummated and effectuated and the liquidation completed.

**E. Risk of Non-Occurrence of the Effective Date of the Plan**

Although the Debtors believe that the Effective Date may occur within a reasonable time following the Confirmation Date, there can be no assurance as to such timing.

**F. Claims Estimation**

There can be no assurance that the estimated amount of Claims is correct, and the actual Allowed amounts of Claims may differ from estimates. The estimated amounts are subject to certain risks, uncertainties and assumptions. Should one or more of these risks or uncertainties materialize or should underlying assumptions prove incorrect, the actual Allowed amounts of Claims may vary from those estimated therein.

**G. Certain Tax Considerations, Risks and Uncertainties**

THERE ARE A NUMBER OF MATERIAL INCOME TAX CONSIDERATIONS, RISKS AND UNCERTAINTIES ASSOCIATED WITH CONSUMMATION OF THE PLAN. INTERESTED PARTIES SHOULD READ CAREFULLY THE DISCUSSION SET FORTH IN THIS DISCLOSURE STATEMENT FOR A DISCUSSION OF CERTAIN FEDERAL INCOME TAX CONSEQUENCES BOTH TO THE DEBTORS AND TO HOLDERS OF CLAIMS THAT ARE IMPAIRED UNDER THE PLAN.

**XVI. VOTING PROCEDURES AND REQUIREMENTS**

**A. Introduction**

Detailed instructions for voting on the Plan are provided with the Ballots which will be provided with this Disclosure Statement. For purposes of the Plan, only holders of record of Claims in the following Classes, as of the Voting Record Date, are entitled to vote: Classes 6, 7, 8, and 9.

If your Claim is not in Classes 6, 7, 8, and 9 you are not entitled to vote on the Plan. All Equity Interests are not entitled to vote.

If your Claim is in Classes 6, 7, 8, and 9 you should read your ballot and follow the listed instructions carefully. Please only use the Ballot provided to you by the Debtors.

**B. Voting**

In order for your vote to be counted, your signed ballot must be actually received at the following address before the Voting Deadline of December 3, 2024, at 5:00 p.m. (prevailing Central time):

By Hand Delivery, Certified, Registered, or Regular Mail, or Overnight Carrier:

Kelly Hart Pitre  
Attention Louis M. Phillips (Balloting Agent)  
301 Main Street, Ste. 1600  
Baton Rouge, LA 70801

**UNLESS THE BALLOT IS ACTUALLY RECEIVED BY THE BALLOTING AGENT ON OR PRIOR TO THE VOTING DEADLINE, SUCH BALLOT WILL BE REJECTED AS INVALID AND WILL NOT BE COUNTED AS AN ACCEPTANCE OR REJECTION OF THE PLAN.**

**C. Reservation of Rights**

**THE DEBTORS RESERVES THE RIGHT, WITH THE APPROVAL OF THE OTHER PLAN PROPONENTS, AND WITHOUT NOTICE EXCEPT AS MAY BE REQUIRED UNDER APPLICABLE LAW, TO EXTEND THE SOLICITATION PERIOD OR TERMINATE THE SOLICITATION OF VOTES ON THE PLAN.**

**D. Waivers of Defects, Irregularities, etc.**

Unless otherwise directed by the Bankruptcy Court, all questions as to the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawals of ballots will be determined by the Debtors in its sole discretion, which determination will be final and binding. The Debtors reserves the right to reject any and all ballots submitted by any creditors not in proper form, the acceptance of which would, in the opinion of the Debtors or its counsel, be unlawful. The Debtors further reserves its rights to waive any defects or irregularities or conditions of delivery as to any particular ballot by its creditors. The interpretation (including the ballot and the respective instructions thereto) by the Debtors, unless otherwise directed by the Bankruptcy Court, will be final and binding on all parties. Unless waived, any defects or irregularities in connection with deliveries of ballots must be cured within such time as the Debtors (or the Bankruptcy Court) determine. Neither the Debtors nor any other person will be under any duty to provide notification of defects or irregularities with respect to deliveries of ballots nor will any of them incur any liabilities for failure to provide such notification. Unless otherwise directed by the Bankruptcy Court, delivery of such ballots will not be deemed to have been made until such irregularities have been cured or waived. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will be invalidated.

**XVII. CONCLUSION**

The Debtors recommends that holders of Claims in 6, 7, 8, and 9 vote to accept the Plan and to evidence such acceptance by returning their signed ballots so that they will be received before the Voting Deadline of December 3, 2024, at 5:00 p.m. (prevailing Central time):

Dated: October 10, 2024

Respectfully submitted, as of the date first set forth above,

/s/ **Kim E. Thayer**

Kim E. Thayer  
CRO/COO, and  
Authorized Signatory, ResolveKo, LLC

Prepared and submitted by,

/s/ **Amelia L. Hurt**

Louis M. Phillips (#10505)  
One American Place  
301 Main Street, Suite 1600  
Baton Rouge, LA 70801-1916  
Telephone: (225) 381-9643  
Facsimile: (225) 336-9763  
Email: louis.phillips@kellyhart.com

and

Erin K. Arnold (LA #29069)  
Amelia L. Hurt (LA #36817)  
400 Poydras Street, Suite 1812  
New Orleans, LA 70130  
Telephone: (504) 522-1812  
Facsimile: (504) 522-1813  
Email: erin.arnold@kellyhart.com  
Email: amelia.hurt@kellyhart.com

**COUNSEL TO THE DEBTORS**

**UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF LOUISIANA**

**IN RE**

**KOLOGIK, LLC, ET AL.,<sup>1</sup>  
DEBTORS.  
(JOINT ADMINISTRATION)**

**CASE NO. 24-10311  
CHAPTER 11**

**FIRST IMMATERIALLY AMENDED DISCLOSURE STATEMENT FOR  
LIQUIDATING PLAN OF THE DEBTORS RESOLVEKO, LLC, RESOLVEKO  
CAPITAL LLC, AND RESOLVEKO CAPITAL II, LLC, FORMERLY KNOWN AS  
KOLOGIK, LLC, KOLOGIK CAPITAL, LLC AND KOLOGIK CAPITAL II, LLC**

---

**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.**

Louis M. Phillips (#10505)  
One American Place  
301 Main Street, Suite 1600  
Baton Rouge, LA 70801-1916  
Telephone: (225) 381-9643  
Facsimile: (225) 336-9763  
Email: louis.phillips@kellyhart.com

and

Erin K. Arnold (LA #29069)  
Amelia L. Hurt (LA #36817)  
400 Poydras Street, Suite 1812  
New Orleans, LA 70130  
Telephone: (504) 522-1812  
Facsimile: (504) 522-1813  
Email: erin.arnold@kellyhart.com  
Email: amelia.hurt@kellyhart.co

---

<sup>1</sup> The debtors and debtors in possession these chapter 11 cases (the "Chapter 11 Cases"), along with the last four digits of their respective Employer Identification Numbers, are as follows: Kologik, LLC (3729), Case No. 24-10311; Kologik Capital, LLC (3729) Case No. 24-10312; and Kologik Capital II, LLC (3729), Case No. 24-10313. The Debtors' mailing address is: 300 Main St., Ste. #1600, Baton Rouge, LA, 70801.

## **INTRODUCTORY DISCLOSURES**

THIS DISCLOSURE STATEMENT, WHICH HAS BEEN FILED BY THE DEBTORS, IN THEIR CAPACITY AS DEBTORS AND DEBTORS-IN-POSSESSION, CONTAINS A SUMMARY OF MATERIAL PROVISIONS OF THE LIQUIDATING PLAN OF THE DEBTORS RESOLVEKO, LLC, RESOLVEKO CAPITAL LLC, AND RESOLVEKO CAPITAL II, LLC, FORMERLY KNOWN AS KOLOGIK, LLC, KOLOGIK CAPITAL, LLC AND KOLOGIK CAPITAL II, LLC (the "PLAN").

THIS DISCLOSURE STATEMENT ALSO SUMMARIZES CERTAIN FINANCIAL INFORMATION CONCERNING THE DEBTORS AND THE CLAIMS ASSERTED AGAINST THE DEBTORS IN THIS BANKRUPTCY CASE. WHILE THE DEBTORS BELIEVE THAT THIS DISCLOSURE STATEMENT CONTAINS ADEQUATE INFORMATION WITH RESPECT TO THE DOCUMENTS AND INFORMATION SUMMARIZED, HOLDERS OF CLAIMS AND EQUITY INTERESTS SHOULD CAREFULLY REVIEW THE ENTIRE PLAN AND EACH OF THE DOCUMENTS REFERENCED IN THIS DISCLOSURE STATEMENT AND SHOULD SEEK THE ADVICE OF THEIR OWN LEGAL COUNSEL AND OTHER ADVISORS BEFORE CASTING THEIR BALLOTS ON THE PLAN.

EXCEPT FOR THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT, AND THE EXHIBITS ATTACHED HERETO, NO REPRESENTATIONS CONCERNING THE DEBTORS, THE DEBTORS' ASSETS AND LIABILITIES, THE PAST OPERATIONS OF THE DEBTORS, THE PLAN AND ITS TERMS, OR ALTERNATIVES TO THE PLAN ARE AUTHORIZED, NOR ARE ANY SUCH REPRESENTATIONS TO BE RELIED UPON IN ARRIVING AT A DECISION WITH RESPECT TO THE PLAN. ANY INFORMATION WITH RESPECT TO SUCH TOPIC AREAS THAT IS PROVIDED TO SECURE ACCEPTANCE OR REJECTION OF THE PLAN, WHICH IS NOT CONTAINED IN THESE SOLICITATION MATERIALS, IS UNAUTHORIZED AND SHOULD BE REPORTED IMMEDIATELY TO THE DEBTORS' LEGAL COUNSEL.

UNLESS INDICATED OTHERWISE, THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF OR THE DATE OTHERWISE INDICATED HEREIN, AND NEITHER DELIVERY OF THIS DISCLOSURE STATEMENT NOR ANY RECOVERY MADE IN CONNECTION WITH THE PLAN WILL, UNDER ANY CIRCUMSTANCES, CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT SINCE THE DATE THIS DISCLOSURE STATEMENT AND THE MATERIALS RELIED UPON IN PREPARING THIS DISCLOSURE STATEMENT WERE COMPILED.

THE APPROVAL OF THIS DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT CONSTITUTE AN ENDORSEMENT BY THE BANKRUPTCY COURT OF THE PLAN OR A GUARANTEE OF THE ACCURACY AND COMPLETENESS OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT. THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE, AND MAY NOT BE CONSTRUED AS, AN ADMISSION OF FACT, LIABILITY, STIPULATION, OR WAIVER.

NOTHING CONTAINED IN THIS DISCLOSURE STATEMENT, EXPRESS OR IMPLIED, IS INTENDED TO GIVE RISE TO ANY COMMITMENT OR OBLIGATION OF THE PLAN PROPONENTS OR ANY OTHER PARTY, NOR WILL IT BE CONSTRUED AS CONFERRING UPON ANY PERSON ANY RIGHTS, BENEFITS, OR REMEDIES OF ANY NATURE WHATSOEVER. THIS DISCLOSURE STATEMENT IS INFORMATIONAL ONLY. ADDITIONALLY, HOLDERS OF CLAIMS AND INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL, OR TAX ADVICE. EACH CREDITOR AND INTEREST HOLDER SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL, AND TAX ADVISORS AS TO ANY MATTER CONCERNING THE PLAN, THE EFFECTS OF IMPLEMENTATION OF THE PLAN, AND THE VOTING PROCEDURES APPLICABLE TO THE PLAN.

IF THE PLAN IS CONFIRMED BY THE BANKRUPTCY COURT AND THE EFFECTIVE DATE OCCURS, ALL HOLDERS OF CLAIMS AND EQUITY INTERESTS (INCLUDING THOSE HOLDERS OF CLAIMS WHO DO NOT SUBMIT BALLOTS TO ACCEPT OR REJECT THE PLAN, OR WHO ARE NOT ENTITLED TO VOTE ON THE PLAN) WILL BE BOUND BY THE TERMS OF THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY.

**TABLE OF CONTENTS**

TABLE OF CONTENTS.....4

I. INTRODUCTION .....7

II. BACKGROUND .....9

    A. The Debtors’ Business .....9

    B. Pre-Petition Date Management .....10~~11~~

    C. The Debtors’ Pre-Petition Date Capital and Debt Structure .....11

    D. The Debtors’ Equity Interests .....13

III. EVENTS LEADING TO CHAPTER 11 .....13

IV. KEY EVENTS DURING CHAPTER 11 CASE .....15

    A. First Day Pleadings .....15

    B. Bankruptcy Schedules and Statement of Financial Affairs .....18

    C. The Sale Motion .....18

    D. Claims Bar Date .....19

V. SUMMARY OF THE PLAN .....20

    A. Introduction .....20

    B. Overview of the Plan .....20

    C. Administrative Claims, Professional Fees, and Priority Tax Claims .....20

    D. Timing and Treatment of Administrative Claims and Professional Fees .....21

    E. Treatment and Payment of Allowed Priority Non-Tax Claims .....21

    F. Treatment of Allowed Priority Tax Claim .....21

    G. Treatment of Statutory Fees .....21

    H. Classification and Treatment of Claims and Interests .....22

    I. Claims Analysis and Treatment .....22

VI. MEANS FOR IMPLEMENTATION OF THE PLAN .....25

    A. Plan Funding .....25

    B. The Plan Agent .....25

    C. The Plan Agent Compensation and Replacement .....27

    D. Plan Expense Reserve .....28

    E. Dissolution of Board of Managers of the Debtors and Dissolution of the Debtors .....28

    F. Exemption from Certain Taxes and Fees .....28

    G. Insurance Policies .....29

    H. Vesting of Assets and Causes of Action .....29

VII. DELIVERY OF DISTRIBUTIONS AND UNDELIVERABLE OR UNCLAIMED DISTRIBUTIONS. ....30

    A. Delivery of Plan Distributions in General .....30

    B. Undeliverable Distributions and Unclaimed Property .....30

    C. Manner of Payment Pursuant to the Plan .....30

VIII. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES .....31

    A. Assumption and Rejection .....31

    B. Rejection Claims .....31

    C. Cure of Assumed Executory Contracts and Unexpired Leases .....32

- IX. CLAIMS OBJECTIONS .....32
  - A. Prosecution of Objections to Claims.....32
  - B. Disallowance of Claims .....33
  - C. Plan Distributions after Allowance.....33
  - D. Setoffs .....33
- X. INJUNCTION, EXCULPATION, AND INDEMNIFICATION .....34
  - A. Discharge of Debtors .....34
  - B. Plan Injunction.....34
  - C. Limited Protection of the Exculpated Parties .....34
  - D. Indemnification.....35
- XI. MODIFICATION OF THE PLAN; REVOCATION.....35
- XII. CONDITIONS PRECEDENT TO THE OCCURRENCE OF THE EFFECTIVE DATE; WAIVER.....36
  - A. Conditions Precedent to Confirmation.....36
  - B. Conditions Precedent to the Effective Date.....36
    - 1. The Bankruptcy Court shall have entered the Confirmation Order and the Confirmation Order shall not have been stayed..... 36
  - C. Waiver of Conditions.....36
  - D. Filing Notice of the Effective Date.....37
- XIII. CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN AND SECURITIES LAW CONSIDERATIONS .....37
  - A. Generally.....37
  - Tax Consequences to Holders of Claims.....38
  - B. Realization and Recognition of Gain or Loss in General .....38
  - C. Accrued Interest.....38
  - D. Withholding .....38
  - E. Tax Consequences to Holders of Equity Interests .....39
- XIV. VOTING; CONFIRMATION; ALTERNATIVE TO PLAN .....39
  - A. Confirmation Standards .....39
  - B. “Best Interests” Test .....40
  - C. Feasibility.....41
  - D. Cram Down.....42
  - E. Vote Required for Acceptance by a Class .....42
  - F. Voting Presumptions.....43
  - G. Voting Rights.....43
  - H. Alternatives to Confirmation Is Chapter 7 Liquidation .....43
- XV. CERTAIN FACTORS TO BE CONSIDERED .....44
  - A. Objections to Plan and Confirmation.....44
  - B. Objections to Classification of Claims and Equity Interests .....44
  - C. Failure to Obtain Confirmation of the Plan .....44
  - D. Failure to Consummate or Effectuate a Plan .....45
  - E. Risk of Non-Occurrence of the Effective Date of the Plan .....45
  - F. Claims Estimation.....45
  - G. Certain Tax Considerations, Risks and Uncertainties.....45
- XVI. VOTING PROCEDURES AND REQUIREMENTS .....45
  - A. Introduction.....45

B.	Voting .....	46
C.	Reservation of Rights.....	46
D.	Waivers of Defects, Irregularities, etc. ....	46
XVII.	CONCLUSION .....	47

## I. INTRODUCTION

The Debtors (ResolveKo, LLC, ResolveKo Capital LLC, and ResolveKo Capital II, LLC, formerly known as Kologik, LLC, Kologik Capital, LLC and Kologik Capital II, LLC), as Debtors and Debtors-in-possession, submit this disclosure statement (the “Disclosure Statement”) pursuant to section 1125 of title 11 of the Bankruptcy Code in connection with the solicitation of votes on the Liquidating Plan of the Debtors ResolveKo, LLC, ResolveKo Capital LLC, and ResolveKo Capital II, LLC, formerly known as Kologik, LLC, Kologik Capital, LLC and Kologik Capital II, LLC (the “Plan,” attached hereto as **Exhibit A - the Plan**). To the extent any inconsistencies exist between this Disclosure Statement and the Plan, the Plan governs.

Capitalized terms used but not defined herein have the meanings assigned to them in Article I of the Plan.

**WHO IS ENTITLED TO VOTE:** Under the Bankruptcy Code, only Holders of Claims or Equity Interests in “impaired” classes are entitled to vote on the Plan (unless, for reasons discussed in more detail below, such Holders are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code). Under section 1124 of the Bankruptcy Code, a class of claims or interests is deemed to be “impaired” under the Plan unless (i) the Plan leaves unaltered the legal, equitable, and contractual rights to which such claim or interest entitles the holder thereof or (ii) notwithstanding any legal right to an accelerated payment of such claim or interest, the Plan, among other things, cures all existing defaults (other than defaults resulting from the occurrence of events of bankruptcy) and reinstates the maturity of such claim or interest as it existed before the default.

The following table summarizes: (i) the designation of Claims and Equity Interests under the Plan, (ii) which Classes are Impaired and Unimpaired by the Plan, (iii) which Classes are entitled to vote and not entitled to vote on the Plan, and (iv) the estimated recoveries for holders of Claims. The table is qualified in its entirety by reference to the full text of the Plan. For a more detailed summary of the terms and provisions of the Plan, see Article IV—Summary of the Plan below.

This Disclosure Statement shall not be used as a basis for Allowance of any Claim.

Class	Claim	Status	Voting Rights
Class 1	Priority Non-Tax Claims	Unimpaired	Not Entitled to Vote (Deemed to Accept)
Class 2	Paid Secured Claim of Riva Ridge Master Fund, Ltd.	Unimpaired	Not Entitled to Vote (Paid in full per Order of Bankruptcy Court)
Class 3	Paid Secured Claim of LaFactor (as holder of Mississippi River Bank Notes)	Unimpaired	Not Entitled to Vote (Paid in full per Order of Bankruptcy Court)

Class 4	Mississippi River Bank	Impaired	Not Entitled to Vote (Contingent Claim for Indemnity Disallowed under Section 502(e))
Class 5	LaFactor, LLC (as former holder of Mississippi River bank Notes)	Impaired	Not Entitled to Vote (Contingent Claim for Indemnity Disallowed under Section 502(e))
Class 6	TSB Ventures, LLC	Impaired (Impaired by Carve-Out; possible lack of collateral; claims of Liquidating Debtors)	Entitled to Vote
Class 7	LaFactor, LLC	Impaired (Impaired by Carve-Out; possible lack of collateral; claims of Liquidating Debtors)	Entitled to Vote
Class 8	Jackson Smith Thomas	Impaired (Impaired by Carve-Out; possible lack of collateral; claims)	Entitled to Vote
Class 9	General Unsecured Claims	Impaired	Entitled to Vote
Class 10	Equity Interests	Impaired	Not Entitled to Vote (Deemed to Reject)

**DECIDING HOW TO VOTE ON THE PLAN:** All Holders of Claims are encouraged to read this Disclosure Statement, its exhibits, and the Plan carefully and in their entirety before, if applicable, deciding to vote either to accept or to reject the Plan. This Disclosure Statement contains important information about the Plan, considerations pertinent to acceptance or rejection of the Plan, and developments concerning the Chapter 11 Cases.

A Ballot to be used for voting to accept or reject the Plan is enclosed with this Disclosure Statement and transmitted to all Holders of Allowed Claims entitled to vote on the Plan (the "Voting Classes"). The Holders of Allowed Claims entitled to vote on the Plan should carefully review the Ballot and the instructions thereon, and must execute the Ballot, and return it to the address indicated thereon by the deadline to enable the Ballot to be considered for voting purposes. The Ballot is for voting purposes only and does not constitute and shall not be deemed a Proof of Claim or an assertion of a Claim.

IN ORDER FOR YOUR VOTE TO BE COUNTED, YOUR VOTE MUST BE RECEIVED BY THE VOTING AGENT AT THE ADDRESS SET FORTH BELOW ON OR BEFORE THE VOTING DEADLINE OF 6:00 P.M., PREVAILING CENTRAL TIME, ON [DECEMBER 3, 2024](#), UNLESS EXTENDED BY THE DEBTORS. PLEASE NOTE: A FULL EXPLANATION OF THE VOTING REQUIREMENTS AND VOTING PROCEDURES IS FOUND IN ARTICLE IX OF THIS DISCLOSURE STATEMENT.

Formatted: Not Highlight

Formatted: Not Highlight

ARTICLE IX OF THIS DISCLOSURE STATEMENT PROVIDES ADDITIONAL DETAILS AND IMPORTANT INFORMATION REGARDING VOTING PROCEDURES AND REQUIREMENTS. PLEASE READ ARTICLE VIII OF THIS DISCLOSURE STATEMENT CAREFULLY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

**II. BACKGROUND**

**A. The Debtors’ Business**

Before the Asset Sale (defined herein), the Debtors were headquartered in Baton Rouge, Louisiana (operating as “Kologik”), and operated as a software as service company that develops, acquires, and services software that connects law enforcement departments to the information they need to keep officers and communities safe by making it possible for multiple sources of intelligence to effectively speak to one another. Kologik’s suite of public safety applications include Computer Aided Dispatch (CAD), Records Management (RMS), Jail Management (JMS), COPsync, Electronic Arrest Affidavit, Computerized Criminal History (CCH), and school safety.

Specifically, Kologik’s key products were

A-Form Kiosk	Computerized	Criminal	Kologik JMS - Jail Roster
A-Form Management Application	History		Kologik WebMDT
ALEM IM/MASC	COPsync (Infoceptor)		Kologik.CommSysServer
ALEN AVL	COPsync Lite		Kologik.Integrations
ALEN CAD	COPsync TX		Kologik.IntegrationsApi
ALEN Court	CourtSync		Kologik.NIBRS
ALEN eTicket	Dataonix Portal		LEMS
ALEN Nlets	Dispatch Deluxe		Lineup
ALEN Payment Portal	Florida Arrest Affidavit		Placer Search
ALEN RMS	KLMobileServer		SIMS-ADMIN
ALEN-IDENTITY	Kologik CAD		SIMS-SERVER
Automated Arrest Form	Kologik Director		Template Admin
AVL History	Kologik Gateway		TLETS
CampusSafe	Kologik Integrator		WarrantSync
	Kologik JMS		

Of note, in November 2017, Capital nominally purchased certain assets, particularly the “CopSync Assets” through that certain bankruptcy case, *In re Copync, Inc.*, Case No. 17-1265 (Bankr. E.D. La. 2017) [the Order Approving Sale, Dkt. No. 125, later modified].

In connection with its key products, Kologik holds numerous pieces of registered intellectual property including patents, trademarks, copyrights, domain names (the “Intellectual Property”). Kologik has contracts for the use of its products with various law enforcement and public agencies throughout the country (the “Customers”). As of the Petition Date, the Debtors’ key customers included: Baton Rouge Police Department (LA); Bosque County Sheriff’s Office (TX); Caldwell County; Caldwell County Sheriff’s Office (TX); Caldwell County Sheriff’s Office (TX) Calhoun County Sheriff’s Department (FL); Cameron Police Department (TX); Fort Stockton Police Department (TX); Frio County Sheriff’s Office (TX); GCOM Software LLC (NY); GCOM Software LLC (NY); Hamilton County Sheriff’s Office (TX); Hammond Police Department (LA); Hardeman County Sheriff’s Department (TX); Jack County Sheriff’s Office (TX); Jackson Police Department (MS); Jackson Police Department (MS); La Salle County Sheriff’s Office (TX); Louisiana Department of Public Safety (LA) Magnolia Police Department (TX); Magnolia Police Department (TX); Miami-Dade County (FL); Midland ISD Police Department (TX); Minden Police Department (LA); Placer County Procurement (CA); Ponchatoula Police Department (LA); Premont Police Department (TX); Rains County Sheriff’s Office (TX); Rains County Sheriff’s Office (TX); Robstown Police Department (TX); San Luis Obispo County Sheriff’s Office (CA); Schleicher County Sheriff’s Office (TX); Shreveport Police Department (LA); Smith County Sheriff’s Office (TX); Surfside Beach Police Department (TX); Tool Police Department (TX); Tulia Police Department (TX); Upton County Sheriff’s Office (TX); Westlake Police Department (LA); and Winnsboro Police Department (TX).

As of the Petition Date, the Debtors had ongoing contracts with the Customers (the “Customer Contracts”) with material performance owed by Kologik and the applicable Customer owing under the Customer Contracts.

A complete listing of Customer Contracts is set forth in the “Assigned Agreement Schedule” which is Exhibit B to the *Emergency Motion for Entry of an Order (I) the Bid Protections Contained in Asset Purchase Agreement Between the Debtors As Seller and Kologik Acquisition, Inc.; (II) Approving the Assumption/Assignment Procedures; and (III) Granting Related Relief* (the “Bidding Protections Motion”).

In sum, Kologik marketed its products and entered into contracts with Customers who paid Kologik for use of and service related their use of the Kologik product (the “Customer Contracts”). The Customer Contracts were generally on a yearly basis , and Customers remitted payments to Kologik directly.

Pre-Petition Date Kologik employed 39 employees (the “Employees”). Of these, 7 were hourly and 32 were salaried. Kologik used ADP Total Source (“ADP”) as its Professional Employment Organization, such that ADP is the actual employer and benefits provider, and Kologik funded payroll.

## **B. Pre-Petition Date Management**

Kologik LLC was the operating entity of the Kologik structure. Kologik LLC was run by a board of Managers (the “Kologik Board”). Pre-Petition Date and before November, 2023, the Kologik Board for some time consisted of only two Managers as opposed to the required Five(5), Walter Morales, Chairman and James Hayes, Secretary. In November 2023, the Kologik, LLC operating agreement was amended to change the required number of Managers on the board to three (3), and Paul San Soucie, CEO was elected the third board member. Under the Kologik operating agreement, a vote of a majority percentage of Class B membership interests in Kologik was necessary to authorize a bankruptcy filing and/or sale of all or substantially all of the assets of Kologik. Kologik as the sole member of Capital and Capital II could authorize a bankruptcy filing and sale of all or substantially all of the assets of these two Debtors.

The management team of Kologik was Paul San Soucie, as Chief Executive Officer; Kim E. Thayer as Chief Restructuring Officer and Chief Financial Officer; and Karie Wohlgemuth as Chief Operating Officer (the “Officers”). The “Authorized Persons, under the Written Consent attached to the petitions commencing these cases are Paul San Soucie and Kim E. Thayer, and they are empowered to act on behalf of Kologik, LLC (and therefore on behalf of Kologik, LLC as some member of Kologik Capital and Kologik Capital II). Paul San Soucie is no longer employed by the Debtors as a result of the closing of the Sale (as defined below), and resigning to take a position with the purchaser. Mr. San Soucie also resigned from the board, leaving only two (2) Managers. The third seat has not been filled, and the board of managers is in a problematic state, necessitating that Kim E. Thayer be the authorized representative of the Debtors and their estates under the Plan. First, there are only two board members. Second, Mr Walter Morales has filed Claims and is either an Affiliate of or is a related party to certain claimants holding Disputed Claims. Therefore the board in reality could have currently only one (1) functioning manager, Mr. Hayes. Given the authorization by the board of managers to Kim E. Thayer the Plan proposes that she be the Plan Agent and also the representative of the Debtors and estates pre and post-Effective Date. Kim E. Thayer is the authorized signatory of the Plan and this Disclosure Statement.

### **C. The Debtors’ Pre-Petition Date Capital and Debt Structure**

In January 2016, Thinkstream Acquisition, LLC entered into a secured financing agreement with Mississippi River Bank (“MRB”), whereby Thinkstream Acquisition LLC granted MRB a continuing security interest in all accounts whether owned or acquired. MRB recorded a UCC-1 Financing Statement accordingly and has filed continuation statements maintaining its security interests (the “Initial MRB Security”).

In November of 2017, TSB Ventures, LLC (“TSB”) entered into a secured financing agreement with Thinkstream Acquisition LLC which granted TSB a continuing security interest in inventory, instruments, accounts, equipment, and general intangibles including all software. TSB recorded a UCC-1 Financing Statement accordingly and has filed continuation statements maintaining its security interests (the “TSB Security”).

As set forth herein, TSB is Kologik’s largest shareholder.

As mentioned previously, Thinkstream Acquisition LLC changed its name to Kologik LLC in 2018.

TSB and Kologik LLC and Capital entered into several Commercial Loan Agreement in 2018, 2019, and 2022 which were secured by TSB Security, which then included substantially all assets of Capital, and which were each a consolidation of the previous indebtedness.

On July 7, 2021, Kologik LLC, as borrower, and MRB, as lender, entered into that certain Promissory Note which evidences a revolving line of credit (the “MRB LOC Note”). The LOC Note is secured by, amongst other things, a first priority lien on substantially all of Kologik LLC’s assets (the “Additional MRB Security”). On October 28, 2022, Kologik LLC, as borrower, and Mississippi River Bank, as lender, entered that certain Promissory Note [Loan #0007] (the “MRB Note,” together with the MRB LOC Notes, the “MRB Notes”) which are secured by, amongst other things, the Additional MRB Security. MRB recorded a UCC-1 Financing Statement accordingly and has filed continuation statements maintaining its security interest in the Additional MRB Security.

Pursuant to that certain Payment and Assignment Agreement dated September 30, 2023, J. Bart Kelly, III (“Kelly”) purportedly obtained a security interest in Capital’s accounts after Kelly received an assignment from the law firm of McCarter & English for legal fees owed. On September 30, 2020, Kelly filed a UCC-1 Financing Statement with relation to the accounts of Capital. Mr. Kelly has not filed a proof of Claim and under the Plan, as of the Effective Date any Claim of Mr. Kelly will be Disallowed.

On December 27, 2021, Kologik LLC and Capital jointly and severally entered into that certain Secured Promissory Note with Riva Ridge Master Fund, LLC (“Riva”, the note, the “Riva Note”). The Riva Note is secured by, amongst other things, substantially all of Kologik LLC and Capital’s assets (the “Riva Security”). Riva recorded a UCC-1 Financing Statement accordingly and has filed continuation statements maintaining its security interest in the Riva Security.

On May 31, 2023, Kologik LLC and Lafactor, LLC (“Lafactor”) entered into that certain Secured Promissory Note, with Capital executing an accompanying Commercial Security Agreement (the “Lafactor Note”). The Lafactor Note is secured by, amongst other things, substantially all assets of Kologik LLC and Capital (the “Lafactor Security”). Lafactor recorded a UCC-1 Financing Statement accordingly and has filed continuation statements maintaining its security interest in the Lafactor Security.

Lafactor was holder of the MRB Notes, having purchased the MRB Notes prior to the filing of these Chapter 11 Cases.

Jackson Smith Thomas (“Thomas”), a member and former officer of Kologik holds a note of Kologik and also asserts an amount due from Kologik on the basis of funds put into the company some years ago while he was an officer) and has asserted a disputed claim. Within state court litigation upon his note claim prior to the filing of these Chapter 11 Cases Thomas obtained a disputed writ of attachment, and claims lien and privileges under Louisiana law thereupon.

Finally, online search results show an active UCC-1 filing in favor of Gordon Oaks Property & Investments, Inc. (“Gordon Oaks”), relating to the assets of ALEN, Inc., which sold its assets to Capital II. Gordon Oaks filed an Unsecured Claim, and therefore the Debtors have determined that Gordon Oaks does not Hold a Secured Claim

As set forth herein, after the Asset Sale, the Debtors paid off the two senior secured tranches of indebtedness to stop the accrual of exorbitant interest. Therefore, the MRB Notes and Riva Note have been paid off and the security interests cancelled.

#### D. The Debtors' Equity Interests

Kologik LLC's equity interests were held Class B membership interests in Kologik as follows:

Holder	Percentage Held
TSB Ventures, LLC	51.60%
Manada Technologies, Inc..	10%
Jackson Smith Thomas	8.6%
Matthew Teague	8.6%
The Estate of Joseph R. Alosa, Sr.	8.0%
M6 Capital Partners LLC	6.6%
Ryan Morales	6.6%

(Collectively, the "Holders of Equity Interests," each a "Holder of Equity Interests.")

Kologik LLC is the nominal 100% owner of Kologik Capital, LLC ("Capital") and Kologik Capital II, LLC ("Capital II"). Regarding Capital and Capital II, the Debtor Kologik, through Kim E. Thayer (hereinafter, "Thayer") and undersigned counsel make the following disclosures. Neither Capital nor Capital II ~~ever~~ has ever had books of account, never filed tax return, had no income (no books), recorded no transactions (again, no books), never had funds, and were not accounted for in any way as separate entities. Assets nominally purchased by Capital and Capital II were always booked as Assets of Kologik. There were no corporate minutes, meetings, operating agreements, or bank accounts. For these many reasons, this Disclosure Statement references these entities as "nominal" purchasers and owners of Assets. There has never been any accounting for these purported eEntities as actual eEntities.

### III. EVENTS LEADING TO CHAPTER 11

In November 2020, TSB, Kologik's largest member by percentage was required pay Victor Trahan \$4,500,000 as part of a settlement agreement between several Kologik shareholders including TSB Ventures, M6 Partners, Ryan Morales, Jackson Smith Thomas, and Matthew Teague and a former board member Worachote "Ob" Soonthornsima. At that time, the books of Kologik reflected an indebtedness owed by the company to TSB of several million more than the TSB debt to Trahan.

In December 2021, Kologik borrowed the funds under the Riva Note, and paid the \$4,500,000 amount to Trahan, and booked the transaction as a pay down of the Kologik debt to TSB.

Throughout 2022 and early 2023, Kologik experienced a further declining financial condition do to a combination of slower than expected customer sales, high interest rates, and an

expense structure that did not match its revenue. Kologik borrowed additional monies in late 2022 to ensure it could meet payroll. It is not certain that Kologik was ever a solvent Entity.

In 2023, Kologik began exploring selling its business as a going concern. For the next twelve (12) months, Kologik discussed an possible sale with a number of potential strategic and financial parties. These discussions generated multiple indications of interest. One of which resulted in a Letter of Intent (LOI) to purchase. Ultimately, Kologik was unable to close the transaction.

In 2023, Kologik decided it was necessary to engage the services of restructuring attorneys and selected the firm of Kelly Hart Pitre LP (“Kelly Hart”) to explore a bankruptcy process to reorganize the company and/or sell its assets.

From September 2023 to January 2024, Kologik continued trying to sell the company but could not due to the lack of interest with a company that would be required to do a sale through a Chapter 11 bankruptcy process.

In January 2024, Kologik decided to engage the services of an advisor and sale agent, and selected Rock Creek Advisors, LLC (“Rock Creek”) based upon its reputation and expertise in the field and experience with similarly situated companies. After Rock Creek was engaged, it began a robust sale process which Kologik assisted with including the preparation of sales and marketing materials and reached out to strategic prospects. In short form, Rock Creek engaged in a robust marketing and sale process over a six-week period that resulted in receiving eight (8) letters of intent, four (4) of which were raised through negotiations.

Ultimately, on March 14, 2024, the Kologik Board approved Kologik Software, Inc. as the winning bidder and, along with Kelly Hart and Rock Creek, began the negotiations of the Asset Purchase Agreement (the “APA”).

Pursuant to the APA, Kologik agreed to sell substantially all of its assets to Kologik Software, Inc. (the “Purchaser”). Under the APA, the Purchaser agreed to purchase and acquire from Kologik “Purchased Assets” free and clear of liens to the extent permissible under section 363(f) of the Bankruptcy Code where Purchased Assets is defined to include substantially all assets of Kologik including (without limitation) intellectual property, bank accounts, customer contracts, and leases. In return, Kologik was to receive a purchase price of \$24 million, subject to customary working capital adjustment and post-closing true-up, plus cash over the “Required Cash” to be retained by the Purchaser (\$275,000). Excluded from the Purchased Assets are any employee retention credits, which could have a value upwards of \$800,000. The APA further provided that the Employees would become employees of the Purchaser and will continue to service the Customer Contracts in substantially the same manner as before the closing of the Proposed Sale. The Purchaser also agreed to assume the Leases and that Kologik’s operations shall generally continue after the closing of the Proposed Sale in a similar manner, under new ownership.

In order to consummate the APA, the Debtors commenced the Chapter 11 Cases.

#### **IV. KEY EVENTS DURING CHAPTER 11 CASE**

Since the Petition Date, the Debtors have continued to operate their business and manage properties as Debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The following is a general summary of this Chapter 11 Cases.

##### **A. First Day Pleadings**

On April 23, 2024 (the “Petition Date”), the Debtors filed the following motions (the “First Day Motions”):

Emergency Motion for Order Under Bankruptcy Rule 1015(b) Directing Joint Administration of Chapter 11 Cases (the “Joint Administration Motion”);

In the Joint Administration Motion, the Debtors sought approval for the three cases to be administered under one singular caption for administrative purposes only.

Emergency Motion (A) For Authority To File A Consolidated List Of Creditors; (B) Approval Of The Limited Notice List; And (C) For Approval Of The Form And Manner Of Notifying Creditors Of The Commencement Of These Chapter 11 Cases And Other Information (the “Notice Procedures Motion”);

In the Notice Procedures Motion, the Debtors sought approval of a limited, consolidated mailing matrix consisting of: 1) The Office of the United States Trustee, Region V; 2) Office of the U.S. Attorney, Middle District of Louisiana; 3) IRS (Centralized Insolvency Operations and District Counsel); 4) Louisiana Dept. of Revenue; 5) Parties included on the Debtors’ consolidated list of the holders of the thirty (30) largest unsecured claims against the Debtors; 6) Debtors’ known holders of secured claims against the Debtors; 7) Debtors; 8) Any official committee; 9) Those persons who have formally appeared in the chapter 11 case and requested service pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure; and 10) Any known counsel for any of the forgoing.

Emergency Motion For Entry of Interim and Final Orders (a) Authorizing the Debtors to Main Existing Cash Management System; (b) Granting Administrative Expense Priority to Postpetition Intercompany Transfers; (c) Authorizing Payment of Bank Fees, and (d) Other Related Relief (the “Cash Management Motion”);

In the Cash Management Motion, the Debtors sought authorization to use their existing cash management system and pay prepetition bank fees as necessary.

Emergency Motion for Entry of an Order (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief (the “Employees Motion”);

In the Employees Motion, the Debtors sought authorization to (i) pay any prepetition Employee Wages and any reimbursable expenses accrued and unpaid as of the Petition Date and continue to pay Employee Wages reimbursable expenses as set forth herein; (ii) meet all Withholding Obligations and Payroll Processing Obligations, including those

accrued but unpaid prepetition obligations; and (iii) maintain Employee Benefits Programs in the ordinary course, including payment of certain prepetition obligations related thereto.

Emergency Motion For Entry of Interim and Final Orders (I) Authorizing the Debtors to Use Cash Collateral, (II) Granting Adequate Protection Pursuant to Prepetition Secured Parties, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief (the “Cash Collateral Motion”);

In the Cash Collateral Motion, the Debtors sought an order (i) authorizing the Debtors to continue to use cash collateral (as defined in section 363(a) of the Bankruptcy Code, “Cash Collateral”) and all other Prepetition Collateral in which any of the Prepetition Secured Parties have an interest under the Prepetition Agreements; (ii) granting adequate protection to the Prepetition Secured Parties with respect to such use of Cash Collateral and the other Prepetition Collateral; (iii) modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the Orders; (iv) waiving any applicable stays under the Bankruptcy Rules and provide for the immediate effectiveness of the Interim Order and the Final Order; (v) scheduling an interim hearing pursuant to Bankruptcy Rule 4001 to consider granting the relief requested in this Motion on an interim basis; and (vi) scheduling the Final Hearing to consider granting the relief requested in this Motion on a final basis.

Emergency Motion for Entry of Interim and Final Orders (1) Determining Adequate Assurance of Payment for Future Utility Services and (2) Restraining Utility Companies from Discontinuing, Altering, or Refusing Service (the “Utilities Motion”);

In the Utilities Motion, the Debtors sought an order: (a) prohibiting the Utility Companies from altering, refusing or discontinuing services to, or discriminating against the Debtors on account of pre-petition amounts due, pending entry of the Final Order; (b) determining that the Utility Companies have received adequate assurance of payment for future utility services, pending entry of the Final Order; (c) establishing certain procedures for determining requests for additional assurance; (d) granting related relief; and (e) scheduling a final hearing on the Utilities Motion.

Emergency Motion for Entry of Interim and Final Orders Authorizing Payment of Compensation Commensurate With Pre-Petition Payments to Specified Insiders (the “Insiders Motion”);

In the Insiders Motion, the Debtors sought authority to make post-petition payments to the Specified Insiders, commensurate with pre-petition payments, as follows: (i) their Compensation on a monthly basis and (ii) the Employee Benefits.

Emergency Motion for Entry of Interim and Final Orders Authorizing The Debtors’ Payment Of Pre-Petition Claims Of Certain Critical Vendors (the “Critical Vendor Motion”);

In the Critical Vendor Motion, the Debtors sought authority to pay the prepetition portions of any bills to certain vendors whose services were critical to the Debtors’ operations.

Emergency Application for Entry of Interim and Final Order Authorizing Retention and Employment of Kelly Hart as Counsel for the Debtors, Nunc Pro Tunc to the Petition Date (the “KH Employment Application”);

In the KH Employment Application, the Debtors sought approval to retain and employ Kelly Hart as counsel for the Debtors in these Chapter 11 Cases, nunc pro tunc to the Petition Date.

Emergency Application for Entry of Interim and Final Order Authorizing Retention and Employment of Rock Creek Advisors as Investment Bankers for the Debtors, Nunc Pro Tunc to the Petition Date (the “Rock Creek Employment Application”); and

In the Rock Creek Employment Application, the Debtors sought approval to employ Rock Creek as financial advisor and sales agent to the Debtors in these Chapter 11 Cases, nunc pro tunc to the Petition Date.

Emergency Motion for Entry of an Order (I) the Bid Protections Contained in Asset Purchase Agreement Between the Debtors As Seller and Kologik Acquisition, Inc.; (II) Approving the Assumption/Assignment Procedures; and (III) Granting Related Relief (the “Bidding Protections Motion”)

In the Bidding Protections Motion, the Debtors sought approval of certain Bidding Protections for the Purchaser contained in the APA and certain assumption and assignment procedures for the Customer Contracts and certain vendors contracts (the “Assumed Agreements”) pursuant to the APA.

The Bankruptcy Court set the First Day Motions for hearing on April 25, 2024 (the “First Day Motion Hearing”).

After the First Day Hearing, the Bankruptcy Court entered final orders granting the Joint Administration Motion, Notice Procedures Motion, the Employees Motion, the Rock Creek Employment Motion, and Bidding Protections Motion. The Bankruptcy Court also entered orders granting the Cash Management Motion, the Cash Collateral Motion, the Utilities Motion, the Insiders Motion, the Critical Vendor Motion, and the KH Employment Application on an interim basis and setting final hearings on each motion.

Given the lack of objection by the objections deadlines set by the Bankruptcy Court and the Bankruptcy Court having found good cause for granting each, the Cash Management Motion, the Utilities Motion, the Insiders Motion, the Critical Vendor Motion, and the KH Employment Application were subsequently granted on a final basis.

**B. Bankruptcy Schedules and Statement of Financial Affairs**

On May 13, 2024, the Debtors each separately filed their Schedules and Statements of Financial Affairs.

**C. The Sale Motion**

On the Petition Date, the Debtors also filed that certain Motion for Entry of an Order Authorizing and Approving (I) Sale Of Debtors’ Assets Free and Clear of All Claims, Liens, Encumbrances and Interests Pursuant to Asset Purchase Agreement, (II) Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (III) Granting Related Relief (the “Sale Motion”). The Sale Motion was set for hearing on June 3, 2024 (the “Sale

Hearing”), along with the Cash Collateral Motion. The Cash Collateral Motion also requested that pending the approval and closing of the APA, the proceeds therefrom be used to satisfy the Senior Secured Indebtedness (the Riva Note and MRB Notes).

No objection to the Sale Motion was filed. The Sale Hearing nonetheless went forward and the Debtors put on a full evidentiary presentation, including testimony from Mr. Kim E. Thayer and Mr. Paul San Soucie, as well as a proffer from Ms. Heidi Lipton.

The Bankruptcy Court ultimately granted the Sale Motion including: approving the APA, approving the sale of the Debtors’ Purchased Assets free and clear of all claims, liens, encumbrances, and interests; and approving the assumption and assignment of the Assignment Agreements, pursuant to the treatment set forth in the Bidding Protections Motion.

The Bankruptcy Court also granted the Cash Collateral Motion in a final basis, including approving the payoff the Senior Secured Indebtedness after closing of the APA.

On June 7, 2024, the Debtors closed the sale pursuant to the APA (“Sale”). After closing of the Sale, the Debtors made certain distributions as authorized by the Bankruptcy Court as follows:

KOLOGIK LLC  
SCHEDULE OF SALE PROCEEDS AND EXPENSES  
Prepared 6-12-24

Description	Amount	Cash In/(Out) By Kologik	Net Cash Received By Kologik	Cash Yet To Be Received/(Out)	Cash End Result to Kologik
<u>Receipts:</u>					
Sale Proceeds - Initial Downpayment	\$ 150,000.00	\$ 150,000.00			
Sale Proceeds - Wire of Escrowed Balance due of \$1M deposit	\$ 850,000.00	\$ 850,000.00			
Sale Proceeds on Closing Day	\$ 22,090,088.38	\$ 22,090,088.38			
Sale Proceeds - To Be Held In Escrow & True Up Net Working Capital**	\$ 554,000.00			\$ 554,000.00	
	\$ 23,644,088.38	\$ 23,090,088.38	\$ 23,090,088.38		
Net Working Capital Adjustment per APA	\$ 355,911.62				
Sale Price	\$ 24,000,000.00				
<u>Expenses:</u>					
Cash Leave Behind Agreed Upon	\$ 275,000.00	\$ (275,000.00)			
Riva Ridge Loan Payoff	\$ 9,149,176.32	\$ (9,149,176.32)			
LAFactor MRB Loans Payoff	\$ 1,351,107.31	\$ (1,351,107.31)			
Rock Creek Banker Fees	\$ 1,400,000.00	\$ (1,400,000.00)			
Rock Creek Banker Fees to Be Held In Escrow at KHP	\$ 21,575.00			\$ (21,575.00)	
Crowell & Moring Law Firm (Riva Ridge's Attorneys)	\$ 99,955.82	\$ (99,955.82)			
Stewart Robbins & Brown (LAFactor's Lawyers)	\$ 27,544.60	\$ (27,544.60)			
Rock Creek Expenses for Court Appearance	\$ 1,290.27			\$ (1,290.27)	
Alliant Americas - Tail Coverage for Media Tech E&O Policy	\$ 15,616.36	\$ (15,616.36)			
	\$ 12,341,265.68	\$ (12,318,400.41)	\$ (12,318,400.41)		
			\$ 10,771,687.97	\$ 531,134.73	\$ 11,302,822.70

\*\* Within 90 Days of Sale, Net Working Capital to Be Trued Up

\*\*\* Portion of Budgeted Monthly Insurance Payment Made In Full with One Payment

As such, post-closing of the APA and after payment of the Senior Secured Indebtedness, the Debtors were left with \$11,302,822.70 (the “Sale Proceeds”).

In connection with the closing of the APA (which contemplated that the Purchaser would use the Kologik name), the Debtors filed certificates of name changes with the Louisiana Secretary of State and changed their names to ResolveKo, LLC (formerly Kologik, LLC), ResolveKo Capital, LLC (formerly Kologik Capital, LLC) and ResolveKo Capital II, LLC (formerly Kologik Capital II, LLC).

## D. Claims Bar Date

Pursuant to the Debtors' Motion for Entry of an Order (I) Setting Bar Dates for Filing Proofs of Claim, Including Requests for Payment under Section 503(b)(9), and (II) Approving Form of Notice of Bar Date (the "Bar Date Motion"), the Bankruptcy Court set a general claims bar date of July 15, 2024.

Thirty-two (32) claims were filed in the Kologik LLC Bankruptcy Case. Three (3) claims were filed in the Kologik Capital, LLC Bankruptcy Case. These claims are referred to herein as the "Filed Claims."

After payment of the Senior Secured Indebtedness, claims of in excess of \$28 Million remain as Filed Claims. However the vast majority of the Filed Claims are Disputed Claims., with the Debtors' current projection being that the aggregate amount of Allowed Claims will be closer to approximately \$14.48

~~Important to the Plan, the Debtors intend to file objections to Claims (the "Claims Objections") generally before August 30, 2024 so that they are on file and hopefully can be resolved before the Confirmation Hearing on the Plan.~~ Submitted herewith as **Exhibit B -Claims Analysis** is the Debtors' Exhibit that shows a schedule of the ~~remaining~~ Filed Claims, and a brief summary of the Debtors' current thinking on the validity of the Filed Claims. ~~The Debtors expressly reserve the right to file additional or different objections and the failure to file by August 30, 2024 shall not prejudice the Debtors' rights to file claims objections at a later time.~~ As shown by the Claims Analysis multiple Claims really do not assert claims against the Debtors (for example, see Claims 19 and 24 (totaling \$3.8 Million); or Claim 29 (for \$2.3 Million - no back-up or documentation to support the Claim, and the Debtors have no information within their books concerning such Claim); or Claim 31 for \$1.35 Million (Debtors believe there is a viable avoidance action to avoid any liability and have argued and alleged that the Claimant's termination was for cause); or Claim 23, for in excess of \$13.1 Million (Debtors have reviewed and their books reflect a Claim of \$7,803,607.59, a difference of approximately \$6.5 Million). These mentioned Filed Claims show a difference of \$13.95 Million. The Debtors intend to pursue objections [to these claims \(the "Claims Objections"\)](#) unless Claims can be settled prior to hearing thereupon.

~~After filing the Claims Objections, the Debtors intend to immediately move for mediation upon each of the Claims Objections so that the Bankruptcy Court can establish a mediation process (the "Mediation Process") to determine the Allowed portion of each Claim, as well as determining of which Class each Claim is a part.~~

## V. SUMMARY OF THE PLAN

### A. Introduction

THE SUMMARY OF THE PLAN SET FORTH BELOW IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE FULL TEXT OF THE PLAN. IN THE EVENT OF ANY INCONSISTENCY BETWEEN THE PROVISIONS OF THE PLAN AND THE SUMMARY CONTAINED HEREIN, THE TERMS OF THE PLAN WILL GOVERN. CREDITORS ARE ENCOURAGED TO THOROUGHLY REVIEW THE TERMS OF THE PLAN AND TO SEEK

INDEPENDENT LEGAL OR FINANCIAL ADVICE REGARDING THE TERMS OR TREATMENT CONTAINED THEREIN.

**B. Overview of the Plan**

The Plan provides for the payment of unclassified Allowed Administrative Claims and Allowed Priority Claims, and ten (10) separate classifications of Claims and Equity Interests, four (4) of which are entitled to vote.

**C. Administrative Claims, Professional Fees, and Priority Tax Claims**

As provided in section 1123(a) of the Bankruptcy Code, Administrative Claims (including Professional Fee Claims) under section 507(a)(2) of the Bankruptcy Code and Priority Tax Claims under section 507(a)(8) of the Bankruptcy Code are not classified for purposes of voting on, or receiving Plan Distributions. Holders of Administrative Claims (including Professional Fee Claims) and Priority Tax Claims are not entitled to vote on the Plan but, rather, are treated separately in accordance with Article II of the Plan and under sections 1129(a)(9)(A) and (C) of the Bankruptcy Code.

**D. Timing and Treatment of Administrative Claims and Professional Fees**

Holders of Administrative Expense Claims other must file their Administrative Expense Claim (other than a Professional Fee Claim) on or prior to **5:00 p.m. (prevailing Central Time) on such date that is twenty-one (21) days after the Effective Date.**

**HOLDERS OF ADMINISTRATIVE CLAIMS THAT ARE REQUIRED TO FILE AND SERVE A REQUEST FOR PAYMENT OF SUCH ADMINISTRATIVE CLAIMS BY THE ADMINISTRATIVE BAR DATE THAT FAIL TO DO SO SHALL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING SUCH ADMINISTRATIVE CLAIMS AGAINST THE DEBTORS OR ITS RESPECTIVE PROPERTY OR THE LIQUIDATING DEBTORS.**

Total Professional Fee Claims through the Effective Date have not been finalized. The Debtors are including as **Exhibit C-Plan Budget** to this Disclosure Statement the Plan Budget which sets forth the estimates for projected the Professional Fee Claims through the Effective Date as well as any post-Effective Date Professional Fee Claims.

All Professional Fee Claim requests must be filed no later than sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

**E. Treatment and Payment of Allowed Priority Non-Tax Claims**

Any Allowed Priority Non-Tax Claim shall be paid by the Plan Agent in an amount in Cash Equal to the Allowed Priority Non-Tax Claim on the Distribution Date, unless the Holder of the Allowed Priority Non-Tax Claim and the Debtors or the Plan Agent, as applicable, agree to less favorable treatment.

**F. Treatment of Allowed Priority Tax Claim**

Any Allowed Priority Tax Claim shall be paid by the Debtors or Plan Agent, as applicable, shall be paid in an amount in Cash equal to the Allowed Priority Tax Claim on the Effective Date or if the Priority Tax Claim becomes an Allowed Priority Tax Claim after the Effective Date, on the Distribution Date, unless the Holder of the Allowed Priority Tax Claim and the Debtors or the Plan Agent, as applicable, agree to less favorable treatment.

#### **G. Treatment of Statutory Fees**

All Statutory Fees payable under 28 U.S.C. § 1930 will be paid in Cash in full by the Debtors pending the Effective Date and thereafter by the Plan Agent until the issuance of a Final Decree.

#### **H. Classification and Treatment of Claims and Interests**

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes, including voting, Confirmation, and Plan Distribution pursuant hereto and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Equity Interest shall be deemed classified in a particular Class only to the extent that the Claim or Equity 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 Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that such Claim or Equity Interest is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date.

#### **I. Claims Analysis and Treatment**

The Debtors have included their Claims Analysis in Exhibit B herewith. As shown in the Claims Analysis Exhibit, a majority of Claims filed will be objected to by the Debtors. While the Debtors are hopeful that many of the Claims Objections can be resolved on a consensual or mediated basis, they will prosecute the Claims Objections as expediently as allowed by the Court if no consensual resolution is reached. ~~After filing the Claims Objections, the Debtors will immediately move for a global mediation process whereby a mediator appointed by the Bankruptcy Court will conduct an open mediation (the "Mediation") to determine the Allowance of Claims in Classes 6 through 9. Any party in interest may participate in the Mediation. In the event that the Mediation does not finally determine Allowance of Claims in Classes 6 through 9, then, the Claims Objections will proceed for adjudication by the Bankruptcy Court and through the Entry of a Final Order on each Claims Objection. While the Debtors are hopeful that the timeline submitted herewith as **Exhibit D-Timeline** can yield relatively quick Distributions under the Plan, this timeline is largely contingent upon a successful Mediation and expedited rulings by the Bankruptcy Court upon the Claims Objections.~~

In order to fund the administration of the Plan, there will be a carve out from Sale Proceeds in certain amounts in Cash necessary to fund the costs of administrating the Plan, including the Plan Agent compensation (the "Plan Expense Reserve"), in amount to be determined by the Plan Agent but as well be set forth in the Plan Supplement. These amounts will be the amount necessary

to fund Plan Expenses through the Dissolution, which will occur on or shortly after the Residual Distribution Date which will be the last date of Distributions under the Plan.

CLASS 1 – Priority Non-Tax Claims

**Treatment:** On the later of the Effective Date and the date on which the Claim in Class 1 is Allowed, unless otherwise agreed by the Holder of an Allowed Claim in Class 1 and the Debtors or the Plan Agent, each holder of an Allowed Claim in Class 1 shall receive Cash on the Effective Date an amount equal to such Allowed Priority Non-Tax Claim.

CLASS 2 – Paid Secured Claim of Riva Ridge Master Fund, Ltd.

**Treatment:** The Class 2 Claim, including principal, interest, fees and costs has been paid from Sale Proceeds in accordance with Orders of the Bankruptcy Court in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 2 Claim.

CLASS 3 – Paid Secured Claim of LaFactor (as holder of Mississippi River Bank Notes)

**Treatment:** The Class 3 Claim, including principal, interest, fees and costs has been paid from Sale Proceeds in accordance with Orders of the Bankruptcy Court, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 3 Claim.

CLASS 4 –Mississippi River Bank Contingent Claim for Indemnity

**Treatment:** The Debtors consider the Class 4 Claim to be not Allowed as a matter of law, under Section 502(e) of the Bankruptcy Code. As well, the Class 4 Claim is duplicative of the Class 5 Claim, which is the Claim of LaFactor, LLC for indemnity under the same notes and loan agreements as claimed by the Holders of the Class 4 Claim. In the event the Bankruptcy Court determines by Final Order that the Class 4 Claim is non-duplicative and non-contingent, and Allows the Class 4 Secured Claim, and that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 4 Claim in cash and in full on the Distribution Date, or, if there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 4 Claim. The Class 4 Claim shall not be paid in priority over any Secured Claim that under applicable law is a Claim with priority Secured status.

CLASS 5 –LaFactor, LLC Contingent Claim for Indemnity

**Treatment:** The Debtors consider the Class 5 Claim to be not Allowed as a matter of law, under Section 502(e) of the Bankruptcy Code. As well, the Class 5 Claim is duplicative of the Class 4 Claim, which is the Claim of Mississippi River Bank

for indemnity under the same notes and loan agreements as claimed by the Holder of the Class 5 Claim. In the Event the Bankruptcy Court determines by Final Order that the Class 5 Claim is non-duplicative and non-contingent, and Allows the Class 5 Secured Claim, and that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 5 Claim in cash and in full on the Distribution Date, or, if there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 5 Claim. The Class 5 Claim shall not be paid in priority over any Secured Claim that under applicable law is a Claim with priority Secured status.

**CLASS 6 –Secured Claim of TSB Ventures, LLC**

**Treatment:** The Class 6 Claim is a Disputed Claim. In the event the Bankruptcy Court by Final Order Allows the Class 6 Secured Claim, and rules that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 6 Claim in cash and in full on the Distribution Date, or, if there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 6 Claim. The Class 6 Claim shall not be paid in priority over any Secured Claim that under applicable law is Claim with priority Secured status.

**CLASS 7 –Secured Claim of LaFactor, LLC**

**Treatment:** The Class 7 Claim is a Disputed Claim. In the event the Bankruptcy Court by Final Order Allows the Class 7 Secured Claim, and rules that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 7 Claim in cash and in full on the Distribution Date, or, if there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 7 Claim. The Class 7 Claim shall not be paid in priority over any Secured Claim that under applicable law is a Claim with priority Secured status.

**CLASS 8 –Secured Claim of Jackson Smith Thomas**

**Treatment:** The Class 8 Claim is a Disputed Claim. In the event the Bankruptcy Court by Final Order Allows the Class 8 Secured Claim, and rules that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 8 Claim in cash and in full on the Distribution Date, or, if there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement,

release, and compromise of and in exchange for each Allowed Class 8 Claim. The Class 8 Claim shall not be paid in priority over any Secured Claim that under applicable law is a Claim with priority Secured status.

**CLASS 9 –General Unsecured Claims**

**Treatment:** Subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of Allowed Class 9 Claims in cash a Pro Rata share of the Available Cash on the Distribution Date, and a Pro Rata Share of the Remaining Amount on the Residual Distribution Date, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 9 Claim but no Class 9 Claim shall be paid in priority over any Allowed Claim in a senior Class.

**CLASS 10 –Membership/Equity Interests**

**Treatment:** The Holders of Class 10 Membership/Equity Interests shall receive no value under the Plan. The Membership/Equity Interests shall be extinguished on the Membership Extinguishment Date. Pending the Membership Extinguishment Date neither the Holders of Class 10 Interests nor the pre-Effective Date Board of managers shall have any voting power or control, as the Plan Agent shall hold all voting power and control over the Liquidating Debtors and shall be the Entity representative of the Liquidating Debtors with full corporate authority to act.

**VI. MEANS FOR IMPLEMENTATION OF THE PLAN**

**A. Plan Funding**

The Distributions and Residual Distributions shall be funded with Available Cash and the proceeds from liquidation of any remaining Assets of the Liquidating Debtors.

**B. The Plan Agent**

On the Effective Date, all property of the Debtors and of the Estates including all rights to object to Claims, all Avoidance Actions, Causes of Action, claims and causes of action identified in the Schedule of Retained Causes of Action to be filed with the Plan Supplement, alter-ego rights, derivative claims, breach of fiduciary duty claims, veil piercing rights, the right to pursue such claims and all other remaining property of the Estates as defined in section 541 of the Bankruptcy Code, including all Cash held and/or controlled by the Debtors on the Effective Date, equipment and other tangible and intangible property, shall be fully retained and vest in the Liquidating Debtors, free and clear of all liens, claims and encumbrances, except as otherwise provided in the Plan. The Plan Agent shall be the sole officer, director and shareholder of the Liquidating Debtors. On the Effective Date, the Liquidating Debtors shall be deemed to have satisfied all liabilities for purposes of dissolution under applicable state law. The Plan Agent is authorized, but not required, to execute and file all documents necessary to effectuate the dissolution of the Liquidating Debtor.

From and after the Effective Date of the Plan, subject to the limitations set forth below, the Liquidating Debtors, through the Plan Agent, are authorized to (i) take such actions as are necessary to complete an orderly wind-down of its operations, including completing any audits by the IRS or other taxing authorities; (ii) file claim objections; (iii) make distributions; (iv) prosecute Causes of Action owned by the Estate, including all claims and causes of action arising under the Bankruptcy Code; (v) pursue, liquidate and administer property of the Estate; (vi) file tax returns; and (vii) take such other action as provided for under the Plan..

The Plan Agent, on behalf of the Liquidating Debtors, shall have all of the rights, powers and privileges set forth in the Plan, the Confirmation Order or applicable bankruptcy or non-bankruptcy law. The Plan Agent is authorized and shall have the obligation to take all such actions as in her business judgment are necessary and appropriate to effectuate the purposes of the Plan, including but not limited to the following:

- Make all Distributions and Residual Distributions;
- Consistent with maintaining the value and liquidating the Assets of the Liquidating Debtors, invest in time or demand deposits, including certificates of deposit or like investments, including United States Treasury bonds and other securities guaranteed by the full faith and credit of the United States of America or any agency thereof, issued and to be held by any bank approved as a depository institution by the United States Trustee's office;
- Supervise and administer the resolution, settlement and payment of Claims and Interests and the distributions to the holders of Allowed Claims in accordance with the Plan;
- Enter into any agreement required by or consistent with the Plan and perform all of the Liquidating Debtors' obligations thereunder;
- Abandon any of the Assets of the Liquidating Debtors if the Plan Agent concludes that such assets are of no benefit to the Creditors, upon notice and opportunity for hearing;
- Participate in or initiate any proceeding before the Bankruptcy Court or any other court of appropriate jurisdiction and participate as a party or otherwise in any administrative, arbitative or other non-judicial proceeding and litigate claims on behalf of the Liquidating Debtors, including without limitation all Avoidance Actions and all state and federal Causes of Action or any other litigation which constitute an Asset of the Liquidating Debtors, and pursue to settlement or judgment such actions;
- Participate as a party-in-interest in any proceeding before the Bankruptcy Court involving the Chapter 11 Cases;
- Act in the name of or in the place of the Liquidating Debtors in any action before the Bankruptcy Court or any other judicial or administrative body;

- Take actions and exercise remedies against any entity that owes money to the Liquidating Debtors, including without limitation, the remedies available under any deed of trust, security agreement, promissory note, bond, guarantee or other instrument or document; make compromises regarding any deed of trust, security agreement, promissory note, bond, guarantee or other instrument or document; and, declare or waive defaults regarding any deed of trust, security agreement, promissory note, bond, guarantee or other instrument or document;
- Select and employ such professionals, agents or employees as the Plan Agent deems necessary to assist in the administration of the affairs of the Liquidating Debtors and compensate such persons;
- Hold any unclaimed distribution or payment to the holder of an Allowed Claim in accordance with the Plan;
- Propose any amendment, modification or supplement to the Plan or the Liquidating Debtors' corporate governance documents;
- File dissolution documents with the appropriate governmental agencies to dissolve the Liquidating Debtors as of the Membership Extinguishment Date;
- Receive, conserve and manage the assets of the Liquidating Debtors and sell pursuant to section 363(f) of the Bankruptcy Code or otherwise dispose of such assets for a price and upon such terms and conditions as the Plan Agent deems most beneficial to the Holders of Claims and Interest Holders and execute such deeds, bills of sale, assignments and other instruments in connection therewith;
- Open and maintain bank accounts on behalf of or in the name of the Liquidating Debtors;
- Pay all taxes, make all tax withholdings and file tax returns and tax information returns and make tax elections by and on behalf of the Liquidating Debtors;
- Pay all lawful expenses, debts, charges and liabilities of the Liquidating Debtors;
- Enforce all provisions of the Plan;
- Protect, perfect and defend the title to any of the assets of the Liquidating Debtors and enforce any bonds, mortgages or other obligations or Liens owned by the Liquidating Debtors;
- Carry insurance coverage, including insurance to protect former officers and directors and the Plan Agent against claims brought against them;
- Establish the Plan Expense Reserve and maintain the Professional Fee Reserve;
- Oversee the preparation of any year end and short year tax returns; and

- Exercise such other powers and duties as are necessary or appropriate in the Plan Agent's discretion to accomplish the purposes of the Plan, and to take any and all actions and exercise any and all authority set forth within the Plan.

**C. The Plan Agent Compensation and Replacement**

The Plan Agent may resign at any time by filing a written notice of resignation with the Bankruptcy Court. Any such resignation shall not become effective prior to sixty (60) days after the filing date of such notice unless the Plan Agent finds an acceptable replacement, and such replacement has been approved by Order of the Bankruptcy Court (after the reopening of the Bankruptcy Cases as necessary). In the event of the death of the Plan Agent, the counsel for the Liquidating Debtors are authorized to propose to the Bankruptcy Court a successor Plan Agent, and after notice and a hearing (upon reopening the Bankruptcy Cases), the Bankruptcy Court shall determine whether to approve the successor Plan Agent, or any other proposed Plan Agent submitted by the Liquidating Debtors' counsel. If no successor Plan Agent is approved (either upon submission by the Plan Agent proposing a replacement, or by counsel for the Liquidating Debtors in the event of death of the Plan Agent), Liquidating Debtors' counsel is authorized to seek conversion of the Bankruptcy Cases to cases under Chapter 7 of the Bankruptcy Code, or the Bankruptcy Court may convert the bankruptcy Cases to cases under Chapter 7 *sua sponte*.

The Plan Agent and all professionals employed by the Plan Agent shall be entitled to payment of their fees and reimbursement of all reasonable expenses on a monthly basis, without Bankruptcy Court approval, pursuant to the terms of their respective employment. The Plan Agent shall be paid a monthly salary of \$25,000, plus an amount equal to applicable self-employment and Medicare tax burden, and out of pocket expenses.

**D. Plan Expense Reserve**

The Plan Agent shall fund the Plan Expense Reserve on the Effective Date in an amount determined by the Plan Agent in accordance with the Plan Budget (included as Exhibit C) for the payment of the Plan Expenses. The Plan Agent is authorized to provide additional funding of the Plan Expense Reserve post-Effective Date in her reasonable discretion.

The Plan Agent may make any disbursement from the Plan Expense Reserve pursuant to the terms of the Plan without further order of the Bankruptcy Court or notice to any party. At such time as the Plan Agent determines, in her sole discretion, that the Plan Expense Reserve is no longer needed, upon the filing of her certification, the Cash set aside for the Plan Expense Reserve shall become Available Cash and disbursed according to the Plan.

**E. Dissolution of Board of Managers of the Debtors and Dissolution of the Debtors**

The Kologik Board shall be dissolved as of the Membership Extinguishment Date which is defined in the Plan to be "Residual Distribution Date" which means the date on which the Plan Agent shall make the Residual Distributions, which shall be no later than the later of sixty (60) days after the Distribution Date, or sixty (60) days after receipt by the Plan Agent of all funds associated with the ERC Claims, unless extended by order of the Bankruptcy Court.

But for the avoidance of doubt, given the status of the Kologik Board, after entry of the Confirmation Order, the Plan Agent shall be the sole party with authority to act on behalf the Liquidating Debtors.

The Plan Agent is expressly and specifically authorized to execute and file all documents necessary to effectuate the dissolution of the Liquidating Debtors under applicable non-bankruptcy law as of the Membership Extinguishment Date.

**F. Exemption from Certain Taxes and Fees**

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto 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, filing or recording fee, 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. Such exemption specifically applies to: (1) the creation of any mortgage, deed of trust, Lien, or other security interest; (2) the making or assignment of any lease or sublease; (3) any Restructuring Transaction; and/or (4) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan.

**G. Insurance Policies**

The Debtors are expressly assuming the insurance policies held by the Debtors as of the filing of the Plan as will be set forth in the Plan Supplement. The Plan Agent is authorized to purchase any additional insurance necessary to meet the indemnification obligations set forth in ARTICLE VIII of the Plan and the costs of such an insurance policy are Plan Expenses to be paid by the Plan Expense Reserve as are all other insurance payments due after the Confirmation Date.

**H. Vesting of Assets and Causes of Action**

On and after the Effective Date, all of the property and assets of the Debtors and of the Estate under section 541(a) of the Bankruptcy Code shall vest in the Liquidating Debtors, subject to the terms of the Plan. Unless any of the Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Bankruptcy Court Final Order, the Liquidating Debtors holds all those Causes of Action listed on the Retained Causes of Action filed with the plan Supplement. The Plan Agent shall determine whether to bring, settle, release, compromise, or enforce Causes of Action (or decline to do any of the foregoing), and shall not be required to seek further approval of the Bankruptcy Court for such action. The Debtors and the Plan agent expressly reserve all rights to prosecute any and all Causes of Action against any Entity that constitutes Property of the Estate, except as otherwise provided in the Plan. THE FAILURE TO LIST, DISCLOSE, DESCRIBE, IDENTIFY, OR REFER TO A RIGHT, CLAIM, CAUSE OF ACTION, DEFENSE, OR COUNTERCLAIM, OR POTENTIAL RIGHT, CLAIM, CAUSE OF ACTION, DEFENSE, OR COUNTERCLAIM, IN THE PLAN, THE SCHEDULES, OR ANY OTHER DOCUMENT FILED WITH THE BANKRUPTCY COURT SHALL IN NO MANNER WAIVE, ELIMINATE, MODIFY, RELEASE, OR ALTER ANY RIGHT OF THE LITIGATION TRUST TO COMMENCE, PROSECUTE, DEFEND AGAINST, SETTLE, AND

REALIZE UPON ANY RIGHTS, CLAIMS, CAUSES OF ACTION, DEFENSES, OR COUNTERCLAIMS THAT THE DEBTORS HAS, OR MAY HAVE, AS OF THE EFFECTIVE DATE.

Except as otherwise specifically provided in the Plan, all property vested in the Liquidating Debtors shall as of the Effective Date be free and clear of all Liens, Claims and interests of any type or nature, except such as are provided for in the Plan.

## **VII. Delivery of Distributions and Undeliverable or Unclaimed Distributions.**

### **A. Delivery of Plan Distributions in General**

Except as otherwise provided with respect to Allowed Administrative Expense Claims, Professional Fee Claims, Statutory Fees, and Priority Tax Claims, all Distributions will be made in accordance with the Approved Allowed Claims and Distribution Schedule which means the Final Order of the Bankruptcy Court approving the final schedule of Allowed Claims, both Secured and Unsecured, including the payment addresses of the Holders of Allowed Claims, and the schedule of proposed Distributions to the Holders of Allowed Claims to be made on the Distribution Date.

The Distribution Date will be the fifth (5) Business Day after entry of the Final Decree, unless the Final Decree is stayed. The Debtors will seek entry of the Final Decree as soon as practicable after the entry of the Approved Allowed Claims and Distribution Schedule.

Additionally, any Remaining Amounts which are the final aggregate amount of Cash remaining with the Plan Agent after the payments made on the Distribution Date, and after payment of all Professional Fee Claims and post-Effective Date Professional Fee Claims, Plan Agent fees and expenses and any other expenses related to the collection of the ERC Claims, preparation and filing of tax returns (including the Final Tax Return), and the Dissolution, will be distributed by the Plan Agent on the Residual Distribution Date which again means the date on which the Plan Agent shall make the Residual Distributions, which shall be no later than the later of sixty (60) days after the Distribution Date, or sixty (60) days after receipt by the Plan Agent of all funds associated with the ERC Claims, unless extended by order of the Bankruptcy Court.

### **B. Undeliverable Distributions and Unclaimed Property**

In the event that any Plan Distribution to any Holder is returned as undeliverable, no Distribution to such Holder shall be made unless and until the Liquidating Debtors or the Plan Agent, as applicable, has determined the then current address of such Holder, at which time such Distribution shall be made to such Holder without interest unless such Plan Distribution shall be of all or part of the Claims Return; provided, that such Plan Distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six months from the date the Plan Distribution is made, if not delivered. After such date, all unclaimed property or interests in property shall become Available Cash, as applicable, automatically and without need for a further order by the Bankruptcy Court and the Claim of any Holder to such property or interest in property, to the extent of such undeliverable Plan Distribution shall be released, settled, compromised, and forever barred.

### **C. Manner of Payment Pursuant to the Plan**

Any payment in Cash to be made pursuant to the Plan shall be made at the election of the Plan Agent, by check, by wire transfer, or by electronic funds transfer.

### **VIII. Treatment of Executory Contracts and Unexpired Leases**

#### **A. Assumption and Rejection**

On the Effective Date, except as otherwise provided herein, all Executory Contracts or Unexpired Leases will be deemed rejected in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, other than: (1) those that are identified on the Schedule of Assumed Executory Contracts and Unexpired Leases contained in the Plan Supplement; (2) those that have been previously assumed or rejected by a Final Order; (3) those that are the subject of a motion to assume or reject Executory Contracts or Unexpired Leases that is pending on the Confirmation Date; (4) those that are subject to a motion to assume, or reject an Executory Contract or Unexpired Lease pursuant to which the requested effective date of such assumption or rejection is after the Effective Date; or (5) those that are otherwise assumed pursuant to the terms herein.

Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the assumptions or rejections of such Executory Contracts or Unexpired Leases as provided under the Plan or the Schedule of Assumed Executory Contracts and Unexpired Leases contained in the Plan Supplement, pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated, assumptions or rejections of Executory Contracts and Unexpired Leases pursuant to the Plan are effective as of the Effective Date. Any motions to assume Executory Contracts or Unexpired Leases pending on the Effective Date shall be subject to approval by a Final Order of the Bankruptcy Court on or after the Effective Date. 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 all rights related thereto, if any, including all 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 pursuant hereunder. 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.

**FOR THE AVOIDANCE OF DOUBT, NO INDEMNITY AGREEMENT OR INDEMNIFICATION OBLIGATION UNDER ANY CONTRACT, LOAN AGREEMENT, OPERATING AGREEMENT, ARTICLES OF ORGANIZATION, OR APPLICABLE LAW SHALL BE ASSUMED UNDER, BY OR THROUGH THE PLAN.**

#### **B. Rejection Claims**

Rejection Claims, if any, must be Filed or submitted in accordance with the order of the Bankruptcy Court approving such rejection or within thirty (30) days after the date of entry of such order. Any Rejection Claims not timely submitted within such time shall be automatically Disallowed, forever barred from assertion, and shall not be enforceable against, as applicable, the

Debtors, the Estate or property of the foregoing, without the need for any objection by the Debtors or the Liquidating Debtors and without the need for any further notice to, or action, order, or approval of the Bankruptcy Court. Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims and shall be treated in accordance with Article III of the Plan, as applicable. Notwithstanding anything to the contrary herein, prior to the Effective Date, the Debtors may amend its decision with respect to the rejection of any Executory Contract or Unexpired Lease.

Rejection of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall not constitute a termination of pre-existing obligations owed to the Debtors under such contracts or leases. In particular, notwithstanding any nonbankruptcy law to the contrary, the Reorganized Debtors expressly reserves and does 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 contracting Debtors or the Reorganized Debtors, as applicable, from counterparties to rejected or repudiated Executory Contracts.

### C. Cure of Assumed Executory Contracts and Unexpired Leases

Any Cure and/or Cure Claims, including any monetary defaults under an Executory Contract and Unexpired Lease, shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure in Cash on the Effective Date, such other date on which the assumption of such Executory Contract or Unexpired Lease by the Debtors or Plan Agent is approved by Final Order, or, subject to the limitations described below, on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute regarding (1) the Cure or (2) any other matter pertaining to assumption, any 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.

## IX. CLAIMS OBJECTIONS

### A. Prosecution of Objections to Claims

~~As set forth herein, the Debtors have decided to file Claims Objections generally before August 30, 2024 so that they are on file well before the confirmation hearing on the Plan. After filing the Claims Objections, the Debtors intend to immediately move for mediation in each of the Claims Objections so that the Bankruptcy Court can the Mediation Process to determine the Allowed portion of each Claim, as well as determining which Class each Claim is a part of. The Debtors assert that a consensual or mediated resolution can be reached on each of the Claims Objection assert that it would be in the best interest of all parties, for the Mediation to adjudicate the Allowed portion of each Claim, as well as determining which Class each Claim is a part of, and for the Bankruptcy Court to enter the Approved Allowed Claims and Distribution Schedule as soon as practicable. However, in the event that Mediation there is no consensual resolution of does not resolve the the Claim Objection, it shall proceed to adjudication by the Bankruptcy Court by trial on the merits no later than thirty four (34) days after the certification by the Plan Agent that mediation was not successful. as quickly as allowed by the Bankruptcy Court.~~

While it is an integral part of the Plan for certain claims objections to be filed prior to the Confirmation Hearing, the failure of the Debtors to object to a Claim before the Confirmation

Hearing shall not prejudice the rights of the Debtors to object to a Claim before the Claims Objection Bar Date.

**B. Disallowance of Claims**

Any Claims held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed Disallowed pursuant to section 502(d) of the Bankruptcy Code, and Holders of such Claims may not receive any distributions on account of such Claims until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court order with respect thereto has been entered and all sums due, if any, to the Debtors by that Entity have been turned over or paid to the Debtors (if prior to the Effective Date) or the Plan Agent, as applicable, on and after the Effective Date.

Except as provided herein or otherwise agreed, any and all Proofs of Claim submitted 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.

**C. Plan Distributions after Allowance**

Again, all Distributions shall be made after the entry of Final Decree which the Debtors will seek to be entered as soon as practicable after the entry of the Approved Allowed Claims and Distribution Schedule.

**D. Setoffs**

Except as otherwise expressly provided for in the Plan, the Debtors, Liquidating Debtors, or the Plan Agent, pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the Holder of a Claim, may offset against any Allowed Claim and the Plan Distributions to be made pursuant to the Plan on account of such Allowed Claim (before any Plan Distribution is made on account of such Allowed Claim), any claims, rights, and Causes of Action of any nature that the Debtors, Liquidating Debtors, or the Plan Agent may hold against the Holder of such Allowed Claim, to the extent such claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or before the Effective Date (whether pursuant to the Plan or otherwise); provided, that neither the failure to exercise such setoff rights nor the allowance of any Claim pursuant to the Plan shall constitute a waiver or release by the Debtors, Liquidating Debtors, or the Plan Agent, of any such claims, rights, and Causes of Action that the Debtors, Liquidating Debtors, or the Plan Agent, may possess against such Holder. In no event shall any Holder of Claims be entitled to exercise the right of setoff of any Claim against any claim, right, or Cause of Action of the Debtors, unless such Holder has timely submitted a Proof of Claim in accordance with the Plan or the applicable Bar Date preserving such right of setoff.

**X. INJUNCTION, EXCULPATION, AND INDEMNIFICATION**

**A. Discharge of Debtors**

The Plan is a Chapter 11 Plan of Liquidation. Therefore, pursuant to section 1141(d)(3), of the Bankruptcy Code the Debtors will not receive a discharge.

**B. Plan Injunction.**

The entry of the Confirmation Order will operate as a general resolution with prejudice, as of the Dissolution, of all pending legal proceedings, if any, against the Debtors, the Liquidating Debtors, and their assets and properties and any proceedings not yet instituted against the Debtors or its assets and properties, except as otherwise provided in the Plan. Except as otherwise expressly provided in the Plan or the Confirmation Order, all Persons who have held, hold, or may hold Claims against the Debtors are permanently enjoined on and after Dissolution from: (a) commencing or continuing in any manner any action or other proceeding of any kind against the Debtors, or their property, the Liquidating Debtors or the Plan Agent, with respect to any such Claim or claim; (b) commencing or continuing in any manner any action or other proceeding of any kind against the Holders of Equity Interests arising out of, on the basis of, or in any way related to the Dissolution; (c) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order with respect to any such Claim against the Debtors or their property or the Liquidating Debtors or the Plan Agent; (d) creating, perfecting, or enforcing any encumbrance of any kind against the Debtors or their property, or the Liquidating Debtors or the Plan Agent, with respect to such Claim; (e) asserting any right of subrogation of any kind against any obligation due the Debtors, or the Liquidating Debtors or the Plan Agent, with respect to such Claim; and (f) asserting any right of setoff or recoupment against the Debtors, or the Liquidating Debtors or the Plan Agent except as specifically permitted by section 553 of the Bankruptcy Code and the terms of the Plan. Unless otherwise provided in the Plan or by order of the Bankruptcy Court, all injunctions or automatic stays provided for in these cases pursuant to section 105, if any, or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date will remain in full force and effect until the Effective Date.

**C. Limited Protection of the Exculpated Parties**

No Exculpated Party shall have or incur any liability to any Person or Entity under any theory of liability for any act or omission in connection with, relating to, or arising out of the Debtors' Chapter 11 Cases, the formulation, preparation, dissemination, negotiation, or filing of the Disclosure Statement, the Plan, the settlement of Claims or renegotiation of Executory Contracts or Unexpired Leases, the negotiation of the Plan, the Plan Supplement, or any contract, instrument, release, or other agreement, or document created or entered into in connection with the Disclosure Statement or the Plan (including any attachments or exhibits to any of the foregoing), the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of consummation of the Plan, the administration, consummation, and implementation of the Plan, the distribution of property under the Plan, or any transaction contemplated by the Plan or the Disclosure Statement, or in furtherance thereof, except for gross negligence or willful misconduct, but in all respects the Exculpated Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. In any action, suit or proceeding by any Person contesting any action by, or non-action of any Exculpated Party as constituting willful misconduct, gross negligence, or ultra vires activity or not being in good faith, the reasonable attorneys' fees and costs of the prevailing party will be paid by the losing party and as a condition to going forward with such action, suit, or proceeding at the outset thereof, all parties thereto will be required to provide appropriate proof and assurances of their capacity to make such payments

of reasonable attorneys' fees and costs in the event they fail to prevail. The Exculpated Parties have, and upon completion of the Plan shall be deemed to have, participated in good faith and in compliance with applicable law with regard to the restructuring of Claims and Equity Interests in the Chapter 11 Cases.

#### **D. Indemnification.**

The Liquidating Debtors shall indemnify each Person identified as an Exculpated Party against any and all costs and expenses (including attorneys' fees) incurred by any of them in defending against post-Effective Date claims that are based on actions allegedly taken (or not taken) by them in their respective capacities relating to the Debtors, the Liquidating Debtors or the Plan; provided, however, that no Exculpated Party shall be entitled to indemnification under the Plan for the costs and expenses of defending a cause of action in which it is ultimately judicially determined that such Exculpated Party was grossly negligent or acted fraudulently or with willful misconduct in performing such Exculpated Person's duties hereunder or under any Final Order of the Bankruptcy Court or applicable law, or ultra vires activity. Any Exculpated Party entitled to indemnification under this section shall have a priority distribution right that is senior to the Holders of Allowed Claims against the Liquidating Debtors, and such rights shall be deemed Plan Expenses and provided for in the Plan Expense Reserve. The Plan Agent may use the Liquidating Debtors' Assets (as a Plan Expense) to purchase indemnification insurance to satisfy any potential indemnification claims that may arise under this section. Access to the Debtors' or Liquidating Debtors' insurance coverage, including D&O insurance, shall constitute indemnification hereunder to the extent of the limits of any policy, and any Exculpated Party having access to such insurance coverage shall exhaust such coverage before the Debtors or the Liquidating Debtors shall increase the Plan Expense Reserve.

### **XI. MODIFICATION OF THE PLAN; REVOCATION**

The Plan Proponents reserve the right to alter, amend, or modify the Plan or any exhibits hereto under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date, but only by unanimous agreement among them. After the Confirmation Date and prior to substantial consummation of the Plan, as defined in section 1101(2) of the Bankruptcy Code, the Plan Proponents, but only by unanimous agreement among them, may, under section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan, and related documents and agreements, the Disclosure Statement, or the Confirmation Order, and such matters as may be necessary to carry out the purposes and effects of the Plan so long as such proceedings do not materially adversely affect the treatment of Holders of Claims under the Plan; provided, however, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan occurring after the solicitation thereof and before the Confirmation Date are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or re-solicitation under Bankruptcy Rule 3019.

The Plan Proponents reserve the right to revoke or withdraw the Plan before the Confirmation Date or the Effective Date and to file subsequent plans under chapter 11 of the

Bankruptcy Code, but only by unanimous agreement among them. If the Plan Proponents revoke or withdraw the Plan, then: (i) the Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption and assignment or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void; and (iii) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of the Debtors; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtors; provided, that such revocation or withdrawal shall not in any way limit, prejudice or affect the ability of the Debtors to consummate a sale transaction pursuant to section 363 of the Bankruptcy Code after revocation or withdrawal of the Plan, or the rights of the UCC or any Entity to object to any such sale transaction.

## **XII. CONDITIONS PRECEDENT TO THE OCCURRENCE OF THE EFFECTIVE DATE; WAIVER**

### **A. Conditions Precedent to Confirmation.**

The following shall constitute conditions precedent to Confirmation of the Plan:

1. The Bankruptcy Court shall have entered an Order approving the Disclosure Statement; and
2. The Confirmation Order shall be acceptable to the Debtors and otherwise be consistent with the terms and conditions described in the Plan.

### **B. Conditions Precedent to the Effective Date.**

The occurrence of the Effective Date is subject to satisfaction of the following conditions precedent (or conditions contemporaneous or subsequent with respect to actions which are to be taken contemporaneously with or immediately after the occurrence of the Effective Date), any of which may be waived in writing by the Plan Agent:

1. The Bankruptcy Court shall have entered the Confirmation Order and the Confirmation Order shall not have been stayed.

### **C. Waiver of Conditions**

The conditions to Confirmation and Consummation set forth in Article XI of the Plan may be waived by the Plan Agent filing notice with the Bankruptcy Court and providing ten (10) days opportunity to object. Absence an objection the conditions are deemed waived. If an objection is filed, the Bankruptcy Court shall hear and determine if waiver is appropriate within seven (7) days.

### **D. Filing Notice of the Effective Date**

Within three (3) days of the occurrence of the Effective Date, the Liquidating Debtors and/or Plan Agent shall file a joint notice of occurrence of the Effective Date in the record of the Chapter 11 Cases reflecting (i) that the foregoing conditions to the occurrence of the Effective

Date have been satisfied or waived, (ii) specifying the date of the Effective Date, and (iii) acknowledging that the Effective Date has occurred on and as of said date.

### **XIII. CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN AND SECURITIES LAW CONSIDERATIONS**

#### **A. Generally**

THE FOLLOWING DISCUSSION IS A SUMMARY OF CERTAIN OF THE SIGNIFICANT FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN TO THE DEBTORS, AND TO HOLDERS OF CLAIMS AND EQUITY INTERESTS AND IS BASED ON THE INTERNAL REVENUE CODE, TREASURY REGULATIONS PROMULGATED AND PROPOSED THEREUNDER, JUDICIAL DECISIONS AND PUBLISHED ADMINISTRATIVE RULES AND PRONOUNCEMENTS OF THE IRS AS IN EFFECT ON THE DATE HEREOF. CHANGES IN SUCH RULES OR NEW INTERPRETATIONS THEREOF COULD SIGNIFICANTLY AFFECT THE TAX CONSEQUENCES DESCRIBED BELOW. NO RULINGS HAVE BEEN REQUESTED FROM THE IRS. MOREOVER, NO LEGAL OPINIONS HAVE BEEN REQUESTED FROM COUNSEL WITH RESPECT TO ANY OF THE TAX ASPECTS OF THE PLAN.

THE FEDERAL, STATE, LOCAL AND OTHER TAX CONSEQUENCES OF THE PLAN TO THE HOLDERS OF CLAIMS AND EQUITY INTERESTS MAY VARY BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER. IN ADDITION, THIS DISCUSSION DOES NOT COVER ALL ASPECTS OF FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO THE DEBTORS OR THE HOLDERS OF ALLOWED CLAIMS OR EQUITY INTERESTS (SUCH AS HOLDERS WHO DO NOT ACQUIRE THEIR CLAIM ON ORIGINAL ISSUE), NOR DOES THE DISCUSSION DEAL WITH TAX ISSUES PECULIAR TO CERTAIN TYPES OF TAXPAYERS (SUCH AS DEALERS IN SECURITIES, S CORPORATIONS, LIFE INSURANCE COMPANIES, FINANCIAL INSTITUTIONS, TAX-EXEMPT ORGANIZATIONS AND FOREIGN TAXPAYERS). NO ASPECT OF FOREIGN, STATE, LOCAL OR ESTATE AND GIFT TAXATION IS ADDRESSED.

THE FOLLOWING SUMMARY IS, THEREFORE, NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER OF A CLAIM OR EQUITY INTEREST. HOLDERS OF CLAIMS OR EQUITY INTERESTS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS FOR THE FEDERAL, STATE, LOCAL AND OTHER TAX CONSEQUENCES PECULIAR TO THEM UNDER THE PLAN. THE DEBTORS ASSUMES NO RESPONSIBILITY FOR THE TAX EFFECT THAT CONFIRMATION AND RECEIPT OF ANY DISTRIBUTION UNDER THE PLAN MAY HAVE ON ANY GIVEN CREDITOR OR OTHER PARTY IN INTEREST.

#### **Tax Consequences to Holders of Claims**

#### **B. Realization and Recognition of Gain or Loss in General**

The federal income tax consequences of the implementation of the Plan to a Holder of a Claim will depend, among other things, upon the origin of the Holder's Claim, when the Holder's

Claim becomes an Allowed Claim, when the Holder receives payment in respect of such Claim, whether the Holder reports income using the accrual or cash method of accounting, whether the Holder has taken a bad debt deduction or worthless security deduction with respect to such Claim, and whether the Holder's Claim constitutes a "security" for federal income tax purposes.

Generally, a Holder of an Allowed Claim will realize gain or loss on the exchange under the Plan of its Allowed Claim for stock and other property (such as Cash and new debt instruments), in an amount equal to the difference between (i) the sum of the amount of any Cash and the issue price of any debt instrument, (other than any consideration attributable to a Claim for accrued but unpaid interest), and (ii) the adjusted basis of the Allowed Claim exchanged therefor (other than basis attributable to accrued but unpaid interest previously included in the Holder's taxable income). The treatment of accrued but unpaid interest and amounts allocable thereto varies depending on the nature of the Holder's Claim and is discussed below.

Whether or not such realized gain or loss will be recognized (i.e., taken into account) for federal income tax purposes will depend in part upon whether such exchange qualifies as a recapitalization or other "reorganization" as defined in the Tax Code, which may in turn depend upon whether the Claim exchanged is classified as a "security" for federal income tax purposes. The term "security" is not defined in the Tax Code or in the Treasury Regulations. One of the most significant factors considered in determining whether a particular debt instrument is a security is the original term thereof. In general, the longer the term of an instrument, the greater the likelihood that it will be considered a security. As a general rule, a debt instrument having an original term of 10 years or more will be classified as a security, and a debt instrument having an original term of fewer than five years will not. Debt instruments having a term of at least five years but less than 10 years are likely to be treated as securities, but may not be, depending upon their resemblance to ordinary promissory notes, whether they are publicly traded, whether the instruments are secured, the financial condition of the Debtors at the time the debt instruments are issued, and other factors. Each Holder of an Allowed Claim should consult his or her own tax advisor to determine whether his or her Allowed Claim constitutes a security for federal income tax purposes.

### **C. Accrued Interest**

Each Holder of an Allowed Claim is urged to consult its tax advisor regarding the allocation of consideration and deductibility of unpaid interest for tax purposes. The Plan does not provide that interest on any Claim will accrue from the Petition Date until the Effective Date.

### **D. Withholding**

All distributions to Holders of Claims under the Plan are subject to any applicable withholding. Under federal income tax law, interest, dividends, and other reportable payments may, under certain circumstances, be subject to "backup withholding" at a Twenty-Eight Percent (28%) rate. Backup withholding generally applies if the Holder (a) fails to furnish its social security number or other taxpayer identification number ("TIN"), (b) furnishes an incorrect TIN, (c) fails properly to report interest or dividends, or (d) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is its correct number and that it is not subject to backup withholding. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of

tax. Certain persons are exempt from backup withholding, including, in certain circumstances, corporations and financial institutions.

#### **E. Tax Consequences to Holders of Equity Interests**

The treatment afforded the Equity Interest Holders in Class 10 of the Plan does not account for any tax consequences to these Holders that may result from the cancellation of the Equity Interests. Equity Interest Holders in Class 10 may incur tax consequences resulting from their treatment under the Plan, the effects of the Asset Sale, and the possibility of cancellation of debt income (“CODI”). Holders of Class 10 Equity Interests are strongly urged to consult their tax advisors to determine any tax consequences that may result from the Plan.

The Debtors have not closed the books of Kologik, LLC (the other Debtors are disregarded for tax purposes), but the Debtors’ initial analysis of the effects of the Asset Sale (without the effects of any operational expenses, losses, interest and fees payments) is as follows:

The Debtors anticipate the resulting gains to be approximately:

- Accounts Receivable and related accounts: \$650,000 Ordinary Gain
- Fixed Assets: \$100,000 Ordinary Gain
- Goodwill: \$18,600,000 Capital Gain

These items of gain might be affected by the amount of interest paid, but also by the possible effects of CODI. It may be that the basis of the Holders of the Equity Interests are such that gain and CODI can be absorbed, and as well it may be that such Holders have suspended losses that they have been unable to utilize to offset income on their own tax returns. The Holders of Class 10 Equity Interests are urged strongly to consult their tax advisors.

### **XIV. VOTING; CONFIRMATION; ALTERNATIVE TO PLAN**

#### **A. Confirmation Standards**

Pursuant to section 1128 of the Bankruptcy Code and Bankruptcy Rule 3017(c), the Bankruptcy Court has scheduled a Confirmation Hearing for 9:00 a.m. Central Time, December 12, 2024, at 9:00 a.m. Central Time. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for the announcement of the adjournment date made at the Confirmation Hearing or at any subsequently adjourned Confirmation Hearing. Objections to Confirmation of the Plan must be made in writing and must specify in detail the name and address of the objector, all grounds for the objection, and the amount and Class of the Claim. Any such objection must be filed with the Bankruptcy Court on or before 5:00 p.m. Central Time, December 3, 2024, at 5:00 p.m. Central Time. Objections to Confirmation of the Plan are governed by Bankruptcy Rule 9014.

Formatted: Not Highlight

Formatted: Not Highlight

To confirm the Plan, the Bankruptcy Code requires that the Bankruptcy Court make a series of findings concerning the Plan and the Debtors, including that:

- the Plan has classified Claims and Interests in a permissible manner;

- the Plan complies with the applicable provisions of the Bankruptcy Code;
- the Debtors have complied with the applicable provisions of the Bankruptcy Code;
- the Debtors, as proponent of the Plan, have proposed the Plan in good faith and not by any means forbidden by law;
- the disclosure required by section 1125 of the Bankruptcy Code has been made;
- the Plan has been accepted by the requisite votes of Creditors and Equity Interest Holders;
- the Plan is feasible and Confirmation will not likely be followed by the liquidation or the need for further financial reorganization of the Debtors or the Liquidating Debtors;
- the Plan is in the “best interests” of all Holders of Claims or Interests in an impaired Class by providing to Creditors or Interest Holders on account of such Claims or Interests property of a value, as of the Effective Date, that is not less than the amount that such Holder would receive or retain in a chapter 7 liquidation, unless each Holder of a Claim or Interest in such Class has accepted the Plan;
- all fees and expenses payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, have been paid or the Plan provides for the payment of such fees on the Effective Date; and
- the disclosures required under section 1129(a)(5) of the Bankruptcy Code concerning the identity and affiliations of persons who will serve as officers, directors and voting trustees of the Liquidating Debtors have been made.

**B. “Best Interests” Test**

The Bankruptcy Code requires that the Bankruptcy Court find that the Plan is in the best interest of all holders of Claims and Interests that are Impaired by the Plan and that have not accepted the Plan as a requirement to confirm the Plan. The “best interests” test, as set forth in section 1129(a)(11) of the Bankruptcy Code, requires the Bankruptcy Court to find either that all members of an Impaired Class of Claims or Interests have accepted the Plan or that the Plan will provide a member who has not accepted the Plan with a recovery of 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 under chapter 7 of the Bankruptcy Code on such date.

In chapter 7 liquidation, no junior class of Claims or Interests may be paid unless all classes of Claims or Interests senior to such junior class are paid in full. Section 510(a) of the Bankruptcy Code provides that subordination agreements are enforceable in a bankruptcy case to the same extent that such subordination is enforceable under applicable nonbankruptcy law. Therefore, no class of Claims or Interests that is contractually subordinated to another class would receive any payment on account of its Claims or Equity Interests, unless and until such senior classes were paid in full. Once the Bankruptcy Court ascertains the recoveries in liquidation of the Debtors’ secured and priority creditors, it would then determine the probable distribution to unsecured creditors from the remaining available proceeds of the liquidation. If this probable distribution has

a value greater than the value of distributions to be received by the unsecured creditors under the Plan, then the Plan is not in the best interests of creditors and cannot be confirmed by the Bankruptcy Court.

The Debtors believe that the Plan affords Holders of Claims the potential for the greatest realization on the Debtors' Assets and, therefore, is in the best interests of such Holders. As set forth in Exhibit C - Plan Budget, the costs of the administering the Plan will be less than the costs of a chapter 7 liquidation. This is because any chapter 7 trustee would necessarily have to also pursue the Claims Objections, but would be doing so without the institutional knowledge and deep familiarity with the Debtors' books and records and affairs held by the Plan Agent. So either the chapter 7 trustee (or counsel) would have to hire Ms. Thayer or undertake an extensive, time consuming, and costly analysis and investigation to obtain anywhere near the level of familiarity that Ms. Thayer has with the Debtors and their affairs amassed over almost a year of daily work. Any chapter 7 trustee would also have to hire counsel. Further, a chapter 7 trustee would not be able to move the case as quickly through the claims allowance process as the Plan Agent and therefore there would be expenses relating to reporting and UST fees. On top of all these additional costs, the chapter 7 trustee would also be entitled to an approximate three percent (3%) statutory commission on any Distributions. As such, the Debtors assert that the Plan meets the best interest of creditors test.

#### **C. Feasibility**

The Bankruptcy Code requires that Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of a Debtors. This is a liquidating plan and if the Plan is administered, it will culminate in the dissolution of the Debtors and no further proceeding will occur. While the Debtors have concluded that the Plan is the best alternative and will maximize recoveries by Holders of Claims, if the Plan is not confirmed, any other party in interest in the Chapter 11 Cases could attempt to formulate and propose a different plan, which the Debtors sees as a costly and non-fruitful prospect. Further, if no plan under chapter 11 of the Bankruptcy Code can be confirmed, the Chapter 11 Cases may be converted to a chapter 7 case, which as set forth above will have far greater costs of administration. The Debtors believes that Confirmation and consummation of the Plan and the occurrence of the Effective Date is preferable to the available alternatives.

#### **D. Cram Down**

If all of the applicable requirements for Confirmation of the Plan are met as set forth in section 1129(a) of the Bankruptcy Code except for subsection (8) thereof, the Debtors may request the Bankruptcy Court to confirm the Plan pursuant to section 1129(b) of the Bankruptcy Code, notwithstanding the requirements of section 1129(a)(8) of the Bankruptcy Code, on the basis that the Plan is fair and equitable and does not discriminate unfairly with respect to any Impaired Class that does not vote to accept the Plan.

To obtain confirmation, it must be demonstrated to a bankruptcy court that a plan "does not discriminate unfairly" and is "fair and equitable" with respect to each dissenting impaired class. A plan does not discriminate unfairly if the legal rights of a dissenting impaired class are treated in a manner consistent with the treatment of other classes whose legal rights are substantially

similar to those of the dissenting impaired class and if no class receives more than it is entitled to for its claims. The Debtors believe the Plan satisfies this requirement.

The Bankruptcy Code establishes different “fair and equitable” tests for secured claims, unsecured claims, and holders of equity interests.

**Secured Claims.** with respect to treatment of a secured claim under a plan, “fair and equitable” means either (i) the impaired secured creditor retains its liens to the extent of its allowed claim and receives deferred cash payments at least equal to the allowed amount of its claims with a present value as of the effective date of a plan at least equal to the value of such creditor’s interest in the property securing its liens, (ii) property subject to the lien of the impaired secured creditor is sold free and clear of that lien, with that lien attaching to the proceeds of sale, and such lien proceeds are treated in accordance with clauses (i) and (iii) hereof, or (iii) the impaired secured creditor realizes the “indubitable equivalent” of its claim under a plan.

**Unsecured Claims.** with respect to treatment of an unsecured claim under a plan, “fair and equitable” means either, (i) each impaired unsecured creditor receives or retains property of a value equal to the amount of its allowed claim, or (ii) the holders of claims and interests that are junior to the claims of the dissenting class will not receive any property under a plan.

**Equity Interests.** With respect to the treatment of equity interests under a plan, “fair and equitable” means either (i) each equity interest holder will receive or retain under a plan property of a value equal to the greatest of the allowed amount of any fixed liquidation preference or redemption price, if any, of such equity interest or the value of the equity interest, or (ii) the holders of equity interests that are junior to the dissenting class of equity interests will not receive or retain any property under a plan on account of such junior equity interest.

The Debtors believes that the Plan can be confirmed on a non-consensual basis if the Holders of any Class of Claims entitled to vote on the Plan vote to reject the Plan (provided at least one Impaired Class of Claims entitled to vote votes to accept the Plan). If appropriate, the Debtors will demonstrate at the Confirmation Hearing that the Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code as to any non-accepting Class.

#### **E. Vote Required for Acceptance by a Class**

The Bankruptcy Code defines acceptance of a plan by a class of Claims as acceptance by holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the allowed Claims of that class held by creditors, other than any entity designated under section 1129(e) of the Bankruptcy Code, who cast ballots for acceptance or rejection of the Plan.

**Acceptance by Impaired Classes.** Each Impaired Class of Claims that will (or may) receive or retain property or any interest in property under the Plan shall be entitled to vote to accept or reject the Plan. An Impaired Class of Claims shall have accepted the Plan if (i) the holders (other than any holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (ii) the holders (other than any holder designated under section 1126(e) of the Bankruptcy Code) of more than one-half (1/2) in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

**F. Voting Presumptions.**

Claims in Unimpaired Classes are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code and, therefore, are not entitled to vote to accept or reject the Plan. Claims and Equity Interests in Classes that do not entitle the holders thereof to receive or retain any property under the Plan are conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and, therefore, are not entitled to vote to accept or reject the Plan. This is applicable to the Holders of Equity Interests in Class 10 are conclusively presumed to reject the Plan.

**G. Voting Rights.**

Pursuant to the provisions of the Bankruptcy Code, only Holders of Claims and Equity Interests in Classes that are (a) treated as “impaired” by a plan of reorganization and (b) entitled to receive a distribution under such plan are entitled to vote on the Plan. Under the Plan, only Holders of Claims in Classes 6 through 9 are entitled to vote on the Plan.

Notwithstanding the foregoing, only holders of Allowed Claims in the voting Classes are entitled to vote on the Plan. A Claim which is unliquidated, contingent, or disputed is not an Allowed Claim and is, therefore, not entitled to vote, unless and until the amount is estimated or determined, or the dispute is determined, resolved, or adjudicated in the Bankruptcy Court or another court of competent jurisdiction, or pursuant to agreement as may be permitted. However, the Bankruptcy Court may deem a contingent, unliquidated, or disputed Claim to be allowed on a provisional basis, for purposes only of voting on the Plan. If your Claim is contingent, unliquidated, or disputed, you will receive instructions for seeking temporary allowance of your Claim for voting purposes and it will be your responsibility to obtain an order provisionally allowing your Claim.

**H. Alternatives to Confirmation Is Chapter 7 Liquidation**

If the Debtors fails to obtain enough acceptances from Classes 6 through 9 to confirm the Plan, or the Plan is not subsequently confirmed and consummated, the alternative is liquidation of the Debtors under chapter 7 of the Bankruptcy Code.

As set forth herein proceeding under chapter 7 would impose significant additional monetary and time costs on the Debtors’ Estates.

**THE PLAN PROPONENTS BELIEVE THAT THE PLAN AFFORDS SUBSTANTIALLY GREATER RECOVERY TO HOLDERS OF CLAIMS AND NO WORSE TREATMENT OF EQUITY INTERESTS THAN SUCH HOLDERS WOULD RECEIVE IF THE DEBTORS WERE LIQUIDATED UNDER CHAPTER 7 OF THE BANKRUPTCY CODE.**

**XV. CERTAIN FACTORS TO BE CONSIDERED**

Prior to voting to accept or reject the plan, all holders of Claims should read and carefully consider the risk factors set forth below, as well as all other information set forth or otherwise referenced in this disclosure statement. These risk factors should not, however, be regarded as constituting the only risks involved in connection with the Plan and its implementation. Additional

risks and uncertainties not presently known to the Debtors or that it currently deems immaterial may also harm its Estate.

**A. Objections to Plan and Confirmation**

Section 1129 of the Bankruptcy Code provides certain requirements for a chapter 11 plan to be confirmed. Parties-in-interest may object to confirmation of the Plan based on an alleged failure to fulfill these requirements or other reasons.

**B. Objections to Classification of Claims and Equity Interests**

Section 1122 of the Bankruptcy Code provides that a plan of reorganization may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests in such class. The Debtors believes that the classification of Claims and Equity Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because each class of Claims and Equity Interests encompass Claims or Interests that are substantially similar to the other Claims or Equity Interests in each such class.

**C. Failure to Obtain Confirmation of the Plan**

The Debtors cannot ensure it will receive enough acceptances to confirm the Plan. But, even if the Debtors does receive enough acceptances, there can be no assurance that the Bankruptcy Court will confirm the Plan. Even if enough acceptances are received and, with respect to those Classes deemed to have rejected the Plan, the requirements for “cramdown” are met, the Bankruptcy Court, which as a court of equity may exercise substantial discretion, may choose not to confirm the Plan or may require additional solicitations or consents prior to confirming the Plan. Section 1129 of the Bankruptcy Code requires, among other things, that the value of distributions to dissenting holders of Claims and Interests may not be less than the value such holders would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. Although the Debtors believes that the Plan will meet such tests, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

The Debtors’ ability to propose and confirm an alternative plan is uncertain. Confirmation of any alternative plan under chapter 11 of the Bankruptcy Code would likely take significantly more time and result in delays in the ultimate distributions to the holders of Claims. If confirmation of an alternative plan is not possible, the Debtors would likely be liquidated under chapter 7. Based upon the Debtors’ analysis, liquidation under chapter 7 would result in distributions of reduced value, if any, to holders of Claims.

**D. Failure to Consummate or Effectuate a Plan**

Consummation of the Plan is conditioned upon, among other things, entry of the Confirmation Order and entry of the Approved Allowed Claims and Distribution Schedule. As of the date of this Disclosure Statement, there can be no assurance that any or all of the foregoing conditions will be met or that the other conditions to consummation, if any, will be satisfied. Accordingly, even if the Plan is confirmed by the Bankruptcy Court, there can be no assurance that the Plan will be consummated and effectuated and the liquidation completed.

**E. Risk of Non-Occurrence of the Effective Date of the Plan**

Although the Debtors believe that the Effective Date may occur within a reasonable time following the Confirmation Date, there can be no assurance as to such timing.

**F. Claims Estimation**

There can be no assurance that the estimated amount of Claims is correct, and the actual Allowed amounts of Claims may differ from estimates. The estimated amounts are subject to certain risks, uncertainties and assumptions. Should one or more of these risks or uncertainties materialize or should underlying assumptions prove incorrect, the actual Allowed amounts of Claims may vary from those estimated therein.

**G. Certain Tax Considerations, Risks and Uncertainties**

THERE ARE A NUMBER OF MATERIAL INCOME TAX CONSIDERATIONS, RISKS AND UNCERTAINTIES ASSOCIATED WITH CONSUMMATION OF THE PLAN. INTERESTED PARTIES SHOULD READ CAREFULLY THE DISCUSSION SET FORTH IN THIS DISCLOSURE STATEMENT FOR A DISCUSSION OF CERTAIN FEDERAL INCOME TAX CONSEQUENCES BOTH TO THE DEBTORS AND TO HOLDERS OF CLAIMS THAT ARE IMPAIRED UNDER THE PLAN.

**XVI. VOTING PROCEDURES AND REQUIREMENTS**

**A. Introduction**

Detailed instructions for voting on the Plan are provided with the Ballots which will be provided with this Disclosure Statement. For purposes of the Plan, only holders of record of Claims in the following Classes, as of the Voting Record Date, are entitled to vote: Classes 6, 7, 8, and 9.

If your Claim is not in Classes 6, 7, 8, and 9 you are not entitled to vote on the Plan. All Equity Interests are not entitled to vote.

If your Claim is in Classes 6, 7, 8, and 9 you should read your ballot and follow the listed instructions carefully. Please only use the Ballot provided to you by the Debtors.

**B. Voting**

In order for your vote to be counted, your signed ballot must be actually received at the following address before the Voting Deadline of December 3<sup>rd</sup>, 2024, at 5:00 p.m. (prevailing Central time):

Formatted: Not Highlight

By Hand Delivery, Certified, Registered, or Regular Mail, or Overnight Carrier:

Kelly Hart Pitre  
Attention Louis M. Phillips (Balloting Agent)  
301 Main Street, Ste. 1600  
Baton Rouge, LA 70801

**UNLESS THE BALLOT IS ACTUALLY RECEIVED BY THE BALLOTING AGENT ON OR PRIOR TO THE VOTING DEADLINE, SUCH BALLOT WILL BE REJECTED AS INVALID AND WILL NOT BE COUNTED AS AN ACCEPTANCE OR REJECTION OF THE PLAN.**

**C. Reservation of Rights**

**THE DEBTORS RESERVES THE RIGHT, WITH THE APPROVAL OF THE OTHER PLAN PROPONENTS, AND WITHOUT NOTICE EXCEPT AS MAY BE REQUIRED UNDER APPLICABLE LAW, TO EXTEND THE SOLICITATION PERIOD OR TERMINATE THE SOLICITATION OF VOTES ON THE PLAN.**

**D. Waivers of Defects, Irregularities, etc.**

Unless otherwise directed by the Bankruptcy Court, all questions as to the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawals of ballots will be determined by the Debtors in its sole discretion, which determination will be final and binding. The Debtors reserves the right to reject any and all ballots submitted by any creditors not in proper form, the acceptance of which would, in the opinion of the Debtors or its counsel, be unlawful. The Debtors further reserves its rights to waive any defects or irregularities or conditions of delivery as to any particular ballot by its creditors. The interpretation (including the ballot and the respective instructions thereto) by the Debtors, unless otherwise directed by the Bankruptcy Court, will be final and binding on all parties. Unless waived, any defects or irregularities in connection with deliveries of ballots must be cured within such time as the Debtors (or the Bankruptcy Court) determine. Neither the Debtors nor any other person will be under any duty to provide notification of defects or irregularities with respect to deliveries of ballots nor will any of them incur any liabilities for failure to provide such notification. Unless otherwise directed by the Bankruptcy Court, delivery of such ballots will not be deemed to have been made until such irregularities have been cured or waived. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will be invalidated.

**XVII. CONCLUSION**

The Debtors recommends that holders of Claims in 6, 7, 8, and 9 vote to accept the Plan and to evidence such acceptance by returning their signed ballots so that they will be received before the Voting Deadline of December 31, 2024, at 5:00 p.m. (prevailing Central time):

Dated: October 10, 2024~~October 8, 2024~~

Respectfully submitted, as of the date first set forth above,

/s/ Kim E. Thayer

Kim E. Thayer  
CRO/COO, and  
Authorized Signatory, ResolveKo, LLC

Prepared and submitted by,

Formatted: Not Highlight

/s/ Amelia L. Hurt

Louis M. Phillips (#10505)  
One American Place  
301 Main Street, Suite 1600  
Baton Rouge, LA 70801-1916  
Telephone: (225) 381-9643  
Facsimile: (225) 336-9763  
Email: louis.phillips@kellyhart.com

and

Erin K. Arnold (LA #29069)  
Amelia L. Hurt (LA #36817)  
400 Poydras Street, Suite 1812  
New Orleans, LA 70130  
Telephone: (504) 522-1812  
Facsimile: (504) 522-1813  
Email: erin.arnold@kellyhart.com  
Email: amelia.hurt@kellyhart.com

**COUNSEL TO THE DEBTORS**

**EXHIBIT A - PLAN**

**UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF LOUISIANA**

**IN RE**

**KOLOGIK, LLC, ET AL.,<sup>1</sup>  
DEBTORS.  
(JOINT ADMINISTRATION)**

**CASE NO. 24-10311  
CHAPTER 11**

**LIQUIDATING PLAN OF THE DEBTORS RESOLVEKO, LLC,  
RESOLVEKO CAPITAL LLC, AND RESOLVEKO CAPITAL II, LLC,  
FORMERLY KNOWN AS KOLOGIK, LLC, KOLOGIK CAPITAL, LLC AND  
KOLOGIK CAPITAL II, LLC**

---

**Counsel for the Debtors and Debtors-in-Possession**

Louis M. Phillips (#10505)  
One American Place  
301 Main Street, Suite 1600  
Baton Rouge, LA 70801-1916  
Telephone: (225) 381-9643  
Facsimile: (225) 336-9763  
Email: louis.phillips@kellyhart.com

and

Erin K. Arnold (LA #29069)  
Amelia L. Hurt (LA #36817)  
400 Poydras Street, Suite 1812  
New Orleans, LA 70130  
Telephone: (504) 522-1812  
Facsimile: (504) 522-1813  
Email: erin.arnold@kellyhart.com  
Email: amelia.hurt@kellyhart.com

---

<sup>1</sup> The debtors and debtors in possession these chapter 11 cases (the “Chapter 11 Cases”), along with the last four digits of their respective Employer Identification Numbers, are as follows: Kologik, LLC (3729), Case No. 24-10311; Kologik Capital, LLC (3729) Case No. 24-10312; and Kologik Capital II, LLC (3729), Case No. 24-10313. The Debtors’ mailing address is: 300 Main St., Ste. #1600, Baton Rouge, LA, 70801.

## **DEBTORS' CHAPTER 11 PLAN OF LIQUIDAION**

ResolveKo, LLC, ResolveKo Capital LLC, and ResolveKo Capital II, LLC, formerly known as Kologik, LLC, Kologik Capital, LLC and Kologik Capital II, LLC, as Debtors and Debtors-in-Possession in the above-captioned case (the "Debtors"), propose the following chapter 11 plan of liquidation (the "Plan") for, among other things, the resolution of the outstanding Claims against, and Equity Interests in, the Debtors. Unless otherwise noted, capitalized terms used in this Plan have the meanings set forth in Article I of this Plan. The Debtors are the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtors' history, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents that may be Filed with the Bankruptcy Court that are referenced in this Plan or the Disclosure Statement as Exhibits and Plan Documents. All such Exhibits and Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Subject to the other provisions of this Plan, and in accordance with the requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtors reserve the right to alter, amend, modify, revoke, or withdraw this Plan prior to the Effective Date.

If this Plan cannot be confirmed, for any reason, then subject to the terms set forth herein, this Plan may be revoked.

**TABLE OF CONTENTS**

ARTICLE I. RULES OF INTERPRETATION, COMPUTATION OF TIME, GOVERNING LAW AND DEFINED TERMS.....6

    A. Rules of Interpretation, Computation of Time and Governing Law.....6

    B. Defined Terms .....6

ARTICLE II. ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS .....15

    A. Administrative Expense Claims.....15

    B. Professional Fee Claims.....15

    C. Priority Tax Claims.....16

    D. United States Trustee Fees.....16

ARTICLE III. CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS.....17

    A. Summary of Classification and Voting Rights .....17

    B. Elimination of Vacant Classes .....18

    C. Classes and Treatment .....18

        1. CLASS 1 – Priority Non-Tax Claims..... 18

        2. CLASS 2 – Paid Secured Claim of Riva Ridge Master Fund, Ltd..... 18

        3. CLASS 3 – Paid Secured Claim of LaFactor (as holder of Mississippi River Bank Notes)..... 19

        4. CLASS 4 –Mississippi River Bank Contingent Claim for Indemnity ..... 19

        5. CLASS 5 –LaFactor, LLC Contingent Claim for Indemnity ..... 20

        6. CLASS 6 –Secured Claim of TSB Ventures, LLC ..... 20

        7. CLASS 7 –Secured Claim of LaFactor, LLC..... 20

        8. CLASS 8 –Secured Claim of Jackson Smith Thomas..... 21

        9. CLASS 9 –General Unsecured Claims..... 21

        10. CLASS 10 –Membership/Equity Interests ..... 22

    D. Controversies Regarding Impairment. ....22

ARTICLE IV. ACCEPTANCE OR REJECTION OF THE PLAN .....22

    A. Voting Classes .....22

    B. Voting Rights as to Confirmation of the Plan, Procedural Requirements .....22

    C. Acceptance by Impaired Classes .....23

    D. Non-Consensual Confirmation .....23

ARTICLE V. MEANS FOR IMPLEMENTATION OF THIS PLAN .....23

    A. Summary .....23

    B. Vesting of Estate Property in the Liquidating Debtors.....24

    C. Continuation of Limited Operations and Ultimate Dissolution of the Liquidating Debtors.....24

    D. General Powers of the Plan Agent.....24

    E. Resignation/Removal of the Plan Agent.....26

    F. Appointment of Successor Plan Agent.....26

G.	Plan Agent Compensation.....	27
H.	Plan Expense Reserve.....	27
I.	Plan Funding.....	27
J.	Vesting of Assets and Causes of Action.....	27
K.	Delivery of Distributions and Undeliverable or Unclaimed Distributions. ....	28
1.	Delivery of Distributions in General.....	28
2.	Undeliverable Distributions and Unclaimed Property.....	28
3.	Manner of Payment Pursuant to the Plan.....	28
4.	Compliance with Tax Requirements/Allocations.....	29
ARTICLE VI. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES		
	29	
A.	Assumption and Rejection.....	29
B.	Rejection Claim.....	30
C.	Cure of Assumed Executory Contracts and Unexpired Leases.....	30
D.	Insurance Policies.....	31
E.	Reservation of Rights.....	31
ARTICLE VII. PURSUIT OF CLAIM OBJECTIONS AND CAUSES OF ACTION.....		
	31	
A.	Objection Process.....	31
B.	Filing of Claims and Causes of Action by Liquidating Debtors.....	32
C.	Disallowance of Late Filed Proofs of Claim.....	32
ARTICLE VIII. EFFECT OF CONFIRMATION.....		
	32	
A.	Legally Binding Effect.....	32
B.	Plan Injunction.....	32
C.	Limited Protection of the Exculpated Parties.....	33
D.	Indemnification.....	34
E.	Preservation and Retention of Claims and Rights.....	34
ARTICLE IX. MODIFICATIONS AND AMENDMENTS.....		
	34	
ARTICLE X. RETENTION OF JURISDICTION.....		
	35	
ARTICLE XI. SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS		
	36	
A.	Settlement, Compromise, and Release of Claims and Interests.....	36
B.	Release of Liens.....	37
C.	Setoffs.....	37
D.	Recoupment.....	38
E.	Document Retention.....	38
F.	Reimbursement or Contribution.....	38
ARTICLE XII. CONDITIONS PRECEDENT TO CONFIRMATION AND THE EFFECTIVE DATE.....		
	38	
A.	Conditions Precedent to Confirmation.....	38
B.	Conditions Precedent to the Effective Date.....	38

1.	The Bankruptcy Court shall have entered the Confirmation Order and the Confirmation Order shall not have been stayed.....	39
C.	Waiver of Conditions.....	39
D.	Filing Notice of Effective Date.....	39
ARTICLE XIII. MISCELLANEOUS PROVISIONS .....		39
A.	Immediate Binding Effect.....	39
B.	Severability of Plan Provisions.....	39
C.	Successors and Assigns.....	39
D.	Notices .....	40
E.	Post-Confirmation Reporting Requirements.....	40
F.	Reservation of Rights.....	40
G.	Governing Law .....	40
H.	Continuing Viability of Other Orders/Agreements.....	41
I.	Exhibits .....	41
J.	Compliance with Tax Requirements.....	41
K.	Further Assurances.....	41
L.	Severability of Plan Provisions.....	41

**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 hereof: (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, as previously amended, modified or supplemented, if applicable, 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 its terms; (d) unless otherwise specified, all references herein to “Articles,” “Sections,” “Exhibits” and “Plan Documents” are references to Articles, Sections, Exhibits and Plan Documents hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” “hereunder” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) any reference to an Entity as a Holder of a Claim or Equity Interest includes such Entity’s successors and assigns; (h) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (i) any term used in capitalized form herein that is not otherwise defined 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; and (j) “\$” or “dollars” means Dollars in lawful currency of the United States of America. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

**B. Defined Terms**

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

“Administrative Expense Claim” means any Claim for costs and expenses of administration of the Chapter 11 Cases that is Allowed pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(2) of the Bankruptcy Code, including, without limitation, (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 business of the Debtors; and (b) all fees and charges assessed against the Estates pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, and that have not already been paid by the Debtors during the Chapter 11 Cases and a Professional Fee Claim.

“Administrative Expense Claims Bar Date” means, with respect to any Administrative Expense Claim (other than a Professional Fee Claim) becoming due on or prior to the Effective Date, **5:00 p.m. (prevailing Central Time) on such date that is twenty-one (21) days after the Effective Date.**

“Administrative Expense Claims Objection Deadline” means, with respect to any Administrative Expense Claim, the later of (a) thirty (30) days after the Effective Date and (b) thirty (30) days after the timely Filing of such Administrative Expense Claim; provided, however, that the Administrative Expense Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Debtors.

“Affiliate” of any Person means any Entity that, with respect to such Person, either (i) is an “affiliate” as defined in section 101(2) of the Bankruptcy Code, or (ii) is an “affiliate” as defined in Rule 405 of the Securities Act of 1933, or (iii) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For the purposes of this definition, the term “control” (including, without limitation, the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction in any respect of the management or policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

“Allowed” means with respect to Claims: (a) any Claim, proof of which is timely filed by the applicable Bar Date (or for which Claim under the Plan, the Bankruptcy Code, or a Final Order of the Bankruptcy Court, a proof of Claim is not or shall not be required to be filed); (b) any Claim that is listed in the schedules of assets and liabilities as not contingent, not unliquidated, and not disputed, and for which no proof of Claim has been timely filed; or (c) any Claim allowed pursuant to the Plan or a Final Order of the Bankruptcy Court; provided that, with respect to any Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that with respect to such Claim no objection to the allowance thereof has been interposed at any time prior to or after the Effective Date within the applicable period of time, if any, fixed by the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed by a Final Order. In no event shall the Allowed amount of any Claim exceed 100 percent of the principal amount of such Claim or, except as expressly provided herein, include any amount for interest accruing after the Petition Date. Any Claim that (x) has been or is hereafter listed in the schedules of assets and liabilities as contingent, unliquidated, or disputed, and for which no proof of Claim is or has been timely filed, or (y) is enjoined or released pursuant to the Plan, is not considered Allowed and shall be expunged without further action by the Debtors and without further notice to any party or action, approval, or order of the Bankruptcy Court. Notwithstanding anything to the contrary herein, no Claim of any Entity subject to Section 502(d) of the Bankruptcy Code shall be deemed Allowed unless and until such Entity pays in full the amount that it owes such Debtor, and no Claim that is a Claim under Section 502(e) of the Bankruptcy Code shall be Allowed unless such Claim is fixed prior to the Effective Date. For the avoidance of doubt, a Proof of Claim filed after the applicable Bar Date shall not be Allowed for any purposes whatsoever absent entry of a Final Order allowing such late-filed Claim. “Allow” and “Allowing” shall have correlative meanings.

“Allowed Claim or Equity Interest” means a Claim or an Equity Interest of the type that is or has been Allowed.

“Approved Allowed Claims and Distribution Schedule” means the Final Order of the Bankruptcy Court approving the final schedule of Allowed Claims, both Secured and

Unsecured, including the payment addresses of the Holders of Allowed Claims, and the schedule of proposed Distributions to the Holders of Allowed Claims to be made on the Distribution Date.

“Assets” means all of the rights, titles, and interests of the Debtors or Liquidating Debtors, in and to property of whatever type or nature, including, without limitation, real, personal, mixed, intellectual, tangible, and intangible property, the Debtors’ books and records, and the Causes of Action.

“Asset Sale” means that certain sale pursuant to the *Order Authorizing and Approving (i) Sale of Debtors’ Assets Free and Clear of All Claims, Liens, Encumbrances and Interests pursuant to asset Purchase Agreement, (ii) Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (ii) Granting Related Relief* [Dkt. No. 135].

“Available Cash” means any Cash in excess of the amount of, the Plan Expense Reserve and the Professional Fee Reserve including the proceeds of any Avoidance Action or Cause of Action.

“Avoidance Actions” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought by and on behalf of the Debtors or their Estates under the Bankruptcy Code or applicable nonbankruptcy law, including, without limitation, actions or remedies arising under sections 502, 510, 544, 545, and 547-553 of the Bankruptcy Code or under similar state or federal statutes and common law, including fraudulent transfer laws

“Ballot” means the form(s) distributed to holders of Impaired Claims entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

“Bankruptcy Code” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time and as applicable to the Chapter 11 Cases.

“Bankruptcy Court” means the United States Bankruptcy Court for the Middle District of Louisiana.

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Middle District of Louisiana, in each case as amended from time to time and as applicable to the Chapter 11 Cases.

“Bar Date” means the applicable deadlines set by the Bankruptcy Court for the filing of Proofs of Claim against the Debtors as set forth in the Bar Date Order, which deadlines may be or have been extended for certain Claimants by order of the Bankruptcy Court.

“Bar Date Order” means the *Order Granting Motion To Set Last Day To File Proofs of Claim* [Dkt. No. 147].

“Business Day” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

“Carve-Out” has the same meaning as “Carve-Out” as defined and provided for in the *Final Order (I) Authorizing Debtors To Utilize Cash Collateral, (II) Granting Adequate Protection To Prepetition Sec Modifying The Automatic Stay, (III) Modifying The Automatic Stay, and (IV) Granting Related Relief* [Dkt. No 137, Paragraph 12].

“Cash” means the legal tender of the United States of America or the equivalent thereof.

“Causes of Action” means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including, without limitation, under alter ego theories), 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, Cause of Action includes, without limitation,: (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 Equity 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 section 558 of the Bankruptcy Code; (e) any claims under any state or foreign law, including, without limitation, any fraudulent transfer or similar claims; (f) the Avoidance Actions, and (g) the Estate Claims. The Causes of Action include, without limitation, the Causes of Action belonging to the Debtors’ Estates listed on the schedule of Causes of Action to be filed with the Plan Supplement.

“CFO/CRO” means Kim E. Thayer, the Debtors’ chief financial officer and chief restructuring officer.

“Chapter 11 Cases” means the Debtors’ case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Bankruptcy Court styled In re Kologik, LLC, et al., Case No. 24-10311.

“Claim” means any “claim” against the Debtors as defined in section 101(5) of the Bankruptcy Code.

“Claims Objection Deadline” means the date that is sixty (60) days after the Confirmation Date; provided, however, the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Plan Agent.

“Class” means a category of Holders of Claims or Equity Interests as set forth in ARTICLE III hereof pursuant to section 1122(a) of the Bankruptcy Code.

“Confirmation Date” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

“Confirmation Hearing” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

“Confirmation Order” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

“Cramdown” means the confirmation of this Plan pursuant to section 1129(b) of the Bankruptcy Code notwithstanding any rejection by an impaired Class or Classes of Holders of Claims or Equity Interests of the Plan.

“Debtors” means ResolveKo, LLC, ResolveKo Capital, LLC, and ResolveKo Capital II, LLC (formerly operating as Kologik, LLC, Kologik Capital, LLC; and Kologik Capital II, LLC, respectively).

“Disclosure Statement” means that certain Disclosure Statement for Debtors’ Chapter 11 Plan of Liquidation, as amended, supplemented, or modified from time to time, which describes this Plan, including all exhibits and schedules thereto and references therein that relate to this Plan.

“Disputed” means, with respect to any Claim or Equity Interest, any Claim or Equity Interest (i) scheduled as disputed, (ii) to which the Debtors or any other party in interest with standing and capacity has filed a timely objection or request for estimation in accordance with the Bankruptcy Code and the Bankruptcy Rules, or (iii) that is otherwise disputed by the Debtors in accordance with applicable law.

“Dissolution” means the filing of Articles of Dissolution of the Debtors by the Plan Administrator as authorized by this Plan after the Membership Interest Extinguishment Date.

“Distribution” means the payment or distribution of consideration to Holders of Allowed Claims under this Plan.

“Distribution Date” means no later than the fifth Business Day after entry of the Final Decree, unless the Final Decree is stayed.

“Distribution Record Date” means the date for determining which Holders of Claims are eligible to receive distributions hereunder, which date shall be the date of entry of the Approved Allowed Claims and Distribution Schedule.

“Effective Date” means the second Business Day after entry of the Confirmation Order, unless the Confirmation Order is stayed, in which case the Effective Date shall mean the second Business Day after the stay of the Confirmation Order is terminated.

“Entity” means any “entity” as defined in section 101(15) of the Bankruptcy Code and also includes any Person or any other entity.

“Equity Interest” means any Equity Security in the Debtors, including, without limitation, all issued, unissued, authorized or outstanding membership interests.

“ERC Claim” means the claim of ResolveKo, LLC to recovery of its submitted request for the employee retention credit, as well as the claim of ResolveKo concerning the employee retention credit submitted or to be submitted through ADP, the Debtors’ former Professional Employer Organization.

“Estates” means the bankruptcy estates of the Debtors created by virtue of section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Cases

“Exculpated Parties” means, collectively, (i) the Debtors and their successors and assigns, (ii) Paul San Soucie; (iii) the CFO/CRO, (iv) Plan Agent, and (iv) the members of the Debtors’ Board of Managers, but only to the extent provided in ARTICLE VIII hereof. .

“Executory Contract” means a contract to which any Debtor(s) is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

“Exhibit” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

“File” or “Filed” or “Filing” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Cases.

“Final Decree” means the order of the Bankruptcy Court deeming the Plan substantially consummated and ordering the Chapter 11 Cases closed, which the Debtors will seek to be entered as soon as practicable after the entry of the Approved Allowed Claims and Distribution Schedule.

“Final Tax Return” means the final federal and state tax returns to be filed before, on, or after the Membership Extinguishment Date.

“Final Order” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for certiorari, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for certiorari, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtors or the Liquidating Debtors, as applicable, or, in the event that an appeal, writ of certiorari, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or certiorari, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for certiorari, or move for a new trial, reargument or rehearing shall have expired; 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 with respect to such order shall not preclude such order from being a Final Order.

“General Unsecured Claim” or “Unsecured Claim” means any prepetition Claim against the Debtors that is not Secured and is not a/an: (a) Administrative Expense Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; or (d) Priority Non-Tax Claim.

“Governmental Unit” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

“Holder” means an Entity holding a Claim against, or Equity Interest in, the Debtors.

“Impaired” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

“Impaired Class” means classes which are identified as impaired as set forth in ARTICLE III.

“Indemnification Claim” means a claim for indemnification, contribution, or subrogation under any applicable limited liability articles of organization or operating agreement as the same may have been amended, or any applicable non-bankruptcy law.

“Lien” means a “lien” as defined in section 101(37) of the Bankruptcy Code and, with respect to any asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

“Membership Extinguishment Date” shall be the Residual Distribution Date.

“Person” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, individual, corporation, company, general or limited partnership, limited liability company, unincorporated organization firm, trust, estate, business trust, association, joint stock company, joint venture, government, governmental agency, Governmental Unit or any subdivision thereof, the United States Trustee, or any other entity, whether acting in an individual, fiduciary or other capacity.

“Petition Date” means April 23, 2024.

“Plan” means this Debtors’ Chapter 11 Plan of Liquidation, including the Exhibits and the Plan Documents and all supplements, appendices, and schedules thereto, either in its present form or as the same may be altered, amended, modified or otherwise supplemented from time to time.

“Plan Agent” means Ms. Kim E. Thayer, or in the event that she resigns or is no longer able to act as Plan Agent, a person to be appointed pursuant to ARTICLE V of this Plan.

“Plan Budget” means the post-Effective Date budget attached to the Disclosure Statement, as it may be amended.

“Plan Documents” means any of the documents, other than this Plan, but including, without limitation, the documents to be filed with the Plan Supplement (if any), to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, and as may be modified consistent with the terms hereof with the consent of the Committee.

“Plan Expenses” mean the reasonable costs associated with the administration of the Plan, post-Effective Date, including but not limited to: the Plan Agent Compensation, Statutory Fees, any insurance premium payments, costs of document storage, service charges for bank accounts, email servers, vendor contracts, and any like expense.

“Plan Expense Reserve” means the amount of in Cash determined in the discretion of the Plan Agent to be necessary to fund all Plan Expenses through Dissolution, the estimation of which is set forth in the Plan Supplement.

“Plan Supplement” means the ancillary documents necessary for the implementation and effectuation of the Plan, including, without limitation, (i) the schedule of Retained Causes of Action; (ii) the schedule of remaining Executory Contracts and Unexpired Leases to be assumed and rejected pursuant to this Plan, (iii) the Plan Expense Reserve estimates, and the estimated post-Effective Date Professional Fee Reserve.

“Priority Non-Tax Claim” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, including any Claims for paid time-off entitled to priority under section 507(a)(4) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

“Pro Rata” means the proportion that (a) the Allowed amount of a Claim or Equity Interest in a particular Class bears to (b) the aggregate Allowed amount of all Claims or Equity Interests in such Class.

“Professional” means (a) any Entity employed in the Chapter 11 Cases pursuant to section 327, 328 363 or 1103 of the Bankruptcy Code or otherwise, (b) any Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Cases pursuant to sections 327, 328, 330, 331, 363, 503(b), 503(b)(4) and 1103 of the Bankruptcy Code, or any professional retained by the Plan Agent after the Effective Date.

“Professional Fee Claim” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code, with respect to a particular Professional, for compensation for services rendered or reimbursement of costs, expenses or other charges incurred in connection with the Professional’s authorized representation of the Debtors, prior to and including the Effective Date.

“Professional Fee Claims Bar Date” means with respect to Professional Fee Claims, the Business Day which is sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

“Professional Fee Claims Objection Deadline” means, with respect to any Professional Fee Claim, twenty (21) days after the timely Filing of the applicable request for payment of such Professional Fee Claim.

“Professional Fee Reserve” means the reserve established by the CFO/CRO, to be maintained and further funded as necessary by the Plan Agent, to provide sufficient funds to satisfy in full unpaid Allowed Professional Fee Claims and post-Effective Date fees and expenses of the Professionals retained by the Plan Agent.

“Proof of Claim” means a written proof of Claim or Equity Interest Filed against the Debtors in the Chapter 11 Cases.

“Priority Tax Claim” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

“Rejection Claim” means any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Confirmation Order.

“Liquidating Debtors” means the Debtors, on and after the Effective Date.

“Remaining Amount” means the final aggregate amount of Cash remaining with the Plan Agent after the payments made on the Distribution Date, and after payment of all Professional Fee Claims and post-Effective Date Professional Fee Claims, Plan Agent fees and expenses and any other expenses related to the collection of the ERC Claims, preparation and filing of tax returns (including the Final Tax Return), and the Dissolution.

“Residual Distribution Date” means the date on which the Plan Agent shall make the Residual Distributions, which shall be no later than the later of sixty (60) days after the Distribution Date, or sixty (60) days after receipt by the Plan Agent of all funds associated with the ERC Claims, unless extended by order of the Bankruptcy Court.

“Residual Distributions” means the Distributions to Creditors of each Creditor’s Pro Rata Share of the Remaining Amount.

“Sale Proceeds” means the amounts received by the Debtors from the Asset Sale after payment of expenses as set forth in the *Schedule of Sale Proceeds and Expenses* [Dkt. No. 142-1].

“Schedules” means the schedules of Assets and liabilities, statements of financial affairs, lists of Holders of Claims and Equity Interests and all amendments or supplements thereto Filed by the Debtors with the Bankruptcy Court.

“Secured” means, when referring to a Claim: (a) secured by a Lien on property in which the Debtors’ Estates 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 the interest of the Debtors’ Estates in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

“Secured Claim” means a Claim that is Secured, and for which a Proof Claim asserting Secured status has been filed. A Proof of Claim asserting that the Claim is not Secured cannot be a Secured Claim; and failure to file a Proof of Claim precludes assertion of a Secured Claim.

“Security” or “security” means any security as such term is defined in section 101(49) of the Bankruptcy Code.

“Statutory Fees” means fees payable pursuant to 28 U.S.C. § 1930.

“Unexpired Lease” means a lease to which the Debtors is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

“Unimpaired” means, with respect to a Class of Claims that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

“Unsecured Claim” means a Claim that is not Secured, and for which a Proof of Claim has been filed.

“Voting Deadline” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtors to solicit acceptances of the Plan.

“Voting Record Date” means the day before the Voting Deadline.

## **ARTICLE II. ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS**

### **A. Administrative Expense Claims**

An Administrative Expense Claim with respect to which notice has been properly filed and served shall become an Allowed Administrative Expense Claim if no objection is filed on or prior to the Administrative Claim Objection Deadline. If an objection is timely filed, the Administrative Expense Claim shall become an Allowed Administrative Expense Claim only to the extent Allowed by Final Order or as such Claim is settled, compromised, or otherwise resolved.

**EXCEPT AS OTHERWISE PROVIDED BY A FINAL ORDER PREVIOUSLY ENTERED BY THE BANKRUPTCY COURT UNLESS PREVIOUSLY FILED, REQUESTS FOR PAYMENT OF ADMINISTRATIVE EXPENSE CLAIMS, MUST BE FILED AND SERVED ON THE DEBTORS NO LATER THAN THE ADMINISTRATIVE EXPENSE CLAIMS BAR DATE.**

**HOLDERS OF ADMINISTRATIVE EXPENSE CLAIMS THAT ARE REQUIRED TO FILE AND SERVE A REQUEST FOR PAYMENT OF SUCH ADMINISTRATIVE EXPENSE CLAIMS BY THE ADMINISTRATIVE EXPENSE CLAIM BAR DATE THAT DO NOT FILE AND SERVE SUCH A REQUEST BY THE ADMINISTRATIVE EXPENSE CLAIMS BAR DATE SHALL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING SUCH ADMINISTRATIVE EXPENSE CLAIMS AGAINST THE DEBTORS OR ITS RESPECTIVE PROPERTY.**

### **B. Professional Fee Claims**

Professionals or other entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329, 330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court

granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtors or Liquidating Debtors, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtors or Liquidating Debtors, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim will be paid by the Debtors or the Plan Agent, as applicable, in Cash within five (5) Business Days after entry of the order approving such Allowed Professional Fee Claim.

The Plan Agent shall maintain the Professional Fee Reserve. The Professional Fee Reserve shall be maintained by the Plan Agent and held in accounts of the Debtors or Liquidating Debtors as applicable. The Plan Agent shall fund the Professional Fee Reserve on the Effective Date in an estimated amount determined by the Plan Agent in good faith prior to the Confirmation Date and that approximates the total projected amount of unpaid Professional Fee Claims as of the Effective Date. Following the payment of all Allowed Professional Fee Claims, any excess funds in the Professional Fee Reserve shall be released by the Plan Agent to be used for other purposes consistent with the Plan as Available Cash.

#### **C. 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, settlement, and release 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. If a Priority Tax Claim becomes an Allowed Priority Tax Claim after the Effective Date and after Allowance by Final Order of the Bankruptcy Court after trial of an objection to such Claim, then such Allowed Priority Tax Claim shall be paid, in cash in full, with statutory interest under applicable non-bankruptcy law through payment of the Claim. To the extent that any such Claim exceeds the maximum amount allowed as a Priority Unsecured Claim pursuant to § 507(a), the amount of the Claim allowed as an Unsecured Claim shall be treated as a General Unsecured Claim.

#### **D. United States Trustee Fees**

All Statutory Fees payable under 28 U.S.C. § 1930 shall be paid in Cash in full by the Debtors pending the Effective Date and thereafter shall be paid by the Liquidating Debtors or the Plan Agent until the issuance of the Final Decree. The Confirmation Order will provide that the Liquidating Debtors will be responsible for the timely payment of all statutory fees under 28 U.S.C. § 1930 relating to the Chapter 11 Cases, but that the Liquidating Debtors and the Plan Agent

reserve the right to request the Chapter 11 Cases be administratively closed after the Effective Date, pending the Final Decree.

### **ARTICLE III. CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS**

#### **A. Summary of Classification and Voting Rights**

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes, including voting, confirmation, and distribution pursuant hereto and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Equity Interest shall be deemed classified in a particular Class only to the extent that the Claim or Equity 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 Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that such Claim or Equity Interest is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date.

<b>Class</b>	<b>Claim</b>	<b>Status</b>	<b>Voting Rights</b>
Class 1	Priority Non-Tax Claims	Unimpaired	Not Entitled to Vote (Deemed to Accept)
Class 2	Paid Secured Claim of Riva Ridge Master Fund, Ltd.	Unimpaired	Not Entitled to Vote (Paid in full per Order of Bankruptcy Court)
Class 3	Paid Secured Claim of LaFactor (as holder of Mississippi River Bank Notes)	Unimpaired	Not Entitled to Vote (Paid in full per Order of Bankruptcy Court)
Class 4	Mississippi River Bank	Impaired	Not Entitled to Vote (Contingent Claim for Indemnity Disallowed under Section 502(e))
Class 5	LaFactor, LLC (as former holder of Mississippi River bank Notes)	Impaired	Not Entitled to Vote (Contingent Claim for Indemnity Disallowed under Section 502(e))
Class 6	TSB Ventures, LLC	Impaired (Impaired by Carve-Out; possible lack of collateral; claims of Liquidating Debtors)	Entitled to Vote
Class 7	LaFactor, LLC	Impaired (Impaired by Carve-Out; possible lack of	Entitled to Vote

		collateral; claims of Liquidating Debtors)	
Class 8	Jackson Smith Thomas	Impaired (Impaired by Carve-Out; possible lack of collateral; claims)	Entitled to Vote
Class 9	General Unsecured Claims	Impaired	Entitled to Vote
Class 10	Equity Interests	Impaired	Not Entitled to Vote (Deemed to Reject)

## B. Elimination of Vacant Classes

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

## C. Classes and Treatment

### 1. CLASS 1 – Priority Non-Tax Claims

**Classification:** Class 1 consists of all Priority Non-Tax Claims

**Treatment:** On the later of the Effective Date and the date on which the Claim in Class 1 is Allowed, unless otherwise agreed by the Holder of an Allowed Claim in Class 1 and the Debtors or the Plan Agent, each holder of an Allowed Claim in Class 1 shall receive Cash on the Effective Date an amount equal to such Allowed Priority Non-Tax Claim.

**Voting:** Class 1 is Unimpaired under the Plan. Holders of Claims in Class 1 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

### 2. CLASS 2 – Paid Secured Claim of Riva Ridge Master Fund, Ltd.

**Classification:** Class 2 consists of the Paid Secured Claim of Riva Ridge Master Fund, Ltd.

**Treatment:** The Class 2 Claim, including principal, interest, fees and costs has been paid from Sale Proceeds in accordance with Orders of the Bankruptcy Court in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 2 Claim.

**Voting:** Class 2 is Unimpaired under the Plan. Holders of Claims in Class 2 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

**3. CLASS 3 – Paid Secured Claim of LaFactor (as holder of Mississippi River Bank Notes)**

**Classification:** Class 3 consists of the Paid Secured Claim of LaFactor (as holder of Mississippi River Bank Notes).

**Treatment:** The Class 3 Claim, including principal, interest, fees and costs has been paid from Sale Proceeds in accordance with Orders of the Bankruptcy Court, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 3 Claim.

**Voting:** Class 3 is Unimpaired under the Plan. Holders of Claims in Class 3 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

**4. CLASS 4 –Mississippi River Bank Contingent Claim for Indemnity**

**Classification:** Class 4 consists of the Mississippi River Bank Contingent Claim for Indemnity.

**Treatment:** The Debtors consider the Class 4 Claim to be not Allowed as a matter of law, under Section 502(e) of the Bankruptcy Code. As well, the Class 4 Claim is duplicative of the Class 5 Claim, which is the Claim of LaFactor, LLC for indemnity under the same notes and loan agreements as claimed by the Holders of the Class 4 Claim. In the event the Bankruptcy Court determines by Final Order that the Class 4 Claim is non-duplicative and non-contingent, and Allows the Class 4 Secured Claim, and that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 4 Claim in cash and in full on the Distribution Date, or, if there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 4 Claim. The Class 4 Claim shall not be paid in priority over any Secured Claim that under applicable law is a Claim with priority Secured status.

**Voting:** Class 4 is Impaired under the Plan. Holders of Claims in Class 4, being Disputed, are not entitled to vote to accept or reject the Plan unless the Class 4 Claim is Allowed or obtains an Order of the Bankruptcy Court estimating this Claim under Section 502(c) or for voting purposes, by the Voting Record Date.

**5. CLASS 5 –LaFactor, LLC Contingent Claim for Indemnity**

**Classification:** Class 5 consists of the LaFactor, LLC Contingent Claim for Indemnity.

**Treatment:** The Debtors consider the Class 5 Claim to be not Allowed as a matter of law, under Section 502(e) of the Bankruptcy Code. As well, the Class 5 Claim is duplicative of the Class 4 Claim, which is the Claim of Mississippi River Bank for indemnity under the same notes and loan agreements as claimed by the Holder of the Class 5 Claim. In the Event the Bankruptcy Court determines by Final Order that the Class 5 Claim is non-duplicative and non-contingent, and Allows the Class 5 Secured Claim, and that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 5 Claim in cash and in full on the Distribution Date, or, if there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 5 Claim. The Class 5 Claim shall not be paid in priority over any Secured Claim that under applicable law is a Claim with priority Secured status.

**Voting:** Class 5 is Impaired under the Plan. The Holders of Claims in Class 5, being Disputed, are not entitled to vote to accept or reject the Plan unless the Class 5 Claim is Allowed or the Holder obtains an Order of the Bankruptcy Court estimating this Claim under Section 502(c) or for voting purposes, by the Voting Record Date.

**6. CLASS 6 –Secured Claim of TSB Ventures, LLC**

**Classification:** Class 6 consists of the TSB Ventures, LLC Secured Claim.

**Treatment:** The Class 6 Claim is a Disputed Claim. In the event the Bankruptcy Court by Final Order Allows the Class 6 Secured Claim, and rules that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 6 Claim in cash and in full on the Distribution Date, or, if there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 6 Claim. The Class 6 Claim shall not be paid in priority over any Secured Claim that under applicable law is a Claim with priority Secured status.

**Voting:** Class 6 is Impaired under the Plan. Holders of Claims in Class 6, being Disputed, are not entitled to vote to accept or reject the Plan unless the Class 6 Claim is Allowed or obtains an Order of the Bankruptcy Court estimating this Claim under Section 502(c) or for voting purposes by the Voting Record Date.

**7. CLASS 7 –Secured Claim of LaFactor, LLC**

**Classification:** Class 7 consists of the LaFactor, LLC Secured Claim.

**Treatment:** The Class 7 Claim is a Disputed Claim. In the event the Bankruptcy Court by Final Order Allows the Class 7 Secured Claim, and rules that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 7 Claim in cash and in full on the Distribution Date, or, if there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 7 Claim. The Class 7 Claim shall not be paid in priority over any Secured Claim that under applicable law is a Claim with priority Secured status.

**Voting:** Class 7 is Impaired under the Plan. Holders of Claims in Class 7, being Disputed, are not entitled to vote to accept or reject the Plan unless the Class 7 Claim is Allowed or obtains an Order of the Bankruptcy Court estimating this Claim under Section 502(c) or for voting purposes by the Voting Record Date.

#### **8. CLASS 8 –Secured Claim of Jackson Smith Thomas**

**Classification:** Class 8 consists of the Jackson Smith Thomas Secured Claim.

**Treatment:** The Class 8 Claim is a Disputed Claim. In the event the Bankruptcy Court by Final Order Allows the Class 8 Secured Claim, and rules that such Claim is in priority over Claims in other Classes, then, subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of the Class 8 Claim in cash and in full on the Distribution Date, or, if there is insufficient Cash thereupon, on the Residual Distribution Date, to the extent the Remaining Amount is sufficient, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 8 Claim. The Class 8 Claim shall not be paid in priority over any Secured Claim that under applicable law is a Claim with priority Secured status.

**Voting:** Class 8 is Impaired under the Plan. Holders of Claims in Class 8, being Disputed, are not entitled to vote to accept or reject the Plan unless the Class 8 Claim is Allowed or obtains an Order of the Bankruptcy Court estimating this Claim under Section 502(c) or for voting purposes by the Voting Record Date.

#### **9. CLASS 9 –General Unsecured Claims**

**Classification:** Class 9 consists of the General Unsecured Claims.

**Treatment:** Subject to the Carve-Out and the Plan Expense Reserve and Professional Fee Reserve, the Liquidating Debtors shall pay Holders of Allowed Class 9 Claims in cash a Pro Rata share of the Available Cash on the Distribution Date, and a Pro Rata Share of the Remaining Amount on the Residual Distribution Date, in full and final satisfaction, settlement, release, and compromise of and in

exchange for each Allowed Class 9 Claim but no Class 9 Claim shall be paid in priority over any Allowed Claim in a senior Class.

**Voting:** Class 9 is Impaired under the Plan. Any Holder of a Claim in Class 9 that is Disputed is not entitled to vote to accept or reject the Plan unless such Holder's Claim is Allowed or the Holder obtains an Order of the Bankruptcy Court estimating this Claim under Section 502(c) or for voting purposes by the Voting Record Date.

#### **10. CLASS 10 –Membership/Equity Interests**

**Classification:** Class 10 consists of the Membership/Equity Interests in the Debtor ResolveKo, LLC (this Debtor is the Holder of the Equity Interests in the other two Debtors, and as the Liquidating Debtor ResolveKo, LLC shall be managed by the Plan Agent, no provision need be made for ResolveKo, LLC in such capacity).

**Treatment:** The Holders of Class 10 Membership/Equity Interests shall receive no value under the Plan. The Membership/Equity Interests shall be extinguished on the Membership Extinguishment Date. Pending the Membership Extinguishment Date neither the Holders of Class 10 Interests nor the pre-Effective Date Board of managers shall have any voting power or control, as the Plan Agent shall hold all voting power and control over the Liquidating Debtors and shall be the Entity representative of the Liquidating Debtors with full corporate authority to act.

**Voting:** Class 10 is Impaired under the Plan. Holders of Interests in Class 10 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and are not entitled to vote to accept or reject the Plan.

#### **D. Controversies Regarding Impairment.**

If a controversy arises as to whether any Claims or Interests, or any Class of Claims or Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

### **ARTICLE IV. ACCEPTANCE OR REJECTION OF THE PLAN**

#### **A. Voting Classes**

The voting Classes are as set forth and described immediately above in ARTICLE III of this Plan and are Classes 6, 7, 8, and 9.

#### **B. Voting Rights as to Confirmation of the Plan, Procedural Requirements**

If a Claim is a Disputed Claim and the Holder seeks to obtain the right to vote such Claim, the Holder must seek Allowance an Order of the Bankruptcy Court estimating such Claim under Section 502(c) or for voting purposes, upon at least fifteen (15) days' notice to the Debtors and

affected parties in interest, so that the Bankruptcy Court can hold a hearing on such request prior to the Voting Record Date.

### **C. Acceptance by Impaired Classes**

An Impaired Class of Claims shall have accepted the Plan if (a) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan, and (b) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

### **D. Non-Consensual Confirmation**

The Debtors reserve the right to seek Confirmation of the Plan under section 1129(b) of the Bankruptcy Code, to the extent applicable, in the event of a rejection by any of the Voting Class. The Plan Proponents intend to request that the Bankruptcy Court confirms this Plan by Cramdown with respect to any such Class or Classes, in which case this Plan shall constitute a motion for such relief.

## **ARTICLE V. MEANS FOR IMPLEMENTATION OF THIS PLAN**

### **A. Summary**

The Plan will liquidate and distribute the Debtors' Assets by using the Sale Proceeds and other Assets of the Debtors to fund the administration of the Plan and the Distributions and Residual Distributions (if any). The Plan Agent will liquidate Assets not reduced to Cash as of the Effective Date, and in accordance with this Plan shall make Distributions on the Distribution Date, and further, if Remaining Amounts become available, the Residual Distributions on the Residual Distribution Date. to be distributed in accordance with the Plan. Because of the number of Disputed and contingent Claims, it is not practicable to establish disputed claims reserves. Therefore the Debtors and Liquidating Debtors shall proceed expeditiously to effect the occurrence of the Distribution Date, which is conditioned upon the entry of the Approved Allowed Claims and Distribution Schedule (which, as defined, requires that Claims be finally Allowed). The projected proceedings prior to the Confirmation Hearing (the filing of objections to Claims and the seeking of a Bankruptcy Court directed mediation process) and the structure of the Plan (obtaining entry of the (i) Approved Allowed Claims and Distribution Schedule and (ii) Final Decree, prior to the Distribution Date) is designed to provide the most efficient, cost effective and expeditious means of effectuating distribution of the Assets of the Debtors and Liquidating Debtors to their Creditors. Because timing of the receipt of the proceeds of the ERC Claim cannot be projected with any degree of certainty, the Plan provides for the prospect of a Residual Distribution of the Remaining Amount, presumably later in time than the Distribution Date, but the Distribution Date is designed to make certain that regardless of collection of the Remaining Amount, the bulk of the Liquidating Debtors' Cash can be distributed immediately upon finalization of the Allowed Claims and approval of the schedule thereof. **As of the Effective Date and because the Equity Interests are to be extinguished, the Plan Agent shall have sole authority to act for the Liquidating Debtors, and neither the Board of managers nor the Holders of Equity Interests**

**shall have voting power or control, pending the Membership Extinguishment Date and the Dissolution.**

**B. Vesting of Estate Property in the Liquidating Debtors.**

On the Effective Date, all property of the Debtors and of the Estates including all rights to object to Claims, all Avoidance Actions, Causes of Action, claims and causes of action identified in the Schedule of Retained Causes of Action to be filed with the Plan Supplement, alter-ego rights, derivative claims, breach of fiduciary duty claims, veil piercing rights, the right to pursue such claims and all other remaining property of the Estates as defined in section 541 of the Bankruptcy Code, including all Cash held and/or controlled by the Debtors on the Effective Date, equipment and other tangible and intangible property, shall be fully retained and vest in the Liquidating Debtors, free and clear of all liens, claims and encumbrances, except as otherwise provided in the Plan.

The Plan Agent shall be the sole officer, manager and representative of the Liquidating Debtors, with sole and full capacity to act for and on behalf of the Liquidating Debtors, pending Dissolution.

**C. Continuation of Limited Operations and Ultimate Dissolution of the Liquidating Debtors.**

From and after the Effective Date of the Plan, subject to the limitations set forth below, the Liquidating Debtors, through the Plan Agent, are authorized to take such actions as are necessary to complete an orderly wind-down of the operations of the Liquidating Debtors, including (i) preparation of tax returns and completing any audits by the IRS or other taxing authorities; (ii) filing of claim objections; (iii) making Distributions; (iv) prosecuting Causes of Action owned by the Estate, including all claims and causes of action arising under the Bankruptcy Code; (v) pursuing, liquidating and administering property of the Estate; (vi) preparing and filing tax returns; Making the Residual Distributions; and (vii) taking such other action as provided for under the Plan. After issuance of the Final Decree, and the making of all Distributions and Residual Distributions, the Liquidating Debtors shall be deemed to have satisfied all liabilities for purposes of dissolution under applicable state law. The Plan Agent is expressly and specifically authorized to execute and file all documents necessary to effectuate the dissolution of the Liquidating Debtors under applicable non-bankruptcy law as of the Membership Extinguishment Date.

**D. General Powers of the Plan Agent.**

The Plan Agent, on behalf of the Liquidating Debtors, shall have all of the rights, powers and privileges set forth in this Plan, the Confirmation Order or applicable bankruptcy or non-bankruptcy law. The Plan Agent is authorized and shall have the obligation to take all such actions as in her business judgment are necessary and appropriate to effectuate the purposes of the Plan, including but not limited to the following:

- Make all Distributions and Residual Distributions;
- Consistent with maintaining the value and liquidating the Assets of the Liquidating Debtors, invest in time or demand deposits, including certificates of deposit or like

investments, including United States Treasury bonds and other securities guaranteed by the full faith and credit of the United States of America or any agency thereof, issued and to be held by any bank approved as a depository institution by the United States Trustee's office;

- Supervise and administer the resolution, settlement and payment of Claims and Interests and the distributions to the holders of Allowed Claims in accordance with this Plan;
- Enter into any agreement required by or consistent with the Plan and perform all of the Liquidating Debtors' obligations thereunder;
- Abandon any of the Assets of the Liquidating Debtors if the Plan Agent concludes that such assets are of no benefit to the Creditors, upon notice and opportunity for hearing;
- Participate in or initiate any proceeding before the Bankruptcy Court or any other court of appropriate jurisdiction and participate as a party or otherwise in any administrative, arbitative or other non-judicial proceeding and litigate claims on behalf of the Liquidating Debtors, including without limitation all Avoidance Actions and all state and federal Causes of Action or any other litigation which constitute an Asset of the Liquidating Debtors, and pursue to settlement or judgment such actions;
- Participate as a party-in-interest in any proceeding before the Bankruptcy Court involving the Chapter 11 Cases;
- Act in the name of or in the place of the Liquidating Debtors in any action before the Bankruptcy Court or any other judicial or administrative body;
- Take actions and exercise remedies against any entity that owes money to the Liquidating Debtors, including without limitation, the remedies available under any deed of trust, security agreement, promissory note, bond, guarantee or other instrument or document; make compromises regarding any deed of trust, security agreement, promissory note, bond, guarantee or other instrument or document; and, declare or waive defaults regarding any deed of trust, security agreement, promissory note, bond, guarantee or other instrument or document;
- Select and employ such professionals, agents or employees as the Plan Agent deems necessary to assist in the administration of the affairs of the Liquidating Debtors and compensate such persons;
- Hold any unclaimed distribution or payment to the holder of an Allowed Claim in accordance with this Plan;
- Propose any amendment, modification or supplement to this Plan or the Liquidating Debtors' corporate governance documents;

- File dissolution documents with the appropriate governmental agencies to dissolve the Liquidating Debtors as of the Membership Extinguishment Date;
- Receive, conserve and manage the assets of the Liquidating Debtors and sell pursuant to section 363(f) of the Bankruptcy Code or otherwise dispose of such assets for a price and upon such terms and conditions as the Plan Agent deems most beneficial to the Holders of Claims and Interest Holders and execute such deeds, bills of sale, assignments and other instruments in connection therewith;
- Open and maintain bank accounts on behalf of or in the name of the Liquidating Debtors;
- Pay all taxes, make all tax withholdings and file tax returns and tax information returns and make tax elections by and on behalf of the Liquidating Debtors;
- Pay all lawful expenses, debts, charges and liabilities of the Liquidating Debtors;
- Enforce all provisions of this Plan;
- Protect, perfect and defend the title to any of the assets of the Liquidating Debtors and enforce any bonds, mortgages or other obligations or Liens owned by the Liquidating Debtors;
- Carry insurance coverage, including insurance to protect former officers and directors and the Plan Agent against claims brought against them;
- Establish the Plan Expense Reserve and maintain the Professional Fee Reserve;
- Oversee the preparation of any year end and the short year final tax returns; and
- Exercise such other powers and duties as are necessary or appropriate in the Plan Agent's discretion to accomplish the purposes of this Plan, and to take any and all actions and exercise any and all authority set forth within this Plan, whether or not mentioned specifically in this Subsection.

**E. Resignation/Removal of the Plan Agent.**

The Plan Agent may resign at any time by filing a written notice of resignation with the Bankruptcy Court. Any such resignation shall not become effective prior to sixty (60) days after the filing date of such notice unless the Plan Agent finds an acceptable replacement, and such replacement has been approved by Order of the Bankruptcy Court (after the reopening of the Bankruptcy Cases as necessary).

**F. Appointment of Successor Plan Agent.**

In the event of the death of the Plan Agent, the counsel for the Liquidating Debtors are authorized to propose to the Bankruptcy Court a successor Plan Agent, and after notice and a hearing (upon reopening the Bankruptcy Cases), the Bankruptcy Court shall determine whether to

approve the successor Plan Agent, or any other proposed Plan Agent submitted by the Liquidating Debtors' counsel. If no successor Plan Agent is approved (either upon submission by the Plan Agent proposing a replacement, or by counsel for the Liquidating Debtors in the event of death of the Plan Agent), Liquidating Debtors' counsel is authorized to seek conversion of the Bankruptcy Cases to cases under Chapter 7 of the Bankruptcy Code, or the Bankruptcy Court may convert the bankruptcy Cases to cases under Chapter 7 *sua sponte*.

#### **G. Plan Agent Compensation**

The Plan Agent and all professionals employed by the Plan Agent shall be entitled to payment of their fees and reimbursement of all reasonable expenses on a monthly basis, without Bankruptcy Court approval, pursuant to the terms of their respective employment. The Plan Agent shall be paid salary of \$25,000 per month, plus an amount equal to applicable self-employment and Medicare tax burden, and out of pocket expenses.

#### **H. Plan Expense Reserve**

The Plan Agent shall fund the Plan Expense Reserve on the Effective Date in an amount determined by the Plan Agent in accordance with the Plan Budget for the payment of the Plan Expenses. The Plan Agent is authorized to provide additional funding of the Plan Expense Reserve post-Effective Date in her reasonable discretion.

The Plan Agent may make any disbursement from the Plan Expense Reserve pursuant to the terms of this Plan without further order of the Bankruptcy Court or notice to any party. At such time as the Plan Agent determines, in her sole discretion, that the Plan Expense Reserve is no longer needed, upon the filing of her certification, the Cash set aside for the Plan Expense Reserve shall become Available Cash and disbursed according to the Plan.

#### **I. Plan Funding**

The Distributions and Residual Distributions shall be funded with Available Cash and the proceeds from liquidation of any remaining Assets of the Liquidating Debtors.

#### **J. Vesting of Assets and Causes of Action**

After the Effective Date, all of the property and assets of the Debtors and their Estates under section 541(a) of the Bankruptcy Code shall vest in the Liquidating Debtors. 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 Liquidating Debtors shall retain any and all Causes of Action, including, but not limited to those Causes of Action listed on the Retained Causes of Action submitted with the Plan Supplement, as may be amended prior to confirmation, whether arising before or after the Petition Date, and such Causes of Action are preserved and shall vest in the Liquidating Debtors as of the Effective Date. The Plan Agent shall determine whether to bring, settle, release, compromise, or enforce such Causes of Action (or decline to do any of the foregoing), and shall not be required to seek further approval of the Bankruptcy Court for such action. The Plan Agent may pursue such litigation claims in accordance with the best interests of the Liquidating Debtors. No Entity may rely on the absence of a specific reference in this Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action

against them as any indication that the Plan Agent and/or Liquidating Debtors will not pursue any and all available Causes of Action against them. The Reorganized Debtor and the Plan Agent expressly reserve all rights to prosecute any and all Causes of Action against any Entity that constitutes property of the Estate, except as otherwise provided in this Plan. **THE FAILURE TO LIST, DISCLOSE, DESCRIBE, IDENTIFY, OR REFER TO A RIGHT, CLAIM, CAUSE OF ACTION, DEFENSE, OR COUNTERCLAIM, OR POTENTIAL RIGHT, CLAIM, CAUSE OF ACTION, DEFENSE, OR COUNTERCLAIM, IN THE PLAN, THE SCHEDULES, OR ANY OTHER DOCUMENT FILED WITH THE BANKRUPTCY COURT SHALL IN NO MANNER WAIVE, ELIMINATE, MODIFY, RELEASE, OR ALTER ANY RIGHT OF THE PLAN AGENT**

**TO COMMENCE, PROSECUTE, DEFEND AGAINST, SETTLE, AND REALIZE UPON ANY RIGHTS, CLAIMS, CAUSES OF ACTION, DEFENSES, OR COUNTERCLAIMS THAT THE DEBTORS HAVE, OR MAY HAVE, AS OF THE EFFECTIVE DATE.**

**K. Delivery of Distributions and Undeliverable or Unclaimed Distributions.**

**1. Delivery of Distributions in General**

Except as otherwise provided herein, the Plan Agent shall make the Distributions and Residual Distributions to Holders of Allowed Claims at the address for each such Holder as indicated on (i) the records of the Liquidating Debtors (as scheduled in the Schedules or through any subsequent correspondence advising of an address change), or (ii) the applicable Proof of Claim if such has a different address. If a Holder holds more than one Claim in any one Class, all Claims of the Holder will be aggregated into one Claim and one distribution will be made with respect to the aggregated Claim.

**2. Undeliverable Distributions and Unclaimed Property**

In the event that any Distribution or Residual Distribution to any Holder is returned as undeliverable, no Distribution or Residual Distribution to such Holder shall be made unless and until the Plan Agent has determined the then current address of such Holder, at which time such Distribution or Residual Distribution shall be made to such Holder without interest; provided, that such Distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six months from the date the Distribution is made. After such date, all unclaimed property or interests in property shall revert (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary) to the Liquidating Debtors automatically and without need for a further order by the Bankruptcy Court, and (i) the Claim of any Holder to such property or interest in property shall be released, settled, compromised, and forever barred, and (ii) the Plan Agent is authorized to treat any such amount as part of the Remaining Amount for purposes of Residual Distribution to the other Holders of Allowed Claims.

**3. Manner of Payment Pursuant to the Plan**

Any payment in Cash to be made pursuant to the Plan shall be made at the election of the Plan Agent, by check or by wire transfer, at the sole and exclusive discretion of the Plan Agent.

#### **4. Compliance with Tax Requirements/Allocations**

To the extent applicable, the Plan Agent shall request distributees to provide appropriate documentation that may be required for an exemption from withholding or reporting, and shall comply with all tax withholding and reporting requirements imposed on it by any Governmental Unit, and all Distributions pursuant hereto shall be subject to such withholding and reporting requirements unless an exception applies. Notwithstanding any provision in the Plan to the contrary, the Plan Agent, shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the Distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding Distributions spending receipt of information necessary to facilitate such Distributions, or establishing any other mechanisms she believes is reasonable and appropriate. The Plan Agent reserves 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. Distributions in respect of Allowed Claims shall be allocated (i) first to interest and fees, with respect to those Allowed Claims that are fully Secured, and (ii) first to the principal balance if the amount to be paid is insufficient to pay the full principal balance plus applicable interest, fees and costs under such Claim.

### **ARTICLE VI. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

#### **A. Assumption and Rejection**

On the Effective Date, except as otherwise provided herein, all Executory Contracts or Unexpired Leases will be deemed rejected in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, other than: (1) those that are identified on the Schedule of Assumed Executory Contracts and Unexpired Leases contained in the Plan Supplement; (2) those that have been previously assumed, assumed and assigned, or rejected by a Final Order; (3) those that are the subject of a motion (a) to assume, (b) to assume and assign, or reject Executory Contracts or Unexpired Leases that is pending on the Confirmation Date; (4) those that are subject to a motion to assume, assume and assign, or reject an Executory Contract or Unexpired Lease pursuant to which the requested effective date of such assumption, assumption and assignment, or rejection is after the Effective Date; (5) those Executory Contracts and Unexpired Leases that expired pursuant to the terms thereof before the Petition Date; or (6) is otherwise assumed pursuant to the terms herein.

Entry of the Confirmation Order shall constitute a Final Order approving the assumptions, assumptions and assignments, or rejections of such Executory Contracts or Unexpired Leases as provided under the Plan or the Schedule of Assumed Executory Contracts and Unexpired Leases contained in the Plan Supplement, pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated, assumptions or rejections of Executory Contracts and Unexpired Leases pursuant to the Plan are effective as of the Effective Date. Any motions to assume Executory Contracts or Unexpired Leases pending on the Effective Date shall be subject to approval by a Final Order of the Court on or after the Effective Date. Unless otherwise provided in this 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 all rights related thereto, if any, including all 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 pursuant hereunder. 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.

**FOR THE AVOIDANCE OF DOUBT, NO INDEMNITY AGREEMENT OR INDEMNIFICATION OBLIGATION UNDER ANY CONTRACT, LOAN AGREEMENT, OPERATING AGREEMENT, ARTICLES OF ORGANIZATION, OR APPLICABLE LAW SHALL BE ASSUMED UNDER, BY OR THROUGH THIS PLAN.**

**B. Rejection Claim**

Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, if any, must be filed with the Court within thirty (30) days after the date of entry of an order of the Bankruptcy Court (including the Confirmation Order) approving such rejection. Any Claims arising from the rejection of an Executory Contract or Unexpired Lease not Filed within such time shall be automatically Disallowed, forever barred from assertion, and shall not be enforceable against, as applicable, the Debtors, the Estate or property of the foregoing, without the need for any objection by the Debtors or the Plan Agent and without the need for any further notice to, or action, order, or approval of the Court. Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims (Class 9) and shall be treated in accordance with Article III of this Plan, as applicable. Notwithstanding anything to the contrary herein, prior to the Effective Date, the Debtors may amend their decision with respect to the rejection of any Executory Contract or Unexpired Lease.

**C. Cure of Assumed Executory Contracts and Unexpired Leases**

Any monetary defaults under an Executory Contract and Unexpired Lease, shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure Amount in Cash on the Effective Date, subject to the limitations 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 regarding (1) the Cure Amount or (2) 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.

With respect to each of the Executory Contracts or Unexpired Leases assumed hereunder, the Debtors shall designate a proposed Cure Amount, and the assumption of such Executory Contract or Unexpired Lease shall be conditioned upon the disposition of all issues with respect to Cure. Except as otherwise set forth on the Schedule of Assumed Executory Contracts and Unexpired Leases in the Plan Supplement, the Cure Amount with respect to each of the Executory Contracts or Unexpired Leases assumed hereunder is designated by the Debtors as \$0, subject to the determination of a different Cure Amount pursuant to the procedures set forth herein and in the Cure Notices. Except with respect to Executory Contracts and Unexpired Leases for which the

Cure is \$0, the Cure shall be satisfied by the Plan Agent's payment of the Cure in Cash on the later of (i) thirty (30) days following the occurrence of the Effective Date or as soon as reasonably practicable thereafter; or (ii) for any Cure Amounts subject to dispute, thirty (30) days after the underlying Cure dispute is resolved, or on such other terms as may be ordered by the Bankruptcy Court or agreed upon by the parties to the applicable Executory Contract or Unexpired Lease 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 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 before the date that the Debtors assumes such Executory Contract or Unexpired Lease. Any Proofs of Claim Filed with respect to an Executory

**D. Insurance Policies.**

All of the Debtors' insurance policies and any agreements, documents, or instruments relating thereto, are treated as and deemed to be Executory Contracts assumed under the Plan. Post-Petition Date insurance policies shall be, to fullest extent possible, assumed by the Debtors and shall not be deemed rejected by entry of the Confirmation Order.

**E. Reservation of Rights.**

Neither the exclusion nor inclusion of any Executory Contract or Unexpired Lease on the Schedule of Assumed Executory Contracts and Unexpired Leases, nor anything contained in the Plan or Purchase Agreement, shall constitute an admission by the Debtors that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that the Debtors has any liability thereunder.

**ARTICLE VII. PURSUIT OF CLAIM OBJECTIONS AND CAUSES OF ACTION**

**A. Objection Process**

The Debtors shall have the right to object to the allowance of any Claims or Equity Interests provided for under the Plan, and have determined to use reasonably best efforts to File objections to Claims by August 30, 2024. Not Filing by this date shall not be a waiver of the right to File objections later in time. After the occurrence of the Effective Date, the Plan Agent on behalf of the Liquidating Debtors shall have the sole right to object to the allowance of any Claims or Equity Interests provided for under the Plan, unless some other Entity can establish standing to do so. The Plan Agent shall be deemed substituted as the party-in-interest for all Claim objections pending as of the Effective Date without further motion of the Debtors or Plan Agent.

After the Effective Date, the Plan Agent shall also have the authority to compromise, settle or otherwise resolve Claim objections regarding any Claim filed in the amount of \$50,000 or less, or to settle a Claim objection to a Claim filed in excess of \$50,000, by reducing the Claim for purposes of Allowance to no greater than \$50,000, without approval of the Bankruptcy Court or notice to Creditors. For all settlements in excess of \$50,000, the Plan Agent shall file a notice with the Bankruptcy Court of any proposed settlement or resolution of a filed claim objection. If no

party in interest files an objection to the proposed settlement/resolution within ten (10) days of the date of such notice, the proposed settlement/resolution shall be deemed approved and the Plan Agent may settle such Claim without approval of any other person or entity. If a party in interest files an objection to any proposed settlement, the Plan Agent shall either (i) withdraw the settlement; or (ii) bring the matter before the Bankruptcy Court for final resolution after notice and hearing. Unless otherwise ordered by the Bankruptcy Court, the Plan Agent shall file and serve all objections to Claims and Equity Interests no later than (i) 60 days after the later of (a) the Effective Date; or (b) the date on which a proof of claim, proof of interest or request for payment is filed with the Bankruptcy Court or (ii) such other date as may be approved by the Bankruptcy Court after notice and hearing.

**B. Filing of Claims and Causes of Action by Liquidating Debtors.**

The Plan Agent shall have the exclusive right to file and prosecute any Claims and Causes of Action on behalf of the Liquidating Debtors, including all Avoidance Actions and derivative Causes of Action, on and after the Effective Date. The Plan Agent shall have the authority to compromise, settle or otherwise resolve all Claims and Causes of Action filed or asserted in the amount of \$50,000 or less without approval of the Bankruptcy Court or notice to the Creditors. For all Claims and Causes of Action in excess of \$50,000, regardless of the amount and terms of settlement, the Plan Agent shall file a notice of any proposed settlement with the Bankruptcy Court. If no objection is served on the Plan Agent within 10 days of the date of such notice, the proposed settlement shall be deemed approved and the Plan Agent may settle such Claim or Cause of Action without approval of any other person or entity. If a party in interest objects to any proposed settlement, the Plan Agent shall either (i) withdraw the settlement; or (ii) bring the matter before the Bankruptcy Court for final resolution after notice and hearing.

**C. Disallowance of Late Filed Proofs of Claim.**

Any Proof of Claim filed after the Bar Date is and shall be disallowed without the necessity of objection, unless the late Filed Claim asserts a lack of notice in time to File a timely Claim.

**ARTICLE VIII. EFFECT OF CONFIRMATION**

**A. Legally Binding Effect.**

The provisions of this Plan shall bind all Holders of Claims or Equity Interests, whether or not they accept this Plan. On and after the Effective Date, all Holders of Claims shall be precluded and enjoined from asserting any Claim (i) against the Debtors, the Liquidating Debtors or their assets or properties based on any transaction or other activity of any kind that occurred prior to the Confirmation Date except as permitted under the Plan; and (ii) any derivative claims, including claims against third parties asserting alter ego claims, fraudulent transfer claims or any other type of successor liability.

**B. Plan Injunction.**

The entry of the Confirmation Order will operate as a general resolution with prejudice, as of the Dissolution, of all pending legal proceedings, if any, against the Debtors, the Liquidating Debtors, and their assets and properties and any proceedings not yet instituted against the Debtors

or its assets and properties, except as otherwise provided in the Plan. Except as otherwise expressly provided in the Plan or the Confirmation Order, all Persons who have held, hold, or may hold Claims against the Debtors are permanently enjoined on and after Dissolution from: (a) commencing or continuing in any manner any action or other proceeding of any kind against the Debtors, or their property, the Liquidating Debtors or the Plan Agent, with respect to any such Claim or claim; (b) commencing or continuing in any manner any action or other proceeding of any kind against the Holders of Equity Interests arising out of, on the basis of, or in any way related to the Dissolution; (c) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order with respect to any such Claim against the Debtors or their property or the Liquidating Debtors or the Plan Agent; (d) creating, perfecting, or enforcing any encumbrance of any kind against the Debtors or their property, or the Liquidating Debtors or the Plan Agent, with respect to such Claim; (e) asserting any right of subrogation of any kind against any obligation due the Debtors, or the Liquidating Debtors or the Plan Agent, with respect to such Claim; and (f) asserting any right of setoff or recoupment against the Debtors, or the Liquidating Debtors or the Plan Agent except as specifically permitted by section 553 of the Bankruptcy Code and the terms of this Plan. Unless otherwise provided in the Plan or by order of the Bankruptcy Court, all injunctions or automatic stays provided for in these cases pursuant to section 105, if any, or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date will remain in full force and effect until the Effective Date.

### **C. Limited Protection of the Exculpated Parties**

No Exculpated Party shall have or incur any liability to any Person or Entity under any theory of liability for any act or omission in connection with, relating to, or arising out of the Debtors' Chapter 11 Cases, the formulation, preparation, dissemination, negotiation, or filing of the Disclosure Statement, this Plan, the settlement of Claims or renegotiation of Executory Contracts or Unexpired Leases, the negotiation of the Plan, the Plan Supplement, or any contract, instrument, release, or other agreement, or document created or entered into in connection with the Disclosure Statement or the Plan (including any attachments or exhibits to any of the foregoing), the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of consummation of the Plan, the administration, consummation, and implementation of the Plan, the distribution of property under the Plan, or any transaction contemplated by the Plan or the Disclosure Statement, or in furtherance thereof, except for gross negligence or willful misconduct, but in all respects the Exculpated Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. In any action, suit or proceeding by any Person contesting any action by, or non-action of any Exculpated Party as constituting willful misconduct, gross negligence, or ultra vires activity or not being in good faith, the reasonable attorneys' fees and costs of the prevailing party will be paid by the losing party and as a condition to going forward with such action, suit, or proceeding at the outset thereof, all parties thereto will be required to provide appropriate proof and assurances of their capacity to make such payments of reasonable attorneys' fees and costs in the event they fail to prevail. The Exculpated Parties have, and upon completion of the Plan shall be deemed to have, participated in good faith and in compliance with applicable law with regard to the restructuring of Claims and Equity Interests in the Chapter 11 Cases.

**D. Indemnification.**

The Liquidating Debtors shall indemnify each Person identified as an Exculpated Party against any and all costs and expenses (including attorneys' fees) incurred by any of them in defending against post-Effective Date claims that are based on actions allegedly taken (or not taken) by them in their respective capacities relating to the Debtors, the Liquidating Debtors or this Plan; provided, however, that no Exculpated Party shall be entitled to indemnification under this Plan for the costs and expenses of defending a cause of action in which it is ultimately judicially determined that such Exculpated Party was grossly negligent or acted fraudulently or with willful misconduct in performing such Exculpated Person's duties hereunder or under any Final Order of the Bankruptcy Court or applicable law, or ultra vires activity. Any Exculpated Party entitled to indemnification under this section shall have a priority distribution right that is senior to the Holders of Allowed Claims against the Liquidating Debtors, and such rights shall be deemed Plan Expenses and provided for in the Plan Expense Reserve. The Plan Agent may use the Liquidating Debtors' Assets to purchase indemnification insurance to satisfy any potential indemnification claims that may arise under this section (as a Plan Expense). Access to the Debtors' or Liquidating Debtors' insurance coverage, including D&O insurance, shall constitute indemnification hereunder to the extent of the limits of any policy, and any Exculpated Party having access to such insurance coverage shall exhaust such coverage before the Debtors or the Liquidating Debtors shall increase the Plan Expense Reserve.

**E. Preservation and Retention of Claims and Rights.**

Confirmation of this Plan effects no settlement, compromise, waiver or release of any Claim, Cause of Action, Right of Action or claim for relief unless this Plan or the Confirmation Order specifically and unambiguously so provides. The non-disclosure or non-discussion of any particular Claim, Cause of Action, Right of Action or claim for relief is not and shall not be construed as a settlement, compromise, waiver, or release of any such Claim, Cause of Action, Right of Action or claim for relief.

**ARTICLE IX. MODIFICATIONS AND AMENDMENTS**

The Debtors reserve the right to alter, amend, or modify this Plan or any exhibits hereto under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date. After the Confirmation Date and prior to substantial consummation of the Plan, as defined in section 1101(2) of the Bankruptcy Code, the Debtors may, under section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan, and related documents and agreements, the Disclosure Statement, or the Confirmation Order, and such matters as may be necessary to carry out the purposes and effects of the Plan so long as such proceedings do not materially adversely affect the treatment of Holders of Claims or Equity Interests under the Plan; provided, however, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

Entry of the Confirmation Order shall mean that all modifications or amendments to the Plan occurring after the solicitation thereof and before the Confirmation Date are approved

pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

The Debtors reserve the right to revoke or withdraw the Plan before the Confirmation Date or the Effective Date and to file subsequent plans under chapter 11 of the Bankruptcy Code. If the Debtors revoke or withdraw the Plan, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption and assignment or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void; and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of the Debtors or any other Entity; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtor or any other Entity; provided, that such revocation or withdrawal shall not in any way limit, prejudice or affect the ability of the Debtor to consummate a sale transaction pursuant to section 363 of the Bankruptcy Code after revocation or withdrawal of the Plan.

#### **ARTICLE X. RETENTION OF JURISDICTION**

Under 28 U.S.C. §§ 157(b) and 1334, and sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases and this Plan to the fullest extent permitted by law, including, among other things and without limitation, jurisdiction to:

- a) Allow, disallow, determine, liquidate, classify, estimate, or establish the priority or Secured or Unsecured status of any Claim or Equity Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any objections to the allowance or priority of Claims or Equity Interests;
- b) 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 Professionals authorized pursuant to the Bankruptcy Code or the Plan;
- c) Effectuate performance of and payments under the provisions of this Plan;
- d) Hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters arising out of, under, or related to, the Chapter 11 Cases, including all controversies, suits and disputes that may arise in connection with the interpretation or enforcement of this Plan, and matters concerning state, local and federal taxes according to Sections 346, 505 and 1146 of the Bankruptcy Code;
- e) Enter such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of this Plan or Confirmation Order and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan or the Confirmation Order;

- f) Hear and determine disputes arising in connection with the interpretation, implementation, consummation, or enforcement of the Plan or the Confirmation Order, including disputes arising under agreements, documents, or instruments executed in connection with the Plan or the Confirmation Order;
- g) Consider any modifications of the Plan, cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;
- h) Issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any entity with implementation, consummation, or enforcement of the Plan or the Confirmation Order;
- i) Enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified, or vacated;
- j) Hear and determine all disputes involving the existence, nature, or scope of the Debtors' release;
- k) Enforce all orders, judgments, injunctions, releases, exculpations, indemnifications, and rulings entered in connection with the Bankruptcy Cases;
- l) Recover all assets of the Debtors, wherever located;
- m) Hear and determine matters concerning state, local, and federal taxes in accordance with section 346, 505, and 1146 of the Bankruptcy Code;
- n) Enforce all orders previously entered by the Bankruptcy Court;
- o) Hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, provisions of the Bankruptcy Code;
- p) Determine and issue the Approved Allowed Claims and Distribution Schedule.
- q) Enter a final decree closing the Bankruptcy Case; and
- r) Interpret and enforce the terms of any settlement and compromise set forth within the Plan or approved by Final Order of the Bankruptcy Court to ensure compliance with the Confirmation Order which shall be a Final Order of the Bankruptcy Court directing through the approval of compromises contained within the Plan and previously approved by the Bankruptcy Court that the parties to such compromises have resolved that all disputes arising there under are reserved for decision in the Bankruptcy Court.

**ARTICLE XI. SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS**

**A. Settlement, Compromise, and Release of Claims and Interests.**

Pursuant to Bankruptcy Rule 9019 and in consideration for the Distributions under the Plan and other benefits provided pursuant to the Plan, and except as otherwise specifically provided in the Plan or in any contract, instrument, or other agreement or document created pursuant to or in connection with the Plan, the Distributions, rights, and treatment that are provided in the Plan shall be in complete settlement, compromise, and release, effective as of the Effective Date, of Claims, Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Interests in, the Debtors or its assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and 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 Interests relate to services performed by employees of the Debtor before the Effective Date and that arise from a termination of employment, 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: (i) a Proof of Claim based upon such debt, right, or Equity Interest is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code; (ii) a Claim or Interest based upon such debt, right, or interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (iii) the Holder of such a Claim or Equity Interest has accepted the Plan. Any default by the Debtors with respect to any Claim or Equity Interest that existed immediately before 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 settlement, compromise, and release of all Claims and Equity Interests subject to the Effective Date occurring.

**B. Release of Liens.**

Except as otherwise provided herein or in any contract, instrument, release, or other agreement or document created pursuant to or in connection with the Plan, on the Effective Date and concurrently with the applicable Distribution made pursuant to 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 Estate shall be fully released, settled, and compromised and all rights, titles, and interests of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estate shall revert to the Liquidating Debtors.

**C. Setoffs.**

Except as otherwise expressly provided for in the Plan, the Debtors or the Plan Agent, pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the Holder of a Claim, may set off against any Allowed Claim and the Distribution to be made pursuant to the Plan on account of such Allowed Claim (before any Distribution is made on account of such Allowed Claim), any claims, rights, and Causes of Action of any nature that the Debtors may hold against the Holder of such Allowed Claim, to the extent such claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or before the Effective Date (whether pursuant to the Plan or otherwise); provided, that neither the failure to effect such a setoff nor the allowance of any Claim pursuant to the Plan shall constitute a waiver or release by the Debtors of any such claims, rights,

and Causes of Action that the Debtors may possess against such Holder. In no event shall any Holder of Claims be entitled to set off any Claim against any Claim, right, or Cause of Action of the Debtor, unless such Holder has timely Filed a Proof of Claim with and has obtained a Final Order from the Bankruptcy Court preserving such setoff.

**D. Recoupment.**

In no event shall any Holder of Claims or Equity Interests be entitled to recoup any Claim against any claim, right, or Cause of Action of the Debtors, unless such Holder actually has timely Filed a Proof of Claim with the Bankruptcy Court preserving such recoupment.

**E. Document Retention.**

On and after the Effective Date, the Liquidating Debtors may maintain documents in accordance with their standard document retention policy, as may be altered, amended, modified, or supplemented by the Plan Agent. After the Dissolution the Plan agent shall have no further obligation to retain documents of the Liquidating Debtors.

**F. Reimbursement or Contribution.**

If the Bankruptcy Court disallows a Claim for reimbursement or contribution of an Entity pursuant to section 502(e)(1)(B) of the Bankruptcy Code, then to the extent that such Claim is contingent as of the time of allowance or disallowance, such Claim shall be forever disallowed and expunged notwithstanding section 502(j) of the Bankruptcy Code, unless before the Confirmation Date: (1) such Claim has been adjudicated as non-contingent or (2) the relevant Holder of a Claim has Filed a non-contingent Proof of Claim on account of such Claim and a Final Order has been entered before the Confirmation Date determining such Claim as no longer contingent.

**ARTICLE XII. CONDITIONS PRECEDENT TO CONFIRMATION AND THE EFFECTIVE DATE**

**A. Conditions Precedent to Confirmation.**

The following shall constitute conditions precedent to Confirmation of this Plan:

1. The Bankruptcy Court shall have entered an Order approving the Disclosure Statement; and
2. The Confirmation Order shall be acceptable to the Debtors and otherwise be consistent with the terms and conditions described in this Plan.

**B. Conditions Precedent to the Effective Date.**

The occurrence of the Effective Date is subject to satisfaction of the following conditions precedent (or conditions contemporaneous or subsequent with respect to actions which are to be taken contemporaneously with or immediately after the occurrence of the Effective Date), any of which may be waived in writing by the Plan Agent:

1. The Bankruptcy Court shall have entered the Confirmation Order and the Confirmation Order shall not have been stayed.

**C. Waiver of Conditions.**

The preceding condition may be waived by written notice of the Plan Agent for cause.

**D. Filing Notice of Effective Date.**

Within three (3) days of the occurrence of the Effective Date, the Liquidating Debtors and/or Plan Agent shall file a joint notice of occurrence of the Effective Date in the record of the Chapter 11 Cases reflecting (i) that the foregoing conditions to the occurrence of the Effective Date have been satisfied or waived, (ii) specifying the date of the Effective Date, and (iii) acknowledging that the Effective Date has occurred on and as of said date.

**ARTICLE XIII. MISCELLANEOUS PROVISIONS**

**A. Immediate Binding Effect**

Subject to Article XII of this Plan and notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Debtors, their Estates, and any and all Holders of Claims or Equity Interests (irrespective of whether the Holders of such Claims or Equity Interests accepted or rejected the Plan), all entities that are parties to or are subject to the settlements, compromises, releases, and injunction 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. Severability of Plan Provisions**

If, prior to Confirmation, any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, 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 this Plan shall remain in full force and effect and shall in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**C. Successors and Assigns**

The rights, benefits, and obligations of any Person named or referred to in the Plan or Confirmation Order shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person.

**D. Notices**

Any pleading, notice, request, demand or any other document required or permitted to be made or provided to or upon the Debtors or the Plan Agent under this Plan, in order to be effective, must be in writing (including by facsimile or electronic mail transmission) to:

<p><b>Plan Agent</b></p>	<p>Kim E. Thayer                  c/o KELLY HART PITRE                  One American Place                  301 Main Street, Suite 1600                  Baton Rouge, LA 70801-1916                  Attn: Louis M. Phillips and Kim E. Thayer                  Email: louis.phillips@kellyhart.com                  Email kthayer@resolveko.com</p>
<p><b>Counsel for Plan Agent and Liquidating Debtors</b></p>	<p>KELLY HART PITRE                  One American Place                  301 Main Street, Suite 1600                  Baton Rouge, LA 70801-1916                  Attn: Louis M. Phillips                  Email: louis.phillips@kellyhart.com</p>

**E. Post-Confirmation Reporting Requirements.**

After Confirmation, the Liquidating Debtors shall continue to report to the United States Trustee on or before the twentieth (20th) day of each calendar month following the end of the calendar quarter, up to the date an order is entered granting Final Decree, converting the case to chapter 7 or dismissing the case. However, nothing herein shall be construed as a waiver of the right of the Liquidating Debtors to request that, after the Effective Date, the Chapter 11 Case be administratively closed.

**F. Reservation of Rights**

The Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. Neither the Plan, any statement or provision contained in the Plan, nor any action taken or not taken by the Debtors with respect to the Plan or any other restructuring document shall be or shall be deemed to be an admission or waiver of any rights of the Debtors or with respect to the Holders of Claims or Interests before the Effective Date.

**G. Governing Law**

Except to the extent that the Bankruptcy Code or Bankruptcy Rules are applicable, and subject to the provisions of any contract, instrument, release, indenture or other agreement or document entered into in connection herewith, the rights and obligations arising hereunder shall

be governed by, and construed and enforced in accordance with, the laws of the State of Louisiana, without giving effect to the principles of conflict of laws thereof.

**H. Continuing Viability of Other Orders/Agreements**

Except to the extent expressly modified or otherwise provided by this Plan, or as otherwise ordered by the Bankruptcy Court (i) all Final Orders previously entered by the Bankruptcy Court and (ii) any agreements between creditors or between the Debtors and the creditors will continue in full force and effect.

**I. Exhibits**

All exhibits and documents included in the Plan Supplement 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 be available upon written request to the Debtors and Plan Agent's counsel at the address above or by downloading such exhibits and documents from the following internet address: <https://www.kellyhart.com/pleadings/pleadings.html>.

**J. Compliance with Tax Requirements.**

The Debtors, the Liquidating Debtors and the Plan Agent will comply with all applicable withholding and reporting requirements imposed by federal, state, and local taxing authorities, and all distributions hereunder shall be subject to such withholding and reporting requirements.

**K. Further Assurances.**

The Liquidating Debtors and all Holders of Claims receiving Distributions or Residual Distributions under this Plan and all other parties in interest shall, from time to time, upon the request or demand of the Plan Agent, prepare, execute, and deliver any agreements or documents and take any other action consistent with the terms of this Plan as may be reasonably necessary to effectuate the provisions and intent of this Plan, with each such entity to bear its own costs incurred in connection therewith.

**L. Severability of Plan Provisions.**

If, prior to or after the Confirmation Date, any term or provision of the Plan is held by the Bankruptcy Court or any other court to be invalid, void or unenforceable, the Bankruptcy Court or such other court will 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 will 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 will constitute a judicial determination and will provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable in accordance with its terms.

**Dated: August 21, 2024**

**Respectfully submitted, as of the date first set forth above,**

**/s/ Kim E. Thayer**

**Kim E. Thayer, Chief Financial Officer and Chief Restructuring Officer,**

**and Authorized signatory**

**c/o KELLY HART PITRE**

**One American Place**

**301 Main Street, Suite 1600**

**Baton Rouge, LA 70801-1916**

**Attn: Kim E. Thayer**

**Email [kthayer@resolveko.com](mailto:kthayer@resolveko.com)**

**EXHIBIT B - CLAIMS ANALYSIS**

DATE	CLAIM #	CREDITOR NAME	AMOUNT	on Kologik's Books	Notes
04/30/24	1	<a href="#">Microsoft Corporation</a>	\$ 26,414.62		Comprised of 2 invoices \$7,311 and \$19,103.62; The first inv paid by us on 5/2/24 and 2nd pd by us on 4/26/24 through Bill.com
05/06/24	2	<a href="#">Dallas County</a>	\$ 407.07		Office was closed there in 2021so there should not be any taxes owed for year 2023
05/09/24	3	<a href="#">Internal Revenue Service</a>	\$ 1,295,575.15		Claim shows for unfiled 941 (payroll) returns--this is from when company went from inhouse payroll to ADP as PEO--we have since filed all the return showing "Final"
05/14/24	3 (Amended)	<a href="#">Internal Revenue Service Amended</a>	\$ 500.00		This is for unfiled tax return for year 2023; no taxes will be owed due
05/13/24	4	<a href="#">New York State Department of Taxation &amp; Finance</a>	\$ 1,747.26		This claim is for income taxes for year 2021-- interest and penalty for year 2021. Return was signed 9-12-2022 with \$25 due. Check issued on 9/15/22 and check cleared bank on 9/22/2022. No basis for claim.
05/13/24	5	<a href="#">Atmos Energy Corporation</a>	\$ 76.00		Both invoices were paid: 4/11/24's paid on 4/26/24 and 5/9/24's paid on 5/22/24. No claim.
05/14/24	6	<a href="#">Teri Jones</a>	\$ 52,500.00		expectations of role" and scoring will be done by CEO based on quantitative and qualitative assessment of the goals. Company has right to terminate plan with or without notification. This plan "does not constitute a contract". Nothing was ever scored, etc. in 2023 for year 2022. No bonuses were given out, except CEO (Wolf) to himself, and that has been reclassified as due from Employee. No contract claim.
05/29/24	7	<a href="#">ETC FBO Worachote Soonthornsima IRA</a>	\$ 2,278,255.56	\$ 2,218,772.39	Book number includes Principal of \$1.940m plus acerd int thru 4-22-24; also possible defense relating to loan origination Fee and
06/12/24	8	<a href="#">Gordon Oaks Property &amp; Investments, Inc.</a>	\$ 63,220.00	\$ 63,440.00	The Debtors' record reflect that htis is associated with "Alen Inc." as noted on claim; at 6/30/24, bal owed is \$60k plus accrued int thru
06/12/24	9	<a href="#">Sean P. Murphy and/or Murphy Technologies</a>	\$ 236,207.00	\$ 236,207.00	
06/19/24	10	<a href="#">Venturespire Group LLC</a>	\$ 165,962.84	\$ 157,891.31	This is the "Factoring Loan" that is in fact unsecured. Booked number is principal of \$140,382.49 plus acerd interest thru 4-22-24
06/20/24	11	<a href="#">Venturespire Group LLC</a>	\$ 392,920.40	\$ 392,920.40	Booked Number as Accounts Payable Invoices -- Invoices cover period 4-2022 thru 7-31-23, but research continuing as to what is the basis for the invoices. Possible defenses.
06/20/24	12	<a href="#">Elysium Digital, LLC/ an Aon Company</a>	\$ 58,531.45	\$ 58,531.45	This matches booked number for claim.
06/21/24	13	<a href="#">CommSys, Inc.</a>	\$ 69.00		\$0 This amount paid via Bill.com on 2/8/24. No claim.
06/25/24	14	<a href="#">Karie Wohlgemuth</a>	\$ 460,000.00		Contract to be Rejected out of abundance of caution, as employee left employ to take job with Purchaser. Defenses include possible avoidance 544(b) and 548, as Kologik insolvent and "change of control bonus amount not rational and for no value. Also continuing research into former CEO (Wolf) and relationship being basis for "bonus" and other defenses under applicable law. Debtors' position is that no claim Disputed as research indicates possiblilty still being researched that entry was made by previous CFO, booked in 6/2023, when claim relates toprior CFO termination on 5/31/21. CFO's notes say that agreement signed 5/29/23 but what was filed with courts has a 5/31/21 date.
06/25/24	15	<a href="#">Matt Follis</a>	\$ 75,000.00	\$ -	Concern about date. Also Kologik has booked receivable due from claimant for overpayment of in rem loan in the amount of \$19,795.75 same as initial claim
06/25/24	15 (Amended)	<a href="#">Matt Follis Amended</a>			Debtors working on reconciliation, and have found several posted invoices from 2022 and early 2023 that are not included in this claim.
06/26/24	16	<a href="#">Chaffin McCall</a>	\$ 168,219.88	\$ 176,138.70	Still researching to determine if all work done for Debtors.

Date	Page	Entity Name	Amount	Unit	Value	Description
07/05/24	17	<a href="#">Walter Morales</a>				Booked amount is \$100k of director fees less overpayment on expenses (Former CEO overpaid claimant's credit card). Director fees from 5/2022 -- 12/2023. Possible defenses re avoidable transaction (payment of director fees); also possible claims related to write off of prepaid expenses receivable. Finally, claim includes claim for indemnity and is covered by D&O insurance up to policy limits (Wolf Claims).
			Unknown	\$	99,479.17	
07/10/24	18	<a href="#">CliftonLarsonAllen, LLP (CLA)</a>	\$ 22,114.19	\$	26,813.50	Our amount represents invoice balances of \$22,114.19 plus accrued interest of \$4,699.31 up to 4-30-24
07/10/24	19	<a href="#">Victor E. Trahan, III</a>	\$ 1,800,000.00		\$0	Claim says this is escrow from sale, and relates to a claim against TSB for escrowing of \$1.8 (same as Canseco). Claim not owed by Kologik.
07/10/24	20	<a href="#">Victor E. Trahan, III</a>	\$ 73,500.00	\$	73,500.00	Final Arbitration award amount.
07/10/24	21	<a href="#">Jackson Smith Thomas</a>				Debtors' calculation of claim consists of 2 "loans" -- \$41.5k--To book "CY amortization on Deferred Financing Costs related to the MRB Term Debt" entry made by CPA doing audit (CFO doesn't know what this is - but appears to be deposit into operating account with no note). Second amount is for in rem notes -- \$113k principal and Acrd Interest of \$40.9k on the Copsync D&O loans--interest through 6-30-24;
			\$ 837,412.00	\$	196,053.37	Claimant calculation contravenes terms of in rem notes
07/11/24	22	<a href="#">Polsinelli PC</a>	\$ 321,659.95	\$	248,510.29	Difference is invoices not applicable to Kologik
07/13/24	23	<a href="#">TSB Ventures</a>				Booked amount and note amount is Principal of \$6.289m plus Accd Interest of \$1.513m through 6-30-24. Subject to possible defenses and characterization. Proof of claim back up does not establish claim
			\$ 13,107,277.12	\$	7,803,607.59	right against TSB to compel escrow of app. \$1.8 Million into escrow
07/14/24	24	<a href="#">Jose S. Canseco</a>	\$ -		\$0	from TSB recovery.
07/15/24	25	<a href="#">State Capitol Solutions LLC</a>				Former CEO requested services be stopped in August so we have invoices booked through August. Contract says it is through Nov 2023 which is \$4.5k X 3) for \$13.5k. Diff between their number and ours if
			\$ 49,500.00	\$	31,500.00	\$18k, so they seem to have an extra \$4.5k added here.
07/15/24	26	<a href="#">Lafactor LLC</a>	\$ 2,044,235.97	\$	1,851,573.53	Diffenece in Debtors' calculation of principal balance and effect upon accrued interest. Claim subject to possible defenses re
07/15/24	27	<a href="#">Mississippi River Bank</a>	Unknown		\$0	The Debtors have nothing booked as LA Factor bought notes we had with the Claims detail and all invoices dated 4/25/24 show paid by automatic
07/15/24	28	<a href="#">Microsoft Corporation</a>	\$ 6,992.51		\$0	payments from company credit card. The Debtors are still reviewing
07/15/24	29	<a href="#">Murphy Rogers / Willis &amp; Buckley IV</a>				No basis for claim set forth in Proof of Claim. No documentation of claim. Debtors' have determined that claim is Zero. Possible assertion
			\$ 2,300,000.00		\$0	of groundless claim and resultant consequences.
07/15/24	30	<a href="#">Robbins Powell</a>				Bonus Plan was for 2022 and states "must be fully Meeting the expectations of role" and scoring will be done by CEO based on quantitative and qualitative assessment of the goals. Company has right to terminate plan with or without notification. This plan "does not constitute a contract". Nothing was ever scored, etc. in 2023 for year 2022. No bonuses were given out, except CEO (Wolf) to himself,
			\$ 24,500.00		\$0	and that has been reclassified as due from Employee. No contract Prior CEO terminated for cause. Defenses grounded in for cause termination and avoidance of components of employment contract, if not whole contract under Missouri law (statute of limitations is 4 years)
07/15/24	31	<a href="#">Robert P. Wolf</a>				- Section 544(b). Claimant gave himself a bonus that he was not authorized to give (Debtors' position); alleged use of company credit card and had company pay for "seats" at a baseball game that was about
			\$ 1,350,000.00		\$0	\$7.6k, purportedly for company use but used for family; faulty

07/15/24 32

[Taylor, Porter, Brooks & Phillips, L.L.P.](#)

Claim says Proof of membership interest of debtor owned by M6 Capital Partners; not a claim against Kologik, but rather a claim against insider, with security interest encumbering membership interest \$0 (membership interest to be extinguished under plan).

Unknown

\$ 27,212,797.97

\$ 13,634,938.70 Kologik LLC

See Kologik Capital Tab

\$ 1,097,780.64

\$ 833,461.39

**Total for Kologik and Kologik Capital LLC**

**\$ 28,310,578.61**

**\$ 14,468,400.09**

DATE	CLAIM #	CREDITOR NAME	AMOUNT	on Kologik's Books	Notes	
05/14/24	1	<a href="#">McCarter &amp; English, LLP</a>	\$ 769,548.65	\$	789,548.65	No reconciliation done to see what makes up this difference; still researchi
		<a href="#">Baker, Donelson, Bearman, Caldwell &amp; Berkowitz, PC</a>	\$ 328,231.99			This is booked amount. There is an alleged prior agreement that bound
06/03/24	2			\$	43,912.74	Kologik to pay legal fees of affiliated entity, making up the bulk of the
06/03/24	2 Amended	<a href="#">Amended</a>				claim amount. Still researching re any defenses.
07/13/24	3	<a href="#">TSB Ventures, LLC</a>	\$ 13,107,277.12			same amount as original claim
		Total\	\$ 14,205,057.76	\$	833,461.39	same as amount claimed against Kologik, LLC
		Total Less TSB Already Claimed Under Kologik, LLC	\$ 1,097,780.64	\$	833,461.39	

Case 24-10311 Doc 208-4 Filed 10/10/24 Entered 10/10/24 09:23:11 Page 1 of 1  
**EXHIBIT C - PLAN BUDGET**

**Kologik Cash Outlook thru 1-3-25**

Prepared 8-21-24

Week Beginning	Budget 8/17/2024	Budget 8/24/2024	Budget 8/31/2024	Budget 9/7/2024	Budget 9/14/2024	Budget 9/21/2024	Budget 9/28/2024	Budget 10/5/2024	Budget 10/12/2024	Budget 10/19/2024	Budget 10/26/2024	Budget 11/2/2024	Budget 11/9/2024	Budget 11/16/2024	Budget 11/23/2024	Budget 11/30/2024	Budget 12/7/2024	Budget 12/14/2024	Budget 12/21/2024	Budget 12/28/2024
Week Ending	8/23/2024	8/30/2024	9/6/2024	9/13/2024	9/20/2024	9/27/2024	10/4/2024	10/11/2024	10/18/2024	10/25/2024	11/1/2024	11/8/2024	11/15/2024	11/22/2024	11/29/2024	12/6/2024	12/13/2024	12/20/2024	12/27/2024	1/3/2025
<b>Cash Beginning Balance: all banks at 8-17-24</b>	11,146,102	10,937,646	10,937,446	11,418,861	11,417,361	11,460,052	11,457,052	11,386,743	11,371,767	11,415,315	11,383,859	11,330,659	11,315,682	11,312,682	11,299,226	11,296,226	11,231,050	11,231,050	11,215,594	11,976,651
<b>Cash Inflows</b>																				
Hancock Whitney deposits	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Employee Retention Credit-waiting on IRS \$764k																				
Sale Proceed Held in Escrow \$554k, Not Avail			554,000																	764,057
CRO's Services Owed by GSV/Kologik Software LLC					12,600															
Interest from 90 Day CD at HCW					43,608				43,608											
Interest in Money Market Account			891				891													
<b>Total Cash Inflows</b>	-	-	554,891	-	56,208	-	891	-	43,608	-	-	-	-	-	-	-	-	-	-	764,057
<b>Cash Outflows</b>																				
<b>Payroll + commissions</b>																				
<b>Benefits</b>																				
CRO Pay	13,456		13,456		13,456			13,456		13,456		13,456		13,456		13,456		13,456		13,456
Insurance Monthly Financed Premiums				1,500		3,000		1,500			3,000	1,500			3,000	1,500			3,000	1,500
US Trustee Qtrly Inv 1st Due 1/15/24 - \$6k est.							6,000													6,000
Bankruptcy Legal Bills - Kelly Hart	195,000		60,000				65,000				50,000					50,000				50,000
CPA Fees For Tax Returns										18,000										18,000
Quickbooks Monthly Fee		200					200				200					200				200
Bill.com Monthly Fee					60				60									2,000		
Office 365 yearly subscription estimated			20					20				20				20				20
<b>Total Cash Outflows</b>	208,456	200	73,476	1,500	13,516	3,000	71,200	14,976	60	31,456	53,200	14,976	3,000	13,456	3,000	65,176	-	15,456	3,000	89,176
<b>Available Cash Ending Balance</b>	10,937,646	10,937,446	11,418,861	11,417,361	11,460,052	11,457,052	11,386,743	11,371,767	11,415,315	11,383,859	11,330,659	11,315,682	11,312,682	11,299,226	11,296,226	11,231,050	11,231,050	11,215,594	11,976,651	11,887,474
<b>Net Cash In (Out)</b>	(208,456)	(200)	481,414	(1,500)	42,692	(3,000)	(70,309)	(14,976)	43,548	(31,456)	(53,200)	(14,976)	(3,000)	(13,456)	(3,000)	(65,176)	-	(15,456)	761,057	(89,176)