IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: INVIVO THERAPEUTICS CORPORATION, *et al.*,[1] Debtors.	Chapter 11 Case No. 24-10137 (MFW) (Jointly Administered) **Ref. Nos. 138, 139, 162, 163, 168, 169, 177, 178, 189, 219, 225, 226, 228, 229, 232 & 244**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (I) CONFIRMING JOINT PLAN OF LIQUIDATION OF INVIVO THERAPEUTICS CORPORATION AND INVIVO THERAPEUTICS HOLDINGS CORP. PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE AND (II) APPROVING THE DISCLOSURE STATEMENT ON A FINAL BASIS

The above-captioned debtors and debtors-in-possession (the "Debtors") having:

a. filed, on April 8, 2024, the *Joint Plan of Liquidation InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. 138] (as further modified, supplemented and amended including all attachments and exhibits thereto, the "Plan");[2]

b. filed, on April 8, 2024, the *Disclosure Statement for the Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. 139] (as further modified, supplemented and amended, the "Disclosure Statement");

c. filed, on April 29, 2024, revised versions of the Plan and Disclosure Statement and blacklines comparing each to their prior version [D.I. 162, 163];

d. filed, on April 29, 2024, solicitation versions of the Plan and Disclosure Statement [D.I. 168, 169];

e. filed, on April 30, 2024, the *Notice of (A) Interim Approval of the Disclosure Statement and (B) Combined Hearing to Consider Final Approval of the Disclosure*

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: InVivo Therapeutics Corporation (6670) and InVivo Therapeutics Holdings Corp. (8166). The Debtors' mailing address is 1500 District Avenue, Burlington, MA 01803.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Plan. The rules of interpretation set forth in Article I.B of the Plan shall apply to this order (the "Confirmation Order").

Statement and Confirmation of the Plan and the Objection Deadline Related Thereto [D.I. 178] (the "Confirmation Hearing Notice");

f. distributed solicitations materials, including the ballots for voting on the Plan (the "Ballots"), on or about May 9, 2024 in the form approved in that certain *Amended Order (I) Approving the Disclosure Statement on an Interim Basis; (II) Scheduling a Combined Hearing on Final Approval of the Disclosure Statement and Plan Confirmation and Deadlines Related Thereto; (III) Approving the Solicitation, Notice and Tabulation Procedures and the Forms Related Thereto; and (IV) Granting Related Relief* [D.I. 177] (the "Amended Interim Approval and Procedures Order"), to holders of Claims and Interests and parties in interest, in compliance with the procedures contained in the Amended Interim Approval and Procedures Order, as set forth in the *Certificate of Service* (and any supplements thereto) [D.I. 189] (the "Solicitation Affidavit");

g. filed, on June 11, 2024, the *Notice of Filing Plan Supplement* [D.I. 219] (the "Plan Supplement");

h. filed, on June 17, 2024, the *Declaration of Jeffrey Miller Regarding the Solicitation and Tabulation of Votes on the Debtors' Joint Chapter 11 Plan of Liquidation* [D.I. 225] (the "Voting Declaration");

i. filed, on June 17, 2024, the *Notice of Filing Further Revised Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. 226].

j. filed, on June 17, 2024, the *Declaration of Richard Christopher in Support of Confirmation of the Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. 228] (the "Confirmation Declaration");

k. filed, on June 17, 2024, the *Debtors' Memorandum of Law in Support of (A) Final Approval of the Disclosure Statement and (B) Confirmation of the Plan* [D.I. 229] (the "Confirmation Brief");

l. filed, on June 18, 2024, the *Certification of Counsel Regarding Revised Proposed Confirmation Order* [D.I. 232]; and

m. filed, on June 21, 2024, the *Certification of Counsel Regarding Further Revised Proposed Confirmation Order* [D.I. 244].

The United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") having:

a. entered the Amended Interim Approval and Procedures Order on May 6, 2024;

b. by the Amended Interim Approval and Procedures Order, set the deadline to object to the Plan and final approval of the Disclosure Statement as June 14, 2024 at 4:00 p.m. prevailing Eastern Time and the Plan voting deadline as June 14, 2024 at 5:00 p.m. prevailing Eastern Time;

a. reviewed the Plan, the Disclosure Statement, the Confirmation Declaration, the Confirmation Brief, the Voting Declaration, and all other pleadings, exhibits, statements, affidavits, declarations and comments regarding Confirmation of the Plan, including all objections, statements and reservations of rights made with respect thereto;

b. heard the statements, arguments and objections, if any, made by counsel and parties in interest in respect of final approval of the Disclosure Statement and Confirmation of the Plan;

c. considered all oral representations, testimony, documents, filings, and other evidence regarding final approval of the Disclosure Statement and Confirmation of the Plan;

d. overruled any and all objections to final approval of the Disclosure Statement, the Plan and Confirmation thereof and all statements and reservations of rights not consensually resolved or withdrawn unless otherwise indicated in this Confirmation Order or on the record at the Confirmation Hearing; and

e. taken judicial notice of the papers and pleadings filed in these chapter 11 cases (the "Chapter 11 Cases").

NOW, THEREFORE, it appearing to the Bankruptcy Court that notice of the Confirmation Hearing and the opportunity for any party in interest to object to final approval of the Disclosure Statement and Confirmation have been adequate and appropriate as to all entities affected or to be affected by the Disclosure Statement, the Plan and the transactions contemplated thereby, that the legal and factual bases set forth in the documents filed in support of final approval of the Disclosure Statement and Confirmation and presented at the Confirmation Hearing establish just cause for the relief granted herein, and that after due deliberation thereon and good cause appearing therefore, the Bankruptcy Court hereby makes and issues the following findings of fact, conclusions of law, and orders:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Findings and Conclusions. The findings and conclusions set forth herein constitute the Bankruptcy Court's findings of fact and conclusions of law pursuant to rule 52 of the Federal Rules of Civil Procedure, as made applicable herein by Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. Jurisdiction, Venue, Core Proceeding (28 U.S.C. §§ 157(b)(2), 1334(a)). The Bankruptcy Court has jurisdiction over the Chapter 11 Cases pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. Approval of the Plan is a core proceeding pursuant to 28 U.S.C. § 157(b) and the Bankruptcy Court has jurisdiction to enter a final order with respect thereto. Venue was proper as of the Petition Date and is proper before the Bankruptcy Court pursuant to 28 U.S.C. §§ 1408 and 1409.

C. Eligibility for Relief. The Debtors each qualify as a "debtor" under Bankruptcy Code section 109. As such, the Debtors are a proper proponent of the Plan.

D. Commencement of the Chapter 11 Cases. On February 1, 2024 (the "Petition Date"), the Debtors commenced the Chapter 11 Cases by each filing a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession, pursuant to Bankruptcy Code sections 1107(a) and 1108. As of the date hereof, no trustee, examiner or statutory committee has been appointed in these Chapter 11 Cases.

E. Judicial Notice. The Bankruptcy Court takes judicial notice of the docket of the Debtors' Chapter 11 Cases maintained by the Clerk of the Bankruptcy Court, including all pleadings and other documents filed, all orders entered, and all evidence and arguments made, proffered, or adduced at the hearings held before the Bankruptcy Court during the pendency of these Chapter 11 Cases.

F. Claims Bar Date. On March 26, 2024, the Bankruptcy Court entered the *Order Granting Motion of the Debtors for Entry of an Order (A) Establishing Bar Dates for Filing Proofs of Claim and Interest, (B) Approving the Form and Manner for Filing Proofs of Claim or Interest; and (C) Approving Notice Thereof* [D.I. 124] (the "Bar Date Order"). The Bar Date Order, among other things, (i) established April 19, 2024 at 4:00 p.m. prevailing Eastern Time as the general bar date, administrative bar date and interest bar date, (ii) approved the form and manner for filing proofs of claim and interest and (iii) approved notice of the applicable bar dates. Additionally, the Bar Date Order established July 30, 2024 at 4:00 p.m. prevailing Eastern Time as the deadline for all governmental units holding claims (whether secured, unsecured priority or unsecured non-priority) that arose (or are deemed to have arisen) before the Petition Date to file proofs of claim.

G. Burden of Proof. The Debtors have the burden of proving the elements of Bankruptcy Code sections 1129(a) and (b) by a preponderance of the evidence. The Debtors have met their burden with respect to each applicable element of Bankruptcy Code section 1129. Each witness who testified on behalf of the Debtors at or in connection with the Confirmation Hearing was credible, reliable and qualified to testify as to the topics addressed in his or her testimony.

Adequacy of the Disclosure Statement

H. The Disclosure Statement. The information contained in the Disclosure Statement contained material information regarding the Debtors so that parties entitled to vote on the Plan

could make informed decisions regarding the Plan. Additionally, the Disclosure Statement contains adequate information within the meaning of Bankruptcy Code section 1125 and complies with any additional requirements of the Bankruptcy Code, Bankruptcy Rules, Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules") and applicable non-bankruptcy law. Specifically, but without limitation, the Disclosure Statement complies with the requirements of Bankruptcy Rule 3016(c) by sufficiently describing in specific and conspicuous bold language the provisions of the Plan that provide for injunctions against conduct not otherwise enjoined under the Bankruptcy Code and sufficiently identifies the persons and entities that are subject to the injunctions. The Debtors' use of the Disclosure Statement to solicit votes to accept or reject the Plan was authorized by the Amended Interim Approval and Procedures Order and was appropriate. Solicitation of votes on the Plan was in compliance with the Amended Interim Approval and Procedures Order.

The Solicitation Process

I. Solicitation. Each of the Plan, the Disclosure Statement, the Ballots and the Confirmation Hearing Notice were transmitted and served in compliance with the Bankruptcy Rules, including Bankruptcy Rules 3017 and 3018, the Local Rules, and the Amended Interim Approval and Procedures Order. The form of the Ballots adequately addresses the particular needs of these Chapter 11 Cases and are appropriate for the holders of Claims in Class 4 (General Unsecured Claims), Class 5 (ARE Subordinated Claims) and holders of Interests in Class 6 (Interests) – the Classes of Claims and Interests entitled to vote to accept or reject the Plan. The period during which the Debtors solicited acceptances to the Plan was a reasonable period of time for holders to make an informed decision to accept or reject the Plan and was in accordance with the Amended Interim Approval and Procedures Order, and in compliance with the Bankruptcy

Code, the Bankruptcy Rules, the Local Rules, and any applicable non-bankruptcy law, rule, or regulation. The Debtors were not required to solicit votes from the holders of Claims in Class 1 (Secured Tax Claims), Class 2 (Other Secured Claims) and Class 3 (Other Priority Claims) as these Claims are unimpaired under the Plan, and thus, the holders of such Claims are deemed to have accepted the Plan. As described in and as evidenced by the Voting Declaration and the Solicitation Affidavit, the transmittal and service of the Plan, the Disclosure Statement, the Ballots, and the Confirmation Hearing Notice (the "Solicitation") were timely, adequate and sufficient under the circumstances.

J. Notice. As is evidenced by the Solicitation Affidavit, all parties required to be given notice of the Confirmation Hearing (including the deadline for filing and serving objections to confirmation of the Plan) were served with the Confirmation Hearing Notice and have been given due, proper, timely, and adequate notice in accordance with the Amended Interim Approval and Procedures Order and in compliance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable non-bankruptcy law, rule, or regulation, and such parties have had an opportunity to appear and be heard with respect thereto. No other or further notice or resolicitation is required.

K. Good Faith Solicitation. Based on the record before the Bankruptcy Court in these Chapter 11 Cases, the Debtors have acted in "good faith" within the meaning of Bankruptcy Code section 1125(e) in compliance with the applicable provisions of the Amended Interim Approval and Procedures Order, the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable non-bankruptcy law, rule, or regulation governing the adequacy of disclosure in connection with all their respective activities relating to the solicitation of acceptances to the Plan and their participation in the activities described in Bankruptcy Code section 1125 and are entitled

to the protections afforded by Bankruptcy Code section 1125(e) and, to the extent such parties are listed therein, the exculpation provisions set forth in Article VIII of the Plan.

L. Voting. As evidenced by the Voting Declaration, votes to accept or reject the Plan have been solicited and tabulated fairly, in good faith, and in a manner consistent with the Plan, the Amended Interim Approval and Procedures Order, the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and any applicable non-bankruptcy law, rule, or regulation. As set forth in the Voting Declaration, Class 4, Class 5 and Class 6 voted to confirm the Plan. Based on the foregoing, and as evidenced by the Voting Declaration, at least one Impaired Class of Claims has voted to accept the Plan in accordance with the requirements of Bankruptcy Code sections 1124 and 1126.

M. Exculpation and Injunction. Pursuant to Bankruptcy Code section 1123(b)(3) and Bankruptcy Rule 9019(a), the exculpations and injunctions set forth in Article VIII of the Plan and as modified (as applicable) and implemented by this Confirmation Order, are fair, equitable, reasonable and in the best interests of the Debtors, their Estates, Creditors and Interest Holders. The Exculpation is warranted, necessary and appropriate, and such exculpation and injunction are supported by the facts and the circumstances of these Chapter 11 Cases and are consistent with Bankruptcy Code sections 105, 1123(b)(6), and 1129 and applicable law in this jurisdiction. The record of the Confirmation Hearing and these Chapter 11 Cases is sufficient to support the exculpations and injunctions provided for in Article VIII of the Plan.

Compliance with the Requirements of Bankruptcy Code Section 1129

N. Plan Compliance with the Bankruptcy Code (11 U.S.C. § 1129(a)(1)). The Plan complies with the applicable provisions of the Bankruptcy Code and, as required by Bankruptcy

Rule 3016, the Plan is dated and identifies the Debtors as the proponents of the Plan, thereby satisfying Bankruptcy Code section 1129(a)(1).

(i) Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)). With the exception of the Administrative Claims (including Professional Fee Claims) and Priority Tax Claims, which need not be classified, Article III of the Plan classifies six (6) Classes of Claims and Interests in the Debtors. The Claims and Interests placed in each Class are substantially similar to the other Claims and Interests, as the case may be, in each such Class. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Interests created under the Plan, and such Classes do not unfairly discriminate between holders of Claims and Interests. Accordingly, the Plan satisfies Bankruptcy Code sections 1122 and 1123(a)(1).

(ii) Unimpaired Classes Specified (11 U.S.C. § 1123(a)(2)). Articles III.B and III.C of the Plan specify that Claims or Interests in Class 1 (Secured Tax Claims), Class 2 (Other Secured Claims) and Class 3 (Other Priority Claims) (collectively referenced as the "Unimpaired Classes") are unimpaired under the Plan within the meaning of Bankruptcy Code section 1124, thereby satisfying Bankruptcy Code section 1123(a)(2).

(iii) Specified Treatment of Impaired Class (11 U.S.C. § 1123(a)(3)). Articles III.B and III.C of the Plan designate Claims in Class 4 (General Unsecured Claims), Class 5 (ARE Subordinated Claims), and Interests in Class 6 (Interests) (the "Impaired Classes") as impaired within the meaning of Bankruptcy Code section 1124 and clearly specifies the treatment of such Claims and Interests in such Classes, thereby satisfying Bankruptcy Code section 1123(a)(3).

(iv) No Discrimination (11 U.S.C. § 1123(a)(4)). The Plan provides for the same treatment for each Claim or Interest in each respective Class thereby satisfying Bankruptcy Code section 1123(a)(4).

(v) Adequate Means for Plan Implementation (11 U.S.C. § 1123(a)(5)). The Plan provides adequate and proper means for the implementation of the Plan, including, without limitation, (i) the creation of the Liquidation Trust; and (ii) the procedures for making distributions to holders of Allowed Claims and Interests. Accordingly, the Plan satisfies Bankruptcy Code section 1123(a)(5).

(vi) Prohibition of Issuance of Non-Voting Securities (11 U.S.C. § 1123(a)(6)). Bankruptcy Code section 1123(a)(6) does not apply to the Plan because the Debtors do not propose to issue any non-voting equity securities under the Plan and any charter of the Debtors will, after the Effective Date, no longer be valid and existing.

(vii) Designation of Officers, Directors or Trustees (11 U.S.C. § 1123(a)(7)). The Plan does not appoint any officers or directors of the Debtors, except as otherwise set forth in Article IV.M. Section 1123(a)(7) is thus inapplicable.

(viii) Earnings from Personal Services (11 U.S.C. § 1123(a)(8)). Bankruptcy Code section 1123(a)(8) applies only to individual debtors and is not applicable to these Chapter 11 Cases.

(ix) Impairment/Unimpairment of Classes of Claims and Interests (11 U.S.C. § 1123(b)(1)). As permitted by Bankruptcy Code section 1123(b)(1), pursuant to Articles III.A and III.B of the Plan, Claims or Interests in the Impaired Classes are impaired and, pursuant to Articles III.A and III.B of the Plan, Claims in the Unimpaired Classes, are unimpaired.

(x) Assumption and Rejection (11 U.S.C. § 1123(b)(2)). As permitted by Bankruptcy Code section 1123(b)(2) and Article VII of the Plan, all executory contracts and unexpired leases shall be deemed rejected as of the Effective Date, unless such executory contract or unexpired lease: (i) was assumed and assigned previously or rejected previously by the Debtors,

(ii) previously expired or terminated pursuant to its own terms; or (iii) is the subject of a motion to assume filed on or before the Effective Date. Rejection of these executory contracts and unexpired leases pursuant to the Plan satisfies the requirements of Bankruptcy Code section 365 and is expressly authorized by Bankruptcy Code section 1123(b)(2). The Debtors have exercised reasonable business judgment in determining to reject the executory contracts and unexpired leases to be rejected under the Plan. The rejection of each executory contract or unexpired lease rejected under the Plan shall be binding on the Debtors and each non-debtor party to each such executory contract or unexpired lease.

(xi) Additional Plan Provisions (11 U.S.C. § 1123(b)(6)). As permitted by Bankruptcy Code section 1123(b)(6), the Plan includes other appropriate provisions not inconsistent with the applicable provisions of the Bankruptcy Code, including, without limitation, certain exculpation and injunction provisions in Article VIII of the Plan. Based upon the facts and circumstances of these Chapter 11 Cases, the exculpation and injunction provisions in the Plan comply with applicable law. The exculpations in Article VIII.B of the Plan do not relieve any party of liability for fraud, gross negligence or willful misconduct. Accordingly, based upon the record of these Chapter 11 Cases, the representations of the parties, and/or the evidence proffered or adduced at the Confirmation Hearing, the Bankruptcy Court finds that the exculpation and injunction provisions set forth in Article VIII of the Plan are consistent with the Bankruptcy Code and applicable law and are appropriate under the circumstances.

O. The Debtors' Compliance with the Bankruptcy Code (11 U.S.C. § 1129(a)(2)). Except as otherwise provided for or permitted by order of the Bankruptcy Court, the Debtors have complied with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and the Amended Interim Approval and Procedures Order in transmitting the Plan, the

Disclosure Statement, the Ballots, and related documents and notices and in soliciting and tabulating the votes on the Plan. Accordingly, the requirements of Bankruptcy Code section 1129(a)(2) are satisfied.

P. Plan Proposed in Good Faith (11 U.S.C. § 1129(a)(3)). The Debtors have proposed the Plan, including all documents necessary to effectuate the Plan, in good faith and not by any means forbidden by law, thereby satisfying the requirements of Bankruptcy Code section 1129(a)(3). The Debtors' good faith is evident from the facts and record of these Chapter 11 Cases, the Disclosure Statement, and the record of the Confirmation Hearing and other proceedings held in these Chapter 11 Cases. The Plan itself and the process leading to its formulation provide independent evidence of the Debtors' good faith, serve the public interest, and assure fair treatment of holders of Claims and Interests. The Plan was proposed with the legitimate and honest purpose of maximizing the value of the Debtors' Estates and to maximize distributions to all Creditors and Interest holders.

Q. Payment for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)). Any payment made or to be made by the Debtors, or by any other person issuing securities or acquiring property under the Plan, for services or for costs and expenses in or in connection with these Chapter 11 Cases, or in connection with the Plan and incident to these Chapter 11 Cases, has been approved by, or shall be subject to the approval of, the Bankruptcy Court as reasonable. Accordingly, the Plan satisfies the requirements of Bankruptcy Code section 1129(a)(4).

R. Directors, Officers, and Successors (11 U.S.C. § 1129(a)(5)). The Plan does not appoint any officers or directors of the Debtors, except as otherwise set forth in Article IV.M with respect to the Liquidation Trustee.

S. No Rate Changes (11 U.S.C. § 1129(a)(6)). The Plan does not provide for any rate changes over which a governmental regulatory commission has jurisdiction. Accordingly, Bankruptcy Code section 1129(a)(6) is not applicable in these Chapter 11 Cases.

T. Best Interest of Creditors (11 U.S.C. § 1129(a)(7)). The liquidation analysis (attached as Exhibit B to the Disclosure Statement) and other evidence proffered or adduced at the Confirmation Hearing (i) is persuasive and credible, (ii) has not been controverted by other evidence, and (iii) establishes that each holder of a Claim in an Impaired Class either has accepted the Plan or will receive or retain under the Plan, on account of such Claim, property of a value, as of the Effective Date, 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. The liquidation analysis provided in the Disclosure Statement, including the methodology used and estimations and assumptions made therein, and the evidence related thereto that was proffered at the Confirmation Hearing (a) is persuasive and credible as of the dates such evidence was prepared, presented, or proffered, (b) either has not been controverted by other persuasive evidence or has not been challenged, (c) is based upon reasonable and sound assumptions, and (d) provides a reasonable estimate of the liquidation value of the Debtors' Estates upon a conversion to a chapter 7 case. Recoveries pursuant to the Plan are equal to or in excess of those that would be available if the Debtors were liquidated pursuant to chapter 7 and, therefore, the Plan satisfies the requirements of Bankruptcy Code section 1129(a)(7).

U. Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)). Claims in Class 1 (Secured Tax Claims), Class 2 (Other Secured Claims) and Class 3 (Other Priority Claims) are unimpaired under the Plan and are conclusively presumed to have accepted the Plan without the solicitation of acceptances or rejections pursuant to Bankruptcy Code section 1126(f). Holders of

Claims in Class 4 (General Unsecured Claims), Class 5 (ARE Subordinated Claims), and Class 6 (Interests) voted to accept the Plan by at least two-thirds in amount and one-half in number. *See* Voting Declaration, Exhibit A. Accordingly, the Plan satisfies the requirements of Bankruptcy Code section 1129(a)(8).

V. Treatment of Administrative Claims, Priority Tax Claims, and Other Priority Claims (11 U.S.C. § 1129(a)(9)). The treatment of Claims under the Plan of the type specified in Bankruptcy Code sections 507(a)(1) through 507(a)(8), if any, complies with the provisions of Bankruptcy Code section 1129(a)(9) because Article II of the Plan provides that, except to the extent an entity agrees to less favorable treatment: (i) each holder of an Allowed Administrative Claim (except with respect to Professional Fee Claims, which shall be paid upon Final Order of allowance by the Bankruptcy Court) shall be paid in full in Cash on the earlier of the date that is (a) on or as soon as reasonably practicable after the Effective Date if such Administrative Claim is Allowed as of the Effective Date or (b) on or as soon as reasonably practicable after the date such Administrative Claim is Allowed, if such Administrative Claim is not Allowed as of the Effective Date and (ii) each holder of an Allowed Priority Tax Claim shall receive, at the option of the Debtors, one of the following treatments: (a) Cash in an amount equal to the amount of such Allowed Priority Tax Claim, plus interest at the rate determined under applicable non-bankruptcy law and to the extent provided for by Bankruptcy Code section 511; or (b) such other treatment (which treatment shall be no more favorable than the treatment set forth in subsection (a) of this section) as may be agreed upon by such holder and the Debtors or otherwise determined upon an order of the Bankruptcy Court. Allowed Priority Tax Claims shall be paid on or as soon as reasonably practicable after the later of (i) the Effective Date, (ii) the date on which such Priority Tax Claim against the Debtors becomes an Allowed Priority Tax Claim, or (iii) such other date as

may be ordered by the Bankruptcy Court. Accordingly, the Plan satisfies the requirements of Bankruptcy Code section 1129(a)(9).

W. Acceptance by at Least One Impaired Class (11 U.S.C. § 1129(a)(10)). The requirements of Bankruptcy Code section 1129(a)(10) are met with respect to the Debtors. *See* Voting Declaration, Exhibit A. Claims and Interests in Class 1 (Secured Tax Claims), Class 2 (Other Secured Claims) and Class 3 (Other Priority Claims) are unimpaired under the Plan and are conclusively presumed to have accepted the Plan without the solicitation of acceptances or rejections pursuant to Bankruptcy Code section 1126(f). Holders of Claims in Class 4 (General Unsecured Claims), Class 5 (ARE Subordinated Claims) and Class 6 (Interests) are impaired under the Plan and voted to accept the Plan by at least two-thirds in amount and one-half in number exclusive of any votes by insiders to accept the Plan. *See* Voting Declaration, Exhibits A and B. Accordingly, the Plan satisfies the requirements of Bankruptcy Code section 1129(a)(10).

X. Feasibility (11 U.S.C. § 1129(a)(11)). The Plan satisfies Bankruptcy Code section 1129(a)(11). The information in the Disclosure Statement and the evidence proffered or adduced at the Confirmation Hearing (i) is persuasive and credible, (ii) has not been controverted by other evidence, and (iii) establishes that the Plan is feasible and that there is a reasonable prospect of the Debtors being able to meet their financial obligations under the Plan and that confirmation of the Plan is not likely to be followed by the need for further liquidation or financial reorganization of the Debtors, thereby satisfying the requirements of Bankruptcy Code section 1129(a)(11).

Y. Payment of Fees (11 U.S.C. § 1129(a)(12)). Pursuant to Article II.C of the Plan, the Debtors are required to pay all statutory fees due and owing to the U.S. Trustee at the time of Confirmation when they become due on or before the Effective Date. Accordingly, the Plan satisfies the requirements of Bankruptcy Code section 1129(a)(12).

Z. No Unfair Discrimination; Fair and Equitable (11 U.S.C. § 1129(b)). Bankruptcy Code section 1129(b) is inapplicable as there are no Classes of Claims or Interests that are impaired and deemed to reject the Plan and all of the Impaired Classes voted to accept the Plan.

AA. Only One Plan (11 U.S.C. § 1129(c)). The Plan is the only plan that was solicited and submitted to the Bankruptcy Court for confirmation in these Chapter 11 Cases. Accordingly, Bankruptcy Code section 1129(c) is inapplicable in these Chapter 11 Cases.

BB. Principal Purpose of the Plan (11 U.S.C. § 1129(d)). The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933 and no governmental entity has objected to the confirmation of the Plan on any such grounds. Accordingly, the Plan satisfies the requirements of Bankruptcy Code section 1129(d).

CC. Non-Applicability of Certain Sections (11 U.S.C. §§ 1123(c), 1129(a)(13) - (16), 1129(e)). The Debtors are not individuals and do not owe any domestic support. The Debtors also have no obligation to pay for retiree benefits and is neither a nonprofit corporation nor a "small business." Accordingly, Bankruptcy Code sections 1123(c), 1129(a)(13) - (16) and 1129(e) do not apply to these Chapter 11 Cases.

DD. Modifications of the Plan (11 U.S.C. § 1127). The modifications made to the Plan since the solicitation do not constitute changes that materially or adversely change the treatment of any Claims or Interests and do not require additional disclosure under Bankruptcy Code section 1125 or resolicitation of acceptances or rejections of the Plan under Bankruptcy Code section 1126, nor do they require that holders of Claims or Interests against the Debtors be afforded an opportunity to change previously cast acceptances or rejections of the Plan. Thus, the Debtors have complied in all respects with Bankruptcy Code section 1127 and Bankruptcy Rule 3019.

EE. Satisfaction of Confirmation Requirements. Based upon the foregoing, all other pleadings, documents, exhibits, statements, declarations and affidavits filed in connection with Confirmation of the Plan, and all evidence and arguments made, proffered or adduced at the Confirmation Hearing, the Plan satisfies the requirements for confirmation set forth in Bankruptcy Code section 1129.

FF. Implementation. All documents and agreements necessary to implement the Plan, and all other relevant and necessary documents, have been negotiated in good faith and at arm's length, do not inappropriately conflict with applicable non-bankruptcy law, and shall, upon completion of documentation and execution, be valid, binding, and enforceable agreements.

GG. Good Faith. Based on the record before this Bankruptcy Court in these Chapter 11 Cases, the Debtors will be acting in good faith within the meaning of Bankruptcy Code section 1125(e) if it proceeds to (i) consummate the Plan and the agreements, settlements, transactions, and transfers contemplated thereby and (ii) take the actions authorized and directed by this Confirmation Order, and shall not be liable under any applicable law, rule, or regulation governing solicitation of acceptance or rejection of the Plan or the offer, issuance, sale, or purchase of securities.

HH. Substantive Consolidation. Article VI of the Plan provides for the substantive consolidation of the Debtors and their respective Estates for all purposes relating to the Plan, including for purposes of voting, confirmation and distributions. Therefore, the Plan serves as, and is deemed to be, a motion for entry of an order substantively consolidating the Chapter 11 Cases for the purposes set forth in the Plan. Based on, among other things, the Confirmation Brief, the Confirmation Declaration, and the record made at the Confirmation Hearing (i) no class of creditors or interest holders is disadvantaged by the substantive consolidation of the Debtors and

their Estates and (ii) substantive consolidation of the Debtors and their Estates is justified, appropriate, and in the best interests of the Debtors, their Estates, creditors, and all other parties-in-interest.

II. Retention of Jurisdiction. Pursuant to Bankruptcy Code sections 105(a) and 1142, and notwithstanding the entry of this Confirmation Order or the occurrence of the Effective Date, this Bankruptcy Court, except as otherwise provided in the Plan or herein, shall retain jurisdiction over all matters arising out of, and related to, these Chapter 11 Cases and the Plan to the fullest extent permitted by law.

ORDER

ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED, DECREED, AND DETERMINED THAT:

General Decrees and Implementation

1. Adequacy of the Disclosure Statement. The Disclosure Statement hereby is APPROVED on a final basis as containing adequate information within the meaning of Bankruptcy Code section 1125 and contains sufficient information of a kind necessary to satisfy the disclosure requirements of any applicable non-bankruptcy laws, rules and regulations.

2. Confirmation of the Plan. The Plan, attached hereto as **Exhibit A**, and each of its provisions, shall be, and hereby is, CONFIRMED pursuant to Bankruptcy Code section 1129. The terms of the Plan are incorporated by reference into and are an integral part of this Confirmation Order.

3. Plan Classification Controlling. Unless otherwise set forth herein, the classifications of Claims and Interests for purposes of distributions under the Plan shall be governed solely by the terms of the Plan. The classifications set forth on the Ballots tendered to

or returned by the Debtors' creditors in connection with voting on the Plan (a) were set forth on the Ballots solely for the purposes of voting to accept or reject the Plan, (b) do not necessarily represent, and in no event shall be deemed to modify or otherwise affect, the actual classification of such Claims or Interests under the Plan for distribution purposes, (c) may not be relied upon by any Creditor or Interest holder as representing the actual classification of such Claims or Interests under the Plan for distribution or any other purpose (other than for evidencing the vote of such party on the Plan), and (d) shall not be binding on the Debtors or holders of Claim or Interests for purposes other than for voting.

4. Confirmation Hearing Notice. The Debtors provided good and sufficient notice of the Confirmation Hearing and the deadlines for filing and serving objections to the Plan, which notices are hereby approved.

5. Implementation of the Plan. The Debtors and the Liquidation Trustee each, to the extent applicable and in accordance with the terms and conditions of the Plan, are authorized to (i) execute, deliver, file, and/or record such documents, contracts, instruments, releases, and other agreements, (ii) make any and all distributions and transfers contemplated pursuant to, and as provided for in, the Plan, and (iii) take such other actions as may be necessary to effectuate, implement, and further evidence the terms and conditions of the Plan.

6. No Action. To the extent that, under applicable non-bankruptcy law, any action to effectuate the terms of this Plan would otherwise require the consent or approval of the members, managers, directors or officers of the Debtors, this Confirmation Order shall, pursuant to Bankruptcy Code sections 1123(a)(5) and 1142, constitute the consent or approval, and such actions are deemed to have been taken by unanimous action of the members, managers, directors and officers of the Debtors.

7. Binding Effect. From and after entry of this Confirmation Order, and subject to the occurrence of the Effective Date, except to the extent otherwise provided in the Plan or this Confirmation Order, the provisions of the Plan, as applicable, shall be binding on and shall inure to the benefit of, any heir, executor, administrator, personal representative, successor, or assign of such Person, including, but not limited to, all holders of Claims and Interests of the Debtors (irrespective of whether such Claims or Interests are impaired under the Plan or whether the holders of such Claims or Interests accepted, rejected or are deemed to have accepted or rejected the Plan), and any and all non-Debtor parties to executory contracts and unexpired leases with the Debtors, and all other parties in interest in the Chapter 11 Cases.

8. Vesting of Assets in the Liquidation Trust. Notwithstanding Bankruptcy Code section 1141(b), upon the Effective Date, the Debtors' assets shall vest in the Liquidation Trust, under the exclusive control of the Liquidation Trustee, in accordance with the provisions of the Plan and this Confirmation Order.

9. Cancellation of Outstanding Interests. As of the Effective Date, except for purposes of evidencing a right to a distribution under the Plan or as otherwise provided for in the Plan or herein, (a) all agreements and other documents evidencing the Claims or rights of any holders of such Claims against the Debtors, including, but not limited to, all contracts, notes and guarantees, and (b) all Interests, shall be deemed automatically cancelled and the obligations of the Debtors thereunder or in any way related thereto, including any obligation of the Debtors to pay any franchise or similar type taxes on account of such Claims or Interests, shall be released.

10. Cancellation of Existing Securities. Except as otherwise provided in the Plan or any agreement, instrument or other document incorporated in the Plan, on the Effective Date, the obligations of the Debtors pursuant, relating or pertaining to any agreements, indentures,

certificates of designation, bylaws or certificate or articles of incorporation or similar documents governing the shares, certificates, notes, bonds, purchase rights, options, warrants or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtors (except such agreements, certificates, notes or other instruments evidencing indebtedness or obligations of the Debtors that are specifically reinstated pursuant to the Plan) shall be released.

11. Directors, Officers and Board Members of the Debtors. As of the Effective Date, except for purposes of evidencing a right to a distribution under the Plan or as otherwise provided for in the Plan or herein, all officers, directors and members of the Board of the Debtors shall be deemed to have been terminated without cause and shall be discharged from any further duties and responsibilities in such capacity.

12. Debtors' Existence. From and after the Effective Date, the Debtors shall be deemed to be dissolved without any further action by the Debtors or the Liquidation Trustee, including the filing of any documents in any office in any jurisdiction where the Debtors are organized. However, the Liquidation Trustee shall have the authority to take all necessary action to dissolve the Debtors. Upon the Effective Date, all transactions and applicable matters provided under the Plan shall be deemed to be authorized by the Debtors without any requirement of further action by the Debtors. On and after the Effective Date, the Debtors' remaining assets and affairs shall be administered and managed by the Liquidation Trustee in accordance with the Plan.

Treatment of Executory Contracts and Unexpired Leases

13. The provisions of Article VII of the Plan governing executory contracts and unexpired leases are hereby approved in their entirety.

14. Rejection of Contracts and Leases. On the Effective Date, except as otherwise provided under the Plan, and except to the extent that the Debtors either previously have assumed,

assumed and assigned, or rejected an executory contract or unexpired lease by an order of the Bankruptcy Court, or have filed a motion to assume or assume and assign an executory contract or unexpired lease prior to the Effective Date or a Buyer has assumed and assigned an executory contract or unexpired lease pursuant to the terms of the Asset Purchase Agreements, each executory contract and unexpired lease entered into by the Debtors prior to the Petition Date that has not previously expired or terminated pursuant to its own terms shall be deemed rejected pursuant to Bankruptcy Code section 365. This Confirmation Order shall constitute approval of any such rejections pursuant to Bankruptcy Code sections 365(a) and 1123.

15. Claims Based on Rejection of Contracts or Leases. Claims, if any, created by the rejection of executory contracts and unexpired leases, must be filed with the Bankruptcy Court and served on the Liquidation Trustee within twenty-one (21) days after the earlier of (a) service of Notice of the Effective Date, or (b) service of notice of entry of an order of the Bankruptcy Court (other than this Confirmation Order) approving the rejection of a particular Executory Contract or Unexpired Lease on the counterparty thereto. Any Claims arising from the rejection of an executory contract or unexpired lease for which proofs of claim are not timely filed within that time period will not be considered Allowed and such person or entity shall not be treated as a creditor for purposes of distributions under the Plan, unless otherwise ordered by the Bankruptcy Court or as otherwise provided herein or in the Plan.

Distributions and Claims

16. Distributions. The provisions of the Plan governing distributions and procedures for resolving and treating Disputed Claims are approved and found to be fair and reasonable. Except as otherwise provided in the Plan, holders of Claims or Interests shall not be entitled to

interest, dividends, or accruals on the distributions provided for in the Plan, regardless of whether such distributions are delivered on or at any time after the Effective Date.

17. Objections to Claims and Interests. Any objections to a proof of Claim or Interest, other than Professional Fee Claims or Claims or Interests that are Allowed pursuant to the Plan, shall be filed on or before the ninetieth (90th) day after the Effective Date, or such later deadline for objecting to claims or interests as may be fixed by an order of this Bankruptcy Court upon motion filed by the Liquidation Trustee (the "Claims Objection Deadline"). Absent further order of this Bankruptcy Court, any objection not filed by such deadline shall be deemed waived, and the Claim or Interest shall be an Allowed Claim or Interest in the amount or quantity set forth on the proof of claim or interest filed by the holder of such Claim. With respect to any Claim or Interest objection that was filed by the Debtors but not yet resolved by entry of a Final Order prior to the Effective Date, the Liquidation Trustee, shall be substituted in the place of the Debtors, as of the Effective Date, and shall have the right to continue to prosecute or to settle such objections in accordance with the terms of the Plan and this Confirmation Order.

18. Setoffs and Recoupment. Except with respect to Professional Fee Claims or Claims or Interests that are Allowed pursuant to the Plan, the Liquidation Trustee may, but shall not be required to, setoff against or recoup from any Claims of any nature whatsoever that the Debtors may have against the claimant pursuant to Bankruptcy Code section 558 or otherwise, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors or the Liquidation Trustee of any such Claim it may have against the holder of such Claim.

19. Administrative Claim Bar Date. Except as otherwise provided in the Plan, requests for payment of Administrative Claims must have been or be filed on or before the Administrative

Claims Bar Date, which (i) was April 19, 2024 at 4:00 p.m. prevailing Eastern Time for Administrative Claims arising from the Petition Date through and including May 31, 2023 and (ii) is twenty-one (21) days after the service of the notice of Effective Date for Administrative Claims arising from April 1, 2024 through and including the Effective Date. The Notice of Effective Date shall set forth the Administrative Claims Bar Date for claims arising from April 1, 2024 through and including the Effective Date, and shall be served by the Debtors on all parties known to hold or assert Administrative Claims. Holders of Administrative Claims that are or were required to, but did not or do not, file and serve a request for payment of such Administrative Claims by such applicable dates shall be entitled to no distribution under the Plan.

20. Professional Fee Claims. All final requests for Payment of Professional Fee Claims must be filed and served on the Liquidation Trustee, the United States Trustee and such other entities who are designated by the Bankruptcy Rules, the Interim Compensation Order or any other applicable order of the Bankruptcy Court, and other necessary parties in interest no later than twenty-one (21) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court; provided, however, that any Professional who may receive compensation or reimbursement of expenses pursuant to the Ordinary Course Professional Order may continue to receive such compensation or reimbursement of expenses for services rendered before the Effective Date, without further Bankruptcy Court order, pursuant to the Ordinary Course Professional Order. Objections to any Professional Fee Claim must be Filed and served on the Liquidation Trustee and the requesting party no later than thirty (30) days from the service of an application for final allowance of a Professional Fee Claim. To the extent necessary, the Plan and this Confirmation Order shall amend and supersede any previously entered order regarding the payment of Professional Fee Claims.

21. Post-Effective Date Expenses. For services rendered from and after the Effective Date, the payment of the fees and expenses of the retained professionals of the Liquidation Trustee shall not be subject to an application and shall be made in the ordinary course of business and without approval of the Bankruptcy Court.

Injunction and Exculpation

22. All injunction and exculpation provisions contained in the Plan, including, without limitation, those contained in Article VIII of the Plan, are hereby authorized, approved and shall be effective and binding on all persons and entities, to the extent expressly described in the Plan.

23. Notwithstanding anything contained in the Plan, the Debtors are not receiving a discharge pursuant to section 1141(d)(1)(A) of the Bankruptcy Code.

Payment of Statutory Fees and Tax Issues

24. Payment of Statutory Fees. All fees due and payable pursuant to section 1930 of Title 28 of the U.S. Code ("Quarterly Fees") prior to the Effective Date shall be paid by the Debtors on the Effective Date. On and after the Effective Date, the Debtors and the Liquidation Trustee shall be jointly and severally liable to pay any and all Quarterly Fees when due and payable. The Debtors shall file all monthly operating reports due prior to the Effective Date when they become due, using UST Form 11-MOR. After the Effective Date, the Liquidating Trustee shall file with the Bankruptcy Court separate UST Form 11-PCR reports when they become due. Notwithstanding the substantive consolidation of the Debtors called for in the Plan, each and every one of the Debtors and the Liquidating Trustee shall remain obligated to pay Quarterly Fees to the Office of the U.S. Trustee until the earliest of that particular Debtor's Chapter 11 Case being closed, dismissed or converted to a case under Chapter 7 of the Bankruptcy Code. The U.S. Trustee shall

not be required to file any Administrative Claim in the case and shall not be treated as providing any release under the Plan.

25. Compliance with Tax Requirements. The Liquidation Trustee and the Debtors, to the extent applicable, shall comply with all tax withholding and reporting requirements imposed by any federal, state, provincial, local, or foreign taxing authority, and all distributions made pursuant to the Plan shall be subject to any such withholding and reporting requirements. The Liquidation Trustee shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements including, without limitation, requiring that, as a condition to the receipt of a distribution, the holder of an Allowed Claim or Interest complete the appropriate IRS Form W-8 or IRS Form W-9, as applicable to each holder. Notwithstanding any other provision of the Plan, (i) each holder of an Allowed Claim or Interest that is to receive a distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed on such holder by any governmental unit, including income and other tax obligations, on account of such distribution, and (ii) no distribution shall be made to or on behalf of such holder pursuant to the Plan unless and until such holder has made arrangements satisfactory to the Liquidation Trustee to allow it to comply with its tax withholding and reporting requirements. To the extent arrangements have not been made or any necessary documentation has not been provided by such holder to the Liquidation Trustee, the distribution on such Allowed Claim or Allowed Interest shall be deemed Unclaimed Property.

26. Exemption from Certain Taxes and Fees. Pursuant to Bankruptcy Code section 1146(a), the issuance, transfer, or exchange of any security, or the making or delivery of an instrument of transfer under the Plan, shall not be taxed under any law imposing a stamp tax or

similar tax. This Confirmation Order directs all relevant state or local governmental officials or agents to forego the collection of any such tax and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax. Such exemption specifically applies, without limitation, to all documents necessary to evidence and implement distributions under the Plan and all documents necessary to evidence and implement any of the transactions and actions described in the Plan.

Substantive Consolidation

27. Pursuant to Article VI of the Plan, the terms of substantive consolidation of the Debtors and their respective Estates for all purposes relating to the Plan, including for purposes of voting, confirmation and distributions is approved.

Miscellaneous

28. Immaterial Modifications. Without need for further order or authorization of the Bankruptcy Court, but subject to any limitations set forth in the Plan, the Debtors are authorized and empowered to make any and all modifications to any and all documents that is necessary to effectuate the Plan that does not materially modify the terms of such documents or adversely affect any holder of a claim or interest in the cases, unless such holder expressly agrees to such modification, and are consistent with the Plan and this Confirmation Order.

29. Effect of Confirmation on Modifications. Entry of this Confirmation Order means that all modifications or amendments to the Plan since the solicitation thereof are approved pursuant to Bankruptcy Code section 1127(a) and do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

30. Documents and Instruments. Each federal, state, commonwealth, local, foreign, or other governmental agency is hereby authorized to accept any and all documents and instruments

necessary or appropriate to effectuate, implement or consummate the transactions contemplated by the Plan and this Confirmation Order.

31. Conditions to Effective Date. The Plan shall not become effective unless and until the conditions set forth in Article IX of the Plan have been satisfied or waived pursuant to Article IX of the Plan.

32. Vacatur of Order. If this Confirmation Order is vacated or deemed vacated, then the Plan shall be deemed null and void in all respects, and nothing contained in the Plan shall (i) constitute a waiver or release of any Claims against or Interests in the Debtors, (ii) prejudice in any manner the rights of the holder of any Claim against, or Interest in, the Debtors, (iii) prejudice in any manner any right, remedy or claim of the Debtors, or (iv) be deemed an admission against interest by the Debtors or any other Person or Entity.

33. Retention of Jurisdiction. The Bankruptcy Court shall retain and have jurisdiction over any matters arising out of, or related to, the Chapter 11 Cases and the Plan pursuant to Bankruptcy Code sections 105(a) and 1142, including, but not limited to the matters set forth in Article XI of the Plan.

34. Forum for Actions. Without permission of the Bankruptcy Court, no judicial, administrative, arbitral, or other action or proceeding shall be commenced against the Liquidation Trustee in its capacity as such, with respect to its status, duties, powers, acts, or omissions in such capacity in any other forum than the Bankruptcy Court.

35. Conflicts. To the extent that any provisions of the Disclosure Statement or any other order (other than this Confirmation Order) entered in the Chapter 11 Cases (or any exhibits, schedules, appendices, supplements or amendments to any of the foregoing), conflict with or are

in any way inconsistent with any provision of the Plan, this Confirmation Order shall govern and control except as expressly set forth herein or in the Plan.

36. Severability of Plan Provisions. Each term and provision of the Plan, as it may have been amended by this Confirmation Order, is: (i) valid and enforceable pursuant to its terms; (ii) integral to the Plan and may not be deleted or modified without the Debtors' consent; and (iii) non-severable and mutually dependent.

37. Waiver or Estoppel. Each holder of a Claim or an Interest shall be deemed to have waived any right to assert any argument, that its Claim or Interest should be Allowed in a certain amount, in a certain priority, secured or not subordinated by virtue of an agreement made with the Debtors or their counsel, or any other entity, if such agreement was not disclosed in the Plan, the Disclosure Statement, papers filed with this Bankruptcy Court, or stated on the record at the Confirmation Hearing, prior to the Confirmation Date.

38. Governing Law. Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of Delaware, without giving effect to the principles of conflict of laws, shall govern the rights, obligations, construction and implementation of the Plan, any agreements, documents, instruments or contracts executed or entered into in connection with the Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control).

39. Applicable Non-Bankruptcy Law. Pursuant to Bankruptcy Code sections 1123(a) and 1142(a), the provisions of this Confirmation Order, the Plan, and related documents or any amendments or modifications thereto shall apply and be enforceable notwithstanding any otherwise applicable non-bankruptcy law.

40. Notice of Order. In accordance with Bankruptcy Rules 2002 and 3020(c), within two (2) business days of the Effective Date, the Debtors shall serve notice of the entry of this Confirmation Order and the occurrence of the Effective Date, substantially in the form annexed hereto as **Exhibit B**, to all parties who currently hold a Claim or Interest in these Chapter 11 Cases, including the U.S. Trustee, the Internal Revenue Service, the United States attorney for the District of Delaware, the SEC, and any party filing a notice pursuant to Bankruptcy Rule 2002. Such notice is hereby approved in all respects and shall be deemed good and sufficient notice of entry of this Confirmation Order.

41. Term of Injunctions or Stays. The injunctions contained in the Plan, including, but not limited to those provided in Article VIII of the Plan, are hereby authorized, approved and binding on all Persons and Entities described therein. Unless otherwise provided in the Plan or this Confirmation Order, all injunctions or stays pursuant to Bankruptcy Code sections 105 or 362 arising under or entered during the Chapter 11 Cases, or otherwise, and in existence on the date hereof, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay and to the extent consistent with the terms and provisions of the Plan or this Confirmation Order, as applicable.

42. No Waiver. The failure to specifically include or refer to any particular provision of the Plan in this Confirmation Order will not diminish the effectiveness of such provision nor constitute a waiver thereof, it being the intent of this Bankruptcy Court that the Plan is confirmed in its entirety and incorporated herein by this reference.

43. Waiver of Stay. The requirement under Bankruptcy Rule 3020(e) that an order confirming a plan is stayed until the expiration of fourteen (14) days after entry of the order is

hereby waived. This Confirmation Order shall take effect immediately and shall not be stayed pursuant to Bankruptcy Rules 3020(e), 6004(h), 6006(d), or 7062 or other applicable rule.

Dated: June 21st, 2024
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re INVIVO THERAPEUTICS CORPORATION, *et al.*,[1] Debtors.	Chapter 11 Case No. 24-10137 (MFW) (Jointly Administered)

JOINT PLAN OF LIQUIDATION OF INVIVO THERAPEUTICS CORPORATION AND INVIVO THERAPEUTICS HOLDINGS CORP. PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE

NOTHING CONTAINED HEREIN SHALL CONSTITUTE AN OFFER, ACCEPTANCE, COMMITMENT, OR LEGALLY BINDING OBLIGATION OF ANY DEBTOR OR ANY OTHER PARTY IN INTEREST AND THIS PLAN IS SUBJECT TO APPROVAL BY THE BANKRUPTCY COURT AND OTHER CUSTOMARY CONDITIONS. THIS PLAN IS NOT AN OFFER WITH RESPECT TO ANY SECURITIES. PRIOR TO THE CONFIRMATION OF THIS PLAN BY THE BANKRUPTCY COURT, YOU SHOULD NOT RELY ON THE INFORMATION CONTAINED HEREIN, OR THE TERMS OF THIS PLAN FOR ANY PURPOSE

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[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: InVivo Therapeutics Corporation (6670) and InVivo Therapeutics Holdings Corp. (8166). The Debtors' mailing address is 1500 District Avenue, Burlington, MA 01803.

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INTRODUCTION

InVivo Therapeutics Corporation and its debtor affiliates, as debtors and debtors in possession, in the above-captioned Chapter 11 Cases propose this joint chapter 11 plan. The Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to an order of the Bankruptcy Court.

Holders of Claims and Interests should refer to the Disclosure Statement for a discussion of the Debtors' history, businesses, and assets, as well as a summary and description of this Plan and certain related matters. Each Debtor is a proponent of the Plan contained herein within the meaning of section 1129 of the Bankruptcy Code.

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

A. *Defined Terms.*

As used in this Plan, capitalized terms have the meanings ascribed to them below.

1. ***"Administrative Claim"*** means any Claim against the Debtors or their Estates for costs and expenses of administration pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estates and operating the businesses of the Debtors (such as wages, salaries or commissions for services and payments for goods and other services and leased premises) and (b) all fees and charges assessed against the Estates pursuant to section 1930 of chapter 123 of the Judicial Code, provided that any Administrative Claim shall expressly exclude any Professional Fee Claim.

2. ***"Administrative Claims Bar Dates"*** means either (a) April 19, 2024 at 4:00 p.m. (ET) for all Administrative Claims arising, accruing or otherwise due and payable any time during the period from the Petition Date through and including March 31, 2024, or (b) thirty (30) days from service of the notice of Effective Date for all Administrative Claims arising, accruing or otherwise due and payable any time during the period from April 1, 2024 through the Effective Date, and the notice of the Effective Date shall provide notice of such Administrative Bar Date.

3. ***"Affiliate"*** means, with respect to any specified Entity, any other Entity that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with, such specified Entity. For purposes of this definition, "control" (and any similar term) means the power of one or more Entities to direct, or cause the direction of, the affairs of another Entity by reason of ownership of voting stock or by contract or otherwise.

4. ***"Allowed"*** means with respect to any Claim against the Debtors or their Estates (including any Administrative Claim) or portion thereof: (a) a Claim that is listed on the Debtors' Schedules, as such Schedule may be amended from time to time in accordance with Bankruptcy Rule 1009 prior to the closing of the Chapter 11 Cases, as neither disputed, contingent nor unliquidated and for which no contrary Proof of Claim has been Filed and as to which no objection

to allowance thereof, or Challenge or action to reclassify, subordinate or otherwise limit recovery with respect thereto, shall have been Filed within such period of limitation fixed by this Plan, the Bankruptcy Code, the Bankruptcy Rules or Final Order of the Bankruptcy Court; (b) a Claim that is allowed pursuant to the terms of the Plan or by a Final Order of the Bankruptcy Court or by agreement of the Liquidation Trustee following the Effective Date; or (c) a Claim as to which a Proof of Claim has been Filed and as to which no objection has been Filed or Challenge or action to reclassify, subordinate or otherwise limit recovery with respect thereto has been Filed within such time period of limitation fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules or a Final Order. Except for any Claim that is expressly Allowed herein, any Claim that has been or is hereafter listed in the Schedules as contingent, unliquidated or disputed and for which no Proof of Claim has been Filed is not considered Allowed and such person or entity shall not be treated as a creditor with respect to such Claim for the purposes of voting and distributions under the Plan.

5. "***ARE***" means ARE-MA Region No. 59, LLC.

6. "***ARE Settlement Agreement***" means that certain *Lease Termination and Settlement Agreement* dated as of August 28, 2023 by and between the Debtors and ARE.

7. "***ARE Subordinated Claim***" means the claim of ARE in the amount of $54,527.00 as provided for in the ARE Settlement Agreement.

8. **"*Available Cash*"** means Cash available for distribution to Holders of Allowed Claims.

9. ***"Assets"*** means any and all of the right, title and interest of the Debtors in and to property of whatever type or nature, including, without limitation, any real estate, buildings, structures, improvements, privileges, rights, easements, leases, subleases, licenses, goods, materials, supplies, furniture, fixtures, equipment, work in process, accounts, chattel paper, cash, deposit accounts, reserves, deposits, contractual rights, intellectual property rights, Claims, Causes of Action and any other general intangibles of the Debtors, as the case may be, including, without limitation, the Debtors' Estates.

10. ***"Avoidance Actions"*** means any and all Causes of Action to avoid or recover a transfer of property, or avoid an obligation incurred by the Debtors pursuant to any applicable section of the Bankruptcy Code, including Bankruptcy Code sections 542, 543, 544, 545, 547, 548, 549, 550, 551, 553(b), and 724(a) and any other applicable non-bankruptcy law, whether or not litigation has been commenced with respect to such Causes of Action as of the Effective Date.

11. ***"Bankruptcy Code"*** means title 11 of the United States Code.

12. ***"Bankruptcy Court"*** means the United States Bankruptcy Court for the District of Delaware having jurisdiction over the Chapter 11 Cases or any other court having jurisdiction over the Chapter 11 Cases, including, to the extent of the withdrawal of the reference under 28 U.S.C.§ 157, the United States District Court for the District of Delaware.

13. ***"Bankruptcy Rules"*** means the Federal Rules of Bankruptcy Procedure promulgated under section 2075 of the Judicial Code and the general, local and chambers rules of the

Bankruptcy Court.

14. ***"Beneficial Trust Interests"*** means a beneficial interest in the Liquidation Trust, which interest shall be uncertificated and which shall be non-transferable except as expressly provided otherwise in the Liquidation Trust Agreement.

15. ***"Business Day"*** means any day, other than a Saturday, Sunday or "legal holiday" (as defined in Bankruptcy Rule 9006(a)(6)).

16. ***"Cash"*** means cash and cash equivalents, including, but not limited to, bank deposits, wire funds, checks and legal tender of the United States of America or equivalents thereof.

17. ***"Causes of Action"*** means any of the Debtors' action, Claim, cause of action, controversy, demand, right, action, Lien, indemnity, guaranty, suit, obligation, liability, damage, judgment, account, defense, offset, power, privilege, license and franchise of any kind or character whatsoever, known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, whether arising before, on or after the Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law. Causes of Action also include: (a) any right of setoff, counterclaim or recoupment and any claim for breaches of duties imposed by law or in equity; (b) any Avoidance Action; (c) any Challenge; (d) any Claim or defense including fraud, mistake, duress and usury and any other defenses set forth in Bankruptcy Code section 558; and (e) any state law fraudulent transfer claim.

18. ***"Chapter 11 Cases"*** means the cases pending for the Debtors under chapter 11 of the Bankruptcy Code jointly administered under case number 24-10137 (MFW).

19. ***"Claim"*** means any claim, as such term is defined in Bankruptcy Code section 101(5).

20. ***"Claims Bar Date"*** means the date or dates established by the Bankruptcy Court in the Claims Bar Date Order by which Proofs of Claim must be Filed.

21. ***"Claims Bar Date Order"*** means the *Order Granting Motion of the Debtors for Entry of an Order (A) Establishing Bar Dates for Filing Proofs of Claim, (B) Approving the Form and Manner for Filing Proofs of Claim and (C) Approving Notice Thereof* [D.I. 124].

22. ***"Claims Objection Deadline"*** means the later of (a) ninety (90) days after the Effective Date, or (b) such other period of limitation as may be fixed by an order of the Bankruptcy Court.

23. ***"Class"*** means pursuant to Bankruptcy Code section 1122(a), a class of Claims against or Interests in the Debtors as set forth in Article III.

24. ***"Collateral"*** means any property or interest in property in the Debtors' Estates subject to a Lien to secure the payment or performance of a Claim, which Lien is not avoided under the Bankruptcy Code or applicable state laws.

25. **"*Confirmation*"** means the entry of the Confirmation Order on the docket of the Chapter 11 Cases.

26. ***"Confirmation Date"*** means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases.

27. ***"Confirmation Hearing"*** means the hearing held by the Bankruptcy Court, as such hearing may be continued from time to time, to consider entry of the Confirmation Order pursuant to Bankruptcy Code section 1129.

28. ***"Confirmation Order"*** means the order of the Bankruptcy Court confirming the Plan pursuant to Bankruptcy Code section 1129.

29. ***"Consummation"*** means the occurrence of the Effective Date.

30. ***"Creditors"*** has the same meaning as set forth in Bankruptcy Code section 101(10).

31. ***"Debtors"*** means InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp., each as a debtor and debtor-in-possession in the Chapter 11 Cases.

32. ***"Disclosure Statement"*** means the *Disclosure Statement for the Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code*, dated April 8, 2024, as amended, supplemented or modified from time to time, including all exhibits and schedules thereto and references therein that relate to the Plan, and that is prepared and distributed in accordance with the Bankruptcy Code, the Bankruptcy Rules and any other applicable law.

33. ***"Disputed"*** means, any Claim against or Interest in any Debtor that is (a) listed in the Schedules as disputed, contingent or unliquidated and for which a Proof of Claim has not been Filed; (b) subject to an objection and/or request for estimation in accordance with Bankruptcy Code section 502(c) and Bankruptcy Rule 3018, which objection and/or request for estimation has not been withdrawn or determined by a Final Order; (c) held by a party that is adverse to the Debtors in any litigation or contested matter and as to which no Final Order resolving such litigation or contested matter has been entered; or (d) disallowed pursuant to Bankruptcy Code section 502(d). A Claim or Interest that is Disputed as to its amount shall not be Allowed in any amount until it is no longer a Disputed Claim or Disputed Interest.

34. ***"Distribution Agent"*** means, from the Effective Date, any Person(s) selected by the Liquidation Trustee to make or to facilitate distributions required by this Plan.

35. ***"Distribution Date"*** means, with respect to (a) any Claim that is Allowed as of the Effective Date, the date that is as soon as reasonably practicable after the Effective Date; or (b) any Claim that is Allowed after the Effective Date, a date as soon as reasonably practicable thereafter.

36. ***"Effective Date"*** means, with respect to the Plan, the date that is a Business Day selected by the Debtors, on which (a) the conditions to the occurrence of the Effective Date have

been met or waived in accordance with the Plan and (b) no stay of the Confirmation Order is in effect. Any action to be taken on the Effective Date may be taken on or as soon as reasonably practicable after the Effective Date.

37. ***"Entity"*** means an entity as such term is defined in Bankruptcy Code section 101(15).

38. ***"Estates"*** means the estates created for the Debtors in the Chapter 11 Cases pursuant to Bankruptcy Code section 541.

39. ***"Exculpated Claim"*** means any Cause of Action, arising during the period commencing on the Petition Date through the Effective Date, related to any act or omission occurring or omitted from being taken from the Petition Date through the Effective Date derived from, based upon, related to or arising from (a) the Chapter 11 Cases; (b) the formulation, preparation, dissemination, or negotiation of any document in connection with the Chapter 11 Cases, the Disclosure Statement, the Plan, and/or the Plan Supplement; (c) any contract, instrument, release, and/or other agreement or document created or entered into in connection with the subsection (a) or (b); (d) the pursuit of Consummation; and/or (e) the filing, administration, and/or implementation of the Chapter 11 Cases, the Plan or the distribution of property in connection therewith or thereunder.

40. ***"Exculpated Party"*** means each of: the Debtors, the directors and officers of the Debtors who served during any portion of these Chapter 11 Cases and the Debtors' professionals retained in these Chapter 11 Cases.

41. ***"Executory Contract"*** means a contract to which a Debtor is a party and that is subject to assumption or rejection under Bankruptcy Code section 365.

42. ***"Federal Judgment Rate"*** means the federal judgment rate of interest in effect as of the Petition Date.

43. ***"File" or "Filed"*** means file or filed with the Bankruptcy Court or its authorized designee in the Chapter 11 Cases.

44. ***"Final Distribution"*** means the distribution under this Plan which, (a) after giving effect to such distribution, results in remaining assets held by such Liquidation Trust, including cash, of a value of less than $500 or (b) the Bankruptcy Court determines that such distribution is the Final Distribution.

45. ***"Final Order"*** means, as applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter, which has not been reversed, stayed, modified or amended, and as to which the time to seek reconsideration or relief from judgment, appeal or seek certiorari has expired and no request for reconsideration or relief from judgment, appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be filed has been resolved by the highest court to which the order or judgment could be appealed or from which certiorari could be sought or the reconsideration, relief from judgment, new trial, reargument or rehearing shall

have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice.

46. ***"General Unsecured Claim"*** means any Claim against a Debtor that (i) is neither Secured nor entitled to priority under the Bankruptcy Code or an order of the Bankruptcy Court and (ii) is not an Administrative Claim, a Professional Fee Claim, Priority Tax Claim, a Priority Non-Tax Claim, Other Secured Claim, ARE Subordinated Claim or an Interest.

47. ***"Governmental Claim"*** means any Claim against any Debtor Filed by a Governmental Unit.

48. ***"Governmental Unit***" means a governmental unit as defined in Bankruptcy Code section 101(27).

49. ***"Impaired"*** means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is impaired within the meaning of Bankruptcy Code section 1124.

50. ***"Interests"*** means any equity security in a Debtor as defined in Bankruptcy Code section 101(16), including all issued, unissued, authorized or outstanding shares of capital stock of the Debtors together with any warrants, options or contractual rights to purchase or acquire such equity securities at any time and all rights arising with respect thereto.

51. ***"Interim Compensation Order"*** means the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* [D. I. 85].

52. **"*Intercompany Claim*"** means any Claim against a Debtor held by another Debtor, provided.

53. ***"Judicial Code"*** means title 28 of the United States Code, 28 U.S.C. §§ l-4001.

54. ***"Lien"*** means a lien as defined in Bankruptcy Code section 101(37).

55. **"*Liquidation Trust"*** means the trust, of which the Liquidation Trustee shall serve as trustee, formed pursuant to this Plan, the Liquidation Trust Agreement, and the Confirmation Order.

56. ***"Liquidation Trust Agreement"*** means the agreement included in the Plan Supplement, as may be amended, established as of the Effective Date, setting forth the terms and conditions of the Liquidation Trust, as may be modified from time to time.

57. ***"Liquidation Trust Assets"*** means the Assets of the Estates as of the Effective Date, including without limitation, the Retained Causes of Action and any proceeds therefrom, except that the Liquidation Trust Assets shall expressly exclude: (i) the Liquidation Trust Claims Reserve, except that any excess amounts in the Liquidation Trust Claims Reserve after the payment in full or other satisfaction of all Allowed Administrative Claims (other than Professional Fee Claims), Priority Tax Claims, Other Priority Claims, and Other Secured Claims shall become Liquidation Trust Assets; and (ii) the Professional Fee Claims Reserve, except that any excess amounts in the

Professional Fee Claim Reserve after payment in full or other satisfaction of Allowed Professional Fee Claims, shall become Liquidation Trust Assets.

58. ***"Liquidation Trust Claims Reserve"*** shall mean the reserve established by the Debtors to satisfy in full all Administrative Claims (other than Professional Fee Claims), Priority Tax Claims, Other Priority Claims, and Other Secured Claims.

59. ***"Liquidation Trust Expense Reserve"*** shall mean the reserve established on or before the Effective Date comprised of Cash in an amount sufficient to satisfy the costs of administering the Liquidation Trust, and winding down the Debtors' Estates, in an amount to be set forth in the Plan Supplement (subject to replenishment or modification, as set forth in the Liquidation Trust Agreement), which amount shall not be less than $150,000.00.

60. ***"Liquidation Trustee"*** means the trustee appointed by the Debtors, and identified in the Plan Supplement, to serve as the liquidation trustee under the Liquidation Trust Agreement, or any successor appointed in accordance with the terms of the Plan and Liquidation Trust Agreement.

61. ***"Notice, Claims and Balloting Agent"*** means Kurtzman Carson Consultants LLC.

62. "***Notice of Effective Date***" means a notice to be Filed with the Bankruptcy Court by the Debtors upon the occurrence of all the conditions to Confirmation and Consummation set forth in Article IX of the Plan.

63. ***"Other Priority Claims"*** means any Claim against the Debtors, other than an Administrative Claim or a Priority Tax Claim, entitled to priority in right of payment under Bankruptcy Code section 507(a).

64. ***"Other Secured Claims"*** means any Secured Claim that is not a Secured Tax Claim.

65. ***"Person"*** means a person as such term is defined in Bankruptcy Code section 101(41).

66. ***"Petition Date"*** means February 1, 2024, the date on which the Debtors commenced the Chapter 11 Cases.

67. ***"Plan"*** means this *Joint Plan of Liquidation of InVivo Therapeutics Corporation. and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* (as modified, amended or supplemented from time to time).

68. ***"Plan Supplement"*** means the compilation of documents and forms of documents, schedules, and exhibits to the Plan, whereby the Debtors will disclose the identity and affiliations of the Liquidation Trustee and file the Liquidation Trust Agreement.

69. ***"Priority Tax Claim"*** means any Claim against the Debtors of the kind specified in Bankruptcy Code section 507(a)(8).

70. ***"Professional"*** means any Person: (a) employed pursuant to a Bankruptcy Court order in accordance with Bankruptcy Code sections 327, 363 or 1103 and to be compensated for services rendered before or on the Effective Date, pursuant to Bankruptcy Code sections 327, 328, 329, 330, 331 or 363 or (b) awarded compensation and reimbursement by Final Order of the Bankruptcy Court pursuant to Bankruptcy Code section 503(b)(4) after motion on notice under that section of the Bankruptcy Code.

71. ***"Professional Fee Claim"*** means a Claim for any accrued but unpaid fees and expenses owed to a Professional pursuant to such Professional's engagement letter or otherwise under Bankruptcy Code sections 328, 330, 331, 503(b), 1103 or 503; provided that any such Professional Fee Claim shall be reduced by the amount of any retainer held by such Professional.

72. ***"Professional Fee Claim Reserve"*** means the reserve established by the Debtors and maintained pursuant to the terms of this Plan and the Confirmation Order to be distributed to holders of Allowed Professional Fee Claims.

73. ***"Proof of Claim"*** means a written proof of Claim Filed against the Debtors in the Chapter 11 Cases.

74. ***"Proof of Interest"*** means a written proof of Interest Filed against the Debtors in the Chapter 11 Cases.

75. ***"Rejection Claim"*** means a Claim against the Debtors arising from the rejection of an Executory Contract or Unexpired Lease pursuant to Bankruptcy Code section 365.

76. ***"Retained Causes of Action"*** means any Cause of Action other than any Cause of Action that is expressly subject to the exculpation provisions of this Plan.

77. ***"Schedules"*** means, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases and statements of financial affairs Filed by the Debtors pursuant to Bankruptcy Code section 521, as such schedules may be amended, modified or supplemented from time to time.

78. ***"Secured"*** means when referring to a Claim: (a) secured by a Lien on property in which the Estates have 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 Bankruptcy Code section 553, to the extent of the value of the creditor's interest in the Estates' interests in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to Bankruptcy Code section 506(a) or (b) Allowed as such pursuant to the Plan.

79. **"*Security*"** shall have the meaning set forth in section 101(49) of the Bankruptcy Code.

80. **"*Subordinated Claim*"** means any Claim that is subordinated, pursuant to section 510(b) of the Bankruptcy Code or otherwise, including any Claims arising from rescission of a purchase or sale of a Security of any Debtor or an Affiliate of any Debtor, which Security is not an Interest, for damages arising from the purchase or sale of such a Security, or for reimbursement or

contribution allowed under section 502 of the Bankruptcy Code on account of such a Claim.

81. ***"Tax Code"*** means the Internal Revenue Code of 1986, as amended.

82. ***"Unclaimed Property"*** means any distribution to Creditors under this Plan that are unclaimed forty-five (45) days following the date of such distribution under this Plan.

83. ***"Unclaimed Property Reserve"*** means any Unclaimed Property reserved for a period of forty-five (45) days by the Liquidation Trustee on behalf of holders of Unclaimed Property.

84. ***"Unexpired Lease"*** means a lease to which the Debtor is a party that is subject to assumption or rejection under Bankruptcy Code section 365.

85. ***"Unimpaired"*** means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is not impaired within the meaning of Bankruptcy Code section 1124.

86. ***"U.S. Trustee"*** means the United States Trustee for Region 3.

87. ***"Voting Deadline"*** means June 14, 2024 at 5:00 pm (prevailing Eastern Time).

B. *Rules of Interpretation and Computation of Time.*

For purposes of this Plan: (1) 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; (2) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (3) any reference herein to an existing document, schedule or exhibit, whether or not Filed, having been Filed or to be Filed shall mean that document, schedule or exhibit, as it may thereafter be amended, modified or supplemented; (4) any reference to an Entity as a holder of a Claim or Interest includes that Entity's successors and assigns; (5) unless otherwise specified, all references herein to "Articles" are references to Articles hereof or hereto; (6) unless otherwise specified, the words "herein," "hereof" and "hereto" refer to the Plan in its entirety rather than to a particular portion of the Plan; (7) subject to the provisions of any contract, certificate of incorporation, bylaw, instrument, release or other agreement or document entered into in connection with the Plan, the rights and obligations arising pursuant to the Plan shall be governed by, and construed and enforced in accordance with the applicable law, including the Bankruptcy Code and the Bankruptcy Rules; (8) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (9) unless otherwise specified herein, the rules of construction set forth in Bankruptcy Code section 102 shall apply; (10) all references to docket numbers of documents Filed in the Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court's CM/ECF system; and (11) all references to statutes, regulations, orders, rules of courts and the like shall mean as amended from time to time, and as applicable to the Chapter 11 Cases, unless otherwise stated. Unless otherwise specifically stated herein, the provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

C. *Governing Law.*

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of Delaware, without giving effect to the principles of conflict of laws, shall govern the rights, obligations, construction and implementation of the Plan, any agreements, documents, instruments or contracts executed or entered into in connection with the Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control).

D. *Reference to Monetary Figures.*

All references in the Plan to monetary figures shall refer to currency of the United States of America, unless otherwise expressly provided.

ARTICLE II
ADMINISTRATIVE CLAIMS, AND PRIORITY TAX CLAIMS

In accordance with Bankruptcy Code section 1123(a)(l), Administrative Claims and Priority Tax Claims have not been classified and, thus, are excluded from the Classes of Claims and Interests set forth in Article III.

A. *Administrative Claims.*

1. Administrative Claims

Except to the extent that a holder of an Allowed Administrative Claim and the Debtors agree to less favorable treatment with respect to such Allowed Administrative Claim, each holder of an Allowed Administrative Claim shall be paid in full in Cash on the earlier of the date that is (a) on or as soon as reasonably practicable after the Effective Date if such Administrative Claim is Allowed as of the Effective Date or (b) on or as soon as reasonably practicable after the date such Administrative Claim is Allowed, if such Administrative Claim is not Allowed as of the Effective Date.

2. Professional Fee Claims

Any Person asserting a Professional Fee Claim for services rendered before the Effective Date must File and serve on the parties required in the Interim Compensation Order or any other applicable order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim no later than twenty-one (21) days after the Effective Date (with an objection period of at least twenty one days for objections, if any, to such applications); provided, however that any Professional who may receive compensation or reimbursement of expenses pursuant to the Ordinary Course Professional Order may continue to receive such compensation or reimbursement of expenses for services rendered before the Effective Date, without further Bankruptcy Court order, pursuant to the Ordinary Course Professional Order. Objections to any Professional Fee Claim must be Filed and served on the requesting party no later than thirty (30) days from the service of an application for final allowance of a Professional Fee Claim. On the Effective Date, the Professional Fee Claim Reserve shall be transferred by the Debtors to Landis Rath & Cobb LLP's IOLTA account to be held for the distribution of Allowed Professional Fee Claims. Upon entry of a Final Order approving any such application for such Professional Fee Claim, Landis Rath & Cobb LLP shall promptly distribute from the Professional Fee Claim Reserve any unpaid portion of such Allowed Professional Fee Claim. To the extent that any Cash is remaining in the Professional Fee Claim Reserve after payment in full of all Allowed Professional Fee Claims, Landis Rath & Cobb LLP shall promptly transfer any such Cash to the Liquidation Trust and such Cash shall become Liquidation Trust Assets and be treated in accordance with the Liquidation Trust Agreement, the Plan and the Confirmation Order.

3. Administrative Claim Bar Dates

Requests for payment of Administrative Claims must be Filed on or before the applicable

Administrative Claims Bar Dates. Except as otherwise ordered by the Court, holders of Administrative Claims that are required to, but do not, File and serve a request for payment of such Administrative Claims by such applicable dates shall be forever barred, estopped and enjoined from asserting such Administrative Claims against the Debtors or its property and such Administrative Claims shall be deemed released against the Debtors as of the Effective Date. For the avoidance of doubt, Governmental Units asserting Administrative Claims pursuant to section 503(b)(1)(D) of the Bankruptcy Code, nor the U.S. Trustee, shall not be required to File a request for payment prior to any Administrative Claims Bar Date.

B. *Priority Tax Claims.*

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, each holder of an Allowed Priority Tax Claim shall receive, at the option of the Debtors, one of the following treatments: (i) Cash in an amount equal to the amount of such Allowed Priority Tax Claim, plus interest at the rate determined under applicable non-bankruptcy law and to the extent provided for by Bankruptcy Code section 511; or (ii) such other treatment (which treatment shall be no more favorable than the treatment set forth in subsection (i) of this section) as may be agreed upon by such holder and the Debtors or otherwise determined upon an order of the Bankruptcy Court. Allowed Priority Tax Claims shall be paid on or as reasonably practicable after the later of (i) the Effective Date, (ii) the date on which such Priority Tax Claim against the Debtors becomes an Allowed Priority Tax Claim, or (iii) such other date as may be ordered by the Bankruptcy Court.

C. *Statutory Fees.*

All fees due and payable pursuant to section 1930 of Title 28 of the U.S. Code ("Quarterly Fees") prior to the Effective Date shall be paid by the Debtors on the Effective Date. On and after the Effective Date, the Debtors and the Liquidation Trustee shall be jointly and severally liable to pay any and all Quarterly Fees when due and payable. The Debtors shall file all monthly operating reports due prior to the Effective Date when they become due, using UST Form 11-MOR.. After the Effective Date, the Liquidating Trustee shall file with the Bankruptcy Court separate UST Form 11-PCR reports when they become due. Notwithstanding the substantive consolidation of the Debtors called for in the Plan, each and every one of the Debtors and the Liquidating Trustee shall remain obligated to pay Quarterly Fees to the Office of the U.S. Trustee until the earliest of that particular Debtor's Chapter 11 Case being closed, dismissed or converted to a case under Chapter 7 of the Bankruptcy Code. The U.S. Trustee shall not be required to file any Administrative Claim in the case and shall not be treated as providing any release under the Plan.

ARTICLE III
CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

A. *Classification of Claims and Interests.*

Pursuant to Bankruptcy Code section 1122, set forth below is a designation of Classes of Claims against and Interests in the Debtors. All Claims and Interests, except for Administrative Claims, Professional Fee Claims, and Priority Tax Claims are classified in the Classes set forth in this Article III. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or Interest also is classified in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Interest in that Class and has not been paid, released or otherwise satisfied before the Effective Date.

The classification of Claims and Interests against the Debtors pursuant to the Plan is as set forth below. The Plan shall apply as a substantively consolidated Plan for all of the Debtors. All of the potential Classes for the Debtors are set forth herein.

B. *Summary of Classification.*

The following chart summarizes the classification of Claims and Interests pursuant to the Plan:

Class	Claim/Interest	Status	Voting Rights
1	Secured Tax Claims	Unimpaired	Deemed to Accept
2	Other Secured Claims	Unimpaired	Deemed to Accept
3	Other Priority Claims	Unimpaired	Deemed to Accept
4	General Unsecured Claims	Impaired	Entitled to Vote
5	ARE Subordinated Claims	Impaired	Entitled to Vote
6	Interests	Impaired	Entitled to Vote

C. *Treatment of Claims and Interests.*

To the extent a Class contains Allowed Claims or Allowed Interests with respect to a particular Debtor, the treatment provided for the holders of such Allowed Claims or Allowed Interests within each class is specified below:

1. Class 1 – Secured Tax Claims

   i. *Classification*: Class 1 consists of all Secured Tax Claims.
   ii. *Treatment*: Each holder of an Allowed Secured Tax Claim shall receive, at the option of the Liquidation Trustee:

a. payment in full in Cash of such holder's Allowed Secured Tax Claim; or

b. equal semi-annual Cash payments commencing as of the Effective Date or as soon as reasonably practicable thereafter and continuing for five years, in an aggregate amount equal to such Allowed Secured Tax Claim, together with interest at the applicable non-default rate under non-bankruptcy law, subject to the option of the Liquidation Trustee to prepay the entire amount of such Allowed Secured Tax Claim during such time period; provided that, notwithstanding any provision to the contrary in this Plan, until such Secured Tax Claim is paid in full, (i) the lien(s) securing such claim will remain in full force and effect notwithstanding the occurrence of the Effective Date, and (ii) the property securing such lien will not be transferred to the Liquidation Trust free and clear of such lien.

iii. *Voting*: Class 1 is Unimpaired by the Plan, and each holder of a Class 1 Secured Tax Claim is conclusively presumed to have accepted the Plan pursuant to Bankruptcy Code section 1126(f). Therefore, holders of Class 1 Secured Tax Claims are not entitled to vote to accept or reject the Plan.

2. Class 2 – Other Secured Claims

i. *Classification*: Class 2 consists of all Other Secured Claims.

ii. *Treatment*: Each holder of an Allowed Other Secured Claim shall receive, at the option of the Liquidation Trustee, (a) payment in full in Cash of such holder's Allowed Other Secured Claim; (b) the Collateral securing such holder's Allowed Other Secured Claim; or (c) such other treatment rendering such holder's Allowed Other Secured Claim Unimpaired.

iii. *Voting*: Class 2 is Unimpaired by the Plan, and each holder of a Class 2 Other Secured Claim is conclusively presumed to have accepted the Plan pursuant to Bankruptcy Code section 1126(f). Therefore, holders of Class 2 Other Secured Claims are not entitled to vote to accept or reject the Plan.

3. Class 3 – Other Priority Claims

i. *Classification*: Class 3 consists of all Other Priority Claims.

ii. *Treatment*: Each holder of an Allowed Other Priority Claim shall receive payment in full in Cash of such holder's Allowed Other Priority Claim from the Liquidation Trustee or such other treatment rendering such holder's Allowed Other Priority Claim Unimpaired.

iii. *Voting*: Class 3 is Unimpaired by the Plan, and each holder of a Class 3 Other Priority Claim is conclusively presumed to have accepted the Plan pursuant to

Bankruptcy Code section 1126(f). Therefore, the holders of Class 3 Other Priority Claims are not entitled to vote to accept or reject the Plan.

4. Class 4—General Unsecured Claims.

   i. *Classification*: Class 4 consists of all General Unsecured Claims.

   ii. *Treatment*: Except to the extent that a holder of an Allowed General Unsecured Claim agrees to less favorable treatment, each holder of such Allowed General Unsecured Claim shall receive its *pro rata* share of the Beneficial Trust Interests, which Beneficial Trust Interests shall entitle the holders thereof to receive their *pro rata* share of the Liquidation Trust Assets.

   iii. *Voting*: Class 4 is Impaired by the Plan. Holders of General Unsecured Claims are entitled to vote to accept or reject the Plan.

5. Class 5 – ARE Subordinated Claims

   i. *Classification*: Class 5 consists of all ARE Subordinated Claims

   ii. *Treatment*: Only if all Class 4 claims are satisfied in full, and except to the extent that a holder of an Allowed ARE Subordinated Claim agrees to less favorable treatment, each holder of such Allowed ARE Subordinated Claim shall receive its *pro rata* share of the Beneficial Trust Interests, which Beneficial Trust Interests shall entitle the holders thereof to receive their *pro rata* share of the Liquidation Trust Assets.

   iii. *Voting*: Class 5 is Impaired by the Plan. Holders of ARE Subordinated Claims are entitled to vote to accept or reject the Plan.

6. Class 6—Interests

   i. *Classification*: Class 6 consists of all Interests in the Debtors.

   ii. *Treatment*: Only if all Class 5 claims are satisfied in full, and except to the extent that a holder of an Interest aim agrees to less favorable treatment, each holder of such Allowed Interest shall receive its *pro rata* share of the Beneficial Trust Interests, which Beneficial Trust Interests shall entitle the holders thereof to receive their *pro rata* share of the Liquidation Trust Assets.

   iii. *Voting*: Class 6 is Impaired by the Plan. Holders of Interests are entitled to vote to accept or reject the Plan.

D. *Special Provision Governing Claims that are Not Impaired.*

Except as otherwise provided in the Plan, nothing under the Plan shall affect the Debtors' rights in respect of any Claims or Interests that are not Impaired, including all rights of the Debtors in respect of legal and equitable defenses to or setoffs or recoupments against any such Claims or Interests that are not Impaired.

E. *Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code.*

Bankruptcy Code section 1129(a)(10) shall be satisfied for purposes of Confirmation by acceptance of the Plan by at least one Impaired Class of Claims. The Debtors shall seek Confirmation of the Plan pursuant to Bankruptcy Code section 1129(b) with respect to any rejecting Class of Claims or Interests. The Debtors reserve the right to modify the Plan in accordance with Article X of the Plan to the extent, if any, that Confirmation pursuant to section Bankruptcy Code section 1129(b) requires modification, including by modifying the treatment applicable to a Class of Claims or Interests to render such Class of Claims or Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules.

F. *Subordinated Claims.*

Except as expressly provided herein, the allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, Bankruptcy Code section 510(b), or otherwise. Pursuant to Bankruptcy Code section 510, the Liquidation Trust reserves the right to request that the Bankruptcy Court reclassify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

G. *Controversy Concerning 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.

H. *Acceptance or Rejection of the Plan.*

1. Voting Classes

Classes 4, 5 and 6 are entitled to vote on the Plan.

2. Presumed Acceptance of the Plan

Pursuant the Bankruptcy Code, Classes 1, 2 and 3 are deemed to have accepted the Plan and are not entitled to vote to accept or reject the Plan.

ARTICLE IV
MEANS FOR IMPLEMENTATION OF THE PLAN

A. *Vesting of Assets.*

Except as otherwise provided in the Plan or any agreement, instrument or other document incorporated in the Plan, on the Effective Date, all of the Liquidation Trust Assets shall immediately vest in the Liquidation Trust.

B. *Sources of Consideration for Plan Distributions.*

Distributions under the Plan on account of the Beneficial Trust Interests will be funded by the Liquidation Trust Assets. All other distributions under the Plan, other than distributions on account of Beneficial Trust Interests, will be funded by the Liquidation Trust Claims Reserve, or the Professional Fee Claims Reserve. On the Effective Date, the Debtors shall fund the Liquidation Trust Claims Reserve, the Liquidation Trust Expense Reserve, and Professional Fee Claims Reserve, in full in Cash.

C. *Liquidation Trust.*

1. Creation of Liquidation Trust. On the Effective Date, the Liquidation Trust shall be created in accordance with the Liquidation Trust Agreement for the benefit of holders of Beneficial Trust Interests. The Liquidation Trust Agreement shall (i) be in form and substance consistent in all respects with this Plan and (ii) contain customary provisions for trust agreements utilized in comparable circumstances, including any and all provisions necessary to ensure continued treatment of the Liquidation Trust as a grantor trust and the holders of Beneficial Trust Interests as the grantors and owners thereof for federal tax purposes. All relevant parties (including, the Debtors, the Liquidation Trustee, and the holders of Beneficial Trust Interests) will take all actions necessary to cause title to the Liquidation Trust Assets to be transferred to the Liquidation Trust. The powers, authority, responsibilities, and duties of the Liquidation Trust and the Liquidation Trustee are set forth and will be governed by the Liquidation Trust Agreement, the Plan and Confirmation Order.

2. Transfers to the Liquidation Trust. On the Effective Date, the Debtors and their Estates shall transfer and shall be deemed to have irrevocably transferred to the Liquidation Trust, the Liquidation Trust Assets, which transfer shall be free and clear of Claims, Liens, Interests, encumbrances, and contractually imposed restrictions except as otherwise provided herein.

3. Purpose of the Liquidation Trust. The Liquidation Trust shall be established for the primary purpose of liquidating its assets and making distributions in accordance with the Plan, Confirmation Order and the Liquidation Trust Agreement, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purposes of the Liquidation Trust. The Liquidation Trust, acting through the Liquidation Trustee, shall be authorized to exercise and perform the rights, powers, and duties held by the Estate with respect to the Liquidation Trust Assets, including, without limitation, the authority under Section 1123(b)(3) of the Bankruptcy Code, and shall be deemed to be acting in

the capacity of a bankruptcy trustee, receiver, liquidator, conservator, rehabilitator, creditors' committee or any similar official who has been appointed to take control of, supervise, manage or liquidate the Debtors, to provide for the prosecution, settlement, adjustment, retention, and enforcement of the Liquidation Trust Assets.

4. Administration of the Liquidation Trust. The Liquidation Trust shall be administered by the Liquidation Trustee pursuant to the Liquidation Trust Agreement and the Plan. In the event of any inconsistency between the Plan or the Confirmation Order and the Liquidation Trust Agreement as such conflict relates to anything other than the establishment of a Liquidation Trust, the Plan or Confirmation Order shall control.

5. Appointment of Liquidation Trustee. As of the Effective Date, the Liquidation Trustee shall be appointed as trustee of the Liquidation Trust pursuant to the Liquidation Trust Agreement, the Plan, and the Confirmation Order, and Bankruptcy Code section 1123(b)(3), and shall have all of the rights, powers, authority, and obligations set forth in the Liquidation Trust Agreement, the Plan, the Confirmation Order and the Bankruptcy Code. The Liquidation Trustee shall be the exclusive trustee of the Estates under Title 11 for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 601(b)(3).

6. Compensation of the Liquidation Trustee. The Liquidation Trustee shall be compensated pursuant to the terms of the Liquidation Trust Agreement. Any professionals retained by the Liquidation Trustee shall be entitled to reasonable compensation for services rendered and reimbursement of expenses incurred, subject to approval by the Liquidation Trustee. The payment of fees and expenses of the Liquidation Trustee and its professionals shall be made in the ordinary course of business from the Liquidation Trust Expense Reserve and shall not be subject to Bankruptcy Court approval. The identity of the Liquidation Trustee and the proposed compensation shall be disclosed in the Plan Supplement.

7. Responsibilities of the Liquidation Trustee. The responsibilities of the Liquidation Trustee under the Liquidation Trust Agreement and this Plan shall include those set forth in the Liquidation Trust Agreement, including, without limitation, the following (a) the receipt of the Liquidation Trust Assets; (b) the establishment and maintenance of such operating, reserve and trust account(s) as are necessary and appropriate to carry out the terms of the Liquidation Trust and the Plan, including the Liquidation Trust Expense Reserve and Liquidation Trust Claims Reserve; (c) the investment of Cash that is a Liquidation Trust Asset; (d) the pursuit of objections to, estimation of and settlements of all Claims, regardless of whether any such Claim is listed on the Debtors' Schedules, other than Claims that are Allowed pursuant to the Plan; (e) the prosecution, settlement or abandonment of any Retained Causes of Action; (f) unless otherwise provided in the Plan, the calculation of all distributions to be made under this Plan; (g) authorizing and making, through the Distribution Agent, all distributions to be made under this Plan, and (h) such other responsibilities as may be vested in the Liquidation Trustee pursuant to this Plan, the Liquidation Trust Agreement, the Confirmation Order, other Bankruptcy Court Orders, or as otherwise may be necessary and proper to carry out the provisions of this Plan.

8. Powers of Liquidation Trustee. The powers of the Liquidation Trustee, as set forth in the Liquidation Trust Agreement shall include, without limitation and without further Bankruptcy

Court approval, each of the following:

i. To act on behalf of the Liquidation Trust, including the right to effect all actions and execute all agreements, instruments and other documents, and exercise all rights and privileges previously held by the Debtors, necessary or convenient to implement the provisions of this Plan and the Liquidation Trust Agreement;

ii. With respect to any Liquidation Trust Asset, to exercise in a manner not inconsistent with the Plan all power and authority that may be or could have been exercised, commence or continue all proceedings that may be or could have been commenced or continued and take all actions that may be or could have been taken by any member, officer, director or shareholder of the Debtor with like effect as if authorized, exercised and taken by unanimous action of such officers, directors and shareholders, including, without limitation, the dissolution of the Debtor;

iii. To manage, monitor and enforce all of the Debtors' and the Estates' rights, and interests under the Plan, the Confirmation Order, the Liquidation Trust Agreement, any other agreements of the Debtors, and any other Orders of the Bankruptcy Court;

iv. To establish, maintain and adjust as may be appropriate, the Liquidation Trust Expense Reserve, and to authorize and make disbursements from the Liquidation Trust Expense Reserve, including disbursements necessary or appropriate in connection with winding down the Estates;

v. To authorize and make, through the Distribution Agent, distributions to holders of Allowed Claims provided for or contemplated in the Plan;

vi. To authorize and make through the Distribution Agent, distribution to holders of Beneficial Trust Interests provided for or contemplated under the Plan or Liquidation Trust Agreement;

vii. Except to the extent set forth in the Plan, to object to any Claims regardless of whether such Claim was Disputed on the Effective Date, to compromise or settle any Claim regardless of whether such Claim was Disputed on the Effective Date, prior to objection without supervision or approval of the Bankruptcy Court, free of any restriction of the Bankruptcy Code, the Bankruptcy Rules, the local rules of the Bankruptcy Court, and the guidelines and requirements of the U.S. Trustee, other than those restrictions expressly imposed by the Plan, the Confirmation Order or the Liquidation Trust Agreement;

viii. To make decisions, without further Bankruptcy Court approval, regarding the retention or engagement of professionals, employees and consultants by the Liquidation Trust and the Liquidation Trustee and to pay the fees and charges

incurred by the Liquidation Trustee on the Liquidation Trust's behalf on or after the Effective Date for fees and expenses of professionals (including those retained by the Liquidation Trustee), disbursements, expenses or related support services relating to the Liquidation Trust;

ix. To (a) file, if necessary, any and all tax and information returns required with respect to the Liquidation Trust as a grantor trust pursuant to Treas. Reg. 1.671-4(a) or otherwise, (b) make tax elections by and on behalf of the Liquidation Trust, and (c) pay taxes, if any, payable by the Liquidation Trust;

x. To take all other actions not inconsistent with the provisions of the Plan that the Liquidation Trustee deems reasonably necessary or desirable with respect to administering the Plan;

xi. To implement and/or enforce all provisions of the Plan, including entering into any agreement or executing any document required by or consistent with the Plan, the Confirmation Order or the Liquidation Trust Agreement;

xii. To abandon in any commercially reasonable manner, including abandonment or donation to a charitable organization of its choice, any Liquidation Trust Asset in the reasonable business judgment of the Liquidation Trustee; provided, however, that such charitable organization shall not have any connection to the Liquidating Trustee, the Liquidation Trust Advisory Board members, or to the Debtors;

xiii. Except as otherwise set forth herein, to prosecute and/or settle any Retained Causes of Action, with or without approval of the Bankruptcy Court, and exercise, 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, arbitrative or other nonjudicial proceeding and pursue to settlement or judgment such Retained Causes of Action;

xiv. To purchase or create and carry all insurance policies and pay all insurance premiums and costs the Liquidation Trustee deems necessary or advisable;

xv. To collect and liquidate and/or distribute all Liquidation Trust Assets pursuant to the Plan, the Confirmation Order and the Liquidation Trust Agreement;

xvi. To hold any legal title to any and all of the Liquidation Trust Assets;

xvii. If any of the Liquidation Trust Assets are situated in any state or other jurisdiction in which the Liquidation Trustee is not qualified to act as trustee, to nominate and appoint a Person duly qualified to act as trustee in such state or jurisdiction and require from each such trustee such security as may be designated by the Liquidation Trustee in its discretion; confer upon such trustee all the rights, powers, privileges and duties of the Liquidation Trustee

hereunder, subject to the conditions and limitations of the Liquidation Trust Agreement, except as modified or limited by the Liquidation Trustee and except where the conditions and limitations may be modified by the laws of such state or other jurisdiction (in which case, the laws or the state or jurisdiction in which the trustee is acting shall prevail to the extent necessary); require such trustee to be answerable to the Liquidation Trustee for all monies, assets and other property that may be received in connection with the administration of all property; and remove such trustee, with or without cause, and appoint a successor trustee at any time by the execution by the Liquidation Trustee of a written instrument declared such trustee removed from office, and specifying the effective date and time of removal;

xviii. Retain any and all Insurance Policies of the Debtors providing coverage with respect to Retained Causes of Action; and

xix. Exercise such other powers as may be vested in or assumed by the Liquidation Trustee pursuant to the Plan, the Liquidation Trust Agreement, the Confirmation Order, other orders of the Bankruptcy Court, or as may be necessary and proper to carry out the provisions of the Plan.

Solely with respect to any Liquidation Trust Asset, the Liquidation Trustee shall stand in the same position as the Debtors with respect to any claim the Debtors may have to an attorney-client privilege, the work-product doctrine, or any other privilege, and the Liquidation Trustee shall succeed to all of the Debtors' rights to preserve, assert or waive any such privilege.

9. Tax Treatment of the Liquidation Trust. The Liquidation Trust shall be structured to qualify as a "liquidating trust" within the meaning of Treasury Regulation Section 301.7701-4(f) and in compliance with Revenue Procedure 94-45, and thus, as a "grantor trust" within the meaning of Sections 671 through 679 of the Tax Code. Accordingly, the holders of Beneficial Trust Interests shall be treated for U.S. federal income tax purposes (i) as direct recipients of undivided interests in the Liquidation Trust Assets (other than to extent the Liquidation Trust Assets are allocable to Disputed Claims) and as having immediately contributed such assets to the Liquidation Trust, and (ii) thereafter, as the grantors and deemed owners of the Liquidation Trust and thus, the direct owners of an undivided interest in the Liquidation Trust Assets (other than such Liquidation Trust Assets that are allocable to Disputed Claims).

10. Tax Reporting.

i. The Liquidation Trustee shall file tax returns for the Liquidation Trust as a grantor trust pursuant to Treasury Regulations Section 1.671-4(a) and in accordance with this section of the Plan. The Liquidation Trust's items of taxable income, gain, loss, deduction, and/or credit (other than such items allocable to any assets allocable to, or retained on account of, Disputed Claims) will be allocated to each holder in accordance with their relative ownership of Beneficial Trust Interests.

ii. As soon as possible after the Effective Date, the Liquidation Trustee shall make a good faith valuation of the Liquidation Trust Assets, and such valuation shall be used consistently by all parties for all federal income tax purposes. The Liquidation Trust shall also file (or cause to be filed) any other statements, returns or disclosures relating to the Liquidation Trust that are required by any Government Unit for taxing purposes.

iii. The Liquidation Trust shall be responsible for payment, out of the Liquidation Trust Assets, of any taxes imposed on the Liquidation Trust (including any "disputed ownership fund") or the Liquidation Trust Assets. In accordance therewith, any taxes imposed on any disputed ownership fund or its assets will be paid out of the assets of the disputed ownership fund and netted against any subsequent distribution in respect of the allowance or disallowance of such Claims.

iv. The Liquidation Trustee (i) may timely elect to treat any Liquidation Trust Assets allocable to Disputed Claims as a "disputed ownership fund" governed by Treasury Regulation Section 1.468B-9, and (ii) to the extent permitted by applicable law, shall report consistently for state and local income tax purposes. If a "disputed ownership fund" election is made, all parties (including the Liquidation Trustee and the holders of Beneficial Trust Interests) shall report for United States federal, state and local income tax purposes consistently with the foregoing. The Liquidation Trustee shall file all income tax returns with respect to any income attributable to a "disputed ownership fund" and shall pay the federal, state and local income taxes attributable to such disputed ownership fund based on the items of income, deduction, credit, or loss allocable thereto.

11. Retained Causes of Action. The Liquidation Trustee shall have the sole right to pursue any existing or potential Retained Causes of Action, by informal demand and/or commencement or continuation of litigation.

12. Costs and Expenses of the Liquidation Trust. The costs and expenses of the Liquidation Trust, including the fees and expenses of the Liquidation Trustee and other professionals retained on behalf of the Liquidation Trust, shall be paid out of the Liquidation Trust Expense Reserve, subject to the terms of the Liquidation Trust Agreement.

13. Effective Date. On the Effective Date, the Liquidation Trustee shall have the rights and powers set forth herein, in the Confirmation Order and in the Liquidation Trust Agreement to carry out and implement the purposes and intent of the Plan.

D. *Dissolution of Liquidation Trust.*

The Liquidation Trust shall be dissolved no later than five (5) years from the Effective Date, unless the Bankruptcy Court, upon motion made prior to the fifth (5th) anniversary without the need for a favorable letter ruling from the IRS that any further extension would not adversely

affect the status of either as a Liquidation Trust for federal income tax purposes, determines that a fixed period extension, not to exceed five (5) years, is necessary to facilitate or complete the recovery on and liquidation of the Liquidation Trust Assets. Upon the filing of any motion for an extension of the date of dissolution, such date shall be deemed automatically extended until an order of the Bankruptcy Court is entered with respect to such or motion or such motion is withdrawn.

E. *Liquidation Trust Security Matters.*

To the extent that the Beneficial Trust Interests are deemed to be "securities," the issuance of such interests under this Plan are exempt pursuant to section 1145 of the Bankruptcy Code, and from registration under the Securities Act of 1933, as amended, and any applicable U.S. federal, state and local laws requiring registration of securities. It is currently anticipated that the Beneficial Trust Interests will be uncertificated and non-transferable except to the extent expressly provided otherwise in the Liquidation Trust Agreement.

F. *Tax Returns.*

After the Effective Date, the Liquidation Trustee shall complete and file all final or otherwise required federal, state, and local tax returns for the Debtors, and, pursuant to Bankruptcy Code section 505(b) of the Bankruptcy Code, may request an expedited determination of any unpaid tax liability of the Debtors or their Estates for any tax incurred during the administration of such Debtors' Chapter 11 Cases, as determined under applicable tax laws.

G. *Cancellation of Existing Securities.*

Except as otherwise provided in the Plan or any agreement, instrument or other document incorporated in the Plan, on the Effective Date, the obligations of the Debtors pursuant, relating or pertaining to any agreements, indentures, certificates of designation, bylaws or certificate or articles of incorporation or similar documents governing the shares, certificates, notes and purchase rights, options, warrants or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtors related thereto shall be cancelled and deemed null and void; provided, however, notwithstanding Confirmation or the occurrence of the Effective Date, any such indenture or agreement that governs the rights of the holder of a Claim against the Debtors shall continue in effect solely for purposes of enabling holders of Allowed Claims to receive distributions under the Plan as provided herein; provided, further, however, that the preceding provision shall not result in any expense or liability to the Debtors, except to the extent set forth in or provided for under this Plan.

H. *Indemnification Obligations.*

Except as otherwise provided in the Plan, the Confirmation Order, any and all indemnification obligations of the Debtors, whether pursuant to a contract, instrument, agreement, certificate of incorporation, by-law, comparable organizational document, or other document or applicable law, shall be rejected as of the Effective Date of the Plan.

I. *Effectuating Documents; Further Transactions.*

Prior to the Effective Date, the Debtors and their respective directors, members, trustees, officers, and managers are and, after the Effective Date, the Post-Effective Date Debtors are authorized to and may issue, execute, deliver, file, or record such contracts, Securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan in the name of and on behalf of the Debtors, without the need for any approvals, authorizations, or consents, except for those expressly required pursuant to the Plan, or any further notice to or action, order, or approval of the Bankruptcy Court.

J. *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.

K. *Treatment of Causes of Action.*

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 Debtors reserve and assign to the Liquidation Trust, any and all Retained Causes of Action, whether arising before or after the Petition Date, and preserve the right to commence, continue, prosecute, or settle such Retained Causes of Action, notwithstanding the occurrence of the Effective Date. The Liquidation Trustee, on behalf of the Liquidation Trust, may pursue such Retained Causes of Action, in their sole discretion. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Retained Cause of Action against them as any indication that the Liquidation Trust will not pursue any and all available Retained Causes of Action against them. No preclusion doctrine, including the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise), or laches, shall apply to such Causes of Action as a consequence of Confirmation or Consummation.

L. *Ability to Seek and Obtain Discovery.*

From and after the Effective Date, the Liquidation Trustee shall have the ability to seek and obtain examination (including document discovery and depositions) under Bankruptcy Rule 2004 against any Person or Entity, and the Bankruptcy Court shall retain jurisdiction to order examinations (including examinations under Bankruptcy Rule 2004) against any Person or Entity, and to hear all matters with respect to the same.

M. *Debtors' Directors, Officers, Members and Managers.*

On the Effective Date, all officers, directors, members and managers of the Debtors shall be deemed to have resigned and shall be discharged from any further duties and responsibilities in such capacity. On after the Effective Date, the Liquidation Trustee shall serve as the sole officer, sole director, sole member or sole manager of the Debtors, but he or she shall retain and enforce Retained Causes of Action as the representative of the Estates in his or her capacity as the Liquidation Trustee under the Plan pursuant to Bankruptcy Code section 1123(b) and not as an officer, director, member or manager of the Debtors. Any and all operating agreements, certificates of organization, and related corporate documents are deemed amended by the Plan to permit and authorize such sole appointment.

N. *Debtors' Existence.*

From and after the Effective Date, the Debtors shall continue in existence for the purpose of winding up their affairs as expeditiously as practicable. Upon the Effective Date, all transactions and applicable matters provided under the Plan shall be deemed to be authorized by the Debtors without any requirement of further action by any Debtor. On and after the Effective Date, the Debtors' remaining assets and affairs shall be administered and managed by the Liquidation Trustee in accordance with the Plan.

Upon certification to be filed with the Court of the Final Distribution and completion of all duties under this Plan and entry of a Final Decree closing the Case, upon a motion filed pursuant to Rule 3022-1 of the Local Rules of the Bankruptcy Court, the Debtors will request to be deemed to be dissolved without any further action by the Debtors or the Liquidation Trustee, including the filing of any documents in any office in any jurisdiction where the Debtors are organized. However, the Liquidation Trustee shall have the authority to take all necessary action to dissolve any Debtor. Further, upon the aforementioned certification and entry of Final Decree, the Liquidation Trustee shall be authorized, in his sole discretion, to discard or destroy any and all of the Debtors' books and records. Upon the Effective Date, the Debtors shall turn over its books and records to the Liquidation Trustee..

O. *Corporate Authority.*

The Confirmation Order shall constitute full and complete authority for the Debtors and Liquidation Trust to take all other actions that may be necessary, useful or appropriate to consummate the Plan without any further judicial or corporate authority.

ARTICLE V
FUNDING AND DISBURSEMENTS

A. *Distribution Agent.*

The Distribution Agent, on behalf of the Debtors and/or Liquidation Trustee, shall make all distributions under the Plan on account of Allowed Claims against the Debtors pursuant to the terms of the Plan, Confirmation Order and the Liquidation Trust Agreement, provided, however,

that all Allowed Professional Fee Claims shall be paid out of the Professional Fee Reserve. All distributions to holders of Beneficial Trust Interests shall be made by the Distribution Agent. The Distribution Agent shall act at the direction of the Liquidation Trustee.

B. *Cash Payments.*

Cash payments made pursuant to the Plan shall be in U.S. funds, by the means agreed to by payor and payee, including by check or wire transfer or, in the absence of an agreement, such commercially reasonable manner as the Liquidation Trustee shall determine in his or her sole discretion.

C. *Distribution for Allowed Claims.*

Except as otherwise provided in the Plan or the Confirmation Order, or as otherwise ordered by the Bankruptcy Court, distributions to Allowed Claims shall be made on the Distribution Date (as defined in Article I.A.).

No holder of a Disputed Claim shall be entitled to a distribution from the Liquidation Trustee, the Liquidation Trust, the Debtors or the Estates with respect to such Disputed Claim unless and until such Disputed Claim becomes an Allowed Claim, and no holder of a Disputed Claim shall have any right to interest on such Disputed Claim except as provided in the Plan. The Liquidation Trustee shall establish a reserve in Cash in the full amount of any distributions that would otherwise be payable upon any Disputed Claims if they were Allowed Claims until such time as such Disputed Claims are determined by Final Order to be Allowed or not Allowed.

D. *Interest and Charges.*

No interest shall accrue or be paid on Allowed Claims, except as explicitly set forth in this Plan.

E. *Compliance with Tax Requirements.*

In connection with the Plan, to the extent applicable, the Liquidation Trust shall comply with all tax withholding and reporting requirements imposed on it by any Governmental Unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Liquidation Trust 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 pending receipt of information necessary to facilitate such distributions, including, without limitation, requiring that the holder of an Allowed Claim complete the appropriate IRS Form W-8 or IRS Form W-9, as applicable to each holder or establishing any other mechanisms they believe are reasonable and appropriate. The Liquidation Trust reserves the right to allocate all distributions made under the Plan in compliance with applicable wage garnishments, alimony, child support and other spousal awards, liens and encumbrances.

The Liquidation Trust shall not be required to make distributions on any Allowed Claim if the holder thereof has not provided all documentation, that in the Liquidation Trustee's reasonable business judgment, is necessary to determine that all tax withholding and reporting requirements for such Allowed Claim.

F. *Fractional Dollars: De Minimis Distributions.*

Notwithstanding any other provision of the Plan, the Liquidation Trust shall not be required to make distributions or payments of fractions of dollars, and whenever any payment of a fraction of a dollar under the Plan would otherwise be called for, the actual payment made shall reflect a rounding down of such fraction to the nearest whole dollar. In addition, the Liquidation Trustee shall not be required to make any distribution in an amount less than $50.00. To the extent that such a distribution shall be called for as part of any interim distribution, the Liquidation Trust shall establish a reserve for all distributions in the amount of less than $50.00 and shall, when and if the holder of an Allowed Claim is entitled to a distribution of $50.00 or more, make such distribution at such time. The Liquidation Trust shall not be required to make any Final Distribution of less than $50.00 and all monies otherwise payable in such amount shall be paid to the other holders of Allowed Claims, in accordance with the terms of the Plan, the Confirmation Order and the Liquidation Trust Agreement.

G. *Delivery of Distributions to Holders of Allowed Claims.*

Distributions to holders of Allowed Claims shall be made at the address set forth in the Schedules unless such addresses are superseded by proofs of claim or transfers of claims filed pursuant to Bankruptcy Rule 3001 or at the last known address of such holders if the Liquidation Trustee have been notified in writing of a change of address. If the distribution to any holder of an Allowed Claim is returned to the Liquidation Trustee as undeliverable or otherwise unclaimed, such Unclaimed Property shall be held in a reserve as set forth in Section V.H of the Plan.

H. *Unclaimed Distributions.*

If any distribution to holders of an Allowed Claim or Beneficial Trust Interest is unclaimed or returned as undeliverable, such Unclaimed Property shall be held by the Liquidation Trustee in the Unclaimed Property Reserve for a period of forty-five (45) days. Once the distribution to holders of Allowed Claims or Beneficial Trust Interests becomes Unclaimed Property, the Liquidation Trustee shall, subject to the limitations set forth herein, (i) hold such Unclaimed Property in the Unclaimed Property Reserve solely for the benefit of such holder or holders who have failed to claim such Unclaimed Property, and (ii) release the Unclaimed Property from the Unclaimed Property Reserve and deliver to the holder entitled thereto upon presentation of proper proof by such holder of its entitlement thereto. After the expiration of forty-five (45) days, the holders of Allowed Claims or Beneficial Trust Interests entitled to such Unclaimed Property shall cease to be entitled thereto and shall be entitled to no further distributions under the Plan, and such Allowed Claims shall be deemed disallowed and expunged in their entirety and the funds shall become Liquidation Trust Assets and redistributed to the other holders of Allowed Claims in accordance with the terms of this Plan, Confirmation Order and Liquidation Trust Agreement. Such funds shall not be subject to the escheat laws of any state.

If there is any residual Unclaimed Property at the time of dissolution of the Liquidation Trust, such residual Unclaimed Property shall be available for a subsequent distribution on a *pro rata* basis to holders of Beneficial Trust Interests or donated to a charitable organization at the sole discretion of the Liquidation Trust; provided, however, that such charitable organization shall not have any connection to the Liquidating Trustee, the Liquidation Trust Advisory Board members, or to the Debtors.

Nothing contained in the Liquidation Trust Agreement, this Plan, or the Confirmation Order shall require the Debtors, the Liquidation Trustee, the Liquidation Trust, or the Distribution Agent to attempt to locate any holder of an Allowed Claim or Beneficial Trust Interest.

I. *No Penalty Claims.*

Unless otherwise specifically provided for in the Plan or the Confirmation Order, no holder of any Claim will be entitled to allowance of, or to receive any payment on account of, any penalty arising with respect to or in connection with such Claim.

J. *Setoffs and Recoupment.*

The Liquidation Trust may, but shall not be required to, setoff against or recoup from any Claims of any nature whatsoever that the Debtors may have against the claimant pursuant to Bankruptcy Code section 558 or otherwise, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors or the Liquidation Trust of any such Claim it may have against the holder of such Claim. The Liquidation Trustee shall provide notice to any affected claimant of the setoff or recoupment.

K. *Distributions by Liquidation Trust.*

The Liquidation Trust shall not be obligated to make a distribution on account of the Beneficial Interests that would impair the ability of the Liquidation Trust to pay the expenses incurred by the Liquidation Trust.

L. *Claims Paid or Payable by Third Parties.*

1. Claims Paid by Third Parties. Following the filing of a notice of claim satisfaction and service of the same upon the holder of such Claim, the Liquidation Trustee shall reduce in full a Claim, and such Claim shall be disallowed without a Claim objection having to be Filed and without any further notice to or action, order or approval of the Bankruptcy Court, to the extent that the holder of such Claim receives payment in full on account of such Claim from a party that is not the Debtors or Liquidation Trust. To the extent a holder of such Claim receives a distribution on account of such Claim and receives payment from a party that is not the Debtors or the Liquidation Trust on account of such Claim, such holder shall repay, return or deliver any distribution to the Liquidation Trust, to the extent the holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan. The Liquidation Trust and the Debtors' Estates reserve all of their rights, remedies, claims and actions against any such holders who fail to repay or return any such distribution.

2. Claims Payable by Third Parties. No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant the Debtors' Insurance Policies until the holder of such Allowed Claim has exhausted all remedies with respect to such Insurance Policy. To the extent that one or more of the Debtors' insurers agrees to satisfy in full or in part a Claim, then immediately upon such insurers' payment, the applicable portion of such Claim shall be deemed satisfied, or partially satisfied, as applicable, and notice of such satisfaction shall be filed by the Litigation Trustee and served on the holder of such Claim.

3. Applicability of Insurance Policies. Except as otherwise provided in the Plan, distributions to holders of Allowed Claims shall be in accordance with the provisions of any applicable Insurance Policy.

ARTICLE VI
SUBSTANTIVE CONSOLIDATION

The Plan shall serve as a motion by the Debtors seeking entry of an order substantively consolidating all of the Estates of all of the Debtors into a single consolidated estate for all purposes associated with confirmation and consummation of the Plan.

The entry of the Confirmation Order shall constitute approval by the Bankruptcy Court of the substantive consolidation of the Debtors and their respective Estates for all purposes relating to the Plan, including for purposes of voting, confirmation and distributions. If this substantive consolidation is approved, then for all purposes associated with the confirmation and consummation of the Plan, all assets and liabilities of the Debtors shall be treated as though they were merged into a single economic unit, and all guarantees by any Debtor of the obligations of any other Debtor, to the extent such exist, shall be considered eliminated so that any Claim and any guarantee thereof by any other Debtor, as well as any joint and several liability of any Debtor with respect to any other Debtor, shall be treated as one collective obligation of the Debtors. Moreover, (a) no distribution shall be made under the Plan on account of any Intercompany Interest held by any one of the Debtors in any of the other Debtors except to the extent necessary to effect the substantive consolidation provided for herein, (b) all guaranties of any one of the Debtors of the obligations of any of the other Debtors, to the extent such exist, shall be eliminated so that any Claim against any one of the Debtors, and any guaranty thereof executed by any of the other Debtors, shall be one obligation of the consolidated Debtors' Estates, and (c) every Claim that is timely Filed or to be Filed in the Chapter 11 Cases of any of the Debtors shall be deemed Filed against the consolidated Estates and shall be one Claim against, and one obligation of, the Estates.

Notwithstanding any provision of the Plan to the contrary, any holder of multiple Allowed Claims against more than one Debtor that arise from the contractual, joint, joint and several, or several liability of such Debtors, the guaranty by one Debtor of another Debtor's obligation or other similar circumstances, shall be entitled to one Allowed Claim that, in the aggregate, does not exceed the amount of the underlying Claim giving rise to such multiple Claims. Claims against more than one of the Debtors arising from the same injury, damage, cause of action or common facts shall be Allowed only once as if such Claim were against a single Debtor.

Any alleged defaults under any applicable agreement, including executory contracts and unexpired leases, with the Debtors arising from substantive consolidation under the Plan shall be deemed unenforceable as of the Effective Date.

ARTICLE VII
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. *Rejection of Executory Contracts and Unexpired Leases.*

On the Effective Date, all Executory Contracts and Unexpired Leases shall be deemed rejected as of the Effective Date, unless such Executory Contract or Unexpired Lease: (i) was assumed or rejected previously by the Debtors; (ii) previously expired or terminated pursuant to

its own terms; (iii) is the subject of a motion to assume Filed on or before the Effective Date; or (iv) has been assumed and assigned to the Buyers pursuant to the terms of the Asset Purchase Agreements.

Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the rejection of such Executory Contracts or Unexpired Leases pursuant to Bankruptcy Code sections 365(a) and 1123. Unless otherwise indicated, rejection of Executory Contracts and Unexpired Leases pursuant to the Plan shall be effective as of the Effective Date.

B. *Claims Based on Rejection of Executory Contracts or Unexpired Leases.*

Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, if any, must be Filed with the Bankruptcy Court within thirty (30) days after the earlier of (a) service of Notice of the Effective Date, or (b) service of notice of entry of an order of the Bankruptcy Court (other than the Confirmation Order) approving the rejection of a particular Executory Contract or Unexpired Lease on the counterparty thereto. The Notice of the Effective Date shall indicate that all Executory Contracts and Unexpired Leases that do not fall into one of the four clauses set forth in Article VII.A hereof are deemed rejected as of the Effective Date. The Notice of Effective Date shall also set forth the deadline for filing Proofs of Claim with respect to the same. Absent order of the Court to the contrary, any Claims arising from the rejection of an Executory Contract or Unexpired Lease not filed by the applicable deadline will not be considered Allowed and such person or entity shall not be treated as a creditor for purposes of distributions under the Plan. 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 Class 6 of the Plan, which information shall be included in the Notice of the Effective Date.

ARTICLE VIII
INJUNCTION AND RELATED PROVISIONS

A. *Liabilities to, and Rights of, Governmental Units.*

Notwithstanding anything to the contrary in the Plan or the Confirmation Order, nothing in the Confirmation Order or the Plan discharges, releases, precludes, or enjoins: (1) any liability to any Governmental Unit that is not a Claim; (2) any Claim of a Governmental Unit arising after the Effective Date; (3) any police power or regulatory liability to a Governmental Unit that any Entity would be subject to as the owner or operator of any property after the Effective Date; (4) the rights of any Governmental Unit with respect to the transfer or assignment of any license, permit, registration, authorization, or approval, in each case, to the extent provided under applicable law; and/or (5) any liability to a Governmental Unit on the part of any Entity. Nothing in this Plan divests any tribunal of any jurisdiction it may have under police or regulatory law.

B. *Exculpation.*

Effective as of the Effective Date, no Exculpated Party shall have or incur, and each Exculpated Party is hereby released and exculpated from, any Exculpated Claim or any

obligation, Cause of Action, or liability for any Exculpated Claim; provided, however, that the foregoing exculpation shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.

C. *Injunction.*

Except as otherwise provided in the Plan or the Confirmation Order, as of the Effective Date, all Entities that have held, hold or may hold any Claim that has been Exculpated in Article VIII(B) are permanently enjoined from taking any of the following actions against the Exculpated Parties: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any lien or encumbrance; (iv) asserting any right of setoff (other than setoffs exercised prior to the Petition Date), or subrogation of any kind against any debt, liability or obligation on account of or in connection with or with respect to any Exculpated Claims; and (v) commencing or continuing in any manner or in any place, any action that does not comply with or is inconsistent with this provision; provided, however, that the foregoing injunction shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.

D. *Term of Injunctions or Stays.*

Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to Bankruptcy Code section 105 or 362 or any order of the Bankruptcy Court, and existent on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

ARTICLE IX
CONDITIONS PRECEDENT TO CONSUMMATION OF THE PLAN

A. *Conditions Precedent to the Effective Date.*

It shall be a condition to the Effective Date of the Plan that the following conditions shall have been satisfied or waived:

1. the Bankruptcy Court shall have entered the Confirmation Order; provided that in accordance with Bankruptcy Rules 3020(e), 6004(h), and 6006(d) (and notwithstanding any other provision of the Bankruptcy Code or the Bankruptcy Rules), the Confirmation Order shall not be stayed and shall be effective immediately upon its entry;

2. all documents and agreements necessary to implement the Plan, shall have (a) all conditions precedent to the effectiveness of such documents and agreements satisfied or waived

pursuant to the terms of such documents or agreements, (b) been tendered for delivery, and (c) been effected or executed;

3. the Liquidation Trust Claims Reserve and the Professional Fee Claim Reserve shall have been funded consistent with the terms of the Plan;

4. the Liquidation Trust shall have been established in accordance with the Liquidation Trust Agreement and shall have been funded with the Liquidation Trust Assets; and

5. all actions, documents, certificates and agreements necessary to implement this Plan shall have been effected or executed and delivered to the required parties and, to the extent required, Filed with the applicable Governmental Units in accordance with applicable laws.

B. *Waiver of Conditions.*

The conditions to Consummation set forth in Article IX of the Plan may be waived only by prior written consent of the without notice, leave, or order of the Bankruptcy Court or any formal action other than proceedings to confirm or consummate the Plan. Upon the occurrence of all the conditions to Confirmation and Consummation set forth in Article IX of the Plan, the Debtors shall immediately declare the Effective Date and file the Notice of Effective Date.

C. *Effect of Failure of Conditions.*

Unless expressly set forth herein, if the Consummation of the Plan does not occur on or before the date that is thirty days following the Confirmation Date the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any Claims by the Debtors, any holders or any other Entity; (2) prejudice in any manner the rights of the Debtors, any holders or any other Entity or (3) constitute an admission, acknowledgment, offer or undertaking by the Debtors, any holder of any Claim or any other Entity in any respect.

ARTICLE X
MODIFICATION, REVOCATION OR WITHDRAWAL OF THE PLAN

A. *Modification and Amendments.*

Except as otherwise specifically provided in the Plan, the Debtors reserve the right, to modify the Plan, whether such modification is material or immaterial, and seek Confirmation consistent with the Bankruptcy Code. Subject to certain restrictions and requirements set forth in Bankruptcy Code section 1127 and Bankruptcy Rule 3019 (as well as those restrictions on modifications set forth in the Plan), the Debtors expressly reserve their rights, to revoke or withdraw, to alter, amend or modify the Plan, one or more times, after Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend or modify the Plan, or remedy any defect or omission or reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan. American Greetings and the U.S. Trustee shall receive notice

of any modification to the Plan be they material or immaterial.

B. *Effect of Confirmation on Modifications.*

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

C. *Revocation or Withdrawal of Plan.*

The Debtors reserve the right, to revoke or withdraw the Plan before the Confirmation Date and to file a subsequent plan. If the Debtors revoke or withdraw the Plan, or if Confirmation or Consummation does not occur, then: (l) 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 the Claims or Interests or Class of Claims or Interests), assumption 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 Claim or Interest; (b) prejudice in any manner the rights of the Debtors, any holder of a Claim or Interest or any other Entity or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtors, any holder or any other Entity.

ARTICLE XI
RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, or related to, the Chapter 11 Cases pursuant to Bankruptcy Code sections 105(a) and 1142; provided, however, that nothing herein shall grant the Bankruptcy Court any jurisdiction which it lacked prior to the Effective Date. The Bankruptcy Court shall retain non-exclusive jurisdiction to hear any other matter over which the Bankruptcy Court has jurisdiction.

ARTICLE XII
MISCELLANEOUS PROVISIONS

A. *Immediate Binding Effect.*

Notwithstanding Bankruptcy Rules 3020(e), 6004(h) or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan shall be immediately effective and enforceable and deemed binding upon the Debtors and any and all present and former holders of Claims or Interests (irrespective of whether their Claims or Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases and injunctions described in the Plan, each Entity acquiring property under the Plan, any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors each of respective successors and assigns of the foregoing persons and Entities.

B. *Additional Documents.*

On or before the Effective Date, the Debtors may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtors and all holders receiving distributions pursuant to the Plan and all other parties in interest may, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

C. *Reservation of Rights.*

Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Bankruptcy Court enters the Confirmation Order, and the Confirmation Order shall have no force or effect if the Effective Date does not occur. None of the Filing of the Plan, any statement or provision contained in the Plan or the taking of any action by the Debtors, with respect to the Plan, the Disclosure Statement or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any of their respective rights with respect to the holders of Claims and Interests or each other before the Effective Date.

D. *Successors and Assigns.*

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

E. *Notices.*

To be effective, all notices, requests and demands to or upon the Debtors shall be in writing. Unless otherwise expressly provided herein, notice shall be deemed to have been duly given or made when actually delivered or when received and telephonically confirmed, addressed to the following:

1. The Debtors:

InVivo Therapeutics Corporation
InVivo Therapeutics Holdings Corp
1500 District Avenue, Burlington, MA 01803
Attention: Richard Christopher, Chief Financial Officer
Email: rchristopher@invivotherapeutics.com

with a mandated copy (which shall not constitute notice) to:

Counsel to Debtors and Debtors-In-Possession
Landis Rath & Cobb LLP
919 N. Market Street, Suite 1800
Wilmington, Delaware 19801

Attention: Matthew B. McGuire, Esq.
Telephone: 302-467-4400
Telecopier: 302-467-4450
Email: mcguire@lrclaw.com

F. *Entire Agreement.*

Except as otherwise indicated, the Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings and representations on such subjects, all of which have become merged and integrated into the Plan.

G. *Exhibits.*

All exhibits and documents included in the Plan 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' counsel at the address above, from the Notice, Claims and Balloting Agent's website at https://www.kccllc.net/invivo or by downloading such exhibits and documents from the Bankruptcy Court's website at http://www.deb.uscourts.gov. To the extent any exhibit or document is inconsistent with the terms of the Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit or non-document portion of the Plan shall control.

H. *Severability of Plan Provisions.*

If, before Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holdings, alterations or interpretations, 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 holdings, alterations or interpretations. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the Debtors' consent; and (3) non-severable and mutually dependent.

I. *Closing of Chapter 11 Cases.*

The Liquidation Trust shall promptly, after the full administration of the Chapter 11 Cases, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and Local Rule 3022-1 and file a motion, as required by Local Rule 3022-1(a), to close the Chapter 11 Cases after they have been fully administered.

J. *No Admission Against Interest.*

Neither the filing of the Plan, the Disclosure Statement, nor any statement contained

therein, is or shall be deemed an admission against interest. In the event that this Plan is not consummated, neither this Plan, the Disclosure Statement nor any statement contained therein may be used or relied upon in any manner in any suit, action, proceeding or controversy within or outside the Bankruptcy Court involving the Debtors.

K. *No Waiver.*

Except as otherwise specifically provided herein, nothing set forth in this Plan or the Disclosure Statement shall be deemed a waiver or release of any claims, rights or Causes of Action against any Person other than the Debtors.

L. *Headings.*

The article and section headings used in the Plan are inserted for convenience and reference only and neither constitutes a part of the Plan nor any manner affects the terms, provisions or interpretation of the Plan.

M. *Governing Law.*

Except to the extent the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent otherwise provided in the Plan, the rights and obligations arising under the Plan, shall be governed by, and construed and enforced in accordance with the laws of Delaware, without giving any effect to the principles of conflicts of law or such jurisdiction.

N. *Conflicts.*

Except as set forth in the Plan, to the extent that any provision of the Disclosure Statement or any other document or any exhibits, schedules, appendices, supplements, or amendments of any document referenced in the Plan (the "Plan Related Documents") conflict with or are in any way inconsistent with any provision of the Plan, the Plan shall govern and control; provided that, with respect to any conflict or inconsistency between the Plan, the Disclosure Statement or the Plan Related Documents on the one hand, and the Confirmation Order on the other, the Plan shall govern.

Dated: June 21, 2024

Respectfully Submitted,

INVIVO THERAPEUTICS CORPORATION
By:

/s/ Richard Christopher
Richard Christopher
Chief Financial Officer

INVIVO THERAPEUTICS HOLDINGS CORP.
By:

/s/ Richard Christopher
Richard Christopher
Chief Financial Officer

EXHIBIT B

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: INVIVO THERAPEUTICS CORPORATION, *et al.*,[1] Debtors.	Chapter 11 Case No. 24-10137 (MFW) (Jointly Administered) **Ref. No. ___**

NOTICE OF (A) ENTRY OF THE ORDER (I) APPROVING THE DISCLOSURE STATEMENT ON A FINAL BASIS AND (II) CONFIRMING THE JOINT PLAN OF LIQUIDATION OF INVIVO THERAPEUTICS CORPORATION AND INVIVO THERAPEUTICS HOLDINGS CORP.; (B) THE EFFECTIVE DATE THEREOF; AND (C) CERTAIN DEADLINES

TO CREDITORS, HOLDERS OF CLAIMS AND INTERESTS, AND PARTIES IN INTEREST, PLEASE TAKE NOTICE THAT:

1. **Confirmation of the Plan.** On June [•], 2024, the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), entered the *Findings of Fact, Conclusions of Law, and Order (I) Confirming Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code and (II) Approving the Disclosure Statement on a Final Basis* [D.I. [•]] (the "Confirmation Order") (i) approving on a final basis the *Disclosure Statement for Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. 169] (as modified, revised, supplemented and amended including all attachments and exhibits thereto, the "Disclosure Statement"); and (ii) confirming the *Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. [•]] (as modified, supplemented and amended including all attachments and exhibits thereto, the "Plan").[2]

2. **Effective Date of the Plan.** All conditions precedent to occurrence of the Effective Date of the Plan have been satisfied or waived. The Effective Date of the Plan occurred on [•], 2024.

3. **Copies of the Plan and the Confirmation Order.** Copies of the Confirmation Order, Disclosure Statement, the Plan, and related documents, are available free of charge at https://www.kccllc.net/invivo, or for a fee at the Bankruptcy Court's website at www.deb.uscourts.gov. The Confirmation Order, Disclosure Statement, Plan and related

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: InVivo Therapeutics Corporation (6670) and InVivo Therapeutics Holdings Corp. (8166). The Debtors' mailing address is 1500 District Avenue, Burlington, MA 01803.

[2] All capitalized terms used herein and not otherwise defined herein shall have the respective meanings ascribed to them in the Plan.

documents also are available for inspection during regular business hours in the office of the Clerk of the Bankruptcy Court, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801.

4. **Administrative Claim Bar Date.** Pursuant to Article II.A of the Plan, the deadline for filing proofs of claim or requests for payment of Administrative Claims arising on or after April 1, 2024 through the Effective Date (the "Supplemental Administrative Expense Requests") is twenty-one (21) days from the date of service of this Notice of Effective Date, which is **[•], 2024**. All Supplemental Administrative Expense Requests should be submitted to Kurtzman Carson Consultants LLC (the "Claims Agent"), in accordance with the terms of the Bar Date Order [D.I. 124]. Supplemental Administrative Expense Requests will be deemed timely filed only if **actually received** by the Claims Agent on or before **[•], 2024 at 4:00 p.m. (prevailing Eastern Time)** (the "Supplemental Administrative Claim Bar Date"). Each Supplemental Administrative Expense Request, including supporting documentation, must be submitted: (i) on or before the Supplemental Administrative Claim Bar Date, by completing the administrative proof of claim form, copies of which can be accessed at the Claims Agent's website https://www.kccllc.net/invivo, and clicking on the Tab "File a Claim," and following the directions given therein; or (ii) by United States mail or other hand delivery system, so as to be **actually received** by the Claims Agent on or before the applicable Supplemental Administrative Bar Date at the following address:

InVivo Claims Processing Center
c/o KCC
222 N. Pacific Coast Highway, Suite 300
El Segundo, CA 90245

Supplemental Administrative Expense Requests may **not** be delivered by facsimile, telecopy or electronic mail transmission to the Clerk of the Court or the Debtors.

If you are required to file a Supplemental Administrative Expense Request pursuant to Article II.A of the Plan and fail to do so by the Supplemental Administrative Claims Bar Date, your untimely Supplemental Administrative Expense Claim will not be considered Allowed, and you will not be treated as a creditor for purposes of distributions with respect to such claim, and you shall be entitled to no distribution under the Plan with respect to such claim.

5. **Professional Fee Bar Date.** Pursuant to Article II.A.2 of the Plan, any Professional seeking an award by the Bankruptcy Court of compensation or reimbursement of expenses in accordance with Bankruptcy Code sections 328, 330 or 331 or entitled to priorities established pursuant to Bankruptcy Code sections 503(b)(2), 503(b)(3), 503(b)(4), or 503(b)(5) shall (1) file with the Clerk of the Bankruptcy Court no later than twenty-one (21) days after the Effective Date which is **[•], 2024 at 4:00 p.m. (prevailing Eastern Time)** (the "Professional Fee Bar Date"), an application, including, without limitation, a final fee application, for such award of compensation or reimbursement; (2) serve a copy thereof, together with exhibits and schedules related thereto, upon: (i) counsel to the Debtors, Landis Rath & Cobb LLP, 919 Market Street, Suite 1800, Wilmington, Delaware 19801 (Attn: Matthew B. McGuire, Esq, mcguire@lrclaw.com and Joshua B. Brooks, Esq., brooks@lrclaw.com); (ii) the Office of the United States Trustee for the District of Delaware, 844 N. King Street, Suite 2207, Lockbox 35,

Wilmington, Delaware 19801 (Attn: Joseph Cudia, Esq., joseph.cudia@usdoj.gov); and (3) comply with the applicable requirements for such claim.

6. **Rejection Bar Date.** Pursuant to paragraph [15] of the Confirmation Order, on the Effective Date, except as otherwise provided under the Plan, and except to the extent that the Debtors either previously have assumed, assumed and assigned, or rejected an executory contract or unexpired lease by an order of the Bankruptcy Court or have filed a motion to assume or assume and assign an executory contract or unexpired lease prior to the Effective Date, or a Buyer has been assumed and assigned an executory contract or unexpired lease pursuant to the terms of an Asset Purchase Agreement, each executory contract and unexpired lease entered into by the Debtors prior to the Petition Date that has not previously expired or terminated pursuant to its own terms shall be deemed rejected pursuant to Bankruptcy Code section 365. Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, if any, must be Filed with the Bankruptcy Court (via the Claims Agent) no later than (i) any deadline established for creditors holding General Unsecured Claims to file proofs of claim against the Debtors; (ii) thirty (30) days after the date of an order of the Bankruptcy Court approving such rejection; and (iii) specifically for those claims created by the rejection of contracts by means of the Plan, twenty-one (21) days after the Effective Date (the "Rejection Claims"). All such Rejection Claims should be submitted to the Claims Agent, in accordance with the terms of the Bar Date Order [D.I. 124]. Rejection Claims will be deemed timely filed only if **actually received** by the Claims Agent on or before **[•], 2024 at 4:00 p.m. (prevailing Eastern Time)** (the "Rejection Bar Date"). Each Rejection Claim, including supporting documentation, must be submitted: (i) on or before the Rejection Claim Bar Date, by completing the proof of claim form, copies of which can be accessed at the Claims Agent's website https://www.kccllc.net/invivo, and clicking on the Tab "File a Claim," and following the directions given therein; or (ii) by United States mail or other hand delivery system, so as to be **actually received** by the Claims Agent on or before the Rejection Bar Date at the following address:

InVivo Claims Processing Center
c/o KCC
222 N. Pacific Coast Highway, Suite 300
El Segundo, CA 90245

Rejection Claims may **not** be delivered by facsimile, telecopy or electronic mail transmission to the Clerk of the Court or the Debtors. Absent order of the Court to the contrary, any Rejection Claims not Filed by the applicable deadline will not be considered Allowed and such person or entity shall not be treated as a creditor for purposes of distributions under the Plan with respect to such claim.

7. **Binding Nature of Plan.** The Plan and its provisions are binding on the Debtors and any holder of a Claim against, or Interest in, the Debtors, and such holder's respective successors and assigns, whether or not the Claim or Interest of such holder is impaired by the Plan and whether or not such holder voted to accept or reject the Plan.

Dated: _____, 2024
Wilmington, Delaware

LANDIS RATH & COBB LLP

*/s/*_____

Matthew B. McGuire (No. 4366)
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