IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	
QLESS, INC.,	Chapter 11, Subchapter V
Debtor.	Case No. 24-11395 (BLS)

NOTICE OF FILING AMENDED PLAN

PLEASE NOTE:

1. On July 19, 2024, the debtor-in-possession (the "**Debtor**") filed its *Plan* [Docket No. 70] (the "**Plan**"). On August 21, 2024, the Debtor filed its *Amended Plan,* which supersedes the previously-filed Plan. The *Amended Plan* is attached as **Exhibit 1** to this Notice. A redline comparison between the Amended Plan and the previously-filed Plan is attached as **Exhibit 2** to this Notice. The exhibits to the Plan remain unchanged in the Amended Plan except for Exhibit B (Projected Disposable Income).

2. The hearing to consider confirmation of the Amended Plan remains scheduled for **August 27, 2024 at 2:00 p.m. (Eastern Time)**, before the Honorable Brendan L. Shannon, United States Bankruptcy Judge, at the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 6th Floor, Courtroom #1, Wilmington, Delaware 19801. The deadline for objections to confirmation was August 21, 2024, at 5:00 p.m. Eastern Time.

Dated: August 21, 2024

PACHULSKI STANG ZIEHL & JONES LLP

/s/ James E. O'Neill

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4861-7645-1546.2 72746.00002

EXHIBIT 1

Amended Plan

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	
QLESS, INC.,	Chapter 11, Subchapter V
Debtor.[1]	Case No. 24-11395 (BLS)

AMENDED PLAN

QLess, Inc., the debtor-in-possession in this case ("**Debtor**") proposes this amended Plan under Section 1189 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* ("**Bankruptcy Code**"), which amends and supersedes the Plan Filed on July 19, 2024, proposing to satisfy all Claims[2] against the Debtor as part of a reorganization in which the Debtor will emerge from Chapter 11 protection recapitalized and reorganized.

This Plan explains certain applicable provisions of the Bankruptcy Code, describes certain events in this case, and incorporates certain attached related documents. Although the Debtor believes that this information is fair and accurate, this information is qualified in its entirety in that it does not set forth the entire text of those related documents or Bankruptcy Code provisions or every detail of those events. This information is provided only as of the date of this Plan. There can be no assurances that the statements contained in this Plan will be correct later.

The Debtor prepared this Plan under Bankruptcy Code § 1190 and Bankruptcy Rule 3016 and not necessarily in accordance with federal or state securities laws or other non-bankruptcy laws. This Plan has not been approved or disapproved by the United States Securities and Exchange Commission (the "**SEC**"), any state securities commission or any securities exchange or association, nor has the SEC, any state securities commission or any securities exchange or association passed on the accuracy or adequacy of the statements contained in this Plan. No other governmental or other regulatory agency approvals have been or will be obtained.

The Debtor submits this Plan to all the Debtor's known holders of Claims entitled to vote to accept or reject the Plan (to "**Vote**"). Despite that Bankruptcy Code § 1181(b) excuses the Debtor from filing a separate disclosure statement with respect to this Plan, but because Bankruptcy Code § 1190(1) requires certain disclosures pertaining to any plan filed under Subchapter V of Chapter 11, this Plan provides all necessary information to enable holders of Claims entitled to Vote to arrive at a reasonably informed decision in exercising their right to Vote.

Accordingly, this Plan contains information regarding:

- The Debtor and events leading to and occurring during the Case;

[1] The Debtor's principal place of business and service address is 21 Miller Alley, Suite 210, Pasadena CA 91105.

[2] All capitalized terms used in this Plan are defined either in the text or in Article 2.

- Who can Vote on, or object to Confirmation of, the Plan and applicable procedures and deadlines;

- What legal and factual criteria the Bankruptcy Court will consider when deciding whether to confirm the Plan;

- Why the Debtor believes the Plan is feasible, and how the treatment of your Claim under the Plan compares with what you would receive on your Claim in a hypothetical liquidation under Chapter 7; and

- The effects of Confirmation of the Plan.

Because this Plan may affect your rights, you should consult with your own counsel and contact the Debtor's counsel with any questions regarding any Plan provision or any disclosure made in this Plan.

In preparing this Plan, the Debtor relied on financial data derived from the Debtor's books and records and made reasonable assumptions regarding the Debtor's business. Although the Debtor believes this information fairly reflects the Debtor's financial condition as of today and that the assumptions regarding future events reflect reasonable business judgments, the Debtor does not represent or warrant the accuracy of the financial information contained in this Plan or assumptions regarding future results and operations. The financial information contained in this Plan and in its exhibits has not been audited or prepared in accordance with generally accepted accounting principles in the United States or any other jurisdiction. The Debtor disclaims any duty to publicly update any forward-looking statements, whether as a result of new information, future events, or for any other reason.

Confirmation and effectiveness of the Plan are subject to certain material conditions described in Article 9. There is no assurance that the Plan will be confirmed or, if confirmed, that these material conditions will be satisfied or waived. **You should read this Plan in its entirety before Voting.**

If the Bankruptcy Court confirms the Plan and the Effective Date occurs, all holders of Claims (including holders of Claims not entitled to Vote) will be bound by the Plan's terms and any transactions the Plan contemplates.

The contents of this Plan should not be construed as legal, business, or tax advice. Holders of Claims should consult their own legal counsel and tax advisors as to legal, tax, and other matters concerning their Claim. This Plan may not be relied on for any purpose other than to determine how to Vote or object to Confirmation. All holders of Claims should refer to Article 4 of this Plan for information regarding the treatment of their Claim.

Solicitation and Voting

The Bankruptcy Court has not yet confirmed the Plan. That cannot occur until holders of Claims entitled to Vote have voted. This Plan describes the terms of the Debtor's reorganization

and provides additional information that holders of Claims entitled to Vote will need to make an informed decision regarding how to Vote. In making a decision to accept or reject the Plan, each holder of a Claim must rely on its own assessment of the Plan, including the merits and risks involved.

If you are entitled to Vote to accept or reject the Plan, you must Vote in accordance with the procedures approved, and the deadline set, by the Bankruptcy Court and provided to you. Those procedures will include a requirement to use and return an approved Ballot as instructed on the Ballot. Not all holders of Claims are eligible to Vote. *See* Article 4 to determine if you are eligible to Vote.

If you want additional information about the Plan, you should contact Jordan Kroop, Pachulski Stang Ziehl & Jones LLP, counsel for the Debtor, at jkroop@pszjlaw.com. The Debtor's counsel cannot give you legal advice.

THE DEBTOR RECOMMENDS ALL HOLDERS OF CLAIMS ENTITLED TO VOTE TO ACCEPT THE PLAN

FAQ

Is QLess going out of business?

No. This Plan provides for the financial reorganization of the Debtor—through, among other things, an elimination of litigation that has been burdening the Debtor's liquidity and profitability and a conversion of debt the Debtor has incurred during this Case into equity—so that the Debtor may continue growing its operations and serving its existing and future customers. If the Plan is confirmed, the Debtor will be positioned to better compete in its market and pursue ever-greater profitability and high-level service to customers across the country and allow the Debtor to explore merger opportunities that could strengthen the company. This Plan, if confirmed, is the first step in what QLess believes will be a bright future.

What is Chapter 11 bankruptcy?

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code that allows financially distressed businesses to reorganize their debts in a controlled, court-supervised fashion. Filing a Chapter 11 case creates an "estate" containing all the legal and equitable interests of the debtor in property as of the date the bankruptcy case is filed. During a Chapter 11 bankruptcy case, a debtor remains in possession of its assets and may continue to operate its business. The Debtor has proposed the Plan in an effort to minimize the overall administrative costs associated with this case and maximize value to creditors.

What is Subchapter V?

Subchapter V is a series of provisions within Chapter 11 of the Bankruptcy Code that can be used by small businesses, such as the Debtor, to access the reorganization tools available

under Chapter 11 without incurring much of the expense and delay associated with Chapter 11 cases for larger organizations and enterprises.

How do I determine how my Claim is classified?

To determine the classification of your Claim, you must determine the nature of your Claim. Under the Plan, Claims are classified into Classes. The pertinent articles and sections of the Plan disclose, among other things, the composition of each Class and the treatment that each Class will receive if the Plan is Confirmed.

How do I determine what I may recover on account of my Claim?

After you determine the classification of your Claim, you can determine the likelihood and range of potential recoveries with respect to your Claim by referring generally to Article 3 and Article 4 as well as the liquidation analysis and the projections at **Exhibits A** and **B**.

What is necessary to confirm the Plan?

Under applicable provisions of the Bankruptcy Code, Confirmation of the Plan requires that, all Classes of impaired Claims Votes to accept the Plan or that the Plan does not unfairly discrimination and is fair and equitable to any Class of Claims that does not Vote to accept the Plan. A Class accepts the Plan if at least two-thirds in the total dollar amount and more than one-half in number of Class members who actually Vote in that Class Vote to accept the Plan. Because only holders of claims who actually Vote are counted for purposes of determining acceptance or rejection of a plan by an impaired class, a plan can be approved with the affirmative vote of members of an impaired class who own less than two-thirds in amount and one half in number of the claims or interests in that class. The Bankruptcy Court also must find that the Plan meets a number of other statutory tests before it may confirm the Plan. These requirements and statutory tests generally are designed to protect the interests of creditors who do not Vote but who will nonetheless be bound by the Plan's provisions if the Bankruptcy Court confirms the Plan. If one or more Classes vote to reject the Plan, the Debtor may still request that the Bankruptcy Court confirm the Plan under Bankruptcy Code § 1191(b). To confirm a plan not accepted by all classes, a debtor must demonstrate that the plan does not discriminate unfairly against, and is fair and equitable with respect to, each impaired class of claims that has not accepted the Plan. (With respect to a class of unsecured claims, for example, a plan is fair and equitable if it provides creditors with the debtor's projected disposable income over three to five years.) This method of confirming a plan is commonly called "cramdown." In addition to the statutory requirements imposed by the Bankruptcy Code, the Plan itself also provides for certain conditions that must be satisfied as conditions to Confirmation.

Article 1
DISCLOSURES

1.1. Description and History of the Debtor.

1.1.1 QLess was founded in 2009, in Pasadena, California by Alejandro (Alex) Bäcker as a software startup operating from the cloud (*i.e.,* customers accessed the QLess software

platform over the internet). Bäcker originally created QLess to eliminate customer time spent waiting in line for service. QLess's unique approach relieved customers from having to drive to a location to obtain a paper ticket with a number—like taking a number in a bakery—and sit in a lobby or waiting room. Instead, using QLess, customers were able to join the line from the comfort of their own home while QLess technology would text customers a time to arrive for service.

1.1.2 QLess's early success was found in higher education institutions, local governments, and theme parks, a market that constituted more than 80% of QLess's customer base. Nearly all QLess's customers suffered from the same problems and had the same needs: physical lines; taking a number; sitting in the lobby. QLess eventually expanded its product offering to include appointment scheduling, customer satisfaction ratings, and operational reports. QLess made it simpler for employees to easily serve hundreds of customers at a single location in a single day. Through about 2022, this constituted QLess's business approach.

1.1.3 In 2022, QLess began to realize that it was effectively bringing QLess's customers together with their customers (visitors) in entirely new and modern ways. Irrespective of how a QLess user was serving appointments or walk-in customers, customer relationship management was the touchstone. QLess's clients' customers (visitors) came to value the accuracy of QLess's estimates of when they were to be served, as well as frequent updates and preparatory instructions (text or email) telling customers when to expect the served.

1.1.4 Recognizing this opportunity, QLess expanded its reach to other industries, first among them being a subsegment of the healthcare industry—specifically, clinical and independent labs performing a high daily volume of blood draws, glucose tests for pregnant women, ECGs, drug screens, etc. Radiology labs performing routine radiological tests also proved a good source of QLess's market growth. QLess continues to explore other markets where a user's customer transactions typically last for more than five minutes and where the user sees more than 50 customers per day, per location. Currently, the QLess platform is being used to manage more than 30 million visits per year. The Debtor's goal is to reach one billion visits per year across the QLess platform. The Debtor believes that is achievable by 2028-2030, if funded properly.

1.1.5 QLess currently maintains a corporate office located at 21 Miller Alley, Suite 210, Pasadena, CA 91105. From this location and through services rendered by the Debtor's remote employees, the Debtor offers top-of-market software-as-a-service (SaaS) for queue management, managing physical and digital customer interactions in a single, unified software application. An end-user's customers can join a queue for customer service from anywhere while staying informed of their place in the queue and expected wait times on their mobile device. The Debtor's platform includes powerful appointment scheduling features, eliminating the hassle of back-and-forth scheduling calls through an intuitive online booking system. Telephone customers are liberated from long wait times listening to hold music and instead receive a callback when the customer reaches the front of the queue, while QLess's clients' employees enjoy a less stressful workday because customers do not begin calls annoyed and irritated for having endured a long wait on hold. The Debtor's platform also includes virtual meeting capability via Zoom, Microsoft Teams or Webex so that customers can avoid the expense and time of traveling to a central location to transact business with the QLess client.

1.1.6 For customers offering services across multiple locations, the QLess platform uses proprietary technology to direct the client's customers to more available locations, balancing wait and drive times with mapped recommendations. The Debtor's clients use the Debtor's software to reduce costly no-shows by sending out configurable appointment reminders, allowing customers to reschedule appointments themselves, manage booking with a smart cancelation feature—which automatically cancels an appointment and prompts a customer to reschedule after the customer fails to respond to repeated reminders—and automates the filling of canceled appointment slots from a waiting list when a cancelation opens new slots. QLess clients can also perform advanced analysis and obtain real-time service metrics measuring customers served, wait times, and service bottlenecks. Available analytics include customer satisfaction across teams, locations, and services, as well as employee productivity, efficiency, idle time, and skill development areas.

1.2. Events Leading to Chapter 11 Filing.

1.2.1 QLess has operated at a net operating loss for several years. The Debtor projects that it will finish the current fiscal year (calendar year 2024) with an approximate net operating loss of $5 million. The Debtor currently carries approximately $35-40 million in cumulative net operating losses (NOLs). Given the growth in revenue alone, the Debtor projects that it will finish break-even (zero net operating loss or gain) by 2025 fiscal year-end.

1.2.2 A significant challenge facing the Debtor in its efforts to reach net profitability is that its legacy core product—called Linebuster—suffers from severe technical limitations. The Debtor has wanted to rebuild its core software platform into a far more modern architecture since 2021. The Debtor recently brought to market its new product, called Tempo, that will eventually replace Linebuster. QLess continues to bear the "bubble cost" of bringing Tempo online, including a surge in R&D spending to develop Tempo and substantially increased operating costs (such as monitoring and support using the Amazon Web Services platform) associated with migrating customers away from Linebuster toward Tempo but also supporting two products at once for the time being. Bringing Tempo online was accompanied by renewed efforts to reduce operating expenses, including approximately $2 million in savings associated with a significant expense reduction event implemented on April 1, 2024 (composed mostly of a headcount reduction and other related measures). By continuing to grow revenue and keeping operating expenses level—the principal approach QLess is now taking with the help of this case—QLess believes it can move toward profitability in the near term.

1.2.3 QLess is fighting for market share and believes that it is still looking up at three to five competitors with superior market penetration. Developing and deploying Tempo as a newer, more sophisticated software offering has required considerable capital such that any increase in revenue and market share earned by leveraging Tempo will translate into profitability on when QLess is able to earn its way past the initial "bubble cost" associated with Tempo noted above.

1.2.4 Shareholder Lawsuit. In December 2023, a group of former common and preferred shareholders of the Debtor, led by Alex Bäcker, the Debtor's founder, sued the Debtor, its largest shareholder, Palisades Growth Capital II, L.P., and certain of the Debtor's former and current officers and directors, in Delaware Chancery Court—*AB Inventio LLC et al. v. Palisades Growth Capital II, L.P., et al.,* C.A. No. 2023-1279-JTL—alleging breaches of fiduciary duties in connection with the alleged rejection of non-dilutive financing transactions in favor of financing

and a subsequent merger with Palisades and a breach of contract against the Debtor for allegedly violating its own charter. The Shareholder Lawsuit has been both a severe distraction to the Debtor's operating leadership team and an unmanageable expense that continues to frustrate the Debtor's efforts to achieve profitability. To date—over the course of only six months of early-stage litigation in the Shareholder Lawsuit—QLess has incurred approximately $1 million in legal fees. QLess's defense counsel estimates that litigating the Shareholder Lawsuit to completion—including pre-discovery motion practice, fact and expert discovery, pretrial proceedings and trial, and post-trial briefing and argument—could ultimately cost millions of dollars, excluding any appeals and any adverse judgment amount as well as potentially large liabilities to QLess's co-defendants, who have indemnification claims against the Debtor.

1.2.5 Possible Business Combinations. To address its long-term profitability and value creation, the Debtor has also been exploring one or more business combinations with strategic partners. Despite the attractiveness of certain possibilities in this regard, the extraordinary expenses and uncertainty associated with the Shareholder Lawsuit has interfered with the Debtor's ability to pursue such business combinations. Discharge of any claims which theoretically could arise as a result of the Shareholder Litigation will facilitate the potential for value accretive transactions in the future.

1.2.6 Corporate Governance Improvements.

(a) **Prepetition.** Shortly before commencing the Case, the Debtor appointed M. Freddie Reiss, a highly-experienced restructuring expert, as an independent member of the Debtor's board of directors. Mr. Reiss had no relationship with the Debtor or any of its current or former shareholders before joining the Debtor's board. The Debtor also engaged Andrew De Camara, an experienced restructuring advisor and principal of Sherwood Partners, as Chief Restructuring Officer for at least the duration of this Case.

(b) **Post-Effective Date.** As of the Effective Date, the composition of the Debtor's board of directors will remain unchanged from the Petition Date. The following individuals constitute the Debtor's board of directors as of the Effective Date: (a) Anders Richardson; (b) Nathaniel Hochman; (c) Mark Tapling; (d) James Harvey; and (e) M. Freddie Reiss (who continues to receive a monthly fee of $25,000 per month for service on the Board, and whose service on the Board is expected to continue until Distributions are completed to all holders of non-Disputed Claims, which the Debtor believes will occur within 30 days of the Effective Date). Mr. Harvey continues as the Debtor's chief executive officer from and after the Effective Date with the same compensation package he has received from the Debtor before and during this Case. Other than Mr. Reiss, no member of the Board receives any compensation for service on the Board from and after the Effective Date.

1.3. Statutory Requirements for Confirmation. The Bankruptcy Court may only confirm the Plan if it determines at and as a result of the Confirmation Hearing that the requirements for Confirmation set forth in Bankruptcy Code § 1191 have been satisfied. The Debtor will demonstrate to the Bankruptcy Court at the Confirmation Hearing that all requirements for Confirmation under Bankruptcy Code § 1191 have been met, which include:

1.3.1 The Plan complies with the applicable provisions of the Bankruptcy Code;

1.3.2 The Debtor as Plan proponent has complied with the applicable provisions of the Bankruptcy Code;

1.3.3 The Plan has been proposed in good faith and not by any means forbidden by law;

1.3.4 Either all Classes of Impaired Claim have accepted the Plan or, under Bankruptcy Code § 1191(b), the Plan does not discriminate unfairly against, and is fair and equitable to, all Classes of Impaired Claims that have not accepted the Plan;

1.3.5 Best Interest Test. The Best Interest Test requires that any holder of a Claim that does not accept the Plan, either by Voting to reject the Plan or because the holder is deemed to reject the Plan without Voting, receives at least as much under the Plan as the holder would have received under a hypothetical Chapter 7 liquidation of the Estate;

(a) **Calculation of Liquidation Value.** To calculate the probable distribution to members of Class 2 if the Debtor were liquidated under Chapter 7, the Bankruptcy Court must first determine the aggregate dollar amount that would be generated from the liquidation of the Debtor's assets if this case were converted to a Chapter 7 case under the Bankruptcy Code and the assets were sold on a liquidation basis rather than a going concern basis. The Debtor assumes that its assets have a gross liquidation value between $168,000 and $915,000. This range reflects the nature of the Debtor's business as a SaaS (software-as-a-service) business that does not maintain inventory and does not own valuable equipment. In a non-operating posture, the Debtor's customer relationships are without material value and the Debtor's intellectual property is valued substantially lower in a non-operating context than if it were deployed in an operating business.

(b) **Reductions.** The amount of liquidation value available to unsecured creditors would be reduced by the costs and expenses of liquidation, as well as by other administrative expenses and costs of the Chapter 7 case, which would include the compensation of a Chapter 7 trustee and its counsel and other professionals, and asset disposition expenses. Once the Bankruptcy Court ascertains the recoveries in liquidation of priority claimants, it must determine the probable distribution to general unsecured creditors from the remaining available proceeds in liquidation. If the probable distribution has a value greater than the distributions to be received by such creditors under the plan, then the plan is not in the best interests of creditors.

(c) **Application.** The liquidation analysis at **Exhibit A** shows that holders of Allowed General Unsecured Claims will receive substantially better recoveries under the Plan than under a hypothetical Chapter 7 liquidation. Accordingly, the Plan easily satisfies the Best Interests Test with respect to any holder of an Allowed General Unsecured Claim that may Vote;

1.3.6 Feasibility Test. In a Subchapter V case such as this Case, the Feasibility Test encompasses: (a) the requirements in Bankruptcy Code § 1129(a)(11) that the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor; (b) the requirement under Bankruptcy Code § 1191(c)(2) that, if a Class of Claims does not accept

the Plan, the Plan provides that all the Debtor's projected disposable income[3] to be received in the three-year period following the Effective Date will be applied to make payments under the Plan or the value of the property to be distributed under the Plan in that three-year period is not less than the Debtor's projected disposable income; and (c) the requirement under Bankruptcy Code § 1191(c)(3) that, if one or more Classes of Claims do not accept the Plan, the Debtor will be able, or there is a reasonable likelihood that the Debtor will be able, to make all payments under the plan. The projections at **Exhibit B,** provided as required in Bankruptcy Code § 1190(1)(C), demonstrate that the Plan easily meets the Feasibility Test.

Article 2
DEFINITIONS AND RULES OF CONSTRUCTION

2.1. All capitalized terms used in this Plan are defined in this Article 2, the Bankruptcy Code, or the Bankruptcy Rules. "Including" means "including without limitation." "Or" is not exclusive, such that "A or B" should be read as "A or B, or both." Bankruptcy Rule 9006(a) applies to all periods prescribed in this Plan.

2.2. 503(b)(9) Claim. A Claim under Bankruptcy Code § 503(b)(9) for the value of goods received by the Debtor in the 20 days immediately before the Petition Date and sold to the Debtor in the ordinary course of the Debtor's business.

2.3. Administrative Claim. A Claim for any expense Allowed under Bankruptcy Code §§ 364(c)(1), 503(b), 503(c), 507(b), 546(c)(2), or 1114(e)(2) and entitled to priority under Bankruptcy Code § 507(a)(2), including: (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the Debtor's businesses; (b) all Professional Fee Claims to the extent Allowed by Final Order under Bankruptcy Code § 330; (c) all fees and charges assessed against the Estate under 28 U.S.C. §§ 1911–1930; and (d) 503(b)(9) Claims.

2.4. Administrative Claims Bar Date. The date by which a request for payment of an Administrative Claim must be Filed. The first Business Day 30 days after the Effective Date.

2.5. Allowed. With respect to any Claim or Interest:

2.5.1 Allowed by Final Order, whether or not following an objection to its allowance, a motion to estimate for purposes of allowance, or a request to subordinate Filed within the applicable period fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court;

2.5.2 Proof of which, request for payment of which, or application for allowance of which was Filed **except** if an objection to the Allowance of the Claim or Interest has been Filed within the applicable period fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court;

[3] Bankruptcy Code § 1191(d) defines "disposable income" as the "income that is received by the debtor and that is not reasonably necessary to be expended … for the payment of expenditures necessary for the continuation, preservation, or operation of the business of the debtor."

2.5.3 Listed as undisputed, liquidated, and non-contingent in the Schedules and no objection to its Allowance, motion to estimate for purposes of Allowance, or request to subordinate has been Filed within the applicable period fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court;

2.5.4 Allowed by stipulation between the Debtor and the holder of the Claim; or

2.5.5 Allowed under the Plan.

2.6. Amended and Restated Charter. Collectively, the documents and agreements at **Exhibit C** (which may be Filed no later than ten days before the Confirmation Hearing), including an amended and restated articles of incorporation, amended and restated shareholder agreements, as necessary, and the MIP, under which the rights, priorities, and obligations of holders of the Debtor's capital stock, including the New Preferred Shares, are defined, superseding only the prior agreements they expressly amend and restate and otherwise leaving unchanged and in effect all other agreements and documents governing the rights, priorities, and obligations of the Debtor's shareholders as of the Petition Date.

2.7. Avoidance Actions. All statutory causes of action preserved for the Estates under Bankruptcy Code §§ 510, 542, 544–550, 553, and 724(a) or under similar local, state, federal, or foreign statutes and common law including those against all recipients of transfers identified in Part 2, Items 3 and 4 of the SOFA. Failure to specifically identify an Avoidance Action in the Plan does not waive or release that Avoidance Action.

2.8. Bäcker. Alex Bäcker, the individual identified in Section 1.2.4.

2.9. Bäcker Arbitration. The dispute between the Debtor and Bäcker regarding Bäcker's allegation (which the Debtor disputes in its entirety) that the Debtor owes him sums for unpaid pre-2016 compensation under his now-terminated employment agreement, severance, a "change of control bonus," additional bonuses, and consulting fees, which Bäcker submitted to arbitration in June 2022.

2.10. Bäcker Arbitration Claim. Claim #11 filed in the Case, in the amount of $3,500,765.32, related to and arising out of the disputes constituting the subject matter of the Bäcker Arbitration.

2.11. Ballot. The form distributed to each holder of an impaired Claim entitled to Vote on which the Holder indicates either acceptance or rejection of the Plan.

2.12. Bankruptcy Code. Title 11 of the United States Code.

2.13. Bankruptcy Court. The United States District Court for the District of Delaware and, to the extent of any reference under 28 U.S.C. § 157, the bankruptcy unit of the District Court under 28 U.S.C. § 151 (that is, the United States Bankruptcy Court for the District of Delaware).

2.14. Bankruptcy Rules. Collectively, the Federal Rules of Bankruptcy Procedure promulgated under 28 U.S.C. § 2075 and any local bankruptcy rules of the Bankruptcy Court applicable to the Case.

2.15. Bar Date. August 19, 2024, the date set by the Bankruptcy Court by which any Person other than a Governmental Unit (for which the date is December 16, 2024) asserting a Claim (other than an Administrative Claim, Professional Fee Claim, or Rejection Damages Claim) must File a proof of claim or be forever barred from asserting a Claim against the Debtor or its property and from sharing in Distributions, subject to further order of the Bankruptcy Court.

2.16. Benefit Plans. All benefit plans of any type that the Debtor provides to its employees, whether now in existence or previously terminated, and any rights of employees to extended coverage arising from any benefit plan, whether under the terms of that benefit plan or under applicable law.

2.17. Business Day. Any day, other than a Saturday, Sunday or "legal holiday" (as defined in Bankruptcy Rule 9006(a)).

2.18. Case. This bankruptcy case commenced on the Petition Date in the Bankruptcy Court by the Debtor under Subchapter V of Chapter 11 of the Bankruptcy Code.

2.19. Cash. United States currency, checks drawn on a U.S. bank insured by the Federal Deposit Insurance Corporation, certified checks, money orders, negotiable instruments, and wire transfers of immediately-available United States dollars.

2.20. Celtic Bank. Celtic Bank Corporation, the lender under the Celtic Bank Loan Documents and the holder of an Allowed Secured Claim.

2.21. Celtic Bank Loan Documents. Collectively, the *Business Loan Agreement* dated as of February 21, 2023 (together with all documents, instruments, and agreements executed in connection with that loan agreement) under which Celtic Bank advanced loans, secured by a first-priority Lien on substantially all the Debtor's assets, on a term basis.

2.22. Claim. Any "claim" against the Debtor as defined in Bankruptcy Code § 101(5)—i.e., (a) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, or (b) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

2.23. Claims and Noticing Agent. Kurtzman Carson Consultants, LLC, doing business as Verita Global, the Bankruptcy Court-appointed agent to perform noticing, claims administration, and Plan balloting services to the Bankruptcy Court and the Debtor with respect to this Case.

2.24. Class. A category consisting of holders of Claims substantially similar in nature to the Claims of other holders placed that category, as designated in Article 4.

2.25. Collateral. Any property or interest in property of the Estate subject to a Lien to secure the payment or performance of a Claim where the Lien is neither avoidable nor invalid under the Bankruptcy Code or applicable state law.

2.26. Confirmation. The Bankruptcy Court's entry of the Confirmation Order on the Case docket.

2.27. Confirmation Date. The date on which Confirmation occurs.

2.28. Confirmation Hearing. The evidentiary hearing at which the Bankruptcy Court considers Confirmation.

2.29. Confirmation Order. The Bankruptcy Court's order confirming the Plan under Bankruptcy Code § 1191. The Confirmation Order need not necessarily be a Final Order.

2.30. Consummation. The occurrence of the Effective Date.

2.31. Contingent Claim. Any Claim not Allowed on or before the Confirmation Date: (a) that has not accrued and depends on a future event that has not occurred and may never occur, or for which a proof of claim has been Filed not in a fixed amount; or (b) is listed on the Schedules as contingent.

2.32. Cure Amount. Any amounts, including zero, required by either statute or by agreement of the parties to cure any monetary defaults under any executory contract or unexpired lease assumed by the Debtor under Bankruptcy Code §§ 365 or 1123.

2.33. D&O Policy. Any directors and officers liability insurance policy or any applicable errors and omissions policy purchased by the Debtor.

2.34. Debtor. QLess, Inc., the debtor in this Case.

2.35. DIP Lender. Collectively, Palisades Growth Capital II, L.P. (as both lender and agent for all lenders), Antony T.F. Lundy, Brian J. McLoughlin Trust-2005 (U/D/T dated August 1, 2005), the Entrust Group FBO Brian J. McLoughlin Roth IRA 51-00756and Perry Trebatch, the lenders providing post-Petition Date debtor-in-possession loans to the Debtor under the Final DIP Order.

2.36. DIP Loan Claim. The Allowed Claim of the DIP Lender under the Final DIP Order as of the Confirmation Date, which the Plan assumes to be $3,300,000.

2.37. Disallowed. A Claim or Interest, or any portion of a Claim or Interest that: (a) has been disallowed or withdrawn by Final Order; or (b) was listed as disputed, unliquidated, or contingent in the Schedules and no proof of which was Filed before the applicable Bar Date.

2.38. Disputed. A Claim or Interest not yet Allowed.

2.39. Distribution. Any payment of Cash, property, or other value to a holder of an Allowed Claim under the Plan.

2.40. Distribution Date. A date under the Plan to make Distributions.

2.41. Effective Date. The first Business Day 15 days after the Confirmation Date, or any other date before or after to which the Debtor and the DIP Lender agree, on which (a) no stay of the

Confirmation Order is in effect and (b) all conditions to the Effective Date set forth in Section 9.2 of the Plan have been satisfied or waived in accordance with the Plan.

2.42. Estate. The Debtor's estate created under Bankruptcy Code § 541 and containing the Debtor's property under Bankruptcy Code §§ 541 and 1186(a).

2.43. Exculpated Parties. Collectively: (a) the Debtor and its Estate; (b) the Subchapter V Trustee; and (c) with respect to each entity in the preceding clauses (a) and (b), each of their respective officers and directors actually serving during the Case and Professionals, in each instance solely in that capacity.

2.44. File. Submit to the Bankruptcy Court (or, in the case of proofs of claim, the Claims and Noticing Agent) for entry on the Case docket, either through the Bankruptcy Court's ECF system or other permitted method.

2.45. Final DIP Order. The *Final Order (I) Authorizing And Approving Debtor To (A) Obtain Debtor In Possession Financing On A Junior Secured Basis And (B) Use Cash Collateral Of Pre-Petition Secured Lender And (II) Granting Related Relief,* entered on July 19, 2024, by the Bankruptcy Court in the Case.

2.46. Final Order. An order or judgment of the Bankruptcy Court: (a) as to which the time to appeal, petition for certiorari, or move for reargument or rehearing (collectively, an "**Appeal**") has expired without an Appeal being filed in the appropriate court, or as to which any right to Appeal has been waived in writing in form and substance satisfactory to the Debtor; and (b) if an Appeal has been filed in an appropriate court, as to which the highest court to which the order was Appealed has determined or denied the Appeal, and the time to take any further Appeal has expired; but the filing of a motion under Rule 59 or 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, with respect to the order does not prevent the order from being a Final Order.

2.47. General Unsecured Claim. Any Claim, including a Rejection Damages Claim but excluding a Secured Claim, an Administrative Claim, a Priority Tax Claim, a Priority Claim, or a Cure Amount.

2.48. GUC Fund. A Cash fund of $300,000.

2.49. Impaired. With respect to a Class of Claims, impaired within the meaning of Bankruptcy Code § 1124.

2.50. Insurance Policies. All insurance policies, insurance settlement agreements, coverage-in-place agreements, and other agreements, documents, or instruments relating to the provision of insurance entered into by or issued to or for the benefit of, the Debtor or its predecessors, including general liability policies, errors and omissions policies, any D&O Policy, and any policies pertaining to employees.

2.51. Interest. Any issued shares of capital stock of the Debtor, excluding Warrants.

2.52. IRS. The United States Internal Revenue Service.

2.53. Litigation Claims. All claims and causes of action in law or in equity, whether known or unknown, contingent or otherwise, that the Estate has brought or may have against any Person other than Avoidance Actions. Failure to specifically identify a Litigation Claim in the Plan does not waive or release that Litigation Claim.

2.54. MIP. The management incentive plan as may be amended in Exhibit C authorizing additional shares in the Reorganized Debtor, up to 10% of the outstanding common shares of the Reorganized Debtor, to the Reorganized Debtor's management personnel.

2.55. New Preferred Shares. Shares of senior preferred capital stock in the Debtor issued to the DIP Lender under the Plan as of the Effective Date, subject to the exemptions contained in Bankruptcy Code § 1145 and governed by the Amended and Restated Charter. The New Preferred Shares constitute 30% of the fully-diluted equity capital of the Debtor and otherwise are *pari passu* with the existing senior preferred shares issued by the Debtor before the Petition Date.

2.56. Non-Insured Indemnity Claim. A Claim arising under any obligation to indemnify any Person not covered by an applicable Insurance Policy. The Debtor estimates that all Non-Insured Indemnity Claims total approximately $50,000.

2.57. Palisades Claim. The Allowed General Unsecured Claim of Palisades Growth Capital II, L.P. in the amount of $250,000.

2.58. Petition Date. June 19, 2024, the date on which the Debtor Filed its petition for relief commencing the Case.

2.59. Priority Claim. Any Claim entitled to priority under Bankruptcy Code § 507(a) other than an Administrative Claim or a Priority Tax Claim.

2.60. Priority Tax Claim. Any Claim that is entitled to priority in payment under Bankruptcy Code § 507(a)(8) including, for purposes of the Plan, any Secured Claim that would otherwise meet the description of an unsecured Claim of a governmental unit but for the Secured status of that Claim.

2.61. Professional. A Person employed in the Case by a Final Order under Bankruptcy Code §§ 327 or 328 and compensated for services under Bankruptcy Code §§ 328 or 330 by a Final Order.

2.62. Professional Fee Bar Date. The first Business Day 30 days after the Effective Date.

2.63. Professional Fee Claim. An Administrative Claim for compensation and reimbursement of expenses of a Professional incurred before the Effective Date Filed in accordance with Bankruptcy Code §§ 328 or 330.

2.64. Projected Disposable Income. The amount of projected disposable income reflected on **Exhibit B** in an amount equaling $75,000.

2.65. Pro Rata. A proportionate share, such that the ratio of the consideration distributed on account of an Allowed Claim in a Class to the amount of that Allowed Claim is the same as the

ratio of all consideration distribution on account of all Allowed Claims in that Class to the amount of all Allowed Claims in that Class.

2.66. Record Date. The day that is seven days before the date the Bankruptcy Court sets as the deadline to Vote, which is the date for determining the holders of Claims for purposes of Voting and Distributions.

2.67. Rejection Damages Claim. A Claim arising from the Debtor's rejection of an executory contract or unexpired lease either during the Case or under the Plan other than a Claim for unpaid rent or contract payments arising under a rejected executory contract or unexpired lease after the Petition Date and before the effective date of the rejection of that contract or lease.

2.68. Rejection Claims Bar Date. The first Business Day 30 days after service of notice of the Confirmation Date's occurrence.

2.69. Related Person. A Person's successors and assignees, and each of their respective present, future, or former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, subsidiaries, divisions, management companies, heirs, agents, and other representatives, in each instance solely in that capacity.

2.70. Reorganized Debtor. The Debtor from and after the Effective Date.

2.71. Schedules. The schedules of assets and liabilities and the SOFA Filed by the Debtor under Bankruptcy Code § 521 and Bankruptcy Rule 1007, as they may have been or may be amended or supplemented.

2.72. Secured Claim. A Claim secured by a Lien (valid, perfected, and enforceable under applicable law or a Final Order) on property in which the Estate has an interest, or that is subject to a valid right of setoff under Bankruptcy Code § 553, to the extent of the value of the Claim-holder's interest in the Estate's interest in such property or to the extent of the amount subject to setoff, as applicable, as determined under Bankruptcy Code § 506(a), or as Allowed under the Plan as a Secured Claim.

2.73. Shareholder Lawsuit Claims. All claims against the Debtor arising out of the disputes constituting the subject matter of Shareholder Lawsuit, comprising the following Claims filed in the Case: (a) Claim #13 by Bäcker in an "unliquidated" amount; (b) Claim #18 by Cerocaru Investment Trust for $249,998.61; (c) Claim #17 by Xianzhong Chen for $13,331.96; (d) Claim #19 by Ricardo Bäcker for $24,983.57; and (e) Claim ##20 and 21 by Tom Mitchell and Thomas M. Mitchell Living Trust, each for $216,665.17.

2.74. Shareholder Lawsuit. The civil lawsuit commenced in December 2023 in the Delaware Chancery Court described in Section 1.2.4 above.

2.75. SOFA. The Statement of Financial Affairs Filed by the Debtor under Bankruptcy Code § 521 and Bankruptcy Rule 1007, as may have been or may be amended or supplemented.

2.76. Subchapter V Trustee. David Klauder, in his capacity as Court-appointed trustee under Bankruptcy Code § 1183.

2.77. Unimpaired. Not Impaired.

2.78. Vote. To timely and properly complete and submit a Ballot indicating an acceptance or rejection of the Plan.

2.79. Warrant. A warrant or option to purchase shares of capital stock in the Debtor existing on the Petition Date.

Article 3
UNCLASSIFIED CLAIMS

3.1. Unclassified Claims. Under Bankruptcy Code § 1123(a)(1), Administrative Claims and Priority Tax Claims are not classified for purposes of Voting on, or receiving Distributions under, the Plan. Holders of Administrative Claims and Priority Tax Claims are not entitled to Vote but are treated separately in accordance with Bankruptcy Code § 1129(a)(9)(A) and Sections 3.2 and 3.3 of the Plan.

3.2. Administrative Claims.

3.2.1 Generally. Each Allowed Administrative Claim (other than a Professional Fee Claim but including a 503(b)(9) Claim) is paid in full in Cash (or otherwise satisfied in accordance with its terms) on the latest of: (i) the Effective Date, or the first feasible date after that; (ii) any date the Bankruptcy Court may fix, or the first feasible date after that; (iii) 30 days after the Claim is Allowed; and (iv) any date on which the holder of the Claim and the Debtor agree.

3.2.2 Requests for Payment. All requests for payment of an Administrative Claim (other than a Professional Fee Claim, the DIP Loan Claim, or a claim under Bankruptcy Code § 503(b)(1)(B) or (C) but including a 503(b)(9) Claim) if not already Filed must be Filed no later than the Administrative Claims Bar Date. Failure to do so forever bars the holder of such an Administrative Claim from asserting its Administrative Claim against the Debtor.

3.2.3 Estimate. The Debtor believes that the only Administrative Claims are those associated with the Debtor's post-Petition Date operations, substantially all of which have been paid or will be paid in the ordinary course of business. The Debtor anticipates paying all statutory fees for the Subchapter V Trustee by the Confirmation Hearing.

3.3. Allowed Priority Tax Claims. Except as provided immediately below, each Allowed Priority Tax Claim is paid, in full satisfaction and discharge of that Allowed Priority Tax Claim, on the later of the Effective Date and 30 days after the Claim is Allowed, at the Debtor's election: (a) Cash equal to the amount of the Claim; (b) payment of the Claim under Bankruptcy Code § 1129(a)(9)(C) (but the Debtor may prepay any portion of the Claim at any time without premium or penalty); or (c) a less favorable treatment as agreed to in writing between the Debtor and Claim holder.

3.3.1 Secured Tax Claims. If any Allowed Priority Tax Claim is secured by a Lien on any property of the Estate under applicable non-bankruptcy law, the holder of that Claim retains the Lien it held as of the Petition Date securing the Claim until the Claim is paid in full. On satisfaction of the Secured Tax Claim, the Claim holder must release its Lien in accordance with applicable non-bankruptcy law.

3.3.2 Penalties. Any Claim on account of any penalty arising with respect to or in connection with an Allowed Priority Tax Claim that does not compensate the holder of such Claim for actual pecuniary loss constitutes a General Unsecured Claim, and the holder of such Claim may not assess or attempt to collect such penalty from the Estate or its property.

3.3.3 Estimate. The Debtor does not believe there exist any Priority Tax Claims.

3.4. Professional Fee Claims. Each Allowed Professional Fee Claim, to the extent not previously paid, is paid in Cash in full on the later of: (i) the Effective Date or the first feasible date after that; and (ii) 30 days after the Claim is Allowed or the first feasible date after that. All final applications for allowance of all Professional Fee Claims must be Filed no later than the Professional Fee Bar Date.

Article 4
CLAIM CLASSIFICATION AND TREATMENT

- **Classification.** Under Bankruptcy Code §§ 1122 and 1123, Claims are classified for the purposes of Voting and Distributions. A Claim is classified in a particular Class only if that Claim fits within the description of that Class. Except as otherwise specifically provided for in the Plan, the Confirmation Order, or any other Final Order, or unless required by applicable bankruptcy law, the aggregate value of all property received or retained under the Plan on account of an Allowed Claim may never exceed 100% of the underlying Allowed Claim.

- **Treatment.** Each holder of an Allowed Claim receives under the Plan the treatment described below in full and final satisfaction, settlement, and release of, and in exchange for, that Allowed Claim, except if the Debtor and the holder of that Allowed Claim agree to different treatment. Unless otherwise indicated, the Holder of an Allowed Claim begins receiving its treatment on the later of: (a) the Effective Date or the first feasible date after that; and (b) the date on which the applicable Claim becomes Allowed.

4.1. Class 1—Celtic Bank Secured Claim.

4.1.1 Classification. Class 1 contains the Allowed Secured Claim of Celtic Bank. Class 1 is Impaired. Celtic Bank may Vote.

4.1.2 Treatment. Any pre-Effective Date nonmonetary breaches under the Celtic Loan Documents are waived. Otherwise, the Debtor's obligations under the Celtic Loan Documents and Celtic Bank's Liens on the Debtor's assets existing as of the Effective Date remain unaffected by the Consummation of the Plan, except as to any nonmonetary covenants amended as set forth on **Exhibit E** and agreed to by Celtic Bank. Exhibit E will be Filed no later than three Business Days before the Confirmation Hearing to reflect covenant amendments to which Celtic Bank agrees.

4.1.3 Estimate. The Debtor estimates that the amount of the Celtic Bank Secured Claim, as of the Effective Date, is approximately $6,500,000.

4.2. Class 2—DIP Loan Claim.

4.2.1 Classification. Class 2 contains the DIP Loan Claim. Class 2 is Impaired. The DIP Lender may Vote.

4.2.2 Treatment. In full and final satisfaction of the DIP Loan Claim:

(a) if Class 4 Votes to accept the Plan, the DIP Lender receives the New Preferred Shares, which, when issued, will constitute 26% of all the Debtor's capital stock on a fully-diluted basis (including by all shares issued under the MIP) under the Amended and Restated Charter as of the Effective Date;

(b) if Class 4 Votes to reject the Plan, only $2,550,000 of the DIP Loan Claim is converted into New Preferred Shares such that the DIP Lender receives: (i) New Preferred Shares, which, when issued will constitute approximately 22% of all the Debtor's capital stock on a fully-diluted basis (including by all shares issued under the MIP) under the Amended and Restated Charter as of the Effective Date; and (ii) an Allowed Administrative Expense Claim of $750,000, accruing interest at the annual rate of 15%, with 4.5% of such annual amount payable in equal monthly installments of interest only, the remaining 10.5% of such annual amount being added to the principal in equal monthly amounts, and all principal and unpaid accrued interest due on the three-year anniversary of the Effective Date.

4.2.3 Estimate. The Debtor estimates that the amount of the DIP Loan Claim, as of the Effective Date, is approximately $3,300,000, including accrued and unpaid interest and fees.

4.3. Class 3—Priority Claims.

4.3.1 Classification. Class 3 contains all Priority Claims. Class 3 is Unimpaired. All holders of Allowed Priority Claims are deemed to accept the Plan under Bankruptcy Code § 1126(f) and do not Vote.

4.3.2 Treatment. Each holder of an Allowed Priority Claim receives, at the Debtor's option, either payment in full in Cash or any other treatment necessary to render that Claim Unimpaired.

4.3.3 Estimate. The Debtor estimates that there exist no unpaid Priority Claims as of the Effective Date.

4.4. Class 4—General Unsecured Claims.

4.4.1 Classification and Voting. Class 4 contains all General Unsecured Claims, including the Shareholder Lawsuit Claims, the Bäcker Arbitration Claim, all Non-Insured Indemnity Claims, and all Rejection Damages Claims. Class 4 is Impaired. Holders of Allowed Claims in Class 4 may Vote.

4.4.2 Treatment.

(a) If Class 4 Votes to **accept** the Plan, then (i) the Palisades Claim is waived, and (ii) on the Effective Date or the first feasible date after that, each other holders of an Allowed General Unsecured Claim in Class 4 receives, up to the full amount of its Claim, a Pro Rata portion of the GUC Fund.

(b) If Class 4 Votes to **reject** the Plan, then (i) the Palisades Claim is not waived, and (ii) on the Effective Date or the first feasible date after that, each holder of an Allowed General Unsecured Claim in Class 4 receives, up to the full amount of its Claim, a Pro Rata portion of the Projected Disposable Income.

4.4.3 Estimated Composition and Distributions. The Debtor believes that all Allowed Claims in Class 4 total approximately $738,000, comprising: (a) Claims of vendors and other general unsecured creditors of approximately $338,000 (which includes the approximately $50,000 in Non-Insured Indemnity Claims); (b) the Palisades Claim; and (c) Rejection Damages Claims of $150,000. The Bäcker Arbitration Claim and the Shareholder Lawsuit Claims are Disputed and the subject of objections the Debtor Filed seeking an order disallowing all those Claims in their entirety on the merits. (*See* Section 6.1.1 below.) The Debtor believes those Claims will be Disallowed on their merits. If any of the those Claims are Allowed, then the total Allowed Claims in Class 4 will increase significantly.

(a) If Class 4 Votes to **accept** the Plan and the Bäcker Arbitration Claim and the Shareholder Lawsuit Claims are Disallowed, the Debtor estimates that the Pro Rata Distribution of the GUC Fund to each holder of a Class 4 Claim will equal approximately 61.5% of the value of its Claim.

(b) If (i) Class 4 Votes to **reject** the Plan such that the DIP Lender receives an Allowed Administrative Claim of $750,000 and the Palisades Claim is not waived, and (ii) the Bäcker Arbitration Claim and the Shareholder Lawsuit Claims are Disallowed, the Debtor estimates that the Pro Rata Distribution of the Projected Disposable Income to each holder of a Class 4 Claim will equal approximately 10.2% of the value of its Claim.

4.5. Class 5—Interests.

4.5.1 Classification and Voting. Class 5 contains all holders of Interests as of the Voting Record Date. Class 5 is Impaired. Holders of Interests may Vote.

4.5.2 Treatment. On the Effective Date, in accordance with the Amended and Restated Charter, each holder of Interests retains all Interests held immediately before the Effective Date, diluted to the extent of the New Preferred Shares and the MIP.

4.6. Class 6—Warrants. This class only exists if the Bankruptcy Court determines that the Warrants do not constitute executory contracts under Bankruptcy Code § 365.

4.6.1 Conditional Classification. Only if the Bankruptcy Court determines that the Warrants do not constitute executory contracts under Bankruptcy Code § 365, Class 6 contains all holders of Warrants.

4.6.2 Treatment and Voting. As of the Effective Date, all Warrants are canceled in accordance with the Amended and Restated Charter. Holders of Warrants neither receive nor retain any property under the Plan on account of Warrants and are, therefore, deemed to reject the Plan without Voting under Bankruptcy Code § 1126(g).

Article 5
IMPLEMENTATION

5.1. Assets. On the Effective Date, without any further action by any party or additional order of the Bankruptcy Court other than the Confirmation Order:

5.1.1 all property of the Estate vests in the Reorganized Debtor free and clear of all Claims except as otherwise provided in the Plan;

5.1.2 all Avoidance Actions are waived;

(a) Attachment 3 to the SOFA (non-insiders) reflects a total of approximately $3.1 million in transfers to 32 different parties and Attachment 4 to the SOFA (insiders) reflects a total of approximately $1.3 million in transfers to four different parties (collectively, the "**Transfers**"). The Plan waives all Avoidance Actions, including any related to the Transfers.

(b) Sherwood Partners, the Debtor's financial advisor, and Sherwood's principal, Andrew De Camara, the Debtor's chief restructuring officer, worked closely with the Debtor to analyze all Transfers totaling more than $45,000 to a single transferee. There were a total of 10 transferees whose Transfers totaled more than $45,000, which were reviewed in detail. Sherwood and Mr. De Camara determined that none of the Transfers constitutes an avoidable preference because each Transfer was not made on account of an antecedent debt, made on account of a secured debt, or falls within the "ordinary course" defense of Bankruptcy Code § 547(c)(2) or another affirmative defense. Two Transfers made to certain of the Debtor's lawyers are arguably avoidable but Sherwood and Mr. De Camara believe that credible defenses (either or both of the ordinary course defense or the subsequent new value defense under Bankruptcy Code § 547(c)(2) and (4)) may exist with respect to those Transfers.

(c) With respect to Transfers of less than $45,000, Sherwood and Mr. De Camara performed a more limited review and determined that no viable Avoidance Actions existed with respect to those Transfers primarily because those Transfers constituted (i) ordinary course payments (such as, for example, ordinary-course, on-time payment of rent for the Debtor's office facilities in Pasadena, CA and Colorado), or (ii) small-amount transfers made to individuals residing outside the United States, making attempts to recover even potentially preferential Transfers infeasible, or (iii) reimbursement of employee expenses in the ordinary course of business.

(d) But even were certain Transfers avoidable (and feasible to recover following litigation over colorable defenses), the Debtor's liquidation analysis attached at Exhibit A demonstrates that no value achieved from avoiding and recovering those Transfers would ever filter down to any creditors beyond Celtic Bank. Accordingly, the liquidation analysis does not include any value for Avoidance Actions as an asset in a liquidation scenario.

5.1.3 the Reorganized Debtor retains all title and interest in all Litigation Claims and their proceeds, whether from insurance or from any other source and, under Bankruptcy Code §§ 1123(b)(3)(B), has full and exclusive authority as the Estate representative, without Bankruptcy Court approval, to prosecute Litigation Claims in any appropriate court or tribunal and, if the Reorganized Debtor deems it appropriate in its sole reasonable discretion, to compromise, settle, or waive any Litigation Claim;

5.1.4 all Litigation Claims are preserved for the sole benefit of the Reorganized Debtor (and their proceeds are preserved "for the benefit of the Estate" as contemplated in Bankruptcy Code § 550) and are neither waived nor released despite the Debtor's failure to specifically list any Litigation Claim in the Plan, and no preclusion doctrine such as collateral estopped, issue preclusion, res judicata, claim preclusion, judicial or equitable estoppel, or laches applies to any Litigation Claim on account of Confirmation.

5.2. No Corporate Action Required. On the Effective Date, automatically and without further action by any party or further order of the Bankruptcy Court:

5.2.1 the adoption, execution, delivery, and implementation of all documents and agreements related to or contemplated by the Plan, including all documents and agreements in Exhibit C, and all other matters provided for in furtherance of the Plan involving action required of the Debtor are deemed to have occurred, are effective, binding, and enforceable in accordance with their respective terms, and are deemed authorized and approved in all respects;

5.2.2 the Reorganized Debtor is authorized to execute on the Debtor's behalf any documents or instruments after the Effective Date reasonably necessary to consummate the Plan.

5.3. Release of Liens. On the Effective Date, except as otherwise provided in the Plan or in any contract, instrument, or other agreement created in connection with the Plan, all Liens against any property of the Estate are released such that all rights, title, and interests of any holder of such Liens vest in the Reorganized Debtor. Without limiting the breadth of the foregoing sentence: (a) the Liens in favor of Celtic Bank existing on the Effective Date remain valid and enforceable; and (b) any Liens granted in the Final DIP Order in favor of the DIP Lender are released.

5.4. Retention of Professionals. From and after the Effective Date, the Reorganized Debtor may retain professionals (including disbursing and transfer agents and legal counsel) as the Reorganized Debtor deems appropriate and may compensate those professionals on terms reasonably acceptable to the Reorganized Debtor without the Bankruptcy Court's approval.

Article 6
DETERMINATION OF CLAIMS

6.1. Claim Objections.

6.1.1 Pre-Confirmation Objections.

(a) On August 20, 2024, the Debtor filed its *Debtor's Objection to Proofs of Claim 11 and 13 Filed by Alex Backer,* which remains pending as of the Filing of this Plan and seeks an order Disallowing Claim #11 (the Bäcker Arbitration Claim) and Claim #13 (Bäcker's

Shareholder Lawsuit Claim). Claim #11 is without merit, since it is based on amounts that have already been paid to Bäcker (including deferred compensation, a change-of-control bonus, severance, and reimbursement of credit card expenses), amount to which he was never entitled under applicable agreements and law (including attorney fees and consulting fees), agreements that do not exist and never existed (such as a purported "2019 Bonus Agreement" and a purported "consulting agreement"), and events Bäcker has fabricated that never occurred. Claim #13, in which Bäcker asserts claims raised by him in the Shareholder Litigation, is also deficient. The only claim in the Shareholder Litigation against the Debtor is Count Four, in which the preferred shareholder plaintiffs seek certain merger consideration. Bäcker was not a holder of the Debtor's preferred shares and thus does not have a valid claim against the Debtor.

(b) On August 20, 2024, the Debtor filed an omnibus objection to the other Shareholder Litigation Claims, which remains pending as of the Filing of this Plan and seeks an order Disallowing those Claims on the merits. Each of the Shareholder Litigation Claims other than Claim #13 seeks the payment of Preferred Share Redemption Amounts, but the Debtor has never been obligated to remit Preferred Share Redemption Amounts to any of those claimants because none of them ever took the actions required under the 2021 merger agreements that were conditions precedent to their entitlement to Preferred Share Redemption Amounts. These claimants have failed to satisfy these conditions for nearly three years and, therefore, their Shareholder Litigation Claims must fail under applicable non-bankruptcy law.

6.1.2 Authority. From and after the Confirmation Date, and except for any Claim Allowed before the Effective Date, only the Reorganized Debtor may object to the allowance, seek the subordination, or seek estimation of any Claim on any ground permitted by the Bankruptcy Code.

6.1.3 Deadlines. All objections to, and all motions to subordinate or estimate, any Claim must be brought by Filing the appropriate pleading before the first Business Day that is 120 days after the Effective Date, but the Bankruptcy Court may approve a later date on a motion Filed (but not necessarily heard) before that date, notice of which must be provided to (a) the holders of all Claims subject to the objection or other pleading, (b) any other entities whose rights are affected by the objection or other pleading, and (c) the Post-Effective Date Limited Notice List described in Section 11.6.

6.1.4 Omnibus Objections. Notwithstanding Bankruptcy Rule 3007(c), the Reorganized Debtor may File omnibus objections to Claims.

6.2. Contingent Claims. Until a Contingent Claim is either Allowed or Disallowed, the Claim is treated as a Disputed Claim for all purposes under the Plan. Any Contingent Claim for reimbursement or contribution held by a person that may be liable with a Debtor on a Claim is Disallowed as of the Effective Date if: (a) that Claim is Disallowed; (b) the Contingent Claim remains contingent as of the Effective Date; or (c) that person asserts a right of subrogation under Bankruptcy Code § 509. This Section 6.2 does not apply to indemnification obligations.

Article 7
DISTRIBUTIONS

7.1. Record Date. Neither the Debtor nor the Reorganized Debtor has any obligation to recognize any ownership transfer of any Claim occurring after the Record Date.

7.2. No Interest. Except with respect to Allowed Claims of the DIP Lender and Celtic Bank, Distributions made after the Effective Date are deemed to have been made on the Effective Date such that no interest accrues or is payable with respect to any Claim or any Distribution related to a Claim. No interest on any Unsecured Claim accrues or is payable from and after the Petition Date.

7.3. Settlement of Disputed Claims. Objections to Claims may be litigated to judgment or withdrawn and may be settled with the approval of the Bankruptcy Court, except if such approval is not necessary as provided in this section. After the Effective Date, and subject to the Plan, the Reorganized Debtor may settle any Disputed Claim where the asserted amount of the Disputed Claim is $100,000 or less, without providing any notice to any party-in-interest or obtaining an order from the Bankruptcy Court. All proposed settlements of Disputed Claims asserted in an amount exceeding $100,000 are subject to the Bankruptcy Court's approval under the following procedure: (a) the Reorganized Debtor must give notice of the proposed settlement to the Post-Effective Date Limited Notice List and all entities whose rights are affected by the proposed settlement; (b) parties-in-interest with adequate standing have 21 days to File objections to the proposed settlement; (c) if no objections are timely Filed, the Reorganized Debtor may consummate the settlement without further order of the Bankruptcy Court or may, at the Reorganized Debtor's election, request entry of an order approving the proposed settlement by Filing a proposed order under a counsel certificate of no objection with no further notice to any party; and (d) if objections are timely Filed, the Reorganized Debtor must notice the proposed settlement for hearing on at least seven days' notice.

7.4. Tax Matters.

7.4.1 Compliance with Tax Requirements. The Debtor and the Reorganized Debtor must comply with all tax withholding and reporting requirements imposed by any Governmental Unit with respect to all Distributions and must comply with any applicable garnishments, domestic support obligations, Liens, and encumbrances when making Distributions.

7.4.2 Form W-9. As a condition to receiving any Distribution under the Plan, each holder of an Allowed Claim entitled to a Distribution must, if the Reorganized Debtor requests it, provide an executed IRS Form W-9. Any holder of an Allowed Claim that fails to do so within 75 days of such a request forfeits all rights to all Distributions.

7.5. Delivery of Distributions. The Reorganized Debtor makes all Distributions under the Plan. Unless a holder of an Allowed Claim and the Reorganized Debtor otherwise agree, all Distributions are made by check drawn on a domestic bank or by wire transfer from a domestic bank. Distributions will be made: (a) to the address set forth on the holder's proof of claim, the Schedules, or, in the absence of either, the holder's last known address; or (b) to the address set forth in any written notice of address change delivered to the Reorganized Debtor or its counsel.

7.6. Undeliverable Distributions. If any Distribution is returned as undeliverable, the Reorganized Debtor must use commercially reasonable efforts to determine the intended recipient's then-current address but has no affirmative obligation to locate that address. Claims held by a recipient whose current address the Reorganized Debtor fails to locate after commercially reasonable efforts and who fails to notify the Reorganized Debtor of its correct address within 90 days after the Distributions are returned as undeliverable will be expunged, after which all unclaimed property reverts to the Reorganized Debtor.

7.7. De Minimis Distributions. No Distribution of less than $10 will be made. Any Distribution less than $10 will be held until a date on which the Distribution exceeds $10. At the time of any final Distribution, no Distribution of less than $10 will be made and any such Distribution revests in the Reorganized Debtor. All Distribution amounts are rounded to the nearest whole cent.

7.8. Setoffs. Except with respect to Claims satisfied, settled, and released under the Plan or any contract, instrument, release, or other document entered into or delivered in connection with the Plan, the Reorganized Debtor may, under Bankruptcy Code § 553 or applicable non-bankruptcy law, set off against any Claim (and the Distributions to be made on account of such Claim) any counterclaims or causes of action the Debtor has against the holder of such Claim, but the failure to so set off does not waive or release any such counterclaims or causes of action. The Reorganized Debtor must notify the affected holder of such Claim of any setoff and that holder may challenge the setoff in the Bankruptcy Court or any other court possessing jurisdiction.

Article 8
EXECUTORY CONTRACTS

8.1. Assumption. The executory contracts and unexpired leases (including all Insurance Policies) appearing on the list of Assumed Contracts at Exhibit D-1 are assumed as of the Effective Date. At any time no later than 14 days before the Confirmation Date, the Debtor may amend Exhibit D-1 to add or remove a contract or lease. Except as otherwise provided in the Plan or agreed between the Debtor and the applicable counterparty, each assumed executory contract or unexpired lease includes all related amendments or restatements. Any such amendments or restatements executed by the Debtor during the Case does not alter the prepetition nature of the contract or lease or the validity, priority, or amount of any Claims that may arise in connection with the contract or lease. No change of control (or similar provision) occurs under any such executory contract or unexpired lease.

8.1.1 Motion to Assume. The Plan constitutes the Debtor's motion under Bankruptcy Code § 365 to assume the contracts and leases listed as Assumed Contracts on Exhibit D-1 and the Debtor's assertion that: (a) the Debtor has provided each counterparty to each of the contracts and leases with "adequate assurance of future performance," as that term is defined in Bankruptcy Code § 365; and (b) either (i) no defaults required to be cured under Bankruptcy Code § 365(b)(3) exist as of the Confirmation Date, or (ii) any defaults required to be cured under Bankruptcy Code § 365(b)(3) exist as of the Confirmation Date will receive payment in full of the Cure no later than the Effective Date in accordance with this Plan. If the Effective Date occurs, the Confirmation Order constitutes the Bankruptcy Court's approval under Bankruptcy Code § 365 of the rejection of the executory contracts and unexpired leases under the Plan.

8.1.2 Cure. Any Cure amount with respect to the assumption of any executory contract or unexpired lease on Exhibit D-1 will be paid on the Effective Date. Exhibit D-1 sets forth the proposed Cure amount with respect to each contract or lease reflected on Exhibit D-1. Any counterparty to a contract or lease listed on Exhibit D that disputes either its proposed Cure amount or that the Debtor has not provided "adequate assurance of future performance" within the meaning of Bankruptcy Code § 365 must File an objection to the assumption of that contract or lease by no later than the deadline to file objections to Confirmation for consideration by the Bankruptcy Court at the Confirmation Hearing and may seek additional amounts on account of any defaults occurring between the Confirmation objection deadline and the Effective Date. Any such objecting counterparty may settle any such dispute with the Debtor and seek incorporation of that settlement in the Confirmation Order or otherwise announce that settlement on the record of the Confirmation Hearing.

8.1.3 Satisfaction. Payment of the approved Cure amount (or no payment if the approved Cure amount is zero) satisfies and releases any Claims or defaults, whether monetary or nonmonetary, arising under any assumed executory contract or unexpired lease at any time before the Effective Date.

8.2. Rejection.

8.2.1 Motion to Reject. The executory contracts and unexpired leases appearing on the list of Rejected Contracts at Exhibit D-2 as well as any executory contract or unexpired lease not appearing on either Exhibit D-1 or Exhibit D-2 (and not already assumed or rejected by Bankruptcy Court order before the Confirmation Date) are rejected as of the Effective Date. The Plan constitutes the Debtor's motion under Bankruptcy Code § 365 to reject the contracts and leases listed on Exhibit D-2 as Rejected Contracts (and all contracts and leases not appearing on either Exhibit D1 or Exhibit D-2) and the Debtor's assertion that all such contracts and leases are burdensome to the Estate and the Reorganized Debtor and that, in the Debtor's reasonable business judgment, it is in the best interests of the Estate to reject them. If the Effective Date occurs, the Confirmation Order constitutes the Bankruptcy Court's approval under Bankruptcy Code § 365 of the rejection of the executory contracts and unexpired leases under the Plan.

8.2.2 Rejection Damages Claims. The Debtor must serve, within three Business Days of the Confirmation Date, notice of the Confirmation Date's occurrence and the Rejection Damages Claims Bar Date on all counter-parties to all Rejected Contracts. All Rejection Damages Claims must be filed by the Rejection Damages Claims Bar Date. Any Rejection Damages Claim not filed by the Rejection Damages Claims Bar Date is forever barred. All Rejection Damages Claims are General Unsecured Claims under the Plan. With respect to any executory contract or unexpired lease rejected before the Confirmation Date, the deadline for filing a Rejection Damages Claim remains the deadline set in the Bankruptcy Court order authorizing that rejection.

8.2.3 Warrants. All Warrants constitute executory contracts and are rejected as of the Confirmation Date. All Allowed Rejection Damages Claims arising from the rejection of Warrants are subordinated beneath the level of all Claims under the Plan in accordance with Bankruptcy Code § 510(b).

8.3. Preservation of D&O Policies. Nothing contained in the Plan affects: (a) the rights of any Person covered by any applicable D&O Policy with respect to any such policy; or (b) any non-Debtor Person's obligations, including any contractual and indemnification obligations, to the Debtor, the Reorganized Debtor, or any other Person whether arising under contract, statute, or otherwise.

Article 9
CONDITIONS

9.1. Conditions to Confirmation. The Confirmation Date does not occur unless and until: (a) the Bankruptcy Court enters the Confirmation Order in form and substance reasonably acceptable to the Debtor and the DIP Lender; and (b) the Confirmation Order is not subject to any stay.

9.2. Conditions to Effective Date. The Effective Date occurs when:

9.2.1 The Confirmation Date has occurred;

9.2.2 Sufficient Cash exists to make all payments required under the Plan to be made on the Effective Date; and

9.2.3 All instruments and agreements to be issued, executed, delivered, or Filed under the Plan, including the Amended and Restated Charter, are issued, executed, delivered, or Filed and are effective.

9.3. Waiver of Conditions. The Debtor may at any time, without notice to or authorization of the Bankruptcy Court but with the DIP Lender's approval, waive the condition set forth in subsection 9.2.3. The Debtor may assert its failure to satisfy or waive that condition regardless of the circumstances causing the failure.

9.4. Notice of Effective Date. Within three Business Days after the Effective Date occurs, the Reorganized Debtor must File a notice of the occurrence and date of the Effective Date.

Article 10
EFFECTS OF CONFIRMATION

10.1. Injunction.

10.1.1 Generally. Without limiting the maximum effect of Bankruptcy Code § 1141(c), and except as otherwise provided in the Plan or the Confirmation Order, from and after the Effective Date, all entities who have ever held or will ever hold any Claims are permanently enjoined from: (i) commencing or continuing in any manner any action or other proceeding against any property dealt with by the Plan; (ii) enforcing, attaching, collecting or otherwise recovering in any way any judgment, award, decree or order against property dealt with by the Plan; (iii) creating, perfecting, or enforcing any Lien or encumbrance against any property dealt with by the Plan; (iv) commencing or continuing any action that does not comply with or is inconsistent with the Plan or the Bankruptcy Code; (v) taking any action to interfere with the implementation or consummation of the Plan.

10.1.2 Limited Scope. Nothing in this Plan: (i) extinguishes, prohibits, or otherwise limits the right of any holder of a Claim to assert a right to setoff or recoupment arising in connection with that Claim as part of the resolution and treatment of that Claim under the Plan; (ii) enjoins or otherwise precludes any party-in-interest with adequate standing from enforcing the Plan or the Confirmation Order; or (iii) affects in any way the prosecution of the Shareholder Litigation against any defendant other than the Debtor.

10.2. Exculpation. No Exculpated Party has any liability to any holder of a Claim for any act or omission arising on or after the Petition Date through the Effective Date in connection with, related to, or arising out of, the Case, the Plan, the pursuit of Confirmation, the consummation of the Plan, or the administration of the Plan or the property distributed or otherwise dealt with under the Plan except for any act or omission found by a Final Order to constitute a crime, actual fraud, willful misconduct, or gross negligence. In all respects, the Exculpated Parties are entitled to rely on the advice of counsel with respect to their duties and responsibilities under the Plan. The Exculpated Parties have participated in good faith and in compliance with applicable laws pertaining to the solicitation of Votes on, and Distributions under, the Plan and, therefore, are not liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of Ballots or governing Distributions. The provisions of this section add to and do not limit any other release, indemnification, exculpation, and any other applicable law, rule, or regulation protecting Exculpated Parties from liability. The provisions of this section may not be construed to exculpate any Person from its post-Effective Date obligations under the Plan or any document, instrument, or agreement executed in connection with the Plan or to implement the Plan.

10.3. Discharge. To the fullest extent provided under Bankruptcy Code §§ 1141(d)(1)(A) and 1192, except as otherwise expressly provided in this Plan or the Confirmation Order, all Distributions are in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Interests against the Debtor or any of its property, regardless of whether any property has been distributed or retained under this Plan on account of a Claim or Interest.

10.4. Retention of Jurisdiction. Despite the entry the Confirmation Order's entry and the Effective Date occurring, the Bankruptcy Court retains as much jurisdiction over the Case after the Effective Date as legally permissible, including jurisdiction to:

(a) Allow, disallow, determine, liquidate, classify, estimate, or establish the amount, priority, or secured or unsecured status of any Claim, and resolve any request for payment of any Administrative Claim or Professional Fee Claim and any objection to the Allowance or priority of any Claim;

(b) Grant or deny any applications for allowance of compensation or reimbursement of expenses authorized under the Bankruptcy Code or the Plan;

(c) Resolve any matters related to the assumption or rejection of any executory contract or unexpired lease to which the Debtor was a party and to hear, determine and, if necessary, liquidate any Claims arising from such rejection;

(d) Decide or resolve any motions, adversary proceedings, contested matters, and any other matters and grant or deny any applications or motions involving the Debtor or Reorganized Debtor that may be pending on the Effective Date or Filed after the Effective Date;

(e) Enter any necessary or appropriate orders to implement or consummate the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan;

(f) Hear and determine any motion or application to modify the Plan before or after the Effective Date under Bankruptcy Code § 1193 or modify any contract, instrument, release, or other agreement or document issued, entered into, Filed, or delivered in connection with the Plan;

(g) Hear and determine any motion or application to remedy any defect or omission or reconcile any inconsistency in any Bankruptcy Court order, the Plan, or any contract, instrument, release, or other agreement or document issued, entered into, Filed or delivered in connection with the Plan, in such manner as may be necessary or appropriate to consummate the Plan;

(h) Issue injunctions, enter and implement other orders, or take any other necessary or appropriate actions to prevent any entity's interference with consummation or enforcement of the Plan;

(i) Enter and implement any necessary or appropriate orders if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

(j) Determine any other matters that may arise in connection with or related to the Plan, the Confirmation Order, or any contract, instrument, exculpation, release, or other agreement or document issued, entered into, Filed, or delivered in connection with the Plan or the Confirmation Order;

(k) Adjudicate Disputed Claims;

(l) Determine matters concerning state, local, and federal taxes under Bankruptcy Code §§ 346, 505, and 1146, including any Disputed Claims for taxes;

(m) Assist in recovering any asset of the Estate, wherever located;

(n) Issue a final decree and enter an order closing the Case.

Article 11
MISCELLANEOUS

11.1. Modification of the Plan. The Debtor may modify the Plan at any time before entry of the Confirmation Order under Bankruptcy Code § 1193(a). The Bankruptcy Court may require a re-voting on the modified Plan in accordance with applicable provisions of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure. After entry of the Confirmation Order, the Debtor may modify the Plan only under Bankruptcy Code § 1193(b) or (c).

11.2. Withdrawal or Revocation of the Plan. The Debtor reserves the right to revoke or withdraw the Plan before the Effective Date. The Plan is void if revoked or withdrawn.

11.3. Satisfaction of Claims. The treatment of and consideration to be received by holders of Allowed Claims under the Plan fully satisfy, settle, and release those Allowed Claims.

11.4. Governing Law. Except if the Bankruptcy Code or other federal law applies to any document entered into in connection with the Plan, the rights and duties of any Person arising under the Plan are governed by, and construed and enforced in accordance with, the internal laws of the State of Delaware without regard for Delaware's choice of law provisions.

11.5. Notices. Any notice required or permitted to be provided under the Plan must be in writing and served by certified return-receipt-requested U.S. mail, hand delivery, overnight courier, or read-receipt-enabled email. Any such notices to the Debtor or the Reorganized Debtor should be addressed thus:

James Harvey, CEO QLess, Inc. 21 Miller Alley, Suite 210 Pasadena, CA 91105 james.harvey@qless.com	copying:	Jeffrey Pomerantz, Esq. (jpomerantz@pszjlaw.com) Jordan Kroop, Esq. (jkroop@pszjlaw.com) James O'Neill, Esq. (joneill@pszjlaw.com) Pachulski Stang Ziehl & Jones LLP 919 North Market Street, 17th Floor Wilmington, DE 19801

If personally delivered or sent by overnight courier, notice is deemed delivered on actual receipt. If emailed, notice is deemed delivered on the noticing party's receipt of the read-receipt. If sent by U.S. mail, notice is deemed delivered as of the date of delivery indicated on the receipt issued by the postal service or, if the addressee fails or refuses to accept delivery, as of the date of that failure or refusal. Any party may change its address for the purposes of the Plan by Filing notice of the change.

11.6. Post-Effective Date Notice. As of the Effective Date, only those on the Post-Effective Date Limited Notice List will be given notices of certain matters under the Plan, together with all entities whose rights are implicated in those matters. Any Person desiring to be included in the Post-Effective Date Limited Notice List must File a request to be included on the Post-Effective Date Limited Notice List and include its name, contact person, address, telephone number, and e-mail address within 30 days after the Effective Date. On or before 60 days after Reorganized Debtor Files notice of the Effective Date, which must advise all parties of the requirement to File a request under this section, the Reorganized Debtor must File the compiled Post-Effective Date Limited Notice List. The U.S. Trustee and Celtic Bank must be automatically included on the Post-Effective Date Limited Notice List and need not file a request.

11.7. Severability. If the Bankruptcy Court or any appellate court finds the Plan or any provision of the Plan to be invalid or unenforceable, the Bankruptcy Court, at the Reorganized Debtor's request, may alter and interpret the Plan or any such provision to make it valid or enforceable to the maximum extent feasible, consistent with the original purpose of the provision held to be invalid or unenforceable, and that provision then becomes applicable as altered or interpreted. The Confirmation Order constitutes a judicial determination and provides that each term and provision

of the Plan, as it may have been altered or interpreted in accordance with the foregoing sentence, is valid and enforceable.

11.8. Headings. The headings used in the Plan are inserted for convenience only and neither constitutes a portion of the Plan nor affect the Plan's provisions.

11.9. Substantial Consummation. Once the Effective Date has occurred and any payments under the Plan to any holder of a Claim have commenced, the Plan is substantially consummated within the meaning of Bankruptcy Code §§ 1101(2).

11.10. Termination of Subchapter V Trustee's Services. Under Bankruptcy Code § 1183(c)(1), the Subchapter V Trustee's services are terminated when substantial consummation under Section 11.9 has occurred.

11.11. Final Decree. The Reorganized Debtor may seek and obtain a final decree from the Bankruptcy Court as soon as feasible after any payments under the Plan have commenced. Notice of application for a final decree must be given in accordance with Local Rule 3022-1.

August 21, 2024

Respectfully submitted,

QLess, Inc., Debtor

By: *__/s/ James Harvey__*
James Harvey
Chief Executive Officer

Exhibit A

Liquidation Analysis

EXHIBIT A

As of September 13, 2024

ESTIMATED LIQUIDATION PROCEEDS AVAILABLE FOR DISTRIBUTION ($000s)

	Notes	Estimated Book Value (1)	% of Book Value (1) Low	% of Book Value (1) High	Liquidation Value Low	Liquidation Value High
Assets:						
Cash & Cash Equivalents	(2)	$163	100%	100%	$163	$163
Accounts Receivable	(3)	$1,469	0%	5%	$0	$73
Prepaids	(4)	$227	0%	25%	$0	$57
Office Furniture, Fixtures & Equipment	(5)	$95	5%	10%	$5	$9
Capitalized Software (incl. Patents)	(6)	$4,079	0%	15%	$0	$612
Other Assets					$0	$0
Rights of Use Lease Asset	(7)	$197	0%	0%	$0	$0
Security Deposits	(8)	$9	0%	0%	$0	$0
Estimated Liquidation Proceeds					**$168**	**$915**
Estimated Administrative Expenses	(9)					
Chapter 7 Trustee Fees	(10)				($12)	($49)
Chapter 7 Trustee Legal Fees	(10)				($50)	($150)
Subtotal Chapter 7 Trustee					($62)	($199)
Chapter 11 Professionals						
Chapter 11 CRO/Sherwood Partners	(11)				$0	$0
Chapter 11 Counsel (PSZJ)	(11)				$0	$0
Subchapter V Trustee	(11)				$0	$0
Claims & Noticing Agent (Verita)	(11)				$0	$0
Subtotal Chapter 11 Professionals					$0	$0
Net Available to Creditors					**$106**	**$716**
Secured Debt						
Celtic Bank (1st lien) - Principal + PIK	(12)	$6,396	2%	11%	($106)	($716)
Celtic Bank (1st lien) - Expenses & Fees	(12)	$50	0%	0%	$0	$0
DIP Lender (2nd lien) - Principal	(13)	$3,000	0%	0%	$0	$0
DIP Lender (2nd lien) - Expenses & Fees	(13)	$0	0%	0%	$0	$0
Total Secured Debt		**$9,446**				
Net Available to Priority and Unsecured Claims					**$0**	**$0**
Total Priority Unsecured Claims	(14)	**$36**	0%	0%	**$0**	**$0**
Net Available to General Unsecured Claims					**$0**	**$0**
Total General Unsecured Claims	(15)	**$690**	0%	0%	**$0**	**$0**
Net Available to Equity Claims	(16)				**$0**	**$0**

Please refer to the Disclaimer and Footnotes for additional details which are a material part of this analysis.

QLess, Inc. (the "Debtor")
Liquidation Analysis – (September 13, 2024)
Disclaimer & Footnotes

Disclaimer: THE DEBTOR DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING THE ACCURACY OF THE ESTIMATES AND ASSUMPTIONS BELOW (WHICH RELY UPON LIMITED UNAUDITED FINANCIAL INFORMATION OF THE DEBTOR AND ESTIMATES OF MARKET CONDITIONS) OR THE ABILITY TO ACHIEVE SUCH RESULTS. IN THE EVENT THAT THIS CHAPTER 11 CASE IS CONVERTED TO A CHAPTER 7 LIQUIDATION, THE ACTUAL RESULTS COULD VARY MATERIALLY FROM THE ESTIMATES AND PROJECTIONS SET FORTH IN THIS LIQUIDATION ANALYSIS.

General Assumptions

The Liquidation Analysis assumes that the Debtor ceases operations on September 13, 2024, and its assets are liquidated in accordance with chapter 7 of the Bankruptcy Code.

The Liquidation Analysis utilizes the Debtor's unaudited financial statements as of Petition Date (June 19, 2024), DIP Initial Budget which included a 13-week cash forecast through September 13, 2024, and other figures estimated by management.

It is assumed that all assets are liquidated in exchange for cash or cash equivalents.

Footnotes:

1. Estimated Book Value and % of Book Value: Estimated Book Value is based upon unaudited financials as of Petition Date, adjusted to estimated date of Liquidation as available and practical.

2. Cash & Cash Equivalents: This amount equals the projected cash balance as of September 13, 2024, based upon forecasted post-petition cash flow as outlined in the DIP Initial Budget. The Debtor's cash is held in bank accounts and is assumed to be fully recoverable. For purposes of the Liquidation Analysis, it is assumed that the Debtor would recover 100% of Estimated Book Value at both the Low range and High range.

3. Accounts Receivable: The amount equals the forecasted Accounts Receivable balance as of September 13, 2024, based upon the assumed revenue bookings and cash collections in the DIP Initial Budget. Debtor expects that existing Accounts Receivable balance is uncollectible due to the nature of its customer relationships and agreements. For substantially all of its customers, Debtor signs customers to contracts under which customers pay for up to 12 months of service in advance. Therefore, if the Debtor ceases operations and no longer provides services to its customers, it would not expect to have any meaningful collections on its Accounts Receivable balance since payment is predicated upon future service not provided. For purposes of the Liquidation Analysis, it is assumed that the Debtor would recover 0% of Estimated Book Value at the Low range and 5% at the High range.

4. Prepaid Expenses: The Estimated Book Value represents deposits and retainers for future services, prepaid insurance and prepayments to software vendors. It is likely that a significant portion of the prepaids would be consumed during the liquidation process. For purposes of the Liquidation Analysis, it is assumed that Debtor would recover 0% of Estimated Book Value at the Low range and 25% at the High range.

5. Office Furniture, Fixtures & Equipment (Office FF&E): Based upon Debtor's review and assessment, the remaining Office FF&E would have little liquidation value. For purposes of the Liquidation Analysis, it is assumed that Debtor would recover 5% of Estimated Book Value at the Low range and 10% at the High range.

6. Capitalized Software: The Estimated Book Value represents the net capitalized costs incurred by the Debtor in developing its proprietary software along with its other intangible intellectual property including a single patent (granted in 3 different countries), 8 active registered trademarks, and 35 owned internet domain names. It is the experience and guidance of Debtor's financial advisor, Sherwood Partners, that asset sale processes in situations where intellectual property is being sold without any existing operations (e.g. customers or established infrastructure) or knowledge base (i.e. employees with technical know-how and experience) usually result in little to no recovered value. For purposes of the Liquidation Analysis, it is assumed that Debtor would recover 0% of Estimated Book Value at the Low range and 15% at the High range.

7. Rights of Use Lease Asset: The Estimated Book Value represents an intangible capital asset booked for accounting purposes as a value for the lessee's right to use a leased asset for the duration of the lease term (in Debtor's case, the leased asset is office space). As a practical matter, there is no realizable net proceeds from these types of assets due to non-performance of rent payments in Chapter 7 scenario and a rejection of all leases. For purposes of the Liquidation Analysis, it is assumed that Debtor would recover 0% of Estimated Book Value at both the Low range and High range.

8. Security Deposits: The Estimated Book Value represents a security deposit held by Landlord of office space leased to Debtor. In situations where a company shuts down its operations, it would be expected that the Landlord would assess some level of costs to be deducted and withheld from any refund of security deposit. For purposes of the Liquidation Analysis, it is assumed that the Debtor would recover 0% of Estimated Book Value at both the Low range and the High range due to rejection of all leases and Landlords offsetting rent owing against security deposits.

9. Estimated Administrative Claims: For purposes of this Liquidation Analysis, it is assumed that all other budgeted amounts for non-Trustee/professional Administrative Claims will be paid out of budgeted reserves before the date of liquidation.

10. Chapter 7 Trustee Fees and Chapter 7 Trustee Legal Fees: The projected amount for Chapter 7 Trustee Fees is based upon the compensation schedule for Bankruptcy Code § 326 applied to the Low and High range for Estimated Liquidation Proceeds and the Chapter 7 Trustee Legal Fees are an estimate.

11. Chapter 11 Professional Fees for CRO/Sherwood, Counsel (Pachulski Stang Ziehl & Jones LLP or "PSZJ"), Subchapter V Trustee, and Claims & Noticing Agent (Verita): It is assumed that no additional administrative claims for Chapter 11 professional fees and expenses beyond the reserves funded under the DIP Budget would arise in a liquidation scenario.

12. Celtic Bank (1st Lien) Principal + PIK, Expenses and Fees: Celtic Bank provided a pre-petition secured loan which, at Petition Date, had $6.25 million in outstanding principal and approximately $146,000 in accrued PIK interest. Per the terms of the DIP/Cash Collateral Motion, Debtor continues to pay monthly cash interest and Celtic Bank is allowed to be reimbursed up to $50,000 per month in expenses and fees.

13. DIP Lender (2nd Lien) Principal, Expenses and Fees: DIP Lender provided post-petition debtor-in-possession financing on a junior secured basis, subordinated to the Celtic Bank loan. Upon the entry of the DIP Interim Order, the Debtor received a $1 million initial draw and upon entry of the DIP Final Order, the Debtor will draw the remaining $2 million such that the total outstanding principal balance will be $3 million. Note that per the terms of the DIP/Cash Collateral Motion, the DIP Lender receives a commitment fee (approximately $45,000), interest accrued at 15% (approximately $77,000 accrued through September 13, 2024), and reimbursement of expenses (estimated at $200,000), all of which is assumed to be paid prior to September 13, 2024.

14. Priority Unsecured Claims: Debtor's current understanding is that there is only one potential priority unsecured claimant – the State of Washington for sales taxes paid on a quarterly basis at

quarter-end (pre-petition liability for April 1, 2024, through June 19, 2024). As indicated, Debtor does not believe that there would be any distribution to Priority Unsecured Claims at either the Low range or the High range.

15. General Unsecured Claims: General Unsecured Claims amount is based upon a review of the Debtor's books and records as well as communication with potential creditors and on the amounts reflected in Schedule F of Debtor's Schedules of Assets and Liabilities. Actual amounts will be clarified through a formalized claims process. The Estimated Book Value of approximately $690,000 is based upon the amounts to be listed in the Debtor's Schedule F, includes expected rejection damage claims for a rejected office lease, and excludes claims scheduled as unliquidated, contingent, and/or disputed. As indicated, Debtor does not believe that there would be any distribution to General Unsecured Claims at either the Low range or at the High range. Aggregate General Unsecured Claims are likely to be significantly higher in a Liquidation relative to a reorganization under the Plan because customers would likely file claims for breach of their contracts if the Debtor shuts down.

16. Net Available to Equity Claims: As indicated, Debtor does not believe that there would be any distribution to Equity Claims at either the Low range or the High range.

Exhibit B

Projected Disposable Income

	Year Ended September 30					% of Revenue			
Currency: US $'000s	**2024**	**2025**	**2026**	**2027**	**Total 3-Year Forecast Period**	**2025**	**2026**	**2027**	***SaaS Benchmarks****
Beginning ARR	$8,238	$9,083	$10,061	$11,382	$9,083				
(+) New	1,199	1,471	2,009	3,268	6,747				
(+) Expansion	641	524	516	593	1,633				
(-) Churn / Contraction	(999)	(1,017)	(1,204)	(1,349)	(3,570)				
Ending ARR	**$9,079**	**$10,061**	**$11,382**	**$13,894**	**$13,894**				
% YoY Growth		*11%*	*13%*	*22%*					*37%*
Net Dollar Retention %	*96%*	*95%*	*93%*	*93%*					*90%*
Churn %	*-12%*	*-11%*	*-12%*	*-12%*					*14%*
Recurring revenue	$8,738	$9,532	$10,615	$12,313	$32,460	98%	98%	97%	
One time revenue	287	148	202	323	672	2%	2%	3%	
Total Revenue	**9,024**	**9,680**	**10,817**	**12,636**	**33,133**	**100%**	**100%**	**100%**	
Cost of Revenue	2,649	2,449	2,735	3,081	8,264	25%	25%	24%	*28%*
Gross Margin	6,375	7,231	8,082	9,555	24,868	75%	75%	76%	*72%*
Operating Expenses:									
Sales & Marketing	3,409	3,052	3,760	4,787	11,599	32%	35%	38%	*37%*
Research & Development	3,779	1,481	1,679	1,931	5,091	15%	16%	15%	*31%*
General & Administrative	2,211	1,807	1,844	2,104	5,755	19%	17%	17%	*29%*
Total Operating Expenses	9,399	6,340	7,283	8,822	22,445	66%	67%	70%	*97%*
EBITDA	**(3,024)**	**891**	**799**	**733**	**2,423**	**9%**	**7%**	**6%**	*-25%*
Non-operating expenses	3,470	1,178	929	860	2,967	12%	9%	7%	
Net Income/(Loss)	($6,494)	($288)	($129)	($127)	($544)	**-3%**	**-1%**	**-1%**	
Free Cash Flow	(2,062)	(429)	158	346	**75**	-4%	1%	3%	
Ending Cash Balance	**$1,133**	**$704**	**$863**	**$1,209**					
Headcount	**38**	**35**	**42**	**46**					

**Source: B2B SaaS Benchmarks 2023 Report by Revops Squared & Mosaic. N=980 companies between $5-20M ARR*

Exhibit C

Amended and Restated Charter

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
QLESS, INC.
(Pursuant to Sections 242 and 245 of the
General Corporation Law of the State of Delaware)

QLess, Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "General Corporation Law"),

DOES HEREBY CERTIFY:

1. That the name of this corporation is QLess, Inc.(the "**Corporation**"), and that this corporation was originally incorporated pursuant to the General Corporation Law on July 2, 2009.

2. That the Board of Directors of the Corporation duly adopted resolutions proposing to amend and restate the Amended and Restated Certificate of Incorporation of this corporation, declaring said amendment and restatement to be advisable and in the best interests of this corporation and its stockholders, and authorizing the appropriate officers of this corporation to solicit the consent of the stockholders therefor, which resolution setting forth the proposed amendment and restatement as follows:

RESOLVED, that the Amended and Restated Certificate of Incorporation of this corporation be amended and restated in its entirety to read as follows:

FIRST: The name of this corporation is QLess, Inc.(the "**Corporation**").

SECOND: The address of the registered office of the Corporation in the State of Delaware is 850 New Burton Road, Suite 201, in the City of Dover, County of Kent, 19904. The name of its registered agent at such address is Cogency Global Inc.

THIRD: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law.

FOURTH: The total number of shares of all classes of stock which the Corporation shall have authority to issue is [(i) *Eighty Eight Million Five Hundred Eight Thousand Two Hundred Eighty (88,508,281) shares of Common Stock, $0.00001 par value per share ("**Common Stock**") and (ii) Seventy One Million Four Hundred Forty Four Thousand Forty Two (71,444,042) shares of Preferred Stock, $0.00001 par value per share ("**Preferred Stock**")*].

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

A. COMMON STOCK

1. General. The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights, powers and preferences of the holders of the Preferred Stock set forth herein.

2. Voting. The holders of the Common Stock are entitled to one (1) vote for each share of Common Stock held at all meetings of stockholders (and written actions in lieu of meetings); provided, however, that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to this Amended and Restated Certificate of Incorporation that relates solely to the terms of one (1) or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one (1) or more other such series, to vote thereon pursuant to this Amended and Restated Certificate of Incorporation or pursuant to the General Corporation Law. There shall be no cumulative voting. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one (1) or more series of Preferred Stock that may be required by the terms of this Amended and Restated Certificate of Incorporation) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

B. PREFERRED STOCK

The following rights, powers and privileges, and restrictions, qualifications and limitations, shall apply to the Preferred Stock

(i) [*Twenty Nine Million Five Hundred Eight Thousand Two Hundred Eighty One (29,508,281)*] shares of authorized and unissued Preferred Stock of the Corporation are hereby designated "**Series A-2 Preferred Stock**" ; (ii) Fourteen Million Five Hundred Eighty Five Thousand Three Hundred Thirty One (14,585,331) shares of the authorized and unissued Preferred Stock of the Corporation are hereby designated "**Series A-1 Preferred Stock**" and (iii) Twenty Seven Million Three Hundred Fifty Thousand Four Hundred Thirty One (27,350,430) shares of the authorized Preferred Stock of the Corporation are hereby designated "**Series A Preferred Stock**" with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations. Unless otherwise indicated, references to "sections" or "Sections" in this Part B of this Article Fourth refer to sections and Sections of Part B of this Article Fourth. References to "Preferred Stock" mean the Series A-1 Preferred Stock, the Series A-2 Preferred Stock and the Series A Preferred Stock.

1. Dividends. The holders of then outstanding shares of Preferred Stock shall be entitled to receive, only when, as and if declared by the Board of Directors, out of any funds and assets legally available therefor, dividends at the rate of 8% of the Original Issue Price (as defined below) for each share of Preferred Stock, prior and in preference to any declaration or payment of any other dividend (other than dividends on shares of Common Stock payable in shares of Common Stock); notwithstanding the foregoing, the holders of then outstanding shares of Series A Preferred Stock shall be entitled to receive the dividends for each share of Series A

Preferred Stock, after the Series A-1 Preferred Stock and Series A-2 Preferred Stock have been paid their dividends in full. The right to receive dividends on shares of Preferred Stock pursuant to the preceding sentence of this Section 1 shall not be cumulative, and no right to dividends shall accrue to holders of Preferred Stock by reason of the fact that dividends on said shares are not declared. The Corporation shall not declare, pay or set aside any dividends on shares of any other class or series of capital stock of the Corporation (other than dividends on shares of Common Stock payable in shares of Common Stock) unless (in addition to the obtaining of any consents required elsewhere in this Amended and Restated Certificate of Incorporation) the holders of the Preferred Stock then outstanding shall first receive, or simultaneously receive, in addition to the dividends payable pursuant to the first sentence of this Section 1, a dividend on each outstanding share of Preferred Stock in an amount at least equal to (i) in the case of a dividend on Common Stock or any class or series that is convertible into Common Stock, that dividend per share of Preferred Stock as would equal the product of (A) the dividend payable on each share of such class or series determined, if applicable, as if all shares of such class or series had been converted into Common Stock and (B) the number of shares of Common Stock issuable upon conversion of a share of Preferred Stock, in each case calculated on the record date for determination of holders entitled to receive such dividend or (ii) in the case of a dividend on any class or series that is not convertible into Common Stock, at a rate per share of Preferred Stock determined by (A) dividing the amount of the dividend payable on each share of such class or series of capital stock by the original issuance price of such class or series of capital stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to such class or series) and (B) multiplying such fraction by an amount equal to the Original Issue Price (as defined below); provided that, if the Corporation declares, pays or sets aside, on the same date, a dividend on shares of more than one (1) class or series of capital stock of the Corporation, the dividend payable to the holders of Preferred Stock pursuant to this Section 1 shall be calculated based upon the dividend on the class or series of capital stock that would result in the highest Preferred Stock dividend. The "**Original Issue Price**" shall mean, with respect to the (i) *with respect to the Series A-2 Preferred Stock, _____ per share*, (ii) Series A-1 Preferred Stock, $0.4148 per share, and (iii) with respect to the Series A Preferred Stock, $1.00 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the applicable Preferred Stock.

2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

2.1 Preferential Payments to Holders of Preferred Stock.

2.1.1 In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series A-1 Preferred Stock and Series A-2 Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders or, in the case of a Deemed Liquidation Event (as defined below), out of the consideration payable to stockholders in such Deemed Liquidation Event or the Available Proceeds (as defined below), before any payment shall be made to the holders of the Series A preferred Stock or the Common Stock by reason of their ownership thereof, an amount per share equal to the Original Issue Price, plus any dividends declared but unpaid thereon. If upon any such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the assets of the Corporation available for distribution to its

stockholders shall be insufficient to pay the holders of shares of Series A-1 Preferred Stock and Series A-2 Preferred Stock the full amount to which they shall be entitled under this Section 2.1.1, the holders of shares of Series A-1 Preferred Stock and Series A-2 Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.1.2 After completion of the distribution of the full Series A-1 Preferred Stock and Series A-2 Preferred Stock set forth in Section 2.1.1, in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series A Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders or, in the case of a Deemed Liquidation Event (as defined below), out of the consideration payable to stockholders in such Deemed Liquidation Event or the Available Proceeds (as defined below), before any payment shall be made to the holders of the Common Stock by reason of their ownership thereof, an amount per share equal to the Original Issue Price, plus any dividends declared but unpaid thereon. If upon any such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series A Preferred Stock the full amount to which they shall be entitled under this Section 2.1.2, the holders of shares of Series A Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.2 Distribution of Remaining Assets. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after the payment in full of all Liquidation Amounts required to be paid to the holders of shares of Preferred Stock the remaining assets of the Corporation available for distribution to its stockholders or, in the case of a Deemed Liquidation Event, the consideration not payable to the holders of shares of Preferred Stock pursuant to Section 2.1 or the remaining Available Proceeds, as the case may be, shall be distributed among the holders of the shares of Preferred Stock and Common Stock, pro rata based on the number of shares held by each such holder, treating for this purpose all such securities as if they had been converted to Common Stock pursuant to the terms of this Amended and Restated Certificate of Incorporation immediately prior to such liquidation, dissolution or winding up of the Corporation; provided, however, that if the aggregate amount which the holders of the Preferred Stock are entitled to receive under Sections 2.1 and 2.2 shall exceed two times the Original Issue Price, plus any dividends declared but unpaid thereon (subject to appropriate adjustment in the event of a stock split, stock dividend, combination, reclassification, or similar event affecting the Series A Preferred Stock) (the "**Maximum Participation Amount**"), each holder of Series A Preferred Stock shall be entitled to receive upon such liquidation, dissolution or winding up of the Corporation the greater of (i) the Maximum Participation Amount and (ii) the amount such holder would have received if all shares of Series A Preferred Stock had been converted into Common Stock immediately prior to such liquidation, dissolution or winding up of the Corporation. The aggregate amount which a holder of a share of Preferred Stock is entitled to receive under Sections 2.1 and 2.2 is hereinafter referred to as the "**Liquidation Amount**."

2.3 Deemed Liquidation Events.

2.3.1 Definition. Each of the following events shall be considered a "**Deemed Liquidation Event**" unless the holders of at least two thirds of the outstanding shares of Preferred Stock (the "**Requisite Holders**") elect otherwise by written notice sent to the Corporation at least five days prior to the effective date of any such event:

(a) a merger or consolidation in which

(i) the Corporation is a constituent party or

(ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation,

except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation; or (2) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation; or

(b) (1) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole, or (2) the sale or disposition (whether by merger, consolidation or otherwise, and whether in a single transaction or a series of related transactions) of one or more subsidiaries of the Corporation if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation.

2.3.2 Effecting a Deemed Liquidation Event.

(a) The Corporation shall not have the power to effect a Deemed Liquidation Event referred to in Section 2.3.1(a)(i) unless the agreement or plan of merger or consolidation for such transaction (the "**Merger Agreement**") provides that the consideration payable to the stockholders of the Corporation in such Deemed Liquidation Event shall be allocated to the holders of capital stock of the Corporation in accordance with Sections 2.1 and 2.2.

(b) In the event of a Deemed Liquidation Event referred to in Section 2.3.1(a)(ii) or 2.3.1(b), if the Corporation does not effect a dissolution of the Corporation under the General Corporation Law within ninety (90) days after such Deemed Liquidation Event, then (i) the Corporation shall send a written notice to each holder of Preferred Stock no later than the ninetieth (90^{th}) day after the Deemed Liquidation Event advising such

holders of their right (and the requirements to be met to secure such right) pursuant to the terms of the following clause; (ii) to require the redemption of such shares of Preferred Stock, and (iii) if the Requisite Holders so request in a written instrument delivered to the Corporation not later than one hundred twenty (120) days after such Deemed Liquidation Event, the Corporation shall use the consideration received by the Corporation for such Deemed Liquidation Event (net of any retained liabilities associated with the assets sold or technology licensed, as determined in good faith by the Board of Directors of the Corporation)**,** together with any other assets of the Corporation available for distribution to its stockholders, all to the extent permitted by Delaware law governing distributions to stockholders (the "**Available Proceeds**"), on the one hundred fiftieth (150^{th}) day after such Deemed Liquidation Event, to redeem all outstanding shares of Preferred Stock at a price per share equal to the applicable Liquidation Amount. Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Available Proceeds are not sufficient to redeem all outstanding shares of Preferred Stock, the Corporation shall redeem, in accordance with the priorities set forth in Section 2.1, a pro rata portion of each holder's shares of Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable pursuant to Section 2.1 in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares as soon as it may lawfully do so under Delaware law governing distributions to stockholders. For the avoidance of doubt, if the Available Proceeds are insufficient to fully redeem the Series A-1 Preferred Stock and the Series A-2 Preferred Stock, the Series A Preferred Stock shall not receive any of the Available Proceeds. Prior to the distribution or redemption provided for in this Section 2.3.2(b), the Corporation shall not expend or dissipate the consideration received for such Deemed Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event.

2.3.3 Amount Deemed Paid or Distributed. If the amount deemed paid or distributed under this Section 2.3.3 is made in property other than in cash, the value of such distribution shall be the fair market value of such property, determined as follows:

(a) For securities not subject to investment letters or other similar restrictions on free marketability,

(i) if traded on a securities exchange, the value shall be deemed to be the average of the closing prices of the securities on such exchange or market over the thirty (30) day period ending three (3) days prior to the closing of such transaction;

(ii) if actively traded over-the-counter, the value shall be deemed to be the average of the closing bid prices over the thirty (30) day period ending three (3) days prior to the closing of such transaction; or

(iii) if there is no active public market, the value shall be the fair market value thereof, as determined in good

faith by the Board of Directors (including the approval of both Preferred Directors).

2.3.4 Allocation of Escrow and Contingent Consideration. In the event of a Deemed Liquidation Event pursuant to Section 2.3.1(a)(i), if any portion of the consideration payable to the stockholders of the Corporation is payable only upon satisfaction of contingencies (the "**Additional Consideration**"), the Merger Agreement shall provide that (a) the portion of such consideration that is not Additional Consideration (such portion, the "**Initial Consideration**") shall be allocated among the holders of capital stock of the Corporation in accordance with Sections 2.1 and 2.2 as if the Initial Consideration were the only consideration payable in connection with such Deemed Liquidation Event; and (b) any Additional Consideration which becomes payable to the stockholders of the Corporation upon satisfaction of such contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with Sections 2.1 and 2.2 after taking into account the previous payment of the Initial Consideration as part of the same transaction. For the purposes of this Section 2.3.4, consideration placed into escrow or retained as a holdback to be available for satisfaction of indemnification or similar obligations in connection with such Deemed Liquidation Event shall be deemed to be Additional Consideration.

3. Voting.

3.1 General. On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting), each holder of outstanding shares of Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter. Except as provided by law or by the other provisions of this Amended and Restated Certificate of Incorporation, holders of Preferred Stock shall vote together with the holders of Common Stock as a single class and on an as-converted to Common Stock basis.

3.2 Election of Directors. The holders of record of the shares of Preferred Stock, exclusively and as a separate class, shall be entitled to elect two (2) directors of the Corporation (each, a "**Preferred Director**") and the holders of record of the shares of Common Stock and the Preferred Stock, as provided in Section 3.1, shall be entitled to elect three (3) directors of the Corporation, two (2) of which shall not, at the time of appointment, be either an employee of the Corporation or any holder of the Preferred Stock, an affiliate of the Corporation or any holder of the Preferred Stock, or a family member of any such employee or affiliate; provided, however, for administrative convenience, the initial Preferred Directors may also be appointed by the Board of Directors in connection with the approval of the initial issuance of Preferred Stock without a separate action by the holders of Preferred Stock. Any director elected as provided in the preceding sentence may be removed without cause by, and only by, the affirmative vote of the holders of the shares of the class or series of capital stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders. If the holders of shares of Preferred Stock or Common Stock, as the case may be, fail to elect a sufficient number of directors to fill all directorships for which they are entitled to elect directors, voting exclusively and as a separate

class, pursuant to the first sentence of this Section 3.2, then any directorship not so filled shall remain vacant until such time as the holders of the Preferred Stock and/or Common Stock, as applicable, elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the stockholders of the Corporation that are entitled to elect a person to fill such directorship, voting exclusively and as a separate class. The holders of record of the shares of Common Stock and of any other class or series of voting stock (including the Preferred Stock), exclusively and voting together as a single class, shall be entitled to elect the balance of the total number of directors of the Corporation. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. Except as otherwise provided in this Section 3.2, a vacancy in any directorship filled by the holders of any class or classes or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or classes or series or by any remaining director or directors elected by the holders of such class or classes or series pursuant to this Section 3.2. The rights of the holders of the Preferred Stock and the rights of the holders of the Common Stock under the first sentence of this Section 3.2 shall terminate on the first date following the date the first share of Series A Preferred Stock was issued (the "**Original Issue Date**") on which there are issued and outstanding less than twenty-five percent (25%) of the originally issued shares of Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination, or other similar recapitalization with respect to the Preferred Stock).

3.3 Preferred Stock Protective Provisions. At any time when at least twenty-five percent (25%) of the originally issued shares of Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Preferred Stock) are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation, recapitalization, reclassification, or otherwise, do any of the following without (in addition to any other vote required by law or this Amended and Restated Certificate of Incorporation) the written consent or affirmative vote of the Requisite Holders given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect.

3.3.1 liquidate, dissolve or wind-up the business and affairs of the Corporation, effect any merger or consolidation or any other Deemed Liquidation Event, or consent to any of the foregoing;

3.3.2 amend, alter or repeal any provision of this Amended and Restated Certificate of Incorporation or Bylaws of the Corporation in a manner that adversely affects the powers, preferences or rights of the Preferred Stock;

3.3.3 (i) create, or authorize the creation of, or issue or obligate itself to issue shares of, or reclassify, any capital stock unless the same ranks junior to the Preferred Stock with respect to its rights, preferences and privileges, or (ii) increase the authorized number of shares of Preferred Stock or Common Stock or any additional class or series of capital stock of the Corporation unless the same ranks junior to the Preferred Stock with respect to its rights, preferences and privileges;

3.3.4 cause or permit any of its subsidiaries to, without approval of the Board of Directors, including the Preferred Directors, sell, issue, sponsor, create or distribute any digital tokens, cryptocurrency or other blockchain-based assets (collectively, "Tokens"), including through a pre-sale, initial coin offering, token distribution event or crowdfunding, or through the issuance of any instrument convertible into or exchangeable for Tokens;

3.3.5 purchase or redeem (or permit any subsidiary to purchase or redeem) or pay or declare any dividend or make any distribution on, any shares of capital stock of the Corporation other than (i) redemptions of or dividends or distributions on the Preferred Stock as expressly authorized herein, (ii) dividends or other distributions payable on the Common Stock solely in the form of additional shares of Common Stock and (iii) repurchases of stock from former employees, officers, directors, consultants or other persons who performed services for the Corporation or any subsidiary in connection with the cessation of such employment or service at no greater than the original purchase price thereof or (iv) as approved by the Board of Directors, including the approval of both Preferred Directors;

3.3.6 create, adopt, amend, terminate or repeal any equity (or equity-linked) compensation plan or amend or waive any of the terms of any option or other grant pursuant to any such plan;

3.3.7 create, or authorize the creation of, or issue, or authorize the issuance of any debt security or create any lien or security interest (except for purchase money liens or statutory liens of landlords, mechanics, materialmen, workmen, warehousemen and other similar persons arising or incurred in the ordinary course of business) or incur other indebtedness for borrowed money, including but not limited to obligations and contingent obligations under guarantees, or permit any subsidiary to take any such action with respect to any debt security lien, security interest or other indebtedness for borrowed money, if the aggregate indebtedness of the Corporation and its subsidiaries for borrowed money following such action would exceed $2,000,000 unless such debt security has received the prior approval of the Board of Directors, including the approval of both Preferred Directors;

3.3.8 create, or hold capital stock in, any subsidiary that is not wholly owned (either directly or through one (1) or more other subsidiaries) by the Corporation, or permit any subsidiary to create, or authorize the creation of, or issue or obligate itself to issue, any shares of any class or series of capital stock, or sell, transfer or otherwise dispose of any capital stock of any direct or indirect subsidiary of the Corporation, or permit any direct or indirect subsidiary to sell, lease, transfer, exclusively license or otherwise dispose (in a single transaction or series of related transactions) of all or substantially all of the assets of such subsidiary; or

3.3.9 increase or decrease the authorized number of directors constituting the Board of Directors, change the number of votes entitled to be cast by any director or directors on any matter, or adopt any provision inconsistent with Article Sixth.

4. Optional Conversion. The holders of the Preferred Stock shall have conversion rights as follows (the "**Conversion Rights**"):

4.1 Right to Convert.

4.1.1 Conversion Ratio. Each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and non-assessable shares of Common Stock as is determined by dividing the Original Issue Price by the Conversion Price (as defined below) in effect at the time of conversion. The "**Conversion Price**" applicable to the Series A Preferred Stock shall initially be equal to the Original Issue Price per share of such share of Preferred Stock. Such initial Conversion Price, and the rate at which shares of Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below.

4.1.2 Termination of Conversion Rights. In the event of a notice of redemption of any shares of Preferred Stock pursuant to Section 6, the Conversion Rights of the shares designated for redemption shall terminate at the close of business on the last full day preceding the date fixed for redemption, unless the redemption price is not fully paid on such redemption date, in which case the Conversion Rights for such shares shall continue until such price is paid in full. In the event of a liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event, the Conversion Rights shall terminate at the close of business on the last full day preceding the date fixed for the payment of any such amounts distributable on such event to the holders of Preferred Stock; provided that the foregoing termination of Conversion Rights shall not affect the amount(s) otherwise paid or payable in accordance with Section 2.1 to holders of Preferred Stock pursuant to such liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event.

4.2 Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the number of shares of Common Stock to be issued upon conversion of the Preferred Stock shall be rounded up to the nearest whole share.

4.3 Mechanics of Conversion.

4.3.1 Notice of Conversion. In order for a holder of Preferred Stock to voluntarily convert shares of Preferred Stock into shares of Common Stock, such holder shall (a) provide written notice to the Corporation's transfer agent at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent) that such holder elects to convert all or any number of such holder's shares of Preferred Stock and, if applicable, any event on which such conversion is contingent and (b), if such holder's shares are certificated, surrender the certificate or certificates for such shares of Preferred Stock (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate), at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent). Such notice shall state such holder's name or the names of the nominees in which such holder wishes the shares of Common Stock to be issued. If required by the Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by a

written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or his, her or its attorney duly authorized in writing. The close of business on the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of such notice and, if applicable, certificates (or lost certificate affidavit and agreement) shall be the time of conversion (the "**Conversion Time**"), and the shares of Common Stock issuable upon conversion of the specified shares shall be deemed to be outstanding of record as of such date. The Corporation shall, as soon as practicable after the Conversion Time (i) issue and deliver to such holder of Preferred Stock, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion in accordance with the provisions hereof and a certificate for the number (if any) of the shares of Preferred Stock represented by the surrendered certificate that were not converted into Common Stock, and (ii) pay all declared but unpaid dividends on the shares of Preferred Stock converted.

4.3.2 Reservation of Shares. The Corporation shall at all times when the Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Amended and Restated Certificate of Incorporation. Before taking any action which would cause an adjustment reducing the Conversion Price below the then par value of the shares of Common Stock issuable upon conversion of the Preferred Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and non-assessable shares of Common Stock at such adjusted Conversion Price.

4.3.3 Effect of Conversion. All shares of Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor and to receive payment of any dividends declared but unpaid thereon. Any shares of Preferred Stock so converted shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock accordingly.

4.3.4 No Further Adjustment. Upon any such conversion, no adjustment to the Conversion Price shall be made for any declared but unpaid dividends on the Preferred Stock surrendered for conversion or on the Common Stock delivered upon conversion.

4.3.5 Taxes. The Corporation shall pay any and all issue and other similar taxes that may be payable in respect of any issuance or delivery of shares of Common Stock upon conversion of shares of Preferred Stock pursuant to this Section 4. The Corporation

shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Common Stock in a name other than that in which the shares of Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the person or entity requesting such issuance has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

4.4 Adjustments to Conversion Price for Diluting Issues.

4.4.1 Special Definitions. For purposes of this Article Fourth, the following definitions shall apply:

(a) "**Additional Shares of Common Stock**" shall mean all shares of Common Stock issued (or, pursuant to Section 4.4.3 below, deemed to be issued) by the Corporation after the Original Issue Date, other than (1) the following shares of Common Stock and (2) shares of Common Stock deemed issued pursuant to the following Options and Convertible Securities (clauses (1) and (2), collectively, "**Exempted Securities**"):

(i) as to any series of Preferred Stock shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on such series of Preferred Stock;

(ii) shares of Common Stock, Options or Convertible Securities issued by reason of a dividend, stock split, split-up or other distribution on shares of Common Stock that is covered by Section 4.5, 4.6, 4.7 or 4.8**;**

(iii) shares of Common Stock or Options issued to employees or directors of, or consultants or advisors to, the Corporation or any of its subsidiaries pursuant to a plan, agreement or arrangement approved by the Board of Directors of the Corporation, including both Preferred Directors;

(iv) shares of Common Stock or Convertible Securities actually issued upon the exercise of Options or shares of Common Stock actually issued upon the conversion or exchange of Convertible Securities, in each case provided such issuance is pursuant to the terms of such Option or Convertible Security;

(v) shares of Common Stock, Options or Convertible Securities issued to banks, equipment lessors or other financial

institutions, or to real property lessors, pursuant to a debt financing, equipment leasing or real property leasing transaction approved by the Board of Directors of the Corporation, including the approval of both Preferred Directors;

(vi) shares of Common Stock, Options or Convertible Securities issued to suppliers or third party service providers in connection with the provision of goods or services pursuant to transactions approved by the Board of Directors of the Corporation, including the approval of both Preferred Directors;

(vii) shares of Common Stock, Options or Convertible Securities issued as acquisition consideration pursuant to the acquisition of another corporation by the Corporation by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement, provided that such issuances are approved by the Board of Directors of the Corporation, including the approval of both Preferred Directors; or

(viii) shares of Common Stock, Options or Convertible Securities issued in connection with sponsored research, collaboration, technology license, development, OEM, marketing or other similar agreements or strategic partnerships approved by the Board of Directors of the Corporation, including the approval of both Preferred Directors.

(b) "**Convertible Securities**" shall mean any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock, but excluding Options.

(c) "**Option**" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

4.4.2 No Adjustment of Conversion Price. No adjustment in the Conversion Price shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if the Corporation receives written notice from the Requisite Holders

agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock.

4.4.3 Deemed Issue of Additional Shares of Common Stock.

(a) If the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date.

(b) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the Conversion Price pursuant to the terms of Section 4.4.4, are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (2) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the Conversion Price computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such Conversion Price as would have obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this clause (b) shall have the effect of increasing the Conversion Price to an amount which exceeds the lower of (i) the Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (ii) the Conversion Price that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(c) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the Conversion Price pursuant to the terms of Section 4.4.4 (either because the consideration per share (determined pursuant to Section 4.4.5) of the Additional Shares of Common Stock subject thereto was equal to or greater than the Conversion Price then in effect, or because such Option or Convertible Security was issued before the Original Issue Date), are revised after the Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible

Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (2) any decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in Section 4.4.3(a) shall be deemed to have been issued effective upon such increase or decrease becoming effective.

(d) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Conversion Price pursuant to the terms of Section 4.4.4, the Conversion Price shall be readjusted to such Conversion Price as would have obtained had such Option or Convertible Security (or portion thereof) never been issued.

(e) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the Conversion Price provided for in this Section 4.4.3 shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in clauses (b) and (c) of this Section 4.4.3). If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the Conversion Price that would result under the terms of this Section 4.4.3 at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

4.4.4 Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock. In the event the Corporation shall at any time after the Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 4.4.3), without consideration or for a consideration per share less than the Conversion Price in effect immediately prior to such issuance or deemed issuance, then the Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest one-hundredth of a cent) determined in accordance with the following formula:

$$CP_2 = CP_1 * (A + B) \div (A + C).$$

For purposes of the foregoing formula, the following definitions shall apply:

(a) "CP_2" shall mean the Conversion Price in effect immediately after such issuance or deemed issuance of Additional Shares of Common Stock

(b) "CP_1" shall mean the Conversion Price in effect immediately prior to such issuance or deemed issuance of Additional Shares of Common Stock;

(c) "A" shall mean the number of shares of Common Stock outstanding immediately prior to such issuance or deemed issuance of Additional Shares of Common Stock (treating for this purpose as outstanding all shares of Common Stock issuable upon exercise of Options outstanding immediately prior to such issuance or deemed issuance or upon conversion or exchange of Convertible Securities (including the Preferred Stock) outstanding (assuming exercise of any outstanding Options therefor) immediately prior to such issue);

(d) "B" shall mean the number of shares of Common Stock that would have been issued if such Additional Shares of Common Stock had been issued or deemed issued at a price per share equal to CP_1 (determined by dividing the aggregate consideration received by the Corporation in respect of such issue by CP_1); and

(e) "C" shall mean the number of such Additional Shares of Common Stock issued in such transaction.

4.4.5 Determination of Consideration. For purposes of this Section 4.4, the consideration received by the Corporation for the issuance or deemed issuance of any Additional Shares of Common Stock shall be computed as follows:

(a) Cash and Property. Such consideration shall:

(i) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation, excluding amounts paid or payable for accrued interest;

(ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors of the Corporation; and

(iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (i) and (ii) above, as determined in good faith by the Board of Directors of the Corporation.

(b) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 4.4.3, relating to Options and Convertible Securities, shall be determined by dividing:

(i) The total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

(ii) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities.

4.4.6 Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Conversion Price pursuant to the terms of Section 4.4.4 then, upon the final such issuance, the Conversion Price shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

4.5 Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the Original Issue Date effect a subdivision of the outstanding Common Stock, the Conversion Price in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Common Stock issuable on

conversion of each share of such series shall be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding. If the Corporation shall at any time or from time to time after the Original Issue Date combine the outstanding shares of Common Stock, the Conversion Price in effect immediately before the combination shall be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this Section shall become effective at the close of business on the date the subdivision or combination becomes effective.

4.6 Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable on the Common Stock in additional shares of Common Stock, then and in each such event the Conversion Price in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Conversion Price then in effect by a fraction:

(1) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and

(2) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

Notwithstanding the foregoing, (a) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the Conversion Price shall be adjusted pursuant to this Section as of the time of actual payment of such dividends or distributions; and (b) that no such adjustment shall be made if the holders of Preferred Stock simultaneously receive a dividend or other distribution of shares of Common Stock in a number equal to the number of shares of Common Stock as they would have received if all outstanding shares of Preferred Stock had been converted into Common Stock on the date of such event.

4.7 Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock) or in other property and the provisions of Section 1 do not apply to such dividend or distribution, then and in each such event the holders of Preferred Stock shall receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities or other property in an amount equal to the amount of such securities or other property as they would have received if all

outstanding shares of Preferred Stock had been converted into Common Stock on the date of such event.

4.8 Adjustment for Merger or Reorganization, etc. Subject to the provisions of Section 2.3, if there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Corporation in which the Common Stock (but not the Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by Sections 4.4, 4.6 or 4.7), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of Preferred Stock shall thereafter be convertible in lieu of the Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Corporation issuable upon conversion of one (1) share of Preferred Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors of the Corporation) shall be made in the application of the provisions in this Section 4 with respect to the rights and interests thereafter of the holders of the Preferred Stock, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of the Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Preferred Stock. For the avoidance of doubt, nothing in this Section 4.8 shall be construed as preventing the holders of Preferred Stock from seeking any appraisal rights to which they are otherwise entitled under the DGCL in connection with a merger triggering an adjustment hereunder, nor shall this Section 4.8 be deemed conclusive evidence of the fair value of the shares of Preferred Stock in any such appraisal proceeding

4.9 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this Section 4, the Corporation at its expense shall, as promptly as reasonably practicable but in any event not later than ten (10) days thereafter, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which the Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of Preferred Stock (but in any event not later than ten (10) days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (i) the Conversion Price then in effect, and (ii) the number of shares of Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of Preferred Stock.

4.10 Notice of Record Date. In the event:

(a) the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(b) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, or any Deemed Liquidation Event; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation,

then, and in each such case, the Corporation will send or cause to be sent to the holders of the Preferred Stock a notice specifying, as the case may be, (i) the record date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Preferred Stock) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Preferred Stock and the Common Stock. Such notice shall be sent at least ten (10) days prior to the record date or effective date for the event specified in such notice.

5. Mandatory Conversion.

5.1 Trigger Events. Upon either (a) the closing of the sale of shares of Common Stock to the public at a price of at least $7.00 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Common Stock), in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least $30,000,000 of proceeds to the Corporation and in connection with such offering the Common Stock is listed for trading on the Nasdaq Stock Market's National Market, the New York Stock Exchange or another exchange or marketplace approved the Board of Directors, including the approval of both Preferred Directors or (b) the date and time, or the occurrence of an event, specified by vote or written consent of the Requisite Holders (the time of such closing or the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the "**Mandatory Conversion Time**"), then (i) all outstanding shares of Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective conversion rate as calculated pursuant to Section 4.1.1 and (ii) such shares may not be reissued by the Corporation.

5.2 Procedural Requirements. All holders of record of shares of Preferred Stock shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Preferred Stock pursuant to this Section 5. Such notice need not be sent in advance of the occurrence of the Mandatory Conversion Time. Upon receipt of such notice, each holder of shares of Preferred Stock in certificated form shall surrender his, her or its certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the

Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. All rights with respect to the Preferred Stock converted pursuant to Section 5.1, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender any certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of any certificate or certificates of such holders (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this Section 5.2. As soon as practicable after the Mandatory Conversion Time and, if applicable, the surrender of any certificate or certificates (or lost certificate affidavit and agreement) for Preferred Stock, the Corporation shall (a) issue and deliver to such holder, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof and (b) pay any declared but unpaid dividends on the shares of Preferred Stock converted. Such converted Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock accordingly.

6. Redemption. Shares of Preferred Stock shall not be redeemable at the option of the holder thereof.

6.1 General. Unless prohibited by Delaware law governing distributions to stockholders, shares of Preferred Stock shall be redeemed by the Corporation at a price equal to the greater of (A) the Original Issue Price per share, plus all declared but unpaid dividends thereon and (B) the Fair Market Value (determined in the manner set forth below) of a single share of Preferred Stock as of the date of the Corporation's receipt of the Redemption Request (the "**Redemption Price**"), in three (3) annual installments commencing not more than ninety (90) days after receipt by the Corporation at any time on or after the date that is six (6) years from the Original Issue Date, from the Requisite Holders of written notice requesting redemption of all shares of Preferred Stock (the "**Redemption Request**"). Upon receipt of a Redemption Request, the Corporation shall apply all of its assets to any such redemption, and to no other corporate purpose, except to the extent prohibited by Delaware law governing distributions to stockholders. For purposes of this Section 6.1, the Fair Market Value of a single share of Preferred Stock shall be the value of a single share of Preferred Stock as mutually agreed upon by the Corporation and the holders of a majority of the shares of Preferred Stock then outstanding, and, in the event that they are unable to reach agreement, by a third-party appraiser agreed to by the Corporation and the holders of a majority of the shares of Preferred Stock then outstanding. The date of each such installment provided in the Redemption Notice (as defined below) shall be referred to as a "**Redemption Date.**" On each Redemption Date, the Corporation shall redeem, on a pro rata basis in accordance with the number of shares of Preferred Stock owned by each holder, that number of outstanding shares of Preferred Stock determined by dividing (i) the total number of shares of Preferred Stock outstanding immediately prior to such Redemption Date by (ii) the number of remaining Redemption Dates (including the Redemption Date to which such calculation applies); provided, however, that Excluded Shares (as such term is defined in Section 6.2) shall not be redeemed and shall be excluded from the calculations set forth in this sentence. If on any Redemption Date Delaware law governing distributions to stockholders prevents the

Corporation from redeeming all shares of Preferred Stock to be redeemed, the Corporation shall ratably redeem the maximum number of shares that it may redeem consistent with such law, and shall redeem the remaining shares as soon as it may lawfully do so under such law.

6.2 Redemption Notice. The Corporation shall send written notice of the mandatory redemption (the "**Redemption Notice**") to each holder of record of Preferred Stock not less than forty (40) days prior to each Redemption Date. Each Redemption Notice shall state:

(a) the number of shares of Preferred Stock held by the holder that the Corporation shall redeem on the Redemption Date specified in the Redemption Notice;

(b) the Redemption Date and the Redemption Price;

(c) the date upon which the holder's right to convert such shares terminates (as determined in accordance with Section 4.1); and

(d) for holders of shares in certificated form, that the holder is to surrender to the Corporation, in the manner and at the place designated, his, her or its certificate or certificates representing the shares of Preferred Stock to be redeemed.

If the Corporation receives, on or prior to the twentieth (20^{th}) day after the date of delivery of the Redemption Notice to a holder of Preferred Stock, written notice from such holder that such holder elects to be excluded from the redemption provided in this Section 6, then the shares of Preferred Stock registered on the books of the Corporation in the name of such holder at the time of the Corporation's receipt of such notice shall thereafter be "**Excluded Shares**." Excluded Shares shall not be redeemed or redeemable pursuant to this Section 6, whether on such Redemption Date or thereafter.

6.3 Surrender of Certificates; Payment. On or before the applicable Redemption Date, each holder of shares of Preferred Stock to be redeemed on such Redemption Date, unless such holder has exercised his, her or its right to convert such shares as provided in Section 4, shall, if a holder of shares in certificated form, surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation, in the manner and at the place designated in the Redemption Notice, and thereupon the Redemption Price for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof. In the event less than all of the shares of Preferred Stock represented by a certificate are redeemed, a new certificate, instrument, or book entry representing the unredeemed shares of Preferred Stock shall promptly be issued to such holder.

6.4 Interest. If any shares of Preferred Stock are not redeemed for any reason on any Redemption Date, all such unredeemed shares shall remain outstanding and entitled to all the rights and preferences provided herein, and the Corporation shall pay interest on the Redemption Price applicable to such unredeemed shares at an aggregate per annum rate equal to

ten percent (10% (increased by one percent (1%) each month following the Redemption Date until the Redemption Price, and any interest thereon, is paid in full), with such interest to accrue daily in arrears and be compounded annually; provided, however, that in no event shall such interest exceed the maximum permitted rate of interest under applicable law (the "**Maximum Permitted Rate**"), provided, however, that the Corporation shall take all such actions as may be necessary, including, without limitation, making any applicable governmental filings, to cause the Maximum Permitted Rate to be the highest possible rate. In the event any provision hereof would result in the rate of interest payable hereunder being in excess of the Maximum Permitted Rate, the amount of interest required to be paid hereunder shall automatically be reduced to eliminate such excess; provided, however, that any subsequent increase in the Maximum Permitted Rate shall be retroactively effective to the applicable Redemption Date to the extent permitted by law.

6.5 Rights Subsequent to Redemption. If the Redemption Notice shall have been duly given, and if on the applicable Redemption Date the Redemption Price payable upon redemption of the shares of Preferred Stock to be redeemed on such Redemption Date is paid or tendered for payment or deposited with an independent payment agent so as to be available therefor in a timely manner, then notwithstanding that any certificates evidencing any of the shares of Preferred Stock so called for redemption shall not have been surrendered, dividends with respect to such shares of Preferred Stock shall cease to accrue after such Redemption Date and all rights with respect to such shares shall forthwith after the Redemption Date terminate, except only the right of the holders to receive the Redemption Price without interest upon surrender of any such certificate or certificates therefor.

7. Redeemed or Otherwise Acquired Shares. Any shares of Preferred Stock that are redeemed, converted or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Preferred Stock following redemption, conversion or acquisition.

8. Waiver. Except as otherwise set forth herein, (a) any of the rights, powers, preferences and other terms of the Preferred Stock set forth herein may be waived on behalf of all holders of Preferred Stock by the affirmative written consent or vote of the holders of at the Requisite Holders and (b) at any time more than one (1) series of Preferred Stock is issued and outstanding, any of the rights, powers, preferences and other terms of any series of Preferred Stock set forth herein may be waived on behalf of all holders of such series of Preferred Stock by the affirmative written consent or vote of the holders of at least a majority of the shares of such series of Preferred Stock then outstanding, voting as a separate class.

9. Notices. Any notice required or permitted by the provisions of this Article Fourth to be given to a holder of shares of Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with the provisions of the General Corporation Law, and shall be deemed sent upon such mailing or electronic transmission.

FIFTH: Subject to any additional vote required by this Amended and Restated Certificate of Incorporation or Bylaws, in furtherance and not in limitation

of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of the Corporation.

SIXTH: Subject to any additional vote required by this Amended and Restated Certificate of Incorporation, the number of directors of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation.

SEVENTH: Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

EIGHTH: Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

NINTH: To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the General Corporation Law or any other law of the State of Delaware is amended after approval by the stockholders of this Article Ninth to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law as so amended.

Any repeal or modification of the foregoing provisions of this Article Ninth by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

TENTH: To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers and agents of the Corporation (and any other persons to which General Corporation Law permits the Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law.

Any amendment, repeal or modification of the foregoing provisions of this Article Tenth shall not (a) adversely affect any right or protection of any director, officer or other agent of the Corporation existing at the time of such amendment, repeal or modification or (b) increase the liability of any director of the Corporation with respect to any acts or omissions of such director, officer or agent occurring prior to, such amendment, repeal or modification.

ELEVENTH: The Corporation renounces, to the fullest extent permitted by law, any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An "**Excluded**

Opportunity" is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of (i) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (ii) any holder of Preferred Stock or any partner, member, director, stockholder, employee, affiliate or agent of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (collectively, the persons referred to in clauses (i) and (ii) are "**Covered Persons**"), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person's capacity as a director of the Corporation while such Covered Person is performing services in such capacity. Any repeal or modification of this Article Eleventh will only be prospective and will not affect the rights under this Article Eleventh in effect at the time of the occurrence of any actions or omissions to act giving rise to liability. Notwithstanding anything to the contrary contained elsewhere in this Amended and Restated Certificate of Incorporation, the affirmative vote of the holders of at least two thirds of the shares of Preferred Stock the outstanding, will be required to amend or repeal, or to adopt any provisions inconsistent with this Article Eleventh.

TWELFTH: Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery in the State of Delaware shall be the sole and exclusive forum for any stockholder (including a beneficial owner) to bring (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim against the Corporation, its directors, officers or employees arising pursuant to any provision of the Delaware General Corporation Law or the Corporation's certificate of incorporation or bylaws or (iv) any action asserting a claim against the Corporation, its directors, officers or employees governed by the internal affairs doctrine, except for, as to each of (i) through (iv) above, any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten (10) days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction. If any provision or provisions of this Article Twelfth shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Article Twelfth (including, without limitation, each portion of any sentence of this Article Twelfth containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby.

[Signature Page Follows]

IN WITNESS WHEREOF, this Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this ____ of August, 2024.

By: _____
Name: James Harvey
Title: CEO

QLESS, INC.

AMENDED AND RESTATED

2022 STOCK INCENTIVE PLAN

SECTION 1: GENERAL PURPOSE OF PLAN

The name of this plan is the QLess, Inc. Amended and Restated 2022 Stock Incentive Plan (the "**Plan**"). The purpose of the Plan is to enable QLess, Inc., a Delaware corporation (the "**Company**"), and any Parent or any Subsidiary to obtain and retain the services of the types of Employees, Consultants and Directors who will contribute to the Company's long range success and to provide incentives which are linked directly to increases in share value which will inure to the benefit of all stockholders of the Company. **Certain defined terms used in this Plan have the meanings set forth in Section 16, below.**

SECTION 2: ADMINISTRATION

2.1 Administrator. The Plan shall be administered by either (i) the Board or (ii) the Committee (the group that administers the Plan is referred to as the "**Administrator**").

2.2 Powers in General. The Administrator shall have the power and authority to grant to Eligible Persons, pursuant to the terms of the Plan, (i) Stock Options, (ii) Purchase Rights or (iii) any combination of the foregoing.

2.3 Specific Powers. In particular, the Administrator shall have the authority: (i) to construe and interpret the Plan and apply its provisions; (ii) to promulgate, amend and rescind rules and regulations relating to the administration of the Plan; (iii) to authorize any person to execute, on behalf of the Company, any instrument required to carry out the purposes of the Plan; (iv) to determine when Rights are to be granted under the Plan; (v) from time to time to select, subject to the limitations set forth in this Plan, those Eligible Persons to whom Rights shall be granted; (vi) to determine the number of shares of Stock to be made subject to each Right; (vii) to determine whether each Stock Option is to be an ISO or a Non-Qualified Stock Option; (viii) to prescribe the terms and conditions of each Stock Option and Purchase Right, including, without limitation, the Exercise Price, Purchase Price and medium of payment, vesting provisions and repurchase provisions, and to specify the provisions of the Stock Option Agreement or Stock Purchase Agreement relating to such grant or sale; (ix) to amend any outstanding Rights for the purpose of modifying the time or manner of vesting, the Purchase Price or Exercise Price, as the case may be, subject to applicable legal restrictions and to the consent of the other party to such amendment; (x) to determine the duration and purpose of leaves of absence which may be granted to a Participant without constituting termination of their Service for purposes of the Plan; (xi) to make decisions with respect to outstanding Stock Options that may become necessary upon a change in corporate control or an event that triggers anti-dilution adjustments; (xii) by resolution adopted by the Board, to authorize one or more officers of the Company to do one or both of the following: (a) designate eligible officers and employees of the Company or any of its Subsidiaries to be recipients of Rights and (b) determine the number of such Rights to be received by such officers and employees, provided that the resolution so authorizing such officer or officers shall specify the total number of Rights such officer or officers

may award; and (xiii) to make any and all other determinations which it determines to be necessary or advisable for administration of the Plan.

2.4 Decisions Final. All decisions made by the Administrator pursuant to the provisions of the Plan shall be final and binding on the Company and the Participants.

2.5 The Committee. The Board may, in its sole and absolute discretion, from time to time, and at any period of time during which the Stock is registered pursuant to Section 12 of the Exchange Act shall, delegate any or all of its duties and authority with respect to the Plan to the Committee whose members are to be appointed by and to serve at the pleasure of the Board. Subject to the limitations prescribed by the Plan, the Company's Bylaws and the Board, the Committee may establish and follow such rules and regulations for the conduct of its business as it may determine to be advisable. During any period of time during which the Stock is registered pursuant to Section 12 of the Exchange Act, each member of the Committee shall be a member of the Board who is not an Employee of the Company, a Parent or Subsidiary, and who satisfies both (i) the requirements of an "outside director" as such term is defined in Treasury Regulations (26 Code of Federal Regulation Section 1.162-27(e)(3)) and (ii) the requirements of a "non-employee director" as such term as defined in Rule 16b-3(b)(3)(i) promulgated by the Securities and Exchange Commission under the Exchange Act.

2.6 Indemnification. In addition to such other rights of indemnification as they may have as Directors or members of the Committee, and to the extent allowed by applicable law, the Committee, the Administrator and each of their consultants shall be indemnified by the Company against the reasonable expenses, including attorney's fees, actually incurred in connection with any action, suit or proceeding or in connection with any appeal therein, to which the Committee, the Administrator or any of their consultants may be party by reason of any action taken or failure to act under or in connection with the Plan or any option granted under the Plan, and against all amounts paid by the Committee, the Administrator or any of their consultants in settlement thereof (provided that the settlement has been approved by the Company, which approval shall not be unreasonably withheld) or paid by the the Committee, Administrator or any of their consultants in satisfaction of a judgment in any such action, suit or proceeding, except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that the Committee, the Administrator or any of their consultants did not act in good faith and in a manner which such person reasonably believed to be in the best interests of the Company, and in the case of a criminal proceeding, had no reason to believe that the conduct complained of was unlawful; *provided*, *however*, that within sixty (60) days after institution of any such action, suit or proceeding, the Committee, Administrator or any of their consultants shall, in writing, offer the Company the opportunity at its own expense to handle and defend such action, suit or proceeding.

SECTION 3: STOCK SUBJECT TO THE PLAN

3.1 Stock Subject to the Plan. Subject to adjustment as provided in Section 9, [*8,878773*] shares of Stock shall be reserved and available for issuance under the Plan. Stock reserved hereunder may consist, in whole or in part, of authorized and unissued shares or treasury shares. The number of shares of Stock that are subject to Rights under the Plan shall not exceed the number of shares of Stock that then remain available for issuance under the Plan. The

Company, during the term of the Plan, shall at all times reserve and keep available a sufficient number of shares to satisfy the requirements of the Plan.

3.2 Additional Shares. In the event that any outstanding Right for any reason expires or is canceled or otherwise terminated, the shares of Stock allocable to the unexercised portion of such Right shall again be available for the purposes of the Plan. In the event that shares of Stock issued under the Plan are reacquired by the Company pursuant to the terms of any forfeiture provision, right of repurchase or right of first refusal, such shares shall again be available for the purposes of the Plan.

SECTION 4: ELIGIBILITY

Eligible Persons who are selected by the Administrator shall be eligible to be granted Rights hereunder subject to limitations set forth in this Plan. Only Employees shall be eligible to be granted ISOs.

SECTION 5: TERMS AND CONDITIONS OF OPTIONS.

5.1 Stock Option Agreement. Each grant of an Option under the Plan shall be evidenced by a Stock Option Agreement between the Optionee and the Company (the "**Stock Option Agreement**"). Such Option shall be subject to all applicable terms and conditions of the Plan and may be subject to any other terms and conditions which are not inconsistent with the Plan and which the Administrator deems appropriate for inclusion in a Stock Option Agreement. The Stock Option Agreement shall also specify whether the Option is an ISO or a Non-Qualified Stock Option. The provisions of the various Stock Option Agreements entered into under the Plan need not be identical.

5.2 Number of Shares. Each Stock Option Agreement shall specify the number of shares of Stock that are subject to the Option and shall provide for the adjustment of such number in accordance with Section 9, hereof.

5.3 Exercise Price. Each Stock Option Agreement shall state the price at which shares subject to the Stock Option may be purchased (the "**Exercise Price**"), which shall be not less than 100% of the Fair Market Value of the Stock on the Date of Grant. An ISO granted to a Ten Percent Stockholder shall have an Exercise Price that is at least 110% of the Fair Market Value of a share of Stock on the Date of Grant. The Exercise Price shall be payable in a form described in Section 7 hereof.

5.4 Withholding Taxes. As a condition to the exercise of an Option, the Optionee shall make such arrangements as the Board may require for the satisfaction of any federal, state, local or foreign withholding tax obligations that may arise in connection with such exercise or with the disposition of shares of Stock acquired by exercising an Option.

5.5 Exercisability. Each Stock Option Agreement shall specify the date when all or any installment of the Option becomes exercisable. Subject to the preceding sentence, the exercise provisions of any Stock Option Agreement shall be determined by the Administrator, in its sole discretion.

5.6 Term. The Stock Option Agreement shall specify the term of the Option. No Option shall be exercised after the expiration of ten (10) years after the date the Option is granted. In the case of an ISO granted to a Ten Percent Stockholder, the ISO shall not be exercised after the expiration of five (5) years after the date the ISO is granted. Unless otherwise provided in the Stock Option Agreement, no Option may be exercised more than (i) three (3) months after the date the Optionee's Service terminates if such termination is for any reason other than death, Disability or Cause, (ii) one (1) year after the date the Optionee's Service terminates if such termination is a result of death or Disability, and (iii) if the Optionee's Service is terminated for Cause, all outstanding Options granted to such Optionee shall expire as of the commencement of business on the date of such termination. Except in the case of ISOs, the Administrator may, in its sole discretion, waive the accelerated expiration provided for in the preceding sentence. Outstanding Options that are not vested at the time of termination of Service for any reason shall expire at the close of business on the date of such termination.

5.7 Leaves of Absence. For purposes of Section 5.6 above, to the extent required by applicable law, Service shall be deemed to continue while the Optionee is on a *bona fide* leave of absence. To the extent applicable law does not require such a leave to be deemed to continue Service while the Optionee is on a *bona fide* leave of absence, such leave shall be deemed to continue Service if, and only if, expressly provided in writing by the Administrator or a duly authorized officer of the Company, Parent or Subsidiary for whom Optionee provides his or her services.

5.8 Modification, Extension and Assumption of Options. Within the limitations of the Plan, the Administrator may modify, extend or assume outstanding Options (whether granted by the Company or another issuer) or may accept the cancellation of outstanding Options (whether granted by the Company or another issuer) in return for the grant of new Options for the same or a different number of shares of Stock and at the same or a different Exercise Price. Without limiting the foregoing, the Administrator may amend a previously granted Option to fully accelerate the vesting or exercise schedule of such Option (including without limitation, in connection with a Change of Control) and provide that upon the exercise of such Option, the Optionee shall receive shares of restricted Stock that are subject to repurchase by the Company at the Exercise Price paid for the Option with such Company's right to repurchase at such price lapsing at the same rate as the vesting provisions set forth in Optionee's Stock Option Agreement. The foregoing notwithstanding, no modification of an Option shall, without the consent of the Optionee, impair the Optionee's rights or increase the Optionee's obligations under such Option. However, a termination of the Option in which the Optionee receives a cash payment equal to the difference between the Fair Market Value and the Exercise Price for all shares of Stock subject to exercise under any outstanding Option shall not be deemed to impair any rights of the Optionee or increase the Optionee's obligations under such Option. Unless the Administrator determines otherwise, any adjustments hereunder shall be done on terms and conditions consistent with Section 409A of the Code.

SECTION 6: TERMS AND CONDITIONS OF PURCHASE RIGHTS

6.1 Stock Purchase Agreement. Each award or sale of shares of Stock under the Plan (other than upon exercise of an Option) shall be evidenced by a Stock Purchase Agreement (the "**Stock Purchase Agreement**") between the Offeree and the Company. Such award or sale shall be subject to all applicable terms and conditions of the Plan and may be subject to any other terms

and conditions which are not inconsistent with the Plan and which the Board deems appropriate for inclusion in a Stock Purchase Agreement. The provisions of the various Stock Purchase Agreements entered into under the Plan need not be identical.

6.2 Duration of Offers. Unless otherwise provided in the Stock Purchase Agreement, any right to acquire shares of Stock under the Plan (other than an Option) shall automatically expire if not exercised by the Offeree within thirty (30) days after the grant of such right was communicated to the Offeree by the Company.

6.3 Purchase Price. Each Stock Purchase Agreement shall state the price (if any) at which the Stock subject to such Stock Purchase Agreement may be purchased (the "**Purchase Price**"), which, with respect to Purchase Rights, shall be determined in the sole discretion of the Administrator but shall not be less than the par value of the Stock (if any). The Purchase Price shall be payable in a form described in Section 7.

6.4 Withholding Taxes. As a condition to the purchase of shares of Stock, the Offeree shall make such arrangements as the Board may require for the satisfaction of any federal, state, local or foreign withholding tax obligations that may arise in connection with such purchase.

SECTION 7 : PAYMENT

7.1 General Rule. The entire Purchase Price or Exercise Price of shares of Stock issued under the Plan shall be payable in full by, as applicable, cash or check for an amount equal to the aggregate Purchase Price or Exercise Price for the number of shares of Stock being purchased, or in the discretion of the Administrator, upon such terms as the Administrator shall approve, (i) in the case of an Option, by a copy of instructions to a broker directing such broker to sell the Stock for which such Option is exercised, and to remit to the Company the aggregate Exercise Price of such Options (a "**cashless exercise**"); (ii) in the case of an Option or Purchase Rights, by paying all or a portion of the Exercise Price or Purchase Price for the number of shares of Stock being purchased by tendering Stock owned by the Participant, duly endorsed for transfer to the Company, with a Fair Market Value on the date of delivery equal to the aggregate Exercise Price or Purchase Price for the number of shares of Stock being purchased (a "**stock-for-stock exercise**"); (iii) by a stock-for-stock exercise by means of attestation whereby the Participant identifies for delivery specific shares of Stock already owned by the Participant and receives a number of shares of Stock equal to the difference between the number of shares of Stock subject to the Rights thereby exercised and the identified attestation shares of Stock (an "**attestation exercise**"); (iv) with respect to Non-Qualified Stock Options, payment through a net exercise such that, without the payment of any funds, the Participant may exercise the Option and receive the net number of shares of Stock equal to (x) the number of shares as to which the Option is being exercised, multiplied by (y) a fraction, the numerator of which is the Fair Market Value per share (on such date as is determined by the Administrator) less the Exercise Price per share, and the denominator of which is such Fair Market Value per share of Stock (the number of net shares of Stock to be received shall be rounded down to the nearest whole number of shares)(a "**net exercise**"); or (v) any combination of the foregoing.

7.2 Withholding Payment. The Purchase Price or Exercise Price shall include payment of the amount of all federal, state, local or other income, excise or employment taxes

subject to withholding (if any) by the Company or a Parent or Subsidiary as a result of the exercise of a Right. The Participant may pay all or a portion of the tax withholding by cash or check payable to the Company, or, at the discretion of the Administrator, upon such terms as the Administrator shall approve, by (i) cashless exercise; (ii) stock-for-stock exercise or attestation exercise; (iii) in the case of an Option, by paying all or a portion of the tax withholding for the number of shares of Stock being purchased by withholding shares of Stock from any transfer or payment to the Optionee ("**stock withholding**"); or (iv) a combination of one or more of the foregoing payment methods. Any shares of Stock issued pursuant to the exercise of a Right and transferred by the Participant to the Company for the purpose of satisfying any withholding obligation shall not again be available for purposes of the Plan. The Fair Market Value of the number of shares of Stock subject to stock withholding shall not exceed an amount equal to the applicable minimum required tax withholding rates.

7.3 Services Rendered. At the discretion of the Administrator, shares of Stock may be awarded under the Plan in consideration of services rendered to the Company, a Parent or a Subsidiary prior to the award.

7.4 Promissory Note. To the extent that a Stock Option Agreement or Stock Purchase Agreement so provides, in the discretion of the Administrator, upon such terms as the Administrator shall approve, all or a portion of the Exercise Price or Purchase Price (as the case may be) of shares of Stock issued under the Plan may be paid with a full-recourse promissory note; *provided*, *however*, that payment of any portion of the Exercise Price or Purchase Price by promissory note shall not be permitted where such loan would be prohibited by applicable laws, regulations and rules of the Securities and Exchange Commission and any other governmental agency having jurisdiction. However, in the event there is a stated par value of the shares of Stock and applicable law requires, the par value of the shares of Stock, if newly issued, shall be paid in cash or cash equivalents. The shares of Stock shall be pledged as security for payment of the principal amount of the promissory note and interest thereon. The interest rate payable under the terms of the promissory note shall not be less than the minimum rate (if any) required to avoid the imputation of additional interest under the Code. Subject to the foregoing, the Administrator (at its sole discretion) shall specify the term, interest rate, amortization requirements (if any) and other provisions of such note. Unless the Administrator determines otherwise, shares of Stock having a Fair Market Value at least equal to the principal amount of the loan shall be pledged by the holder to the Company as security for payment of the unpaid balance of the loan and such pledge shall be evidenced by a pledge agreement, the terms of which shall be determined by the Administrator, in its discretion; *provided*, *however*, that each loan shall comply with all applicable laws, regulations and rules of the Board of Governors of the Federal Reserve System and any other governmental agency having jurisdiction.

7.5 Exercise/Pledge. To the extent that a Stock Option Agreement or Stock Purchase Agreement so allows and if Stock is publicly traded, in the discretion of the Administrator, upon such terms as the Administrator shall approve, payment may be made all or in part by the delivery (on a form prescribed by the Administrator) of an irrevocable direction to pledge shares of Stock to a securities broker or lender approved by the Company, as security for a loan, and to deliver all or part of the loan proceeds to the Company in payment of all or part of the Exercise Price or Purchase Price and any withholding taxes.

7.6 Written Notice. The Participant shall deliver a written notice to the Administrator requesting that the Company direct the transfer agent to issue to the Participant (or to his or her designee) a certificate for the number of shares of Stock being exercised or purchased or, in the case of a cashless exercise or share withholding exercise, for any shares that were not sold in the cashless exercise or withheld.

SECTION 8: RESTRICTIONS ON RIGHTS AND STOCK

8.1 First Refusal Right. Each Stock Option Agreement and Stock Purchase Agreement may provide that the Company shall have the right of first refusal (the "**First Refusal Right**"), exercisable in connection with any proposed sale, hypothecation or other disposition of the Stock purchased by the Optionee or Offeree pursuant to a Stock Option Agreement or Stock Purchase Agreement; and in the event the holder of such Stock desires to accept a *bona fide* third-party offer for any or all of such Stock, the Stock shall first be offered to the Company upon the same terms and conditions as are set forth in the *bona fide* offer.

8.2 Repurchase Rights. Each Stock Option Agreement and Stock Purchase Agreement may provide that the Company may repurchase the Participant's Rights as provided in this Section 8.2 (the "**Repurchase Right**").

8.2.1 Repurchase Price. Following termination of the Participant's Service the Repurchase Right shall be exercisable at a price equal to (i) the Fair Market Value of vested Stock or, in the case of vested but unexercised Options, the Fair Market Value of the Stock underlying such unexercised Options less the Exercise Price; or (ii) the Purchase Price or Exercise Price, as the case may be, of unvested Stock; *provided*, *however*, that in the event of termination of a Participant's Service for Cause, the Repurchase Right may be exercised for all Stock (whether vested or unvested) at a price per share equal to the Purchase Price or Exercise Price of the Stock. The Repurchase Right shall in all cases be subject to Section 8.3 hereof.

8.2.2 Exercise of Repurchase Right. Unless otherwise set forth in the Stock Option Agreement or Stock Purchase Agreement, a Repurchase Right may be exercised within three (3) months after the termination of the Participant's Service (or in the case of Stock issued upon exercise of an Option or purchased under a Stock Purchase Agreement, in either case after the date of termination, within three (3) months after the date of the exercise or Stock purchase, whichever is applicable) for cash or for cancellation of indebtedness incurred in purchasing the shares of Stock.

8.3 Termination of Repurchase and First Refusal Rights. Each Stock Option Agreement and Stock Purchase Agreement shall provide that the Repurchase Rights with respect to vested Stock and First Refusal Rights shall have no effect with respect to, or shall lapse and cease to have effect when the issuer's securities become publicly traded on a recognized securities exchange or a determination is made by counsel for the Company that such Repurchase Rights and First Refusal Rights are not permitted under applicable federal or state securities laws.

8.4 No Transferability of Rights. Except as provided below, a Participant may not assign, sell or transfer Rights, in whole or in part, other than pursuant to a qualified domestic relations order or by will or by operation of the laws of descent and distribution.

8.4.1 Permitted Transfer of Non-Qualified Stock Option. The Administrator, in its sole discretion may permit the transfer of a Non-Qualified Stock Option (but not an ISO or Stock Purchase Right) as follows: (i) by gift to a member of the Participant's immediate family or (ii) by transfer by instrument to a trust providing that the Option is to be passed to beneficiaries upon death of the trustor, provided the beneficiaries are members of the Participant's immediate family (either or both (i) or (ii) referred to as a "**Permitted Transferee**"). For purposes of this Section 8.4.1, "**immediate family**" shall mean the Optionee's spouse (including a former spouse subject to terms of a domestic relations order); child, stepchild, grandchild, child-in-law; parent, stepparent, grandparent, parent-in-law; sibling and sibling-in-law, and shall include adoptive relationships.

8.4.2 Conditions of Permitted Transfer. A transfer permitted under this Section 8.4 hereof may be made only upon written notice to and approval thereof by the Administrator. A Permitted Transferee may not further assign, sell or transfer the transferred Option, in whole or in part, other than pursuant to a qualified domestic relations order or by will or by operation of the laws of descent and distribution. A Permitted Transferee shall agree in writing to be bound by the provisions of this Plan and the applicable Stock Option Agreement.

8.5 Market Stand-Off. Unless otherwise determined by the Administrator, each Stock Option Agreement and Stock Purchase Agreement shall provide that, in connection with any underwritten public offering by the Company of its equity securities pursuant to an effective registration statement filed under the Securities Act of 1933, as amended, including the Company's initial public offering, the Participant shall agree not to sell, make any short sale of, loan, hypothecate, pledge, grant any option for the repurchase of, or otherwise dispose or transfer for value or otherwise agree to engage in any of the foregoing transactions with respect to any Stock without the prior written consent of the Company or its underwriters, for such period of time from and after the effective date of such registration statement as may be requested by the Company or such underwriters.

8.6 General Restrictions.

8.6.1 No View to Distribute. The Administrator may require each person acquiring shares of Stock pursuant to the Plan to represent to and agree with the Company in writing that such person is acquiring the shares of Stock without a view towards distribution thereof. The certificates for such shares may include any legend that the Administrator deems appropriate to reflect any restrictions on transfer.

8.6.2 Legends. All certificates for shares of Stock delivered under the Plan shall be subject to such stop transfer orders and other restrictions as the Administrator may deem advisable under the rules, regulations and other requirements of the Securities and Exchange Commission, any stock exchange upon which the Stock is then listed and any applicable federal or state securities laws, and the Administrator may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.

SECTION 9: ADJUSTMENTS

9.1 Effect of Certain Changes.

9.1.1 Stock Dividends, Splits, Etc. If there is any change in the number of outstanding shares of Stock by reason of a stock split, reverse stock split, stock dividend, recapitalization, combination or reclassification, then (i) the number of shares of Stock available for Rights, (ii) the number of shares of Stock covered by outstanding Rights, and (iii) the Exercise Price or Purchase Price of any Stock Option or Purchase Right in effect prior to such change, shall be proportionately adjusted by the Administrator to reflect any increase or decrease in the number of issued shares of Stock; provided, however, that any fractional shares resulting from the adjustment shall be eliminated.

9.1.2 Liquidation, Dissolution, Merger or Consolidation. In the event of a Change of Control; any corporate separation or division, including, but not limited to, a split-up, a split-off or a spin-off; a reverse merger in which the Company is the surviving entity, but the shares of Company stock outstanding immediately preceding the merger are converted by virtue of the merger into other property, whether in the form of securities, cash or otherwise; or the transfer of more than fifty percent (50%) of the then outstanding voting stock of the Company to another person or entity, then, the Company, to the extent permitted by applicable law, but otherwise in its sole discretion may provide for: (i) the continuation of outstanding Rights by the Company (if the Company is the surviving entity); (ii) the assumption of the Plan and such outstanding Rights by the surviving entity or its parent; (iii) the substitution by the surviving entity or its parent of rights with substantially the same terms for such outstanding Rights; or (iv) the cancellation of such outstanding Rights without payment of any consideration, provided that if such Rights would be canceled in accordance with the foregoing, the Participant shall have the right, exercisable during a reasonable period prior to such merger, consolidation or other transaction, to exercise the vested portion of such Rights in whole or in part, or, if provided for by the Administrator using its sole discretion in a notice of cancellation, to exercise such Rights in whole or in part without regard to any vesting provisions in the Rights agreement, in either case contingent upon the closing of the such merger, consolidation or other transaction.

9.1.3 Further Adjustments. Subject to Section 9.1.2, the Administrator shall have the discretion, exercisable at any time before a sale, merger, consolidation, reorganization, liquidation or Change of Control, to take such further action as it determines to be necessary or advisable, and fair and equitable to Participants, with respect to Rights. Such authorized action may include (but shall not be limited to) establishing, amending or waiving the type, terms, conditions or duration of, or restrictions on, Rights so as to provide for earlier, later, extended or additional time for exercise and other modifications, and the Administrator may take such actions with respect to all Participants, to certain categories of Participants or only to individual Participants. The Administrator may take such action before or after granting Rights to which the action relates and before or after any public announcement with respect to such sale, merger, consolidation, reorganization, liquidation or Change of Control that is the reason for such action. Unless the Administrator determines otherwise, any adjustments hereunder shall be done on terms and conditions consistent with Section 409A of the Code.

9.1.4 Par Value Changes. In the event of a change in the Stock of the Company as presently constituted which is limited to a change of all of its authorized shares with par value, into the same number of shares without par value, or a change in the par value, the shares resulting from any such change shall be "Stock" within the meaning of the Plan.

9.2 Recapitalizations. Each Stock Option Agreement and Stock Purchase Agreement shall contain provisions required to reflect the provisions of Section 9.

9.3 Decision of Administrator Final. To the extent that the foregoing adjustments relate to Stock or other securities of the Company, such adjustments shall be made by the Administrator, whose determination in that respect shall be final, binding and conclusive; *provided*, *however*, that each ISO granted pursuant to the Plan shall not be adjusted in a manner that causes such Stock Option to fail to continue to qualify as an ISO without the prior consent of the Optionee thereof.

9.4 No Other Rights. Except as expressly provided in this Section 9, no Participant shall have any rights by reason of any subdivision or consolidation of shares of Company stock or the payment of any dividend or any other increase or decrease in the number of shares of Company stock of any class or by reason of any of the events described in Section 9.1, above, or any other issue by the Company of shares of stock of any class, or securities convertible into shares of stock of any class; and, except as provided in this Section 9, none of the foregoing events shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares of Stock subject to Rights. The grant of a Right pursuant to the Plan shall not affect in any way the right or power of the Company to make adjustments, reclassifications, reorganizations or changes of its capital or business structures or to merge or to consolidate or to dissolve, liquidate or sell, or transfer all or part of its business or assets.

SECTION 10: AMENDMENT AND TERMINATION

The Board may amend, suspend or terminate the Plan at any time and for any reason. At the time of such amendment, the Board shall determine, upon advice from counsel, whether such amendment will be contingent on stockholder approval.

SECTION 11: GENERAL PROVISIONS

11.1 No Rights as Stockholder. Except as specifically provided in this Plan, a Participant or a transferee of a Right shall have no rights as a stockholder with respect to any shares covered by the Rights until the date of the issuance of such shares to the Participant, and no adjustment shall be made for dividends (ordinary or extraordinary, whether in cash, securities or other property) or distributions of other rights for which the record date is prior to the date such Stock is issued, except as provided in Section 9.1.1, hereof.

11.2 Other Compensation Arrangements. Nothing contained in this Plan shall prevent the Board from adopting other or additional compensation arrangements, subject to stockholder approval if such approval is required; and such arrangements may be either generally applicable or applicable only in specific cases.

11.3 Disqualifying Dispositions. Any Participant who shall make a "disposition" (as defined in Section 424 of the Code) of all or any portion of an ISO within two years from the date of grant of such ISO or within one year after the issuance of the shares of Stock acquired upon exercise of such ISO shall be required to immediately advise the Company in writing as to the occurrence of the sale and the price realized upon the sale of such shares of Stock.

11.4 Regulatory Matters. Each Stock Option Agreement and Stock Purchase Agreement shall provide that no shares of Stock shall be purchased or sold thereunder unless and until (i) any then applicable requirements of state or federal laws and regulatory agencies shall have been fully complied with to the satisfaction of the Company and its counsel and (ii) if required to do so by the Company, the Optionee or Offeree shall have executed and delivered to the Company a letter of investment intent in such form and containing such provisions as the Board or Committee may require.

11.5 Delivery. Upon exercise of a Right granted under this Plan, the Company shall issue Stock or pay any amounts due within a reasonable period of time thereafter. Subject to any statutory obligations the Company may otherwise have, for purposes of this Plan, thirty days shall be considered a reasonable period of time.

11.6 Other Provisions. The Stock Option Agreements and Stock Purchase Agreements authorized under the Plan may contain such other provisions not inconsistent with this Plan, including, without limitation, restrictions upon the exercise of the Rights, as the Administrator may deem advisable.

11.7 Section 409A. Awards under the Plan are intended either to be exempt from the rules of Section 409A of the Code or to satisfy those rules, and the Plan and such awards shall be construed accordingly. Granted rights may be modified at any time, in the Administrator's discretion, so as to increase the likelihood of exemption from or compliance with the rules of Section 409A of the Code.

SECTION 12: INFORMATION TO PARTICIPANTS

To the extent necessary to comply with California law or other applicable Federal or State securities laws, the Company each year shall furnish to Participants its balance sheet and income statement.

SECTION 13: STOCKHOLDERS AGREEMENTS

As a condition to the issuance or transfer of Stock pursuant to a Right granted under this Plan, whether prior to or following such issuance, the Administrator, in its sole and absolute discretion, may require the Participant to execute and become a party to the Company's stockholders agreement, right of first refusal and co-sale agreement, voting agreement or similar agreement by and among the Company and its stockholders which exists on or after the Date of Grant (each, a "**Stockholders Agreement**"). If the Participant becomes a party to a Stockholders Agreement, in addition to the terms of this Plan and the Stock Option Agreement or Stock Purchase Agreement (whichever is applicable) pursuant to which the Stock is issued, the terms and conditions of Stockholders Agreement shall govern Participant's rights in and to the Stock; and if there is any conflict between the provisions of the Stockholders Agreement and this Plan or any conflict between

the provisions of the Stockholders Agreement and the Stock Option Agreement or Stock Purchase Agreement (whichever is applicable) pursuant to which the Stock is issued, the provisions of the Stockholders Agreement shall be controlling. Notwithstanding anything to the contrary in this Section 13, if a Stockholders Agreement contains any provisions which would violate Section 25102(o) of the California Corporations Code if applied to the Participant, the terms of this Plan and the Stock Option Agreement or Stock Purchase Agreement (whichever is applicable) pursuant to which the Stock is issued shall govern the Participant's rights with respect to such provisions.

SECTION 14: EFFECTIVE DATE OF PLAN

The effective date of this Plan is February 15, 2022. The adoption of the Plan is subject to approval by the Company's stockholders, which approval must be obtained within twelve (12) months from the date the Plan is adopted by the Board. In the event that the stockholders fail to approve the Plan in the manner described in the previous sentence, any grants of Options or sales or awards of shares that have already occurred shall be rescinded, and no additional grants, sales or awards shall be made thereafter under the Plan.

SECTION 15: TERM OF PLAN

The Plan shall terminate automatically on February 15, 2032. No Right shall be granted pursuant to the Plan after such date, but Rights theretofore granted may extend beyond that date. The Plan may be terminated on any earlier date pursuant to Section 10 hereof.

SECTION 16: DEFINITIONS

For purposes of the Plan, the following terms shall be defined as set forth below:

"**Administrator**" has the meaning as set forth in Section 2.

"**Board**" means the Board of Directors of the Company.

"**Cause**" means (i) failure by an Eligible Person to substantially perform his or her duties and obligations to the Company (other than any such failure resulting from his or her incapacity due to physical or mental illness); (ii) engaging in misconduct or a fiduciary breach which is or potentially is materially injurious to the Company or its stockholders; (iii) commission of a felony; (iv) the commission of a crime against the Company which is or potentially is materially injurious to the Company; (v) a material breach of any written agreement between the Eligible Person and the Company, a Parent or a Subsidiary; or (v) as otherwise provided in the Stock Option Agreement or Stock Purchase Agreement or any written employment agreement between the Eligible Person and the Company, a Parent or a Subsidiary. For purposes of this Plan, the existence of Cause shall be determined by the Administrator in its sole discretion.

"**Change of Control**" means any of the following: (i) the acquisition, directly or indirectly, in one transaction or a series of related transactions, by any person or group (within the meaning of Section 13(d)(3) of the Exchange Act) of the beneficial ownership of securities of the Company possessing more than fifty percent (50%) of the total combined voting power of all outstanding securities of the Company; *provided*, *however*, that a Change of Control shall not result upon such acquisition of beneficial ownership if it occurs as a result of a public offering of the Company's

securities or any equity financing transaction or series of equity financing transactions; (ii) the consummation of a merger, consolidation, reorganization or share exchange involving the Company or a acquisition of the Company by another entity pursuant to which shares of capital stock of the Company are converted into cash or securities or other property of the acquiring entity or any of its subsidiaries or parent entities, in each case which results in the holders of voting securities (excluding securities of the surviving entity held by holders of the capital stock of the Company acquired by means other than the exchange or conversion of the capital stock of the Company for securities of the surviving entity) of the Company immediately prior to such merger, consolidation, share exchange, reorganization or other transaction beneficially owning, directly or indirectly, less than a majority of the combined voting power of the surviving entity resulting from such transaction; (iii) the sale, transfer of other disposition (in one or a series of related transactions) of all or substantially all of the assets of the Company; or the approval by the stockholders of the Company of a plan or proposal for the liquidation or dissolution of the Company. Notwithstanding the foregoing, to the extent any amount constituting "nonqualified deferred compensation" subject to Section 409A of the Code would become payable under a Right by reason of a Change of Control, it shall become payable only if the event or circumstances constituting the Change of Control would also constitute a change in the ownership or effective control of the Company, or a change in the ownership of a substantial portion of the Company's assets, within the meaning of subsection (a)(2)(A)(v) of Section 409A of the Code.

"**Code**" means the Internal Revenue Code of 1986, as amended from time to time.

"**Committee**" means a committee of the Board designated by the Board to administer the Plan.

"**Company**" means QLess, Inc., a corporation organized under the laws of the State of Delaware (or any successor corporation).

"**Consultant**" means a consultant or advisor who is a natural person and who provides *bona fide* services to the Company, a Parent or a Subsidiary; provided such services are not in connection with the offer or sale of securities in a capital-raising transaction and do not directly or indirectly promote or maintain a market for the Company's securities.

"**Date of Grant**" means the date on which the Administrator adopts a resolution expressly granting a Right to a Participant or, if a different date is set forth in such resolution as the Date of Grant, then such date as is set forth in such resolution.

"**Director**" means a member of the Board.

"**Disability**" means Participant's inability to perform the essential duties, responsibilities and functions of Participant's position with the Company, a Parent or a Subsidiary for a continuous period of 180 days as a result of any mental or physical disability or incapacity, as determined under the definition of disability in the Company's long-term disability plan so as to qualify Participant for benefits under the terms of that plan or as determined by the Administrator to the extent that no such plan is then in effect. Participant shall cooperate in all respects with the Company if a question arises as to whether Participant has become disabled (including, without limitation, submitting to an examination by a medical doctor or other health care specialist selected

by the Company and authorizing such medical doctor or such other health care specialist to discuss Participant's condition with the Company). Notwithstanding the foregoing, for purposes of determining the term of an ISO pursuant to Section 5.6 hereof, the term Disability shall have the meaning ascribed to it under Code Section 22(e)(3). The determination of whether an individual has a Disability shall be determined under procedures established by the Administrator.

"**Eligible Person**" means an Employee, Consultant or Director of the Company, any Parent or any Subsidiary.

"**Employee**" means any individual who is a common-law employee (including officers) of the Company, a Parent or a Subsidiary.

"**Exercise Price**" has the meaning set forth in Section 5.3.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

"**Fair Market Value**" means the fair market value of a share of Stock, determined as follows: (i) if the Stock is listed on a stock exchange or the NASDAQ Stock Market, the Fair Market Value of a share of Stock shall be the closing sales price for such stock (or the closing bid, if no sales were reported) as quoted on such exchange or system (or the exchange with the greatest volume of trading in the Stock) on the last market trading day prior to the day of determination, as reported in the *Wall Street Journal* or such other source as the Administrator deems reliable; (ii) if the Stock is quoted in the OTC Bulletin Board or any similar system whereby the stock is regularly quoted by a recognized securities dealer but closing sale prices are not reported, the Fair Market Value of a share of Stock shall be the average between the closing bid and ask prices for the Stock on the last market trading day prior to the day of determination, as reported in the *Wall Street Journal* or such other source as the Administrator deems reliable; or (iii) in the absence of an established market for the Stock, the Fair Market Value shall be determined in good faith by the Administrator and such determination shall be conclusive and binding on all persons; *provided*, *however*, that Fair Market Value shall be determined consistent with the requirements of Section 409A of the Code.

"**First Refusal Right**" has the meaning set forth in Section 8.1.

"**ISO**" means a Stock Option intended to qualify as an "incentive stock option" as that term is defined in Section 422(b) of the Code. Each option granted pursuant to the Plan will be treated as providing by its terms that it is to be a Non-Qualified Stock Option unless, as of the Date of Grant, it is expressly designated as an ISO.

"**Non-Qualified Stock Option**" means a Stock Option not described in Section 422(b) of the Code.

"**Offeree**" means a Participant who is granted a Purchase Right pursuant to the Plan.

"**Optionee**" means a Participant who is granted a Stock Option pursuant to the Plan.

"**Parent**" means any corporation (other than the Company) in an unbroken chain of corporations ending with the Company, if each of the corporations other than the Company owns

stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Parent on a date after the adoption of the Plan shall be considered a Parent commencing as of such date.

"**Participant**" means any Eligible Person selected by the Administrator, pursuant to the Administrator's authority in Section 2, to receive grants of Rights.

"**Plan**" means this QLess, Inc. Amended and Restated 2022 Stock Incentive Plan, as the same may be amended or supplemented from time to time.

"**Publicly Held**" means, with respect the Company, any point in time in which any class of common equity securities of the Company are required to be registered under Section 12 of the Exchange Act.

"**Purchase Price**" has the meaning set forth in Section 6.3.

"**Purchase Right**" means the award or right to purchase Stock granted pursuant to Section 6.

"**Rights**" means Stock Options and Purchase Rights.

"**Repurchase Right**" has the meaning set forth in Section 8.2.

"**Service**" means service as an Employee, Director or Consultant.

"**Stock**" means Common Stock, par value $0.00001 per share, of the Company.

"**Stock Option**" or "**Option**" means an option to purchase shares of Stock granted pursuant to Section 5.

"**Stock Option Agreement**" has the meaning set forth in Section 5.1.

"**Stock Purchase Agreement**" has the meaning set forth in Section 6.1.

"**Subsidiary**" means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company, if each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Subsidiary on a date after the adoption of the Plan shall be considered a Subsidiary commencing as of such date.

"**Ten Percent Stockholder**" means a person who on the Date of Grant owns, either directly or through attribution as provided in Section 424 of the Code, Stock constituting more than 10% of the total combined voting power of all classes of stock of his or her employer corporation or of any Parent or Subsidiary.

SECTION 17: EXECUTION.

To record the adoption of the Plan by the Board, the Company has caused its authorized officer to execute the same as of August __, 2024.

QLESS, INC.

_____

By: James Henry
Its: Chief Executive Officer

Exhibit D-1

Assumed Contracts

Counterparty	Contract/Lease Description	Cure
Amazon Web Services	Vendor services agreement	$10,000
BPP East Union LLC	Office lease	$0
Datadog	Vendor services agreement	$0
G2.com Inc.	Vendor services agreement	$0
GSA	Vendor services agreement	$2,500
Insperity	Vendor services agreement	$0
Maxio, LLC	Vendor services agreement	$0
Mosaic Finance, Inc.	Vendor services agreement	$0
Twilio Inc.	Vendor services agreement	$0
Zoominfo Technologies LLC	Vendor services agreement	$0
Various	All Benefit Plans	$0
Various	All Insurance Policies	$0

Exhibit D-2

Rejected Contracts

Counterparty	Contract/Lease Description
Definitive Healthcare	Vendor services agreement
Providence Partners LLC	Office lease
Various entities (list provided on request)	Warrant agreements to purchase Debtor's stock
Brex	Credit card processing and related services

Exhibit E

Celtic Bank Agreed Loan Covenant Amendments

To come

EXHIBIT 2

Redline

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	
QLESS, INC.,	Chapter 11, Subchapter V
Debtor.[1]	Case No. 24-11395 (BLS)

AMENDED PLAN

QLess, Inc., the debtor-in-possession in this case ("**Debtor**") proposes this amended Plan under Section 1189 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* ("**Bankruptcy Code**"), which amends and supersedes the Plan Filed on July 19, 2024, proposing to satisfy all Claims[2] against the Debtor as part of a reorganization in which the Debtor will emerge from Chapter 11 protection recapitalized and reorganized.

This Plan explains certain applicable provisions of the Bankruptcy Code, describes certain events in this case, and incorporates certain attached related documents. Although the Debtor believes that this information is fair and accurate, this information is qualified in its entirety in that it does not set forth the entire text of those related documents or Bankruptcy Code provisions or every detail of those events. This information is provided only as of the date of this Plan. There can be no assurances that the statements contained in this Plan will be correct later.

The Debtor prepared this Plan under Bankruptcy Code § 1190 and Bankruptcy Rule 3016 and not necessarily in accordance with federal or state securities laws or other non-bankruptcy laws. This Plan has not been approved or disapproved by the United States Securities and Exchange Commission (the "**SEC**"), any state securities commission or any securities exchange or association, nor has the SEC, any state securities commission or any securities exchange or association passed on the accuracy or adequacy of the statements contained in this Plan. No other governmental or other regulatory agency approvals have been or will be obtained.

The Debtor submits this Plan to all the Debtor's known holders of Claims entitled to vote to accept or reject the Plan (to "**Vote**"). Despite that Bankruptcy Code § 1181(b) excuses the Debtor from filing a separate disclosure statement with respect to this Plan, but because Bankruptcy Code § 1190(1) requires certain disclosures pertaining to any plan filed under Subchapter V of Chapter 11, this Plan provides all necessary information to enable holders of Claims entitled to Vote to arrive at a reasonably informed decision in exercising their right to Vote.

Accordingly, this Plan contains information regarding:

- The Debtor and events leading to and occurring during the Case;

[1] The Debtor's principal place of business and service address is 21 Miller Alley, Suite 210, Pasadena CA 91105.

[2] All capitalized terms used in this Plan are defined either in the text or in Article 2.

- Who can Vote on, or object to Confirmation of, the Plan and applicable procedures and deadlines;

- What legal and factual criteria the Bankruptcy Court will consider when deciding whether to confirm the Plan;

- Why the Debtor believes the Plan is feasible, and how the treatment of your Claim under the Plan compares with what you would receive on your Claim in a hypothetical liquidation under Chapter 7; and

- The effects of Confirmation of the Plan.

Because this Plan may affect your rights, you should consult with your own counsel and contact the Debtor's counsel with any questions regarding any Plan provision or any disclosure made in this Plan.

In preparing this Plan, the Debtor relied on financial data derived from the Debtor's books and records and made reasonable assumptions regarding the Debtor's business. Although the Debtor believes this information fairly reflects the Debtor's financial condition as of today and that the assumptions regarding future events reflect reasonable business judgments, the Debtor does not represent or warrant the accuracy of the financial information contained in this Plan or assumptions regarding future results and operations. The financial information contained in this Plan and in its exhibits has not been audited or prepared in accordance with generally accepted accounting principles in the United States or any other jurisdiction. The Debtor disclaims any duty to publicly update any forward-looking statements, whether as a result of new information, future events, or for any other reason.

Confirmation and effectiveness of the Plan are subject to certain material conditions described in Article 9. There is no assurance that the Plan will be confirmed or, if confirmed, that these material conditions will be satisfied or waived. **You should read this Plan in its entirety before Voting.**

If the Bankruptcy Court confirms the Plan and the Effective Date occurs, all holders of Claims (including holders of Claims not entitled to Vote) will be bound by the Plan's terms and any transactions the Plan contemplates.

The contents of this Plan should not be construed as legal, business, or tax advice. Holders of Claims should consult their own legal counsel and tax advisors as to legal, tax, and other matters concerning their Claim. This Plan may not be relied on for any purpose other than to determine how to Vote or object to Confirmation. All holders of Claims should refer to Article 4 of this Plan for information regarding the treatment of their Claim.

Solicitation and Voting

The Bankruptcy Court has not yet confirmed the Plan. That cannot occur until holders of Claims entitled to Vote have voted. This Plan describes the terms of the Debtor's reorganization

and provides additional information that holders of Claims entitled to Vote will need to make an informed decision regarding how to Vote. In making a decision to accept or reject the Plan, each holder of a Claim must rely on its own assessment of the Plan, including the merits and risks involved.

If you are entitled to Vote to accept or reject the Plan, you must Vote in accordance with the procedures approved, and the deadline set, by the Bankruptcy Court and provided to you. Those procedures will include a requirement to use and return an approved Ballot as instructed on the Ballot. Not all holders of Claims are eligible to Vote. *See* Article 4 to determine if you are eligible to Vote.

If you want additional information about the Plan, you should contact Jordan Kroop, Pachulski Stang Ziehl & Jones LLP, counsel for the Debtor, at jkroop@pszjlaw.com. The Debtor's counsel cannot give you legal advice.

THE DEBTOR RECOMMENDS ALL HOLDERS OF CLAIMS ENTITLED TO VOTE TO ACCEPT THE PLAN

FAQ

Is QLess going out of business?

No. This Plan provides for the financial reorganization of the Debtor—through, among other things, an elimination of litigation that has been burdening the Debtor's liquidity and profitability and a conversion of debt the Debtor has incurred during this Case into equity—so that the Debtor may continue growing its operations and serving its existing and future customers. If the Plan is confirmed, the Debtor will be positioned to better compete in its market and pursue ever-greater profitability and high-level service to customers across the country and allow the Debtor to explore merger opportunities that could strengthen the company. This Plan, if confirmed, is the first step in what QLess believes will be a bright future.

What is Chapter 11 bankruptcy?

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code that allows financially distressed businesses to reorganize their debts in a controlled, court-supervised fashion. Filing a Chapter 11 case creates an "estate" containing all the legal and equitable interests of the debtor in property as of the date the bankruptcy case is filed. During a Chapter 11 bankruptcy case, a debtor remains in possession of its assets and may continue to operate its business. The Debtor has proposed the Plan in an effort to minimize the overall administrative costs associated with this case and maximize value to creditors.

What is Subchapter V?

Subchapter V is a series of provisions within Chapter 11 of the Bankruptcy Code that can be used by small businesses, such as the Debtor, to access the reorganization tools available

under Chapter 11 without incurring much of the expense and delay associated with Chapter 11 cases for larger organizations and enterprises.

How do I determine how my Claim is classified?

To determine the classification of your Claim, you must determine the nature of your Claim. Under the Plan, Claims are classified into Classes. The pertinent articles and sections of the Plan disclose, among other things, the composition of each Class and the treatment that each Class will receive if the Plan is Confirmed.

How do I determine what I may recover on account of my Claim?

After you determine the classification of your Claim, you can determine the likelihood and range of potential recoveries with respect to your Claim by referring generally to Article 3 and Article 4 as well as the liquidation analysis and the projections at **Exhibits A** and **B**.

What is necessary to confirm the Plan?

Under applicable provisions of the Bankruptcy Code, Confirmation of the Plan requires that, all Classes of impaired Claims Votes to accept the Plan or that the Plan does not unfairly discrimination and is fair and equitable to any Class of Claims that does not Vote to accept the Plan. A Class accepts the Plan if at least two-thirds in the total dollar amount and more than one-half in number of Class members who actually Vote in that Class Vote to accept the Plan. Because only holders of claims who actually Vote are counted for purposes of determining acceptance or rejection of a plan by an impaired class, a plan can be approved with the affirmative vote of members of an impaired class who own less than two-thirds in amount and one half in number of the claims or interests in that class. The Bankruptcy Court also must find that the Plan meets a number of other statutory tests before it may confirm the Plan. These requirements and statutory tests generally are designed to protect the interests of creditors who do not Vote but who will nonetheless be bound by the Plan's provisions if the Bankruptcy Court confirms the Plan. If one or more Classes vote to reject the Plan, the Debtor may still request that the Bankruptcy Court confirm the Plan under Bankruptcy Code § 1191(b). To confirm a plan not accepted by all classes, a debtor must demonstrate that the plan does not discriminate unfairly against, and is fair and equitable with respect to, each impaired class of claims that has not accepted the Plan. (With respect to a class of unsecured claims, for example, a plan is fair and equitable if it provides creditors with the debtor's projected disposable income over three to five years.) This method of confirming a plan is commonly called "cramdown." In addition to the statutory requirements imposed by the Bankruptcy Code, the Plan itself also provides for certain conditions that must be satisfied as conditions to Confirmation.

Article 1
DISCLOSURES

1.1. Description and History of the Debtor.

1.1.1 QLess was founded in 2009, in Pasadena, California by Alejandro (Alex) Bäcker as a software startup operating from the cloud (*i.e.,* customers accessed the QLess software

platform over the internet). Bäcker originally created QLess to eliminate customer time spent waiting in line for service. QLess's unique approach relieved customers from having to drive to a location to obtain a paper ticket with a number—like taking a number in a bakery—and sit in a lobby or waiting room. Instead, using QLess, customers were able to join the line from the comfort of their own home while QLess technology would text customers a time to arrive for service.

1.1.2 QLess's early success was found in higher education institutions, local governments, and theme parks, a market that constituted more than 80% of QLess's customer base. Nearly all QLess's customers suffered from the same problems and had the same needs: physical lines; taking a number; sitting in the lobby. QLess eventually expanded its product offering to include appointment scheduling, customer satisfaction ratings, and operational reports. QLess made it simpler for employees to easily serve hundreds of customers at a single location in a single day. Through about 2022, this constituted QLess's business approach.

1.1.3 In 2022, QLess began to realize that it was effectively bringing QLess's customers together with their customers (visitors) in entirely new and modern ways. Irrespective of how a QLess user was serving appointments or walk-in customers, customer relationship management was the touchstone. QLess's clients' customers (visitors) came to value the accuracy of QLess's estimates of when they were to be served, as well as frequent updates and preparatory instructions (text or email) telling customers when to expect the served.

1.1.4 Recognizing this opportunity, QLess expanded its reach to other industries, first among them being a subsegment of the healthcare industry—specifically, clinical and independent labs performing a high daily volume of blood draws, glucose tests for pregnant women, ECGs, drug screens, etc. Radiology labs performing routine radiological tests also proved a good source of QLess's market growth. QLess continues to explore other markets where a user's customer transactions typically last for more than five minutes and where the user sees more than 50 customers per day, per location. Currently, the QLess platform is being used to manage more than 30 million visits per year. The Debtor's goal is to reach one billion visits per year across the QLess platform. The Debtor believes that is achievable by 2028-2030, if funded properly.

1.1.5 QLess currently maintains a corporate office located at 21 Miller Alley, Suite 210, Pasadena, CA 91105. From this location and through services rendered by the Debtor's remote employees, the Debtor offers top-of-market software-as-a-service (SaaS) for queue management, managing physical and digital customer interactions in a single, unified software application. An end-user's customers can join a queue for customer service from anywhere while staying informed of their place in the queue and expected wait times on their mobile device. The Debtor's platform includes powerful appointment scheduling features, eliminating the hassle of back-and-forth scheduling calls through an intuitive online booking system. Telephone customers are liberated from long wait times listening to hold music and instead receive a callback when the customer reaches the front of the queue, while QLess's clients' employees enjoy a less stressful workday because customers do not begin calls annoyed and irritated for having endured a long wait on hold. The Debtor's platform also includes virtual meeting capability via Zoom, Microsoft Teams or Webex so that customers can avoid the expense and time of traveling to a central location to transact business with the QLess client.

1.1.6 For customers offering services across multiple locations, the QLess platform uses proprietary technology to direct the client's customers to more available locations, balancing wait and drive times with mapped recommendations. The Debtor's clients use the Debtor's software to reduce costly no-shows by sending out configurable appointment reminders, allowing customers to reschedule appointments themselves, manage booking with a smart cancelation feature—which automatically cancels an appointment and prompts a customer to reschedule after the customer fails to respond to repeated reminders—and automates the filling of canceled appointment slots from a waiting list when a cancelation opens new slots. QLess clients can also perform advanced analysis and obtain real-time service metrics measuring customers served, wait times, and service bottlenecks. Available analytics include customer satisfaction across teams, locations, and services, as well as employee productivity, efficiency, idle time, and skill development areas.

1.2. Events Leading to Chapter 11 Filing.

1.2.1 QLess has operated at a net operating loss for several years. The Debtor projects that it will finish the current fiscal year (calendar year 2024) with an approximate net operating loss of $5 million. The Debtor currently carries approximately $35-40 million in cumulative net operating losses (NOLs). Given the growth in revenue alone, the Debtor projects that it will finish break-even (zero net operating loss or gain) by 2025 fiscal year-end.

1.2.2 A significant challenge facing the Debtor in its efforts to reach net profitability is that its legacy core product—called Linebuster—suffers from severe technical limitations. The Debtor has wanted to rebuild its core software platform into a far more modern architecture since 2021. The Debtor recently brought to market its new product, called Tempo, that will eventually replace Linebuster. QLess continues to bear the "bubble cost" of bringing Tempo online, including a surge in R&D spending to develop Tempo and substantially increased operating costs (such as monitoring and support using the Amazon Web Services platform) associated with migrating customers away from Linebuster toward Tempo but also supporting two products at once for the time being. Bringing Tempo online was accompanied by renewed efforts to reduce operating expenses, including approximately $2 million in savings associated with a significant expense reduction event implemented on April 1, 2024 (composed mostly of a headcount reduction and other related measures). By continuing to grow revenue and keeping operating expenses level—the principal approach QLess is now taking with the help of this case—QLess believes it can move toward profitability in the near term.

1.2.3 QLess is fighting for market share and believes that it is still looking up at three to five competitors with superior market penetration. Developing and deploying Tempo as a newer, more sophisticated software offering has required considerable capital such that any increase in revenue and market share earned by leveraging Tempo will translate into profitability on when QLess is able to earn its way past the initial "bubble cost" associated with Tempo noted above.

1.2.4 Shareholder Lawsuit. In December 2023, a group of former common and preferred shareholders of the Debtor, led by Alex Bäcker, the Debtor's founder, sued the Debtor, its largest shareholder, Palisades Growth Capital II, L.P., and certain of the Debtor's former and current officers and directors, in Delaware Chancery Court—*AB Inventio LLC et al. v. Palisades Growth Capital II, L.P., et al.,* C.A. No. 2023-1279-JTL—alleging breaches of fiduciary duties in connection with the alleged rejection of non-dilutive financing transactions in favor of financing

and a subsequent merger with Palisades and a breach of contract against the Debtor for allegedly violating its own charter. The Shareholder Lawsuit has been both a severe distraction to the Debtor's operating leadership team and an unmanageable expense that continues to frustrate the Debtor's efforts to achieve profitability. To date—over the course of only six months of early-stage litigation in the Shareholder Lawsuit—QLess has incurred approximately $1 million in legal fees. QLess's defense counsel estimates that litigating the Shareholder Lawsuit to completion—including pre-discovery motion practice, fact and expert discovery, pretrial proceedings and trial, and post-trial briefing and argument—could ultimately cost millions of dollars, excluding any appeals and any adverse judgment amount as well as potentially large liabilities to QLess's co-defendants, who have indemnification claims against the Debtor.

1.2.5 Possible Business Combinations. To address its long-term profitability and value creation, the Debtor has also been exploring one or more business combinations with strategic partners. Despite the attractiveness of certain possibilities in this regard, the extraordinary expenses and uncertainty associated with the Shareholder Lawsuit has interfered with the Debtor's ability to pursue such business combinations. Discharge of any claims which theoretically could arise as a result of the Shareholder Litigation will facilitate the potential for value accretive transactions in the future.

1.2.6 Corporate Governance Improvements.

~~**1.2.6**~~(a) **Prepetition.** Shortly before commencing the Case, the Debtor appointed M. Freddie Reiss, a highly-experienced restructuring expert, as an independent member of the Debtor's board of directors. Mr. Reiss had no relationship with the Debtor or any of its current or former shareholders before joining the Debtor's board. The Debtor also engaged Andrew De Camara, an experienced restructuring advisor and principal of Sherwood Partners, as Chief Restructuring Officer for at least the duration of this Case.

(b) **Post-Effective Date.** As of the Effective Date, the composition of the Debtor's board of directors will remain unchanged from the Petition Date. The following individuals constitute the Debtor's board of directors as of the Effective Date: (a) Anders Richardson; (b) Nathaniel Hochman; (c) Mark Tapling; (d) James Harvey; and (e) M. Freddie Reiss (who continues to receive a monthly fee of $25,000 per month for service on the Board, and whose service on the Board is expected to continue until Distributions are completed to all holders of non-Disputed Claims, which the Debtor believes will occur within 30 days of the Effective Date). Mr. Harvey continues as the Debtor's chief executive officer from and after the Effective Date with the same compensation package he has received from the Debtor before and during this Case. Other than Mr. Reiss, no member of the Board receives any compensation for service on the Board from and after the Effective Date.

1.3. Statutory Requirements for Confirmation. The Bankruptcy Court may only confirm the Plan if it determines at and as a result of the Confirmation Hearing that the requirements for Confirmation set forth in Bankruptcy Code § 1191 have been satisfied. The Debtor will demonstrate to the Bankruptcy Court at the Confirmation Hearing that all requirements for Confirmation under Bankruptcy Code § 1191 have been met, which include:

1.3.1 The Plan complies with the applicable provisions of the Bankruptcy Code;

1.3.2 The Debtor as Plan proponent has complied with the applicable provisions of the Bankruptcy Code;

1.3.3 The Plan has been proposed in good faith and not by any means forbidden by law;

1.3.4 Either all Classes of Impaired Claim have accepted the Plan or, under Bankruptcy Code § 1191(b), the Plan does not discriminate unfairly against, and is fair and equitable to, all Classes of Impaired Claims that have not accepted the Plan;

1.3.5 Best Interest Test. The Best Interest Test requires that any holder of a Claim that does not accept the Plan, either by Voting to reject the Plan or because the holder is deemed to reject the Plan without Voting, receives at least as much under the Plan as the holder would have received under a hypothetical Chapter 7 liquidation of the Estate;

(a) **Calculation of Liquidation Value.** To calculate the probable distribution to members of Class 2 if the Debtor were liquidated under Chapter 7, the Bankruptcy Court must first determine the aggregate dollar amount that would be generated from the liquidation of the Debtor's assets if this case were converted to a Chapter 7 case under the Bankruptcy Code and the assets were sold on a liquidation basis rather than a going concern basis. The Debtor assumes that its assets have a gross liquidation value between $168,000 and $915,000. This range reflects the nature of the Debtor's business as a SaaS (software-as-a-service) business that does not maintain inventory and does not own valuable equipment. In a non-operating posture, the Debtor's customer relationships are without material value and the Debtor's intellectual property is valued substantially lower in a non-operating context than if it were deployed in an operating business.

(b) **Reductions.** The amount of liquidation value available to unsecured creditors would be reduced by the costs and expenses of liquidation, as well as by other administrative expenses and costs of the Chapter 7 case, which would include the compensation of a Chapter 7 trustee and its counsel and other professionals, and asset disposition expenses. Once the Bankruptcy Court ascertains the recoveries in liquidation of priority claimants, it must determine the probable distribution to general unsecured creditors from the remaining available proceeds in liquidation. If the probable distribution has a value greater than the distributions to be received by such creditors under the plan, then the plan is not in the best interests of creditors.

(c) **Application.** The liquidation analysis at **Exhibit A** shows that holders of Allowed General Unsecured Claims will receive substantially better recoveries under the Plan than under a hypothetical Chapter 7 liquidation. Accordingly, the Plan easily satisfies the Best Interests Test with respect to any holder of an Allowed General Unsecured Claim that may Vote;

1.3.6 Feasibility Test. In a Subchapter V case such as this Case, the Feasibility Test encompasses: (a) the requirements in Bankruptcy Code § 1129(a)(11) that the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor; (b) the requirement under Bankruptcy Code § 1191(c)(2) that, if a Class of Claims does not accept

the Plan, the Plan provides that all the Debtor's projected disposable income[3] to be received in the three-year period following the Effective Date will be applied to make payments under the Plan or the value of the property to be distributed under the Plan in that three-year period is not less than the Debtor's projected disposable income; and (c) the requirement under Bankruptcy Code § 1191(c)(3) that, if one or more Classes of Claims do not accept the Plan, the Debtor will be able, or there is a reasonable likelihood that the Debtor will be able, to make all payments under the plan. The projections at **Exhibit B,** provided as required in Bankruptcy Code § 1190(1)(C), demonstrate that the Plan easily meets the Feasibility Test.

Article 2
DEFINITIONS AND RULES OF CONSTRUCTION

2.1. All capitalized terms used in this Plan are defined in this Article 2, the Bankruptcy Code, or the Bankruptcy Rules. "Including" means "including without limitation." "Or" is not exclusive, such that "A or B" should be read as "A or B, or both." Bankruptcy Rule 9006(a) applies to all periods prescribed in this Plan.

2.2. 503(b)(9) Claim. A Claim under Bankruptcy Code § 503(b)(9) for the value of goods received by the Debtor in the 20 days immediately before the Petition Date and sold to the Debtor in the ordinary course of the Debtor's business.

2.3. Administrative Claim. A Claim for any expense Allowed under Bankruptcy Code §§ 364(c)(1), 503(b), 503(c), 507(b), 546(c)(2), or 1114(e)(2) and entitled to priority under Bankruptcy Code § 507(a)(2), including: (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the Debtor's businesses; (b) all Professional Fee Claims to the extent Allowed by Final Order under Bankruptcy Code § 330; (c) all fees and charges assessed against the Estate under 28 U.S.C. §§ 1911–1930; and (d) 503(b)(9) Claims.

2.4. Administrative Claims Bar Date. The date by which a request for payment of an Administrative Claim must be Filed. The first Business Day 30 days after the Effective Date.

2.5. Allowed. With respect to any Claim or Interest:

2.5.1 Allowed by Final Order, whether or not following an objection to its allowance, a motion to estimate for purposes of allowance, or a request to subordinate Filed within the applicable period fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court; ~~or~~

2.5.2 Proof of which, request for payment of which, or application for allowance of which was Filed ~~or deemed Filed on or before the Bar Date, the Administrative Claims Bar Date, the Professional Fee Bar Date, or the Rejection Damages Bar Date, as applicable, for filing proofs of claim or equity interest or requests for payment for Claims of that type against the Debtor or other applicable date established by order of the Bankruptcy Court, the Administrative Claims Bar Date,~~

[3] Bankruptcy Code § 1191(d) defines "disposable income" as the "income that is received by the debtor and that is not reasonably necessary to be expended … for the payment of expenditures necessary for the continuation, preservation, or operation of the business of the debtor."

~~the Professional Fee Bar Date, or the Rejection Damages Bar Date, as applicable,~~ **except** if an objection to the Allowance of the Claim or Interest has been Filed within the applicable period fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court; ~~or~~

2.5.3 Listed as undisputed, liquidated, and non-contingent in the Schedules and no objection to its Allowance, motion to estimate for purposes of Allowance, or request to subordinate has been Filed within the applicable period fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court~~.~~;

2.5.4 Allowed by stipulation between the Debtor and the holder of the Claim; or

2.5.5 Allowed under the Plan.

2.6. Amended and Restated Charter. Collectively, the documents and agreements at **Exhibit C** (which may be Filed no later than ten days before the Confirmation Hearing), including an amended and restated articles of incorporation, amended and restated shareholder agreements, as necessary, and the MIP, under which the rights, priorities, and obligations of holders of the Debtor's capital stock, including the New Preferred Shares, are defined, superseding only the prior agreements they expressly amend and restate and otherwise leaving unchanged and in effect all other agreements and documents governing the rights, priorities, and obligations of the Debtor's shareholders as of the Petition Date.

2.7. Avoidance Actions. All statutory causes of action preserved for the Estates under Bankruptcy Code §§ 510, 542, 544–550, 553, and 724(a) or under similar local, state, federal, or foreign statutes and common law including those against all recipients of transfers identified in Part 2, Items 3 and 4 of the SOFA. Failure to specifically identify an Avoidance Action in the Plan does not waive or release that Avoidance Action.

2.8. Bäcker. Alex Bäcker, the individual identified in Section 1.2.4.

~~**2.8.**~~**2.9.Bäcker Arbitration.** The dispute between the Debtor and ~~Alex~~ Bäcker regarding Bäcker's allegation (which the Debtor disputes in its entirety) that the Debtor owes him ~~certain~~ sums for unpaid pre-2016 compensation under his now-terminated employment agreement, severance, a "change of control bonus," additional bonuses, and consulting fees, which Bäcker submitted to arbitration in June 2022.

~~**2.9.**~~**2.10. Bäcker Arbitration Claim.** ~~Any~~ Claim #11 filed in the Case, in the amount of $3,500,765.32, related to and arising out of the disputes constituting the subject matter of the Bäcker Arbitration.

~~**2.10.**~~**2.11. Ballot.** The form distributed to each holder of an impaired Claim entitled to Vote on which the Holder indicates either acceptance or rejection of the Plan.

~~**2.11.**~~**2.12. Bankruptcy Code.** Title 11 of the United States Code.

~~**2.12.**~~**2.13. Bankruptcy Court.** The United States District Court for the District of Delaware and, to the extent of any reference under 28 U.S.C. § 157, the bankruptcy unit of the District Court under 28 U.S.C. § 151 (that is, the United States Bankruptcy Court for the District of Delaware).

~~2.13.~~2.14. **Bankruptcy Rules.** Collectively, the Federal Rules of Bankruptcy Procedure promulgated under 28 U.S.C. § 2075 and any local bankruptcy rules of the Bankruptcy Court applicable to the Case.

~~2.14.~~2.15. **Bar Date.** August 19, 2024, the date set by the Bankruptcy Court by which any Person other than a Governmental Unit (for which the date is December 16, 2024) asserting a Claim (other than an Administrative Claim, Professional Fee Claim, or Rejection Damages Claim) must File a proof of claim or be forever barred from asserting a Claim against the Debtor or its property and from sharing in Distributions, subject to further order of the Bankruptcy Court.

~~2.15.~~2.16. **Benefit Plans.** All benefit plans of any type that the Debtor provides to its employees, whether now in existence or previously terminated, and any rights of employees to extended coverage arising from any benefit plan, whether under the terms of that benefit plan or under applicable law.

~~2.16.~~2.17. **Business Day.** Any day, other than a Saturday, Sunday or "legal holiday" (as defined in Bankruptcy Rule 9006(a)).

~~2.17.~~2.18. **Case.** This bankruptcy case commenced on the Petition Date in the Bankruptcy Court by the Debtor under Subchapter V of Chapter 11 of the Bankruptcy Code.

~~2.18.~~2.19. **Cash.** United States currency, checks drawn on a U.S. bank insured by the Federal Deposit Insurance Corporation, certified checks, money orders, negotiable instruments, and wire transfers of immediately-available United States dollars.

~~2.19.~~2.20. **Celtic Bank.** Celtic Bank Corporation, the lender under the Celtic Bank Loan Documents and the holder of an Allowed Secured Claim.

~~2.20.~~2.21. **Celtic Bank Loan Documents.** Collectively, the *Business Loan Agreement* dated as of February 21, 2023 (together with all documents, instruments, and agreements executed in connection with that loan agreement) under which Celtic Bank advanced loans, secured by a first-priority Lien on substantially all the Debtor's assets, on a term basis.

~~2.21.~~2.22. **Claim.** Any "claim" against the Debtor as defined in Bankruptcy Code § 101(5)—i.e., (a) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, or (b) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

~~2.22.~~2.23. **Claims and Noticing Agent.** Kurtzman Carson Consultants, LLC, doing business as Verita Global, the Bankruptcy Court-appointed agent to perform noticing, claims administration, and Plan balloting services to the Bankruptcy Court and the Debtor with respect to this Case.

~~2.23.~~2.24. **Class.** A category consisting of holders of Claims substantially similar in nature to the Claims of other holders placed that category, as designated in Article 4.

~~2.24.~~2.25. **Collateral.** Any property or interest in property of the Estate subject to a Lien to secure the payment or performance of a Claim where the Lien is neither avoidable nor invalid under the Bankruptcy Code or applicable state law.

~~2.25.~~2.26. **Confirmation.** The Bankruptcy Court's entry of the Confirmation Order on the Case docket.

~~2.26.~~2.27. **Confirmation Date.** The date on which Confirmation occurs.

~~2.27.~~2.28. **Confirmation Hearing.** The evidentiary hearing at which the Bankruptcy Court considers Confirmation.

~~2.28.~~2.29. **Confirmation Order.** The Bankruptcy Court's order confirming the Plan under Bankruptcy Code § 1191. The Confirmation Order need not necessarily be a Final Order.

~~2.29.~~2.30. **Consummation.** The occurrence of the Effective Date.

~~2.30.~~2.31. **Contingent Claim.** Any Claim not Allowed on or before the Confirmation Date: (a) that has not accrued and depends on a future event that has not occurred and may never occur, or for which a proof of claim has been Filed not in a fixed amount; or (b) is listed on the Schedules as contingent.

~~2.31.~~2.32. **Cure Amount.** Any amounts, including zero, required by either statute or by agreement of the parties to cure any monetary defaults under any executory contract or unexpired lease assumed by the Debtor under Bankruptcy Code §§ 365 or 1123.

~~2.32.~~2.33. **D&O Policy.** Any directors and officers liability insurance policy or any applicable errors and omissions policy purchased by the Debtor~~ and applicable to the Debtor's directors, officers, and managers~~.

~~2.33.~~2.34. **Debtor.** QLess, Inc., the debtor in this Case.

~~2.34.~~2.35. **DIP Lender.** ~~The lender or,~~ C~~c~~ollectively, Palisades Growth Capital II, L.P. (as both lender and agent for all lenders), Antony T.F. Lundy, Brian J. McLoughlin Trust-2005 (U/D/T dated August 1, 2005), the Entrust Group FBO Brian J. McLoughlin Roth IRA 51-00756and Perry Trebatch, the lenders providing post-Petition Date debtor-in-possession loans to the Debtor under the Final DIP Order.

~~2.35.~~2.36. **DIP Loan Claim.** The Allowed Claim of the DIP Lender under the Final DIP Order as of the Confirmation Date, which the Plan assumes to be $3,~~8~~300,000.

~~2.36.~~2.37. **Disallowed.** A Claim or Interest, or any portion of a Claim or Interest that: (a) has been disallowed or withdrawn by Final Order; or (b) was listed as disputed, unliquidated, or contingent in the Schedules and no proof of which was Filed before the applicable Bar Date.

~~2.37.~~2.38. **Disputed.** A Claim or Interest not yet Allowed.

~~2.38.~~2.39. **Distribution.** Any payment of Cash, property, or other value to a holder of an Allowed Claim under the Plan.

~~2.39.~~2.40. **Distribution Date.** A date under the Plan to make Distributions.

~~2.40.~~2.41. **Effective Date.** The first Business Day 15 days after the Confirmation Date, or any other date before or after to which the Debtor and the DIP Lender agree, on which (a) no stay of the Confirmation Order is in effect and (b) all conditions to the Effective Date set forth in Section 9.~~1~~2 of the Plan have been satisfied or waived in accordance with the Plan.

~~2.41.~~2.42. **Estate.** The Debtor's estate created under Bankruptcy Code § 541 and containing the Debtor's property under Bankruptcy Code §§ 541 and 1186(a).

~~2.42.~~2.43. **Exculpated Parties.** Collectively: (a) the Debtor and its Estate; (b) the ~~DIP Lender; (c) the~~ Subchapter V Trustee; and (~~d~~c) with respect to each entity in the preceding clauses (a) ~~through~~and (~~e~~b), each of their respective officers~~,~~ and directors~~, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, subsidiaries, divisions, management companies, heirs, agents, and other representatives,~~actually serving during the Case and Professionals, in each instance solely in that capacity~~, other than a Gated Party~~.

~~2.43.~~2.44. **File.** Submit to the Bankruptcy Court (or, in the case of proofs of claim, the Claims and Noticing Agent) for entry on the Case docket, either through the Bankruptcy Court's ECF system or other permitted method.

~~2.44.~~2.45. **Final DIP Order.** The *Final Order (I) Authorizing And Approving Debtor To (A) Obtain Debtor In Possession Financing On A Junior Secured Basis And (B) Use Cash Collateral Of Pre-Petition Secured Lender And (II) Granting Related Relief,* entered on July 19, 2024, by the Bankruptcy Court in the Case.

~~2.45.~~2.46. **Final Order.** An order or judgment of the Bankruptcy Court: (a) as to which the time to appeal, petition for certiorari, or move for reargument or rehearing (collectively, an "**Appeal**") has expired without an Appeal being filed in the appropriate court, or as to which any right to Appeal has been waived in writing in form and substance satisfactory to the Debtor; and (b) if an Appeal has been filed in an appropriate court, as to which the highest court to which the order was Appealed has determined or denied the Appeal, and the time to take any further Appeal has expired; but the filing of a motion under Rule 59 or 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, with respect to the order does not prevent the order from being a Final Order.

~~**2.46. Gated Parties.** Collectively: (a) any plaintiff in the Shareholder Litigation or the Bäcker Arbitration; (b) any direct or indirect parent of any such plaintiff; and (c) any Person partially or wholly owned or controlled by any such plaintiff.~~

2.47. General Unsecured Claim. Any Claim, including a Rejection Damages Claim but excluding a Secured Claim, an Administrative Claim, a Priority Tax Claim, a Priority Claim, or a Cure Amount.

2.48. GUC Fund. A Cash fund of $300,000.

2.49. Impaired. With respect to a Class of Claims, impaired within the meaning of Bankruptcy Code § 1124.

2.50. Insurance Policies. All insurance policies, insurance settlement agreements, coverage-in-place agreements, and other agreements, documents, or instruments relating to the provision of insurance entered into by or issued to or for the benefit of, the Debtor or its predecessors, including general liability policies, errors and omissions policies, any D&O Policy, and any policies pertaining to employees.

2.51. Interest. Any issued shares of capital stock of the Debtor, excluding Warrants.

2.52. IRS. The United States Internal Revenue Service.

2.53. Litigation Claims. All claims and causes of action in law or in equity, whether known or unknown, contingent or otherwise, that the Estate has brought or may have against any Person other than Avoidance Actions. Failure to specifically identify a Litigation Claim in the Plan does not waive or release that Litigation Claim.

2.54. MIP. The management incentive plan as may be amended in Exhibit C authorizing additional shares in the Reorganized Debtor, up to 10% of the outstanding common shares of the Reorganized Debtor, to the Reorganized Debtor's management personnel.

2.55. New Preferred Shares. Shares of senior preferred capital stock in the Debtor issued to the DIP Lender under the Plan as of the Effective Date, subject to the exemptions contained in Bankruptcy Code § 1145 and governed by the Amended and Restated Charter. The New Preferred Shares constitute 30% of the fully-diluted equity capital of the Debtor and otherwise are *pari passu* with the existing senior preferred shares issued by the Debtor before the Petition Date.

2.56. Non-Insured Indemnity Claim. A Claim arising under any obligation ~~of the Debtor~~ to indemnify any Person ~~where such obligation is not subject to~~not covered by an applicable Insurance Policy. The Debtor estimates that all Non-Insured Indemnity Claims total approximately $50,000.

2.57. Palisades Claim. The Allowed General Unsecured Claim of Palisades Growth Capital II, L.P. in the amount of $250,000.

2.58. Petition Date. June 19, 2024, the date on which the Debtor Filed its petition for relief commencing the Case.

2.59. Priority Claim. Any Claim entitled to priority under Bankruptcy Code § 507(a) other than an Administrative Claim or a Priority Tax Claim.

2.60. Priority Tax Claim. Any Claim that is entitled to priority in payment under Bankruptcy Code § 507(a)(8) including, for purposes of the Plan, any Secured Claim that would otherwise meet the description of an unsecured Claim of a governmental unit but for the Secured status of that Claim.

2.61. Professional. A Person~~: (a)~~ employed in the Case by a Final Order under Bankruptcy Code §§ 327 or 328 and compensated for services under Bankruptcy Code §§ 328 or 330 by a Final Order~~; or (b) for whom compensation or reimbursement has been Allowed by a Final Order under Bankruptcy Code § 503(b)(4)~~.

2.62. Professional Fee Bar Date. The first Business Day 30 days after the Effective Date.

2.63. Professional Fee Claim. An Administrative Claim for compensation and reimbursement of expenses of a Professional incurred before the Effective Date Filed in accordance with Bankruptcy Code §§ 328~~,~~ or 330~~, or 503(b)(4)~~.

2.64. Projected Disposable Income. The amount of projected disposable income reflected on **Exhibit B** in an amount equaling $75~~1~~,000.

2.65. Pro Rata. A proportionate share, such that the ratio of the consideration distributed on account of an Allowed Claim in a Class to the amount of that Allowed Claim is the same as the ratio of all consideration distribution on account of all Allowed Claims in that Class to the amount of all Allowed Claims in that Class.

~~**2.66. Protected Parties.** Collectively: (a) the Debtor; (b) the Reorganized Debtor; (c) the Professionals retained by the Debtor in the Case; (d) the DIP Lender; (e) the defendants in the Shareholder Litigation; and (f) the Related Persons (including the Debtor's Chief Restructuring Officer) parties listed in (a) through (e) other than a Gated Party.~~

~~2.67.~~2.66. **Record Date.** The day that is seven days before the date the Bankruptcy Court sets as the deadline to Vote, which is the date for determining the holders of Claims for purposes of Voting and Distributions.

~~2.68.~~2.67. **Rejection Damages Claim.** A Claim arising from the Debtor's rejection of an executory contract or unexpired lease either during the Case or under the Plan other than a Claim for unpaid rent or contract payments arising under a rejected executory contract or unexpired lease after the Petition Date and before the effective date of the rejection of that contract or lease.

~~2.69.~~2.68. **Rejection Claims Bar Date.** The first Business Day 30 days after service of notice of the Confirmation Date's occurrence.

~~2.70.~~2.69. **Related Person.** A Person's successors and assignees, and each of their respective present, future, or former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, subsidiaries, divisions, management companies, heirs, agents, and other representatives, in each instance solely in that capacity.

~~2.71.~~2.70. **Reorganized Debtor.** The Debtor from and after the Effective Date.

~~2.72.~~2.71. **Schedules.** The schedules of assets and liabilities and the SOFA Filed by the Debtor under Bankruptcy Code § 521 and Bankruptcy Rule 1007, as they may have been or may be amended or supplemented.

~~2.73.~~2.72. **Secured Claim.** A Claim secured by a Lien (valid, perfected, and enforceable under applicable law or a Final Order) on property in which the Estate has an interest, or that is subject to a valid right of setoff under Bankruptcy Code § 553, to the extent of the value of the Claim-holder's interest in the Estate's interest in such property or to the extent of the amount subject to setoff, as applicable, as determined under Bankruptcy Code § 506(a), or as Allowed under the Plan as a Secured Claim.

~~2.74.~~2.73. **Shareholder Lawsuit Claims.** ~~Any Claim~~All claims against the Debtor arising out of the disputes constituting the subject matter of Shareholder Lawsuit, comprising the following Claims filed in the Case: (a) Claim #13 by Bäcker in an "unliquidated" amount; (b) Claim #18 by Cerocaru Investment Trust for $249,998.61; (c) Claim #17 by Xianzhong Chen for $13,331.96; (d) Claim #19 by Ricardo Bäcker for $24,983.57; and (e) Claim ##20 and 21 by Tom Mitchell and Thomas M. Mitchell Living Trust, each for $216,665.17.

~~2.75.~~2.74. **Shareholder Lawsuit.** The civil lawsuit commenced in December 2023 in the Delaware Chancery Court described in Section 1.2.4 above.

~~2.76.~~2.75. **SOFA.** The Statement of Financial Affairs Filed by the Debtor under Bankruptcy Code § 521 and Bankruptcy Rule 1007, as may have been or may be amended or supplemented.

~~2.77.~~2.76. **Subchapter V Trustee.** David Klauder, in his capacity as Court-appointed trustee under Bankruptcy Code § 1183.

~~2.78.~~2.77. **Unimpaired.** Not Impaired.

~~2.79.~~2.78. **Vote.** To timely and properly complete and submit a Ballot indicating an acceptance or rejection of the Plan.

~~2.80.~~2.79. **Warrant.** A warrant or option to purchase shares of capital stock in the Debtor existing on the Petition Date.

Article 3
UNCLASSIFIED CLAIMS

3.1. Unclassified Claims. Under Bankruptcy Code § 1123(a)(1), Administrative Claims and Priority Tax Claims are not classified for purposes of Voting on, or receiving Distributions under, the Plan. Holders of Administrative Claims and Priority Tax Claims are not entitled to Vote but are treated separately in accordance with Bankruptcy Code § 1129(a)(9)(A) and Sections 3.2 and 3.3 of the Plan.

3.2. Administrative Claims.

3.2.1 Generally. Each Allowed Administrative Claim (other than a Professional Fee Claim but including a 503(b)(9) Claim) is paid in full in Cash (or otherwise satisfied in accordance with its terms) on the latest of: (i) the Effective Date, or the first feasible date after that; (ii) any date the Bankruptcy Court may fix, or the first feasible date after that; (iii) 30 days after the Claim is Allowed; and (iv) any date on which the holder of the Claim and the Debtor agree.

3.2.2 Requests for Payment. All requests for payment of an Administrative Claims (other than a Professional Fee Claim, the DIP Loan Claim, or a claim under Bankruptcy Code § 503(b)(1)(B) or (C) but including a 503(b)(9) Claim) if not already Filed must be Filed no later than the Administrative Claims Bar Date. Failure to do so forever bars the holder of such an Administrative Claim from asserting its Administrative Claim against the Debtor.

3.2.3 Estimate. The Debtor believes that the only Administrative Claims are those associated with the Debtor's post-Petition Date operations, substantially all of which have been paid or will be paid in the ordinary course of business. The Debtor anticipates paying all statutory fees for the Subchapter V Trustee by the Confirmation Hearing.

3.3. Allowed Priority Tax Claims. Except as provided immediately below, each Allowed Priority Tax Claim is paid, in full satisfaction and discharge of that Allowed Priority Tax Claim, on the later of the Effective Date and 30 days after the Claim is Allowed, at the Debtor's election: (a) Cash equal to the amount of the Claim; (b) payment of the Claim under Bankruptcy Code § 1129(a)(9)(C) (but the Debtor may prepay any portion of the Claim at any time without premium or penalty); or (c) a less favorable treatment as agreed to in writing between the Debtor and Claim holder.

3.3.1 Secured Tax Claims. If any Allowed Priority Tax Claim is secured by a Lien on any property of the Estate under applicable non-bankruptcy law, the holder of that Claim retains the Lien it held as of the Petition Date securing the Claim until the Claim is paid in full. On satisfaction of the Secured Tax Claim, the Claim holder must release its Lien in accordance with applicable non-bankruptcy law.

3.3.2 Penalties. Any Claim on account of any penalty arising with respect to or in connection with an Allowed Priority Tax Claim that does not compensate the holder of such Claim for actual pecuniary loss constitutes a General Unsecured Claim, and the holder of such Claim may not assess or attempt to collect such penalty from the Estate or its property.

3.3.3 Estimate. The Debtor does not believe there exist any Priority Tax Claims.

3.4. Professional Fee Claims. Each Allowed Professional Fee Claim, to the extent not previously paid, is paid in Cash in full on the later of: (i) the Effective Date or the first feasible date after that; and (ii) 30 days after the Claim is Allowed or the first feasible date after that. All final applications for allowance of all Professional Fee Claims must be Filed no later than the Professional Fee Bar Date.

Article 4
CLAIM CLASSIFICATION AND TREATMENT

- **Classification.** Under Bankruptcy Code §§ 1122 and 1123, Claims are classified for the purposes of Voting and Distributions. A Claim is classified in a particular Class only if that Claim fits within the description of that Class. Except as otherwise specifically provided for in the Plan, the Confirmation Order, or any other Final Order, or unless required by applicable bankruptcy law, the aggregate value of all property received or retained under

the Plan on account of an Allowed Claim may never exceed 100% of the underlying Allowed Claim.

- **Treatment.** Each holder of an Allowed Claim receives under the Plan the treatment described below in full and final satisfaction, settlement, and release of, and in exchange for, that Allowed Claim, except if the Debtor and the holder of that Allowed Claim agree to different treatment. Unless otherwise indicated, the Holder of an Allowed Claim begins receiving its treatment on the later of: (a) the Effective Date or the first feasible date after that; and (b) the date on which the applicable Claim becomes Allowed.

4.1. Class 1—Celtic Bank Secured Claim.

4.1.1 Classification. Class 1 contains the Allowed Secured Claim of Celtic Bank. Class 1 is Impaired. Celtic Bank may Vote.

4.1.2 Treatment. Any pre-Effective Date nonmonetary breaches under the Celtic Loan Documents are waived. Otherwise, the Debtor's obligations under the Celtic Loan Documents and Celtic Bank's Liens on the Debtor's assets existing as of the Effective Date remain unaffected by the Consummation of the Plan, except as to any nonmonetary covenants amended as set forth on **Exhibit E** and agreed to by Celtic Bank. Exhibit E will be Filed no later than three ~~days~~ Business Days before the Confirmation Hearing to reflect covenant amendments to which Celtic Bank agrees.

4.1.3 Estimate. The Debtor estimates that the amount of the Celtic Bank Secured Claim, as of the Effective Date, is approximately $6,500,000.

4.2. Class 2—DIP Loan Claim.

4.2.1 Classification. Class 2 contains the DIP Loan Claim. Class 2 is Impaired. The DIP Lender may Vote.

4.2.2 Treatment. In full and final satisfaction of the DIP Loan Claim:

(a) if Class 4 Votes to accept the Plan, the DIP Lender receives the New Preferred Shares, which, when issued, will constitute ~~30~~26% of all the Debtor's capital stock on a fully-diluted basis (including by all shares issued under the MIP) under the Amended and Restated Charter as of the Effective Date;

(b) if Class 4 Votes to reject the Plan, only $~~3,050,000~~2,550,000 of the DIP Loan Claim is converted into New Preferred Shares such that the DIP Lender receives: (i) New Preferred Shares, which, when issued will constitute approximately ~~24~~22% of all the Debtor's capital stock on a fully-diluted basis (including by all shares issued under the MIP) under the Amended and Restated Charter as of the Effective Date; and (ii) an Allowed Administrative Expense Claim of $750,000, accruing interest at the annual rate of 15%, with 4.5% of such annual amount payable in equal monthly installments of interest only, the remaining 10.5% of such annual amount being added to the principal in equal monthly amounts, and all principal and unpaid accrued interest due on the three-year anniversary of the Effective Date.

4.2.3 Estimate. The Debtor estimates that the amount of the DIP Loan Claim, as of the Effective Date, is approximately $3,~~8~~300,000, including accrued and unpaid interest and fees.

4.3. Class 3—Priority Claims.

4.3.1 Classification. Class 3 contains all Priority Claims. Class 3 is Unimpaired. All holders of Allowed Priority Claims are deemed to accept the Plan under Bankruptcy Code § 1126(f) and do not Vote.

4.3.2 Treatment. Each holder of an Allowed Priority Claim receives, at the Debtor's option, either payment in full in Cash or any other treatment necessary to render that Claim Unimpaired.

4.3.3 Estimate. The Debtor estimates that there exist no unpaid Priority Claims as of the Effective Date.

4.4. Class 4—General Unsecured Claims.

4.4.1 Classification and Voting. Class 4 contains all General Unsecured Claims, including the Shareholder Lawsuit Claims, the Bäcker Arbitration Claim, all Non-Insured Indemnity Claims, and all Rejection Damages Claims. Class 4 is Impaired. Holders of Allowed Claims in Class 4 may Vote.

4.4.2 Treatment.

(a) If Class 4 Votes to **accept** the Plan, then (i) the Palisades Claim is waived, and (ii) on the Effective Date or the first feasible date after that, each other holders of an Allowed General Unsecured Claim in Class 4 receives, up to the full amount of its Claim, a Pro Rata portion of the GUC Fund.

(b) If Class 4 Votes to **reject** the Plan, then (i) the Palisades Claim is not waived, and (ii) on the Effective Date or the first feasible date after that, each holder of an Allowed General Unsecured Claim in Class 4 receives, up to the full amount of its Claim, a Pro Rata portion of the Projected Disposable Income.

4.4.3 Estimated Composition and Distributions. The Debtor believes that all Allowed Claims in Class 4 total approximately $738,000, comprising: (a) Claims of vendors and other general unsecured creditors of approximately $338,000 (which includes the approximately $50,000 in Non-Insured Indemnity Claims); (b) the Palisades Claim; and (c) Rejection Damages Claims of $150,000~~; plus any Non-Insured Indemnity Claims~~. The Bäcker Arbitration Claim and the Shareholder Lawsuit Claims are Disputed~~.~~ and the subject of objections the Debtor Filed seeking an order disallowing all those Claims in their entirety on the merits. (*See* Section 6.1.1 below.) The Debtor believes th~~ey~~ose Claims will be Disallowed on their merits. If any of the those Claims are Allowed, then the total Allowed Claims in Class 4 will increase significantly.

(a) If Class 4 Votes to **accept** the Plan and the Bäcker Arbitration Claim and the Shareholder Lawsuit Claims are Disallowed, the Debtor estimates that the Pro Rata Distribution of the GUC Fund to each holder of a Class 4 Claim will equal approximately

~~88.75~~61.5% of the value of its Claim~~, subject to dilution by any Allowed Non-Insured Indemnity Claims~~.

(b) If (i) Class 4 Votes to **reject** the Plan such that the DIP Lender receives an Allowed Administrative Claim of $750,000 and the Palisades Claim is not waived, and (ii) the Bäcker Arbitration Claim and the Shareholder Lawsuit Claims are Disallowed, the Debtor estimates that the Pro Rata Distribution of the Projected Disposable Income to each holder of a Class 4 Claim will equal approximately ~~6.9~~10.2% of the value of its Claim~~, subject to dilution by any Allowed Non-Insured Indemnity Claims~~.

4.5. Class 5—Interests.

4.5.1 Classification and Voting. Class 5 contains all holders of Interests as of the Voting Record Date. Class 5 is Impaired. Holders of Interests may Vote.

4.5.2 Treatment. On the Effective Date, in accordance with the Amended and Restated Charter, each holder of Interests retains all Interests held immediately before the Effective Date, diluted to the extent of the New Preferred Shares and the MIP.

4.6. Class 6—Warrants. This class only exists if the Bankruptcy Court determines that the Warrants do not constitute executory contracts under Bankruptcy Code § 365.

4.6.1 Conditional Classification. Only if the Bankruptcy Court determines that the Warrants do not constitute executory contracts under Bankruptcy Code § 365, Class 6 contains all holders of Warrants.

4.6.2 Treatment and Voting. As of the Effective Date, all Warrants are canceled in accordance with the Amended and Restated Charter. Holders of Warrants neither receive nor retain any property under the Plan on account of Warrants and are, therefore, deemed to reject the Plan without Voting under Bankruptcy Code § 1126(g).

Article 5
IMPLEMENTATION

5.1. Assets. On the Effective Date, without any further action by any party or additional order of the Bankruptcy Court other than the Confirmation Order:

5.1.1 all property of the Estate vests in the Reorganized Debtor free and clear of all Claims except as otherwise provided in the Plan;

5.1.2 all Avoidance Actions are waived;

(a) Attachment 3 to the SOFA (non-insiders) reflects a total of approximately $3.1 million in transfers to 32 different parties and Attachment 4 to the SOFA (insiders) reflects a total of approximately $1.3 million in transfers to four different parties (collectively, the "**Transfers**"). The Plan waives all Avoidance Actions, including any related to the Transfers.

(b) Sherwood Partners, the Debtor's financial advisor, and Sherwood's principal, Andrew De Camara, the Debtor's chief restructuring officer, worked closely with the Debtor to analyze all Transfers totaling more than $45,000 to a single transferee. There were a total of 10 transferees whose Transfers totaled more than $45,000, which were reviewed in detail. Sherwood and Mr. De Camara determined that none of the Transfers constitutes an avoidable preference because each Transfer was not made on account of an antecedent debt, made on account of a secured debt, or falls within the "ordinary course" defense of Bankruptcy Code § 547(c)(2) or another affirmative defense. Two Transfers made to certain of the Debtor's lawyers are arguably avoidable but Sherwood and Mr. De Camara believe that credible defenses (either or both of the ordinary course defense or the subsequent new value defense under Bankruptcy Code § 547(c)(2) and (4)) may exist with respect to those Transfers.

(c) With respect to Transfers of less than $45,000, Sherwood and Mr. De Camara performed a more limited review and determined that no viable Avoidance Actions existed with respect to those Transfers primarily because those Transfers constituted (i) ordinary course payments (such as, for example, ordinary-course, on-time payment of rent for the Debtor's office facilities in Pasadena, CA and Colorado), or (ii) small-amount transfers made to individuals residing outside the United States, making attempts to recover even potentially preferential Transfers infeasible, or (iii) reimbursement of employee expenses in the ordinary course of business.

(d) But even were certain Transfers avoidable (and feasible to recover following litigation over colorable defenses), the Debtor's liquidation analysis attached at Exhibit A demonstrates that no value achieved from avoiding and recovering those Transfers would ever filter down to any creditors beyond Celtic Bank. Accordingly, the liquidation analysis does not include any value for Avoidance Actions as an asset in a liquidation scenario.

~~5.1.2~~5.1.3 the Reorganized Debtor retains all title and interest in all ~~Avoidance Actions and~~ Litigation Claims ~~belonging to the Estate~~ and ~~all~~ their proceeds, whether from insurance or from any other source~~, as well as the Debtor's rights to any insurance proceeds~~ and, under Bankruptcy Code §§ 1123(b)(3)(B), has full and exclusive authority as the Estate representative, without Bankruptcy Court approval, to prosecute ~~Avoidance Actions and~~ Litigation Claims in any appropriate court or tribunal and, if the Reorganized Debtor deems it appropriate in its sole reasonable discretion, to compromise, settle, or waive any ~~Avoidance Action or~~ Litigation Claim;

~~5.1.3~~5.1.4 all ~~Avoidance Actions and~~ Litigation Claims are preserved for the sole benefit of the Reorganized Debtor (and their proceeds are preserved "for the benefit of the Estate" as contemplated in Bankruptcy Code § 550) and are neither waived nor released despite the Debtor's failure to specifically list any ~~Avoidance Action or~~ Litigation Claim in the Plan, and no preclusion doctrine such as collateral estopped, issue preclusion, res judicata, claim preclusion, judicial or equitable estoppel, or laches applies to any ~~Avoidance Action or~~ Litigation Claim on ~~or after~~account of Confirmation.

5.2. No Corporate Action Required. On the Effective Date, automatically and without further action by any party or further order of the Bankruptcy Court:

5.2.1 the adoption, execution, delivery, and implementation of all documents and agreements related to or contemplated by the Plan, including all documents and agreements in Exhibit C, and all other matters provided for in furtherance of the Plan involving action required of the Debtor are deemed to have occurred, are effective, binding, and enforceable in accordance with their respective terms, and are deemed authorized and approved in all respects;

5.2.2 the Reorganized Debtor is authorized to execute on the Debtor's behalf any documents or instruments after the Effective Date reasonably necessary to consummate the Plan.

5.3. Release of Liens. On the Effective Date, except as otherwise provided in the Plan or in any contract, instrument, or other agreement created in connection with the Plan, all Liens against any property of the Estate are released such that all rights, title, and interests of any holder of such Liens vest in the Reorganized Debtor. Without limiting the breadth of the foregoing sentence: (a) the Liens in favor of Celtic Bank existing on the Effective Date remain valid and enforceable; and (b) any Liens granted in the Final DIP Order in favor of the DIP Lender are released.

5.4. Retention of Professionals. From and after the Effective Date, the Reorganized Debtor may retain professionals (including disbursing and transfer agents and legal counsel) as the Reorganized Debtor deems appropriate and may compensate those professionals on terms reasonably acceptable to the Reorganized Debtor without the Bankruptcy Court's approval.

Article 6
DETERMINATION OF CLAIMS

6.1. Claim Objections.

~~6.1.~~6.1.1 ~~Claim~~Pre-Confirmation Objections.

(a) On August 20, 2024, the Debtor filed its *Debtor's Objection to Proofs of Claim 11 and 13 Filed by Alex Backer,* which remains pending as of the Filing of this Plan and seeks an order Disallowing Claim #11 (the Bäcker Arbitration Claim) and Claim #13 (Bäcker's Shareholder Lawsuit Claim). Claim #11 is without merit, since it is based on amounts that have already been paid to Bäcker (including deferred compensation, a change-of-control bonus, severance, and reimbursement of credit card expenses), amount to which he was never entitled under applicable agreements and law (including attorney fees and consulting fees), agreements that do not exist and never existed (such as a purported "2019 Bonus Agreement" and a purported "consulting agreement"), and events Bäcker has fabricated that never occurred. Claim #13, in which Bäcker asserts claims raised by him in the Shareholder Litigation, is also deficient. The only claim in the Shareholder Litigation against the Debtor is Count Four, in which the preferred shareholder plaintiffs seek certain merger consideration. Bäcker was not a holder of the Debtor's preferred shares and thus does not have a valid claim against the Debtor.

(b) On August 20, 2024, the Debtor filed an omnibus objection to the other Shareholder Litigation Claims, which remains pending as of the Filing of this Plan and seeks an order Disallowing those Claims on the merits. Each of the Shareholder Litigation Claims other than Claim #13 seeks the payment of Preferred Share Redemption Amounts, but the Debtor has never been obligated to remit Preferred Share Redemption Amounts to any of those claimants because none of them ever took the actions required under the 2021 merger agreements that were

conditions precedent to their entitlement to Preferred Share Redemption Amounts. These claimants have failed to satisfy these conditions for nearly three years and, therefore, their Shareholder Litigation Claims must fail under applicable non-bankruptcy law.

~~6.1.1~~6.1.2 **Authority.** From and after the Confirmation Date, and except for any Claim Allowed before the Effective Date, only the Reorganized Debtor may object to the allowance, seek the subordination, or seek estimation of any Claim on any ground permitted by the Bankruptcy Code.

~~6.1.2~~6.1.3 **Deadlines.** All objections to, and all motions to subordinate or estimate, any Claim must be brought by Filing the appropriate pleading before the first Business Day that is 120 days after the Effective Date, but the Bankruptcy Court may approve a later date on a motion Filed (but not necessarily heard) before that date, notice of which ~~may~~must be ~~limited to~~provided to (a) the holders of all Claims subject to the objection or other pleading, (b) any other entities whose rights are affected by the objection or other pleading, and (c) the Post-Effective Date Limited Notice List described in Section 11.6.

~~6.1.3~~6.1.4 **Omnibus Objections.** Notwithstanding Bankruptcy Rule 3007(c), the Reorganized Debtor may File omnibus objections to Claims.

6.2. Contingent Claims. Until a Contingent Claim is either Allowed or Disallowed, the Claim is treated as a Disputed Claim for all purposes under the Plan. Any Contingent Claim for reimbursement or contribution held by a person that may be liable with a Debtor on a Claim is Disallowed as of the Effective Date if: (a) that Claim is Disallowed; (b) the Contingent Claim remains contingent as of the Effective Date; or (c) that person asserts a right of subrogation under Bankruptcy Code § 509. This Section 6.2 does not apply to indemnification obligations.

Article 7
DISTRIBUTIONS

7.1. Record Date. Neither the Debtor nor the Reorganized Debtor has any obligation to recognize any ownership transfer of any Claim occurring after the Record Date.

7.2. No Interest. Except with respect to Allowed Claims of the DIP Lender and Celtic Bank, Distributions made after the Effective Date are deemed to have been made on the Effective Date such that no interest accrues or is payable with respect to any Claim or any Distribution related to a Claim. No interest on any Unsecured Claim accrues or is payable from and after the Petition Date.

7.3. Settlement of Disputed Claims. Objections to Claims may be litigated to judgment or withdrawn and may be settled with the approval of the Bankruptcy Court, except if such approval is not necessary as provided in this section. After the Effective Date, and subject to the Plan, the Reorganized Debtor may settle any Disputed Claim where the asserted amount of the Disputed Claim is $100,000 or less, without providing any notice to any party-in-interest or obtaining an order from the Bankruptcy Court. All proposed settlements of Disputed Claims asserted in an amount exceeding $100,000 are subject to the Bankruptcy Court's approval under the following procedure: (a) the Reorganized Debtor must give notice of the proposed settlement to the Post-Effective Date Limited Notice List and all entities whose rights are affected by the proposed

settlement; (b) parties-in-interest with adequate standing have 21 days to File objections to the proposed settlement; (c) if no objections are timely Filed, the Reorganized Debtor may consummate the settlement without further order of the Bankruptcy Court or may, at the Reorganized Debtor's election, request entry of an order approving the proposed settlement by Filing a proposed order under a counsel certificate of no objection with no further notice to any party; and (d) if objections are timely Filed, the Reorganized Debtor must notice the proposed settlement for hearing on at least seven days' notice.

7.4. Tax Matters.

7.4.1 Compliance with Tax Requirements. The Debtor and the Reorganized Debtor must comply with all tax withholding and reporting requirements imposed by any Governmental Unit with respect to all Distributions and must comply with any applicable garnishments, domestic support obligations, Liens, and encumbrances when making Distributions.

7.4.2 Form W-9. As a condition to receiving any Distribution under the Plan, each holder of an Allowed Claim entitled to a Distribution must, if the Reorganized Debtor requests it, provide an executed IRS Form W-9. Any holder of an Allowed Claim that fails to do so within ~~30~~75 days of such a request forfeits all rights to all Distributions.

7.5. Delivery of Distributions. The Reorganized Debtor makes all Distributions under the Plan. Unless a holder of an Allowed Claim and the Reorganized Debtor otherwise agree, all Distributions are made by check drawn on a domestic bank or by wire transfer from a domestic bank. Distributions will be made: (a) to the address set forth on the holder's proof of claim, the Schedules, or, in the absence of either, the holder's last known address; or (b) to the address set forth in any written notice of address change delivered to the Reorganized Debtor or its counsel.

7.6. Undeliverable Distributions. If any Distribution is returned as undeliverable, ~~no further Distributions to its intended recipient will be made unless and until~~ the Reorganized Debtor ~~is notified of the~~must use commercially reasonable efforts to determine the intended recipient's then-current address but has no affirmative obligation to locate that address. Claims held by a recipient whose current address the Reorganized Debtor fails to locate after commercially reasonable efforts and who fails to notify the Reorganized Debtor of its correct address within 90 days after the Distributions are returned as undeliverable will be expunged, after which all unclaimed property reverts to the Reorganized Debtor ~~for Pro Rata Distribution to all other eligible holders of Allowed Claims under the Plan. The Reorganized Debtor is not required to attempt to locate any holder of an Allowed Claim~~.

7.7. De Minimis Distributions. No Distribution of less than $10 will be made. Any Distribution less than $10 will be held until a date on which the Distribution exceeds $10. At the time of any final Distribution, no Distribution of less than $10 will be made and any such Distribution revests in the Reorganized Debtor. All Distribution amounts are rounded to the nearest whole cent.

7.8. Setoffs. Except with respect to Claims satisfied, settled, and released under the Plan or any contract, instrument, release, or other document entered into or delivered in connection with the Plan, the Reorganized Debtor may, under Bankruptcy Code § 553 or applicable non-bankruptcy

law, set off against any Claim (and the Distributions to be made on account of such Claim) any counterclaims or causes of action the Debtor has against the holder of such Claim, but the failure to so set off does not waive or release any such counterclaims or causes of action. The Reorganized Debtor must notify the affected holder of such Claim of any setoff and that holder may challenge the setoff in the Bankruptcy Court or any other court possessing jurisdiction.

Article 8
EXECUTORY CONTRACTS

8.1. Assumption. The executory contracts and unexpired leases (including all Insurance Policies) appearing on the list of Assumed Contracts at Exhibit D-1 are assumed as of the Effective Date. At any time no later than 14 days before the Confirmation Date, the Debtor may amend Exhibit D-1 to add or remove a contract or lease. Except as otherwise provided in the Plan or agreed between the Debtor and the applicable counterparty, each assumed executory contract or unexpired lease includes all related amendments or restatements. Any such amendments or restatements executed by the Debtor during the Case does not alter the prepetition nature of the contract or lease or the validity, priority, or amount of any Claims that may arise in connection with the contract or lease. No change of control (or similar provision) occurs under any such executory contract or unexpired lease.

8.1.1 Motion to Assume. The Plan constitutes the Debtor's motion under Bankruptcy Code § 365 to assume the contracts and leases listed as Assumed Contracts on Exhibit D-1 and the Debtor's assertion that: (a) the Debtor has provided each counterparty to each of the contracts and leases with "adequate assurance of future performance," as that term is defined in Bankruptcy Code § 365; and (b) either (i) no defaults required to be cured under Bankruptcy Code § 365(b)(3) exist as of the Confirmation Date, or (ii) any defaults required to be cured under Bankruptcy Code § 365(b)(3) exist as of the Confirmation Date will receive payment in full of the Cure no later than the Effective Date in accordance with this Plan. If the Effective Date occurs, the Confirmation Order constitutes the Bankruptcy Court's approval under Bankruptcy Code § 365 of the rejection of the executory contracts and unexpired leases under the Plan.

8.1.2 Cure. Any Cure amount with respect to the assumption of any executory contract or unexpired lease on Exhibit D-1 will be paid on the Effective Date. Exhibit D-1 sets forth the proposed Cure amount with respect to each contract or lease reflected on Exhibit D-1. Any counterparty to a contract or lease listed on Exhibit D that disputes either its proposed Cure amount or that the Debtor has not provided "adequate assurance of future performance" within the meaning of Bankruptcy Code § 365 must File an objection to the assumption of that contract or lease by no later than the deadline to file objections to Confirmation for consideration by the Bankruptcy Court at the Confirmation Hearing and may seek additional amounts on account of any defaults occurring between the Confirmation objection deadline and the Effective Date. Any such objecting counterparty may settle any such dispute with the Debtor and seek incorporation of that settlement in the Confirmation Order or otherwise announce that settlement on the record of the Confirmation Hearing.

8.1.3 Satisfaction. Payment of the approved Cure amount (or no payment if the approved Cure amount is zero) satisfies and releases any Claims or defaults, whether monetary or nonmonetary, arising under any assumed executory contract or unexpired lease at any time before

the Effective Date. ~~Any proofs of Claim based on an executory contract or unexpired lease assumed during the Case or under the Confirmation Order and for which any Cure amounts has been fully paid is automatically Disallowed and expunged as of the Effective Date.~~

8.2. Rejection.

8.2.1 Motion to Reject. The executory contracts and unexpired leases appearing on the list of Rejected Contracts at Exhibit D-2 as well as any executory contract or unexpired lease not appearing on either Exhibit D-1 or Exhibit D-2 (and not already assumed or rejected by Bankruptcy Court order before the Confirmation Date) are rejected as of the Effective Date. The Plan constitutes the Debtor's motion under Bankruptcy Code § 365 to reject the contracts and leases listed on Exhibit D-2 as Rejected Contracts (and all contracts and leases not appearing on either Exhibit D1 or Exhibit D-2) and the Debtor's assertion that all such contracts and leases are burdensome to the Estate and the Reorganized Debtor and that, in the Debtor's reasonable business judgment, it is in the best interests of the Estate to reject them. If the Effective Date occurs, the Confirmation Order constitutes the Bankruptcy Court's approval under Bankruptcy Code § 365 of the rejection of the executory contracts and unexpired leases under the Plan.

8.2.2 Rejection Damages Claims. The Debtor must serve, within three Business Days of the Confirmation Date, notice of the Confirmation Date's occurrence and the Rejection Damages Claims Bar Date on all counter-parties to all Rejected Contracts. All Rejection Damages Claims must be filed by the Rejection Damages Claims Bar Date. Any Rejection Damages Claim not filed by the Rejection Damages Claims Bar Date is forever barred. All Rejection Damages Claims are General Unsecured Claims under the Plan. With respect to any executory contract or unexpired lease rejected before the Confirmation Date, the deadline for filing a Rejection Damages Claim remains the deadline set in the Bankruptcy Court order authorizing that rejection.

8.2.3 Warrants. All Warrants constitute executory contracts and are rejected as of the Confirmation Date. All Allowed Rejection Damages Claims arising from the rejection of Warrants are subordinated beneath the level of all Claims under the Plan in accordance with Bankruptcy Code § 510(b).

8.3. Preservation of D&O Policies. Nothing contained in the Plan affects: (a) the rights of any Person covered by any applicable D&O Policy with respect to any such policy; or (b) any non-Debtor Person's obligations, including any contractual and indemnification obligations, to the Debtor, the Reorganized Debtor, or any other Person whether arising under contract, statute, or otherwise.

Article 9
CONDITIONS

9.1. Conditions to Confirmation. The Confirmation Date does not occur unless and until: (a) the Bankruptcy Court enters the Confirmation Order in form and substance reasonably acceptable to the Debtor and the DIP Lender; and (b) the Confirmation Order is not subject to any stay.

9.2. Conditions to Effective Date. The Effective Date occurs when:

9.2.1 The Confirmation Date has occurred;

9.2.2 Sufficient Cash exists to make all payments required under the Plan to be made on the Effective Date; and

9.2.3 All instruments and agreements to be issued, executed, delivered, or Filed under the Plan, including the Amended and Restated Charter, are issued, executed, delivered, or Filed and are effective.

9.3. Waiver of Conditions. The Debtor may at any time, without notice to or authorization of the Bankruptcy Court but with the DIP Lender's approval, waive the condition set forth in subsection 9.2.3. The Debtor may assert its failure to satisfy or waive that condition regardless of the circumstances causing the failure.

9.4. Notice of Effective Date. Within three Business Days after the Effective Date occurs, the Reorganized Debtor must File a notice of the occurrence and date of the Effective Date.

Article 10
EFFECTS OF CONFIRMATION

10.1. Injunction.

10.1.1 Generally. Without limiting the maximum effect of Bankruptcy Code § 1141(c), and except as otherwise provided in the Plan or the Confirmation Order, from and after the ~~Confirmation~~Effective Date, all entities who have ever held or will ever hold any Claims are permanently enjoined from: (i) commencing or continuing in any manner any action or other proceeding against any property dealt with by the Plan; (ii) enforcing, attaching, collecting or otherwise recovering in any way any judgment, award, decree or order against property dealt with by the Plan; (iii) creating, perfecting, or enforcing any Lien or encumbrance against any property dealt with by the Plan; (iv) commencing or continuing any action that does not comply with or is inconsistent with the Plan or the Bankruptcy Code; (v) taking any action to interfere with the implementation or consummation of the Plan.

10.1.2 Limited Scope. Nothing in this Plan: (i) extinguishes, prohibits, or otherwise limits the right of any holder of a Claim to assert a right to setoff or recoupment arising in connection with that Claim as part of the resolution and treatment of that Claim under the Plan; ~~or~~ (ii) enjoins or otherwise precludes any party-in-interest with adequate standing from enforcing the Plan or the Confirmation Order; or (iii) affects in any way the prosecution of the Shareholder Litigation against any defendant other than the Debtor.

10.2. Exculpation. No Exculpated Party has any liability to any holder of a Claim for any act or omission arising on or after the Petition Date through the Effective Date in connection with, related to, or arising out of, the Case, the Plan, the pursuit of Confirmation, the consummation of the Plan, or the administration of the Plan or the property distributed or otherwise dealt with under the Plan except for any act or omission found by a Final Order to constitute a crime, actual fraud, willful misconduct, or gross negligence. In all respects, the Exculpated Parties are entitled to rely on the

advice of counsel with respect to their duties and responsibilities under the Plan. The Exculpated Parties have participated in good faith and in compliance with applicable laws pertaining to the solicitation of Votes on, and Distributions under, the Plan and, therefore, are not liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of Ballots or governing Distributions. The provisions of this section add to and do not limit any other release, indemnification, exculpation, and any other applicable law, rule, or regulation protecting Exculpated Parties from liability. The provisions of this section may not be construed to exculpate any Person from its post-Effective Date obligations under the Plan or any document, instrument, or agreement executed in connection with the Plan or to implement the Plan.

~~**10.3. Gatekeeper.** No Gated Party may commence or pursue any claim or cause of action of any kind, including negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence, against any Protected Party that arose or arises from or is related to the Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, or any transaction in furtherance of the foregoing unless the Bankruptcy Court: (a) first determines, after notice and a hearing, that the claim or cause of action is colorable; and (b) specifically authorizes the Gated Party to bring the claim or cause of action. The Bankruptcy Court retains sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible, to adjudicate the underlying colorable claim or cause of action. For purposes of this section, "colorable" means a claim not without foundation, not without merit, and not being pursued for any improper purpose such as harassment, assessed by taking into consideration the Bankruptcy Court's knowledge of the Case, the parties, and any additional evidence presented at the hearing on the motion for leave.~~

~~**10.4.**~~**10.3. Discharge.** To the fullest extent provided under Bankruptcy Code §§ 1141(d)(1)(A) and 1192, except as otherwise expressly provided in this Plan or the Confirmation Order, all Distributions are in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Interests against the Debtor or any of its property, regardless of whether any property has been distributed or retained under this Plan on account of a Claim or Interest.

~~**10.5.**~~**10.4. Retention of Jurisdiction.** Despite the entry the Confirmation Order's entry and the Effective Date occurring, the Bankruptcy Court retains as much jurisdiction over the Case after the Effective Date as legally permissible, including jurisdiction to:

(a) Allow, disallow, determine, liquidate, classify, estimate, or establish the amount, priority, or secured or unsecured status of any Claim, and resolve any request for payment of any Administrative Claim or Professional Fee Claim and any objection to the Allowance or priority of any Claim;

(b) Grant or deny any applications for allowance of compensation or reimbursement of expenses authorized under the Bankruptcy Code or the Plan;

(c) Resolve any matters related to the assumption or rejection of any executory contract or unexpired lease to which the Debtor was a party and to hear, determine and, if necessary, liquidate any Claims arising from such rejection;

(d) Decide or resolve any motions, adversary proceedings, contested matters, and any other matters and grant or deny any applications or motions involving the Debtor or Reorganized Debtor that may be pending on the Effective Date or Filed after the Effective Date;

(e) Enter any necessary or appropriate orders to implement or consummate the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan;

(f) Hear and determine any motion or application to modify the Plan before or after the Effective Date under Bankruptcy Code § 1193 or modify any contract, instrument, release, or other agreement or document issued, entered into, Filed, or delivered in connection with the Plan;

(g) Hear and determine any motion or application to remedy any defect or omission or reconcile any inconsistency in any Bankruptcy Court order, the Plan, or any contract, instrument, release, or other agreement or document issued, entered into, Filed or delivered in connection with the Plan, in such manner as may be necessary or appropriate to consummate the Plan;

(h) Issue injunctions, enter and implement other orders, or take any other necessary or appropriate actions to prevent any entity's interference with consummation or enforcement of the Plan;

(i) Enter and implement any necessary or appropriate orders if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

(j) Determine any other matters that may arise in connection with or related to the Plan, the Confirmation Order, or any contract, instrument, exculpation, release, or other agreement or document issued, entered into, Filed, or delivered in connection with the Plan or the Confirmation Order;

(k) Adjudicate Disputed Claims;

(l) Determine matters concerning state, local, and federal taxes under Bankruptcy Code §§ 346, 505, and 1146, including any Disputed Claims for taxes;

(m) Assist in recovering any asset of the Estate, wherever located;

~~(n) Hear all motions seeking leave of the Bankruptcy Court under Section 10.3;~~

~~(o)~~(n) Issue a final decree and enter an order closing the Case.

Article 11
MISCELLANEOUS

11.1. Modification of the Plan. The Debtor ~~reserves the right to~~may modify the Plan at any time before entry of the Confirmation Order under Bankruptcy Code § 1193(a). The Bankruptcy Court may require a re-voting on the modified Plan ~~unless the modifications are non-material~~in accordance with applicable provisions of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure. After entry of the Confirmation Order, the Debtor may modify the Plan only under Bankruptcy Code § 1193(b) or (c).

11.2. Withdrawal or Revocation of the Plan. The Debtor reserves the right to revoke or withdraw the Plan before the Effective Date. The Plan is void if revoked or withdrawn.

11.3. Satisfaction of Claims. The treatment of and consideration to be received by holders of Allowed Claims under the Plan fully satisfy, settle, and release those Allowed Claims.

11.4. Governing Law. Except if the Bankruptcy Code or other federal law applies to any document entered into in connection with the Plan, the rights and duties of any Person arising under the Plan are governed by, and construed and enforced in accordance with, the internal laws of the State of Delaware without regard for Delaware's choice of law provisions.

11.5. Notices. Any notice required or permitted to be provided under the Plan must be in writing and served by certified return-receipt-requested U.S. mail, hand delivery, overnight courier, or read-receipt-enabled email. Any such notices to the Debtor or the Reorganized Debtor should be addressed thus:

James Harvey, CEO QLess, Inc. 21 Miller Alley, Suite 210 Pasadena, CA 91105 james.harvey@qless.com	copying:	Jeffrey Pomerantz, Esq. (jpomerantz@pszjlaw.com) Jordan Kroop, Esq. (jkroop@pszjlaw.com) James O'Neill, Esq. (joneill@pszjlaw.com) Pachulski Stang Ziehl & Jones LLP 919 North Market Street, 17th Floor Wilmington, DE 19801

If personally delivered or sent by overnight courier, notice is deemed delivered on actual receipt. If emailed, notice is deemed delivered on the noticing party's receipt of the read-receipt. If sent by U.S. mail, notice is deemed delivered as of the date of delivery indicated on the receipt issued by the postal service or, if the addressee fails or refuses to accept delivery, as of the date of that failure or refusal. Any party may change its address for the purposes of the Plan by Filing notice of the change.

11.6. Post-Effective Date Notice. As of the Effective Date, only those on the Post-Effective Date Limited Notice List will be given notices of certain matters under the Plan, together with all entities whose rights are implicated in those matters. Any Person desiring to be included in the Post-Effective Date Limited Notice List must File a request to be included on the Post-Effective Date Limited Notice List and include its name, contact person, address, telephone number, and e-mail address within 30 days after the Effective Date. On or before 60 days after Reorganized Debtor Files notice of the Effective Date, which must advise all parties of the requirement to File a request under this section, the Reorganized Debtor must File the compiled Post-Effective Date

Limited Notice List. The U.S. Trustee and Celtic Bank must be automatically included on the Post-Effective Date Limited Notice List and need not file a request.

11.7. Severability. If the Bankruptcy Court or any appellate court finds the Plan or any provision of the Plan to be invalid or unenforceable, the Bankruptcy Court, at the Reorganized Debtor's request, may ~~retain the power to~~ alter and interpret the Plan or any such provision to make it valid or enforceable to the maximum extent feasible, consistent with the original purpose of the provision held to be invalid or unenforceable, and that provision then becomes applicable as altered or interpreted. The Confirmation Order constitutes a judicial determination and provides that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing sentence, is valid and enforceable.

11.8. Headings. The headings used in the Plan are inserted for convenience only and neither constitutes a portion of the Plan nor affect the Plan's provisions.

11.9. Substantial Consummation. Once the Effective Date has occurred and any payments under the Plan to any holder of a Claim have commenced, the Plan is substantially consummated within the meaning of Bankruptcy Code §§ 1101(2).

11.10. Termination of Subchapter V Trustee's Services. Under Bankruptcy Code § 1183(c)(1), the Subchapter V Trustee's services are terminated when substantial consummation under Section 11.9 has occurred.

11.11. Final Decree. The Reorganized Debtor may seek and obtain a final decree from the Bankruptcy Court as soon as feasible after any payments under the Plan have commenced. Notice of application for a final decree ~~need~~must be given ~~only to those parties on the Post-Effective Date Limited Notice List.~~in accordance with Local Rule 3022-1.

~~July 19~~August 21, 2024

Respectfully submitted,

QLess, Inc., Debtor

By: */s/ James Harvey*
James Harvey
Chief Executive Officer

Exhibit A

Liquidation Analysis

Exhibit B

Projected Disposable Income

Exhibit C

Amended and Restated Charter

~~**To come**~~

Exhibit D-1

Assumed Contracts

Counterparty	Contract/Lease Description	Cure
Amazon Web Services	Vendor services agreement	$10,000
BPP East Union LLC	Office lease	$0
Datadog	Vendor services agreement	$0
G2.com Inc.	Vendor services agreement	$0
GSA	Vendor services agreement	$2,500
Insperity	Vendor services agreement	$0
Maxio, LLC	Vendor services agreement	$0
Mosaic Finance, Inc.	Vendor services agreement	$0
Twilio Inc.	Vendor services agreement	$0
Zoominfo Technologies LLC	Vendor services agreement	$0
Various	All Benefit Plans	$0
Various	All Insurance Policies	$0

Exhibit D-2

Rejected Contracts

Counterparty	Contract/Lease Description
Definitive Healthcare	Vendor services agreement
Providence Partners LLC	Office lease
Various entities (list provided on request)	Warrant agreements to purchase Debtor's stock
Brex	Credit card processing and related services

Exhibit E

Celtic Bank Agreed Loan Covenant Amendments

To come