

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

Medley LLC,¹

Debtor.

Chapter 11

Case No. 21-10526 (KBO)

**Obj. Deadline: August 5, 2021 at 4:00 p.m.
Hearing Date: August 12, 2021 at 1:00 p.m.**

**MOTION OF THE DEBTOR FOR AN
ORDER (I) APPROVING ON AN INTERIM BASIS THE ADEQUACY OF
DISCLOSURES IN THE COMBINED DISCLOSURE STATEMENT AND PLAN
(II) SCHEDULING THE CONFIRMATION HEARING AND DEADLINE FOR
FILING OBJECTIONS, (III) ESTABLISHING PROCEDURES FOR SOLICITATION
AND TABULATION OF VOTES TO ACCEPT OR REJECT THE COMBINED
DISCLOSURE STATEMENT AND PLAN, AND APPROVING THE FORM OF BALLOT
AND SOLICITATION PACKAGE, AND (IV) APPROVING THE NOTICE PROVISIONS**

The above-referenced debtor and debtor-in-possession in the above-captioned case (the “Debtor”), hereby moves the Court (the “Motion”)² for entry of any order substantially in the form attached hereto as Exhibit A (the “Solicitation Procedures Order”): (A) approving on an interim basis the Combined Disclosure Statement and Chapter 11 Plan of Reorganization and Wind-Down of Medley LLC (as amended, modified, or supplemented from time to time, the “Combined Disclosure Statement and Plan”), as containing adequate information regarding such disclosure provided therein (the “Disclosure”) for solicitation purposes; (B) scheduling a combined hearing for (i) final approval of the Combined Disclosure Statement and Plan as containing adequate information for solicitation purposes, and (ii) confirmation of the Combined Disclosure Statement and Plan (the “Confirmation Hearing”); (C) establishing procedures for the solicitation of the

¹ The last four digits of the Debtor’s taxpayer identification number are 7343. The Debtor’s principal executive office is located at 280 Park Avenue, 6th Floor East, New York, New York 10017.

² Capitalized terms used herein, but not otherwise defined herein shall have the same meanings ascribed to such terms in the Combined Disclosure Statement and Plan.



Combined Disclosure Statement and Plan, including, but not limited to, (i) approving the form of the materials that the Debtor will send to parties in interest entitled to vote to accept or reject the Combined Disclosure Statement and Plan (collectively, the “Solicitation Package”), (ii) establishing a Voting Record Date (as defined below) and approving procedures for distribution of the Solicitation Package, (iii) approving the form and manner of the notice of the Confirmation Hearing, (iv) approving the form of ballots (the “Ballots”), (v) establishing a voting deadline for receipt of the Ballots, and (vi) approving the procedures for tabulating acceptances and rejections of the Combined Disclosure Statement and Plan; (D) establishing the deadline for filing objections to confirmation of the Combined Disclosure Statement and Plan; and (E) granting related relief, and in support of the Motion, the Debtor respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012. Consideration of this matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). Venue in this District is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein include sections 105, 1122, 1123, 1124, 1125, 1126, 1128, and 1129 of Chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), rules 2002, 3003, 3016, 3017, 3018, 3019, 3020, and 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rules 3017-1, 3017-2, and 9006-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”).

BACKGROUND

A. General Background

3. In 2006, brothers Brook and Seth Taube (the “Taubes”) founded an asset management firm along with partner Richard Medley.³ They had years of experience in the credit market and had previously managed credit-related funds. The business’s focus generally was on credit-related investment strategies, primarily originating senior secured loans to private middle market companies in the United States with revenues between \$50 million and \$1 billion.

4. The Company launched its first long-dated institutional fund in the fourth quarter of 2006. The Company launched its first permanent capital vehicle—Medley Capital Corporation (“MCC”) - operating as a business development company (“BDC”) in 2011. The following year, the enterprise launched its first public non-traded permanent capital vehicle—Sierra Income Corporation (“SIC” or “Sierra”)—also operating as a BDC. In addition to its two permanent capital vehicles, the management firm also managed assets for institutional investors in other long-dated private funds and separately managed accounts (“SMAs”).

5. From December 2014 through December 2019, a majority of the Fee Earning Assets Under Management (“FEAUM”) was derived from fees from its permanent capital vehicles as opposed to long-dated private funds and SMAs. By June 30, 2014, just eight years after its founding, the Debtor’s subsidiary, Medley Capital, had more than 50 employees and had increased its FEAUM to approximately \$2.5 billion.

6. Medley Capital LLC is registered with the SEC as an investment adviser under the Investment Advisers Act. All of the Debtor’s day-to-day operations are conducted through its direct subsidiary, Medley Capital. The Debtor does not earn revenues directly from Medley Capital’s

³ Mr. Medley left the Company in or about 2009.

clients because the clients pay the Advisors or Medley Capital for the services rendered. The Advisors are generally organized for the purpose of contracting with a particular client or subset of clients, or serving in a management role for an entity, such as a general partner for a limited partnership or a manager of a limited liability company, constituting an investment advisory relationship for regulatory purposes, and those clients or entities may also contract with Medley Capital to provide the advisory services to the underlying client, as more fully described below. These services are typically governed by an IMA or other documents that describe the terms of the engagement of the Advisor by the respective entity or client(s) and set forth the fees each client is required to pay the Advisor and/or Medley Capital for those services. The IMAs or other governing documents are typically subject to the client's right to terminate the agreement at will, after a short notice period. Each of the Advisors is a "relying adviser" under the Investment Advisers Act and are considered to be registered investment advisers under the Form ADV adviser registration for Medley Capital. The IMAs generally provide that Medley Capital shall serve as the investment adviser.

7. Medley Capital employs all of the Company's employees (the Debtor has no employees), and Medley Capital is the counterparty to some of the Company's material contracts. Medley Capital also incurs substantially all of the costs to operate the enterprise and provides substantially all of the services to the clients, both advisory and administrative, required under the IMAs. Pursuant to that certain Services and Licensing Agreement, dated December 12, 2017, by and between the Debtor, Medley Capital and each of the Advisors (the "Services and Licensing Agreement"), the Advisors are required to reimburse Medley Capital for all costs associated with the provision of advisory and administrative services to the clients on behalf of the Advisors as set forth in the IMAs. Pursuant to that certain Administration Agreement, dated April 5, 2012, by and

between Sierra and Medley Capital (the “Administration Agreement”), Sierra pays Medley Capital directly for certain administrative services.

8. After Medley Capital is reimbursed by the Advisors or Sierra, as applicable, the Advisors make distributions to the Debtor for periodic ordinary course fee income. The Debtor subsequently makes ordinary course capital contributions of those amounts throughout the Company—primarily to MDLY—to fund insurance, taxes and corporate governance expenses.⁴ The Debtor’s relationship with MDLY, including its funding obligations to MDLY, is governed by that certain Fifth Amended and Restated Limited Liability Company Agreement of Medley LLC, dated as of June 1, 2021.

9. For the year ended December 31, 2020, the Advisors that were the largest revenue generators were SIC Advisors LLC (“SIC Advisors”) and MCC Advisors, LLC (“MCC Advisors”). SIC Advisors and MCC Advisors generated gross revenues of approximately \$12,200,000 and \$6,900,000, respectively, during the year ended December 31, 2020, and respectively represented 43.8% and 14.5% of the aggregate amount of the Company’s FEAUM. However, as discussed further below, effective on January 1, 2021, MCC created an internalized management structure that replaced the services provided under the IMA and administration agreements with MCC Advisors.

10. The Advisors earn fees based on the terms of the IMA or other contract(s) entered into with each of their respective clients. With respect to clients that are private funds or separately managed accounts, these fees generally include management fees, administrative fees, and certain

⁴ As discussed in Article II.K. of the Combined Disclosure Statement and Plan, the Cash Management Motion allowed for funds to flow from the Advisors to the Debtor and then the Debtor would reimburse Medley Capital for the costs associated with the advisory and administrative services. The Debtor filed the Supplemental Cash Management Motion, to comply with contractual provisions that require that Medley Capital be reimbursed from the Advisors or Sierra as applicable before such funds are distributed to the Debtor.

incentive fees. The management fees are calculated quarterly at an annual rate of 0.75% to 2.00% of the value of capital accounts or the value of the investments held by the client, and are paid in cash in advance or in arrears depending on each specific contract. The administrative fees that are payable by each client are set forth in the IMA or other contract(s) for each client and are payable quarterly in arrears. Finally, the incentive fees generally are in an amount equal to 15% to 20% of the realized cash derived from an investment, subject to a cumulative annualized preferred return to the client, as applicable of 6% to 8%, which is in turn subject to a 50% to 100% catch-up allocation to the Advisor. Specifically with respect to SIC Advisors' client, Sierra, SIC Advisors generally receives (i) a base management fee calculated quarterly at an annual rate of 1.75% of gross assets, payable quarterly in arrears, (ii) a subordinated incentive fee on income, and (iii) an incentive fee on capital gains.

B. The Debtor's Bankruptcy Filing and Pleadings

11. On March 7, 2021 (the "Petition Date") the Debtor filed a voluntary bankruptcy petition. Substantially contemporaneously with the filing of the Chapter 11 petition, the Debtor filed the Declaration of Richard T. Allorto, Jr. in support of the Debtor's Chapter 11 Petition and first day pleadings [Docket No. 5] (the "Allorto Declaration").⁵

12. On the Petition Date, the Debtor filed a Chapter 11 plan of reorganization [Docket No. 7] (the "Original Plan") and a disclosure statement [Docket No. 8].

13. On April 22, 2021, the Office of the United States Trustee appointed an official committee (the "Committee"). No chapter 11 trustee or examiner has been appointed in these Chapter 11 cases (the "Chapter 11 Cases").

⁵ The Allorto Declaration is incorporated as if fully set forth herein, and the Debtor advises all creditors and parties-in-interest to review the Allorto Declaration and all other pleadings filed in the bankruptcy case. Copies of all pleadings filed in the case are available on the bankruptcy court's website (www.ecf.deb.uscourts.gov) for a fee, or from the Debtor's website (<http://www.kccllc.net/medley>) at no charge.

14. Ultimately, the Debtor never solicited the Original Plan. Shortly after the Petition Date, the Debtor received informal comments from counsel to the Committee with respect to the proposed terms of the Original Plan. On May 13, 2021, the Debtor withdrew the Original Plan [Docket No. 146].

C. Bar Date and the Debtor’s Schedules and Statements of Financial Affairs

15. Substantially contemporaneously with the filing of the bankruptcy petition, the Debtor filed motion to establish a bar date for filing proofs of claim [Docket No. 11] (the “Bar Date Motion”). On March 19, 2021, the Court entered an Order approving the Bar Date Motion, which set a deadline of April 30, 2021 for filing of proofs of claim, and a separate deadline of September 3, 2021, for governmental authorities to file proofs of claim [Docket No. 52]. On March 25, 2021, the Debtor filed its schedules and statement of financial affairs in the Chapter 11 Case [Docket No. Docket Nos. 62-63].

16. As of July 5, 2021, creditors (other than intercompany claims) had filed or scheduled proofs of claim aggregating \$133,286,927.05, including \$1,680.67 of Priority Claims, \$125,506,108.33 of Note Claims, and \$7,779,138.05 of General Unsecured Claims. Additionally, on May 6, 2021, the SEC also filed a proof of claim asserting a contingent claim in an unliquidated amount for “an undetermined claim for penalties, disgorgement, and prejudgment interest arising from possible violations of the federal securities laws.” Further, in its proof of claims, the SEC stated that, it “has been conducting an investigation into certain prebankruptcy transactions involving the [D]ebtor.”

D. Postpetition Change in the Debtor’s Management

17. On the Petition Date, Brook Taube and Seth Taube, who collectively owned the majority of MDLY, were serving as officers of MDLY and the Debtor. Recognizing that their

continued involvement threatened the ability of the Debtor to successfully reorganize, Brook Taube and Seth Taube both resigned their respective positions with the Debtor, effective May 3, 2021.

18. Shortly after May 18, 2021, the Debtor contacted Corporation Service Company to retain Michelle Dreyer as the independent manager of the Debtor.

19. On and effective as of June 1, 2021, the Debtor entered into its Fifth Amended and Restated Limited Liability Company Agreement, by and among Ms. Dreyer as the independent Manager. As provided in Section 3.01 of the Fifth Amended and Restated Limited Liability Company Agreement, among other things, it was agreed that:

(a) The business, property and affairs of the Company shall be managed under the sole, absolute and exclusive direction of the [independent] Manager, which may from time to time delegate authority to Officers or to others to act on behalf of the Company.

(b) Without limiting the foregoing provisions of this Section 3.01, the [independent] Manager shall have the general power to manage or cause the management of the Company (which may be delegated to Offices of the Company), including, without limitation, to do all such acts as shall be authorized in this Agreement.

20. On June 16, 2021, the Debtor filed a motion to authorize the retention and compensation of Corporation Service Company in connection with appointment of Debtor's independent manager, *nunc pro tunc* to June 1, 2021 [Docket No. 206] (the "Independent Manager Motion"). On July 2, 2021, the Court approved the Independent Manager Motion [Docket No. 237].

21. Since June 1, 2021, Ms. Dreyer has served as the independent Manager of the Debtor, and has been making the business decisions for the Debtor and its estate, including the terms of this Combined Disclosure Statement and Plan.

E. Combined Disclosure Statement and Plan

22. On July 6, 2021, the Debtor filed the Combined Disclosure Statement and Plan. Pursuant to section 1123(a)(1) of the Bankruptcy Code, the Combined Disclosure Statement and Plan designates two categories of Claims that are entitled to receive Distributions under the Combined Disclosure Statement and Plan but are not classified for purposes of voting to accept or reject the Combined Disclosure Statement and Plan. These categories of Claims are: (i) Administrative Expense Claims (including Fee Claims), and (ii) Priority Tax Claims (collectively, the “Unclassified Claims”).

23. In addition to the Unclassified Claims, the Combined Disclosure Statement and Plan designates five (5) classes of claims and one (1) class of equity interests in the Debtor (collectively, the “Classes”). These take into account the differing nature and priority of the various claims and equity interests under the Bankruptcy Code. Under the Combined Disclosure Statement and Plan, claims are treated generally in accordance with the priorities established under the Bankruptcy Code. Claims that have priority status under the Bankruptcy Code or that are secured by valid liens on collateral are to be paid in full or otherwise treated as provided in the Combined Disclosure Statement and Plan. The Combined Disclosure Statement and Plan further contemplates that holders of allowed administrative expense claims will receive cash in the full amount of such allowed administrative expense claims on (i) the Effective Date, or (ii) on a subsequent distribution date following the date upon which such administrative expense claim becomes an allowed administrative expense claim.

24. In accordance with section 1122 of the Bankruptcy Code, the Combined Disclosure Statement and Plan classifies holders of claims and equity interests into the following Classes for all purposes, including with respect to voting:

Class	Type	Status Under Plan	Voting Status
Class 1	Secured Claims	Unimpaired; Not Entitled to Vote	Presumed to Accept
Class 2	Priority Non-Tax Claims	Unimpaired; Not Entitled to Vote	Presumed to Accept
Class 3	Notes Claims	Impaired	Entitled to Vote
Class 4	General Unsecured Claims	Impaired; Entitled to Vote	Entitled to Vote
Class 5	Intercompany Claims	Unimpaired / Impaired; Not Entitled to Vote	Deemed to Reject
Class 6	Interests	Impaired; Entitled to Vote	Entitled to Vote

25. As set forth above, only the holders of claims in Classes 3, 4 and 6 (the “Voting Classes”) are Impaired and entitled to vote to accept or reject the Combined Disclosure Statement and Plan. Holders of claims in Classes 1 and 2 (collectively, the “Unimpaired Classes”) are conclusively deemed to have accepted the Combined Disclosure Statement and Plan pursuant to section 1126(f) of the Bankruptcy Code and, thus, are not entitled to vote to accept or reject the Combined Disclosure Statement and Plan. Holders of intercompany claims in Class 5 (the “Deemed Rejecting Classes”) and together with the Unclassified Claims and the Unimpaired Class, the “Non-Voting Classes”), while also impaired by the Combined Disclosure Statement and Plan, are not expected to receive a distribution and thus such holders are conclusively presumed to have rejected the Combined Disclosure Statement and Plan pursuant to section 1126(g) of the Bankruptcy Code.

26. Finally, as more fully set forth therein, the Combined Disclosure Statement and Plan provides in conspicuous language for the and exculpation of the Debtor and certain nondebtor third parties and the releases of Sierra Income Corporation. Both the Combined Disclosure Statement

and Plan and the notice that will be sent to creditors and parties and interest, strongly recommend that all persons are advised to read the Combined Disclosure Statement and Plan.

RELIEF REQUESTED

27. Pursuant to sections 105, 1123(a), 1124, 1125, 1126, 1128, and 1129 of the Bankruptcy Code, Bankruptcy Rules 2002, 3003, 3016, 3017, 3018, 3019, 3020, and 9006, and Local Rules 3017-1, 3017-2, and 9006-1, the Debtor seeks entry of the Solicitation Procedures Order, substantially in the form attached hereto as Exhibit A, (A) approving on an interim basis the Combined Disclosure Statement and Plan as containing adequate information for solicitation purposes, (B) (i) approving the Combined Disclosure Statement and Plan solicitation procedures for the solicitation of votes seeking acceptance of the Combined Disclosure Statement and Plan, including approving the Solicitation Package, establishing a Voting Record Date and approving procedures for distribution of the Solicitation Package, (ii) approving the form and manner of the notice of the Confirmation Hearing, and (iii) approving the form of Ballots and procedures for distribution of the consideration contemplated under the Combined Disclosure Statement and Plan, (iv) establishing a voting deadline for receipt of the Ballots, and (v) approving the procedures for tabulating acceptances and rejections of the Combined Disclosure Statement and Plan; (C) scheduling the Confirmation Hearing and establishing the deadline for filing objections to confirmation of the Combined Disclosure Statement and Plan; and (D) granting related relief.

28. Moreover, the Debtor also seeks to schedule additional dates relating to the solicitation process and confirmation of the Combined Disclosure Statement and Plan. Below is a table highlighting the proposed dates in connection with the relief sought herein. The proposed dates for upcoming hearings include dates requested from the Court in this Motion, subject to the Court's availability.

Proposed Schedule for the Combined Plan and Disclosure Statement Solicitation Procedures	
Solicitation Procedures Hearing Objection Deadline	August 5, 2021 at 4:00 p.m. (ET)
Solicitation Procedures and Conditional Disclosure Statement Hearing (the “Solicitation Procedures Hearing”)	August 12, 2021 at 1:00 p.m. (ET)
Voting Record Date	August 12, 2021
Solicitation Commencement Deadline	August 17, 2021
Publication Deadline	August 17, 2021
Deadline for Plan Supplement	September 17, 2021
Voting Deadline	September 20, 2021 at 4:00 p.m. (ET)
Objection Deadline	September 23, 2021 at 4:00 p.m. (ET)
Deadline to File Voting Tabulations Affidavit	September 23, 2021
Deadline to File Confirmation Brief and Supporting Evidence and Respond to Objections to the Combined Disclosure Statement and Plan	September 27, 2021
Confirmation Hearing	September 30, 2021 at 10:00 a.m. (ET)

ARGUMENT

A. The Disclosures in the Combined Disclosure Statement and Plan Should be Approved on an Interim Basis as Containing Adequate Information

29. By this Motion, the Debtor requests that the Court (a) approve on an interim basis the Combined Disclosure Statement and Plan as containing adequate information for solicitation purposes, (b) approve the solicitation procedures, and (c) approve the Combined Disclosure Statement and Plan on a final basis at the Confirmation Hearing as part of the order confirming the Combined Disclosure Statement and Plan.

30. After the commencement of a case, a plan proponent may not solicit votes on a chapter 11 plan unless the bankruptcy court has approved the disclosure statement describing such plan as containing “adequate information.” See 11 U.S.C. § 1125(b). Section 1125(a) of the Bankruptcy Code provides that “adequate information” means information of a kind and in sufficient detail, as is reasonably practicable, to allow a hypothetical reasonable investor to make an informed judgment about the plan. See 11 U.S.C. § 1125(a). “The determination of what is adequate information is subjective and made on a case by case basis.” Texas Extrusion Corp. v. Lockheed Corp. (In re Texas Extrusion Corp.), 844 F.2d 1142, 1157 (5th Cir. 1988), cert. denied, 488 U.S. 926 (1988).

31. Courts will consider the particular facts and circumstances of each case in evaluating whether a disclosure statement provides “adequate information” within the meaning of section 1125 of the Bankruptcy Code. See 11 U.S.C. § 1125(a)(1) (“[A]dequate information’ means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records[.]”); Oneida Motor Freight, Inc. v. United Jersey Bank, 848 F.2d 414, 417 (3d Cir. 1988) (“From the legislative history of § 1125 we discern that adequate information will be determined by the facts and circumstances of each case.”); First Am. Bank of New York v. Century Glove, Inc., 81 B.R.274, 279 (D. Del. 1988) (noting that adequacy of disclosure for a particular debtor will be determined based on how much information is available from outside sources); S. Rep. No. 95-989, at 121 (1978), reprinted in 1978 U.S.C.C.A.N. 5787, 5907 (“[T]he information required will necessarily be governed by the circumstances of the case.”).

32. The bankruptcy court possesses substantial discretion in determining whether a disclosure statement is adequate. See In re River Village Assocs., 181 B.R. 795, 804 (E.D. Pa. 1995)

(finding that the bankruptcy court's approval of disclosure statement was within its "substantial discretion"); see also In re PC Liquidation Corp., 383 B.R. 856, 865 (E.D.N.Y. 2008) ("The standard for disclosure is, thus, flexible and what constitutes 'adequate disclosure' in any particular situation is determined on a case-by-case basis, with the determination being largely within the discretion of the bankruptcy court.") (citations omitted).

33. Factors considered by a court evaluating the adequacy of a disclosure statement may include: (a) the events leading to the filing of a bankruptcy petition; (b) the relationship of the debtor with its affiliates; (c) a description of the available assets and their value; (d) the anticipated future of the company; (e) the source of information stated in the disclosure statement; (f) the present condition of the debtor while in chapter 11; (g) claims asserted against the debtor; (h) the estimated return to creditors under a chapter 7 liquidation; (i) the future management of the debtor; (j) the chapter 11 plan or a summary thereof; (k) financial information, valuations, and projections relevant to the creditors' decision to accept or reject the chapter 11 plan; (l) information relevant to the risks posed to creditors under the plan; (m) the actual or projected realizable value from recovery of preferential or otherwise voidable transfers; (n) litigation likely to arise in a non- bankruptcy context; and (o) tax attributes of the debtor. See, e.g., In re U.S. Brass Corp., 194 B.R. 420, 424-25 (Bankr. E.D. Tex. 1996); In re Scioto Valley Mortg. Co., 88 B.R. 168, 170-71 (Bankr. S.D. Ohio 1988); In re Metrocraft Pub. Servs., Inc., 39 B.R. 567, 568 (Bankr. N.D. Ga. 1984). A plan proponent need not include disclosure with respect to each of the above topics in every case. See, e.g., U.S. Brass Corp., 194 B.R. at 425.

34. The Combined Disclosure Statement and Plan includes the following key sections and information: (a) an overview of the Combined Disclosure Statement and Plan, including a chart describing the treatment of each Class; (b) a description of the Debtor's business; (c) a description

of the corporate and capital structure of the Debtor; (d) information regarding Claims; (e) a description of key events leading to the commencement of the Chapter 11 Cases; (f) information regarding the releases and exculpation contained in the Combined Disclosure Statement and Plan; (g) a discussion of risk factors affecting the implementation of the Combined Disclosure Statement and Plan; and (h) an overview of the requirements for Confirmation of the Combined Disclosure Statement and Combined Disclosure Statement and Plan. Accordingly, the disclosures in the Combined Disclosure Statement and Plan should be approved as containing “adequate information” under section 1125 of the Bankruptcy Code.

35. To the extent necessary, the Debtor will demonstrate at the Solicitation Procedures Hearing and the Confirmation Hearing that the disclosures in the Combined Disclosure Statement and Plan address the information set forth above in a manner that provides Holders of Claims in the Voting Classes with adequate information within the meaning of section 1125 of the Bankruptcy Code.

B. Request for the Confirmation Hearing and Related Deadlines

36. Section 1128 of the Bankruptcy Code provides that “[a]fter notice, the court shall hold a hearing on confirmation of a plan” and that “[a] party in interest may object to confirmation of a plan.” 11 U.S.C. § 1128; see also Fed. R. Bankr. P. 3017(c) (providing that “[o]n or before the approval of a disclosure statement, the court . . . may fix the date for the hearing on confirmation.”).

37. Section 105(d)(2)(B)(vi) of the Bankruptcy Code expressly authorizes a court to “issue an order . . . that . . . provides that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan” where the court deems a combined hearing to be “appropriate to ensure that the case is handled expeditiously and economically.” See 11 U.S.C. § 105(d)(2)(B)(vi); see also In re Gulf Coast Oil Corp., 404 B.R. 407, 425 (Bankr. S.D.

Tex. 2009) (“Section 1125(f) authorizes combined plans and disclosure statements in small business cases and § 105(d) authorizes the court to combine them in other cases.”). Pursuant therewith, courts in the Third Circuit have combined hearings on the approval of disclosure statements and confirmation of plans in chapter 11 cases. See, e.g., DNIB Unwind, Inc. (f/k/a BIND Therapeutics, Inc.), Case No. 16-11084 (BLS) (Bankr. D. Del.); In re RadioShack Corp., Case No. 15-10197 (BLS) (Bankr. D. Del.); In re Corinthian Colleges, Inc., No. 15-10952 (KJC) (Bankr. D. Del.); In re Old FOH, Inc. (f/k/a Frederick’s of Hollywood, Inc.), Case No. 15-10836 (KG) (Bankr. D. Del.); In re Hipcricket, Inc., Case No. 15-10104 (LSS) (Bankr. D. Del.); In re AFA Investment Inc., Case No. 12-11127 (MFW) (Bankr. D. Del.); In re PQ New York, Inc., Case No. 20-11266 (JTD) (Bankr. D. Del.).

38. Consistent with the foregoing authority, the Debtor respectfully requests that the Court grant its request to conduct the Confirmation Hearing for (i) final approval of the Combined Disclosure Statement and Plan and (ii) confirmation of the Combined Disclosure Statement and Plan, and that the Court schedule the Confirmation Hearing for September 30, 2021 at 10:00 a.m., and set an objection deadline of September 23, 2021 at 4:00 p.m.

C. Time for Service of the Notice of Confirmation Hearing

39. The Debtor proposes to commence service of the notice of the Confirmation Hearing no later than August 17, 2021 (the “Solicitation Commencement Date”). This will provide creditors and other parties in interest with at least forty-four (44) days’ notice prior to the proposed date of the Confirmation Hearing and thirty-seven (37) days’ notice prior to the Objection Deadline. This is consistent with Bankruptcy Rule 2002(b) which provides that “the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees not less than 28 days’ notice by mail of the time fixed . . . for filing objections and the hearing to consider

approval of a disclosure statement.” Fed. R. Bankr. P. 2002(b). The Debtor respectfully submits that (a) the proposed form of Confirmation Hearing Notice (as defined below), (b) the notice period provided after service of the Confirmation Hearing Notice, and (c) the service of the notice for the Confirmation Hearing Notice, which will be served on all known Holders of Claims and Equity Interests, and all parties that have requested notice in the Chapter 11 Cases pursuant to Bankruptcy Rule 2002, provide creditors with sufficient notice of the Confirmation Hearing, given the facts and circumstances of the Chapter 11 Cases.

D. Establishing Procedures for Solicitation of the Combined Disclosure Statement and Plan

(i) Approval of Solicitation Package

40. Bankruptcy Rule 3017(d) sets forth the materials that must be provided to creditors and equity security holders for the purposes of soliciting their votes and providing adequate notice of a hearing to confirm a plan of reorganization. Specifically, Bankruptcy Rule 3017(d) provides in relevant part that:

Upon approval of a disclosure statement,—except to the extent that the court orders otherwise with respect to one or more unimpaired classes of creditors or equity security holders—the debtor in possession, trustee, proponent of the plan, or clerk as the court orders shall mail to all creditors and equity security holders, and in a chapter 11 reorganization case shall transmit to the United States trustee,

- (1) the plan or a court-approved summary of the plan;
- (2) the disclosure statement approved by the court;
- (3) notice of the time within which acceptances and rejections of the plan may be filed; and
- (4) any other information as the court may direct, including any court opinion approving the disclosure statement or a court-approved summary of the opinion.

In addition, notice of the time fixed for filing objections and the hearing on confirmation shall be mailed to all creditors and equity security holders in

accordance with Rule 2002(b), and a form of ballot conforming to the appropriate Official Form shall be mailed to creditors and equity security holders entitled to vote on the plan.

See Fed. R. Bankr. P. 3017(d).

41. In accordance with the requirements of Bankruptcy Rule 3017(d), following this Court's conditional approval of the Combined Disclosure Statement and Plan as containing adequate information pursuant to section 1125 of the Bankruptcy Code, the Debtor proposes to distribute, or cause to be distributed, by first-class mail to each Holder of a Claim in the Voting Classes a Solicitation Package containing the following:

- a. the Combined Disclosure Statement and Plan and all other exhibits annexed thereto, which documents the Debtor proposes to distribute via USB Flash Drive format instead of printed copies;
- b. the Solicitation Procedures Order, excluding the exhibits annexed thereto;
- c. a notice of the Confirmation Hearing, substantially in the form attached hereto as Exhibit 1 (the "Confirmation Hearing Notice");
- d. a form of a Ballot, substantially in the form attached hereto as Exhibit 2 to the Solicitation Procedures Order, to accept or reject the Combined Disclosure Statement and Plan along with a pre-addressed return envelope;
- e. a letter to creditors substantially in the form attached hereto as Exhibit 6 to the Solicitation Procedures Order, from the Debtor in support of the Combined Disclosure Statement and Plan; and
- f. such other materials as the Court may direct or approve, including any supplemental solicitation materials the Debtor may file with the Court.

42. For the avoidance of doubt, the Debtor are not soliciting acceptances or rejections to the and from Holders of Claims or Equity Interests in the Non-Voting Classes since such Creditors and Interest Holders are not entitled to vote on the Combined Disclosure Statement and Plan as the Non-Voting Classes are deemed to have either accepted or rejected the Combined Disclosure Statement and Plan.

43. Furthermore, consistent with sections 1126(f) and (g) of the Bankruptcy Code, the Debtor proposes to distribute, or cause to be distributed, by first-class mail to all Holders of Claims in the Unimpaired Classes, as well as the Holders of Unclassified Claims, a package, which shall consist of: (a) the Confirmation Hearing Notice and (b) a notice of nonvoting status, substantially in the form attached hereto as Exhibit 3 to the Solicitation Procedures Order (the “Notice of Unimpaired Non-Voting Status”). For the avoidance of doubt, the Debtor is not soliciting acceptances or rejections to the Combined Disclosure Statement and Plan from Holders of Claims or Equity Interests in the Non-Voting Classes since such Creditors and Interest Holders are not entitled to vote on the Combined Disclosure Statement and Plan as the Non-Voting Classes are deemed to have either accepted or rejected the Combined Disclosure Statement and Plan.

44. The Debtor also proposes to distribute, or cause to be distributed, by first-class mail to all Holders of Claims in the Holders of Claims and Equity Interests in the Deemed Rejecting Classes, a package which shall consist of: (a) the Confirmation Hearing Notice and (b) a notice of nonvoting status, substantially in the form attached hereto as Exhibit 4 to the Solicitation Procedures Order (the “Notice of Impaired Non-Voting Status”). Additionally, where a Claim is the subject of a pending objection on the Voting Record Date, the Debtor proposes to send a Notice to Disputed Claim Holders, substantially in the form attached hereto as Exhibit 5 to the Solicitation Procedures Order.

45. Moreover, to the extent that the Office of the United States Trustee, governmental units having an interest in the Chapter 11 Cases or those parties requesting notice pursuant to Bankruptcy Rule 2002 have not otherwise received a Solicitation Package prior to the Solicitation Commencement Date (as defined below), the Debtor proposes to distribute, or cause to be distributed, by first-class mail to such parties the following information (collectively, the

“Information Package”): (a) the Combined Disclosure Statement and Plan, together with all exhibits annexed thereto, (b) Solicitation Procedures Order, excluding the exhibits annexed thereto, and (c) the Confirmation Hearing Notice.

(ii) Establishing a Voting Record Date and Approval of Procedures for Distribution of Solicitation Packages

46. Bankruptcy Rule 3017(d) provides that, for the purposes of soliciting votes to accept or reject a plan of reorganization, “creditors and equity security holders shall include holders of stocks, bonds, debentures, notes, and other securities of record on the date the order approving the disclosure statement is entered or another date fixed by the court, for cause, after notice and a hearing.” Fed. R Bankr. P. 3017(d). The Debtor proposes that the Court establish August 12, 2021, as the record date (the “Voting Record Date”) for purposes of determining:

(i) the Holders of Claims and Equity Interests in (a) the Voting Classes, who will receive Solicitation Packages and are entitled to vote to accept or reject the Combined Disclosure Statement and Plan, and (b) the Non-Voting Classes, who will receive a Non-Voting Package and are not entitled to vote to accept or reject the Combined Disclosure Statement and Plan, and

(ii) whether Claims have been properly assigned or transferred to an assignee pursuant to Bankruptcy Rule 3001(e) such that the assignee can vote to accept or reject the Combined Disclosure Statement and Plan as the Holder of a Claim. With respect to any transferred Claim, however, the Debtor proposes that the transferee be entitled to receive a Solicitation Package and cast a Ballot on account of the transferred Claim only if the parties have completed all actions necessary to affect the transfer of the Claim pursuant to Bankruptcy Rule 3001(e) by the Voting Record Date set forth above. The Debtor also proposes that the amount of each Holder’s Claim be determined for solicitation and voting purposes as of the Voting Record Date.

47. The Debtor expects that it will complete, or cause to be completed, the distribution of the appropriate Solicitation Package and Non-Voting Package to all Holders of Claims or Equity Interests, as applicable, on or about the day the Court enters the Solicitation Procedures Order.

48. The Debtor submits that it is not required to mail Solicitation Packages or other solicitation materials to Holders of Claims that have already been paid in full during the Chapter

11 Cases or that are authorized to be paid in full in the ordinary course of business pursuant to an order previously entered by this Court.

49. The Debtor believes that under the procedures set forth above, all parties entitled to vote to accept or reject the Combined Disclosure Statement and Plan will receive the Solicitation Package, which will include, among other things, a complete copy of the Combined Disclosure Statement and Plan. As such, the Debtor submits that good cause exists for implementing the aforementioned procedures.

(iii) Approval of Form and Manner of Confirmation Hearing Notice and Notice by Publication

50. Bankruptcy Rules 2002(b) and 2002(d) require not less than twenty-eight (28) days' notice to all holders of claims and equity interests of the time fixed for filing objections to confirmation of a plan of reorganization and the hearing to consider the confirmation of a plan of reorganization. As described above, all Holders of Claims or Equity Interests will be sent a copy of the Confirmation Hearing Notice in connection with the mailing of the Solicitation Packages, the Non-Voting Packages, and the Information Packages. The Confirmation Hearing Notice will advise any party wishing to obtain a copy of the Combined Disclosure Statement and Plan to contact the Voting Agent by telephoning the Voting Agent at 866-205-3149. In addition, copies of the Combined Disclosure Statement and Plan will be available to be viewed, at no charge, on the Debtor's case website (<https://www.kccllc.net/medley>) or at the Bankruptcy Court's website (<http://www.deb.uscourts.gov>) by following the directions for accessing the ECF system on such website.

(iv) Approval of Forms of Ballots and Procedures for Distribution to Holders

51. Bankruptcy Rule 3017(d) requires the Debtor to mail a form of ballot to all "creditors and equity security holders entitled to vote on the plan." Fed. R. Bankr. P. 3017(d). The Debtor

proposes to distribute Ballots to each Holder of a Claim in the Voting Classes. The Ballots are based on Official Form B314 and comply with Bankruptcy Rule 3018(c). The Ballots have been modified, however, to address the particular aspects of the Chapter 11 Cases. The form of the proposed Ballots that the Debtor intends to distribute to Holders of Claims in the Voting Classes is annexed hereto as Exhibit 2 to the Solicitation Procedures Order. The Ballots will be sent to Holders of Claims in the Voting Classes who are entitled to vote on the Combined Disclosure Statement and Plan.

(v) Establishment of the Voting Deadline

52. Bankruptcy Rule 3017(c) provides that, on or before approval of the Disclosure Statement, the Court shall fix a time within which the Holders of Claims may vote to accept or reject the Combined Disclosure Statement and Plan. See Fed. R. Bankr. P. 3017(c). The Debtor will use its reasonable efforts to distribute, or cause to be distributed, the Solicitation Packages by first-class mail no later than the Solicitation Commencement Date. Based on this schedule, the Debtor respectfully requests that the Court establish September 20, 2021 at 4:00 p.m. (prevailing Eastern Time) as the deadline by which all Ballots must be properly executed, completed, delivered to and actually received by the Voting Agent (the "Voting Deadline") in order to be counted for voting purposes with respect to the Combined Disclosure Statement and Plan. Ballots must be returned to the Voting Agent by first class mail postage, personal delivery, or overnight courier, or submitted through the Voting Agent's electronic portal, as discussed herein. No Ballots will be accepted by e-mail, facsimile, or any other electronic format, except as otherwise provided herein.

53. The proposed Voting Deadline is approximately twenty-five (25) days after the date of the anticipated entry of the Solicitation Procedures Order and approximately twenty-three (23) days after the Solicitation Commencement Date. The Debtor believes that a solicitation period of

this length is sufficient to allow each Holder of a Claim in the Voting Classes to make an informed decision to accept or reject the Combined Disclosure Statement and Plan.

- (vi) Approval of Procedures for Tabulating Acceptances and Rejections of the Combined Disclosure Statement and Plan

54. The Debtor proposes that each Holder of a Claim in the Voting Classes shall be entitled to vote the amount of its Claim as of the Voting Record Date. For purposes of voting on the Combined Disclosure Statement and Plan, with respect to all Holders of Claims against the Debtor, the Debtor proposes that the amount of a Claim used to tabulate acceptance or rejection of the Combined Disclosure Statement and Plan should be as follows:

- a. The amount of the Claim listed in the Debtor's schedules of assets and liabilities; unless (i) such Claim is scheduled but listed (x) as contingent, unliquidated, undetermined, or disputed or (y) in the amount of \$0.00, (ii) a Proof of Claim has been timely filed (or otherwise deemed timely filed by the Court under applicable law), (iii) such Claim has been satisfied by the Debtor, (iv) a Proof of Claim has been asserted in the amount of \$0, or (iv) such Claim has been resolved pursuant to a stipulation or order entered by the Court.
- b. The undisputed, non-contingent and liquidated amount specified in a Proof of Claim timely filed with the Court or the Voting Agent (or otherwise deemed timely filed by the Court under applicable law) to the extent such Proof of Claim has not been amended or superseded by another Proof of Claim filed on or before the Voting Deadline and is not the subject of an objection (or, if such Claim has been resolved pursuant to a stipulation or order entered by the Court, or otherwise resolved by the Court, the amount set forth in such stipulation or order).
- c. If a Proof of Claim timely filed with the Court or the Voting Agent (or otherwise deemed timely filed by the Court under applicable law) has been amended by a later Proof of Claim filed on or before the Voting Deadline, the later filed amending claim shall be entitled to vote in a manner consistent with these tabulation rules, and the earlier filed Proof of Claim shall be disallowed for voting purposes, regardless of whether the Debtor has objected to such amended claim.
- d. If a Proof of Claim has been timely filed with the Court or the Voting Agent (or otherwise deemed timely filed by the Court under applicable law) and such claim is asserted in the amount of \$0.00, such claim shall not be entitled to vote.
- e. If a claim is Allowed under the Combined Disclosure Statement and Plan, such claim is allowed for voting purposes in the deemed Allowed amount set forth in the Combined Disclosure Statement and Plan.

f. The amount temporarily allowed by the Court for voting purposes pursuant to Bankruptcy Rule 3018.

g. Except as otherwise provided in subsection (c) hereof, a Ballot cast by an alleged Creditor who has timely filed a Proof of Claim in a wholly unliquidated, unknown, or uncertain amount that is not the subject of a claim objection filed on or before the Voting Deadline as well as claims scheduled as contingent, unliquidated, or disputed (without a corresponding filed claim) shall be counted in determining whether the numerosity requirement of section 1126(c) of the Bankruptcy Code has been met, and shall be ascribed a value of one dollar (\$1.00) for voting purposes only in determining whether the aggregate Claim amount requirement of section 1126(c) of the Bankruptcy Code has been met.

h. Except as otherwise provided in subsection (c) hereof, if a Creditor casts a Ballot and has timely filed a Proof of Claim (or has otherwise had a Proof of Claim deemed timely filed by the Court under applicable law), but the Creditor's Claim is the subject of a claim objection filed by the Voting Deadline, the Debtor requests, in accordance with Bankruptcy Rule 3018(a), that the Creditor's Ballot not be counted.

i. Notwithstanding subsection (h) hereof and except as otherwise provided in subsection (c) hereof, if the Debtor has requested by motion at least twelve (12) business days prior to the Confirmation Hearing that a Claim be reclassified and/or allowed in a fixed, reduced amount pursuant to a claim objection to such Claim, the Ballot of the Holder of such Claim shall be counted in the reduced amount requested by the Debtor and/or in the requested category.

55. The Debtor further requests that the following voting procedures and standard assumptions be used in tabulating the Ballots:

a. For purposes of the numerosity and amount requirements of section 1126(c) of the of the Bankruptcy Code, to the extent that it is possible to do so for the Voting Classes, separate Claims held by a single Creditor against the Debtor in the Voting Classes will be aggregated as if such Creditor held a single Claim against the Debtor in such Voting Classes, and the votes related to those Claims shall be treated as a single vote on the Combined Disclosure Statement and Plan.

b. Creditors with multiple Claims within the Voting Classes must vote all such Claims in the Voting Class to either accept or reject the Combined Disclosure Statement and Plan, and may not split their vote(s). Accordingly, an individual Ballot that partially rejects and partially accepts the Combined Disclosure Statement and Plan on account of multiple Claims within the Voting Classes will not be counted.

c. In the event a Claim is transferred after the transferor has executed and submitted a Ballot to the Voting Agent, the transferee of such Claim shall be bound by any such vote

(and the consequences thereof) made by the Holder of such transferred Claim as of the Voting Record Date.

d. The delivery of a Ballot will be deemed made only when the Voting Agent has actually received the original, executed Ballot.

e. If a Holder of a Claim casts more than one Ballot voting the same Claim(s) before the Voting Deadline, the last properly executed Ballot received before the Voting Deadline shall supersede and revoke any earlier received Ballot, and only the last Ballot received before the Voting Deadline shall be counted.

f. If a Holder of a Claim casts multiple Ballots on account of the same Claim or Class of Claims, which are received by the Voting Agent on the same day, but which are voted inconsistently, such Ballots shall not be counted.

g. Unless otherwise provided, any party who has delivered a valid Ballot for the acceptance or rejection of the Combined Disclosure Statement and Plan may withdraw such acceptance or rejection by delivering a written notice of withdrawal to the Voting Agent at any time prior to the Voting Deadline. To be valid, a notice of withdrawal must (i) contain the description of the Claim(s) to which it relates, and the aggregate principal amount represented by such Claim(s), (ii) be signed by the withdrawing party in the same manner as the Ballot being withdrawn, and (iii) contain a certification that the withdrawing party owns the Claim(s) and possesses the right to withdraw the vote sought to be withdrawn. The Debtor intends to consult with the Voting Agent to determine whether any withdrawals of Ballots were received and whether the requisite acceptances of the Combined Disclosure Statement and Plan have been received. The Debtor expressly reserves the right to contest the validity of any such withdrawals of Ballots.

h. Subject to any contrary order of the Court, the Debtor reserves the right to reject any and all Ballots that are not in proper form.

i. Subject to any contrary order of the Court, the Debtor reserves the right to waive any defects, irregularities or conditions of delivery as to any particular Ballot, including failure to timely file such Ballot.

j. Unless otherwise ordered by the Court, any defects or irregularities in connection with deliveries of Ballots must be cured within such time as the Debtor (or the Court) determines, and delivery of such Ballots will not be deemed to have been made until such irregularities have been cured or waived.

k. Neither the Debtor nor any other person or entity will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots, nor will any such party incur any liability for failure to provide such notification. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will not be counted (except as set forth in subsection (g) above).

1. If no Holders of Claims eligible to vote in the Voting Classes vote to accept or reject the Combined Disclosure Statement and Plan, the Combined Disclosure Statement and Plan and will be deemed accepted by the Holders of such Claims in such Class.

56. In addition, the Debtor requests that, to the extent a Holder of a Claim in the Voting Classes has filed (i) duplicate Proofs of Claim with respect to a single Claim against the Debtor, or (ii) Proofs of Claim amending previous Proofs of Claim with respect to the Debtor, such Holder of a Claim shall be entitled to receive only one Solicitation Package and one Ballot for voting such Claim, whether or not the Debtor have objected to such Claim(s).

57. Notwithstanding the foregoing, the following types of Ballots will not be counted in determining whether the Combined Disclosure Statement and Plan has been accepted or rejected:

- a. any Ballot that is otherwise properly completed, executed, and timely returned to the Voting Agent, but does not indicate an acceptance or rejection of the Combined Disclosure Statement and Plan, or indicates both an acceptance and a rejection of the Combined Disclosure Statement and Plan;
- b. any Ballot received after the Voting Deadline, except in the Debtor's discretion or by order of this Court;
- c. any Ballot containing a vote that this Court determines, after notice and a hearing, was not solicited or procured in good faith or in accordance with the applicable provisions of the Bankruptcy Code;
- d. any Ballot that is illegible or contains insufficient information to permit the identification of the Creditor;
- e. any Ballot that partially accepts, or partially rejects, the Combined Disclosure Statement and Plan;
- f. any Ballot cast by a Person or Entity that does not hold a Claim in the Voting Classes;
- g. any unsigned Ballot or Ballot without an original signature, except in the Debtor's discretion; and
- h. any Ballot transmitted to the Voting Agent by facsimile, e-mail, or other electronic means, unless otherwise permitted.

58. In addition to accepting Ballots by regular mail, overnight courier, or hand delivery, the Debtor seeks authority to accept Ballots through the Voting Agent's online Ballot submission

portal at <https://www.kccllc.net/medley> on the Voting Agent's website. Holders of a Claim in the Voting Classes may upload their executed Ballot via the upload portal. Instructions for uploading a Ballot can be found on the Voting Agent's website (<https://www.kccllc.net/medley>). For the avoidance of doubt, each Holder of a Claim in the Voting Classes may only cast Ballots electronically via the ballot upload portal on the Voting Agent's website. Ballots submitted by e-mail, facsimile, or any other means of electronic submission not specifically authorized shall not be counted.⁶

59. Any Class of Claims that does not have a Holder of an Allowed Claim or a Claim that has been temporarily allowed by the Court as of the date of the Confirmation Hearing will be deemed eliminated from the Combined Disclosure Statement and Plan for purposes of voting to accept or reject the Combined Disclosure Statement and Plan, and for purposes of determining acceptance or rejection of the Combined Disclosure Statement and Plan by such Class pursuant to Bankruptcy Code section 1129(a)(8) of the Bankruptcy Code. Parties should not return any stock certificates, debt instruments, or other evidence of their Claim(s) with their Ballot(s).

60. The Debtor requests that the Court fix September 23, 2021 as the deadline for the Voting Agent to file its affidavit verifying the mailing of Ballots and the results of its voting tabulations reflecting the votes cast to accept or reject the Combined Disclosure Statement and Plan.

61. The Debtor submits that the proposed tabulation rules and other related vote tabulation procedures set forth above will establish a fair and equitable voting process and, therefore, should be approved.

⁶ The Ballots can be uploaded at <https://www.kccllc.net/medley>. For the avoidance of doubt, if any Holder of a Claim in the Voting Class submits a duplicate paper Ballot and electronic Ballot, only the electronic Ballot will be counted

F. The Confirmation Hearing Notice Should be Approved

62. The Debtor is requesting that the Court set the Confirmation Hearing to consider confirmation of the Combined Disclosure Statement and Plan for September 30, 2021 at 10:00 a.m.

63. This will provide the Debtor with sufficient time to solicit votes on the Combined Disclosure Statement and Plan and to provide adequate notice of the Confirmation Hearing to all parties in interest. The Debtor also requests that the Court order that the Confirmation Hearing may be continued from time to time without further notice to parties in interest.

64. The Debtor proposes to provide all known Creditors and Interest Holders, parties filing a notice of appearance in the Chapter 11 Cases, and governmental units having an interest in the Chapter 11 Cases (the "Notice Parties") with a copy of the Confirmation Hearing Notice as part of the Solicitation Package, Non-Voting Package, or Information Package, as applicable, and as set forth above. Further, to supplement notice of the Confirmation Hearing by mail, the Debtor, will publish the Confirmation Hearing Notice (with such changes as may be appropriate for purposes of publication, the "Publication Notice") in a national newspaper on or prior to August 17, 2021, which is thirty-seven (37) days prior to the Objection Deadline. Bankruptcy Rule 2002(l) permits the Court to "order notice by publication if it finds that notice by mail is impracticable or that it is desirable to supplement the notice." Fed. R. Bankr. P. 2002(l).

65. Bankruptcy Rule 3020(b) provides that objections to confirmation of a proposed plan of reorganization must be filed with the bankruptcy court and served on the debtor, the trustee, any committee appointed under the Bankruptcy Code, and on any other entity designated by the bankruptcy court, within a time specified by the bankruptcy court. In addition, pursuant to Local Rule 9006-1(c), the deadline for objections shall be no later than seven (7) days before the hearing date. See Del. Bankr. L.R. 9006-1.

66. Accordingly, the Debtor proposes that the Court fix September 23, 2021 at 4:00 p.m. (prevailing Eastern Time) (the “Objection Deadline”) as the deadline for filing and serving written objections (a “Plan Objection”) to Confirmation of the Plan (including any supporting memoranda). The Debtor believes that the Objection Deadline will permit Holders of Claims and Equity Interests and other parties in interest sufficient time to review the Plan, and file any Plan Objections, if necessary. As such, the Debtor will provide known Creditors and Equity Interest Holders with twenty-eight (28) days’ notice of the Objection Deadline, satisfying Bankruptcy Rule 2002(b).

67. The Debtor also requests that the Court direct that Plan Objections, if any, shall (i) be made in writing; (ii) state the name and address of the objecting party and the nature of the Claim or Equity Interest of such party; (iii) state with particularity the legal and factual basis and nature of any Plan Objection; and (iv) be filed with the Court, together with proof of service, and served via electronic mail so that they are received on or before the Objection Deadline by the following parties: counsel to the Debtor: Jeffrey R. Waxman, Esquire and Eric J. Monzo Esquire at jwaxman@morrisjames.com and emonzo@morrisjames.com, respectively

68. The Debtor further proposes that it, or any other party supporting Confirmation of the Combined Disclosure Statement and Plan, be afforded an opportunity to file a response to any Plan Objections no later than September 27, 2021, which is three (3) days prior to the proposed date of the Confirmation Hearing.

69. At that time, the Debtor will also file its proposed findings of fact and conclusions of law with a form of order confirming the Combined Disclosure Statement and Plan, and may file any memorandum of law in support of Confirmation of the Combined Disclosure Statement and Plan.

70. The Debtor respectfully submits that the foregoing schedule is in the best interests of Holders of Claims and Equity Interests and other parties in interest as it provides sufficient notice of the Debtor's anticipated timeline for emerging from the Chapter 11 Cases and comports with the requirements of the Bankruptcy Rules and the Local Rules and request that the Court approve such service and notice as adequate.

G. Additional Process and Procedure

(i) Non-Substantive Changes

71. The Debtor requests authorization to make non-substantive changes to the Combined Disclosure Statement and Plan, the Ballots, the Notices and any related documents without further order of the Court, including, without limitation, changes to correct typographical and grammatical errors and to make nonmaterial conforming changes among the Combined Disclosure Statement and Plan, and any other materials in the Solicitation Packages, the Non-Voting Packages, and/or the Information Packages prior to the distribution of such materials.

(ii) Copies and Review of Documents

72. Copies of the Combined Disclosure Statement and Plan and all pleadings and orders of the Court are publicly available for a fee via PACER at: <http://www.deb.uscourts.gov>, or free of charge from the Voting Agent at <https://www.kccllc.net/medley>. Such documents and pleadings may also be obtained from the Voting Agent upon request by email at MedleyInfo@kccllc.com or by telephoning the Voting Agent at (877) 634-7181.

NOTICE

73. Notice of this Motion shall be provided on the date hereof via U.S. first class mail to: (i) the U.S. Trustee; (ii) counsel to the Committee; (iii) the U.S. Securities and Exchange Commission; (iv) the Internal Revenue Service; (v) the United States Attorney's Office for the

District of Delaware; and (vi) any party that has requested notice pursuant to Bankruptcy Rule 2002 and Local Rule 2002-1(b). In light of the nature of the relief requested, the Debtor submits that no other or further notice is necessary.

CONCLUSION

WHEREFORE, the Debtor respectfully requests that the Court enter an order, pursuant to sections 105, 1123(a), 1124, 1125, 1126, 1128, and 1129 of the Bankruptcy Code, Bankruptcy Rules 2002, 3003, 3016, 3017, 3018, 3019, 3020, and 9006, and Local Rules 3017-1, 3017-2, and 9006-1, substantially in the form of Exhibit A: (A) approving the Combined Disclosure Statement and Plan on an interim basis as containing adequate information for solicitation purposes; (B) scheduling the Confirmation Hearing, and related dates, including establishing a Voting Record Date, the Voting Deadline, and the deadline to object to the Combined Disclosure Statement and Plan; (C) approving procedures for solicitation and distribution of the Solicitation Packages; (D) approving the Solicitation Packages and establishing procedures for the solicitation of the Combined Disclosure Statement and Plan, including approving (i) the forms of ballot; (ii) the forms of notice of non-Voting Status (iii) the form of notice to Disputed Claim Holders; (iv) the notice of the Confirmation Hearing, and (v) the Notice of Approval of Solicitation and Voting Procedures; (E) approving the procedures for tabulating acceptances and rejections of the Combined Disclosure

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Statement and Plan; and (F) granting such other and further related relief as is just and appropriate.

Dated: July 14, 2021

MORRIS JAMES LLP

/s/ Jeffrey R. Waxman

Jeffrey R. Waxman (DE Bar No. 4159)

Eric J. Monzo (DE Bar No. 5214)

Brya M. Keilson (DE Bar No. 4643)

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*Counsel to the Debtor and Debtor
in Possession*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

Medley LLC,¹

Debtor.

Chapter 11

Case No. 21-10526 (KBO)

Objection Deadline: August 5, 2021 at 4:00 p.m.

Hearing Date: August 12, 2021 at 1:00 p.m.

**NOTICE OF MOTION OF THE DEBTOR FOR AN ORDER (I) APPROVING ON AN
INTERIM BASIS THE ADEQUACY OF DISCLOSURES IN THE COMBINED
DISCLOSURE STATEMENT AND PLAN (II) SCHEDULING THE CONFIRMATION
HEARING AND DEADLINE FOR FILING OBJECTIONS, (III) ESTABLISHING
PROCEDURES FOR SOLICITATION AND TABULATION OF VOTES TO ACCEPT
OR REJECT THE COMBINED DISCLOSURE STATEMENT AND PLAN, AND
APPROVING THE FORM OF BALLOT AND SOLICITATION PACKAGE, AND (IV)
APPROVING THE NOTICE PROVISIONS**

TO ALL PARTIES IN INTEREST:

PLEASE TAKE NOTICE THAT on July 6, 2021, the above-captioned debtor and debtor-in-possession (the “Debtor”), filed the *Combined Disclosure Statement and Chapter 11 Plan of Reorganization and Wind-Down of Medley LLC* [Docket No. 244] (as may be amended, modified, or supplemented, the “Combined Disclosure Statement and Plan”).

PLEASE TAKE FURTHER NOTICE THAT on July 14, 2021, the Debtor filed the *Motion of the Debtor for an Order (I) Approving on an Interim Basis the Adequacy of Disclosures in the Combined Disclosure Statement and Plan (II) Scheduling the Confirmation Hearing and Deadline for Filing Objections, (III) Establishing Procedures for Solicitation and Tabulation of Votes to Accept or Reject the Combined Disclosure Statement and Plan, and Approving the Form of Ballot and Solicitation Package, and (IV) Approving the Notice Provisions* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE THAT:

1. A hearing (the “Hearing”) will be held before the Honorable Karen B. Owens, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 6th Floor, Courtroom 3, Wilmington, Delaware 19801, on **August 12, 2021 at 1:00 p.m.** (prevailing Eastern Time), to consider entry of an order determining, among other things, that the Disclosure Statement contains “adequate information” within the

¹ The last four digits of the Debtor’s taxpayer identification number are 7343. The Debtor’s principal executive office is located at 280 Park Avenue, 6th Floor East, New York, New York 10017.

meaning ascribed to such term in section 1125 of the Bankruptcy Code and approving the Combined Disclosure Statement and Plan.

2 Any party in interest wishing to obtain a copy of the Combined Disclosure Statement and Plan should contact Kurtzman Carson Consultants, the Debtor’s solicitation agent, in writing at Medley LLC Claims Processing Center, c/o KCC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, California 90245, or by email at MedleyInfo@kccllc.com with a reference to “Medley” in the subject line. Interested parties may also review the Combined Disclosure Statement and Plan free of charge at <https://www.kccllc.net/medley>. In addition, the Combined Disclosure Statement and Plan are on file with the Bankruptcy Court and may be reviewed by accessing the Bankruptcy Court’s website: www.deb.uscourts.gov. Note that a PACER password and login are needed to access documents on the Bankruptcy Court’s website. A PACER password can be obtained at www.pacer.psc.uscourts.gov. Copies of the Combined Disclosure Statement and Plan may also be examined by interested parties during normal business hours at the office of the Clerk of the Bankruptcy Court.

3. Objections, if any, to approval of the Combined Disclosure Statement and Plan must (a) be in writing, (b) comply with the Bankruptcy Rules and the Local Rules, (c) set forth the name of the objector and the nature and amount of any claim or interest asserted by the objector against or in the Debtor, (d) state with particularity the legal and factual bases for the objection, and (e) be filed, contemporaneously with a proof of service, with the Bankruptcy Court and served on the following parties by no later than **August 5, 2021 at 4:00 p.m.** (prevailing Eastern Time):

Debtor	Counsel to the Debtor
Medley LLC Attn: Michelle Dreyer, Manager Managing Director Corporation Service Company 251 Little Falls Drive Wilmington, Delaware 19808 Email: michelle.dreyer@cscgfm.com	Jeffrey R. Waxman (DE Bar No. 4159) Eric J. Monzo (DE Bar No. 5214) Brya M. Keilson (DE Bar No. 4643) Jason S. Levin (DE Bar No. 6434) 500 Delaware Avenue, Suite 1500 Wilmington, DE 19801 Telephone: (302) 888-6800 Facsimile: (302) 571-1750 Email: jwaxman@morrisjames.com Email: emonzo@morrisjames.com Email: bkeilson@morrisjames.com Email: jlevin@morrisjames.com
United States Trustee	
The United States Trustee for the District of Delaware 844 King Street, Suite 2207, Lockbox 35 Wilmington, Delaware 19801 Attn: Jane Leamy, Esquire	

4. **IF AN OBJECTION TO THE COMBINED DISCLOSURE STATEMENT AND PLAN IS NOT FILED AND SERVED STRICTLY AS PRESCRIBED HEREIN, THE OBJECTING PARTY MAY BE BARRED FROM OBJECTING TO THE COMBINED DISCLOSURE STATEMENT AND PLAN OR THE ADEQUACY THEREOF AND MAY NOT BE HEARD AT THE HEARING.**
5. The Hearing may be adjourned from time to time without further notice to parties in interest other than by an announcement in Bankruptcy Court of such adjournment on the date scheduled for the Hearing or as indicated in any notice of agenda of matters scheduled for hearing filed by the Debtor with the Bankruptcy Court. The Debtor may modify the Combined Disclosure Statement and Plan, if necessary, prior to, during, or as a result of the Hearing without further notice.

Dated: July 14, 2021
Wilmington, Delaware

MORRIS JAMES LLP

/s/ Jeffrey R. Waxman _____

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EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

Medley LLC,¹

Debtor.

Chapter 11

Case No. 21-10526 (KBO)

Re: D.I. _____

**ORDER GRANTING THE MOTION OF THE DEBTOR FOR AN ORDER
(I) APPROVING ON AN INTERIM BASIS THE ADEQUACY OF DISCLOSURES
IN THE COMBINED PLAN AND DISCLOSURE STATEMENT, (II) SCHEDULING
THE CONFIRMATION HEARING AND DEADLINE FOR FILING OBJECTIONS,
(III) ESTABLISHING PROCEDURES FOR SOLICITATION AND TABULATION
OF VOTES TO ACCEPT OR REJECT THE COMBINED PLAN AND DISCLOSURE
STATEMENT, AND APPROVING THE FORM OF BALLOT AND SOLICITATION
PACKAGE, AND (IV) APPROVING THE NOTICE PROVISIONS**

Upon consideration of the motion (the “Motion”)² of the above-captioned debtor (the “Debtor”) for an Order (i) Approving on an Interim Basis the Adequacy of Disclosures in the Combined Plan and Disclosure Statement, (ii) Scheduling the Confirmation Hearing and Deadline for Filing Objections, (iii) Establishing Procedures for Solicitation and Tabulation of Votes to Accept or Reject the Combined Plan and Disclosure Statement, and Approving the Form of Ballot and Solicitation Package, and (iv) Approving the Notice Provisions; it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); it appearing that venue of this proceeding and the Motion is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; due, adequate and sufficient notice of the Motion having been given; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing, if necessary,

¹ The last four digits of the Debtor’s taxpayer identification number are 7343. The Debtor’s principal executive office is located at 280 Park Avenue, 6th Floor East, New York, New York 10017.

² Capitalized terms used, but not otherwise defined, herein shall have the same meanings ascribed to such terms in the Motion.

before this Court; and it appearing that no other notice need be given; and after due deliberation and sufficient cause appearing therefor,

THE COURT HEREBY FINDS AS FOLLOWS:

A. The Amended Combined Plan and Disclosure Statement (the “Plan”) contains adequate information within the meaning of section 1125 of the Bankruptcy Code, subject to the Confirmation Hearing.

B. The procedures set forth below for the solicitation and tabulation of votes to accept or reject the Plan provide for a fair and equitable voting process and are consistent with section 1126 of the Bankruptcy Code.

C. The contents of the Solicitation Package, Non-Voting Package and Information Package, as set forth in the Motion, comply with Bankruptcy Rules 2002 and 3017 and constitute sufficient notice to all interested parties including, without limitation, Holders of Claims against and Equity Interests in the Debtor.

D. The Confirmation Hearing Notice, substantially in the form attached to hereto as Exhibit 1 (the “Confirmation Hearing Notice”), satisfies the requirements of due process with respect to all Holders of Claims and Equity Interests.

E. The forms of Ballot for Classes 3, 4, and 6, substantially in the form attached hereto as Exhibit 2: (i) are sufficiently consistent with Official Form B314; (ii) adequately address the particular needs of the Chapter 11 Cases; and (iii) are appropriate for the Voting Classes.

F. The voting instructions and procedures attached to the Ballots provide for a fair and equitable voting process and are consistent with section 1126 of the Bankruptcy Code and the applicable Bankruptcy Rules.

G. Ballots need not be provided to Holders of Unclassified Claims. Further, Ballots need not be provided to Holders of Secured Claims, Priority Non-Tax Claims, and Intercompany Claims respectively, as such non-voting classes are either unimpaired or are conclusively presumed to have accepted or rejected the Plan in accordance with sections 1126(f) and (g) of the Bankruptcy Code:

Class	Type	Status Under Plan	Voting Status
Class 1	Secured Claim	Unimpaired	Deemed to Accept
Class 2	Priority Non-Tax Claims	Unimpaired;	Deemed to Accept
Class 3	Note Claims	Impaired	Entitled to Vote
Class 4	General Unsecured Claims	Impaired	Entitled to Vote
Class 5	Intercompany Claims	Impaired	Deemed to Reject
Class 6	Equity Interests	Impaired	Entitled to Vote

H. The period during which the Debtor may solicit votes to accept or reject the Plan, as established by this Order, provides sufficient time for Holders of Claims and Interests in the Voting Classes to make informed decisions to accept or reject the Plan, and submit their Ballots in a timely fashion.

I. The Tabulation Procedures (as defined below) for the solicitation and tabulation of votes to accept or reject the Plan, as approved herein, provide a fair and equitable voting process and are consistent with section 1126 of the Bankruptcy Code.

IT IS HEREBY FOUND AND DETERMINED THAT:

1. The Motion is GRANTED as set forth herein.

2. The Plan is approved on an interim basis as containing adequate information under Bankruptcy Code Section 1125 for solicitation purposes.

3. The Confirmation Hearing Notice, in substantially the form attached hereto as **Exhibit 1**, is approved, and by no later than **August 17, 2021**, the Debtor shall commence serving the Solicitation Approval Notice on: (i) all known creditors and equity security holders, (ii) all parties filing a notice of appearance and request for service pursuant to Bankruptcy Rule 2002 in the Chapter 11 Cases, (iii) state and local taxing authorities for all jurisdictions in which the Debtor did business, (iv) the Internal Revenue Service, (v) the United States Attorney for the District of Delaware, (vi) holders of Claims or Equity Interests whether in the Voting Classes or in the Non-Voting classes, (vii) the United States Trustee, and (viii) all persons or entities listed on the Debtor's creditor mailing matrix.

4. The forms of Ballot, in substantially the form attached hereto as **Exhibit 2**, are approved, and by no later than **August 17, 2021**, the Debtor shall commence serving a copy of the appropriate form of Ballot to all known Holders of Claims in Classes 3, 4, and 6.

5. The form of Notice to Unimpaired Non-Voting Status, in substantially the form attached hereto as **Exhibit 3**, is approved, and by no later than **August 17, 2021**, the Debtor shall commence serving all known Holders of Allowed Administrative Expenses and Holders of Claims in Class 1 (Secured Claims) and Class 2 (Priority Tax Claims) commence serving Notice to Unimpaired Non-Voting Status.

6. The form of Impaired Non-Voting Status Notice, in substantially the form attached hereto as **Exhibit 4**, is approved. The Debtor shall, by no later than **August 17, 2021**, commence serving all Holders of Claims and Interests in Class 6 with a copy of the notice of Impaired Non-Voting Status.

7. The form of Notice to Disputed Claim Holders, in substantially the form attached hereto as **Exhibit 5**, is approved. The Debtor shall, by no later than **August 17, 2021**, begin service upon all Holders of Claims and Interests in Classes 3 and 4 whose Claims are the subject of an objection on the Voting Record Date with a copy of the notice of Notice to Disputed Claim Holders.

8. The Notice of Approval of Solicitation and Voting Procedures, in substantially the form attached hereto as **Exhibit 6** (the "Solicitation Approval Notice"), is approved, and by no later than **August 17, 2021**, the Debtor shall cause the Solicitation Approval Notice to be published once in a national newspaper at least twenty-eight (28) days prior to the Combined Confirmation Hearing.

9. The service of the Confirmation Hearing Notice and publication of the Solicitation Approval Notice as contemplated herein satisfies the requirements of due process with respect to all Holders of Claims and Equity Interests, whether known or unknown.

10. Pursuant to Bankruptcy Rule 3017(d), **August 12, 2021** (the "Voting Record Date"), shall be the record date for purposes of determining which Holders of Claims are entitled to receive Solicitation Materials and, where applicable, vote on the Plan. With respect to any transferred claim, the transferee shall only be entitled to receive and cast a Ballot on account of such transferred claim if: (a) all actions necessary to effect the transfer of the claim pursuant to Bankruptcy Rule 3001(e) have been completed by the Voting Record Date (including without limitation, the passage of any applicable objection period).

11. No later than **August 17, 2021**, the Voting Agent shall begin service of a copy of the following documents upon the Voting Classes:

- a. the Plan and all other exhibits annexed thereto, which documents the Debtor may distribute via USB Flash Drive format instead of printed copies;

- b. this Order, including a Ballot to accept or reject the Plan along with a return envelope, and those other documents approved by the Court hereto as set forth herein; and
- c. such other materials as the Court may direct or approve, including any supplemental solicitation materials the Debtor may file with the Court.

(collectively, the “Solicitation Materials”).

12. No later than **August 17, 2021**, the Voting Agent shall begin serving those other documents approved by the Court hereto upon other Holders of Claims and Interests and other parties in interest as set forth herein. Such materials, including (a) the Confirmation Hearing Notice and (b) the Unimpaired Non-Voting Status Notice, the Impaired Non-Voting Status Notice, or the Notice to Disputed Claim Holders, shall be for information purposes only and not for solicitation since such Creditors and Interest Holders shall not be entitled to vote on the Plan or shall be deemed to have accepted or rejected the Plan, as applicable. The notice to Non-Voting Classes is hereby approved.

13. To the extent that the Office of the United States Trustee, governmental units having an interest in the Chapter 11 Cases or those parties requesting notice pursuant to Bankruptcy Rule 2002 have not otherwise received notice and information as described in paragraph 3 of this Order, or Solicitation Materials, by the Solicitation Commencement Date, the Debtor shall distribute, or cause to be distributed, by first-class mail to such parties the following information (collectively, the “Information Package”): (a) the Plan, together with all other exhibits annexed thereto, (b) this Order, excluding the exhibits annexed thereto, and (c) the Confirmation Hearing Notice.

14. The Debtor shall file a supplement to the Plan no later than **September 17, 2021** which shall include a form of the proposed trust agreement and identifying the proposed trustee and compensation to be received.

15. In order to be counted as votes to accept or reject the Plan, Ballots must be properly executed, completed and delivered by (a) first class mail; (b) courier; or (c) personal delivery, to the Voting Agent so that the Ballots are actually received no later than **September 20, 2021 at 4:00 p.m. (ET)** (the “Voting Deadline”).

16. Ballots transmitted by facsimile, e-mail, or other electronic means will not be counted, unless such Ballots are transmitted through the Voting Agent’s online Ballot submission portal at <https://www.kccllc.net/medley>. Instructions for uploading a Ballot are on the Voting Agent’s website.

17. In tabulating votes, the following procedures shall be used to determine the voting amount for each Voting Claim (the “Tabulation Hierarchy”):

a. The amount of the Claim listed in the Debtor’s schedules of assets and liabilities; unless (i) such Claim is scheduled but listed (x) as contingent, unliquidated, undetermined, or disputed or (y) in the amount of \$0.00, (ii) a Proof of Claim has been timely filed (or otherwise deemed timely filed by the Court under applicable law), (iii) such Claim has been satisfied by the Debtor, (iv) a Proof of Claim has been asserted in the amount of \$0, or (iv) such Claim has been resolved pursuant to a stipulation or order entered by the Court.

b. The undisputed, non-contingent and liquidated amount specified in a Proof of Claim timely filed with the Court or the Voting Agent (or otherwise deemed timely filed by the Court under applicable law) to the extent such Proof of Claim has not been amended or superseded by another Proof of Claim filed on or before the Voting Deadline and is not the subject of an objection (or, if such Claim has been resolved pursuant to a stipulation or order entered by the Court, or otherwise resolved by the Court, the amount set forth in such stipulation or order).

c. If a Proof of Claim timely filed with the Court or the Voting Agent (or otherwise deemed timely filed by the Court under applicable law) has been amended by a later Proof of Claim filed on or before the Voting Deadline, the later filed amending claim shall be entitled to vote in a manner consistent with these tabulation rules, and the earlier filed Proof of Claim shall be disallowed for voting purposes, regardless of whether the Debtor have objected to such amended claim.

d. If a Proof of Claim has been timely filed with the Court or the Voting Agent (or otherwise deemed timely filed by the Court under applicable law) and such claim is asserted in the amount of \$0.00, such claim shall not be entitled to vote.

f. If a claim is proposed to be treated as Allowed under the Plan, such claim is allowed for voting purposes in the deemed Allowed amount set forth in the Plan.

f. If a claim is temporarily allowed by the Court for voting purposes pursuant to Bankruptcy Rule 3018, such claim is allowed for voting purposes in the amount permitted by the Court's order.

g. Except as otherwise provided in subsection (c) hereof, a Ballot cast by an alleged Creditor who has timely filed a Proof of Claim in a wholly unliquidated, unknown, or uncertain amount that is not the subject of a claim objection filed on or before the Voting Deadline as well as claims scheduled as contingent, unliquidated, or disputed (without a corresponding filed claim) shall be counted in determining whether the numerosity requirement of section 1126(c) of the Bankruptcy Code has been met, and shall be ascribed a value of one dollar (\$1.00) for voting purposes only in determining whether the aggregate Claim amount requirement of Bankruptcy Code Section 1126(c) has been met.

h. Except as otherwise provided in subsection (c) hereof, if a Creditor casts a Ballot and has timely filed a Proof of Claim (or has otherwise had a Proof of Claim deemed timely filed by the Court under applicable law), but the Creditor's Claim is the subject of a claim objection filed by the Voting Deadline, the Debtor's request, in accordance with Bankruptcy Rule 3018(a), that the Creditor's Ballot not be counted.

i. Notwithstanding subsection (h) hereof and except as otherwise provided in subsection (c) hereof, if the Movants have requested by motion at least twelve (12) business days prior to the Confirmation Hearing that a Claim be reclassified and/or allowed in a fixed, reduced amount pursuant to a claim objection to such Claim, the Ballot of the Holder of such Claim shall be counted in the reduced amount requested by the Movants and/or in the requested category, unless otherwise ordered by the Court.

18. The following procedures and standard assumptions shall be utilized in tabulating the votes to accept or reject the Plan (the "Tabulation Procedures"):

a. For purposes of the numerosity and amount requirements of Bankruptcy Code Section 1126(c), to the extent that it is possible to do so for the Voting Classes, separate Claims held by a single Creditor against the Debtor in the Voting Classes will be aggregated as if such Creditor held a single Claim against the Debtor in such Voting Classes, and the votes related to those Claims shall be treated as a single vote on the Plan.

b. Creditors with multiple Claims within the Voting Classes must vote all such Claims in the Voting Classes to either accept or reject the Plan, and may not split their vote(s). Accordingly, an individual Ballot that partially rejects and partially accepts the Plan on account of multiple Claims within the Voting Classes will not be counted.

c. In the event a Claim is transferred after the transferor has executed and submitted a Ballot to the Voting Agent, the transferee of such Claim shall be bound by any such vote

(and the consequences thereof) made by the Holder of such transferred Claim as of the Voting Record Date.

d. The delivery of a Ballot will be deemed made only when the Voting Agent has actually received the original, executed Ballot or the Ballot is accepted through the Voting Agent's online Ballot submission portal on the Voting Agent's website.

e. If a Holder of a Claim casts more than one Ballot voting the same Claim(s) before the Voting Deadline, the last properly executed Ballot received before the Voting Deadline shall supersede and revoke any earlier received Ballot, and only the last Ballot received before the Voting Deadline shall be counted.

f. If a Holder of a Claim casts multiple Ballots on account of the same Claim or Class of Claims, which are received by the Voting Agent on the same day in the case of mailed submissions, but which are voted inconsistently, such Ballots shall not be counted.

g. If a Holder of a Claim submits a duplicate paper Ballot and an electronic Ballot (as provided for using the E-Ballot platform on the Voting Agent's website), only the electronic Ballot will be counted.

h. Unless otherwise provided, any party who has delivered a valid Ballot for the acceptance or rejection of the Plan may withdraw such acceptance or rejection by delivering a written notice of withdrawal to the Voting Agent at any time prior to the Voting Deadline. To be valid, a notice of withdrawal must (i) contain the description of the Claim(s) to which it relates and the aggregate principal amount represented by such Claim(s), (ii) be signed by the withdrawing party in the same manner as the Ballot being withdrawn, and (iii) contain a certification that the withdrawing party owns the Claim(s) and possesses the right to withdraw the vote sought to be withdrawn. The Debtor intends to consult with the Voting Agent to determine whether any withdrawals of Ballots were received and whether the requisite acceptances of the Plan have been received. The Movants expressly reserve the right to contest the validity of any such withdrawals of Ballots.

i. Subject to any contrary order of the Court, the Movants reserve the right to reject any and all Ballots that are not in proper form.

j. Subject to any contrary order of the Court, the Movants reserve the right to waive any defects, irregularities, or conditions of delivery as to any particular Ballot, including failure to timely file such Ballot.

k. Unless otherwise ordered by the Court, any defects or irregularities in connection with deliveries of Ballots must be cured within such time as the Movants (or the Court) determines, and delivery of such Ballots will not be deemed to have been made until such irregularities have been cured or waived.

l. Neither the Movants nor any other person or entity will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots, nor will any such party incur any liability for failure to provide such notification. Ballots previously furnished

(and as to which any irregularities have not theretofore been cured or waived) will not be counted (except as set forth in subsection (j) above).

m. If no Holders of Claims eligible to vote in the Voting Classes vote to accept or reject the Plan, the Plan and will be deemed accepted by the Holders of such Claims in such Class.

n. The following Ballots shall not be counted in determining acceptance or rejection of the Plan:

(i) any Ballot that is otherwise properly completed, executed and timely returned to the Voting Agent, but does not indicate an acceptance or rejection of the Plan, or indicates both an acceptance and a rejection of the Plan;

(ii) any Ballot received after the Voting Deadline, except in the Movants' discretion, or by order of this Court;

(iii) any Ballot containing a vote that this Court determines, after notice and a hearing, was not solicited or procured in good faith or in accordance with the applicable provisions of the Bankruptcy Code;

(iv) any Ballot that is illegible or contains insufficient information to permit the identification of the Creditor;

(v) any Ballot that partially accepts, or partially rejects, the Plan;

(vi) any Ballot cast by a Person or Entity that does not hold a Claim in the Voting Classes;

(vii) any unsigned Ballot or Ballot without an original signature, except in the Movants' discretion; and

(viii) any Ballot transmitted to the Voting Agent by facsimile, e-mail, or other electronic means, unless otherwise permitted.

19. 20. Objections to final approval and confirmation of the Plan on any ground, including adequacy of the disclosures therein, if any, must: (i) be in writing, (ii) comply with the Bankruptcy Rules and the Local Rules, and (iii) be filed with the Clerk of the Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801, no later than **September 23, 2021 at 4:00 p.m. (ET)**, and (iv) and a copy must served upon: counsel to the Debtor: counsel to the Debtor: Jeffrey R. Waxman, Esquire and Eric J. Monzo, Esquire at jwaxman@morrisjames.com and

emonzo@morrisjames.com, respectively. Unless an objection is timely Filed and served, it may not be considered by the Bankruptcy Court at the Confirmation Hearing.

21. On or before **September 23, 2021**, the Voting Agent will file a signed declaration setting forth the final voting results and methodology used to tabulate the votes (the “Voting Declaration”).

No later than **September 27, 2021 (prevailing Eastern time)**, any party in interest may file a brief in support and submit any evidence in support of confirmation of the Plan, as well as respond to any objections or responses filed in opposition to the Plan.

22. The Bankruptcy Court shall conduct the Confirmation Hearing for (i) final approval of the Plan and (ii) confirmation of the Plan. The Confirmation Hearing is hereby scheduled for **September 30, 2021 at 10:00 a.m. (ET)**. The Confirmation Hearing may be continued from time to time by the Debtor without further notice other than by (i) announcing the adjourned date(s) at the Confirmation Hearing (or any continued hearing) or (ii) filing a notice with the Court.

23. The Debtor is authorized to make non-substantive and ministerial changes to any notices, packages or documents approved hereunder, including those in the Solicitation Materials, without further approval of the Court prior to their dissemination, including, without limitation, changes to correct typographical and grammatical errors and to make conforming changes to the Plan and any other notices, packages or documents approved hereunder, including those in the Solicitation Materials, prior to their distribution.

24. The Debtor is authorized to take or refrain from taking any action necessary or appropriate to implement the terms of, and the relief granted in, this Order without seeking further order of the Court.

25. The Court shall retain jurisdiction as to all matters relating to the interpretation, implementation, and enforcement of this Order.

26. This Order is effective immediately upon entry.

EXHIBIT 1

To Be Filed

EXHIBIT 2

To Be Filed

EXHIBIT 3

To Be Filed

EXHIBIT 4

To Be Filed

EXHIBIT 5

To Be Filed

EXHIBIT 6

To Be Filed