

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

In re:

PREMIER KINGS, INC., *et al.*,<sup>1</sup>

Debtors.

(Chapter 11)

Case No. 23-02871-TOM

Jointly Administered

**NOTICE OF COMPARISON VERSION OF AMENDED DISCLOSURE  
STATEMENT FOR PLAN OF LIQUIDATION UNDER CHAPTER 11 OF  
THE BANKRUPTCY CODE PROPOSED BY THE DEBTORS**

Premier Kings, Inc., and its debtor affiliates, as debtors and debtors-in-possession in the above-captioned chapter 11 cases, hereby submit as **Exhibit A** a comparison version of the *Amended Disclosure Statement for Plan of Liquidation Under Chapter 11 of the Bankruptcy Code Proposed by the Debtors* [Dkt. 548] as compared to the original disclosure statement filed at docket 474.

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification numbers, are: Premier Kings, Inc. (3932); Premier Kings of Georgia, Inc. (9797); and Premier Kings of North Alabama, LLC (9282). The Debtors' address is 7078 Peachtree Industrial Blvd., Suite #800, Peachtree Corners, GA 30071.



2302871240319000000000004

Dated: March 19, 2024.  
Birmingham, Alabama

/s/ Jesse S. Vogtle, Jr. \_\_\_\_\_

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**EXHIBIT A**

THIS AMENDED DISCLOSURE STATEMENT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT AND NO ONE MAY SOLICIT ACCEPTANCES OR REJECTIONS OF THE PLAN OF LIQUIDATION UNTIL THE DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT AS CONTAINING ADEQUATE INFORMATION. THIS DISCLOSURE STATEMENT IS SUBJECT TO FURTHER MODIFICATION PRIOR TO THE BANKRUPTCY COURT'S APPROVAL OF THE DISCLOSURE STATEMENT.

IN THE UNITED STATES BANKRUPTCY  
COURT  
FOR THE NORTHERN DISTRICT OF  
ALABAMA SOUTHERN DIVISION

In re:—

~~PREMIER KINGS, INC., et al.,<sup>†</sup>~~

~~Debtors.~~

~~PREMIER KINGS, INC., et al.,<sup>†</sup>~~

~~LLC  
address is 7078 Peachtree Industrial Blvd., Suite #800, Peachtree Corners, GA 30071.~~

~~Debtors.~~

~~Kings of Georgia, Inc. (9797); and Premier Kings of North Alabama, LLC (9282). The~~

~~The Debtors's federal tax identification numbers, are: Premier Kings, Inc. (3932); Premier Kings of Georgia, Inc. (9797); and Premier Kings of North Alabama, LLC (9282). The Debtors in these cases, along with the last four digits of each Debtor,<sup>†</sup>~~

(CHAPTER 11)

CASE NO. 23-02871

(TOM11)

JOINTLY

ADMINISTERED

<sup>†</sup>—~~The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification numbers, are: Premier Kings, Inc. (3932); Premier Kings of Georgia, Inc. (9797); and Premier Kings of North Alabama, LLC (9282). The Debtors' address is 7078 Peachtree Industrial Blvd., Suite #800, Peachtree Corners, GA 30071.~~

**AMENDED DISCLOSURE STATEMENT FOR PLAN OF LIQUIDATION  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE  
DEBTORS**

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[gleibowitz@coleschotz.com](mailto:gleibowitz@coleschotz.com) Dated: ~~February 16~~

March 19, 2024

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The Debtors believe that approval of the Plan represents the best opportunity for holders of Claims to maximize their recoveries. The Debtors encourage holders of Impaired Claims to vote to accept the Plan.

### **IMPORTANT NOTICE**

This **Amended Disclosure Statement (the “Disclosure Statement”)**<sup>2</sup> and its related documents are the only documents authorized by the Bankruptcy Court to be used in connection with the solicitation of votes to accept the Plan. No representations have been authorized by the Bankruptcy Court concerning the Debtors, their business operations or the value of their assets, except as explicitly set forth in this Disclosure Statement.

Please refer to the Plan (or, where indicated, certain motions filed with the Bankruptcy Court) for definitions of the capitalized terms used in this Disclosure Statement.

The Debtors reserve the right to file additional amended versions of the Plan and Disclosure Statement from time to time. The Debtors urge you to read this Disclosure Statement carefully for a discussion of voting instructions, recovery information, classification of claims, the history of the Debtors and the Cases and a summary and analysis of the Plan.

The Plan and this Disclosure Statement are not required to be prepared in accordance with federal or state securities laws. ***[This Disclosure Statement has been approved by the Bankruptcy Court as containing “adequate information”; however, such approval does not constitute endorsement of the Plan or Disclosure Statement by the Bankruptcy Court and none of the United States Securities and Exchange Commission, any state securities commission or similar public, governmental or regulatory authority has approved this Disclosure Statement, or the Plan, or has passed on the accuracy or adequacy of the statements in this Disclosure Statement].*** Persons trading in or otherwise purchasing, selling or transferring securities, if any, of the Debtors should evaluate the Plan in light of the purposes for which it was prepared.

This Disclosure Statement contains only a summary of the Plan. This Disclosure Statement is not intended to replace a careful and detailed review of the Plan, but instead, is an aid and may supplement such review. This Disclosure Statement is qualified in its entirety by reference to the Plan, and the exhibits attached thereto and the agreements and documents described therein. If there is a conflict between the Plan and this Disclosure Statement, the provisions of the Plan will govern. You are encouraged to review the full text of the Plan and also read carefully the entire

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<sup>2</sup> Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the Plan of Liquidation under Chapter 11 of the Bankruptcy Code Proposed by the Debtors, Dated ~~February 16~~March, 2024.

**Disclosure Statement, including all exhibits, before deciding how to vote with respect to the Plan.**

**Except as expressly otherwise indicated, the statements in this Disclosure Statement are made as of ~~February 16~~ March, 2024, and the delivery of this Disclosure Statement will not,**

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under any circumstances, imply that the information contained in this Disclosure Statement is correct at any time after ~~February 16~~March, 2024. Any estimates of claims or interests in this Disclosure Statement may vary from the final amounts of claims or interests allowed by the Bankruptcy Court. In addition, the treatment of creditors under the Plan described herein is subject to change as such treatment continues to be negotiated.

**YOU SHOULD NOT CONSTRUE THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. YOU SHOULD, THEREFORE, CONSULT WITH YOUR OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS IN CONNECTION WITH THE AMENDED PLAN, THE SOLICITATION OF VOTES ON THE AMENDED PLAN AND THE TRANSACTIONS CONTEMPLATED BY THE PLAN.**

As to contested matters, adversary proceedings, and other actions or threatened actions, this Disclosure Statement is not, and is in no event to be construed as, an admission or stipulation as to any fact or allegation.



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## EXHIBITS

**Exhibit A** – Plan of Liquidation Under Chapter 11 of the Bankruptcy Code Proposed by the Debtors, Dated ~~February 16~~March, 2024

**Exhibit B** – Liquidation Analysis

## I. OVERVIEW OF THE DISCLOSURE STATEMENT

### PURPOSE OF DISCLOSURE STATEMENT

Premier Kings, Inc. *et al*, the above-captioned debtors and debtors-in-possession (the “Debtors”) prepared this Disclosure Statement (the “Disclosure Statement”) to accompany, and in connection with, its solicitation of acceptances of the Plan of Liquidation Under Chapter 11 of the Bankruptcy Code, dated ~~February 16~~ March, 2024 (“Plan”), filed in the Debtors’ proceedings under the Bankruptcy Code, pending in the Bankruptcy Court. After notice and hearing, and upon order of the Bankruptcy Court entered on \_\_\_\_\_, 2024, the Bankruptcy Court approved this Disclosure Statement as containing information of a kind and in sufficient detail that would enable a hypothetical reasonable investor, typical of holders of claims and interests of the classes being solicited, to make an informed judgment whether to vote to accept or reject the Plan.

A copy of the Plan is attached to this Disclosure Statement and incorporated by reference as Exhibit A.

You should read this Disclosure Statement and the Plan in their entirety before voting on the Plan. No statements or information concerning the Debtors or any other entity described in this Disclosure Statement or the Plan, particularly, but not limited to, the Debtors’ financial results, assets or liabilities are authorized by the Debtors other than as set forth in this Disclosure Statement or Exhibits hereto.

The financial information set forth in this Disclosure Statement has not been audited by independent certified public accountants, nor has it necessarily been prepared in accordance with generally accepted accounting principles, except as specifically set forth herein. For that reason, and as a result of the complexity of the financial affairs of the Debtors, the Debtors does not represent or warrant that the information set forth in this Disclosure Statement is without any inaccuracy. To the extent possible, however, the information has been prepared from the Debtors’ financial books and records, and every reasonable effort has been made by the Debtors to ensure that all information in this Disclosure Statement has been fairly presented.

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Voting

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**Voting**

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Each holder of a Claim or Equity Interest of a Class that is “Impaired” under the Plan, but is not deemed to have rejected the Plan, will receive this Disclosure Statement, the Plan, Notice of the Confirmation Hearing and objection deadline, a Ballot for accepting or rejecting the Plan, and a pre-addressed return envelope.

For a description of the Classes of Claims and Equity Interests and their respective treatment under the Plan, see **Section II** below.

Which Classes of Claims are Entitled to Vote on the Plan? Classes of Claims are entitled to vote on the Plan as follows:

- Claims in Classes 1 (Secured Claims) and 3 (General Unsecured Claims) are Impaired and are **entitled to vote** on the Plan (each a “Voting Class” and together the “Voting Classes”).
- Claims in Class 2 are unimpaired under the Plan, are deemed to have accepted the Plan and will not be entitled to vote on the Plan.
- Equity Interests in Class 4 are not expected to receive a distribution pursuant to **Article V** of the Plan, are Impaired and are deemed to reject the Plan.

Each holder of an Allowed Claim in an impaired Class of Claims that is entitled to vote on the Plan, or the holder of a Claim that has been temporarily Allowed for voting purposes only under Bankruptcy Rule 3018(a), shall be entitled to vote separately to accept or reject the Plan as provided for in such order as is entered by the Bankruptcy Court approving the Disclosure Statement, or any other order or orders of the Bankruptcy Court. For purposes of calculating the number of Allowed Claims in a Class that has voted to accept or reject the Plan under section 1126(c) of the Bankruptcy Code, all Allowed Claims in such Class held by one entity or its “affiliate” (as defined in the Securities Act of 1933 and the rules and regulations promulgated with respect to such Act) shall be aggregated and treated as one Allowed Claim in such Class; provided, however, that Claims acquired by an entity from unrelated entities shall not be aggregated for purposes of voting.

In order to vote on the Plan, you must hold a Class 1 or 3 Claim and have timely filed a proof of Claim unless you were not required to do so pursuant to a Final Order or have a Claim that is identified on the Debtors’ Schedules of Assets and Liabilities that is not listed as disputed, unliquidated, or contingent, or be the holder of a Claim that is otherwise and Allowed

Claim or has been temporarily Allowed for voting purposes only under Bankruptcy Rule 3018(a).

Under the Bankruptcy Code, the Plan will be deemed accepted by an Impaired Class of Claims or Interests if the Debtors receive Ballots accepting the Plan representing at least:

- two-thirds of the total dollar amount of the Allowed Claims or Interests in the Class that cast a Ballot; and
- more than one-half of the total number of Allowed Claims or Interests in the Class that cast a Ballot.

All properly completed Ballots received by Kurtzman Carson Consultants, LLC (“KCC”), the Claims, Noticing and Solicitation Agent in the Cases, by no later than \_\_\_\_\_, \_\_\_\_\_ **p.m. (Central Time)** (the “Voting Deadline”), will be counted in determining whether each Impaired Class entitled to vote on the Plan has accepted the Plan. All Ballots must be mailed, postage prepaid, to, and received by, KCC by the Voting Deadline. Any Ballots received after the Voting Deadline will not be counted. All Ballots must contain an original signature to be counted. No Ballots received by facsimile will be accepted.

## Voting on the Plan

***When does the vote need to be received?*** The deadline for the receipt by KCC of properly completed Ballots is ~~\_\_\_\_\_~~, ~~\_\_\_\_\_~~ **p.m.** (Central Time).

***How do I vote on the Plan?*** For a vote to be counted, KCC must receive an original signed copy of the enclosed Ballot by the Voting Deadline. Faxed copies and votes sent on other forms will not be accepted.

***Who should I contact if I have questions or need a Ballot?*** You may contact KCC at [premierkingsinfo@kccllc.com](mailto:premierkingsinfo@kccllc.com) or (866) 927-7089.

~~\_\_\_\_\_~~, ~~\_\_\_\_\_~~ **p.m.**

This Disclosure Statement and the Plan are the only materials that you should use in determining how to vote on the Plan. The Debtors believe that approval of the Plan provides the greatest return to holders of Claims in the Voting Classes.

### Voting Recommendations

The Debtors believe that the Plan presents the best opportunity for holders of Claims and Interests to maximize their respective recoveries. The Debtors encourage holders of Impaired Claims and Interests to vote to accept the Plan.

The Ballots have been specifically designed for the purpose of soliciting votes on the Plan from each Class entitled to vote. For this reason, in voting on the Plan, please use only the Ballot sent to you with this Disclosure Statement. If you hold Claims in more than one Class, you must use a separate Ballot for voting with respect to each Class of Claims that you hold. If you believe you have received the incorrect form of Ballot, you need another Ballot or you have any questions concerning the form of Ballot, please contact KCC or the Debtors.

Please complete and sign your Ballot and return it, with appropriate postage, in the enclosed pre-addressed envelope to KCC. All correspondence in connection with voting on the Plan should be directed to KCC at the following address

#### **By mail or overnight delivery**

Premier Kings Ballot Processing Center  
c/o Kurtzman Carson Consultants, LLC  
222 N. Pacific Coast Highway, Suite 300  
El Segundo, CA 90245

KCC and the Debtors will prepare and file with the Bankruptcy Court a certification of the results of the voting on the Plan on a Class-by-Class basis.

Additional copies of the Ballots, this Disclosure Statement and the Plan are available upon request made to KCC and the Debtors. Please contact KCC or the Debtors with any questions relating to voting on the Plan.

Your vote on the Plan is important because:

- Under the Bankruptcy Code, a chapter 11 plan can only be confirmed if certain majorities in dollar amount and number of claims of each Voting Class under the plan vote to accept the plan, unless the “cram down” provisions of the Code are used.

- Under the Bankruptcy Code, only the votes of those holders of claims or interests who actually submit votes on a plan are counted in determining whether the specified majorities of votes in favor of the plan have been received.

- If you are eligible to vote with respect to a Claim and do not deliver a properly completed Ballot relating to that Claim by the Voting Deadline, you will be deemed to have abstained from voting with respect to that Claim and your eligibility to vote with respect to that Claim will *not* be considered in determining the number and dollar amount of Ballots needed to make up the specified majority of that Claim’s Class for the purpose of approving the Plan.

All pleadings and other documents referred to in this Disclosure Statement as being on file with the Bankruptcy Court are available for inspection and review during normal business hours at the **Office of the Clerk of the United States Bankruptcy Court for the Northern District of Alabama (Southern Division), 1800 5<sup>th</sup> Avenue N, Birmingham, AL 35203, telephone ~~205-714-3830~~[205-714-4000](tel:205-714-4000).**

THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN AND OTHER DOCUMENTS RELATING TO THE PLAN. WHILE THE DEBTORS SUBMIT THAT THOSE SUMMARIES PROVIDE ADEQUATE INFORMATION WITH RESPECT TO THE DOCUMENTS SUMMARIZED, THESE SUMMARIES ARE QUALIFIED BY THE COMPLETE TEXT OF SUCH DOCUMENTS. IF ANY INCONSISTENCIES EXIST BETWEEN THE TERMS AND PROVISIONS OF THIS DISCLOSURE STATEMENT AND THE TERMS AND PROVISIONS OF THE PLAN OR OTHER DOCUMENTS DESCRIBED HEREIN, THE TERMS AND PROVISIONS OF THE PLAN AND OTHER DOCUMENTS ARE CONTROLLING. EACH HOLDER OF AN IMPAIRED CLAIM SHOULD REVIEW THE ENTIRE PLAN AND ALL RELATED DOCUMENTS AND SEEK THE ADVICE OF ITS OWN COUNSEL BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. ANY CHANGES TO THESE DOCUMENTS WILL BE DESCRIBED AT THE HEARING ON THE CONFIRMATION OF THE PLAN.

THIS DISCLOSURE STATEMENT MAY NOT BE RELIED UPON BY ANY PERSON OR ENTITY FOR ANY PURPOSE OTHER THAN BY HOLDERS OF IMPAIRED CLAIMS OR INTERESTS ENTITLED TO VOTE ON THE PLAN IN DETERMINING WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN. NOTHING CONTAINED IN THIS DISCLOSURE STATEMENT WILL CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, OR BE ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DEBTORS OR ANY OTHER PARTY, OR BE DEEMED CONCLUSIVE EVIDENCE OF THE TAX OR OTHER LEGAL EFFECTS OF THE PLAN ON HOLDERS OF CLAIMS OR EQUITY INTERESTS.

EXCEPT TO THE EXTENT OTHERWISE SPECIFICALLY NOTED HEREIN, THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS GENERALLY

INTENDED TO DESCRIBE FACTS AND CIRCUMSTANCES ONLY AS OF ~~FEBRUARY~~ 16MARCH, 2024 AND NEITHER THE DELIVERY OF THIS DISCLOSURE STATEMENT NOR THE CONFIRMATION OF THE PLAN WILL CREATE ANY IMPLICATION, UNDER ANY CIRCUMSTANCES, THAT THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS CORRECT AT ANY TIME AFTER ~~FEBRUARY~~ 16MARCH, 2024 OR THAT THE DEBTORS WILL BE UNDER ANY OBLIGATION TO UPDATE SUCH INFORMATION IN THE FUTURE.

THE DEBTORS SUBMIT THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTEREST OF EVERY CREDITOR AND RECOMMEND THAT YOU VOTE TO ACCEPT THE PLAN.

## **II. SUMMARY AND OVERVIEW OF THE PLAN**

The following table briefly summarizes the classifications and treatment of Claims and Equity Interests under the Plan.

Class	Type of Claim or Equity Interest	Treatment	Estimated Recovery	Impairment	Voting
N/A	Administrative Expense Claims (other than those set forth separately below)	All Administrative Expense Claims (other than Professional Fee Claims) must be made by application filed with the Bankruptcy Court <b>no later than <del>thirty (30)</del> (30) days after the Effective Date</b> . Any objection that the Plan Administrator may wish to file with respect to any Administrative Expense Claim (other than Professional Fee Claims) shall be filed on or before the Administrative Expense Claim Objection Deadline. On or as soon as reasonably practicable after the later of (i) Effective Date or (ii) the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, the holder of such Allowed Administrative Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Administrative Claim, (a) Cash equal to the unpaid portion of the Allowed amount of such Administrative Claim or (b) such other less favorable treatment as to which the Debtor and such holder shall have agreed upon in writing.	100%	N/A	No
N/A	Professional Fee Claims	All final requests for payment of Professional Fee Claims must be made by application filed with the Bankruptcy Court <b>no later than sixty (60) days after the Effective Date</b> . Any party in interest shall have the right to object to a Professional Fee Claim. Objections to Professional Fee Claims shall be filed within twenty-one (21) days from the filing and service of the Professional Fee Claim, <u>with the sole exception of the Bankruptcy Administrator's office which must file any objection to Professional Fee Claims on or prior to seven (7) days before a hearing set on said claims.</u>	100%	N/A	No
N/A	Bankruptcy Administrator Fees	All fees payable in the Cases under 28 U.S.C. §1930, as agreed by the Debtors or as determined by the Bankruptcy Court, will, if not previously paid in full, be paid in Cash on the Effective Date and will continue to be paid by the Debtors as required under 28 U.S.C. §1930 until such time as an order is entered by the Bankruptcy Court closing the Case.	100%	N/A	No



N/A	Priority Tax Claims	Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a different treatment, the Debtors shall pay to each holder of an Allowed Priority Tax Claim, if any, an amount in Cash equal to the Allowed amount of such Claim as soon as is reasonably practicable after such Priority Tax Claim is Allowed. The Debtors do not believe there are any such claims.	100%	N/A	No
Class 1	Secured Claims	Class 1 consists of the secured claims of Wells Fargo Bank, National Association in its capacity as prepetition secured agent <a href="#">and the related prepetition lenders under that certain February 25, 2021 Second Amended and Restated Credit Agreement as amended by that certain First Amendment to Credit Agreement dated as of May 18, 2023</a> . Class 1 is impaired under the Plan. The holders of Class 1 Claims are entitled to vote on the Plan. Each Class 1 Allowed Claim shall be paid pursuant to the terms of the Plan.	51%	Impaired	Yes
Class 2	Priority Non-Tax Claims	Except to the extent that a holder of a Priority Non-tax Class 2 Claim against the Debtors agree to a different treatment of such Claim, on the later of the Effective Date, or as soon as is reasonably practicable after such Allowed Priority Non-Tax Claim is Allowed, each holder of an Allowed Class 2 Claim shall receive payment of one hundred percent (100%) of the Allowed amount of such Class 2 Claim after all Allowed Claims in Articles 2.1, 2.2, and 2.3 of the Plan are paid in full or otherwise treated as provided for under the Plan.	100%	Unimpaired	No
Class 3	General Unsecured Claims	On the later of the Effective Date, or as soon as is reasonably practicable after all Allowed General Unsecured Claims are Allowed or Disallowed, the holders of Allowed General Unsecured Claims shall receive their Pro Rata Share of all remaining distributions under the Plan, if any, after all Allowed Claims in Articles 2.1, 2.2, 2.3, 2.4, 4.1, 4.2, 4.3, 4.4 and 4.5 are paid in full or otherwise treated as provided for under the Plan.	3% <sup>1</sup>	Impaired	Yes

<sup>1</sup> Estimated ranges are shown in Liquidation Analysis at Exhibit B. The percentage recovery for Secured Claims includes distributions made by the Debtors prior to the Confirmation Date plus those distributions expected to be made after the Confirmation Date.

Class 4	Equity Interests	On the later of the Effective Date, or as soon as is reasonably practicable, the holders of Class 4 Equity Interests in the Debtors, shall receive any available distribution, to the extent allowed, on account of such Class 4 interests pursuant to Article V of the Plan and the Equity Interests will be deemed canceled and extinguished, without any further act or action under any applicable law, regulation, order or rule. The Debtors expect that no such distributions on account of Equity Interests will be made.	\$ 0	Impaired	No
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## GENERAL INFORMATION

### A. Overview of Chapter 11

Chapter 11 is the primary business reorganization chapter of the Bankruptcy Code. Under chapter 11 of the Bankruptcy Code, a debtor is authorized to reorganize its business and affairs for itself, its creditors and its equity interest holders. In addition to permitting the rehabilitation of a debtor, another goal of chapter 11 is to promote equality of treatment for similarly situated creditors and similarly situated equity interest holders with respect to distributions of the value of a debtor's assets.

The commencement of a chapter 11 case creates a bankruptcy estate that is comprised of all of the legal and equitable interests of a debtor as of the Petition Date of the chapter 11 case. The Bankruptcy Code provides that a debtor may continue to operate its business and affairs and remain in possession of its property as a "debtor-in-possession."

The consummation of a plan of reorganization is the fundamental objective of a chapter 11 reorganization case. A plan of reorganization sets forth the means for restructuring a debtor's business and satisfying claims against and interests in a debtor. Confirmation of a plan of reorganization by a bankruptcy court binds the debtor, any issuer of securities under the plan, any person acquiring property under the plan, and any creditor or equity interest holder of a debtor. Pursuant to section 1123(a)(5) of the Bankruptcy Code, a debtor is permitted to distribute its property to those Persons with an interest in such property. Also, pursuant to section 1129(a)(11) of the Bankruptcy Code, a plan may provide for the liquidation of the debtor.

Certain holders of claims against and interests in a debtor are permitted to vote to accept or reject the plan. Prior to soliciting acceptances of the proposed plan, however, section 1125 of the Bankruptcy Code requires a debtor to prepare a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding the plan. The Debtor ~~is~~ submitting this Disclosure Statement to holders of claims against and equity interests in the Debtor to satisfy the requirements of section 1125 of the Bankruptcy Code.

### B. Description of Debtors

Premier Kings, Inc. *et al.* was founded in 2009 by Manraj "Patrick" Sidhu ("Mr. Sidhu") for the purpose of owning and operating Burger King restaurants (each, a "Restaurant" or "Store," and, collectively, the "Restaurants" or the "Stores") as franchisee pursuant to franchise agreements with Burger King Company, Inc. ("BKC"). Beginning with 6 Restaurants in or around Birmingham, Alabama in early 2010, the Debtors later added 34 locations to the portfolio throughout Alabama, Georgia, and Tennessee over the course of 2014. The Debtors opened an eighth store in September of 2015 and expanded to 32 stores in Huntsville, Alabama and 22 in Birmingham, Alabama. The Debtors continued to grow between 2015 and 2021, opening 115 additional locations in Tennessee, Florida, and South Carolina. At its height, the Debtors owned and operated 186 Burger King locations. As of the Petition Date, Premier Kings, Inc. owned 53 Restaurants, Premier Kings of Georgia, Inc. owned 82 Restaurants, and Premier Kings of North Alabama, LLC owned 39 Restaurants. Operating these Restaurants, the Debtors achieved sales

of \$233.3 and \$255 million in calendar years 2021 and 2020, respectively, while employing nearly 3,600 employees.

Unfortunately, Mr. Sidhu passed away unexpectedly on May 24, 2022, which triggered great operational instability for the Debtors' existing Restaurants, as Mr. Sidhu was not only the sole stockholder or member, but also sole manager. Upon Mr. Sidhu's tragic death, Joginder Sidhu became the Personal Representative of Mr. Sidhu's estate (the "Estate Representative") and in that capacity gained legal and operational control over the Debtors. The Estate Representative hired Aurora Management Partners ("AMP") on June 2, 2022 to provide financial advisory services, and later engaged AMP as Chief Restructuring Officer of each of the Debtors.

Like many other businesses, and particularly restaurants, the Debtors faced significant challenges over the past few years. Most importantly, however, was the sudden and unexpected passing of its sole member, Mr. Sidhu. This tragic loss, coupled with various macroeconomic factors, caused tremendous uncertainty and disruption within the business. Those factors include, among others, the national impact of the COVID-19 pandemic on restaurant operations, high inflation, increased borrowing rates, and an increasingly limited qualified labor force.

Following the death of Mr. Sidhu, and based on the performance of the Restaurants and the managerial and capital needs to operate, the Estate Representative determined in consultation with the AMP and various professionals that a sale of PK's assets was necessary to preserve the go-forward value of the Debtors' businesses and to maximize the return to creditors. The Debtors retained Raymond James & Associates, Inc. ("Raymond James") as the investment banker to commence a marketing process and to solicit interest for the purchase of the Debtors' assets (the "Sale Process"). Raymond James engaged in a robust and sophisticated marketing campaign designed to maximize the value of the Debtors' estates and the return to creditors.

However, due to increasing losses, the Debtors, with the advice of their professionals, made the difficult decision to close several Restaurants in an attempt to avoid further losses and to stabilize the business in anticipation of a sale. Unfortunately, these cost-cutting measures were insufficient to correct or prevent the Debtors' insolvency. Facing increased pressure from landlords, vendors, and secured lenders, and with a fragile liquidity position, the Debtors had no choice but to seek relief in this Court in order to restructure its business in chapter 11 of the United States Bankruptcy Code.

For fiscal year ending December 31, 2022, the Debtors had sales of \$223.0 million and suffered a net operating loss of \$27.0 million. As of the Petition Date, the Debtors operated 172 Restaurants pursuant to license agreements with BKC ("Franchise Agreements") that were negotiated prior to the Petition Date. Following the Petition Date, the Debtors used cash collateral to stabilize the business and complete the marketing and sale process for the Restaurants.

Through the implementation of the strategic measures, the Debtors effectively, among other things, (i) stabilized the business; (ii) updated the financial books and records; (iii) separated intercompany transactions; (iv) identified and asserted claims to recover funds; (v) managed day-to-day operations; (vi) updated franchise processes to bring into compliance and

improved its franchisee rating with Burger King Company, LLC (“BKC”) from a D- to a B+;

(vii)

(vi) increased company EBITDA and going concern value; (viii) entered a forbearance agreement with the Prepetition Agent; (ix) resolved ongoing insurance and environmental issues; and (x) conducted a successful national marketing and sale process for substantially all of the Debtors’ assets which together brought \$45,500,000 into the Estates.

### III. PREPETITION CAPITAL STRUCTURE; DEBT AND EQUITY

#### INTERESTS Secured Debt.

##### 1. The Prepetition Credit Agreement.

On February 25, 2021, Premier Kings, Inc., Premier Kings of Georgia, Inc., and Premier Kings of North Alabama LLC, each in its capacity as Borrower (the “Debtor Loan Parties”), entered into that certain Second Amended and Restated Credit Agreement (as amended by that certain First Amendment to Credit Agreement, dated as of May 18, 2023, and as further amended, supplemented, or modified from time to time prior to the date hereof, the “Prepetition Credit Agreement”) with, among others, Wells Fargo National Bank, in its capacity as Prepetition agent (the “Prepetition Agent”) and the lenders thereunder (the “Prepetition Lenders” or the “Lender Group”).

Also on February 25, 2021, Premier Kings, Inc., Premier Kings of Georgia, Inc., and Premier Kings of North Alabama LLC entered into that certain Pledge and Security Agreement (the “Prepetition Security Agreement”) with the Prepetition Agent. Pursuant to the Prepetition Security Agreement, each of the Debtor Loan Parties granted to the Prepetition Agent, for the benefit of the Prepetition Term Loan Lenders (as defined below), security interests in and liens on substantially all of their assets (the “Prepetition Collateral”).

As of the Petition Date, the aggregate amount of principal and interest outstanding under the Prepetition Credit Agreement was approximately \$89,000,000.

#### General Unsecured Creditors.

As of the Petition Date, the Debtors estimate that unsecured claims held by creditors of the Debtors total approximately \$17,717,002. These other unsecured claims include accrued and unpaid trade and other unsecured debt incurred in the ordinary course of the Debtors’ business.

#### Stock and Membership Interests.

As of the Petition Date, the Debtors’ equity was owned by the estate of Manraj Sidhu.

### IV. THE CHAPTER 11 CASES

#### A. Debtors’ Chapter 11 Filing

On October 25, 2023 (the “Petition Date”), the Debtors filed their petitions for relief under chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors have continued

in possession of its property and operated as debtor in possession pursuant to 11 U.S.C. §§ 1107(a) and 1108. ~~No~~An official committee of unsecured creditors was appointed on November 6, 2023 [Doc. No. 135].

The following is a summary of significant events in the Debtors' bankruptcy cases leading to the filing of the Plan:

- Interim Order Granting Motion of Debtors and Debtors-in-Possession (I) Authorizing Postpetition Use of Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Party; (III) Scheduling a Final Hearing; and (IV) Granting Related Relief [Dkt. No. 88].
- Interim Order Granting Motion of Debtors and Debtors-in-Possession Approving Cash Management System and Authorizing the Debtors to Continue Using Existing Bank Accounts and Business Forms [Dkt. No. 87].
- Interim Order Granting Motion of Debtors and Debtor-in-Possession Authorizing Payment of Prepetition Payroll Obligations, Employee Benefits, and Related Items, and the Continuation of Certain Employment Programs and Policies in the Ordinary Course [Dkt. No. 89].
- Order Granting Motion of Debtors and Debtors-In-Possession Authorizing Debtors to Pay Prepetition Sales Tax [Dkt. No. 90].
- Interim Order Granting Motion of Debtors and Debtors-in-Possession (I) Approving the Adequate Assurance of Payment for Future Utility Services Proposed by the Debtors, (II) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Services, ~~(III)~~ (III) Approving Procedures by Debtors for Resolving Additional Assurance Requests, and (IV) Setting a Final Hearing Related Thereto [Dkt. No. 91].
- Interim Order Granting Motion of Debtors and Debtors in Possession (I) Authorizing the Debtors to Pay Prepetition Claims of Certain Critical Vendors and (II) Granting Related Relief [Dkt. No. 98].
- Final Order Approving Cash Management System and Authorizing the Debtors to Continue Using Existing Bank Accounts and Business Forms [Dkt. No. 192].
- Final Order Authorizing Payment of Prepetition Payroll Obligations, Employee Benefits and Related Items, and the Continuation of Certain Employment Programs and Policies in the Ordinary Course [Dkt. No. 193].
- Second Interim Order Authorizing Debtors and Debtors-In-Possession (I) To Pay Prepetition Claims of Certain Critical Vendors and (II) Granting Related Relief [Dkt. No. 194].
- Final Order (I) Approving the Adequate Assurance of Payment for Future Utility Services Proposed by the Debtors, (II) Prohibiting Utility Companies From Altering, Refusing,

or Discontinuing Services, and (III) Approving Procedures by the Debtors for Resolving Additional Assurance Requests [Dkt. No. 195].

- Final Order Authorizing Postpetition Use of Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, (C) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001(b) and (D) Granting Related Relief [Dkt. No. 205].
- Order Granting Motion of the Debtors and Debtors in Possession for Entry of an Order (I) Approving Bidding Procedures for the Sale of All or Substantially All the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests; (II) Approving Bid Protections for Stalking Horse Bidders; (III) Approving Procedures for Assumption and Assignment of Executory Contracts and Unexpired Leases; (IV) Scheduling an Auction for, and Hearing to Approve, the Sale of All or Substantially all of the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests; (V) Approving the Form and Manner of Sale Notice; and (VI) Granting Related Relief Filed by Debtor Premier Kings, Inc. [Dkt. No. 232].
- Order Granting Motion of the Debtors and Debtors-In-Possession for Entry of an Order Enforcing Automatic Stay Filed by Debtor Premier Kings, Inc. [Dkt. No. 244].
- Order Granting First Omnibus Motion of the Debtors and Debtors in Possession for Entry of an Order (I) Authorizing Rejection of Unexpired Leases, and (II) Setting a Deadline for the Filing of Rejection Claims Filed by Debtor Premier Kings, Inc. [Dkt. No. 250].
- Order Authorizing the Debtors to Employ and Retain Kurtzman Carson Consultants LLC as Claims, Noticing, and Solicitation Agent Effective as of the Petition Date [Dkt. No. 265].
- Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals [Dkt. No. 265].
- Order Authorizing the Retention and Employment of Cole Schotz P.C. as Counsel for the Debtors and Debtors in Possession Effective as of the Petition Date [Dkt. No. 267].
- Order Authorizing the Debtors to Employ Aurora Management Partners as Financial Advisor to the Debtors Effective As of the Petition Date [Dkt. No. 269].
- Order (I) Authorizing the Employment and Retention of Raymond James & Associates, Inc. as Investment Banker for the Debtors, Effective as of the Petition Date, (II) Waiving Certain Reporting Requirements Pursuant to Local Rule 2016-1, and (III) Granting Related Relief [Dkt. No. 270].
- Order Authorizing the Retention and Employment of Holland & Knight LLP as Attorneys for the Debtors and Debtors in Possession Effective as of the Petition Date [Dkt. No. 273].
- Amended Standing Order [Dkt. No. 362].

- Order Granting Motion of the Debtors and Debtors-In-Possession For Entry of an Order (I) Approving Asset Purchase Agreements and Authorizing the Sale of All or Substantially All of the Debtors Assets Under 11 U.S.C. §§ 363(B) and 363(M); (II) Authorizing the Sale of Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests Pursuant to 11 U.S.C. § 363(F); (III) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Pursuant to 11 U.S.C. § 365; and (IV) Granting Related Relief [Dkt. No. 355].
- Amended Final Order Authorizing Debtors and Debtors-In-Possession (I) To Pay Prepetition Claims of Certain Critical Vendors and (II) Granting Related Relief [Dkt. No. 360].
- Order Authorizing the Debtors to Retain and Employ HyperAMS, LLC to Provide Valuation and Consulting Services to the Debtors Effective as of the Application Date [Dkt. No. 400].
- Supplemental Cash Collateral Order [Dkt. No. 432].
- Order Approving The Sale of Assets of Limited Value Free and Clear of Liens, Claims, Interests, and Encumbrances and Granting Related Relief [Dkt. No. 438]
- Sales closed with (i) Mosaic and Bulldog on January 9, 2024, effective as of January 8, 2024 at 12:01 a.m.; (ii) RRG on January 16, 2024 effective as of 12:01 a.m.; and BKC on January 17, 2024 effective as of January 16, 2024 at 12:01 a.m.

**B. Sale of Debtors' Assets<sup>1</sup>**

On October 26, 2023, the Debtors filed the Motion of the Debtors and Debtors-in-Possession for Entry of an Order (I) Approving Bidding Procedures for the Sale of All or Substantially All the Debtors' Assets Free and Clear of All Lines, Claims, Encumbrances, and Interests; (II) Approving Bid Protections for Stalking Horse Bidders; (III) Approving Procedures for Assumption and Assignment of Executory Contracts and Unexpired Leases; (IV) Scheduling Auction for, and Hearing to Approve, Sale of All or Substantially All of the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests; (V) Approving the Form and Manner of Sale Notice; and (VI) Granting Related Relief Filed by Debtors ("Bidding Procedures Motion") [Dkt. No. 42].

On October 26, 2023, the Debtors also filed the Motion of the Debtors and Debtors-in-Possession for Entry of an Order (I) Approving Asset Purchase Agreements and Authorizing the Sale of All or Substantially All of the Debtors Assets Under 11 U.S.C. § 363(b) and (m); (II) Authorizing the Sale of Assets Free and Clear of All Lines, Claims, Encumbrances, and Interests Pursuant to 11 U.S.C. § 363(f); (III) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Pursuant to 11 U.S.C. § 365; and (VI) Granting Related Relief [Dkt. No. 43].

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<sup>1</sup> Capitalized terms related to the Sale shall have the meaning ascribed to them in the Plan.



The Court entered the Order Granting the Bidding Procedures Motion (“Bidding Procedures Order”) on November 20, 2023 [Dkt. No.232].

Pursuant to the Sale and Bidding Procedures, the Debtors, with the assistance of their Professionals, sought bids on all of the Restaurants. Interested bidders could submit bids on all

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the locations together, in chosen groupings, or in designated regions grouped as Atlanta, Jacksonville, Savannah and Alabama. The Debtors received “stalking horse” bids from three (3) proposed purchasers covering various regions. The Debtors subsequently conducted an Auction for the Sale of substantially all of the Debtors’ assets on December 4, 2023 at the Birmingham, AL offices of Holland & Knight, the Debtors’ local bankruptcy counsel, seeking higher and better bids. After multiple rounds of bidding from the qualified bidders in attendance at the Auction, the Auction resulted in the sale of 150 restaurants in four separate sales transactions to the highest and otherwise best offers received from Mosaic Gold Crown Group, LLC purchasing units in the greater Atlanta, GA region, Bulldog Restaurants, LLC purchasing units across Central and South Alabama, RRG of Jacksonville, LLC purchasing units in and around Jacksonville, FL, Savannah, GA, and South Carolina, and BKC purchasing units in the North Alabama region. These winning bidders (“Winning Bidders”) and the Debtors executed Asset Purchase Agreements which included the including inventory, equipment, and assumption and assignment of the respective franchisee agreements, for a total net purchase price of \$45,500,000 million, subject to certain adjustments and reductions, as set forth therein. Accounts receivable, corporate records, certain real property owned by the Debtors, and Causes of Action were not included in the Sale.

## **VI. PLAN OF LIQUIDATION**

THE FOLLOWING DISCUSSION OF THE PLAN CONSTITUTES A SUMMARY ONLY AND IS QUALIFIED IN ITS ENTIRETY BY THE TERMS OF THE PLAN ITSELF. YOU SHOULD READ THE PLAN BEFORE DECIDING WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN. CHANGES MAY BE MADE TO THE PLAN. ANY SUCH CHANGES MADE TO THE PLAN WILL BE DESCRIBED AT THE CONFIRMATION HEARING. A copy of the Plan is attached to this Disclosure Statement and incorporated herein by reference as **Exhibit A**.

### **A. General Description of the Plan**

The Plan will be funded primarily from the net proceeds of the Sale. The Plan provides for distributions on account of secured claims, unsecured claims (including claims arising from the rejection of leases or contracts), priority claims and administrative claims, in priority of payment set forth under the Bankruptcy Code, and, in the event that funds were to remain after payment of all Allowed Claims in full, which is unexpected, any such remaining funds would be distributed to holders of Interests.

### **B. Unclassified Allowed Claims and Their Treatment**

**1. Administrative Expense Claims.** The bar date for all Administrative Expense Claims (other than Professional Fee Claims and fees and expenses of the Plan

Administrator and professional persons employed by the Plan Administrator after the Effective Date as set forth in Article 13.7) shall be **thirty (30) days after the Effective Date**. Any objection that the Debtor or Plan Administrator may wish to file with respect to any Administrative Expense Claim (other than Professional Fee Claims) shall be filed on or before the Administrative Expense Claim Objection Deadline (**sixty (60) days after the Effective Date**). On or as soon as reasonably practicable after the later of (i) **forty-five (45) days after the**

Effective Date or (ii) the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, the holder of such Allowed Administrative Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Administrative Claim, (a) Cash equal to the unpaid portion of the Allowed amount of such Administrative Claim or (b) such other less favorable treatment as to which the Debtor and such holder shall have agreed upon in writing. ANY PERSONS THAT FAIL TO FILE A PROOF OF ADMINISTRATIVE EXPENSE CLAIM OR REQUEST FOR PAYMENT THEREOF ON OR BEFORE THE APPLICABLE ADMINISTRATIVE BAR DATE AS REQUIRED UNDER THE PLAN AND AS DESCRIBED HEREIN OR PURSUANT TO OTHER APPLICABLE ORDER OF THE BANKRUPTCY COURT SHALL BE FOREVER BARRED FROM ASSERTING SUCH CLAIM AGAINST THE DEBTOR, ITS ESTATE, OR its PROPERTY OR SUCCESSORS AND ASSIGNS THERETO, AND THE HOLDER THEREOF SHALL BE ENJOINED FROM COMMENCING OR CONTINUING ANY ACTION, EMPLOYMENT OF PROCESS OR ACT TO COLLECT, OFFSET OR RECOVER SUCH ADMINISTRATIVE EXPENSE CLAIM.

**2. Professional Fee Claims.** All final requests for payment of Professional Fee Claims must be made by application filed with the Bankruptcy Court **no later than sixty (60) days after the Effective Date**. Any party in interest shall have the right to object to a Professional Fee Claim. **Objections to Professional Fee Claims shall be filed within twenty- one (21) days from the filing and service of the Professional Fee Claim, with the sole exception of the Bankruptcy Administrator's office which must file any objection to Professional Fee Claims on or prior to seven (7) days before a hearing set on said claims.**

**3. Fees Under 28 U.S.C. §1930.** All fees payable in the Case under 28 U.S.C. §1930, as agreed by the Debtors or as determined by the Bankruptcy Court, will, if not previously paid in full, be paid in Cash on the Effective Date and will continue to be paid by the Debtors as required under 28 U.S.C. §1930 until such time as an order is entered by the Bankruptcy Court closing the Cases.

**4. Priority Tax Claims.** Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a different treatment, the Debtors shall pay to each holder of an Allowed Priority Tax Claim, an amount in Cash equal to the Allowed amount of such Claim as soon as is reasonably practicable after such Priority Tax Claim is Allowed. The Debtors do not believe any such claims exist.

#### **C. Classification and Treatment of Allowed Claims and Equity Interests**

The Plan categorizes Allowed Claims against, and Equity Interests in, the Debtors into various classes that the Debtors believe are in accordance with the classification requirements

established by the Bankruptcy Code. All Claims against, and Equity Interests in, the Debtors arising prior to the Petition Date will be paid and discharged under the Plan.

The classification and treatment of Allowed Claims and Allowed Interests under the Plan are summarized below.

**1. Class 1 – Secured Claims:**

Class 1 consists of the Allowed Secured Claims ~~of~~asserted by the Prepetition Lenders and Prepetition Agent pursuant to (i) that certain February 25, 2021 Second Amended and Restated Credit Agreement as amended by that certain First Amendment to Credit Agreement dated as of May 18, 2023 with among others Wells Fargo National Bank as Prepetition Agent and the prepetition lenders thereunder; and (ii) February 25, 2021 Pledge and Security Agreement together with any related deficiency claim after the liquidation of the Prepetition Agent's collateral. .

Class 1 Secured Claims are impaired and entitled to vote to accept or reject the Plan.

**2. Class 2 Priority Non-Tax Claims:** Class 2 consists of Priority Non-Tax Claims, if any, entitled to priority under section 507 of the Bankruptcy Code.

Class 2 Claims are unimpaired and deemed to accept the Plan.

**3. Class 3 – General Unsecured Claims:** The holders of Allowed General Unsecured Claims shall receive their Pro Rata Share of all remaining distributions under the Plan after all Allowed Claims in Classes 1 and 2 are paid in full or otherwise treated as provided for under the Plan.

Class 3 Claims are impaired under the Plan. Holders of Allowed Class 3 Claims are entitled to vote to accept or reject the Plan.

**4. Class 4 - Equity Interests:** Class 4 consists of the holders of stock or membership interests in the respective Debtors. To the extent Allowed, the holders of Class 4 Interests shall receive a distribution on account of their Class 4 Interests, if any, pursuant to Article V of the Plan, only in the event that, and only after, all Class 1 through Class 3 Allowed Claims are paid in full under the terms of the Plan. The Debtors expect that no distributions on account of Equity Interests will be made. The Class 4 interests shall be deemed canceled and extinguished as of the Effective Date, without any further act or action under any applicable law, regulation, order, or rule.

Class 4 is impaired under the Plan, and the holders of Allowed Class 4 Equity Interests are impaired and deemed to reject the Plan.

**D. Claims Bar Date**

The Bankruptcy Court established the deadline of January 2, 2024 for all creditors (except governmental units) to file proofs of claim, and the deadline of April 22, 2024 for governmental units to file proofs of claim (each, a "Bar Date"). To the extent a proof of claim

was not filed by the applicable Bar Date, such Claim shall not be an “Allowed Claim” as defined in the Plan.

**E. Confirmation Hearing**

The Bankruptcy Court will hold the Confirmation Hearing at the following time and place:

## Confirmation Hearing

**Date and Time:** Commencing at \_\_\_\_\_, \_\_\_\_\_ p.m. (Central Time)

**Place:** United States Bankruptcy Court for the Northern District of Alabama (Southern Division), 1800 5<sup>th</sup> Avenue N, Birmingham, AL 35203

**Judge:** The Honorable Tamara O. Mitchell, United States Bankruptcy Judge, Northern District of Alabama (Southern Division).

The Confirmation Hearing may be adjourned from time to time on announcement in the Bankruptcy Court on the scheduled date for the hearing. No further notice will be required to adjourn the hearing.

At the Confirmation Hearing, the Bankruptcy Court will:

- determine whether sufficient majorities in number and dollar amount, as applicable, from each Voting Class have delivered properly executed votes accepting the Plan to approve the Plan;
- hear and determine objections, if any, to the Plan and to confirmation of the Plan that have not been previously disposed of;
- determine whether the Plan meets the confirmation requirements of the Bankruptcy Code; and
- determine whether to confirm the Plan.

Any objection to confirmation of the Plan must be in writing and filed and served as required by the Bankruptcy Court under the order approving this Disclosure Statement. That order requires any objections to the confirmation of the Plan to be served so as to be received on or before \_\_\_\_\_, \_\_\_\_\_ p.m. (Central Time), by the following persons:

- Counsel for the Debtors, Cole Schotz P.C., 1201 Wills Street, Suite 320, Baltimore, MD 21231, Attn: Gary H. Leibowitz, Esquire.
- Counsel for the Committee, Christian Small, 505 North 20<sup>th</sup> Street, Suite 1800 Financial Center, Birmingham, AL 3520, Attn: Bill D. Bensinger, Esquire.
- Counsel for the Prepetition Agent, King & Spalding, LLP, 1180 Peachtree, NE, Suite 1600, Atlanta, GA 30309, Attn: Christian Small, 505 North 20<sup>th</sup> Street, Suite 1800 Financial Center, Birmingham, AL 3520, Attn: Jeffrey R. Dutson, Esquire.
- United States Bankruptcy Administrator for the Northern District of Alabama, 1800 5<sup>th</sup> Avenue North, Birmingham, AL 35203, Attn: Jon Dudeck, Esquire.

**F. Means For Implementation and Execution of the Plan**

1. **The Sale.** The net proceeds of the Sale, as well as the sale of other assets owned by the Debtors shall be the primary source of funds for distribution to holders of Allowed Claims and Interests (if applicable) pursuant to the terms of the Plan.

2. **Specified Litigation Proceeds.** 90 % of the Specified Litigation Proceeds shall be distributed to the Prepetition Agent on the Plan Payment Date, with the remainder used to fund payments under this Plan to holders of Allowed Class 3 Claims.

3. **Insurance Proceeds.** Insurance Proceeds currently, or in the future, held by the Debtors or post-confirmation Debtors shall be distributed to the Prepetition Agent (for the benefit of the Prepetition Lenders), for the benefit of the holders of the Class 1 Allowed Claims, upon the Effective Date in the amount of \$1,488,895.14 (or such lesser amount as may be agreed to by the Prepetition Agent), and, if any such Insurance Proceeds are received after the Effective Date, within five (5) Business Days of the post-confirmation Debtors' receipt of such Insurance Proceeds.

4. ~~3.~~ **Substantive Consolidation.** This Plan contemplates, and is predicated upon, the entry of an order, which may be the Confirmation Order, substantively consolidating the Estates and the Chapter 11 Cases for administrative convenience and for purposes of implementing this Plan, voting, assessing whether the standards for Confirmation have been met, calculating and making Distributions under the Plan and filing post-Confirmation reports and paying quarterly fees to the Bankruptcy Administrator. Accordingly, on the Effective Date: (i) all Intercompany Claims and Equity Interests held by, between and among the Debtors shall be deemed eliminated, (ii) all assets and liabilities of the Debtors shall be merged or treated as if they were merged with the assets and liabilities of Premier Kings, Inc., (iii) any obligation of a Debtor and all guarantees thereof by one or more of the other Debtors shall be deemed to be one obligation of Premier Kings, Inc., and (iv) each Claim filed or to be filed against any Debtor shall be deemed filed only against the consolidated Premier Kings, Inc., and shall be deemed a single Claim against and a single obligation of the consolidated Premier Kings, Inc. On the Effective Date, in accordance with the terms of the Plan, all Claims based upon co-obligations or guarantees of collection, payment, or performance made by the Debtors as to the obligations of another Debtor shall be merged into a single obligation of Premier Kings, Inc., and otherwise shall be released and of no further force and effect.

This substantive consolidation shall not otherwise affect (a) the legal and corporate structures of the Debtors; (b) the right to Distributions from any insurance policies or proceeds of such policies; or (c) the rights of the Plan Administrator to contest setoff or recoupment rights alleged by creditors on the grounds of lack of mutuality under section 553 of the Bankruptcy Code and other applicable law. In addition, substantive consolidation shall not, and shall not be deemed to, prejudice any of (i) the Causes of Action, which shall survive for the benefit of the Debtors and their Estates; or (ii) the available defenses to the Causes of Action.

If the Court granted substantive consolidation, quarterly fees will be due for Premier Kings of Georgia, Inc. and Premier Kings of North Alabama, LLC for the period that they

were separate cases in a new quarter after March 31, 2024, until the date that substantive consolation occurs.

**5. 4-Cancellation of Existing Securities and Agreements.** On the Effective Date, except as expressly provided in this Plan or other Final Orders of the Bankruptcy Court, the securities, membership interests, promissory notes, trust indentures, share certificates, warrants, options, security agreements, deeds of trust, collateral agency agreements and other instruments evidencing or securing a Claim or Interest shall be deemed cancelled without further act or action under any applicable agreement or Law, and the obligations of the Debtor shall be discharged.

**6. 5-Release of Liens.** Except as otherwise specifically provided in or contemplated by the Plan or in any contract, instrument or other agreement or document created in connection with the Plan, (i) each holder of: (a) a Secured Claim and any purported Other Secured Claim and/or (b) any judgment, personal property or ad valorem tax, molder, warehouse or artisan or similar Lien Claim, regardless of whether such Claim is an Allowed Claim, shall, on or immediately before the Effective Date and regardless of whether such Claim has been scheduled or proof of such Claim has been filed: (y) turn over and release to the Estate any and all property of the Debtor or Estate that secures or purportedly secures such Claim, or such Lien and/or Claim shall automatically, and without further action by the Debtor be deemed released and (z) execute such documents and instruments as the Debtor require to evidence the holder of a Claim's release of such property or Lien, and if such holder refuses to execute appropriate documents or instruments, the Debtor in its discretion, file a copy of the Confirmation Order in the appropriate recording office, which shall serve to release any holder of a Claim's rights in such property; and (ii) on the Effective Date, all right, title and interest in such property shall revert or be transferred to the Debtor's Estates free and clear of all Claims, interests, and Liens of any kind.

**7. 6-Plan Administrator's Post-Effective Date Role.** All rights and obligations of the Debtors under this Plan that exist or continue on or after the Effective Date shall vest in the post-confirmation Debtors, and such rights and obligations shall be exercisable by the Plan Administrator, in consultation with the Prepetition Agent, on and after the Effective Date. Further, the Plan Administrator shall perform each of the following acts as soon as practicable on or after the Effective Date as set forth herein; provided that, notwithstanding anything to the contrary in this Plan, the Plan Administrator must obtain the Prepetition Agent's written consent, ~~which shall not be unreasonably withheld,~~ (i) prior to ~~(i) settling any ongoing or potential litigation or Cause of Action,~~ (ii) exceeding the Wind-Down Budget, and ~~(iii)~~ conducting a sale, or sales, of assets valued in excess of \$50,000 in the aggregate. Absent the written consent of the Prepetition Agent, only the Litigation Fund Reserve shall be used to satisfy the expenses of pursuing the Specified Causes of Action.

(a) **General Powers.** In furtherance of and consistent with the purpose of the Plan, the Plan Administrator, in consultation with the Prepetition Agent and subject to the consent requirements of the Prepetition Agent above, shall, subject to the Wind- Down Budget shall (i) have the power and authority to hold, manage, sell and distribute assets of the Estates in accordance with the Plan, (ii) have the power and authority to directly, indirectly, and/or derivatively, commence, prosecute and resolve in the name of

the Debtors any and all Causes of Action, without further order of the Bankruptcy Court, (iii) have the power and authority to file, prosecute and resolve objections to Disputed Claims, (iv) have the power and

authority to perform such other functions as are provided in the Plan (v) have the power and authority to administer the closure of the Cases and (vi) have the power and authority to dissolve the Debtors. The Plan Administrator shall be responsible for all decisions and duties with respect to the Debtors and Estates.

(b) **Claims Administration, Prosecution and Objection to Claims, and Plan Distributions.** The Plan Administrator ~~with the prior consent of the Prepetition Agent, which shall not be unreasonably withheld,~~ shall have the power and authority to

prosecute and resolve objections to all Disputed Claims without further order of the Bankruptcy Court. The Plan Administrator shall have the right, power, and authority to retain and assert all defenses, rights of setoff, recoupment, and counterclaims with respect to each of the foregoing. The Plan Administrator shall also have the power and authority to hold, manage, and distribute Plan distributions to the holders of Allowed Claims, in consultation with the Prepetition Agent, as provided for in Article VI and consistent with applicable provisions of this Plan.

**8.** ~~**7.**~~ **Books and Records.** Upon the Effective Date, the Debtors shall turn over its books and records to the Plan Administrator. The Debtors' books and records may, at the sole discretion of the Plan Administrator, be abandoned or destroyed without further Bankruptcy Court order after January 1, 2026; provided that a notice of any proposed abandonment or destruction of books and records shall be issued in accordance with the applicable Bankruptcy Rules, and any objection to such proposed abandonment or destruction shall be resolved by the Bankruptcy Court. For purposes of this section, books and records include computer generated or computer maintained books and records and computer data, as well as electronically generated or maintained books and records or data, along with books and records of the Debtors maintained by or in possession of third parties and all of the claims and rights of the Debtors in and to their books and records, wherever located. The Plan Administrator shall provide reasonable access to the post-confirmation Debtors upon written request.

**9.** ~~**8.**~~ **Corporate Action.** On the Effective Date, all matters provided for under the Plan that would otherwise require approval of the stockholders, members, directors or comparable governing bodies of the Debtors, shall be deemed to have occurred and shall be in effect from and after the Effective Date pursuant to the applicable general corporation law (or other applicable governing law) of the state in which the Debtors incorporated or organized, without any requirement of further action by the members or directors (or other governing body) of the Debtors.

**10.** ~~**9.**~~ **Effectuating Documents and Further Transactions.** The Debtors are authorized and directed to execute, deliver, file or record such contracts, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.



## G. Provisions Governing Distributions

1. **Distribution Record Date.** As of the close of business on the Bar Date, or on such other date as may be set by the Bankruptcy Court, the Claims Register, the equity register and other registers as maintained by the Debtors and/or their respective agents, as applicable, shall be deemed closed, and there shall be no further changes in the record holders of any Claim or Equity Interests unless otherwise specifically provided under the Plan.

### 2. Method of Distributions Under the Plan.

(a) **Effective Date Payments and Transfers by the Debtors.** Except as otherwise set forth in the Plan, on, or as soon as practicable after the Effective Date, the Plan Administrator, or its designee, shall pay to holders of Allowed Claims, an amount in Cash equal to the Allowed amount of such Claims or in such other amounts as set forth in or otherwise permitted by the Plan.

(b) **Distributions of Cash.** At the option of the Plan Administrator, or its designee, any Cash payment to be made hereunder may be made by check or wire transfer or as otherwise required or provided in applicable agreements.

(c) **Delivery of Distributions.** Subject to Bankruptcy Rule 9010, unless otherwise provided in the Plan, all distributions and other written communications to any holder of an Allowed Claim will be made to the holder of each Allowed Claim at the address of such holder as listed in the Schedules of the Debtors or, if a proof of claim or interest is filed, as listed in such proof of claim or interest, unless the Debtors have been notified in writing of a change of address. In the event that any distribution to any holder or any request by the Plan Administrator for a tax identification number is returned as undeliverable, no distribution to such holder will be made unless and until the Plan Administrator has been notified of the then current address of such holder, at which time or as soon as reasonably practicable thereafter, such distribution will be made to such holder without interest; provided, however, that, such undeliverable distributions (or request for tax identification number) will be deemed unclaimed property under section 347(b) of the Bankruptcy Code and/or undeliverable at the expiration of ninety (90) days after the date of distribution or request by the Plan Administrator for a tax identification number, and the amount of any undeliverable distribution shall irrevocably revert back to the Debtors' Estates and any Claim in respect of such undeliverable distribution or request for tax identification number shall be discharged and forever barred from assertion against the Debtors, its property or Estates, as the case may be, and the holder of such Claim shall not be entitled to receive any future distributions. The Plan Administrator will have no obligation to attempt to locate any holder of an Allowed Claim other than by reviewing the Schedules, the Debtors' books and records (to the extent available) or the Claims Register (including any proofs of claim filed against the Debtors).

(d) **Interim and Final Distributions.** On the Effective Date or as soon as practicable after the Effective Date, the Plan Administrator shall be authorized to make interim distributions. The Plan Administrator, or its designee, shall make a final distribution of all net distributable proceeds to creditors entitled to distributions under this Plan only after (i) all property and assets of the post-confirmation Debtors and the Estates

have been converted to Cash or abandoned; (ii) all Disputed Claims have been finally resolved; and (iii) the fees and expenses of the Plan Administrator and his/her professionals have been paid in full (including any fees and expenses reasonably anticipated to be incurred after the final distribution to close or wind up the Debtors, the Estates or the chapter 11 cases as applicable, [including quarterly fees](#)) in accordance with this Plan.

**3. Withholding and Reporting Requirements.** In connection with the Plan and all instruments issued in connection therewith and distributed thereon, the Plan Administrator

shall comply with all applicable withholding and reporting requirements imposed by any federal, state or local taxing authority, and all distributions under the Plan shall be subject to any such withholding or reporting requirements.

**4. Time Bar to Cash Payments.** Checks issued in accordance with the Plan in respect of Allowed Claims shall be null and void if not negotiated within sixty (60) days after the date of issuance thereof. Requests for reissuance of any check shall be made to the Plan Administrator by the holder of the Allowed Claim to whom such check was originally issued. Any request for reissuance of a voided check shall be made on or before thirty (30) days after the expiration of the sixty (60) day period following the date of issuance of such check. Thereafter, the amount represented by such voided check shall irrevocably revert to the Debtors' Estates and any Claim in respect of such voided check shall be discharged and forever barred from assertion against the Debtors and their property or their Estates, as the case may be, and the holder of such unclaimed distribution shall not be entitled to receive any future distributions.

**5. Minimum Distributions.** No payment of Cash less than \$25 shall be made by the Plan Administrator. Any Assets that are undistributable, undeliverable or unclaimed in accordance with this Article V shall revert to the Debtors' Estates. If the net distributable proceeds, after the Debtors' assets have been liquidated to Cash, is less than \$10,000.00, the Plan Administrator shall not be required to make a distribution and shall be authorized but not required to donate such amount to a reputable charity in consultation with the Debtor and Prepetition Agent.

**6. Setoffs.** The Debtors and or Plan Administrator may, but shall not be required, to set off against any Claim (for purposes of determining the Allowed amount of such Claim on which distribution shall be made), any claims of any nature whatsoever that the Debtors may have against the holder of such Claim, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors of any such claim the Debtors may have against the holder of such Claim.

**7. Transactions on Business Days.** If the Effective Date or any other date on which a transaction may occur under the Plan occurs on a day that is not a Business Day, the transactions contemplated by the Plan to occur on such day shall instead occur on the next Business Day but shall be deemed to have been completed as of the required date.

**8. Allocation of Plan Distribution Between Principal and Interest.** All distributions in respect of any Allowed Claim shall be allocated first to the principal amount of such Allowed Claim, as determined for federal income tax purposes, and thereafter, to the

remaining portion of such Claim comprising interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim) other than to the extent allowed by the Bankruptcy Court in accordance with section 506(b) or as otherwise provided in the Plan, interest shall not accrue on any Claims after the Petition Date or after the Effective Date.

## H. Procedures For Disputed Claims

1. **Objections to Claims.** The Debtors, and from and after the Effective Date, the post-confirmation Debtors and Plan Administrator are entitled to object to all Claims.

2. **No Distribution Pending Allowance.** Notwithstanding any other provision in the Plan to the contrary, if any portion of a Claim is a Disputed Claim, no payment or distribution provided hereunder shall be made on account of such Claim unless and until such Disputed Claim becomes an Allowed Claim.

3. **Resolution of Disputed Claims.** Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, following the Effective Date, the Plan Administrator shall have the right to the exclusion of all others (except as to applications for allowances of compensation and reimbursement of expenses under sections 328(a), 330 and 503 of the Bankruptcy Code) to make and file objections to Claims and shall serve a copy of each objection upon the holder of the Claim to which the objection is made as soon as practicable, ~~but in no event later than sixty (60) days after the Effective Date (subject, however, to the right the Plan Administrator to seek an extension of time to file such objections by seeking such extension with approval from the Bankruptcy Court).~~

4. **Estimation.** The Debtors may at any time request that the Bankruptcy Court estimate any contingent, unliquidated or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtors previously objected to such Claim, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time, including, without limitation, during the pendency of any contested matter, adversary proceeding or appeal relating to any objection to any Claim. In the event that the Bankruptcy Court estimates any contingent, unliquidated or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtors or the post-confirmation Debtors (as the case may be) may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not exclusive of one another. On and after the Confirmation Date, Claims that have been estimated may be compromised, settled, withdrawn or otherwise resolved subsequently, subject, however, to a Final Order of the Bankruptcy Court.

## I. Executory Contracts and Unexpired Leases

1. **Executory Contracts; Unexpired Leases; Insurance Policies.** On the Effective Date, all executory contracts and unexpired leases to which the Debtors are a party including without limitation all Employment Agreements, shall be deemed rejected as of the Effective Date, except for an executory contract or unexpired lease that (i) has been assumed, assigned or rejected pursuant to the terms of the Asset Purchase Agreements, the

Sale Documents, and/or by Final Order of the Bankruptcy Court prior to the Effective Date, or (ii) is subject to separate motion to assume or reject (or terminate or modify, as the case may be) filed under sections 365 of the Bankruptcy Code by the Debtor prior to the Effective Date.

Notwithstanding the foregoing, all Insurance Policies shall remain in full force and effect unless otherwise validly terminated, and issuers of such Policies of Insurance shall remain responsible for claims in accordance with the terms and provisions of such Insurance Policies.

The Insurance Policies that have expired as of the Confirmation Date (whether entered into prior or subsequent to the Petition Date) are not executory contracts subject to assumption or rejection. The issuers of Insurance Policies shall be responsible for continuing coverage obligations under such Insurance Policies, regardless of the payment status of any retrospective or other insurance premiums. To the extent that the any Insurance Policy is determined to be an executory contract, this Plan shall constitute a motion to assume the Insurance Policy and, subject to the occurrence of the Effective Date, the entry of the Confirmation Order shall constitute approval of such assumption pursuant to section 365(a) of the Bankruptcy Code and a finding by the Bankruptcy Court that assumption of the Insurance Policy is in the best interest of the Debtors and its Estates, and all parties in interest in the chapter 11 cases, and otherwise satisfies the provisions of the Bankruptcy Code.

Nothing contained in the Plan shall constitute or be deemed to be a waiver of any cause of action that the Debtors may hold against any Person, including, without limitation, any Issuer under any Insurance Policies of the Debtors.

**2. Approval of Rejection of Executory Contracts and Unexpired Leases.** Entry of the Confirmation Order shall constitute the approval, pursuant to section 365(a) of the Bankruptcy Code, of the rejection of the executory contracts and unexpired leases rejected as of the Effective Date pursuant to the Plan.

**3. Rejection Claims.** In the event that the rejection of an executory contract or unexpired lease by the Debtors pursuant to the Plan results in damages to the other party or parties to such contract or lease, a Claim for such damages, if not heretofore evidenced by a filed proof of claim, shall be forever barred and shall not be enforceable against the Debtors or any property to be distributed under the Plan unless a proof of claim is filed with the Bankruptcy Court and served upon the post-confirmation Debtors **on or before the date that is the later of (a) the Bar Date, or (b) thirty (30) days after the Confirmation Date.** The foregoing sentence shall not, however, be applicable to any separate pre-Confirmation Date order of the Bankruptcy Court authorizing rejection of an executory contract or unexpired lease wherein a separate deadline by which rejection damages claims was established.

## **J. Effectiveness of the Plan**

**1. Condition Precedent to Effective Date.** The following are conditions precedent to the Effective Date of the Plan:

(a) The Bankruptcy Court shall have entered a Confirmation Order submitted in form and substance satisfactory to the Debtors and Prepetition Agent and Committee;

(b) The Confirmation Order shall have become a Final Order; and

(c) The applicable parties shall have agreed to the Wind-Down Budget in accordance with the terms set forth herein.

(d) The Prepetition Agent shall have received the distribution of all Cash held by the Debtors other than the Wind-Down Amount, the Professional Fee Reserve and the Litigation Fund Reserve free and clear of all Liens and Claims, which amount shall not be less than \$2,281,000.00 or such other amount consented to by the Prepetition Agent in its sole discretion. For avoidance of doubt, the distribution provided for in this section (d) shall include the Insurance Proceeds held by the Debtors in the amount of \$1,488,895.14.

**2. Effect of Nonoccurrence of Conditions to Effective Date.** If each of the conditions to consummation and the occurrence of the Effective Date has not been satisfied or duly waived, the Confirmation Order may be vacated by the Bankruptcy Court upon request by the Debtor. If the Confirmation Order is vacated pursuant to Article 9.2 of the Plan, the Plan shall be null and void in all respects, and nothing contained in the Plan shall constitute a waiver or release of any Claims against the Debtor.

#### **K. Effect of Confirmation**

**1. Release of Liens.** As of the Effective Date, all assets of the Estates shall be free and clear of all Claims and Liens, except as provided in the Plan or the Confirmation Order. Until the Effective Date, the Bankruptcy Court shall retain jurisdiction of the Debtors and its assets and properties. Thereafter, jurisdiction of the Bankruptcy Court shall be limited to the subject matter set forth in Article XI of the Plan.

**2. Binding Effect.** Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, on and after the Confirmation Date, the provisions of the Plan shall bind any holder of a Claim against, or Equity Interest in any one or more of the Debtors and their respective successors and assigns whether or not the Claim or Equity Interest of such holder is impaired under the Plan and whether or not such holder has accepted the Plan.

**3. Term of Injunctions or Stays.** Unless otherwise expressly provided in the Plan, all injunctions or stays arising under or entered during the Cases under sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the closing of the Cases.

**4. Causes of Action.** All Causes of Action and Specified Causes of Action are preserved and retained by the ~~Debtor~~ Estates and on the Effective Date shall become assets of the post-confirmation Debtors, including, but not limited to, preference and fraudulent transfer claims, and claims, if any, against the officers and directors of the Debtors. On and after the Effective Date, the Plan Administrator will have the exclusive right to enforce any and all Causes of Action and Specified Causes of Action retained by the

post-confirmation Debtors against any Person. The Plan Administrator may prosecute, defend, enforce, abandon, settle or release any or all Causes of Action and Specified Causes of Action as it deems appropriate without the need to obtain approval or any other or further relief from the Bankruptcy Court. The Plan Administrator may, in its sole discretion, offset any such claim held against a Person, against any payment due such Person under the Plan; *provided, however*, that any claims of the Debtors arising before the Petition Date shall first be offset against Claims against the Debtors arising before the Petition Date. All defenses and rights of avoidance of the Debtors shall be retained and may be exercised by the Plan Administrator. As set forth in section 6.36.2 of the Plan, 90% of the Specified Litigation Proceeds shall be distributed to the Prepetition Agent with the remainder used to fund payments under ~~this~~the Plan to holders of Allowed Class 3 Claims.

**5. Injunction.** On and after the Confirmation Date, all Persons and Entities who have held, hold or may hold Claims against the Debtors or Interests in the Debtors, are permanently enjoined from and after the Confirmation Date from (a) commencing or continuing in any manner any action or proceeding (whether directly, indirectly, derivatively, or otherwise) against or affecting the Debtors, the Debtors' Estates, or the post-confirmation Debtors, and (b) taking any actions in any place and in any manner whatsoever that do not conform to or comply with the provisions of the Plan or otherwise interfere with the implementation or consummation of the Plan.

#### **L. Retention of Jurisdiction**

**1. Jurisdiction of Bankruptcy Court.** The Bankruptcy Court shall retain jurisdiction of all matters arising under, arising out of, or related to the Cases and the Plan pursuant to, and for the purposes of, sections 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following purposes:

(a) To hear and determine motions for the assumption, assumption and assignment or rejection of executory contracts or unexpired leases and the allowance of Claims resulting therefrom;

(b) To determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date, including, without limitation, any Cause of Action ~~or~~and Specified Cause of Action and any proceeding to prosecute a Cause of Action and Specified Cause of Action (subject to 28 U.S.C. §§ 157 and 1334);

(c) To ensure that distributions to holders of Allowed Claims are accomplished as provided in the Plan;

(d) To consider Claims or the allowance, classification, priority, compromise, estimation or payment of any Claim;

(e) To enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified or vacated;

(f) To issue injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation or enforcement of the Plan, the Confirmation Order or any other order of the Bankruptcy Court;

(g) To hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, the Disclosure Statement or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(h) To hear and determine all applications under sections 328, 330, 331 and 503(b) of the Bankruptcy Code for awards of compensation for services rendered and reimbursement of expenses incurred by Professionals prior to and following the Confirmation Date;

(i) To hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, Sale, Asset Purchase Agreements, Sale Documents, the Confirmation Order, any transactions or payments contemplated hereby, or any agreement, instrument, or other document governing or relating to any of the foregoing;

(j) To hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Sale;

(k) To take any action and issue such orders as may be necessary to construe, enforce, implement, execute and consummate the Plan or to maintain the integrity of the Plan following consummation;

(l) To recover all assets of the Debtors' property of the Estates, wherever located;

(m) To determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(n) To hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code

(o) To hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code; and

(p) To enter a final decree closing the Cases.

#### **M. Cramdown Reservation**

**1. Nonconsensual Confirmation.** If all applicable requirements for Confirmation of the Plan are met as set forth in section 1129(a)(1) through (13) of the Bankruptcy Code except subsection (8) thereof, the Debtors may request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code, notwithstanding the requirements of section 1129(a)(8) thereof, on the bases that the Plan is fair and equitable, and does not discriminate unfairly, with respect to each Class of Claims or Interests that is Impaired under, and has not accepted, the Plan.

**N. Miscellaneous Provisions**

**1. Exculpation.** Neither the Debtors and Debtors' attorneys, Independent Board and its members, Committee members, Committee's attorneys, the Plan Administrator, [Joginder Sidhu solely in his capacity as an officer and Director of the Debtors](#), nor any of the Plan Administrator's respective past and current members, officers, directors, employees, advisors, attorneys, Professionals or agents, (collectively, "Exculpation Parties") who served or will serve during the period after the Petition Date shall have or incur any liability to any holder of a Claim or Equity Interest for any act or omission occurring after the Petition Date in connection with, related to, or arising out of the Cases, including, without limitation, negotiations regarding or concerning the Sales, Plan, the pursuit of confirmation of the Plan, the consummation of the Plan, or the administration of the Estates or the Plan or the property to be

distributed under the Plan, except for willful misconduct or gross negligence, and, in all respects, the Exculpation Parties shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan. Nothing herein shall constitute a waiver of any Cause of Action or Specified Cause of Action against an Exculpation Party for any act or omission occurring or arising prior to the Petition Date unless otherwise released in accordance with this Plan.

**2. Releases by the Debtors and their Estates.** Notwithstanding anything contained in the Plan to the contrary, as of the Effective Date, and to the fullest extent permitted by applicable law, the adequacy of which is hereby confirmed, for the good and valuable consideration provided by each of the Released Parties, each of the Debtors, the Estates, each of the Debtors' and the Estates' current and former affiliates (collectively, the "Debtor Releasing Parties") shall be deemed to have provided a full, complete, unconditional, and irrevocable release to the Released Parties from any and all Causes of Action and any other debts, obligations, rights, suits, judgments, damages, actions, remedies and liabilities whatsoever, whether accrued or unaccrued, whether known or unknown, foreseen or unforeseen, existing on or before the Effective Date, in law, at equity, whether for tort, contract, violations of statutes (including but not limited to the federal or state securities laws), or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way to the Debtors, including, without limitation, those that any of the Debtors would have been legally entitled to assert, including those in any way related to the Chapter 11 Cases, the Prepetition Loan Documents (as defined in the Final Cash Collateral Order), any of the Debtors' in- or out-of- court restructuring efforts, the Plan, the Disclosure Statement, and any related agreements, instruments, or documents; provided, however, that the foregoing release shall not prohibit the post-confirmation Debtors from asserting any and all defenses and counterclaims in respect of any Disputed Claim asserted by any of the



Released Parties; provided further, that the Released Parties shall not be released from any act or omission that constitutes fraud, willful misconduct, or gross negligence as determined by a Final Order. Notwithstanding anything to the contrary in the foregoing, except with respect to the Prepetition Agent, Prepetition Lenders, and each of their current and former subsidiaries, officers, directors, managers, principals, members, employees, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, the releases set forth in this section 13.2 ~~of the Plan~~ do not release (1) any Causes of Action identified in section ~~1.61~~ 1.15 or Specified Cause of Action identified in section 1.63 or (2) any post-Effective Date obligations of any party or Entity: ~~(A)~~ (A) arising under the Plan or any document, instrument, or agreement executed to implement the Plan; or (B) expressly set forth in and preserved by the Plan or related documents.

3. **Prepetition Secured Parties.** Neither the post-confirmation Debtors nor the Plan Administrator shall directly or indirectly pursue claims or Causes of Action against Wells Fargo Bank, National Association, Bank of America, N.A., City National Bank, Truist Bank, MUFG Bank, Ltd. and PNC Bank, N.A. or any of such entities current and former subsidiaries, officers, directors, managers, principals, members, employees, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professional. The aforementioned entities serve as prepetition lenders in these chapter 11 cases.

4. **3-Post-Effective Date Fees and Expenses of Professionals.** Subject to the Wind-Down Budget, the Plan Administrator may employ in the ordinary course of business and not subject to the approval of the Bankruptcy Court, professional persons after the Effective Date in connection with the implementation and consummation of the Plan, the claims reconciliation process, and any other matters as to which such professional persons may be retained. The post-confirmation Debtors shall, in the ordinary course of business and not subject to the approval of the Bankruptcy Court but subject to the Wind-Down Budget,, pay the reasonable fees and expenses, incurred after the Effective Date, of the Plan Administrator and the professional persons employed by the Plan Administrator pursuant to section 13.4 of the Plan. Such fees and expenses shall be paid within ten (10) Business Days after submission of a detailed invoice therefore to the Plan Administrator. If the Plan Administrator disputes the reasonableness of any such invoice, the Plan Administrator shall timely pay the undisputed portion of such invoice, and the Plan Administrator or the affected professional may submit such dispute to the Bankruptcy Court for a determination of the reasonableness of such invoice. All fees and expenses of the Plan Administrator and professional persons employed by the Plan Administrator after the Effective Date that are (x) not disputed by the Plan Administrator, or (y) if disputed by the Plan Administrator, determined to be reasonable by the Bankruptcy Court; shall be deemed to be an Allowed Administrative Expense Claim under section 2.1 of the Plan.

5. **Final Cash Collateral Order.** For the avoidance of doubt, nothing contained herein shall modify or otherwise limit the Prepetition Agent's or Prepetition Lenders' rights under the Final Cash Collateral Order (or any other cash collateral order entered by the Court).

6. ~~4.~~ **Payment of Statutory Fees.** On the Effective Date, and thereafter as may be required, the post-confirmation Debtors shall pay out all fees payable pursuant to section 1930 of chapter 123 of title 28 of the United States Code.

7. ~~5.~~ **Modification of Plan.** The Plan may be amended, modified, or supplemented by the Debtors in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as the Bankruptcy Court may otherwise direct. Notwithstanding the foregoing, the Debtors shall not amend, modify or supplement the Plan without the written consent of the Prepetition Agent in its sole discretion after such time that the Prepetition Agent's vote in favor of the Plan is submitted. In addition, after the Confirmation Date, so long as such action does not materially adversely affect the treatment of holders of Claims or Equity Interests under the Plan, the Debtors may institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, with respect to such matters as may be necessary to carry out the purposes and effects of the Plan. Prior to the Effective Date, the Debtors may make appropriate technical adjustments and modifications to the Plan without further order or approval of the Bankruptcy Court, *provided* that such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Equity Interests.

8. ~~6.~~ **Revocation or Withdrawal of Plan.** The Debtors reserve the right to revoke or withdraw the Plan at any time prior to the Confirmation Date. If the Debtors make such a determination, the Plan shall be deemed null and void. In such event, nothing contained in the Plan shall be deemed to constitute a waiver or release of any Claim by or against the Debtors or any other person or to prejudice in any manner the rights of the Debtors or any other person in any further proceedings involving the Debtors.

9. ~~7.~~ **Management of the Debtors After the Effective Date.**

**Appointment of the Plan Administrator.** On the Effective Date, the directors and officers of the Debtors, and the Independent Board and its members, shall be deemed to have resigned their respective offices and the Plan Administrator shall take exclusive control of the post-confirmation Debtors and shall also act as the representative of the post-confirmation Debtors on and after the Effective Date in accordance with the Plan. The Independent Board will be disbanded and relieved of all obligations on the Effective Date of the Plan. In accordance with the Plan and subject to the Wind-Down Budget, the Plan Administrator shall be empowered to (i) effect all actions and execute all agreements, instruments and other documents necessary to perform the post-confirmation Debtors' duties under the Plan; (ii) object to claims and prosecute (iii) make all distributions contemplated in the Plan, (iv) employ professionals including but not limited to attorneys to represent it with respect to its responsibilities under the Plan and (v) exercise such other powers as may be vested in the Plan Administrator by order of the Bankruptcy Court, pursuant to the Plan or as deemed by the Plan Administrator to be necessary and proper to implement the provisions of the Plan. For the avoidance of doubt, the Plan Administrator shall not pursue claims against the Prepetition Agent or Prepetition Lenders with all such claims being released pursuant to Section 13.2 of the Plan, the Confirmation Order, and the Final Cash Collateral Order. No

bond or other indemnity shall be required of the Plan Administrator— and the Plan Administrator is relieved of the requirements of 11 U.S.C. §345. Except as otherwise ordered by the Bankruptcy Court, the amount of any reasonable fees and expenses incurred by the Plan Administrator on or after the Effective Date (including without limitation, taxes) and any reasonable compensation and expense reimbursement claims (including, without limitation, reasonable attorneys' fees and other professional fees and expenses) made by the Plan Administrator shall be paid in Cash in accordance with Article 13.4 of the Plan.

(a) **Wind-Down Budget.** The Plan Administrator shall adhere to the Wind-Down Budget.

(b) ~~(b)~~ **Indemnification of the Plan Administrator.** The Plan Administrator and the Plan Administrator's agents, attorneys and professionals shall not be liable for actions taken or omitted in their capacity as, or on behalf of, the Plan Administrator, except those acts arising out of its or their own willful misconduct or gross negligence, and each shall be entitled to indemnification and reimbursement for fees and expenses in defending any and all of its actions or inactions in its capacity as, or on behalf of, the Plan Administrator, except for any actions or inactions involving willful misconduct or gross negligence. Any indemnification claim of the Plan Administrator (and the other parties entitled to indemnification under section 14(b) of the Plan shall be satisfied first from assets of the Estates. The Plan Administrator shall be entitled to rely, in good faith, on the advice of its retained professionals.

(c) ~~(c)~~ **Removal of the Plan Administrator.** The Plan Administrator may only be removed (i) by order of the Bankruptcy Court, for cause, including: (i~~w~~) fraud, gross

negligence or willful misconduct in connection with the affairs of the post-confirmation Debtors; (i~~i~~)

(x) physical or mental disability that substantially prevents the Plan Administrator from performing the duties as Plan Administrator of the post-confirmation Debtors; (i~~ii~~y) breach of fiduciary duty; or (i~~v~~z) failure, in good faith judgment of the post-confirmation Debtor, to reasonably perform the duties as Plan Administrator hereunder, or (ii) the Prepetition Agent for cause upon fourteen (14) business days' written notice delivered to the Plan Administrator and filed with the Court; provided that, notwithstanding the foregoing, parties in interest may file an objection to the removal of the Plan Administrator pursuant to this Section 13.8(d)(ii) with the Court within fourteen (14) days of the filing of the Prepetition Agent's notice to remove the Plan Administrator and, if any such objections are timely filed, a hearing shall be held.

(d) ~~(d)~~ **Resignation of the Plan Administrator.** The Plan Administrator may resign by giving **not less than thirty (30) days' prior written notice** thereof to Christian Small, LLC, Attn: Bill D. Bensinger, Esquire and King & Spalding, Attn: Jeffrey R. Dutson, Esquire; any counsel to the post-confirmation Debtors and Plan Administrator; and the Bankruptcy Administrator. Such resignation shall become effective on the later to occur of (i) the date specified in such notice, and (ii) the selection of a Successor Plan Administrator and the acceptance by such Successor Plan Administrator of such appointment.

(e) ~~(e)~~ **Appointment of Successor Plan Administrator.** In the event of the death, resignation or removal of the Plan Administrator, the Prepetition Agent with the consent of counsel for the post-confirmation Debtors, which shall not be unreasonably withheld, conditioned or delayed, shall appoint a successor to the Plan Administrator or any subsequent Successor Plan Administrator (“Successor Plan Administrator”). Notice of any Successor Plan Administrator shall be filed with the Bankruptcy Court and provided to all creditors. Any Successor Plan Administrator appointed hereunder shall execute an instrument accepting such appointment.

(f) ~~(f)~~ **Turnover of Documents.** Upon the resignation or removal of the Plan Administrator, the Plan Administrator shall promptly: (a) execute and deliver, by the effective date of resignation or removal, all such documents, instruments, and other writings as may be required to effect the termination of the Plan Administrator’s capacity under the Plan; (b) deliver to the Successor Plan Administrator all documents, instruments, books, records and other writings relating to the post-confirmation Debtors as may be in the possession or under control of the Plan Administrator; and (c) otherwise assist and cooperate in effecting the assumption of the rights, powers, duties and obligations under the Plan by the Successor Plan Administrator.

10. ~~8.~~ **Dissolution of the Debtors.** The Confirmation Order shall provide that the Plan Administrator is authorized to execute a certificate of dissolution (or its equivalent) with the secretary of state or similar official of each jurisdiction of incorporation of each of the Debtors pursuant to applicable non-bankruptcy law at any time on or after the Effective Date at the sole discretion of the Plan Administrator. All applicable regulatory or governmental agencies shall take all steps necessary to allow and affect the prompt dissolution of the Debtor as provided in the Plan, without the payment of any fee, tax, or charge and without need for the filing of reports or certificates.

11. ~~9.~~ **Courts of Competent Jurisdiction.** If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of the Plan, such abstention, refusal, or failure of jurisdiction shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

12. ~~10.~~ **Severability.** If, prior to the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

13. ~~11.~~ **Governing Law.** Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent an exhibit hereto provides otherwise, the

rights, duties and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Alabama, without giving effect to the principles of conflicts of law thereof.

**14.** ~~12.~~ **Successors and Assigns.** All the rights, benefits and obligations of any person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors and/or assigns of such person.

**15.** ~~13.~~ **Section 1125 of the Bankruptcy Code.** The Debtors have, and upon Confirmation of the Plan shall be deemed to have, solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code and (b) the Debtors (and their officers, directors, employees, consultants, agents, advisors, members, attorneys, accountants, financial advisors, other representatives and Professionals), have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer, issuance, sale, and purchase of the securities offered and sold under the Plan, and are not, and on account of such offer, issuance, sale, solicitation, and/or purchase will not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or the offer, issuance, sale, or purchase of the securities offered and sold under the Plan.

**16.** ~~14.~~ **Section 1146 Exemption.** To the fullest extent permitted under section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of any security under the Plan, or the execution, delivery or recording of an instrument of transfer under the Plan, or the revesting, transfer or sale of any real or other Property of or to the Debtors, the post-confirmation Debtors, the Purchaser, or the Plan Administrator, shall not be taxed under any state or local law imposing a stamp tax, transfer tax or similar tax or fee. Consistent with the foregoing, each

recorder of deeds or similar official for any county, city or governmental unit in which any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument, without requiring the payment of any documentary stamp tax, deed stamps, stamp tax, transfer tax, mortgage recording tax, intangible tax or similar tax.

**17.** ~~15.~~ **Section 1145 Exemption.** To the fullest extent permitted under section 1145 of the Bankruptcy Code, the issuance of any interests in the Debtors on or around the Effective Date shall be exempt from the registration requirements of Section 5 of the Securities Act and any and all federal, state and local laws requiring the registration or licensing of an issuer, underwriter, broker or dealer in such securities.

## V. PROJECTED DISTRIBUTION TO CREDITORS

Attached as **Exhibit B** is a liquidation analysis prepared by the Debtors which presents the Debtors' current estimates of the range of outcomes for the different Classes of creditors. The sale prices of remaining assets contained therein may ultimately be higher or lower though. It is important to note that distributions to unsecured creditors are substantially impacted by claims asserted against the Debtor. Actual distributions could be greater than projected in the event that Allowed Claims are less than estimated amounts and actual distributions could be less than projected in the event that Allowed Claims exceed estimated

amounts. Likewise, the analysis attributes minimal value to Causes of Action due to their uncertain nature (solely for purposes of conservative estimation and which shall not be deemed an admission or waiver by the Debtors with respect to the value or viability of any Causes of Action).

SUBSTANTIAL EFFORT HAS BEEN MADE TO ENSURE THE ACCURACY OF THE ESTIMATED INFORMATION SUMMARIZED IN THE TABLE. ANTICIPATED ALLOWED AMOUNTS OF ALLOWED CLAIMS AND ALLOWED INTERESTS AND THE PROJECTED DISTRIBUTIONS SUMMARIZED IN THE TABLE ARE SUBJECT, HOWEVER, TO THE UNCERTAINTIES OF LITIGATION THAT MAY OCCUR WITH RESPECT TO CERTAIN CLAIMS AND OTHER FACTORS THAT MAY OR MAY NOT BE RESOLVED IN THE DEBTOR'S FAVOR. THEREFORE, NO ASSURANCES CAN BE GIVEN THAT THE ESTIMATED AMOUNTS OF ALLOWED CLAIMS AND ALLOWED INTERESTS AND THE PROJECTED DISTRIBUTION WILL BE ACHIEVED.

## **VI. UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS**

### **A. Introduction**

The following discussion summarizes certain material United States federal income tax ("Federal Income Tax") consequences of the Plan to certain holders of Allowed Claims (the "Creditors") and the Debtor. This discussion does not address the Federal Income Tax consequences to: (i) Creditors whose claims are entitled to payment in full in cash, or are otherwise unimpaired under the Plan; and (ii) holders of equity interests or claims that are extinguished without a distribution. This discussion is based upon existing provisions of the Tax Code, Treasury regulations promulgated thereunder, judicial authorities and current administrative rulings and practices now in effect. No assurance can be given that future legislation, regulations, administrative pronouncements and/or judicial decisions will not change applicable law and affect the analysis described herein. Any such change could be applied retroactively in a manner that would adversely affect the creditors and the Debtors.

The Federal Income Tax consequences of certain aspects of the Plan are uncertain due to the lack of applicable legal authority and may be subject to administrative or judicial interpretations that differ from the discussion below. Counsel for the Debtors has not sought and will not seek any rulings from the Internal Revenue Service ("IRS") with respect to the Federal Income Tax consequences discussed below. Although the discussion below represents the best judgment as to the matters discussed herein, it does not in any way bind the IRS or the courts or in any way constitute an assurance that the Federal Income Tax consequences discussed herein will be accepted by the IRS or the courts.

The following discussion does not address state, local or foreign tax considerations that may be applicable to the Debtor or creditors and the discussion does not address the tax consequences of the Plan to certain types of creditors (including foreign persons, financial institutions, life insurance companies, tax-exempt organizations and taxpayers who may be subject to the alternative minimum tax) who may be subject to special rules not addressed herein.

THE FOLLOWING SUMMARY OF CERTAIN MATERIAL FEDERAL INCOME TAX CONSEQUENCES IS FOR GENERAL INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES PERTAINING TO A HOLDER OF AN ALLOWED CLAIM OR EQUITY INTEREST. THE DEBTORS ARE NOT MAKING ANY REPRESENTATIONS REGARDING THE PARTICULAR TAX CONSEQUENCES OF CONFIRMATION AND CONSUMMATION OF THE PLAN WITH RESPECT TO THE DEBTORS OR THE HOLDERS OF ANY CLAIMS OR EQUITY INTERESTS, NOR IS THE DEBTORS RENDERING ANY FORM OF LEGAL OPINION OR TAX ADVICE ON SUCH TAX CONSEQUENCES. ALL HOLDERS OF CLAIMS OR EQUITY INTERESTS ARE ADVISED TO CONSULT THEIR OWN TAX ADVISORS WITH RESPECT TO THE FEDERAL, STATE, LOCAL, FOREIGN AND OTHER TAX CONSEQUENCES OF THE IMPLEMENTATION OF THE PLAN IN GENERAL AND IN PARTICULAR, THE TIMING, CHARACTER AND AMOUNTS OF INCOME, GAIN, LOSS, DEDUCTION, CREDIT OR CREDIT RECAPTURE TO BE RECOGNIZED, AND ANY PROCEDURAL REQUIREMENTS WITH WHICH THE HOLDER MUST COMPLY.

**B. Certain Material United States Federal Income Tax Consequences to the Debtors**

The Debtors do not believe that there will be any material current cash United States federal income tax consequences to the Debtors as a result of the implementation of the Plan.

**C. Certain Material United States Federal Income Tax Consequences to Holders of Claims**

**1. General**

The tax treatment of holders of Claims and the character and amount of income, gain or loss recognized as a consequence of the Plan and the distributions provided for by the Plan will depend upon, among other things, (i) whether the Claim (or any portion thereof) constitutes a Claim for principal or interest; (ii) the type and classification of consideration received by the holder in exchange for the Claim; (iii) whether the holder is a resident of the United States for tax purposes (or falls into any special class of taxpayers, such as those that are excluded from this discussion as noted above); (iv) the manner in which a holder acquired a Claim; (v) the length of time the Claim has been held; (vi) whether the claim was acquired at a discount; (vii) whether the holder has taken a bad debt deduction with respect to the Claim (or any portion thereof) in the current or prior years; (viii) whether the holder has previously included accrued but unpaid interest with respect to the Claim; (ix) the method of tax accounting of the holder; (x) whether the claim is an installment obligation for United States federal income tax purposes; and ~~(xi)~~ (xi) whether the “market discount” rules are applicable to the holder. Therefore, holders of Claims should consult their tax advisors for information that may be relevant to their particular situation and circumstances and the particular tax consequences to them of the transactions contemplated by the Plan.

A holder of a Claim should generally recognize a gain (or loss) to the extent that the amount realized under the Plan in respect of the Claim exceeds (or is exceeded by) the holder's tax basis in the Claim. The holder's amount realized for this purpose will generally equal the amount of Cash the holder receives under the Plan in respect of its Claim. The timing and amount of income, gain or loss recognized as a consequence provided for by the Plan will depend on, among other things, whether the holder of a Claim receives multiple distributions pursuant to the Plan and whether the Debtors' obligation to make such payments is treated as a new debt for United States federal income tax purposes. Gain or loss may not currently be recognized if the property received does not have an ascertainable fair market value.

## **2. Market Discount**

The market discount provisions of the Internal Revenue Code of 1986 (the "Tax Code") may apply to holders of certain Claims. In general, a debt obligation other than a debt obligation with a fixed maturity of one year or less that is acquired by a holder in the secondary market (or, in certain circumstances, upon original issuance) is a "market discount bond" as to that holder if its stated redemption price at maturity (or, in the case of a debt obligation having original issue discount, its revised issue price) exceeds the tax basis of the debt obligation will not be a "market discount bond" if such excess is less than a statutory de minimis amount. Gain recognized by the holder of a Claim with respect to a "market discount bond" will generally be treated as ordinary interest income to the extent of the market discount accrued on such bond during the holder's grace period of ownership, unless the holder elected to include accrued market discount in taxable income currently. A holder of a market discount bond that is required under the market discount rules of the Tax Code to defer deduction of all or a portion of the interest on indebtedness incurred or maintained to acquire or carry the bond may be allowed to deduct such interest, in whole or in part, on disposition of such bond.

## **3. Information Reporting and Backup Withholding**

Certain payments, including the payments with respect to Claims pursuant to the Plan, are generally subject to information reporting by the payor (the Debtors) to the IRS. Moreover, such reportable payments are subject to backup withholding under certain circumstances. Under the Tax Code's backup withholding rules, a holder of a Claim may be subject to backup withholding with respect to distributions or payments made pursuant to the Plan, unless the holder: (1) comes within certain exempt categories (which generally include corporations) and, when required, demonstrates this fact, or (2) provides a correct United States taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the taxpayer is not subject to backup withholding because of a failure to report all dividend and interest income.

Holders of Claims that are non-United States Persons and that receive payments or distributions under the Plan will not be subject to backup withholding, provided that such holders furnish certification of their status as non-United States Persons (and furnish any other required certification), or are otherwise exempt from backup withholding. Generally, such certification is provided on IRS Form W-8BEN.



Backup withholding is not an additional tax. Amounts withheld under the backup withholding rules may be credited against a holder's United States federal income tax liability and a holder may obtain a refund of any excess amounts withheld under the backup withholding rules by filing an appropriate claim for refund with the IRS (generally, a United States federal income tax return).

PERSONS CONCERNED WITH THE TAX CONSEQUENCES OF THE PLAN SHOULD CONSULT THEIR OWN ACCOUNTANTS, ATTORNEYS AND/OR ADVISORS. THE DEBTORS MAKE THE ABOVE-NOTED DISCLOSURE OF POSSIBLE TAX CONSEQUENCES FOR THE SOLE PURPOSE OF ALERTING READERS TO TAX ISSUES THEY MAY WISH TO CONSIDER.

## VII. ALTERNATIVES TO THE PLAN

The Debtors submit that the Plan is the best means of providing maximum recoveries to creditors. Alternatives to the Plan include (i) liquidation of the Debtors' assets under chapter 7 of the Bankruptcy Code, and (ii) an alternative chapter 11 plan. The Debtors believe that the Plan provides for the best way to achieve the best possible recovery for creditors than any other alternative.

### A. Other Plans

If the Plan were not to be confirmed, the Debtors or any other party in interest could attempt to formulate an alternative chapter 11 plan that might provide for the liquidation of the Debtors' assets other than as provided in the Plan. However, changes to the plan process or Professionals would likely give rise to additional fees and expenses due to inefficiencies and a lack of knowledge about the Cases that ~~are not~~are not incorporated or reflected in the Wind-Down Budget. The Debtors submit that any alternative chapter 11 plan would not provide greater or more rapid return to impaired creditors than the results expected under the Plan. Any attempt to formulate an alternative chapter 11 plan would necessarily delay creditors' receipt of distributions and is highly unlikely to formulate a methodology to create greater value (return) to impaired creditors than the Plan. Accordingly, the Debtors' submit that the Plan will enable all creditors entitled to distributions to realize the greatest possible recovery on their respective Claims with the least possible delay.

### B. Liquidation Under Chapter 7 of the Bankruptcy Code

If the Plan or any other chapter 11 plan for the Debtors cannot be confirmed under section 1129(a) of the Bankruptcy Code, the Case may be converted to cases under chapter 7 of the Bankruptcy Code, in which event a trustee would be appointed (or subsequently elected) to liquidate any remaining assets of the Debtors for distribution to creditors pursuant to chapter 7 of the Bankruptcy Code. If a trustee were to be appointed and the remaining assets of the Debtors were to be liquidated under chapter 7 of the Bankruptcy Code, all creditors holding Allowed Administrative Expense Claims, Allowed Priority Tax Claims and Allowed Priority Non-Tax Claims would receive distributions of a lesser value on account of their Allowed Claims and likely would have to wait a longer period of time to receive such distributions than they would under the Plan. A chapter 7 trustee would substantially increase both costs and time necessary to fully administer the Estates. Likewise, in addition to fees of professionals retained by a chapter 7 trustee, the chapter 7 trustee would also charge a fee tied

to the value of all assets administered by the chapter 7 trustee in accordance with section 326(a) of the Bankruptcy Code, which are elevated to the highest priority of payment under the Bankruptcy Code, and which will not be charged by the post-confirmation Debtors or the Plan Administrator.

## **VIII. CONFIRMATION REQUIREMENTS**

### **A. The Confirmation Hearing**

The Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a confirmation hearing before a plan may be confirmed. The Confirmation Hearing to confirm the Plan has been scheduled for the date set forth in the attached notice of confirmation hearing before the Honorable Tamara O. Mitchell, United States Bankruptcy Judge, Northern District of Alabama (Southern Division), 1800 5<sup>th</sup> Avenue N, Birmingham, AL 35203, telephone ~~205-714-3830~~[205-714-4000](tel:205-714-4000). The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement of the adjourned date made at the Confirmation Hearing. Any objection to confirmation must be made in writing and specify in detail the name and address of the objector, all grounds for the objection and the amount of the claim or number and type of shares of equity security interests held by the objector. Any such objection must be filed with the Bankruptcy Court and served so that it is received by the Bankruptcy Court and certain other parties when and as set forth in the attached notice of confirmation hearing.

Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014. At the hearing on the confirmation of the Plan, the Bankruptcy Court will confirm the Plan only if the requirements of the Bankruptcy Code, particularly those set forth in section 1129 of the Bankruptcy Code, have been satisfied.

### **B. Acceptances Necessary to Confirm the Plan**

At the Confirmation Hearing, the Bankruptcy Court must determine, among other things, whether the Plan has been accepted by the requisite amount and number of Allowed Claims and Allowed Interests in each impaired class. Under the Bankruptcy Code, a class of creditors or equity security holders is impaired if its legal, equitable or contractual rights are altered by a proposed plan of reorganization. If a class is not impaired, each creditor or equity security holder in such unimpaired class is conclusively presumed to have accepted the plan pursuant to section 1126(f) of the Bankruptcy Code. Class 2 is not impaired under the Plan and is, therefore, not entitled to vote on the Plan. Classes 1 and 3 are entitled to vote for or against the Plan by completing and returning Ballots mailed to them with this Disclosure Statement in the manner set forth in the Ballots. Class 4 is impaired under the Plan, but is deemed to reject the Plan, and is not entitled to vote.

An impaired class of creditors and each holder of a claim in such class will be deemed to have accepted the Plan if the holders of at least two-thirds in amount and more than one-half of those in number of the Allowed Claims in such impaired class for which complete and timely Ballots have been received have voted for acceptance of the Plan. An impaired class of equity securities and each holder of an interest in such class will be deemed to have accepted a plan if the plan has been accepted by at least two-thirds in amount of the interests in such class who actually vote on the Plan.

Because the equity interests held by the members of Class 4 are entirely eliminated under the Plan, Class 4 is deemed to have rejected the Plan, and the Debtors cannot satisfy the requirements of section 1129(a)(8) of the Bankruptcy Code. Accordingly, the Debtors intend to seek confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code. Under section 1129(b), the Bankruptcy Court must determine, among other things, that the Plan does not discriminate unfairly and that it is fair and equitable with respect to each class of impaired Allowed Claims and Allowed Interests that have not voted to accept the Plan.

### **C. Best Interests of Creditors**

The Bankruptcy Code requires that each holder of an impaired claim or equity interest either (i) accept the Plan, or (ii) receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.

The first step in determining whether this test has been satisfied is to determine the dollar amount that would be generated from the liquidation of the Debtors' assets and properties in the context of a chapter 7 liquidation case. The gross amount of cash that would be available for satisfaction of claims and equity interests would be the sum consisting of the proceeds resulting from the disposition of the unencumbered assets and properties of the Debtors, augmented by the unencumbered cash held by the Debtor at the time of the commencement of the liquidation case.

The next step is to reduce that gross amount by the costs and expenses of liquidation and by such additional administrative and priority claims that might result from the use of chapter 7 for the purposes of liquidation. Any remaining net cash would be allocated to creditors and shareholders in strict priority in accordance with section 726 of the Bankruptcy Code. Finally, the present value of such allocations (taking into account the time necessary to accomplish the liquidation) are compared to the value of the property that is proposed to be distributed under the Plan on the Effective Date.

The Debtors' costs of liquidation under chapter 7 would include the fees payable to a trustee in bankruptcy, as well as those fees that might be payable to attorneys and other professionals that such a trustee might engage. Other liquidation costs include the expenses incurred during the Cases and subsequently allowed in the chapter 7 case, such as compensation for attorneys and other professionals for the Debtors. The foregoing types of claims, costs, expenses, fees and such other claims that may arise in a liquidation case would be paid in full from the liquidation proceeds before the balance of those proceeds would be made available to pay prepetition priority and unsecured Claims.

The Debtors submit that each impaired Class will receive under the Plan a recovery at least equal in value to the recovery such Class would receive pursuant to a liquidation of the Debtors under chapter 7 of the Bankruptcy Code, and almost certainly more due to the statutory fees to which a chapter 7 trustee is entitled for administering assets.

After consideration of the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to creditors in the Cases, including the chapter 7 trustee's investment of substantial time and resources to investigate the facts underlying the

multitude of Claims filed against the Estates, the Debtors have determined that confirmation of the Plan will provide each holder of an Allowed Claim with a recovery that is not less than such holder would receive pursuant to liquidation of the Debtors under chapter 7.

The Debtors also submit that the value of any distributions to each Class of Allowed Claims in a chapter 7 case would be less than the value of distributions under the Plan because such distributions in a chapter 7 case would not occur for a substantial period of time. In the event litigation was necessary to resolve claims asserted in a chapter 7 case, the delay could be prolonged and administrative expenses increased.

#### **D. Feasibility**

Section 1129(a)(11) of the Bankruptcy Code provides that a chapter 11 plan may be confirmed only if the Court finds that such plan is feasible. A feasible plan is one which will not lead to a need for further reorganization or liquidation of the Debtors. Since the Plan provides for the complete liquidation of the Debtors, the Bankruptcy Court will find that the Plan is feasible if it determines that the Debtors will be able to satisfy the conditions precedent to the Effective Date and otherwise have sufficient funds to meet its post-Confirmation Date obligations to pay for the costs of administering and fully consummating the Plan and closing the Case. The Debtors submit that the Plan satisfies the financial feasibility requirement imposed by the Bankruptcy Code.

#### **E. Confirmation of the Plan**

In the event the Bankruptcy Court determines that all of the requirements for the confirmation of the Plan are satisfied, the Bankruptcy Court will issue the Confirmation Order confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

### **IX. CERTAIN RISK FACTORS TO BE CONSIDERED**

HOLDERS OF IMPAIRED CLAIMS AGAINST OR INTERESTS IN THE DEBTORS ARE ENCOURAGED TO READ AND CONSIDER CAREFULLY THE FACTORS SET FORTH BELOW, AS WELL AS THE OTHER INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT (AND THE DOCUMENTS DELIVERED TOGETHER HERewith AND/OR INCORPORATED BY REFERENCE), PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN. THOSE RISK FACTORS SHOULD NOT, HOWEVER, BE REGARDED AS CONSTITUTING THE ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN AND ITS IMPLEMENTATION.

#### **A. Parties-In-Interest May Object to the Debtors' Classification of Claims**

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

However, the Debtors cannot give assurances that the Bankruptcy Court will reach the same conclusion.

#### **B. The Debtor May Not Be Able to Secure Confirmation of the Plan**

The Debtors cannot assure you that the requisite acceptances to confirm the Plan will be received. Even if the requisite acceptances are received, the Debtors cannot assure you that the Bankruptcy Court will confirm the Plan. A non-accepting creditor or equity security holder of the Debtors might challenge the Balloting procedures and results as not being in compliance with the Bankruptcy Code or Bankruptcy Rules. Even if the Bankruptcy Court determined that the Disclosure Statement and the Balloting procedures and results were appropriate, the Bankruptcy Court could still decline to confirm the Plan if it found that any of the statutory requirements for confirmation had not been met. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation and requires, among other things, a finding by the Bankruptcy Court that the confirmation of the Plan is not likely to be followed by a liquidation or a need for further financial reorganization and that the value of distributions to non-accepting holders of claims and interests within a particular class under the Plan will not be less than the value of distributions such holders would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. While the Debtors cannot give assurances that the Bankruptcy Court will conclude that these requirements have been met, the Debtors submit that the Plan will not be followed by a need for further financial reorganization and that non-accepting holders within each class under the Plan will receive distributions at least as great as would be received following a liquidation under chapter 7 of the Bankruptcy Code when taking into consideration all administrative claims and the costs and uncertainty associated with any such chapter 7 case.

The confirmation and consummation of the Plan are also subject to certain conditions.

#### **C. The Debtors May Object to the Amount or Classification of Your Claim**

The Debtors reserve the right to object to the amount or classification of any claim or interest. The estimates set forth in this Disclosure Statement cannot be relied on by any creditor whose Claim or Interest is subject to an objection. Any such Claim or Interest holder may not receive its specified share of the estimated distributions described in this Disclosure Statement.

#### **X. WHERE YOU CAN OBTAIN MORE INFORMATION**

Pursuant to the requirements of the Office of the Bankruptcy Administrator, the Debtors are required to and will file quarterly reports for the postpetition period with the Bankruptcy Court. These reports may be obtained at prescribed per page copy rates by writing to the Clerk of the United States Bankruptcy Court for the Northern District of Alabama (Southern Division), 1800 5<sup>th</sup> Avenue N, Birmingham, AL 35203, telephone ~~205-714-3830~~[205-714-4000](tel:205-714-4000).

#### **XI. CONCLUSION AND RECOMMENDATION**

The Debtors believe that confirmation and implementation of the Plan is preferable to any of the alternatives described above because it will provide the greatest recoveries to holders of Claims. The Debtors urge holders of Claims and Interests entitled to vote on the Plan to vote to accept the Plan.

[65533/0002-47100967v3](#)

Dated: ~~February 16~~[March 19](#), 2024

PREMIER KINGS, INC.

By: /s/ Lawrence Hirsch

Name: Lawrence Hirsch

Title: Chair of Debtors' Independent  
Board of Directors

[65533/0002-47100967v3](#)

**Exhibit A**

~~Plan of Liquidation Under Chapter 11 of the Bankruptcy Code Proposed by the Debtors, Dated  
February 16, 2024~~

[65533/0002-47100967v3](#)

**Exhibit B**

~~Liquidation Analysis~~