

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): June 11, 2021

BBX CAPITAL, INC.

(Exact name of registrant as specified in its charter)

Florida
(State or other jurisdiction
of incorporation)

000-56177
(Commission
File Number)

82-4669146
(IRS Employer
Identification No.)

401 East Las Olas Boulevard, Suite 800, Fort Lauderdale, Florida

33301

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code: 954-940-4900

(Former name or former address, if changed since last report.)

Securities registered pursuant to Section 12(b) of the Act: None

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter). Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01 Entry into a Material Definitive Agreement.

The information set forth under Item 1.03 below relating to the Exit Facility (as defined below) is incorporated into this Item 1.01 by reference.

Item 1.03 Bankruptcy or Receivership.

BBX Capital, Inc. (“BBX Capital” or the “Company”), through its wholly-owned subsidiary, BBX Sweet Holdings, LLC, owns approximately 93% of the equity interests in It’Sugar, LLC (collectively with its subsidiaries, “IT’SUGAR”), a specialty candy retailer whose products include bulk candy, candy in giant packaging, and licensed and novelty items. Prior to September 22, 2020, the Company consolidated the financial statements of IT’SUGAR as a result of its 93% ownership of IT’SUGAR. However, on September 22, 2020, IT’SUGAR filed voluntary petitions to reorganize under Chapter 11 of Title 11 of the U.S. Code (the “Bankruptcy Code”) in the U.S. Bankruptcy Court for the Southern District of Florida (the “Bankruptcy Court”) (the cases commenced by such filings, the “Chapter 11 Cases”), and the Company deconsolidated IT’SUGAR as a result of the filings, the uncertainties surrounding the nature, timing, and specifics of the bankruptcy proceedings, and the Company’s resulting loss of control and significant influence over IT’SUGAR.

In April 2021, IT’SUGAR filed its proposed plan of reorganization with the Bankruptcy Court. Following approval of the proposed plan by IT’SUGAR’s unsecured creditors, the Bankruptcy Court entered an order (the “Confirmation Order”) on June 16, 2021 confirming the plan of reorganization filed by IT’SUGAR, as modified by the Confirmation Order (the “Plan”). The Plan became effective on June 17, 2021 (the “Effective Date”).

The following summarizes certain material terms of the Plan. This summary highlights only certain substantive provisions of the Plan and is not intended to be a complete description of the Plan. This summary is qualified in its entirety by reference to the full text of the Confirmation Order and the Plan, which are attached hereto as Exhibits 10.4 and 10.5, respectively, and are incorporated by reference herein. Capitalized terms used but not defined in this Current Report on Form 8 K shall have the meanings ascribed to such terms in the Plan.

Pursuant to the terms of the Plan, claims against IT’SUGAR were treated as follows:

- the Company’s subsidiary, which held an Allowed Prepetition Line of Credit Secured Claim, was repaid in full through the Exit Facility (as defined and more particularly described below);
- the Allowed Prepetition Equipment Loan Secured Claim held by the Company’s subsidiary was assumed, ratified, and reinstated on the Effective Date;
- each holder of an Allowed Construction / Mechanic’s Lien Claim received payment in full in cash on the Effective Date or, in some cases, will receive such payment as soon as practicable after the Effective Date;
- each holder of an Allowed General Unsecured Claim received, in full satisfaction of such claims, a one-time lump sum distribution equal to 15% of its Allowed General Unsecured Claim on the Effective Date or, in some cases, will receive such payment as soon as practicable after the Effective Date; and
- holders of Subordinated Claims will not receive any distributions in respect thereof.

Payments of claims made pursuant to the Plan, along with the payment of administrative expenses and professional fees, are being funded by IT’SUGAR’s cash on-hand and net proceeds from the Exit Facility.

Ownership and Consolidation of IT’SUGAR

Pursuant to the terms of the Plan, the Company’s equity interests in IT’SUGAR were reverted on the Effective Date, and all organizational documents of IT’SUGAR were assumed, ratified, and reinstated.

As a result of the confirmation and effectiveness of the Plan and the reversion of its equity interests in IT’SUGAR, the Company was deemed to have reacquired a controlling financial interest in IT’SUGAR and will consolidate the results of IT’SUGAR into its consolidated financial statements from and after the date that it acquired control of IT’SUGAR. The Company will account for the consolidation of IT’SUGAR under the acquisition method of accounting, which requires that the assets acquired and liabilities assumed associated with an acquiree be recognized at their fair values at the acquisition date. The Company will be required to remeasure the carrying value of its equity interests in IT’SUGAR at fair value as of the acquisition date, with the remeasurement adjustment recognized in the Company’s statement of operations, and recognize goodwill (or a bargain purchase gain, if applicable) based on the difference between (i) the fair values of

IT'SUGAR's identifiable assets and liabilities at the acquisition date and (ii) the fair values of the Company's equity interests in IT'SUGAR and the noncontrolling interests in IT'SUGAR.

Exit Facility

Prior to the Effective Date, IT'SUGAR owed a wholly-owned subsidiary of the Company approximately \$10.1 million pursuant to various debt obligations, including \$6.0 million related to the above-mentioned Prepetition Line of Credit, \$0.1 million related to the above-mentioned Prepetition Equipment Loan, and \$4.0 million related to a "debtor in possession" credit facility issued to IT'SUGAR in October 2020 (the "DIP Credit Facility").

On the Effective Date, the Company's wholly-owned subsidiary entered into a secured exit credit facility with IT'SUGAR (the "Exit Facility") which provides for advances to IT'SUGAR of up to \$13.0 million. The Company's wholly-owned subsidiary advanced \$13.0 million to IT'SUGAR under the Exit Facility, less the repayment of the \$6.0 million due from IT'SUGAR under the Prepetition Line of Credit and the \$4.0 million due from IT'SUGAR under the DIP Credit Facility (both of which were superseded and replaced by the Exit Facility). Amounts outstanding under the Exit Facility bear interest at 5% per annum. In addition to monthly payments of interest due under the facility, the Exit Facility requires monthly payments of principal of \$325,000 commencing on January 1, 2022. The Exit Facility matures on April 1, 2025.

The foregoing description of the Exit Facility is a summary only, does not purport to be complete, and is qualified in its entirety by reference to the full text of the documents related to the Exit Facility, copies of which are attached hereto as Exhibits 10.1, 10.2 and 10.3 and are incorporated by reference herein.

As a result of the Company re consolidating IT'SUGAR in connection with the confirmation of the Plan, the amounts due from IT'SUGAR pursuant to the Exit Facility and the remaining amount of approximately \$0.1 million due under the Prepetition Equipment Loan (which remains outstanding) will be eliminated in the Company's consolidated financial statements.

Releases and Exculpations

The Plan incorporates an integrated compromise and settlement of claims designed to achieve a beneficial and efficient resolution of the Chapter 11 Cases. Unless otherwise specified, the settlement, distributions, and other benefits provided under the Plan, including the releases and exculpation provisions included therein, are in full satisfaction of all claims and causes of action that could be asserted.

The Plan provides releases and exculpations for the benefit of IT'SUGAR, certain of its claimholders, other parties in interest, and various parties related thereto, each in their capacity as such, from various claims and causes of action, as further set forth in Articles IX and XI of the Plan.

Certain Information Regarding Assets and Liabilities of IT'SUGAR

Information as to the assets and liabilities of IT'SUGAR as of March 31, 2021 is incorporated herein by reference to the schedules attached hereto as Exhibit 99.1.

IT'SUGAR Business Update

During the pendency of the Chapter 11 Cases, IT'SUGAR permanently closed 17 retail locations and opened 10 "temporary" retail locations in select U.S. locations. IT'SUGAR is currently operating approximately 96 retail locations across the United States, including the 10 "temporary" retail locations. IT'SUGAR's "temporary" retail locations required initial capital investments that were significantly lower than the investments required for IT'SUGAR's traditional retail locations, as IT'SUGAR repurposed retail spaces that were recently vacated by the prior tenants and, in many cases, utilized existing fixtures from certain of its closed locations. These temporary locations are being leased pursuant to lease agreements which have terms ranging from 13-21 months and provide for the payment of rent based on a percentage of sales generated at the applicable location. IT'SUGAR is evaluating whether it will seek to extend the term of the lease agreements for certain of these locations and is also currently evaluating additional locations in which to potentially open similar temporary retail locations under the same general terms as the existing temporary retail locations, including up to 4-6 additional locations that IT'SUGAR is projecting to open during the remainder of 2021. In addition, IT'SUGAR expects to open its first Oreo Café in the third floor of its candy department store at American Dream in New Jersey in July 2021. Further, it is currently

negotiating a lease agreement for a potential “large format” retail location that is similar in size to its candy department store at American Dream and is currently projecting to open the location in late 2021.

During the course of the Chapter 11 Cases, IT’SUGAR executed lease amendments in relation to 76 of its 96 retail locations. Although the specific terms of the executed lease amendments vary, the amended leases generally provide for the forgiveness of IT’SUGAR’s pre-petition rent obligations, and many (but not all) of the amended leases also provide for the payment of rent based on a percentage of sales volumes (in lieu of previously scheduled fixed lease payments), generally for a period of one to two years from the commencement of the Chapter 11 Cases. Following the specified periods of time pursuant to which IT’SUGAR is required to pay rent based on a percentage of sales volumes as opposed to fixed rental payments, the amended leases generally require IT’SUGAR to resume the payment of previously scheduled fixed lease payments going forward. For certain retail locations, including four locations that historically generated operating losses largely based on the applicable fixed rental obligations prior to the amendments, the lease amendments provide for the payment of rent based on a percentage of sales volumes through the remainder of the lease term; however, in such cases, the landlords have the right under these agreements to terminate the lease agreement at any time following notice periods ranging from 30 to 60 days.

Although there is no assurance that it will be able to maintain or increase its sales levels in future periods, IT’SUGAR has experienced an improvement in its sales since the filing of the Chapter 11 Cases. The following summarizes the increase/(decrease) in IT’SUGAR’s comparable store sales and total revenues during the periods since the filing of the Chapter 11 Cases as compared to the comparable periods in 2019:

	Fourth Quarter 2020 Compared to Fourth Quarter 2019	First Quarter 2021 Compared to First Quarter 2019 ⁽²⁾	April - May 2021 Compared to April - May 2019 ⁽²⁾
Comparable Store Sales ⁽¹⁾	(32%)	(10%)	7%
Total Revenues	(23%)	11%	23%

- (1) Comparable store sales represent IT’SUGAR’s sales at its retail locations excluding the impact of e-commerce sales and changes in its store portfolio.
- (2) Because the results for the comparable 2020 periods were impacted by the closure of IT’SUGAR’s locations in March 2020 due to the COVID-19 pandemic, the Company does not believe that IT’SUGAR’s results for the comparable 2020 periods would provide a meaningful comparison in relation to its operating results for the 2021 periods.

The improvement in total revenues as compared to the improvement in comparable store sales reflects, among other things, the opening of the candy department store at American Dream in New Jersey in December 2019, as well as an increase in e-commerce sales. However, IT’SUGAR does not currently expect a significant portion of these e-commerce sales to continue beyond the third quarter of 2021.

As previously disclosed, as a result of ongoing disruptions in global supply chains, IT’SUGAR has experienced an increase in inventory and freight costs, as well as delays in its supply chain. To date, IT’SUGAR has been able to mitigate the impact of increased costs through increases in the prices of its products. However, supply chain disruptions have impacted its ability to maintain historical inventory levels at its retail locations, and to the extent that costs continue to increase, there is no assurance that IT’SUGAR will be able to continue to increase the prices of its products without significantly impacting consumer demand and its sales volume.

In June 2021, IT’SUGAR appointed Michael Koempel as its Chief Operating Officer. In his role, Mr. Koempel will oversee various elements of IT’SUGAR’s operations, including store development, merchandise planning and allocation, IT, and finance. Prior to joining IT’SUGAR, Mr. Koempel served as Chief Operating Officer of Victoria’s Secret Lingerie from 2017 to 2020 and Chief Financial Officer of Mast, the supply chain division of L Brands, from 2007 to 2017.

Cautionary Note Regarding Forward-Looking Statements

This Current Report on Form 8-K, including the foregoing “IT’SUGAR Business Update,” contains forward-looking statements. All opinions, forecasts, projections, future plans, or other statements, other than statements of historical fact, are forward-looking statements. The forward-looking statements in this Current Report on Form 8-K are also forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements are based on current expectations and involve risks,

uncertainties, and other factors, many of which are beyond the Company's and IT'SUGAR's control, that may cause actual results or performance to differ from those set forth or implied in the forward-looking statements. These risks and uncertainties include, without limitation, the impact of the reconsolidation of IT'SUGAR's results into the Company's financial statements; the potential adverse impact of the Chapter 11 proceedings and the success of the restructuring; the continuing adverse impact of the COVID-19 pandemic on IT'SUGAR's operations, results, and financial condition, including that the recessionary economic environment on demand, sales levels, and consumer behavior, as well as increased inventory, freight, and labor costs and general supply chain disruptions, have had and may continue to have a material adverse effect in future periods; the risk that IT'SUGAR may not be able to continue to increase prices without significantly impacting consumer demand and sales volume; risks relating to IT'SUGAR's business plans, including that IT'SUGAR may not be able to fund or otherwise open new retail locations, including new "temporary" locations, the Oreo Café, or a new "large format" retail location, as or when expected, or at all; the risk that IT'SUGAR may not be able to extend or enter into new lease agreements for any existing "temporary" locations which it desires to extend, whether on favorable terms or at all; risks related to the lease amendments entered into by IT'SUGAR, including that while many of the lease amendments provide for the payment of rent based on a percentage of sales volumes for a specified period of time as opposed to fixed rental payments, the terms of many of such amendments require IT'SUGAR to resume the payment of previously scheduled fixed lease payments going forward and, as a result, IT'SUGAR's ongoing occupancy costs are expected to increase as fixed rental payments under these leases resume and IT'SUGAR's overall exposure to risks related to fixed rental obligations will increase and revert to pre-bankruptcy levels in relation to such locations; the risk that landlords may exercise their right to terminate leases; past performance may not be indicative of future results, and sales and revenue may not be maintained or continue to improve; and general economic conditions and other factors. In addition, reference is also made to the risks and uncertainties relating to the business, operations, affairs, results, and financial condition of the Company and its subsidiaries, and the ownership of the Company's stock, detailed in the Company's other filings with the SEC, including the Company's Annual Report on Form 10-K for the year ended December 31, 2020 (including the "Risk Factors" section thereof) and Quarterly Report on Form 10-Q for the quarter ended March 31, 2021, which may be viewed on the SEC's website at www.sec.gov. The Company cautions that the foregoing factors are not exclusive. Readers should not place undue reliance on any forward-looking statement, which speaks only as of the date made. The Company does not undertake, and it specifically disclaims any obligation, to update or supplement any forward-looking statements, except as may be required by law.

Item 2.01 Completion of Acquisition or Disposition of Assets.

The information set forth under the caption "Ownership and Consolidation of IT'SUGAR" in Item 1.03 above is incorporated into this Item 2.01 by reference.

Item 9.01 Financial Statements and Exhibits

(b) Pro forma financial information. The unaudited pro forma condensed consolidated statement of financial condition of BBX Capital, Inc. and its subsidiaries as of March 31, 2021 and unaudited pro forma condensed consolidated statements of operations of BBX Capital, Inc. and its subsidiaries for the year ended December 31, 2020 and the three months ended March 31, 2021 and the related notes are filed as Exhibit 99.1 to this Form 8-K.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
<u>10.1</u>	Exit Credit Facility Term Loan Agreement Between IT'SUGAR and SHL Holdings, Inc.
<u>10.2</u>	Exit Credit Facility Term Note Between IT'SUGAR and SHL Holdings, Inc.
<u>10.3</u>	Exit Financing Security Agreement Between IT'SUGAR and SHL Holdings, Inc.
<u>10.4</u>	Bankruptcy Court Order Confirming the Plan of Reorganization for IT'SUGAR, LLC.
<u>10.5</u>	IT'SUGAR, LLC Plan of Reorganization.
<u>99.1</u>	Unaudited pro forma condensed consolidated statement of financial condition of BBX Capital, Inc. and its subsidiaries as of March 31, 2021 and unaudited pro forma condensed consolidated statements of operations for the year ended December 31, 2020 and the three months ended March 31, 2021 and the related notes.
<u>99.2</u>	Confirmation of IT'SUGAR's Plan of Reorganization Press Release
<u>99.3</u>	IT'SUGAR Emergence from Bankruptcy Press Release.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: June 17, 2021

BBX Capital, Inc.

By: /s/ Brett Sheppard
Brett Sheppard
Chief Financial Officer

TERM LOAN AGREEMENT

THIS TERM LOAN AGREEMENT ("Agreement") is made and entered into effective as of June 16, 2021, by and among IT'SUGAR LLC, a Delaware limited liability company ("IT'Sugar"), IT'SUGAR ATLANTIC CITY LLC, a Delaware limited liability company ("Atlantic City"), IT'SUGAR FLGC LLC, a Florida limited liability company ("FLGC"), IT'SUGAR FL I LLC, a Delaware limited liability company ("FLI"), and together with IT'Sugar, Atlantic City and FLGC, collectively, the "Borrowers", and, each, a "Borrower") and SHL HOLDINGS, INC., a Florida corporation ("Lender").

RECITALS

WHEREAS, IT'Sugar was indebted to Bank of America N.A. ("Bank") as evidenced by that certain Credit Agreement dated August 24, 2018, and First Amendment thereto dated February 28, 2020, by and between IT'Sugar and Bank (as so amended, the "Prepetition Credit Agreement"), evidencing a revolving line of credit in the principal amount of \$6,000,000;

WHEREAS, on April 7, 2020, the Bank's rights under the Prepetition Credit Agreement were assigned without recourse to the SHL pursuant to a Loan Sale and Assignment Agreement and by reason thereof Lender is the holder of such Prepetition Credit Agreement and related loan documents and has all the rights and obligations of the Bank thereunder;

WHEREAS, on September 22, 2020, each of the Borrowers filed petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court, Southern District of Florida (the "Bankruptcy Court") styled as follows: (1) *In re IT'Sugar FI I, LLC*, Case No. 20-20259-RAM (2) IT'Sugar, LLC, Case No. 20-20261-RAM, (3) IT'Sugar Atlantic City, LLC, Case No. 20-20263-RAM and (4) IT'Sugar FLGC, LLC, Case No. 20-20264-RAM (collectively, the "Bankruptcy Cases");

WHEREAS, in connection with the Bankruptcy Cases, each of the Borrowers requested that Lender extend financing to the Borrowers to facilitate its respective reorganization;

WHEREAS, on or about October 13, 2020, Borrowers and Lender entered into that certain Loan and Security Agreement (the "Existing DIP Facility Agreement", and, together with the Prepetition Credit Agreement, collectively, the "Existing Loan Agreements"), pursuant to which Lender provided to Borrowers a loan in the aggregate principal amount of \$4,000,000;

WHEREAS, on April 20, 2021, Borrowers filed that certain *Plan of Reorganization for It'Sugar FL I LLC, It'Sugar LLC, It'Sugar Atlantic City LLC and It'Sugar FLGC LLC* in the Bankruptcy Cases (the "Plan of Reorganization") proposing to reorganize their financial affairs and exit bankruptcy;

WHEREAS, as agreed by the Lender and pursuant to the Plan of Reorganization, and as approved by the order entered by the Bankruptcy Court confirming the Plan of Reorganization (the "Confirmation Order"), (a) (i) the loans under the Existing Loan Agreements will be refinanced by the Loan made pursuant to this Agreement, (ii) the Prepetition Credit Agreement will be superseded and replaced in its entirety by this Agreement, and (iii) the Existing DIP Facility Agreement, except for those provisions contained therein which relate to the grant of a security

interest to Lender and all of Lender's rights and remedies with respect thereto, will be superseded and replaced in its entirety by this Agreement, and (b) Lender will increase the amount of the Loan to Borrowers hereunder by an additional \$3,000,000, for an aggregate principal amount of \$13,000,000 to be outstanding post-confirmation of the Plan of Reorganization;

NOW, THEREFORE, in consideration of the mutual benefits hereunder accruing to each of the parties, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the mutual performance of this Agreement, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

1.01 Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference as if set forth in their entirety.

1.02 Additional Definitions. In addition to terms defined elsewhere in this Agreement, the following terms when used in this Agreement shall have the meanings indicated below:

(a) "Business Day" means any day other than a Saturday or Sunday or day on which national banks in Florida are authorized or required to be closed.

(b) "Collateral" has the meaning set forth in the Security Agreement.

(c) "DACA" means that certain Deposit Account Control Agreement, dated as of the date hereof, by and among Borrowers, Lender and Bank of America, N.A. (the "Depository Bank") substantially in the form of Exhibit C attached hereto.

(d) "Indebtedness" means, without duplication, indebtedness for money borrowed, whether or not evidenced by notes, bonds, debentures or similar obligations and any guarantees with respect thereto.

(e) "Lien" means any mortgage, lien, encumbrance, charge or other security interest of any kind, whether arising by contract, as a matter of law, judicial process or otherwise.

(f) "Loan Documents" means this Agreement, the Term Note, the Security Agreement, the DACA and any and all other agreements, instruments and documents heretofore, now or hereafter executed or delivered by or on behalf of the Borrowers with respect to this Agreement or the transactions contemplated by this Agreement, as each may be amended, modified or restated from time to time.

(g) "Obligations" means the obligations and indebtedness of the Borrowers to the Lender under this Agreement or under any other Loan Document.

(h) "Person" means any individual, partnership, firm, corporation, association, joint venture, limited liability company, trust or other entity, or any government or political subdivision or agency, department or instrumentality thereof.

(i) “Security Agreement” means that certain Security Agreement, dated as of the date hereof, made by the Borrowers in favor of the Lender, substantially in the form of Exhibit B attached hereto.

1.03 Other Definitional Terms. The words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and article, section, schedule, exhibit and like references are references to this Agreement unless otherwise specified. The meanings of defined terms are equally applicable to the singular and plural forms of such terms.

ARTICLE II

LOAN

2.01 Amount. On the terms and subject to the conditions of this Agreement, Lender agrees to make a term loan to Borrowers in the sum of Thirteen Million NO/100 Dollars (\$13,000,000.00) (the “Loan”). Amounts borrowed under the Loan and repaid or prepaid may not be reborrowed. Lender will make the Loan available to Borrower in one advance upon satisfaction of all conditions set forth herein. The proceeds of the Loan shall be used by the Borrower (a) to repay the existing loans made by Lender pursuant to the Existing Loan Agreements, and (b) in accordance with the Plan of Reorganization.

2.02 Term Note. The obligations of the Borrowers to repay the Loan shall be evidenced by a term loan promissory note substantially in the form of Exhibit A attached hereto (the “Term Note”). The Term Note shall (a) be dated the Effective Date (as hereinafter defined), (b) be stated to mature on April 1, 2025 (the “Term Loan Maturity Date”) and (c) be payable as to principal and interest as set forth in Sections 2.03 and 2.04.

2.03 Interest. The principal sum outstanding from time to time under the Term Note shall bear interest from the Effective Date at the fixed rate equal to five percent (5%) per annum (“Interest Rate”). All computations of interest shall be made by the Lender on the basis of a year of three hundred sixty (360) days for the actual number of days (including the first day but excluding the last day) occurring in the period for which such interest is payable.

2.04 Repayment of the Loan. The entire unpaid principal amount of the Loan shall be due and payable on the Term Loan Maturity Date. The Loan shall be repaid as follows: (a) monthly payments of interest at the Interest Rate shall be due and payable on the first day of each month, commencing on August 1, 2021 and continuing to and including December 1, 2021, and (b) monthly payments of principal in the amount of Three Hundred Twenty-Five Thousand and No/100 (\$325,000) plus accrued interest shall be due and payable on the first day of each month, commencing on January 1, 2022 and continuing to and including the Term Loan Maturity Date. On the Term Loan Maturity Date, the entire outstanding principal balance plus accrued interest plus all other amounts due under this Agreement and the Term Note shall be due and payable. Unless otherwise provided for herein, if any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in United States dollars.

2.05 Default Interest Rate; Late Fee. During the occurrence and continuance of an Event of Default, the Loan and all other outstanding Obligations hereunder shall bear interest, at an interest rate per annum equal at all times to two percent (2%) above the Interest Rate in effect (but in no event in excess of the maximum interest rate permitted by applicable law) (the “Default Interest Rate”). If any payment of interest or principal due under this Agreement is not made within five (5) days after such payment is due in accordance with the terms hereof (other than the payment of principal and/or interest due on the Term Loan Maturity Date or the earlier acceleration of the Loan), then, in addition to the payment of the amount so due, the Borrowers shall pay to the Lender a “late charge” of five cents (\$0.05) for each whole dollar so overdue to defray part of the cost of collection and handling such late payment. The Borrowers agree that the damages to be sustained by the Lender for the detriment caused by any late payment are extremely difficult and impractical to ascertain, and that the amount of five cents (\$0.05) for each one dollar due is a reasonable estimate of such damages, does not constitute interest, and is not a penalty.

2.06 Voluntary Prepayments. The Borrowers may at any time, upon prior written notice to the Lender, repay the Loan and accrued interest thereon in whole or in part without penalty or premium.

ARTICLE III CONDITIONS OF LENDING

3.01 Conditions to Effectiveness. This Agreement and the obligations of the Lender to make the Loan hereunder shall not become effective until the date on which each of the following conditions is satisfied or waived by Lender (the “Effective Date”):

(a) The Lender shall have received from Borrowers the following: (i) a counterpart of this Agreement, duly executed by each of the Borrowers; (ii) the Term Note, duly executed by each of the Borrowers; (iii) a counterpart of the Security Agreement, duly executed by each of the Borrowers; (iv) a counterpart of the DACA, duly executed by each of the Borrowers and the Depository Bank; and (v) duly executed copies of each of the other Loan Documents and such other documents, certificates, instruments and agreements as the Lender shall reasonably request in connection with the transactions contemplated by this Agreement and the other Loan Documents;

(b) The Lender shall have received a certificate of an authorized officer of each of the Borrowers attaching (i) a copy of such Borrower’s limited liability company agreement; (ii) resolutions of each Borrower authorizing the execution and delivery of each Loan Document, the borrowings hereunder and the performance by such Borrower of its obligations set forth under the Loan Documents; (iii) a certificate of good standing or active statute as to each Borrower issued by the Delaware Department of State or Florida Department of State, as applicable; (iv) a certified copy of the Certificate of Formation or Articles of Organization of each Borrower issued by the Delaware Department of State or Florida Department of State, as applicable; and (v) certificate of incumbency of the authorized officers of each Borrower;

(c) The Confirmation Order shall be entered and in full force and effect and shall not have been appealed, stayed, reversed, vacated or otherwise modified (or subject to a motion seeking any of the foregoing) a copy of the Confirmation Order approved and signed by

the Bankruptcy Court authorizing the Plan of Reorganization, this Loan and the transactions contemplated by this Agreement;

(d) All documents executed in connection with the implementation of the Plan of Reorganization shall be in accordance with the Plan of Reorganization and in form and substance reasonably satisfactory to Lender, the Effective Date of the Plan of Reorganization shall have occurred, and the Plan of Reorganization shall have been substantially consummated;

(e) Except as otherwise provided in the Plan of Reorganization, all Indebtedness of the Borrowers shall have been discharged or subordinated to the Indebtedness to the Lender under this Agreement on terms and conditions satisfactory to Lender;

(f) The Lender shall have received certificates of insurance evidencing compliance with the insurance requirements provided in Section 5.06 and certificates of endorsement naming the Lender as an additional beneficiary under such insurance policies.

(g) The Lender shall have received all Uniform Commercial Code financing statements required by the Loan Documents or under law or reasonably requested by the Lender to be filed, registered or recorded in order to create in favor of the Lender a perfected Lien on the Collateral described therein, prior and superior in right to any other Person, and such financing statements shall be in proper form for filing, registration or recordation.

ARTICLE IV **REPRESENTATIONS AND WARRANTIES**

Each Borrower hereby represents and warrants to Lender (which representations and warranties will survive the delivery of the Term Note and shall continue so long as any Obligations remain outstanding under the Term Note, under this Agreement or under any other Loan Document) that:

4.01 Organization. Each of IT'Sugar, Atlantic City and FLI is a limited liability company, duly organized and validly existing and in good standing under the laws of the State of Delaware, and has the limited liability company power to own its property and assets and to transact the business in which it is engaged. FLGC is a limited liability company, duly organized and validly existing under the laws of the State of Florida and its status is active, and it has the limited liability company power to own its property and assets and to transact the business in which it is engaged. Each of the Borrowers is duly qualified to do business as a foreign limited liability partnership in each jurisdiction in which the nature of the business conducted by such Borrower requires such qualification.

4.02 Authority; Enforceability. Each Borrower has the full limited liability company power and authority to execute and deliver this Agreement and the other Loan Documents to which such Borrower is a party and to consummate the transactions contemplated hereby and thereby. This Agreement and the other Loan Documents have been duly executed and delivered by each Borrower and constitute the legal, valid and binding agreement of such Borrower enforceable against such Borrower in accordance with the terms thereof.

4.03 No Violation or Conflict. The execution, delivery and performance by Borrowers of this Agreement and the Loan Documents and the consummation by Borrowers of the transactions contemplated hereby and thereby, do not and will not: (a) violate or conflict with any provision of law, rule or regulation, or any writ, order, judgment or decree of any court or governmental or regulatory agency or authority; (b) violate or conflict with the organizational documents of such Borrower; or (c) with or without the passage of time or the giving of notice or both, result in the breach of, or constitute a default, cause the acceleration of performance or require any consent or notice under, or result in the creation of any Lien upon any property or asset of Borrowers (other than in favor of Lender) pursuant to any instrument or agreement to which any Borrower is a party or by which any Borrower or its properties or assets may be bound or affected.

4.04 Litigation. Other than the Bankruptcy Cases, there are no actions, suits or proceedings pending or, to the knowledge of Borrowers, threatened, or any basis therefor, against or affecting Borrowers or the Collateral at law or in equity, in any court or before any governmental department or agency.

4.05 Compliance with Laws. Each Borrower is in compliance with all applicable laws, rules, regulations, and other legal requirements with respect to its business and the use, maintenance, and operation of the real and personal property owned or leased by such Borrower in the conduct of its business. Neither the execution and delivery of this Agreement and the other Loan Documents, nor the consummation of the transactions herein or therein contemplated, nor compliance with the terms and provisions hereof or thereof, will violate any provision of law or of any applicable regulation, rule, order, writ, injunction or decree of any court or governmental department, commission, board, bureau, agency or instrumentality.

4.06 Security Interest. The Security Agreement creates, as security for the Loan and the Borrowers' other obligations hereunder and under the other Loan Documents, a valid and enforceable Lien on, and, upon filing the financing statements required thereby, such Lien will constitute a perfected security interest in, all Collateral in favor of the Lender, prior to the rights and Liens of all third Persons.

4.07 Taxes. Each Borrower has duly filed or caused to be filed all federal, state, local and other tax returns required by applicable law to be filed, and has paid, or made adequate provision for the payment of, all federal, state, local and other taxes, assessments and governmental charges or levies upon it and its property, income, profits and assets which are due and payable.

ARTICLE V AFFIRMATIVE COVENANTS

Each Borrower covenants and agrees that during the term of this Agreement and until all of the Obligations shall have been paid in full and all other obligations incurred hereunder and thereunder are fully performed, Borrower will duly perform and observe each and all of the covenants and agreements hereinafter set forth:

5.01 Books and Records. Maintain proper books and records, and account for financial transactions in accordance with generally accepted accounting practices, consistently applied, and

permit Lender's officers and/or its authorized representatives or accountants to visit and inspect each Borrower's offices and properties, examine its books and records, and discuss its accounts and business with its respective officers, employees, accountants and auditors, all at reasonable times upon reasonable notice.

5.02 Financial Reporting. Furnish to the Lender:

(a) As soon as available, but in any event not later than sixty (60) days calendar days after the close of each fiscal year-end, annual consolidated financial statements of the Borrowers, prepared in accordance with generally accepted accounting principles ("GAAP"), which statements shall be audited and reported by a certified public accountant acceptable to Lender, together with such other information regarding such Borrower's financial condition, results of operations and cash flows as the Lender may reasonably request.

(b) As soon as available, but in any event not later than the earlier of (i) eight (8) business days and (ii) ten (10) calendar days after the end of each fiscal quarter of each fiscal year of the Borrowers, unaudited financial statements prepared in accordance with GAAP, for such quarter and for the period from the beginning of the applicable fiscal year to the close of such quarter.

(c) Federal income tax returns for such Borrower as soon as available, but not later than May 1st of each year, or, if extensions are filed, then copies of the extension requests by May 1st of each year and a copy of the tax returns by August 1st of each year.

(d) Such other financial and other information pertaining to Borrowers as Lender may reasonably request from time to time.

5.03 Further Assurances. Take any and all such other actions as the Lender may from time to time reasonably deem necessary or proper in connection with this Agreement and with the obligations of the Borrowers hereunder and under the other Loan Documents.

5.04 Borrower Existence. Preserve and maintain in full force and effect each Borrower's existence, rights, privileges and franchises.

5.05 Payment of Debts, Taxes and Claims. Promptly pay and discharge prior to delinquency all debts, accounts, liabilities, taxes, assessments and other governmental charges or levies imposed upon, or due from, Borrowers, as well as all claims of any kind (including claims for labor, materials and supplies) which, if unpaid, might by law become a lien or charge upon any of its property or the Collateral, except that nothing herein contained shall be interpreted to require the payment of any such debt, account, liability, tax, assessment or charge so long as its validity is being contested in good faith by appropriate legal proceedings and against which, if requested by Lender, reserves satisfactory to Lender have been made therefor.

5.06 Insurance. Maintain the following insurance policies:

(a) General Business Insurance. To maintain satisfactory to the Bank as to amount, nature and carrier covering property damage (including loss of use and occupancy) to any of the Borrower's properties, business interruption insurance, public liability insurance including

coverage for contractual liability, product liability and workers' compensation, and any other insurance which is usual for such Borrower's business. Each policy shall include a cancellation clause in favor of the Lender.

(b) Insurance Covering Collateral. To maintain all risk property damage insurance policies (including without limitation windstorm coverage, flood coverage, and hurricane coverage as applicable) covering the tangible property comprising the Collateral. Each insurance policy must be in an amount acceptable to the Lender. The insurance must be issued by an insurance company acceptable to the Lender and must include a lender's loss payable endorsement in favor of the Lender in a form acceptable to the Lender.

(c) Evidence of Insurance. Upon the request of the Lender, to deliver to the Lender a copy of each insurance policy, or, if permitted by the Lender, a certificate of insurance listing all insurance in force.

(d) Changes to Insurance. To the extent the Lender requires changes in the insurance coverage required hereunder after the date hereof, the Borrowers shall have ten (10) business days from the date of the Lender's written notice of such changes to provide evidence of its compliance with such required coverage.

5.07 Compliance with Laws. Comply with all laws, regulations and governmental requirements applicable to the Borrowers or to the business or any property of the Borrowers (including environmental laws).

5.08 Property Maintenance. Keep all Collateral in good repair, working order, and condition and from time to time make any necessary and proper repairs, renewals, replacements, extensions, additions, and improvements thereto so that the business of Borrowers will be conducted at all times in accordance with prudent business management.

5.09 Litigation; Adverse Events. Notify Lender immediately in writing of the commencement of any material action, suit, proceeding or investigation against any Borrower, or the making of any counterclaim against any Borrower and of all Liens against any of Borrowers' property and promptly advise Lender in writing of any other condition, event or act which comes to Borrower's attention that would or might prejudice Lender's rights under this Agreement or the Loan Documents.

5.10 Notification. Notify Lender immediately in writing if it becomes aware of the occurrence of any Event of Default or of any fact, condition, or event that, only with the giving of notice or passage of time or both, would become an Event of Default, or if it becomes aware of a material adverse change in the business, prospects, financial condition (including, without limitation, proceedings in bankruptcy, insolvency, reorganization or the appointment of a receiver or trustee of Borrowers), or results of operations of any Borrower, or the failure of any Borrower to observe any of its undertakings under the Loan Documents.

5.11 Use of Proceeds. Use the proceeds of the Loan solely to repay the existing loans made by Lender pursuant to the Existing Loan Agreements, and to repay creditors of the Borrowers in accordance with the Plan of Reorganization.

5.12 Leases. Pay when due all rents and other amounts payable under any lease agreement to which any Borrower is a party.

ARTICLE VI

NEGATIVE COVENANTS

Each Borrower covenants and agrees that during the term of this Agreement and until all of the Obligations shall have been paid in full and all other obligations incurred hereunder and thereunder are fully performed, no Borrower shall, without the prior written consent of Lender:

6.01 Liens. Contract, create, incur, assume or suffer to exist any Lien upon any of the Collateral, whether now owned or hereafter acquired, except such Liens for taxes not in default or being contested in good faith, and except such other Liens disclosed in writing, and acceptable, to Lender.

6.02 Indebtedness. Incur, assume or suffer to exist any Indebtedness, except for Indebtedness of Borrowers under this Agreement or the other Loan Documents.

6.03 Guarantees. Be or become liable in respect of any guarantee, pledge or endorsement of any kind whatsoever.

6.04 Liquidation; Sale of Assets; Merger or Acquisition; Subsidiaries. (a) Wind up, liquidate or dissolve its affairs; (b) convey, sell, lease or otherwise dispose of (or agree to do any of the foregoing at any future time) all or substantially all of its property or assets; (c) merge with any Person or acquire the assets of any Person; or (d) form any direct or indirect subsidiary of any Borrower.

6.05 Other Fundamental Changes. (a) Modify, amend, amend and restate, or otherwise supplement any Borrower's organizational documents; (b) make any material change in the management or control of any Borrower; (c) the accounting basis upon which Borrowers' financial statements are prepared; (d) change the tax filing elections that any Borrower has under the Internal Revenue Code; and (e) change any Borrower's name, state of organization or organizational identity; provided, that with respect to this clause (e) any Borrower may change its name, state or organization or organizational identity upon at least fifteen (15) Business Days prior written notice to Lender of such change.

6.06 Conduct of Business. Materially alter the character in which any Borrower conducts its business or the location of such business or the nature of such business conducted at the date hereof.

6.07 Distributions. Pay any distributions to members if an Event of Default exists or would result therefrom.

6.08 Restricted Payments. Declare or make, or agree to declare or make, directly or indirectly, any dividend or other distribution (whether in cash, securities or other property) with respect to any membership interest in any Borrower, or to incur any obligation (contingent or otherwise) to do so, except, as long as there is no Event of Default immediately before and after

giving effect to any such payment and no Event of Default would result therefrom, for the payment of a cash dividend or distribution to such Borrower's members.

ARTICLE VII

DEFAULT

7.01 Events of Default. The occurrence of one or more of the following events shall constitute a default by Borrowers hereunder (each, an "Event of Default"):

(a) The Borrowers' failure to pay any installment of interest or principal on the Term Note or any other amount provided for herein or therein later than five days after the date thereof;

(b) Any representation or warranty made by Borrowers herein or in any writing furnished in connection with or pursuant to this Agreement or the Loan Documents shall prove to be false or incorrect in any material respect as of the date on which it is made;

(c) Borrowers shall fail to perform or observe any covenant or agreement contained in Articles V and VI or any other term, covenant agreement or condition contained in this Agreement, the Note, the Security Agreement or any of the other Loan Documents on their part to be performed or observed and, to the extent curable, any such failure shall remain unremedied for thirty (30) days after written notice thereof shall have been given to the Borrowers by the Lender;

(d) If a final judgment or order (not subject to appeal) for the payment of money in excess of \$25,000, which is not covered by insurance, is rendered against any of the Borrowers and such judgment or order shall continue unsatisfied and in effect for a period of thirty (30) days after the expiration of any time period for appeal;

(e) If any of the Borrowers fails to perform or observe any other obligation or condition with respect to any such other Indebtedness, exceeding \$10,000 in principal amount, if as a result of such failure the holder of such Indebtedness, or any trustee or agent for such holders, has accelerated or otherwise caused such Indebtedness to become due and payable prior to its stated maturity, but only if such Borrower fails to pay such then-matured Indebtedness within thirty (30) days after it has matured.

(f) If any of the Borrowers becomes insolvent or generally fails to pay, or admits in writing its inability or unwillingness to pay its debts as they become due or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against any of the Borrowers under the Bankruptcy Code or otherwise, seeking to adjudicate it as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors seeking appointment of a receiver, trustee or other similar official for it or for any substantial part of its property and such proceeding (unless instituted or consented to by the Borrowers) shall not be dismissed within sixty (60) days; or any of the Borrowers shall take any action to authorize any of the actions set forth in this Subsection (f);

(g) If the Lender's security interest in the Collateral ceases to be perfected or ceases to have priority over all other perfected security interests in the Collateral.

(h) If an event of default occurs and is continuing under any other agreement between any of the Borrowers and the Lender or any affiliate of the Lender, but only if such other event of default could reasonably be expected to impair the Borrowers' ability to repay the Loan.

7.02 Remedies. Upon the occurrence and during the continuance of any Event of Default, the Lender may pursue any or all of the following remedies:

(a) The Lender may declare the unpaid principal amount of the Term Note, all interest thereon and all other amounts payable under this Agreement, the Term Note and the other Loan Documents, to be forthwith due and payable, whereupon the same shall become and be forthwith due and payable, without presentment, demand, protest or notice of any kind, all of which are, to the extent permitted by applicable law, hereby expressly waived by the Borrowers.

(b) The Lender shall have and may exercise all of its rights and remedies available at law under this Agreement, the Term Note, the Security Agreement or any of the other Loan Documents, or otherwise available to the Lender.

(c) The Bank may thereafter charge and collect interest at the Default Interest Rate as provided in Section 2.05.

(d) The Bank, in its sole discretion, may determine the order of application of payments or other sums received, including, without limitation, proceeds of Collateral, from any source, to the Indebtedness of the Borrowers hereunder.

7.03 Automatic Remedies for Bankruptcy Default. . If any Event of Default described in Section 7.01(f) shall occur, the unpaid principal amount of the Term Note, all interest thereon and all other amounts payable under this Agreement, the Term Note and the other Loan Documents shall become immediately due and payable, all without presentment, demand, protest or notice of any kind.

7.04 Expenses of Collection. All reasonable costs, expenses and liabilities incurred by Lender in collecting or attempting to collect on the Term Note, including costs and expenses incurred in proposing or selling or otherwise deriving upon any security, and all reasonable attorneys' fees in connection with such matters, shall constitute a demand obligation of Borrowers.

7.05 Waiver. Any waiver of an Event of Default by Lender shall not extend to or affect any subsequent Event of Default. No failure or delay by Lender in exercising any right hereunder shall operate as a waiver, nor shall any single or partial exercise of any right preclude the exercise of any other right hereunder.

ARTICLE VIII **MISCELLANEOUS**

8.01 Notices. All notices, requests, demands or other communications to or upon the respective parties hereto shall be in writing and shall be delivered personally or sent by certified

United States mail, return receipt requested, postage prepaid, sent by facsimile, or sent by nationally recognized overnight courier service with guaranteed next day delivery, in each case, to the parties hereto at the names, addresses and numbers set forth on the signature page hereto (or at such other addresses or numbers as shall be specified by the parties hereto by like notice). Such notices, requests, demands and other communications shall be deemed given when actually received, or (a) in the case of delivery by nationally recognized overnight courier service with guaranteed next day delivery, the next day or the day designated for delivery, (b) in the case of certified United States mail, return receipt requested, postage prepaid, five (5) days after deposit in the United States mail or (c) in the case of facsimile, upon receipt by the sender of a confirmation report for the number designated on the signature page hereto.

8.02 Waivers. No failure or delay on the part of the Lender in exercising any right, power or privilege under this Agreement, the Term Note, the Security Agreement or any other Loan Document, and no course of dealing between the Borrowers and the Lender shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under this Agreement preclude any other further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies which the Lender would otherwise have. No notice to or demand on the Borrowers in any case shall entitle the Borrowers to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the Lender to any other or further action in any circumstances without notice or demand.

8.03 Payment of Expenses. The Borrowers agree, whether or not the transactions hereby contemplated shall be consummated, upon demand, to pay to the Lender and save the Lender harmless against liability for the payment of all reasonable out-of-pocket expenses arising in connection with any modification of, or any consent or waiver under, this Agreement, the Term Note, the Security Agreement and the other Loan Documents and enforcement of, or the preservation of any rights under, this Agreement, the Term Note, the Security Agreement and the other Loan Documents, including, without limitation, documentary stamp taxes payable in connection with the Notes or otherwise in connection with any transactions under this Agreement.

8.04 Survival of Representations, Warranties and Covenants. All representations and warranties and covenants made in this Agreement shall survive the making of the Loan and shall continue in full force and effect so long as the Loan is unpaid or any obligation hereunder is outstanding.

8.05 Benefit of Agreement. This Agreement shall be binding upon and inure to the benefit of the Borrowers and the Lender and their permitted successors and assigns. The Borrowers may not assign or otherwise transfer any of their rights or obligations hereunder without the prior written consent of the Lender.

8.06 Entire Agreement; Amendment. This Agreement and any schedules and exhibits hereto or thereto, contain every obligation and understanding between the parties relating to the subject hereof and supersedes all prior discussions, negotiations and agreements between them, and none of the parties shall be bound by any conditions, definitions, understandings, warranties or representations other than as expressly provided herein. This Agreement may be modified or amended only by a written instrument executed by the parties.

8.07 Headings. The descriptive headings of the several Articles and Sections of this Agreement are inserted for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

8.08 Severability of Provisions. Any provision of this Agreement, the Term Note, the Security Agreement or the other Loan Documents which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction.

8.09 Governing Law. This Agreement and the rights and obligations of the parties hereunder and under the Term Note, the Security Agreement and the other Loan Documents shall be construed in accordance with and be governed by the laws of the State of Florida applicable to agreements made and to be performed entirely within the State of Florida.

8.10 WAIVER OF JURY TRIAL. THE LENDER AND THE BORROWERS HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT ANY OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE LOAN, THE OBLIGATIONS, THIS AGREEMENT, THE TERM NOTE, THE SECURITY AGREEMENT OR THE OTHER LOAN DOCUMENTS, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS OR ACTIONS OF EITHER PARTY. THIS SECTION 8.11 IS A MATERIAL INDUCEMENT FOR THE LENDER TO ENTER INTO THIS AGREEMENT.

8.11 Counterpart Agreements. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same Agreement.

8.12 Indemnity. Borrowers agree to, jointly and severally, pay, indemnify, and hold Lender and its affiliates harmless from, and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, or disbursements of any kind or nature whatsoever (including, without limitation, counsel and special counsel fees and disbursements in connection with any litigation, investigation, hearing, or other proceeding) with respect, or in any way related, to the existence, execution, delivery, enforcement, performance, and administration of this Agreement and any other Loan Document, except such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that arise out of or result from Lender's gross negligence or willful misconduct. The provisions of this Section shall survive repayment of the Loan.

Existing Loan Agreements Superseded. This Agreement amends, modifies, supersedes and replaces in its entirety (a) the Prepetition Credit Agreement, and (b) the Existing DIP Facility Agreement, except for those provisions contained therein which relate to the grant of a security interest to Lender and all of Lender's rights and remedies with respect thereto. All loans outstanding under either Existing Loan Agreement on the date of this Agreement shall be deemed to have been made pursuant to this Agreement and the other Loan Documents which shall hereafter govern and control for all purposes.

8.13 Joint and Several Liability of Borrowers.

(a) The obligations of the Borrowers hereunder shall be joint and several, shall be absolute and unconditional and shall remain in full force and effect until all Obligations shall have been paid and, until such payment has been made, shall not be discharged, affected, modified or impaired upon the happening from time to time of any event, including, without limitation, any of the following, whether or not with notice to or the consent of any of the undersigned: (a) the waiver, compromise, indulgence, settlement, release, termination, modification or amendment (including, without limitation, any extension or postponement of the time for payment or performance or renewal or refinancing) of any or all of the obligations, covenants or agreements of any of the Borrowers under this the Agreement, the Term Note or any other Loan Document; (b) the failure to give notice to any or all of the Borrowers of the occurrence of a default under the terms and provisions of this Agreement, the Term Note or any other Loan Document; (c) the release, substitution or exchange by the Lender of any security held by it for the payment of any amount due pursuant to the Term Note or any other Loan Document (whether with or without consideration) or the acceptance by the Lender of any additional security for such payments or the availability or claimed availability of any other security, collateral or source of repayment; (d) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment of, or other similar proceedings affecting any or all of the undersigned or any other person or entity who, or any of whose property, shall at the time in question be obligated in respect of the debt evidenced by the Term Note or any part thereof; (e) any failure, omission, delay or neglect by the Lender in enforcing, asserting or exercising any right, power or remedy under this Agreement, the Term Note, any other Loan Document, or at law or in equity; (f) the release of any Person primarily or secondarily liable for all or any part of the debt evidenced by the Term Note; (g) any non-perfection or other impairment of any security; (h) any assignment or transfer by the Lender of all or any interest in this Agreement or the Term Note; (i) the invalidity or unenforceability of any term or provision in this Agreement, the Term Note or any other Loan Document; (j) any merger, consolidation, conversion or re-domestication involving any of the Borrowers, any sale, assignment, transfer, conveyance or issuance of any stock, partnership, membership or other equity interest by any of the Borrowers or any sale, transfer or conveyance by any of the undersigned or any other Person of all or any part of such Person's interest in any of the Borrowers or any affiliate of any of the Borrowers; or (k) to the extent permitted by law, any event or action that would, in the absence of this clause, result in the release or discharge of any or all of the Borrowers from the performance or observance of any obligation, covenant or agreement contained in this Agreement. Without limiting the foregoing, it is the intention of the parties that any modification, limitation, or discharge of the obligations of any of the Borrowers arising out of or by virtue of any bankruptcy, reorganization or similar proceeding for relief of debtors under federal or state law shall not affect, modify, limit or discharge the liability of any other co-maker in any manner whatsoever, and this Agreement, the Term Note and the other Loan Documents shall remain and continue in full force and effect and shall be enforceable against such Borrower to the same extent and with the same force and effect as if any such proceedings had not been instituted; and all other Borrowers shall be jointly and severally liable to the Lender under this Agreement, the Term Note and the other Loan Documents for the full amount payable hereunder irrespective of any modification, limitation, or discharge of the liability of any co-maker that may result from any such proceeding. The obligations of the Borrowers to the Lender pursuant hereto include and apply to any payment or payments received by the Lender on account of the

liabilities evidenced hereby, which payment or payments or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be paid to a trustee, receiver, or any other Person under any bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or similar law, common law or equitable doctrine. If any action or proceeding seeking such repayment is pending or, in the Lender's sole judgment, threatened, this Agreement, the Term Note and any security interest therefor shall remain in full force and effect notwithstanding that one or more of the Borrowers may not then be obligated to the Lender. The joint and several obligations of the Borrowers to the Lender and this Agreement, the Term Note, and any security therefor, shall remain in full force and effect (or be reinstated) until the Lender has received payment in full of all Obligations payable to it pursuant to this Agreement, the Term Note, and any other Loan Document and the expiration of any applicable preference or similar period pursuant to any bankruptcy, insolvency, reorganization, moratorium or similar law, or at law or equity, without any claim having been made before the expiration of such period asserting an interest in all or any part of any payment(s) received by the Lender.

(b) The Borrowers expressly agree that the Lender shall not be required first to institute any suit or to exhaust its remedies against any of the Borrowers or any other Person to become liable hereunder or against any Collateral or security for the Loan evidenced hereby, in order to enforce this Agreement and the Term Note; and expressly agree that, notwithstanding the occurrence of any of the foregoing, the Borrowers shall be and remain, directly and primarily liable for all Obligations due under this Agreement, the Term Note and under the Loan Documents. Each Borrower assumes responsibility for keeping itself informed of the financial condition of each other Borrower, and any and all endorsers and/or guarantors of any instrument or document evidencing all or any part of such other Borrower's Obligations and of all other circumstances bearing upon the risk of nonpayment by such other Borrowers of their Obligations and each Borrower agrees that Lender shall not have any duty to advise such Borrower of information known to Lender regarding such condition or any such circumstances or to undertake any investigation not a part of its regular business routine. If Lender, in its sole discretion, undertakes at any time or from time to time to provide any such information to a Borrower, Lender shall not be under any obligation to update any such information or to provide any such information to such Borrower on any subsequent occasion.

(c) All rights and claims of each of the Borrowers against any other of the Borrowers or the property of any other of the Borrowers now or hereafter existing (collectively, the "Borrower Claims") shall be subordinate and subject in right of payment to the prior payment in full of the Obligations. Until such Obligations have been paid in full, and Borrowers have performed all of their Obligations, none of the Borrowers shall receive or collect, directly or indirectly, from any other of the Borrowers or any other party any payment upon any Borrower Claim nor seek to realize upon any collateral securing any such Borrower Claim. Notwithstanding the foregoing, if any of the Borrowers shall receive any such payment, such Borrowers shall hold such payment in trust for the Lender and shall have absolutely no rights in or to such payment except to deliver it promptly to the Lender, and each of the Borrowers hereby covenants to do so. None of the Borrowers will assert any right to which it may be or become entitled, whether by subrogation, contribution or otherwise, against any other of the Borrowers or against the property of any other of the Borrowers by reason of the performance by such party of its obligations under this Agreement, except after performance and payment in full of the Term Note and any other Loan Documents.

(d) Lender is hereby authorized, without notice or demand and without affecting the liability of any Borrower under this Agreement, the Term Note or any other Loan Documents, to, at any time and from time to time, (i) renew, extend, accelerate or otherwise change the time for payment of, or other terms relating to a Borrower's Obligations or otherwise modify, amend or change the terms of any promissory note or other agreement, document or instrument now or hereafter executed by a Borrower and delivered to the Lender; (ii) accept partial payments on a Borrower's Obligations; (iii) take and hold security or collateral for the payment of a Borrower's Obligations hereunder or for the payment of any guaranties of a Borrower's Obligations or other liabilities of a Borrower and exchange, enforce, waive and release any such security or collateral; (iv) apply such security or collateral and direct the order or manner of sale thereof as the Lender, in its sole discretion, may determine; and (v) settle, release, compromise, collect or otherwise liquidate a Borrower's Obligations and any security or collateral therefor in any manner, without affecting or impairing the obligations of the other Borrowers. The Lender shall have the exclusive right to determine the time and manner of application of any payments or credits, whether received from a Borrower or any other source, and such determination shall be binding on such Borrower. All such payments and credits may be applied, reversed and reapplied, in whole or in part, to any of a Borrower's Obligations as the Lender shall determine in its sole discretion without affecting the validity or enforceability of the Obligations of the other Borrowers.

(e) Notwithstanding any provisions of this Agreement to the contrary, it is intended that the joint and several nature of the Obligations of Borrowers and the liens and security interests granted by Borrowers to secure the Obligations, not constitute a "Fraudulent Conveyance" (as defined below). Consequently, Lender and Borrowers agree that if the Obligations of a Borrower, or any liens or security interests granted by such Borrower securing the Obligations would, but for the application of this sentence, constitute a Fraudulent Conveyance, the Obligations of such Borrower and the liens and security interests securing such Obligations shall be valid and enforceable only to the maximum extent that would not cause such Obligations or such lien or security interest to constitute a Fraudulent Conveyance, and the Obligations of such Borrower and this Agreement shall automatically be deemed to have been amended accordingly. For purposes hereof, "Fraudulent Conveyance" means a fraudulent conveyance under Section 548 of Chapter 11 of Title II of the United States Code (11 U.S.C. § 101, et seq.), as amended (the "Bankruptcy Code") or a fraudulent conveyance or fraudulent transfer under the applicable provisions of any fraudulent conveyance or fraudulent transfer law or similar law of any state, nation or other governmental unit, as in effect from time to time.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

BORROWERS:

IT'SUGAR LLC,
a Delaware limited liability company

IT'SUGAR Atlantic City LLC,
a Delaware limited liability company

By: /s/ Jeffrey Rubin
Name: Jeffrey Rubin
Title: Chief Executive Officer

By: /s/ Jeffrey Rubin
Name: Jeffrey Rubin
Title: Chief Executive Officer

Address: 4960 Conference Way North
Suite 100
Boca Raton, FL 33431

Address: 4960 Conference Way North
Suite 100
Boca Raton, FL 33431

IT'SUGAR FLGC LLC,
a Florida limited liability company

IT'SUGAR FL I LLC,
a Delaware limited liability company

By: /s/ Jeffrey Rubin
Name: Jeffrey Rubin
Title: Chief Executive Officer

By: /s/ Jeffrey Rubin
Name: Jeffrey Rubin
Title: Chief Executive Officer

Address: 4960 Conference Way North
Suite 100
Boca Raton, FL 33431

Address: 19575 Biscayne Boulevard
Suite #115
Aventura, FL 33180

LENDER:

SHL Holdings, Inc.,
a Florida corporation

By: /s/ Kristen Uebrig
Name: Kirsten Uebrig
Title: President

Address: 201 East Las Olas Boulevard
Suite 1900
Ft. Lauderdale, FL 33301

EXHIBIT A

Term Note

\$13,000,000

June 16, 2021

FOR VALUE RECEIVED, the undersigned, IT'SUGAR LLC, a Delaware limited liability company ("IT'Sugar"), IT'SUGAR ATLANTIC CITY LLC, a Delaware limited liability company ("Atlantic City"), IT'SUGAR FLGC LLC, a Florida limited liability company ("FLGC"), IT'SUGAR FL I LLC, a Delaware limited liability company ("FLI"), and together with IT'Sugar, Atlantic City and FLGC, collectively, the "Borrowers", and, each, a "Borrower"), jointly and severally, promise to pay to the order of SHL HOLDINGS, INC., a Florida corporation ("Lender"), the principal sum of Thirteen Million and No/100 (\$13,000,000.00), which the Lender loaned to the Borrowers pursuant to the Term Loan Agreement dated as June 16, 2021, by and among the Borrowers and the Lender (as amended, restated or otherwise modified from time to time, the "Loan Agreement"), together with interest thereon at a fixed rate per annum equal to five percent (5%), in each case, payable at the times and in the amounts set forth in the Loan Agreement.

The Borrowers further promise to pay interest on the unpaid principal amount of the Term Loan (as defined in the Loan Agreement) from the date of such Term Loan until such Term Loan is paid in full, payable at the rate(s) and at the time(s) set forth in the Loan Agreement. Payments of both principal and interest shall be made in lawful money of the United States of America.

This Note (this "Note") shall be governed by the laws of the State of Florida applicable to contracts made and to be performed entirely within such State.

This Note is the "*Term Note*" described in the Loan Agreement and has been issued pursuant to the Loan Agreement.

The Borrower waives presentment for payment, demand, protest, notice of dishonor and all other notices in connection with this Note.

EACH OF THE BORROWERS AND, BY ITS ACCEPTANCE OF THIS NOTE, THE LENDER, HERETO (i) IRREVOCABLY WAIVE S THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS NOTE, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE, AND (ii) AGREES THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE BORROWER S AND, BY ITS ACCEPTANCE OF THIS NOTE, THE LENDER, HERETO AGREE THAT THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IS ALSO WAIVED AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING THAT CHALLENGES, IN WHOLE OR IN PART, THE VALIDITY OR ENFORCEABILITY OF THIS NOTE. THIS WAIVER IS A MATERIAL INDUCEMENT FOR THE LENDER TO MAKE THE LOAN EVIDENCED BY THIS NOTE.

Reference to the Loan Agreement is made for a statement of the terms and provisions under which this Note may be required to be prepaid or this Note may be accelerated.

This Note is given in replacement of, amends and restates, consolidates and supersedes: (a) those certain loans made to IT'Sugar, Atlantic City and FLGC under the Prepetition Credit Agreement in the aggregate principal amount of \$6,000,000, and (b) that certain Promissory Note, dated October 7, 2020, in the aggregate principal amount of \$4,000,000.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Borrowers have caused this Note to be executed on the day and year first above written.

BORROWERS:

IT'SUGAR LLC,
a Delaware limited liability company

By:/s/ Jeffrey Rubin
Name: Jeffrey Rubin
Title: Chief Executive Officer

Address: 4960 Conference Way North
Suite 100
Boca Raton, FL 33431

IT'SUGAR FLGC LLC,
a Florida limited liability company

By:/s/ Jeffrey Rubin
Name: Jeffrey Rubin
Title: Chief Executive Officer

Address: 4960 Conference Way North
Suite 100
Boca Raton, FL 33431

IT'SUGAR Atlantic City LLC,
a Delaware limited liability company

By:/s/ Jeffrey Rubin
Name: Jeffrey Rubin
Title: Chief Executive Officer

Address: 4960 Conference Way North
Suite 100
Boca Raton, FL 33431

IT'SUGAR FL I LLC,
a Delaware limited liability company

By:/s/ Jeffrey Rubin
Name: Jeffrey Rubin
Title: Chief Executive Officer

Address: 19575 Biscayne Boulevard
Suite #115
Aventura, FL 33180

Term Note

\$13,000,000

June 16, 2021

FOR VALUE RECEIVED, the undersigned, IT'SUGAR LLC, a Delaware limited liability company ("IT'Sugar"), IT'SUGAR ATLANTIC CITY LLC, a Delaware limited liability company ("Atlantic City"), IT'SUGAR FLGC LLC, a Florida limited liability company ("FLGC"), IT'SUGAR FL I LLC, a Delaware limited liability company ("FLI", and together with IT'Sugar, Atlantic City and FLGC, collectively, the "Borrowers", and, each, a "Borrower"), jointly and severally, promise to pay to the order of SHL HOLDINGS, INC., a Florida corporation ("Lender"), the principal sum of Thirteen Million and No/100 (\$13,000,000.00), which the Lender loaned to the Borrowers pursuant to the Term Loan Agreement dated as June 16, 2021, by and among the Borrowers and the Lender (as amended, restated or otherwise modified from time to time, the "Loan Agreement"), together with interest thereon at a fixed rate per annum equal to five percent (5%), in each case, payable at the times and in the amounts set forth in the Loan Agreement.

The Borrowers further promise to pay interest on the unpaid principal amount of the Term Loan (as defined in the Loan Agreement) from the date of such Term Loan until such Term Loan is paid in full, payable at the rate(s) and at the time(s) set forth in the Loan Agreement. Payments of both principal and interest shall be made in lawful money of the United States of America.

This Note (this "Note") shall be governed by the laws of the State of Florida applicable to contracts made and to be performed entirely within such State.

This Note is the "*Term Note*" described in the Loan Agreement and has been issued pursuant to the Loan Agreement.

The Borrower waives presentment for payment, demand, protest, notice of dishonor and all other notices in connection with this Note.

EACH OF THE BORROWERS AND, BY ITS ACCEPTANCE OF THIS NOTE, THE LENDER, HERETO (i) IRREVOCABLY WAIVE S THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS NOTE, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE, AND (ii) AGREES THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE BORROWER S AND, BY ITS ACCEPTANCE OF THIS NOTE, THE LENDER, HERETO AGREE THAT THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IS ALSO WAIVED AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING THAT CHALLENGES, IN WHOLE OR IN PART, THE VALIDITY OR ENFORCEABILITY OF THIS NOTE. THIS WAIVER IS A MATERIAL INDUCEMENT FOR THE LENDER TO MAKE THE LOAN EVIDENCED BY THIS NOTE.

Reference to the Loan Agreement is made for a statement of the terms and provisions under which this Note may be required to be prepaid or this Note may be accelerated.

This Note is given in replacement of, amends and restates, consolidates and supersedes: (a) those certain loans made to IT'Sugar, Atlantic City and FLGC under the Prepetition Credit Agreement in the aggregate principal amount of \$6,000,000, and (b) that certain Promissory Note, dated October 7, 2020, in the aggregate principal amount of \$4,000,000.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Borrowers have caused this Note to be executed on the day and year first above written.

BORROWERS:

IT'SUGAR LLC,
a Delaware limited liability company

IT'SUGAR Atlantic City LLC,
a Delaware limited liability company

By: /s/ Jeffrey Rubin
Name: Jeffrey Rubin
Title: Chief Executive Officer

By: /s/ Jeffrey Rubin
Name: Jeffrey Rubin
Title: Chief Executive Officer

Address: 4960 Conference Way North
Suite 100
Boca Raton, FL 33431

Address: 4960 Conference Way North
Suite 100
Boca Raton, FL 33431

IT'SUGAR FLGC LLC,
a Florida limited liability company

IT'SUGAR FL I LLC,
a Delaware limited liability company

By: /s/ Jeffrey
Rubin
Name: Jeffrey Rubin
Title: Chief Executive Officer

By: /s/ Jeffrey
Rubin
Name: Jeffrey Rubin
Title: Chief Executive Officer

Address: 4960 Conference Way North
Suite 100
Boca Raton, FL 33431

Address: 19575 Biscayne Boulevard
Suite #115
Aventura, FL 33180

SECURITY AGREEMENT

THIS SECURITY AGREEMENT (this “Agreement”) is entered into as of June 16, 2021 among IT’SUGAR LLC, a Delaware limited liability company (“IT’Sugar”), IT’SUGAR ATLANTIC CITY LLC, a Delaware limited liability company (“Atlantic City”), IT’SUGAR FLGC LLC, a Florida limited liability company (“FLGC”), IT’SUGAR FL I LLC, a Delaware limited liability company (“FLI”, and together with IT’Sugar, Atlantic City and FLGC, collectively, the “Grantors”, and, each, a “Grantor”), and SHL HOLDINGS, INC., a Florida corporation (“Lender”).

RECITALS

WHEREAS, IT’Sugar, Atlantic City and FLGC were indebted to Bank of America N.A. (“Bank”) as evidenced by that certain Credit Agreement dated August 24, 2018, and First Amendment thereto dated February 28, 2020, by and between IT’Sugar and Bank (as so amended, the “Prepetition Credit Agreement”), evidencing a revolving line of credit in the principal amount of \$6,000,000, which was secured by all of the assets of each of IT’Sugar, Atlantic City and FLGC pursuant to that certain Security Agreement, dated as of August 24, 2018, by and among IT’Sugar, Atlantic City, FLGC and Bank (as so amended, the “Prepetition Security Agreement”);

WHEREAS, on April 7, 2020, the Bank’s rights under the Prepetition Credit Agreement and the Prepetition Security Agreement were assigned without recourse to the SHL pursuant to a Loan Sale and Assignment Agreement and by reason thereof Lender is the holder of such Prepetition Credit Agreement, the Prepetition Security Agreement and related loan documents and has all the rights and obligations of the Bank thereunder;

WHEREAS, on September 22, 2020, each of the Grantors filed petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court, Southern District of Florida (the “Bankruptcy Court”) styled as follows: (1) *In re IT’Sugar FII, LLC*, Case No. 20-20259-RAM (2) IT’Sugar, LLC, Case No. 20-20261-RAM, (3) IT’Sugar Atlantic City, LLC, Case No. 20-20263-RAM and (4) IT’Sugar FLGC, LLC, Case No. 20-20264-RAM (collectively, the “Bankruptcy Cases”);

WHEREAS, in connection with the Bankruptcy Cases, each of the Grantors requested that Lender extend financing to the Grantors to facilitate its respective reorganization;

WHEREAS, on or about October 13, 2020, Grantors and Lender entered into that certain Loan and Security Agreement (the “Existing DIP Facility Agreement”), pursuant to which Lender provided to Grantors a loan in the aggregate principal amount of \$4,000,000;

WHEREAS, on April 20, 2021, Borrowers filed that certain *Plan of Reorganization for It’Sugar FL I LLC, It’Sugar LLC, It’Sugar Atlantic City LLC and It’Sugar FLGC LLC* in the Bankruptcy Cases (the “Plan of Reorganization”) proposing to reorganize their financial affairs and exit bankruptcy;

WHEREAS, as agreed by the Lender and pursuant to the Plan of Reorganization, and as approved by the order entered by the Bankruptcy Court confirming the Plan of Reorganization (the “Confirmation Order”), (a) (i) (i) the loans under the Existing Loan Agreements will be refinanced

by the Loan made pursuant to that certain Term Loan Agreement, dated as of the date hereof (the “Loan Agreement”) and will be secured pursuant to a grant of a security interest in all of the assets of Grantors pursuant to this Agreement, (ii) the Prepetition Security Agreement will be superseded and replaced in its entirety by this Agreement, and (iii) those provisions of the Existing DIP Facility Agreement which relate to the grant of a security interest to Lender and all of Lender’s rights and remedies with respect thereto will be superseded and replaced in its entirety by this Agreement (and, for the avoidance of doubt, all other provisions of the Existing DIP Facility Agreement will remain unchanged by this Agreement) , and (b) pursuant to the Loan Agreement, Lender will increase the amount of the Loan to Borrowers hereunder by an additional \$3,000,000, for an aggregate principal amount of \$13,000,000 to be outstanding post-confirmation of the Plan of Reorganization;

WHEREAS, this Agreement is required by the terms of the Loan Agreement.

NOW, THEREFORE, in consideration of these premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions.

(a) Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement and the following terms shall have the meanings set forth in the UCC (defined below): Accession, Account, Account Debtor, Adverse Claim, As-Extracted Collateral, Certificated Security, Chattel Paper, Commercial Tort Claim, Consumer Goods, Deposit Account, Document, Electronic Chattel Paper, Equipment, Farm Products, Financial Asset, Fixtures, General Intangible, Goods, Instrument, Inventory, Investment Company Security, Investment Property, Letter-of-Credit Right, Manufactured Home, Payment Intangible, Proceeds, Securities Account, Security Entitlement, Securities Intermediary, Security, Software, Supporting Obligation and Tangible Chattel Paper.

(b) In addition, the following terms shall have the meanings set forth below:

“Collateral” has the meaning provided in Section 2 hereof.

“Control” means the manner in which “control” is achieved under the UCC with respect to any Collateral for which the UCC specifies a method of achieving “control”.

“Copyright License” means any agreement now or hereafter in existence, providing for the grant by, or to, any rights (including, without limitation, the grant of rights for a party to be designated as an author or owner and/or to enforce, defend, use, display, copy, manufacture, distribute, exploit and sell, make derivative works, and require joinder in suit and/or receive assistance from another party) covered in whole or in part by a Copyright.

“Copyrights” means, collectively, all of the following of any Grantor: (i) all copyrights, works protectable by copyright, copyright registrations and copyright applications anywhere in the world, (ii) all derivative works, counterparts, extensions and renewals of any of the foregoing, (iii) all income, royalties, damages and payments now or hereafter due and/or payable under any of the foregoing or with respect to any of the foregoing, including, without limitation, damages or

payments for past, present and future infringements, violations or misappropriations of any of the foregoing, (iv) the right to sue for past, present and future infringements, violations or misappropriations of any of the foregoing and (v) all rights corresponding to any of the foregoing throughout the world.

“Government Contract” means a contract between any Grantor and an agency, department or instrumentality of the United States or any state, municipal or local Governmental Authority located in the United States or all obligations of any such Governmental Authority arising under any Account now or hereafter owing by any such Governmental Authority, as Account Debtor, to any Grantor.

“Intellectual Property” means, collectively, all of the following of any Grantor: (i) all systems software and applications software (including source code and object code), all documentation for such software, including, without limitation, user manuals, flowcharts, functional specifications, operations manuals, and all formulas, processes, ideas and know-how embodied in any of the foregoing, (ii) concepts, discoveries, improvements and ideas, know-how, technology, reports, design information, trade secrets, practices, specifications, test procedures, maintenance manuals, research and development, inventions (whether or not patentable), blueprints, drawings, data, customer lists, catalogs, and all physical embodiments of any of the foregoing, (iii) Patents and Patent Licenses, Copyrights and Copyright Licenses, Trademarks and Trademark Licenses and (iv) other agreements with respect to any rights in any of the items described in the foregoing clauses (i), (ii), and (iii).

“Issuer” means the issuer of any Pledged Equity.

“Patent License” means any agreement, now or hereafter in existence, providing for the grant by, or to, any Grantor of any rights (including, without limitation, the right for a party to be designated as an owner and/or to enforce, defend, make, have made, make improvements, manufacture, use, sell, import, export, and require joinder in suit and/or receive assistance from another party) covered in whole or in part by a Patent.

“Patents” means collectively, all of the following of any Grantor: (i) all patents, all inventions and patent applications anywhere in the world, (ii) all improvements, counterparts, reissues, divisional, re-examinations, extensions, continuations (in whole or in part) and renewals of any of the foregoing and improvements thereon, (iii) all income, royalties, damages or payments now or hereafter due and/or payable under any of the foregoing or with respect to any of the foregoing, including, without limitation, damages or payments for past, present or future infringements, violations or misappropriations of any of the foregoing, (iv) the right to sue for past, present and future infringements, violations or misappropriations of any of the foregoing and (v) all rights corresponding to any of the foregoing throughout the world.

“Pledged Equity” means, with respect to each Grantor, (i) 100% of the issued and outstanding Equity Interests of each domestic Subsidiary of such Grantor that is directly owned by such Grantor and (ii) 65% (or such greater percentage that, due to a change in an applicable law after the date hereof, (A) could not reasonably be expected to cause the undistributed earnings of such foreign Subsidiary as determined for United States federal income tax purposes to be treated as a deemed dividend to such foreign Subsidiary’s United States parent and (B) could not

reasonably be expected to cause any material adverse tax consequences) of the issued and outstanding Equity Interests entitled to vote (within the meaning of Treas. Reg. Section 1.956 2(c)(2)) and 100% of the issued and outstanding Equity Interests not entitled to vote (within the meaning of Treas. Reg. Section 1.956 2(c)(2)) in each foreign Subsidiary of such Grantor that is directly owned by such Grantor, including the Equity Interests of the Subsidiaries owned by such Grantor as set forth on Schedule 1, in each case together with the certificates (or other agreements or instruments), if any, representing such shares, and all options and other rights, contractual or otherwise, with respect thereto, including, but not limited to, the following:

(1) all Equity Interests representing a dividend thereon, or representing a distribution or return of capital upon or in respect thereof, or resulting from a stock split, revision, reclassification or other exchange therefor, and any subscriptions, warrants, rights or options issued to the holder thereof, or otherwise in respect thereof; and

(2) in the event of any consolidation or merger involving any Issuer and in which such Issuer is not the surviving Person, all shares of each class of the Equity Interests of the successor Person formed by or resulting from such consolidation or merger, to the extent that such successor Person is a direct Subsidiary of a Grantor.

“Secured Obligations” means, without duplication, (a) all Obligations and other indebtedness owing from any Grantor to Lender, whether as a result of future advances from Lender or otherwise, and (b) all costs and expenses incurred in connection with enforcement and collection thereof, including the fees, charges and disbursements of counsel.

“Trademark License” means any agreement, now or hereafter in existence, providing for the grant by, or to, any Grantor of any rights in (including, without limitation, the right for a party to be designated as an owner and/or to enforce, defend, use, mark, police, and require joinder in suit and/or receive assistance from another party) covered in whole, or in part, by a Trademark.

“Trademarks” means, collectively, all of the following of any Grantor: (i) all trademarks, trade names, corporate names, company names, business names, fictitious business names, internet domain names, trade styles, service marks, logos, other business identifiers, whether registered or unregistered, all registrations and recordings thereof, and all applications in connection therewith (other than each United States application to register any trademark or service mark prior to the filing under an applicable law of a verified statement of use for such trademark or service mark) anywhere in the world, (ii) all counterparts, extensions and renewals of any of the foregoing, (iii) all income, royalties, damages and payments now or hereafter due and/or payable under any of the foregoing or with respect to any of the foregoing, including, without limitation, damages or payments for past, present or future infringements, violations, dilutions or misappropriations of any of the foregoing, (iv) the right to sue for past, present or future infringements, violations, dilutions or misappropriations of any of the foregoing and (v) all rights corresponding to any of the foregoing (including the goodwill) throughout the world.

“Vehicles” means all cars, trucks, trailers, construction and earth moving equipment and other vehicles covered by a certificate of title under the applicable law of any state, all tires and all other appurtenances to any of the foregoing.

“UCC” means the Uniform Commercial Code as in effect from time to time in the state of Florida except as such term may be used in connection with the perfection of the Collateral and then the applicable jurisdiction with respect to such affected Collateral shall apply.

“USPTO” means the United States Patent and Trademark Office.

2. Grant of Security Interest in the Collateral. To secure the prompt payment and performance in full when due, whether by lapse of time, acceleration, mandatory prepayment or otherwise, of the Secured Obligations, each Grantor hereby grants to the Lender a continuing security interest in, and a right to set off against, any and all right, title and interest of such Grantor in and to all of the following, whether now owned or existing or owned, acquired, or arising hereafter (collectively, the “Collateral”): (a) all Accounts; (b) all cash, currency and cash equivalents; (c) all Chattel Paper (including Electronic Chattel Paper and Tangible Chattel Paper); (d) those certain Commercial Tort Claims set forth on Schedule 2 (as updated from time to time pursuant to Section 4(1)(ii)); (e) all Deposit Accounts; (f) all Documents; (g) all Equipment, including, without limitation, all Financed Equipment (as defined in the Loan Agreement); (h) all Fixtures; (i) all General Intangibles; (j) all Goods; (k) all Instruments; (l) all Intellectual Property; (m) all Inventory; (n) all Investment Property; (o) all Letter-of-Credit Rights; (p) all Payment Intangibles; (q) all Pledged Equity; (r) all Securities Accounts; (s) all Software; (t) all Supporting Obligations; (u) all Vehicles; (v) all books and records pertaining to the Collateral; (w) all Accessions and all Proceeds and products of any and all of the foregoing and (x) all other personal property of any kind or type whatsoever now or hereafter owned by such Grantor or as to which such Grantor now or hereafter has the power to transfer interest therein.

Notwithstanding anything to the contrary contained herein, the security interests granted under this Agreement shall not extend to any General Intangible, permit, lease, license, contract or other Instrument of an Grantor to the extent that the grant of a security interest in such General Intangible, permit, lease, license, contract or other Instrument in the manner contemplated by this Agreement, under the terms thereof or under applicable law, is prohibited and would result in the termination thereof or give the other parties thereto the right to terminate, accelerate or otherwise alter such Grantor’s rights, titles and interests thereunder (including upon the giving of notice or the lapse of time or both); provided that (a) any such limitation described in the foregoing clause on the security interests granted hereunder shall only apply to the extent that any such prohibition could not be rendered ineffective pursuant to the UCC or any other applicable law (including debtor relief laws) or principles of equity and (b) in the event of the termination or elimination of any such prohibition or the requirement for any consent contained in any applicable law, General Intangible, permit, lease, license, contract or other Instrument, to the extent sufficient to permit any such item to become Collateral hereunder, or upon the granting of any such consent, or waiving or terminating any requirement for such consent, a security interest in such General Intangible, permit, lease, license, contract or other Instrument shall be automatically and simultaneously granted hereunder and shall be included as Collateral hereunder.

The Grantors and the Lender hereby acknowledge and agree that the security interest created hereby in the Collateral (a) constitutes continuing collateral security for all of the Secured Obligations, whether now existing or hereafter arising, (b) is not to be construed as an assignment of any Intellectual Property, and (c) shall secure all present and future Secured Obligations of any of the Grantors to the Lender.

3. Representations and Warranties. Each Grantor hereby represents and warrants to the Lender that:

(a) Ownership. Each Grantor is the legal and beneficial owner of its Collateral and has the right to pledge, sell, assign or transfer the same. There exists no Adverse Claim with respect to the Pledged Equity of such Grantor.

(b) Security Interest/Priority. This Agreement creates a valid security interest in favor of the Lender in the Collateral of such Grantor and, when properly perfected by filing, shall constitute a valid and perfected, first priority security interest in such Collateral (including all uncertificated Pledged Equity consisting of partnership or limited liability company interests that do not constitute Securities), to the extent such security interest can be perfected by filing under the UCC, free and clear of all liens except for Permitted Liens. No Grantor has authenticated any agreement authorizing any secured party thereunder to file a financing statement, except to perfect Permitted Liens. The taking possession by the Lender of the certificated securities (if any) evidencing the Pledged Equity and all other Instruments constituting Collateral will perfect and establish the first priority of the Lender's security interest in all the Pledged Equity evidenced by such certificated securities and such Instruments. With respect to any Collateral consisting of a Deposit Account, Security Entitlement or held in a Securities Account, upon execution and delivery by the applicable Grantor, the applicable Securities Intermediary and the Lender of an agreement granting control to the Lender over such Collateral, the Lender shall have a valid and perfected, first priority security interest in such Collateral.

(c) Types of Collateral. None of the Collateral consists of, or is the Proceeds of, (i) As-Extracted Collateral, (ii) Consumer Goods, (iii) Farm Products, (iv) Manufactured Homes, (v) standing timber, or (vi) any other interest in or to any of the foregoing.

(d) Accounts. (i) Each Account of the Grantors and the papers and documents relating thereto are genuine and in all material respects what they purport to be, (ii) each Account arises out of (A) a bona fide sale of goods sold and delivered by such Grantor (or is in the process of being delivered) or (B) services theretofore actually rendered by such Grantor to, the account debtor named therein, (iii) no Account of a Grantor is evidenced by any Instrument or Chattel Paper unless such Instrument or Chattel Paper, to the extent requested by the Lender, has been endorsed over and delivered to, or submitted to the control of, the Lender, (iv) no surety bond was required or given in connection with any Account of a Grantor or the contracts or purchase orders out of which they arose, (v) the right to receive payment under each Account is assignable and (vi) to the knowledge of Grantors, no Account Debtor has any defense, set-off, claim or counterclaim against any Grantor that can be asserted against the Lender, whether in any proceeding to enforce the Lender's rights in the Collateral otherwise, except defenses, setoffs, claims or counterclaims that are not, in the aggregate, material to the value of the Accounts.

(e) Equipment and Inventory. With respect to any Equipment and/or Inventory of a Grantor, each such Grantor has exclusive possession and control of such Equipment and Inventory of such Grantor except for (i) Equipment leased by such Grantor as a lessee, (ii) Equipment or Inventory in transit with common carriers, (iii) Equipment and/or Inventory in the possession or control of a warehouseman, bailee or any agent or processor of such Grantor to the extent such Grantor has complied with Section 4(e), or (iv) rights of landowners, lessors, utility

companies and/or other parties under leases, pole attachment agreements or similar agreements. No Inventory of a Grantor is held by a Person other than a Grantor pursuant to consignment, sale or return, sale on approval or similar arrangement.

(f) Authorization of Pledged Equity. All Pledged Equity (i) is duly authorized and validly issued, (ii) is fully paid and, to the extent applicable, nonassessable and is not subject to the preemptive rights of any Person, (iii) is beneficially owned as of record by a Grantor and (iv) constitutes all the issued and outstanding shares of all classes of the equity of such Issuer issued to such Grantor.

(g) No Other Equity Interests, Instruments, Etc. As of the Closing Date, (i) no Grantor owns any certificated Equity Interests in any Subsidiary that are required to be pledged and delivered to the Lender hereunder except as set forth on Schedule 1 (as updated from time to time pursuant to Section 4(l)(ii)), and (ii) no Grantor holds any Instruments, Documents or Tangible Chattel Paper required to be pledged and delivered to the Lender pursuant to Section 4(c)(i) of this Agreement other than as set forth on Schedule 3 (as updated from time to time pursuant to Section 4(l)(ii)). All such certificated securities, Instruments, Documents and Tangible Chattel Paper have been delivered to the Lender to the extent (A) requested by the Lender or (B) as required by the terms of this Agreement and the other Loan Documents.

(h) Partnership and Limited Liability Company Interests. Except as previously disclosed to the Lender, none of the Collateral consisting of an interest in a partnership or a limited liability company (i) is dealt in or traded on a securities exchange or in a securities market, (ii) by its terms expressly provides that it is a Security governed by Article 8 of the UCC, (iii) is an Investment Company Security, (iv) is held in a Securities Account or (v) constitutes a Security or a Financial Asset.

(i) Contracts; Agreements; Licenses. To the knowledge of Grantors, no Grantor has any material contracts, agreements or licenses which are non-assignable by their terms, or as a matter of law, or which prevent the granting of a security interest therein.

(j) Consents; Etc. No approval, consent, exemption, authorization or other action by, notice to, or filing with, any Governmental Authority or any other Person (including, without limitation, any stockholder, member or creditor of such Grantor), is necessary or required for (i) the grant by such Grantor of the security interest in the Collateral granted hereby or for the execution, delivery or performance of this Agreement by such Grantor, (ii) the perfection of such security interest (to the extent such security interest can be perfected by filing under the UCC, the granting of control (to the extent required under Section 4(c) hereof) or by filing an appropriate notice with the USPTO or the United States Copyright Office) or (iii) the exercise by the Lender of the rights and remedies provided for in this Agreement (including, without limitation, as against any Issuer), except for (A) the filing or recording of UCC financing statements, (B) the filing of appropriate notices with the USPTO and the United States Copyright Office, (C) obtaining control to perfect the liens created by this Agreement (to the extent required under Section 4(c) hereof), (D) such actions as may be required by applicable laws affecting the offering and sale of securities, (E) such actions as may be required by applicable foreign applicable laws affecting the pledge of the Pledged Equity of foreign Subsidiaries, (F) consents, authorizations, filings or other actions

which have been obtained or made, and (G) as may be required with respect to Vehicles registered under a certificate of title.

(k) Commercial Tort Claims. As of the Closing Date, no Grantor has any Commercial Tort Claims seeking damages in excess of \$50,000 other than as set forth on Schedule 2.

4. Covenants. Each Grantor covenants that until such time as the Secured Obligations arising under the Loan Documents have been paid in full, such Grantor shall:

(a) Maintenance of Perfected Security Interest; Further Information.

(i) Maintain the security interest created by this Agreement as a first priority perfected security interest (subject only to Permitted Liens) and shall defend such security interest against the claims and demands of all Persons whomsoever (other than the holders of Permitted Liens).

(ii) From time to time furnish to the Lender upon the Lender's reasonable request, statements and schedules further identifying and describing the assets and property of such Grantor and such other reports in connection therewith as the Lender may reasonably request, all in reasonable detail.

(b) Required Notifications. Each Grantor shall promptly notify the Lender, in writing, of: (i) any lien (other than Permitted Liens) on any of the Collateral which would adversely affect the ability of the Lender to exercise any of its remedies hereunder and (ii) the occurrence of any other event which could reasonably be expected to have a material impairment on the aggregate value of the Collateral or on the security interests created hereby.

(c) Perfection through Possession and Control.

(i) If any amount in excess of \$25,000 payable under or in connection with any of the Collateral shall be or become evidenced by any Instrument or Tangible Chattel Paper or Supporting Obligation, or if any property constituting Collateral shall be stored or shipped subject to a Document, ensure that such Instrument, Tangible Chattel Paper, Supporting Obligation or Document is either in the possession of such Grantor at all times or, if requested by the Lender to perfect its security interest in such Collateral, is delivered to the Lender duly endorsed in a manner satisfactory to the Lender. Such Grantor shall ensure that any Collateral consisting of Tangible Chattel Paper is marked with a legend acceptable to the Lender indicating the Lender's security interest in such Tangible Chattel Paper.

(ii) Deliver to the Lender promptly upon the receipt thereof by or on behalf of a Grantor, all certificates and instruments constituting Certificated Securities or Pledged Equity. Prior to delivery to the Lender, all such certificates constituting Pledged Equity shall be held in trust by such Grantor for the benefit of the Lender pursuant hereto. All such certificates representing Pledged Equity shall be delivered in suitable form for transfer by delivery or shall be accompanied by duly executed instruments of transfer or assignment in blank, substantially in the form provided in Exhibit A hereto or other form acceptable to the Lender.

(iii) If any Collateral shall consist of Deposit Accounts, Electronic Chattel Paper, Letter-of-Credit Rights, Securities Accounts or uncertificated Investment Property, execute and deliver (and, with respect to any Collateral consisting of a Securities Account or uncertificated Investment Property, cause the Securities Intermediary or the Issuer, as applicable, with respect to such Investment Property to execute and deliver) to the Lender all control agreements, assignments, instruments or other documents as reasonably requested by the Lender for the purposes of obtaining and maintaining Control of such Collateral.

(d) Filing of Financing Statements, Notices, etc. Each Grantor shall execute and deliver to the Lender and/or file such agreements, assignments or instruments (including affidavits, notices, reaffirmations and amendments and restatements of existing documents, as the Lender may reasonably request) and do all such other things as the Lender may reasonably deem necessary or appropriate (i) to assure to the Lender its security interests hereunder, including such instruments as the Lender may from time to time reasonably request in order to perfect and maintain the security interests granted hereunder in accordance with the UCC, including, without limitation, financing statements (including continuation statements), (ii) to consummate the transactions contemplated hereby and (iii) to otherwise protect and assure the Lender of its rights and interests hereunder. Furthermore, each Grantor also hereby irrevocably makes, constitutes and appoints the Lender, its nominee or any other person whom the Lender may designate, as such Grantor's attorney in fact with full power and for the limited purpose to prepare and file (and, to the extent applicable, sign) in the name of such Grantor any financing statements, or amendments and supplements to financing statements, renewal financing statements, notices or any similar documents which in the Lender's reasonable discretion would be necessary or appropriate in order to perfect and maintain perfection of the security interests granted hereunder, such power, being coupled with an interest, being and remaining irrevocable until such time as the Secured Obligations arising under the Loan Documents have been paid in full. Each Grantor hereby agrees that a carbon, photographic or other reproduction of this Agreement or any such financing statement is sufficient for filing as a financing statement by the Lender without notice thereof to such Grantor wherever the Lender may in its sole discretion desire to file the same.

(e) Collateral Held by Warehouseman, Bailee, etc. If any Collateral is at any time in the possession or control of a warehouseman, bailee or any agent or processor of such Grantor and the Lender so requests (i) notify such Person in writing of the Lender's security interest therein, (ii) instruct such Person to hold all such Collateral for the Lender's account and subject to the Lender's instructions and (iii) use reasonable efforts to obtain a written acknowledgment from such Person that it is holding such Collateral for the benefit of the Lender.

(f) Commercial Tort Claims. Execute and deliver such statements, documents and notices and do and cause to be done all such things as may be required by the Lender, or required by any applicable law to create, preserve, perfect and maintain the Lender's security interest in any Commercial Tort Claims initiated by or in favor of any Grantor.

(g) Books and Records. Mark its books and records (and shall cause the Issuer of the Pledged Equity of such Grantor to mark its books and records) to reflect the security interest granted pursuant to this Agreement.

(h) Nature of Collateral. At all times maintain the Collateral as personal property and not affix any of the Collateral to any real property in a manner with the intent to change its nature from personal property to real property or a Fixture to real property, unless the Lender shall have a perfected lien on such Fixture or real property.

(i) Issuance or Acquisition of Equity Interests. Not without executing and delivering, or causing to be executed and delivered, to the Lender such agreements, documents and instruments as the Lender may reasonably require, issue or acquire any Pledged Equity consisting of an interest in a partnership or a limited liability company that (A) is dealt in or traded on a securities exchange or in a securities market, (B) by its terms expressly provides that it is a Security governed by Article 8 of the UCC, (C) is an investment company security, (D) is held in a Securities Account or (E) constitutes a Security or a Financial Asset.

(j) Equipment. Maintain each item of Equipment in good working order and condition (reasonable wear and tear and obsolescence excepted).

(k) Vehicles. File or cause to be filed in each office in each jurisdiction which the Lender shall deem reasonably advisable to perfect its liens on the Vehicles, all applications for certificates of title or ownership (and any other necessary documentation) indicating the Lender's first priority lien on the Vehicle (subject to any Permitted Liens) covered by such certificate.

(l) Further Assurances.

(i) Promptly upon the request of the Lender and at the sole expense of the Grantors, duly execute and deliver, and have recorded, such further instruments and documents and take such further actions as the Lender may reasonably request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including, without limitation, (A) the assignment of any material contract, (B) with respect to Government Contracts, assignment agreements and notices of assignment, in form and substance satisfactory to the Lender, duly executed by any Grantors party to such Government Contract in compliance with the Assignment of Claims Act (or analogous state applicable law), and (C) all applications, certificates, instruments, registration statements, and all other documents and papers the Lender may reasonably request and as may be required by law in connection with the obtaining of any consent, approval, registration, qualification, or authorization of any Person deemed necessary or appropriate for the effective exercise of any rights under this Agreement; provided that no Grantor shall be required to take any action to perfect a security interest in any Collateral that the Lender reasonably determines in its sole discretion that the costs and burdens to the Grantors of perfecting a security interest in such Collateral (including any applicable stamp, intangibles or other taxes) are excessive in relation to value to the Lender afforded thereby.

(ii) From time to time upon the Lender's reasonable request, promptly furnish such updates to the information disclosed pursuant to this Agreement, the Loan Agreement, including any Schedules hereto or thereto, such that such updated information is true and correct as of the date so furnished.

5. Authorization to File Financing Statements. Each Grantor hereby authorizes the Lender to prepare and file such financing statements (including continuation statements) or

amendments thereof or supplements thereto or other instruments as the Lender may from time to time deem necessary or appropriate in order to perfect and maintain the security interests granted hereunder in accordance with the UCC, which such financing statements may describe the Collateral in the same manner as described herein or may contain an indication or description of Collateral that describes such property in any other manner as the Lender may determine, in its sole discretion, is necessary, advisable or prudent to ensure the perfection of the security interest in the Collateral granted herein, including, without limitation, describing such property as “all assets, whether now owned or hereafter acquired” or “all personal property, whether now owned or hereafter acquired,” or describing such property using words of similar import.

6. Advances. On failure of any Grantor to perform any of the covenants and agreements contained herein or in any other Loan Document, the Lender may, at its sole option and in its sole discretion, perform the same and in so doing may expend such sums as the Lender may reasonably deem advisable in the performance thereof, including, without limitation, the payment of any insurance premiums, the payment of any taxes, a payment to obtain a release of a lien or potential lien, expenditures made in defending against any adverse claim and all other expenditures which the Lender may make for the protection of the security hereof or which may be compelled to make by operation of any applicable law. All such sums and amounts so expended shall be repayable by the Grantors on a joint and several basis promptly upon timely notice thereof and demand therefor, shall constitute additional Secured Obligations and shall bear interest from the date said amounts are expended at the Default Rate. No such performance of any covenant or agreement by the Lender on behalf of any Grantor, and no such advance or expenditure therefor, shall relieve the Grantors of any Default or Event of Default. The Lender may make any payment hereby authorized in accordance with any bill, statement or estimate procured from the appropriate public office or holder of the claim to be discharged without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax lien, title or claim except to the extent such payment is being contested in good faith by a Grantor in appropriate proceedings and against which adequate reserves are being maintained in accordance with GAAP.

7. Remedies.

(a) General Remedies. Upon the occurrence of an Event of Default and during continuation thereof, the Lender shall have, in addition to the rights and remedies provided herein, in the Loan Documents, in any other documents relating to the Secured Obligations, or by any applicable law (including, but not limited to, levy of attachment, garnishment and the rights and remedies set forth in the UCC of the jurisdiction applicable to the affected Collateral), the rights and remedies of a secured party under the UCC (regardless of whether the UCC is the law of the jurisdiction where the rights and remedies are asserted and regardless of whether the UCC applies to the affected Collateral), and further, the Lender may, with or without judicial process or the aid and assistance of others, (i) enter on any premises on which any of the Collateral may be located and, without resistance or interference by the Grantors, take possession of the Collateral, (ii) dispose of any Collateral on any such premises, (iii) require the Grantors to assemble and make available to the Lender at the expense of the Grantors any Collateral at any place and time designated by the Lender which is reasonably convenient to both parties, (iv) remove any Collateral from any such premises for the purpose of effecting sale or other disposition thereof, and/or (v) without demand and without advertisement, notice, hearing or process of law, all of which each of the Grantors hereby waives to the fullest extent permitted by applicable law, at any

place and time or times, sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels any or all Collateral held by or for it at public or private sale (which in the case of a private sale of Pledged Equity, shall be to a restricted group of purchasers who will be obligated to agree, among other things, to acquire such securities for their own account, for investment and not with a view to the distribution or resale thereof), at any exchange or broker's board or elsewhere, by one or more contracts, in one or more parcels, for money, upon credit or otherwise, at such prices and upon such terms as the Lender deems advisable, in its sole discretion (subject to any and all mandatory legal requirements). Each Grantor acknowledges that any such private sale may be at prices and on terms less favorable to the seller than the prices and other terms which might have been obtained at a public sale and, notwithstanding the foregoing, agrees that such private sale shall be deemed to have been made in a commercially reasonable manner and, in the case of a sale of Pledged Equity, that the Lender shall have no obligation to delay sale of any such securities for the period of time necessary to permit the Issuer of such securities to register such securities for public sale under the Securities Act of 1933. The Lender shall have the right upon any such public sale or sales, and, to the extent permitted by applicable law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold. Neither the Lender's compliance with applicable laws nor its disclaimer of warranties relating to the Collateral shall be considered to adversely affect the commercial reasonableness of any sale. To the extent the rights of notice cannot be legally waived hereunder, each Grantor agrees that any requirement of reasonable notice shall be met if such notice, specifying the place of any public sale or the time after which any private sale is to be made, is personally served on or mailed, postage prepaid, to Grantor in accordance with the notice provisions of Section 8.01 of the Loan Agreement at least ten (10) days before the time of sale or other event giving rise to the requirement of such notice. Each Grantor further acknowledges and agrees that any offer to sell any Pledged Equity which has been (A) publicly advertised on a bona fide basis in a newspaper or other publication of general circulation in the financial community of New York, New York (to the extent that such offer may be advertised without prior registration under the Securities Act of 1933), or (B) made privately in the manner described above shall be deemed to involve a "public sale" under the UCC, notwithstanding that such sale may not constitute a "public offering" under the Securities Act of 1933, and the Lender may, in such event, bid for the purchase of such securities. The Lender shall not be obligated to make any sale or other disposition of the Collateral regardless of notice having been given. To the extent permitted by applicable law, the Lender may be a purchaser at any such sale. To the extent permitted by applicable law, each of the Grantors hereby waives all of its rights of redemption with respect to any such sale. Subject to the provisions of applicable law, the Lender may postpone or cause the postponement of the sale of all or any portion of the Collateral by announcement at the time and place of such sale, and such sale may, without further notice, to the extent permitted by applicable law, be made at the time and place to which the sale was postponed, or the Lender may further postpone such sale by announcement made at such time and place. To the extent permitted by applicable law, each Grantor waives all claims, damages and demands it may acquire against the Lender arising out of the exercise by the Lender of any rights hereunder except to the extent any such claims, damages or demands result solely from the gross negligence or willful misconduct of the Lender as determined by a final non-appealable judgment of a court of competent jurisdiction, in each case against whom such claim is asserted. Each Grantor agrees that the internet shall constitute a "place" for purposes of Section 9-610(b) of the UCC and that any sale of Collateral to a licensor pursuant to the terms of a license agreement between such

licensor and a Grantor is sufficient to constitute a commercially reasonable sale (including as to method, terms, manner, and time) within the meaning of Section 9-610 of the UCC.

(b) Remedies Relating to Accounts.

(i) During the continuation of an Event of Default, whether or not the Lender has exercised any or all of its rights and remedies hereunder, (A) each Grantor shall notify (such notice to be in form and substance satisfactory to the Lender) its Account Debtors and parties to its material contracts subject to a security interest hereunder that such Accounts and material contracts have been assigned to the Lender and promptly upon request of the Lender, instruct all account debtors to remit all payments in respect of Accounts to a mailing location selected by the Lender and (B) the Lender shall have the right to enforce any Grantor's rights against its customers and account debtors, and the Lender or its designee may notify any Grantor's customers and account debtors that the Accounts of such Grantor have been assigned to the Lender or of the Lender's security interest therein, and may (either in its own name or in the name of a Grantor or both) demand, collect (including without limitation by way of a lockbox arrangement), receive, take receipt for, sell, sue for, compound, settle, compromise and give acquittance for any and all amounts due or to become due on any Account, and, in the Lender's discretion, file any claim or take any other action or proceeding to protect and realize upon the security interest of the Lender in the Accounts.

(ii) Each Grantor acknowledges and agrees that the Proceeds of its Accounts remitted to or on behalf of the Lender in accordance with the provisions hereof shall be solely for the Lender's own convenience and that such Grantor shall not have any right, title or interest in such Accounts or in any such other amounts except as expressly provided herein. The Lender shall not have any liability or responsibility to any Grantor for acceptance of a check, draft or other order for payment of money bearing the legend "payment in full" or words of similar import or any other restrictive legend or endorsement or be responsible for determining the correctness of any remittance.

(iii) During the continuation of an Event of Default, (A) the Lender shall have the right, but not the obligation, to make test verifications of the Accounts in any manner and through any medium that it reasonably considers advisable, and the Grantors shall furnish all such assistance and information as the Lender may require in connection with such test verifications, (B) upon the Lender's request and at the expense of the Grantors, the Grantors shall cause independent public accountants or others satisfactory to the Lender to furnish to the Lender reports showing reconciliations, aging and test verifications of, and trial balances for, the Accounts and (C) the Lender in its own name or in the name of others may communicate with account debtors on the Accounts to verify with them to the Lender's satisfaction the existence, amount and terms of any Accounts.

(iv) During the continuation of an Event of Default, upon the request of the Lender, each Grantor shall forward to the Lender, on the last Business Day of each week, deposit slips related to all cash, money, checks or any other similar items of payment received by the Grantor during such week, and, if requested by the Lender, copies of such checks or any other similar items of payment, together with a statement showing the application of all payments on the

Collateral during such week and a collection report with regard thereto, in form and substance satisfactory to the Lender.

(c) Deposit Accounts/Securities Accounts. Upon the occurrence of an Event of Default and during continuation thereof, the Lender may prevent withdrawals or other dispositions of funds in Deposit Accounts and Securities Accounts subject to control agreements or held with the Lender.

(d) Access. In addition to the rights and remedies hereunder, upon the occurrence of an Event of Default and during the continuance thereof, the Lender shall have the right to enter and remain upon the various premises of the Grantors without cost or charge to the Lender, and use the same, together with materials, supplies, books and records of the Grantors for the purpose of collecting and liquidating the Collateral, or for preparing for sale and conducting the sale of the Collateral, whether by foreclosure, auction or otherwise. In addition, the Lender may remove Collateral, or any part thereof, from such premises and/or any records with respect thereto, in order to effectively collect or liquidate such Collateral. If the Lender exercises its right to take possession of the Collateral, each Grantor shall also at its expense perform any and all other steps reasonably requested by the Lender to preserve and protect the security interest hereby granted in the Collateral, such as placing and maintaining signs indicating the security interest of the Lender, appointing overseers for the Collateral and maintaining inventory records.

(e) Nonexclusive Nature of Remedies. Failure by the Lender to exercise any right, remedy or option under this Agreement, any other Loan Document, any other document relating to the Secured Obligations, or as provided by applicable law, or any delay by the Lender in exercising the same, shall not operate as a waiver of any such right, remedy or option. No waiver hereunder shall be effective unless it is in writing, signed by the party against whom such waiver is sought to be enforced and then only to the extent specifically stated, which in the case of the Lender shall only be granted as provided herein. To the extent permitted by applicable law, neither the Lender, nor any party acting as attorney for the Lender, shall be liable hereunder for any acts or omissions or for any error of judgment or mistake of fact or law other than their gross negligence or willful misconduct hereunder as determined by a final non-appealable judgment of a court of competent jurisdiction. The rights and remedies of the Lender under this Agreement shall be cumulative and not exclusive of any other right or remedy which the Lender may have.

(f) Retention of Collateral. In addition to the rights and remedies hereunder, the Lender may, in compliance with Sections 9-620 and 9-621 (including notices given thereunder) of the UCC or otherwise complying with the requirements of applicable laws of the relevant jurisdiction, accept or retain the Collateral in satisfaction of the Secured Obligations. Unless and until the Lender shall have provided such notices, however, the Lender shall not be deemed to have retained any Collateral in satisfaction of any Secured Obligations for any reason.

(g) Waiver: Deficiency. Each Grantor hereby waives, to the extent permitted by applicable law, all rights of redemption, appraisal, valuation, stay, extension or moratorium now or hereafter in force under any applicable law in order to prevent or delay the enforcement of this Agreement or the absolute sale of the Collateral or any portion thereof. In the event that the proceeds of any sale, collection or realization are insufficient to pay all amounts to which the Lender is legally entitled, the Grantors shall be jointly and severally liable for the deficiency,

together with interest thereon at the Default Rate, together with the costs of collection and the fees, charges and disbursements of counsel. Any surplus remaining after the full payment and satisfaction of the Secured Obligations shall be returned to the Grantors or to whomsoever a court of competent jurisdiction shall determine to be entitled thereto.

(h) Specific Performance. Each Grantor further agrees that a breach of any of the covenants contained in this Section 7 will cause irreparable injury to the Lender, that the Lender have no adequate remedy at law in respect of such breach and, as a consequence, that each and every covenant contained in this Section 7 shall be specifically enforceable against such Grantor, and such Grantor hereby waives and agrees not to assert any defenses against an action for specific performance of such covenants except for a defense that no Event of Default has occurred under the Loan Agreement.

8. Rights of the Lender.

(a) Power of Attorney. In addition to other powers of attorney contained herein, each Grantor hereby designates and appoints the Lender and each of its designees or agents, as attorney-in-fact of such Grantor, irrevocably and with power of substitution, with authority to take any or all of the following actions upon the occurrence and during the continuance of an Event of Default:

(i) to demand, collect, settle, compromise, adjust, give discharges and releases, all as the Lender may reasonably determine;

(ii) to commence and prosecute any actions at any court for the purposes of collecting any Collateral and enforcing any other right in respect thereof;

(iii) to defend, settle or compromise any action brought and, in connection therewith, give such discharge or release as the Lender may deem reasonably appropriate;

(iv) to receive, open and dispose of mail addressed to a Grantor and endorse checks, notes, drafts, acceptances, money orders, bills of lading, warehouse receipts or other instruments or documents evidencing payment, shipment or storage of the goods giving rise to the Collateral of such Grantor on behalf of and in the name of such Grantor, or securing, or relating to such Collateral;

(v) to sell, assign, transfer, make any agreement in respect of, or otherwise deal with or exercise rights in respect of, any Collateral or the goods or services which have given rise thereto, as fully and completely as though the Lender were the absolute owner thereof for all purposes;

(vi) to adjust and settle claims under any insurance policy relating thereto;

(vii) to execute and deliver all assignments, conveyances, statements, financing statements, continuation financing statements, security agreements, affidavits, notices and other agreements, instruments and documents that the Lender may determine necessary in

order to perfect and maintain the security interests and liens granted in this Agreement and in order to fully consummate all of the transactions contemplated herein;

(viii) to institute any foreclosure proceedings that the Lender may deem appropriate;

(ix) to sign and endorse any drafts, assignments, proxies, stock powers, verifications, notices and other documents relating to the Collateral;

(x) to exchange any of the Pledged Equity or other property upon any merger, consolidation, reorganization, recapitalization or other readjustment of the Issuer thereof and, in connection therewith, deposit any of the Pledged Equity with any committee, depository, transfer agent, registrar or other designated agency upon such terms as the Lender may reasonably deem appropriate;

(xi) to vote for a shareholder resolution, or to sign an instrument in writing, sanctioning the transfer of any or all of the Pledged Equity into the name of the Lender or into the name of any transferee to whom the Pledged Equity or any part thereof may be sold pursuant to Section 7 hereof;

(xii) to pay or discharge taxes, liens, security interests or other encumbrances levied or placed on or threatened against the Collateral;

(xiii) to direct any parties liable for any payment in connection with any of the Collateral to make payment of any and all monies due and to become due thereunder directly to the Lender or as the Lender shall direct;

(xiv) to receive payment of and receipt for any and all monies, claims, and other amounts due and to become due at any time in respect of or arising out of any Collateral;

(xv) in the case of any Intellectual Property, execute and deliver, and have recorded, any and all agreements, instruments, documents and papers as the Lender may request to evidence the security interests created hereby in such Intellectual Property and the goodwill and General Intangibles of such Grantor relating thereto or represented thereby; and

(xvi) do and perform all such other acts and things as the Lender may reasonably deem to be necessary, proper or convenient in connection with the Collateral.

This power of attorney is a power coupled with an interest and shall be irrevocable until such time as the Secured Obligations arising under the Loan Documents have been paid in full. The Lender shall be under no duty to exercise or withhold the exercise of any of the rights, powers, privileges and options expressly or implicitly granted to the Lender in this Agreement, and shall not be liable for any failure to do so or any delay in doing so. The Lender shall not be liable for any act or omission or for any error of judgment or any mistake of fact or law in its individual capacity or its capacity as attorney-in-fact except acts or omissions resulting from its gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. This power of attorney is conferred on the Lender solely to protect, preserve and realize upon its

security interest in the Collateral and shall not impose any duty upon the Lender to exercise any such powers.

(b) Assignment by the Lender. The Lender may from time to time assign the Secured Obligations to an assignee in accordance with the Loan Agreement, and such assignee shall be entitled to all of the rights and remedies of the Lender under this Agreement in relation thereto.

(c) The Lender's Duty of Care. Other than the exercise of reasonable care to assure the safe custody of the Collateral while being held by the Lender hereunder, the Lender shall have no duty or liability to preserve rights pertaining thereto, it being understood and agreed that the Grantors shall be responsible for preservation of all rights in the Collateral, and the Lender shall be relieved of all responsibility for the Collateral upon surrendering it or tendering the surrender of it to the Grantors. The Lender shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which the Lender accords its own property, which shall be no less than the treatment employed by a reasonable and prudent agent in the industry, it being understood that the Lender shall not have responsibility for taking any necessary steps to preserve rights against any parties with respect to any of the Collateral. In the event of a public or private sale of Collateral pursuant to Section 7 hereof, the Lender shall have no responsibility for (i) ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relating to any Collateral, whether or not the Lender has or is deemed to have knowledge of such matters, or (ii) taking any steps to clean, repair or otherwise prepare the Collateral for sale.

(d) Liability with Respect to Accounts. Anything herein to the contrary notwithstanding, each of the Grantors shall remain liable under each of the Accounts to observe and perform all the conditions and obligations to be observed and performed by it thereunder, all in accordance with the terms of any agreement giving rise to each such Account. The Lender shall not have any obligation or liability under any Account (or any agreement giving rise thereto) by reason of or arising out of this Agreement or the receipt by the Lender of any payment relating to such Account pursuant hereto, nor shall the Lender be obligated in any manner to perform any of the obligations of a Grantor under or pursuant to any Account (or any agreement giving rise thereto), to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account (or any agreement giving rise thereto), to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

(e) Voting and Payment Rights in Respect of the Pledged Equity.

(i) So long as no Event of Default shall exist, each Grantor may (A) exercise any and all voting and other consensual rights pertaining to the Pledged Equity of such Grantor or any part thereof for any purpose not inconsistent with the terms of this Agreement or the Loan Agreement and (B) receive and retain any and all dividends (other than stock dividends and other dividends constituting Collateral which are addressed hereinabove), principal or interest

paid in respect of the Pledged Equity to the extent they are allowed under the Loan Agreement; and

(ii) During the continuance of an Event of Default, (A) all rights of an Grantor to exercise the voting and other consensual rights which it would otherwise be entitled to exercise pursuant to clause (i)(A) above shall cease and all such rights shall thereupon become vested in the Lender which shall then have the sole right to exercise such voting and other consensual rights, (B) all rights of an Grantor to receive the dividends, principal and interest payments which it would otherwise be authorized to receive and retain pursuant to clause (i)(B) above shall cease and all such rights shall thereupon be vested in the Lender which shall then have the sole right to receive and hold as Collateral such dividends, principal and interest payments, and (C) all dividends, principal and interest payments which are received by an Grantor contrary to the provisions of clause (ii)(B) above shall be received in trust for the benefit of the Lender, shall be segregated from other property or funds of such Grantor, and shall be forthwith paid over to the Lender as Collateral in the exact form received, to be held by the Lender as Collateral and as further collateral security for the Secured Obligations.

(f) Releases of Collateral.

(i) If any Collateral shall be sold, transferred or otherwise disposed of by any Grantor in a transaction permitted by the Loan Agreement then the Lender, at the request and sole expense of such Grantor, shall promptly execute and deliver to such Grantor all releases and other documents, and take such other action, reasonably necessary for the release of the liens created hereby or by any other Collateral Document on such Collateral.

(ii) The Lender may release any of the Pledged Equity from this Agreement or may substitute any of the Pledged Equity for other Pledged Equity without altering, varying or diminishing in any way the force, effect, lien, pledge or security interest of this Agreement as to any Pledged Equity not expressly released or substituted, and this Agreement shall continue as a first priority lien on all Pledged Equity not expressly released or substituted.

9. Application of Proceeds. After the exercise of remedies provided for in Section 8.2 of the Loan Agreement any payments in respect of the Secured Obligations and any proceeds of the Collateral, when received by the Lender in cash or cash equivalents will be applied in reduction of the Secured Obligations in the manner determined by the Lender.

10. Continuing Agreement.

(a) This Agreement shall remain in full force and effect until such time as the Secured Obligations arising under the Loan Documents have been paid in full, at which time this Agreement shall be automatically terminated (other than obligations under this Agreement which expressly survive such termination) and the Lender shall, upon the request and at the expense of the Grantors, forthwith release all of its liens and security interests hereunder and shall execute and deliver all UCC termination statements and/or other documents reasonably requested by the Grantors evidencing such termination.

(b) This Agreement shall continue to be effective or be automatically reinstated, as the case may be, if at any time payment, in whole or in part, of any of the Secured

Obligations is rescinded or must otherwise be restored or returned by the Lender as a preference, fraudulent conveyance or otherwise under any debtor relief law, all as though such payment had not been made; provided that in the event payment of all or any part of the Secured Obligations is rescinded or must be restored or returned, all reasonable costs and expenses (including without limitation any reasonable legal fees and disbursements) incurred by the Lender in defending and enforcing such reinstatement shall be deemed to be included as a part of the Secured Obligations.

11. Amendments; Waivers; Modifications, etc. This Agreement and the provisions hereof may not be amended, waived, modified, changed, discharged or terminated except as agreed in writing and signed by the Grantors and the Lender.

12. Successors in Interest. This Agreement shall be binding upon each Grantor, its successors and assigns and shall inure, together with the rights and remedies of the Lender hereunder, to the benefit of the Lender and their successors and permitted assigns.

13. Notices. All notices required or permitted to be given under this Agreement shall be in conformance with Section 8.01 of the Loan Agreement.

14. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart. Delivery of an executed counterpart of a signature page of this Agreement by fax transmission or other electronic mail transmission (e.g. “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Agreement. Without limiting the foregoing, to the extent a manually executed counterpart is not specifically required to be delivered, upon the request of any party, such fax transmission or electronic mail transmission shall be promptly followed by such manually executed counterpart.

15. Headings. The headings of the sections hereof are provided for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

16. Governing Law; WAIVER OF JURY TRIAL. The terms of Sections 8.10 and 8.11 of the Loan Agreement with respect to governing law and waiver of jury trial are incorporated herein by reference, mutatis mutandis, and the parties hereto agree to such terms.

17. Severability. If any provision of this Agreement is determined to be illegal, invalid or unenforceable, such provision shall be fully severable and the remaining provisions shall remain in full force and effect and shall be construed without giving effect to the illegal, invalid or unenforceable provisions.

18. Entirety. This Agreement, the other Loan Documents and the other documents relating to the Secured Obligations represent the entire agreement of the parties hereto and thereto, and supersede all prior agreements and understandings, oral or written, if any, including any commitment letters or correspondence relating to the Loan Documents, any other documents relating to the Secured Obligations, or the transactions contemplated herein and therein.

19. Other Security. To the extent that any of the Secured Obligations are now or hereafter secured by property other than the Collateral (including, without limitation, real property

and securities owned by a Grantor), or by a guarantee, endorsement or property of any other Person, then the Lender shall have the right to proceed against such other property, guarantee or endorsement upon the occurrence of any Event of Default, and the Lender shall have the right, in its sole discretion, to determine which rights, security, liens, security interests or remedies the Lender shall at any time pursue, relinquish, subordinate, modify or take with respect thereto, without in any way modifying or affecting any of them or the Secured Obligations or any of the rights of the Lender under this Agreement, under any other Loan Documents or under any other document relating to the Secured Obligations.

20. Joinder. At any time after the date of this Agreement, one or more additional Persons may become party hereto by executing and delivering to the Lender a joinder agreement in such form as is acceptable to the Lender. Immediately upon such execution and delivery of such joinder agreement (and without any further action), each such additional Person will become a party to this Agreement as an “Grantor” and have all of the rights and obligations of a Grantor hereunder and this Agreement and the schedules hereto shall be deemed amended by such Joinder Agreement.

21. Consent of Issuers of Pledged Equity. Any Grantor that is an Issuer hereby acknowledges, consents and agrees to the grant of the security interests in such Pledged Equity by the applicable Grantors pursuant to this Agreement, together with all rights accompanying such security interest as provided by this Agreement and applicable law, notwithstanding any anti-assignment provisions in any operating agreement, limited partnership agreement or similar organizational or governance documents of such Issuer.

22. Marshaling. The Lender shall not be required to marshal any present or future collateral security (including but not limited to the Collateral) for, or other assurances of payment of, the Secured Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of its rights and remedies hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights and remedies, however existing or arising. To the extent that it lawfully may, each Grantor hereby agrees that it will not invoke any law relating to the marshaling of collateral which might cause delay in or impede the enforcement of the Lender’s rights and remedies under this Agreement or under any other instrument creating or evidencing any of the Secured Obligations or under which any of the Secured Obligations is outstanding or by which any of the Secured Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, each Grantor hereby irrevocably waives the benefits of all such laws.

23. Injunctive Relief.

(a) Each Grantor recognizes that, in the event such Grantor fails to perform, observe or discharge any of its obligations or liabilities under this Agreement, any other Loan Document, any remedy of law may prove to be inadequate relief to the Lender. Therefore, each Grantor agrees that the Lender, at the option of the Lender, shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving actual damages.

(b) The Lender and each Grantor hereby agree that no such Person shall have a remedy of punitive or exemplary damages against any other party to a Loan Document and each

such Person hereby waives any right or claim to punitive or exemplary damages that they may now have or may arise in the future in connection with any dispute under this Agreement, any other Loan Document, whether such dispute is resolved through arbitration or judicially.

24. Existing Security Agreements Superseded. This Agreement amends, modifies, supersedes and replaces in its entirety (a) the Prepetition Security Agreement, and (b) those provisions of the Existing DIP Facility Agreement which relate to the grant of a security interest to Lender and all of Lender's rights and remedies with respect thereto (and, for the avoidance of doubt, all other provisions of the Existing DIP Facility Agreement will remain unchanged by this Agreement). All grants of security interests under the Prepetition Security Agreement and the Existing DIP Facility shall be deemed to have been made pursuant to this Agreement and the other Loan Documents which shall hereafter govern and control for all purposes.

25. Joint and Several Liability of Grantors.

(a) The obligations of the Grantors hereunder shall be joint and several, shall be absolute and unconditional and shall remain in full force and effect until all Secured Obligations shall have been paid and, until such payment has been made, shall not be discharged, affected, modified or impaired upon the happening from time to time of any event, including, without limitation, any of the following, whether or not with notice to or the consent of any of the undersigned: (a) the waiver, compromise, indulgence, settlement, release, termination, modification or amendment (including, without limitation, any extension or postponement of the time for payment or performance or renewal or refinancing) of any or all of the obligations, covenants or agreements of any of the Grantors under this the Agreement or any other Loan Document; (b) the failure to give notice to any or all of the Grantors of the occurrence of a default under the terms and provisions of this Agreement or any other Loan Document; (c) the release, substitution or exchange by the Lender of any security held by it for the payment of any amount due pursuant to the Term Note or any other Loan Document (whether with or without consideration) or the acceptance by the Lender of any additional security for such payments or the availability or claimed availability of any other security, collateral or source of repayment; (d) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment of, or other similar proceedings affecting any or all of the undersigned or any other person or entity who, or any of whose property, shall at the time in question be obligated in respect of the debt evidenced by the Term Note or any part thereof; (e) any failure, omission, delay or neglect by the Lender in enforcing, asserting or exercising any right, power or remedy under this Agreement, any other Loan Document, or at law or in equity; (f) the release of any Person primarily or secondarily liable for all or any part of the debt evidenced by the Term Note; (g) any non-perfection or other impairment of any security; (h) any assignment or transfer by the Lender of all or any interest in this Agreement; (i) the invalidity or unenforceability of any term or provision in this Agreement or any other Loan Document; (j) any merger, consolidation, conversion or re-domestication involving any of the Grantors, any sale, assignment, transfer, conveyance or issuance of any stock, partnership, membership or other equity interest by any of the Grantors or any sale, transfer or conveyance by any of the undersigned or any other Person of all or any part of such Person's interest in any of the Grantors or any affiliate of any of the Grantors; or (k) to the extent permitted by law, any event or action that would, in the absence of this clause, result in the

release or discharge of any or all of the Grantors from the performance or observance of any obligation, covenant or agreement contained in this Agreement. Without limiting the foregoing, it is the intention of the parties that any modification, limitation, or discharge of the obligations of any of the Grantors arising out of or by virtue of any bankruptcy, reorganization or similar proceeding for relief of debtors under federal or state law shall not affect, modify, limit or discharge the liability of any other co-maker in any manner whatsoever, and this Agreement and the other Loan Documents shall remain and continue in full force and effect and shall be enforceable against such Grantor to the same extent and with the same force and effect as if any such proceedings had not been instituted; and all other Grantors shall be jointly and severally liable to the Lender under this Agreement and the other Loan Documents for the full amount payable hereunder irrespective of any modification, limitation, or discharge of the liability of any co-maker that may result from any such proceeding. The obligations of the Grantors to the Lender pursuant hereto include and apply to any payment or payments received by the Lender on account of the liabilities evidenced hereby, which payment or payments or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be paid to a trustee, receiver, or any other Person under any bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or similar law, common law or equitable doctrine. If any action or proceeding seeking such repayment is pending or, in the Lender's sole judgment, threatened, this Agreement and any security interest therefor shall remain in full force and effect notwithstanding that one or more of the Grantors may not then be obligated to the Lender. The joint and several obligations of the Grantors to the Lender and this Agreement and any security therefor, shall remain in full force and effect (or be reinstated) until the Lender has received payment in full of all Secured Obligations payable to it pursuant to this Agreement and any other Loan Document and the expiration of any applicable preference or similar period pursuant to any bankruptcy, insolvency, reorganization, moratorium or similar law, or at law or equity, without any claim having been made before the expiration of such period asserting an interest in all or any part of any payment(s) received by the Lender.

(b) The Grantors expressly agree that the Lender shall not be required first to institute any suit or to exhaust its remedies against any of the Grantors or any other Person to become liable hereunder or against any Collateral or security for the Loan evidenced hereby, in order to enforce this Agreement; and expressly agree that, notwithstanding the occurrence of any of the foregoing, the Grantors shall be and remain, directly and primarily liable for all Secured Obligations due under this Agreement and under the Loan Documents. Each Grantor assumes responsibility for keeping itself informed of the financial condition of each other Grantor, and any and all endorsers and/or guarantors of any instrument or document evidencing all or any part of such other Grantor's Obligations and of all other circumstances bearing upon the risk of nonpayment by such other Grantors of their Obligations and each Grantor agrees that Lender shall not have any duty to advise such Grantor of information known to Lender regarding such condition or any such circumstances or to undertake any investigation not a part of its regular business routine. If Lender, in its sole discretion, undertakes at any time or from time to time to provide any such information to a Grantor, Lender shall not be under any obligation to update any such information or to provide any such information to such Grantor on any subsequent occasion.

(c) All rights and claims of each of the Grantors against any other of the Grantors or the property of any other of the Grantors now or hereafter existing (collectively, the "Grantor Claims") shall be subordinate and subject in right of payment to the prior payment in full

of the Obligations. Until such Obligations have been paid in full, and Grantors have performed all of their Obligations, none of the Grantors shall receive or collect, directly or indirectly, from any other of the Grantors or any other party any payment upon any Grantor Claim nor seek to realize upon any collateral securing any such Grantor Claim. Notwithstanding the foregoing, if any of the Grantors shall receive any such payment, such Grantors shall hold such payment in trust for the Lender and shall have absolutely no rights in or to such payment except to deliver it promptly to the Lender, and each of the Grantors hereby covenants to do so. None of the Grantors will assert any right to which it may be or become entitled, whether by subrogation, contribution or otherwise, against any other of the Grantors or against the property of any other of the Grantors by reason of the performance by such party of its obligations under this Agreement, except after performance and payment in full of the Term Note and any other Loan Documents.

(d) Lender is hereby authorized, without notice or demand and without affecting the liability of any Grantor under this Agreement or any other Loan Documents, to, at any time and from time to time, (i) renew, extend, accelerate or otherwise change the time for payment of, or other terms relating to a Grantor's Secured Obligations or otherwise modify, amend or change the terms of any promissory note or other agreement, document or instrument now or hereafter executed by a Grantor and delivered to the Lender; (ii) accept partial payments on a Grantor's Secured Obligations; (iii) take and hold security or collateral for the payment of a Grantor's Secured Obligations hereunder or for the payment of any guaranties of a Grantor's Secured Obligations or other liabilities of a Grantor and exchange, enforce, waive and release any such security or collateral; (iv) apply such security or collateral and direct the order or manner of sale thereof as the Lender, in its sole discretion, may determine; and (v) settle, release, compromise, collect or otherwise liquidate a Grantor's Secured Obligations and any security or collateral therefor in any manner, without affecting or impairing the obligations of the other Grantors. The Lender shall have the exclusive right to determine the time and manner of application of any payments or credits, whether received from a Grantor or any other source, and such determination shall be binding on such Grantor. All such payments and credits may be applied, reversed and reapplied, in whole or in part, to any of a Grantor's Secured Obligations as the Lender shall determine in its sole discretion without affecting the validity or enforceability of the Secured Obligations of the other Grantors.

(e) Notwithstanding any provisions of this Agreement to the contrary, it is intended that the joint and several nature of the Secured Obligations of Grantors and the liens and security interests granted by Grantors to secure the Secured Obligations, not constitute a "Fraudulent Conveyance" (as defined below). Consequently, Lender and Grantors agree that if the Secured Obligations of a Grantor, or any liens or security interests granted by such Grantor securing the Secured Obligations would, but for the application of this sentence, constitute a Fraudulent Conveyance, the Secured Obligations of such Grantor and the liens and security interests securing such Secured Obligations shall be valid and enforceable only to the maximum extent that would not cause such Secured Obligations or such lien or security interest to constitute a Fraudulent Conveyance, and the Secured Obligations of such Grantor and this Agreement shall automatically be deemed to have been amended accordingly. For purposes hereof, "Fraudulent Conveyance" means a fraudulent conveyance under Section 548 of Chapter 11 of Title II of the United States Code (11 U.S.C. § 101, et seq.), as amended (the "Bankruptcy Code") or a fraudulent conveyance or fraudulent transfer under the applicable provisions of any fraudulent conveyance

or fraudulent transfer law or similar law of any state, nation or other governmental unit, as in effect from time to time.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Each of the parties hereto has caused a counterpart of this Agreement to be duly executed and delivered as of the date first above written.

GRANTORS:

IT'SUGAR LLC,
a Delaware limited liability company

IT'SUGAR Atlantic City LLC,
a Delaware limited liability company

By: /s/ Jeffrey
Rubin

By: /s/ Jeffrey
Rubin

Name: Jeffrey Rubin
Title: Chief Executive Officer

Name: Jeffrey Rubin
Title: Chief Executive Officer

Address: 4960 Conference Way North
Suite 100
Boca Raton, FL 33431

Address: 4960 Conference Way North
Suite 100
Boca Raton, FL 33431

IT'SUGAR FLGC LLC,
a Florida limited liability company

IT'SUGAR FL I LLC,
a Delaware limited liability company

By: /s/ Jeffrey
Rubin

By: /s/ Jeffrey
Rubin

Name: Jeffrey Rubin
Title: Chief Executive Officer

Name: Jeffrey Rubin
Title: Chief Executive Officer

Address: 4960 Conference Way North
Suite 100
Boca Raton, FL 33431

Address: 19575 Biscayne Boulevard
Suite #115
Aventura, FL 33180

**ACCEPTED AND AGREED BY THE
LENDER:**

SHL Holdings, Inc.,
a Florida corporation

By: /s/ Kirsten Uebrig
Name: Kirsten Uebrig
Title: President

Address: 201 East Las Olas Boulevard
Suite 1900
Ft. Lauderdale, FL 33301

[Signature Page to Security Agreement]

[Signature Page to Security Agreement]

SCHEDULE 1

EQUITY INTERESTS

Grantor	Name of Subsidiary	Percentage Ownership
IT'Sugar LLC	IT'Sugar Atlantic City LLC	100%
IT'Sugar LLC	IT'Sugar FLGC LLC	100%
IT'Sugar LLC	IT'Sugar FL I LLC	100%

Schedule 1

SCHEDULE 2

COMMERCIAL TORT CLAIMS

[None.]

Schedule 3

SCHEDULE 3

INSTRUMENTS, DOCUMENTS OR TANGIBLE CHATTEL PAPER

[None.]

Schedule 3

EXHIBIT A

FORM OF

IRREVOCABLE MEMBERSHIP INTEREST POWER

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers to SHL Holdings, Inc., a Florida corporation, one hundred percent (100%) of the Membership Interests of [_____], a [_____] limited liability company:

and irrevocably appoints _____ its agent and attorney-in-fact to transfer all or any part of such Membership Interests and to take all necessary and appropriate action to effect any such transfer. The agent and attorney-in-fact may substitute and appoint one or more persons to act for him.

IT'SUGAR LLC

By:
Name:
Title:

Exhibit A

ORDERED in the Southern District of Florida on June 16, 2021

/s/ Robert Mark
Robert A. Mark, Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
www.flsb.uscourts.gov

In re:

IT'SUGAR FL I LLC, *et al.*,

Debtors.¹

Case No. 20-20259-RAM
(Jointly Administered)

Chapter 11

_____ /

ORDER CONFIRMING THE PLAN OF REORGANIZATION FOR IT'SUGAR FL I LLC, IT'SUGAR LLC, IT'SUGAR ATLANTIC CITY LLC AND IT'SUGAR FLGC [ECF NO. 301] AND SETTING POST-CONFIRMATION STATUS CONFERENCE

THIS MATTER came before the Court (“*Bankruptcy Court*” or “*Court*”)² on June 11, 2021 at 10:00 a.m. in Miami, Florida to consider confirmation of the *Plan of Reorganization for It'Sugar FL I LLC, It'Sugar LLC, It'Sugar Atlantic City LLC and It'Sugar FLGC* dated April 20, 2021 (as may be amended, modified or supplemented from time to time, the “*Plan*”) [ECF No. 301], filed by It'Sugar FL I LLC, It'Sugar LLC, It'Sugar Atlantic City LLC and It'Sugar FLGC, collectively, the “*Debtors*,” “*Debtors-in-Possession*” or “*Plan Proponents*”). The Bankruptcy Court previously entered, after due notice and a hearing, the *Order (I) Conditionally Approving the Disclosure Statement; (II) Approving the Ballot; (III) Setting a Date for a Consolidated Hearing on (A) Final Approval of the Disclosure Statement and (B) Confirmation of the Plan of*

Reorganization; (IV) Establishing and Consolidating the Deadlines to File (A) Objections to the Disclosure Statement and

¹ The Debtors in these cases are as follows: (i) IT'SUGAR FL I LLC (Case No. 20-20259); (ii) IT'SUGAR LLC (Case No. 20-20261); (iii) IT'SUGAR Atlantic City LLC (Case No. 20263); and (iv) IT'SUGAR FLGC LLC (Case No. 20-20264).

² Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to such terms in the Plan.

(B) *Objections to Confirmation of the Plan of Reorganization; (V) Approving the Procedures for Solicitation and Tabulation of Votes on the Plan; (VI) Setting Various Deadlines; and (VII) Describing the Plan Proponents' Obligations* (“**Disclosure Statement Order**”) [ECF No. 317] conditionally approving the *Disclosure Statement Pursuant to 11 U.S.C. § 1125 For It'Sugar FL I LLC, It'Sugar LLC, It'Sugar Atlantic City LLC and It'Sugar FLGC*, dated April 20, 2021, (as may be amended, modified or supplemented from time to time, the “**Disclosure Statement**”) [ECF No. 302] as, among other things, containing “adequate information” regarding the Plan in accordance with 11 U.S.C. § 1125(a), approving the solicitation procedures, (ii) the form and content of the ballot for creditors to vote for or against the Plan substantially in the form as filed as Exhibit B to the Plan Procedures Motion filed on April 20, 2021 [ECF No. 303] (“**Ballot**”) and (iii) scheduled a hearing to consider confirmation of the Plan on June 11, 2021 (“**Confirmation Hearing**”). The Plan and the Solicitation Package (as defined below) have been transmitted to holders of Claims entitled to vote thereon as provided in the Disclosure Statement Order. Notice has been provided of (i) entry of the Disclosure Statement Order, (ii) the Confirmation Hearing (as defined below), and (iii) the deadline for voting on, and/or objecting to the Plan having been provided to holders of Claims against and Equity Interests in the Debtors and other parties in interest, in accordance with the Disclosure Statement Order, the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (“**Bankruptcy Rules**”), and the Local Bankruptcy Rules for the Southern District of Florida (“**Local Bankruptcy Rules**”). Such notice is sufficient under the circumstances and no other or further notice is required. The Debtors have filed the Plan Supplement (as defined below) on June 1, 2021 [ECF No. 423] which, among other things, includes (i) the First Amended Schedule of Assumed Executory Contracts and Unexpired Leases (defined herein) (i.e., the list of pre-petition executory contracts and unexpired leases for non-

residential real property to be assumed by the Debtors in connection with confirmation of the Plan in accordance with the provisions of the Plan) and (ii) Exit Facility Documents, consisting of (1) the Term Loan Agreement and (2) the Security Agreement (as defined in the Plan Supplement) and such filing and notice is sufficient under the circumstances and no further notice is required.

Upon consideration of the: (i) the *Certificate of Proponents of Plan on Acceptance of Plan, Report on Amount to be Deposited, Certificate of Amount Deposited and Payment of Fees* [ECF No. 463] (“**Ballot Report**”) (evidencing, among other things, that the Debtors have received the requisite acceptances of the Plan in both number and amount as required by § 1126 of the Bankruptcy Code); (ii) the *Confirmation Affidavit of Troy Taylor* [ECF No. 462] (“**Confirmation Affidavit**” together with the Ballot Report, collectively, the “**Declarations**”); and the hearing to consider confirmation of the Plan held before the Court on June 11, 2021 (“**Confirmation Hearing**”); and the Court having reviewed and considered the Disclosure Statement, Plan, Disclosure Statement Order, Plan Supplement (including the First Amended Schedule of Assumed Executory Contracts and Unexpired Leases and the Exit Facility Documents), Declarations, each informal objection which has not been withdrawn or otherwise mooted and the Debtors’ responses thereto, and all related documents; and the appearance of all interested parties being noted in the record of the Confirmation Hearing, including the Declarations filed and any testimony therein and the exhibits admitted into evidence; and upon all of the proceedings before the Court and upon the entire record of the Confirmation Hearing; and the Court having determined based upon all of the foregoing that the Plan should be confirmed, as reflected by the Court’s rulings made herein and on the record of the Confirmation Hearing; and after due deliberation and sufficient cause appearing therefor,

It is ORDERED as follows:

FINDINGS OF FACT

A. Findings and Conclusions. The findings and conclusions set forth herein and on the record of the Confirmation Hearing constitute the Court's findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rules 7052 and 9014. The Court incorporates by reference all findings of fact and conclusions of law set forth on the record at the Confirmation Hearing as if set forth fully herein. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitutes findings of fact, they are adopted as such.

B. Jurisdiction. The Court has jurisdiction over the Debtors' Chapter 11 Cases (as defined below) and confirmation of the Plan and any objections thereto pursuant to 28 U.S.C. § 1334. Confirmation of the Plan is a core proceeding pursuant to 28 U.S.C. § 157(b) and this Court has jurisdiction to enter a final order consistent with Article III of the United States Constitution with respect thereto. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409. The Debtors are proper plan proponents under § 1121(a) and (c) of the Bankruptcy Code.

C. Commencement and Joint Administration of the Debtors' Chapter 11 Cases. On September 22, 2020 ("**Petition Date**") each of the Debtors commenced a case under chapter 11 of the Bankruptcy Code ("**Chapter 11 Cases**"). By prior order of the Court, the Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015. The Debtors have operated their businesses and managed their assets as debtors in possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

D. Appointment of Creditors' Committee. On October 20, 2020, the Office of the United States Trustee ("*U.S. Trustee*") appointed the Creditors' Committee which is comprised of the following five members: (i) Simon Property Group, Inc.; (ii) Jack's Candy Company; (iii) Brookfield Properties Retail, Inc.; (iv) KRG Enterprises, Inc.; and (v) Nassau Candy Distributors, Inc. [ECF No. 110]. On or about October 23, 2020, the Creditors' Committee selected Pachulski Stang Ziehl and Jones LLP ("*PSZJ*") and Fox Rothschild LLP ("*Fox Rothschild*") as counsel. On or about December 17, 2020, the Court entered orders effective as of October 23, 2020, approving PSZJ and Fox Rothschild's retention. [ECF Nos. 197 and 198].

E. Judicial Notice. The Court takes judicial notice of the docket of the Chapter 11 Cases maintained by the Clerk of the Court, including, without limitation, all pleadings and other documents filed, all orders entered, and all evidence and arguments made, proffered or adduced at the hearings held before the Court during the pendency of the Chapter 11 Cases.

F. Oral Findings of Fact Incorporated. All oral findings of fact and conclusions of law entered by the Court at the Confirmation Hearing are incorporated by this reference, in accordance with Bankruptcy Rule 7052(a).

G. Confirmation Hearing. On June 11, 2021, the Court conducted the Confirmation Hearing pursuant to Bankruptcy Code § 1128 and Bankruptcy Rule 3020(b)(2).

H. Resolution of Informal Objections. As presented at the Confirmation Hearing, the consensual resolutions of certain informal objections satisfy all applicable requirements of the Bankruptcy Code and the Bankruptcy Rules, are in the best interests of the Debtors, and are approved. All objections, informal or otherwise, that were not resolved by agreement at the Confirmation Hearing are overruled.

I. Solicitation and Notice. On May 5, 2021, the Court entered the Disclosure Statement Order, which, among other things, conditionally approved the Disclosure Statement, finding that it contained “adequate information” within the meaning of § 1125 of the Bankruptcy Code, and established procedures for the Debtors’ solicitation and tabulation of votes on the Plan. The (a) Disclosure Statement Order, (b) Disclosure Statement, (c) Plan, (d) Ballot for voting on the Plan, and (e) Solicitation Letter (collectively, the “*Solicitation Package*”), were served in compliance with the Bankruptcy Code, the Bankruptcy Rules, and the Disclosure Statement Order (“*Solicitation*”). As described in the Disclosure Statement Order and related certificates of service (filed with the Court at ECF Nos. 320 and 325), (i) the service of the Solicitation Packages was adequate and sufficient under the circumstances of these Chapter 11 Cases, and (ii) adequate and sufficient notice of the Confirmation Hearing and other requirements, deadlines, hearings and matters described in the Disclosure Statement Order was timely provided in compliance with the requirements of the Disclosure Statement Order, Bankruptcy Rules and Local Bankruptcy Rules and such notice provided due process to all parties in interest. No other or further notice is required.

J. Voting. Votes on the Plan were solicited after disclosure of “adequate information” as defined in section 1125 of the Bankruptcy Code. As evidenced by the Ballot Report, votes to accept or reject the Plan have been solicited and tabulated fairly, in good faith and in a manner consistent with the Disclosure Statement Order, the Bankruptcy Code, and the Bankruptcy Rules.

K. Ballots. All procedures used to distribute solicitation packages to the holders of Claims and Equity Interests and to tabulate Ballots were fair, properly conducted, in good faith, and in accordance with the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, the local rules of the Court, and all other applicable laws, rules and regulations.

L. Impaired Classes Under the Plan. As set forth more fully in the Plan, Classes 2, 3, 4, 5 and 6 (collectively, the “*Impaired Classes*”) are impaired under the Plan as that term is defined in Bankruptcy Code § 1124. Aside from Classes 5 and 6 (Subordinated Claims and Equity Interests), Impaired Classes were entitled to submit votes to accept or reject the Plan.

M. Impaired Classes that Have Voted to Accept the Plan. The Ballot Report indicates that at least two-thirds in dollar amount and more than half in number of the holders of claims in Classes 3 and 4 who voted on the Plan accepted it, and Classes 5 and 6 were deemed to reject the Plan. Thus, at least one impaired class of claims, determined without including any acceptance by an insider of any of the Debtors, has voted to accept the Plan.

N. Plan Supplement. On June 1, 2021 [ECF No. 423], the Debtors filed their supplement to the Plan (collectively, the “*Plan Supplement*”). Among other things, the Plan Supplement included (i) the First Amended Schedule of Assumed Executory Contracts and Unexpired Leases (as defined in the Plan Supplement) (i.e., the list of pre-petition executory contracts and unexpired leases for non-residential real property to be assumed by the Debtors in connection with confirmation of the Plan in accordance with the provisions of the Plan) and (ii) Exit Facility Documents, consisting of (1) the Term Loan Agreement and (2) the Security Agreement (as defined in the Plan Supplement). All materials included in the Plan Supplement and any amendments thereto are integral to, part of and incorporated by reference into the Plan. The Plan Supplement and the amendments thereto comply with the terms of the Plan, and the filing and notice of such documents are good and proper in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and the Disclosure Statement Order and no other or further notice is necessary. The Debtors reserve their right to alter, amend, update or modify the Plan Supplement before the Effective Date to make non-material changes consistent with the Plan.

COMPLIANCE WITH SECTION 1129 OF THE BANKRUPTCY CODE

O. Plan Compliance with the Bankruptcy Code (11 U.S.C. § 1129(a)(1)). The Plan complies with the applicable provisions of the Bankruptcy Code, thereby satisfying § 1129(a)(1) of the Bankruptcy Code.

P. Proper Classification (11 U.S.C. §§ 1122 and 1123(a)(1)). In addition to Administrative Claims and Priority Tax Claims, which need not be classified, Article III of the Plan designates the following five classes of Claims and one class of Equity Interests: Class 1 (Other Priority Claims), Class 2 (Secured Claim of SHL Holdings, Inc.), Class 3 (Secured Construction/Mechanics Lien Claims), Class 4 (General Unsecured Claims), Class 5 (Subordinated Claims) and Class 6 (Equity Interests). Each of the Claims or Equity Interests, as the case may be, in each particular Class is substantially similar to the other Claims or Equity Interests within such Class. Valid business, legal and factual reasons exist for separately classifying the various Claims and Equity Interests pursuant to the Plan, and such Classes do not unfairly discriminate between holders of Claims and Equity Interests. Accordingly, the Plan satisfies §§ 1122 and 1123(a)(1) of the Bankruptcy Code.

Q. Specified Unimpaired Classes (11 U.S.C. § 1123(a)(2)). Article III of the Plan specifies that Class 1 (Other Priority Claims) are unimpaired under the Plan, thereby complying with § 1123(a)(2) of the Bankruptcy Code. Accordingly, the Plan satisfies § 1123(a)(2) of the Bankruptcy Code.

R. Specified Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)). Article III of the Plan designates Class 2 (Secured Claim of SHL Holdings, Inc.), Class 3 (Secured Construction/Mechanics Lien Claims), Class 4 (General Unsecured Claims), Class 5 (Subordinated Claims) and Class 6 (Equity Interests) as impaired, and Article III of the Plan

specifies the treatment of Claims and Equity Interests in such Classes, thereby complying with § 1123(a)(3) of the Bankruptcy Code. Accordingly, the Plan satisfies § 1123(a)(3) of the Bankruptcy Code.

S. No Discrimination (11 U.S.C. § 1123(a)(4)). The Plan provides for the same treatment for each Claim or Equity Interest in each respective Class unless the holder of a particular Claim or Equity Interest has agreed to a less favorable treatment on account of such Claim or Equity Interest, thereby satisfying § 1123(a)(4) of the Bankruptcy Code. Accordingly, the Plan satisfies § 1123(a)(4) of the Bankruptcy Code.

T. Implementation of the Plan (11 U.S.C. § 1123(a)(5)). The Plan provides adequate and proper means for the implementation of the Plan as required by §1123(a)(5) of the Bankruptcy Code. Accordingly, the Plan satisfies § 1123(a)(5) of the Bankruptcy Code.

U. Non-Voting Equity Securities/Allocation of Voting Power (11 U.S.C. § 1123(a)(6)). The Plan provides for, (1) in Article 3.10.2, among other things, that on the Effective Date 100% of the Equity Interests shall revert in the respective Reorganized Debtor. Accordingly, the Plan satisfies § 1123(a)(6) of the Bankruptcy Code.

V. Designation of Directors and Officers (11 U.S.C. § 1123(a)(7)). The Plan provides in Article 12.28 that, as of the Effective Date, the directors, officers, partners, members and managers, as the case may be, of each of the Debtors immediately prior to the Effective Date shall be deemed to be the directors, officers, partners, members and managers, as the case may be, of each of the Reorganized Debtors without any further action by any party. Accordingly, the selection of directors, officers, partners, members, and managers are consistent with the interests of creditors, equity security holders, and public policy. As such, the Plan satisfies section 1123(a)(7) of the Bankruptcy Code.

W. Additional Plan Provisions (11 U.S.C. § 1123(b)). The other provisions of the Plan are appropriate and consistent with the applicable provisions of the Bankruptcy Code, thereby satisfying section 1123(b) of the Bankruptcy Code. The failure to specifically address a provision of the Bankruptcy Code in this Order shall not diminish or impair the effectiveness of this Order.

X. Impairment/Unimpairment of Classes of Claims and Equity Interests (11 U.S.C. § 1123(b)(1)). As contemplated by section 1123(b)(1) of the Bankruptcy Code, Classes 2, 3, 4, 5 and 6 are impaired by the Plan, and Class 1 is unimpaired. Accordingly, the Plan satisfies section 1123(b)(1) of the Bankruptcy Code.

Y. Assumption and Rejection of Executory Contracts (11 U.S.C. § 1123(b)(2)). In accordance with section 1123(b)(2) of the Bankruptcy Code, Article 4.3 of the Plan provides that all executory contracts and unexpired leases listed on the First Amended Schedule of Assumed Executory Contracts and Unexpired Leases [ECF No. 423] shall be deemed assumed by the Reorganized Debtors as of the Confirmation Date. Article 4.1 of the Plan further provides that all other executory contracts and unexpired leases shall be deemed rejected as of the Confirmation Date. Article 4.3.1 of the Plan provides for the assumption, as of the Confirmation Date, of agreements that are executory and unexpired leases. Accordingly, the Plan satisfies the requirements of section 1123(b)(2) of the Bankruptcy Code.

Z. Debtors' Release, Retention of Causes of Action (11 U.S.C. § 1123(b)(3)).

i. *Releases by the Debtors and their Estates*. In accordance with section 1123(b)(3)(A) of the Bankruptcy Code, Article 9.8.1 of the Plan contains a release of claims of the Debtors and the Reorganized Debtors, their Estates, and each of their current and former Affiliates and Representatives against certain parties (collectively, the "**Released Parties**")³ relating to the

Debtors, existing as of the Effective Date or thereafter arising from occurrences prior to the Effective Date (the “*Debtors’ Release*”). Claims held by the debtor against third parties are property of the estate and may be released in exchange for settlement. *See, e.g., In re Johns-Manville (Manville I)*, 837 F.2d 89, 91-92 (2d Cir. 1988); *see also* 11 U.S.C. 541(a)(1). When reviewing releases in a debtor’s plan, courts consider whether such releases are in the best interest of the estate. *See, e.g., Winn-Dixie Stores*, 356 B.R. at 260; *In re Celotex Corp.*, 204 B.R. 586, 610 (Bankr. M.D. Fla. 1996).

As set forth in Article 9.8.1 of the Plan, the Debtors’ Release provides that “each of the Debtors and their current and former Affiliates and Representatives and the Estates 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, damages, actions, remedies and liabilities whatsoever ... as of the Effective Date or arising thereafter ...” Pursuant to section 1123(b)(3), the Debtors may include a settlement of any claims they own as a discretionary provision in their Plan. Here, the Debtors’ Release is “an integral part of a comprehensive Plan that provides substantial value to the estates.” *In re Charter Commc’ns*, 419 B.R. 221, 257 (Bankr. S.D.N.Y. 2009). The Released Parties sought the inclusion of the Debtors’ Release in the Plan. The Debtors do not believe that they are foregoing any valuable claims or causes of action against the Released Parties.

³ As defined in the Plan, “Released Parties” means, collectively, “(i) the Debtors, (ii) the Creditors’ Committee and its members (solely in their capacity as members of the Creditors’ Committee), (iii) the Plan Proponents, (iv) SHL, (v) BBX Capital, Inc., and (vi) the current and former Representatives of each of the foregoing described in clauses ‘(i)’ through ‘(v)’ hereof.” See Plan, Art. I (II)(jjjj).

Also, “Representatives” means “with regard to an Entity (including the Debtors), any current or former members, equity holders, officers, directors, managers, principals, partners, employees, and agents. See Plan, Art. I. (II)(llll).

Significantly, the Debtors' Release is subject to significant carve-outs. The Debtors' Release does not apply to any claims against any Released Party resulting from acts or omissions determined by a court to have constituted willful misconduct or gross negligence. Therefore, the Debtors' Release is limited in scope and granting the Debtors' Release represents a valid exercise of the Debtors' business judgment and is in the best interest of the estates.

ii. *Retention of Causes of Action.* Section 1123(b)(3)(B) provides that a plan may "provide for the retention and enforcement by the debtor . . . or by a representative of the estate appointed for such purpose, of any . . . claim or interest [belonging to the debtor or the estate]." Article 12.29 of the Plan appropriately provides for the preservation by the Debtors and/or Reorganized Debtors of Causes of Action in accordance with section 1123(b)(3)(B) of the Bankruptcy Code. Article 5.9 of the Plan provides for the waiver of Avoidance Actions against holders of Class 4 claims (General Unsecured Claims). The provisions regarding Causes of Action and Waived Avoidance Actions in the Plan are appropriate and are in the best interests of Debtors, their estates, Creditors, and other parties in interest. Therefore, the Plan complies with section 1123(b)(3)(B).

AA. Sale of All or Substantially All Assets (11 U.S.C. § 1123(b)(4)). Section 1123(b)(4) applies to cases where the debtor's plan provides for the sale of all or substantially all of the debtor's assets. The Plan does not provide for such sale, and, therefore, this provision is inapplicable to the Plan.

BB. Modification of Creditor Rights (11 U.S.C. § 1123(b)(5)). Section 1123(b)(5) provides that a Plan may "modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims."

11 U.S.C. 1123(b)(5). As set forth in Article III of the Plan, the Plan modifies the rights of holders of Claims and Equity Interests in Classes 2, 3, 4, 5 and 6. The Plan leaves unaffected the rights of holders of Claims in Classes 1. Accordingly, the Plan is consistent with section 1123(b)(5) of the Bankruptcy Code.

CC. Bankruptcy Rule 3016(a). The Plan is dated and identifies the entities submitting it, thereby satisfying Bankruptcy Rule 3016(a).

DD. Compliance with the Bankruptcy Code (11 U.S.C. § 1129(a)(2)). The Debtors have complied with the applicable provisions of the Bankruptcy Code, thereby satisfying Bankruptcy Code § 1129(a)(2). The Debtors have complied with all provisions of the Bankruptcy Rules, the Local Bankruptcy Rules and the Disclosure Statement Order in transmitting the Plan, the Disclosure Statement, the Ballots and related documents and notices, and in soliciting and tabulating votes on the Plan.

EE. Plan Proposed in Good Faith (11 U.S.C. § 1129(a)(3)). The Debtors have proposed the Plan (including all documents necessary to effectuate the Plan) in good faith and not by any means forbidden by law, thereby complying with section 1129(a)(3) of the Bankruptcy Code. The Debtors' good faith is evident from the record of these Chapter 11 Cases, including the record of the hearing to conditionally approve the Disclosure Statement, the entry by this Court of the Disclosure Statement Order, the record of the Confirmation Hearing, and other proceedings held in these Chapter 11 Cases. The Plan is based upon extensive, arms-length and good faith negotiations between and among the Debtors, the Creditors' Committee, and other Creditors and parties-in-interest, and represent the culmination of months of intensive negotiations and discussions among all parties in interest. Moreover, the Plan was proposed with the legitimate purpose of maximizing the value of the Debtors' estates and effectuating a successful

reorganization of the Debtors. The Plan accomplishes equitable distribution of the Debtors' assets by providing the means through which the Debtors may effectuate distributions to the Creditors. The impaired classes of Claims entitled to vote to accept or reject the Plan (Class 2, 3 and 4) have voted overwhelmingly to accept the Plan and practically all of the Debtors' significant creditors support the Plan. Further, the indemnification, exculpation, release, and injunction provisions of the Plan have been negotiated in good faith and at arms-length with, among other persons, representatives of the Debtors, parties in interest, and their respective advisors, are consistent with §§ 105, 1122, 1123(b)(3)(A), 1123(b)(6), 1129, and 1142 of the Bankruptcy Code, and are each necessary to the Debtors' successful reorganization in chapter 11. Accordingly, the Plan and the related documents have been filed in good faith and the Debtors have satisfied their obligations under § 1129(a)(3) of the Bankruptcy Code.

FF. Payment for Services or Cost and Expenses (11 U.S.C. § 1129(a)(4)). Pursuant to § 331 of the Bankruptcy Code, all payments made or to be made by the Debtors for services or for costs and expenses in connection with these Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, have been approved by, or are subject to the approval of, the Court as reasonable, thereby satisfying § 1129(a)(4) of the Bankruptcy Code.

GG. Directors, Officers, and Insiders (11 U.S.C. § 1129(a)(5)). The Debtors have complied with § 1129(a)(5) of the Bankruptcy Code. As of the Effective Date, the directors, officers, partners, members and managers, as the case may be, of each of the Debtors immediately prior to the Effective Date shall be deemed to be the directors, officers, partners, members and managers, as the case may be, of each of the Reorganized Debtors without any further action by any party. As such, the Plan satisfies § 1129(a)(5) of the Bankruptcy Code.

HH. No Rate Changes (11 U.S.C. § 1129(a)(6)). No governmental regulatory commission has jurisdiction, after confirmation of the Plan, over the rates of the Debtors. Thus, § 1129(a)(6) of the Bankruptcy Code is not applicable in these Chapter 11 Cases.

II. Best Interests of Creditors (11 U.S.C. § 1129(a)(7)). The Plan satisfies Bankruptcy Code § 1129(a)(7). The Disclosure Statement the Confirmation Affidavit, and evidence adduced at the Confirmation Hearing: (i) are persuasive, credible and accurate as of the dates they were prepared, presented or proffered; (ii) either have not been controverted by other persuasive evidence or have not been challenged; (iii) are based upon reasonable and sound assumptions; and (iv) establish that each holder of a Claim in an Impaired Class will receive or retain under the Plan, on account of such Claim, property of a value, as of the Effective Date, that is not less than the amount that it would receive if the Debtor was liquidated under Chapter 7 of the Bankruptcy Code on such date.

JJ. Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)). Class 1 (Other Priority Claims) is unimpaired under the Plan and is, therefore, conclusively deemed to have accepted the Plan pursuant to § 1126(f) of the Bankruptcy Code. Class 2 (Secured Claim of SHL Holdings, Inc.), Class 3 (Secured Construction/Mechanics Lien Claims), and Class 4 (General Unsecured Claims), the impaired Classes of Claims eligible to vote, have affirmatively voted almost universally to accept the Plan. As such, § 1129(a)(8) is satisfied with respect to these Classes of Claims. Class 5 (Subordinated Claims) and Class 6 (Equity Interests) are deemed to reject the Plan pursuant to § 1126(g) of the Bankruptcy Code, because the holders of Subordinated Claims in Class 5 and Equity Interests in Class 6 will not receive or retain any Distributions under the Plan; provided, however, that on the Effective Date the Equity Interests shall revert in the current holders of the Equity Interests in their current proportionate shares.

KK. Treatment of Administrative Expense Claims and Priority Tax Claims (11 U.S.C. § 1129(a)(9)). The treatment of Administrative Claims and Priority Tax Claims pursuant to Article II of the Plan satisfies the requirements of § 1129(a)(9)(A), (B), (C) and (D) of the Bankruptcy Code.

LL. Acceptance by Impaired Classes (11 U.S.C. § 1129(a)(10)). Class 3 (Secured Construction/Mechanics Lien Claims), and Class 4 (General Unsecured Claims), voted to accept the Plan by the requisite majorities, determined without including any acceptance of the Plan by any insider, thereby satisfying the requirements of § 1129(a)(10) of the Bankruptcy Code. Specifically, as set forth in the Ballot Report, approximately 100% (in dollar amount of claims) and 100% (in number of ballots) of the Creditors casting Class 3 Ballots in Class 3 voted to accept the Plan, and approximately 99.10% (in dollar amount of claims) and 98.92% (in number of ballots) of the Creditors casting Class 4 Ballots in Class 4 voted to accept the Plan. Therefore, the requirements of section 1129(a)(10) of the Bankruptcy Code have been satisfied.

MM. Feasibility (11 U.S.C. § 1129 (a)(11)). The information in the Disclosure Statement and the evidence proffered or adduced at the Confirmation Hearing and in the Confirmation Affidavit: (i) is persuasive and credible; (ii) has not been controverted by other evidence; and (iii) establishes that the Plan is feasible, there is a reasonable likelihood that the Debtors or Reorganized Debtors, as the case may be, will meet their financial obligations under the Plan in the ordinary course of business, confirmation of the Plan is not likely to be followed by any liquidation or need for further financial reorganization of the Reorganized Debtors, thereby satisfying the requirements of § 1129(a)(11) of the Bankruptcy Code.

NN. Payment of Fees (11 U.S.C. § 1129(a)(12)). As required pursuant to Article 2.5 of the Plan, all fees payable under § 1930 of title 28 of the United States Code have been or

will be paid within ten (10) days of the Effective Date for pre-confirmation periods, and each Debtor shall further pay the U.S. Trustee the appropriate sum required for post-confirmation periods within the time period set forth in 28 U.S.C. § 1930(a)(6), thereby satisfying the requirements of § 1129(a)(12) of the Bankruptcy Code. The statutory fees paid by each Debtor to the U.S. Trustee and any fees paid by any Debtor to the Clerk of the Bankruptcy Court from the Petition Date through the Effective Date shall not be affected by the procedural consolidation under the Plan. The procedural consolidation provided by the Plan is approved and (i) shall not be retroactive to the Petition Date for the purpose of payment of statutory fees to the U.S. Trustee, and (ii) shall not affect the obligation of the separate Debtors to continue to file their respective operating and Quarterly Reports and pay U.S. Trustees fees until the earlier of the closing of the Debtors' cases by the issuance of a final decree by the Court, or upon the entry of an Order by the Court dismissing the Debtors' chapter 11 cases or converting the Debtors' chapter 11 cases to another chapter under the United States Bankruptcy Code. The Debtors' monthly operating report for June 2021 will cover the period inclusive of May 1-31, 2021. The Reorganized Debtors shall further pay the U.S. Trustee the appropriate sums required pursuant to 28 U.S.C. § 1930(a)(6) based upon all disbursements of the Reorganized Debtors for post-Confirmation periods within the time period set forth in 28 U.S.C. § 1930(a)(6), until the closing of the Chapter 11 Cases by the issuance of a final decree by the Bankruptcy Court. The Reorganized Debtors shall provide to the U.S. Trustee upon the payment of each post-Confirmation payment an appropriate affidavit indicating all the Cash disbursements for the relevant period. In addition, the affidavit provided by the Reorganized Debtors to the U.S. Trustee shall be filed on the docket with the Bankruptcy Court and shall set forth each Distribution made under the Plan (indicating the Class (if applicable), identity, applicable claim number and the amount of the distribution).

OO. Continuation of Retiree Benefits (11 U.S.C. § 1129(a)(13)). The Debtors have no obligations with respect to retiree benefits. Accordingly, § 1129(a)(13) of the Bankruptcy Code is inapplicable in these Chapter 11 Cases.

PP. No Domestic Support Obligations (11 U.S.C. § 1129(a)(14)). The Debtors are not required by a judicial or administrative order, or by statute, to pay a domestic support obligation. Accordingly, § 1129(a)(14) of the Bankruptcy Code is inapplicable in these Chapter 11 Cases.

QQ. Debtors Are Not Individuals (11 U.S.C. § 1129(a)(15)). The Debtors are not individuals, and accordingly, § 1129(a)(15) of the Bankruptcy Code is inapplicable in these Chapter 11 Cases.

RR. No Applicable Nonbankruptcy Law Regarding Transfers (11 U.S.C. § 1129(a)(16)). The Debtors are moneyed, business, or commercial corporations, and/or partnerships, as the case may be, and, accordingly, § 1129(a)(16) of the Bankruptcy Code is inapplicable in these Chapter 11 Cases.

SS. No Unfair Discrimination; Fair and Equitable (11 U.S.C. § 1129(b)). The Debtors have satisfied the requirements of § 1129(b)(1) of the Bankruptcy Code (§ 1129(b)(2) is inapplicable) with respect to Class 5 (Subordinated Claims) and Class 6 (Equity Interests) (“**Rejecting Classes**”). The Claims and Equity Interests in Classes 5 and 6 are those of the insiders of the Debtors. As the classes of impaired creditors entitled to vote on the Plan have approved the Plan, the requirements of § 1129(b)(2) of the Bankruptcy Code are inapplicable, and the Plan may be confirmed notwithstanding the deemed rejection by the Rejecting Classes.

TT. Only One Plan (11 U.S.C. § 1129(c)). The Plan is the only plan filed in these cases, and accordingly, § 1129(c) of the Bankruptcy Code is inapplicable in these Chapter 11 Cases.

UU. Principal Purpose of the Plan (11 U.S.C. § 1129(d)). The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of Section 5 of the Securities Act of 1933, and there has been no objection filed by any governmental unit asserting such avoidance. Accordingly, the Plan complies with Bankruptcy Code § 1129(d).

VV. Small Business Case (11 U.S.C. § 1129(e)). None of the Chapter 11 Cases are “small business case[s],” as that term is defined in the Bankruptcy Code, and, accordingly, § 1129(e) of the Bankruptcy Code is inapplicable.

ADDITIONAL FINDINGS

WW. Good-Faith Solicitation (11 U.S.C. § 1125(e)). Based on the record before the Court in these Chapter 11 Cases and the Ballot Report, the Debtors have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including without limitation, § 1125(a) and (e) of the Bankruptcy Code, and any applicable non-bankruptcy law, rule or regulation governing the adequacy of disclosure in connection with such solicitation.

XX. Satisfaction of Confirmation Requirements. Based upon the foregoing, the Plan satisfies the requirements for confirmation set forth in § 1129 of the Bankruptcy Code.

YY. Implementation. All documents necessary to implement the Plan, including, without limitation, those contained in the Plan Supplement, all other relevant and necessary documents have been negotiated in good faith and at arms-length and shall, upon completion of

documentation and execution, be valid, binding, and enforceable agreements and not be in conflict with any federal or state law.

ZZ. Good Faith of the Debtors. The Debtors and the Creditors' Committee, and all of their respective current directors, managers, officers, members, equity holders, employees, agents, financial advisors, partners, attorneys, other professional advisors and representatives (i) have acted in good faith in negotiating, formulating, and proposing the Plan and agreements, compromises, settlements, transactions and transfers contemplated thereby, and (ii) will be acting in good faith in proceeding to (a) consummate the Plan and the agreements, compromises, settlements, transactions, and transfers contemplated thereby and (b) take the actions authorized and directed or contemplated by this Order.

AAA. Executory Contracts and Unexpired Leases. The Debtors have exercised reasonable business judgment in determining whether to assume or reject each of their executory contracts and unexpired leases as set forth in the Plan.

BBB. Transfers by Debtors. All transfers of property and assets of the Debtors' estates shall be free and clear of all Claims, Liens, encumbrances, charges, and other interests, except as otherwise provided in the Plan, the Plan Supplement, or this Order.

CCC. Vesting of Assets. Except as provided in the Plan, pursuant to § 1141(b) and (c) of the Bankruptcy Code, all property of the Debtors shall vest in the Reorganized Debtors free and clear of all Claims, Liens, liabilities, encumbrances, charges and other interests, including, without limitation, any and all claims, liens, encumbrances and any and all right, title, and interests related thereto of governmental entities relating to any tax liabilities or similar liabilities. Such vesting does not constitute a voidable transfer under the Bankruptcy Code or applicable non-bankruptcy law.

DDD. Injunction, Exculpation, and Releases. As modified by Paragraph 43 of this Order, the Court has jurisdiction under § 1334(a) and (b) of title 28 of the United States Code to approve the injunction, exculpation, and releases set forth in Article XI of the Plan, because, *inter alia*, these provisions are an integral part of the Debtors' reorganization plan. Moreover, the approval of the injunctions, exculpations, and releases set forth in Article XI of the Plan are core matters under § 157 of title 28 of the United States Code because, *inter alia*, these provisions arise in the context of confirmation of the Plan and are integral parts of the Plan. Section 105(a) of the Bankruptcy Code permits issuance of the injunction and approval of the releases set forth in Article XI of the Plan if, as has been established here based upon the record in the Chapter 11 Cases, the Disclosure Statement, the Confirmation Affidavit and the evidence presented at the Confirmation Hearing, such provisions (i) were integral to the agreement among the various parties in interest and are important and necessary to the formulation and implementation of the Plan, as provided in § 1123 of the Bankruptcy Code, (ii) confer substantial benefits on the Debtors' estates and creditors, (iii) are fair and reasonable and/or are justified based upon the unusual circumstances of these Chapter 11 Cases, and (iv) are in the best interests of the Debtors, their estates, and parties in interest. Further, the release and exculpation provisions in the Plan are subject to certain carve-outs that do not relieve any party of, among other things, liability for an act or omission to the extent such act or omission is determined by a final order by a court of competent jurisdiction to have constituted willful misconduct or gross negligence, and do not release any Causes of Action retained by the Debtors. Based upon the record of these Chapter 11 Cases and the evidence proffered or adduced in support of confirmation of the Plan, this Court finds that the injunction, exculpation, and releases set forth in Article XI of the Plan are consistent with the Bankruptcy Code and applicable law. Pursuant to § 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule

9019(a), the releases, exculpations, and injunctions set forth in Article XI of the Plan and implemented by this Order are fair, equitable, reasonable, and in the best interests of the Debtors and their estates, creditors and equity holders. The failure to include such provisions would seriously impair the Debtors' ability to confirm a consensual Plan in these Chapter 11 Cases. Accordingly, this Court finds that the releases, exculpations, and injunctions set forth in Article XI of the Plan are consistent with the Bankruptcy Code and applicable law.

EEE. Preservation of Causes of Action. It is in the best interests of the Debtors and their creditors and holders of Equity Interests that the Debtors preserve the Causes of Action as set forth in Article 12.20 of the Plan and to waive Avoidance Actions as provided for in Article 5.9 of the Plan.

FFF. Conditions to Effectiveness. Each of the conditions to the Effective Date, as set forth in Article 8.1 of the Plan have been satisfied, waived, or will be satisfied by entry of this Order, provided however, that the occurrence of the Effective Date is subject to satisfaction or waiver, as applicable, of the conditions to the Effective Date set forth in the Plan.

GGG. Reorganized Debtors Not Successors to the Debtors. Except with respect to the payment of the Claims expressly provided for in Article II (including, but not limited to, Professional Compensation and Reimbursement Claims) and Article III of the Plan and the Debtors' assumed Executory Contracts and Unexpired Leases, the Reorganized Debtors shall not be the successors to the Debtors and their Estates. Except with respect to the rights of the Reorganized Debtors expressly provided for in the Plan (including, but not limited to, the investigation and pursuit of the Causes of Action) and this Order and the Debtors' assumed Executory Contracts and Unexpired Leases, (i) the Reorganized Debtors shall not assume, incur or be responsible for any claims or liabilities of the Debtors or any of their affiliates, and (ii) the

Reorganized Debtors shall not be successors or successors in interest of the Debtors nor incur any successor or transferee liability of any kind, nature or character, including, without limitation, in relation to (a) any and all liabilities arising or resulting from or relating to the transactions contemplated by the Plan, (b) any and all Claims, Liens, liabilities, encumbrances, charges and other interests arising from or relating to any conduct, liabilities, or obligations of the Debtors, and (c) any and all Claims, Liens, liabilities, encumbrances, charges and other interests and any and all right, title, and interests related thereto, of governmental entities relating to any tax or similar liabilities.

HHH. Exit Facility. The Exit Facility and the Exit Facility Documents are essential elements of the Plan, are necessary for confirmation and consummation of the Plan, and are critical to the overall success and feasibility of the Plan. The execution, performance, incurrence of all fees to be paid by the Debtors or the Reorganized Debtors, and the creation and perfections of the liens in connection therewith are necessary and appropriate for confirmation of the Plan and the operation of the Reorganized Debtors. The Exit facility and the Exit Facility Documents were negotiated and shall be deemed to have been negotiated at arm's-length and in good faith, without the intent to hinder, delay or defraud any creditors of the Debtors, and the value provided to the Debtors by the Exit Facility and the Exit Facility Documents is at least reasonably equivalent value to the value the Debtors are providing to SHL under and in connection with the Exit Facility. The Debtors have exercised reasonable business judgment consistent with their fiduciary duties in determining to enter into the Exit Facility and the Exit Facility Documents and have provided sufficient and adequate notice of the material terms of the Exit Facility to all parties in interest in these Chapter 11 Cases. The execution, delivery, or performance by the Debtors or the Reorganized Debtors, as applicable, of any of the Exit Facility Documents and compliance by

the Debtors or Reorganized Debtors, as applicable, with the terms thereof is authorized by, and will not conflict with, the terms of the Plan and this Confirmation Order. The financial accommodations to be extended pursuant to the Exit Facility and the Exit Facility Documents are reasonable and are being extended, and shall be deemed to have been extended, in good faith and for legitimate business purposes, shall not be subject to recharacterization for any purpose whatsoever, and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any applicable non-bankruptcy law.

CONCLUSIONS OF LAW

Accordingly, it is ORDERED as follows:

1. Confirmation. All requirements for confirmation of the Plan have been satisfied. Accordingly, the Plan in its entirety is **CONFIRMED** pursuant to § 1129 of the Bankruptcy Code. The terms of the Plan are incorporated by reference into, and are an integral part of, this Order.

2. Approval of the Exit Facility. For the reasons set forth in the Confirmation Affidavit and the record at the Confirmation Hearing, the Exit Facility in the aggregate principal amount of up to \$13 million as a first lien facility described in Article 5.4 of the Plan and as contained in the Plan Supplement is approved. On the Effective Date, the Reorganized Debtors shall enter into the Exit Facility, the terms of which will be set forth in the exit Facility Documents. Confirmation of the Plan shall be deemed approval of the Exit Facility and the Exit Facility Documents, as applicable, and all transactions contemplated thereby, and all actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtors in connection therewith, including the payment of all fees, indemnities, expenses, and other payments provided for therein and authorization of the Reorganized Debtors to enter into and execute the Exit Facility

Documents and such other documents as may be required to effectuate the treatment afforded by the Exit Facility. On the Effective Date, all of the liens and security interests to be granted in accordance with the Exit Facility Documents (i) shall be deemed to be granted, (ii) shall be legal, binding, and enforceable liens on, and security interests in, the collateral granted thereunder in accordance with the terms of the Exit Facility Documents, (iii) shall be deemed automatically perfected on the Effective Date, subject only to such liens and security interests as may be permitted under the Exit Facility Documents, and (iv) shall not be subject to recharacterization or equitable subordination for any purposes whatsoever and shall not constitute preferential transfers or fraudulent conveyances under the Bankruptcy Code or any applicable non-bankruptcy law. The Reorganized Debtors and the persons and entities granting such liens and security interests shall be authorized to make all filing and recordings, and to obtain governmental approval and consents necessary to establish and perfect such liens and security interests under the provisions of the applicable state, federal, or other law that would be applicable in the absence of the Plan and Confirmation Order (it being understood that perfection shall occur automatically by virtue of this Confirmation Order and any such filings, recordings, approval, and consents shall not be required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such liens and security interests to third parties.

3. Indemnification of SHL and the Creditors' Committee. For the reasons set forth in the Confirmation Affidavit and the record at the Confirmation Hearing, the Indemnification of SHL and the Creditors' Committee described in Article 5.5, as modified by Paragraph 43 of this Order, is approved.

4. Objections. All parties have had a full and fair opportunity to litigate all issues raised by the informal objections, or which might have been raised, and the informal objections

have been fully and fairly litigated. The *Objection and Reservation of Rights of Washington Prime Group Inc. to the Plan of Reorganization for IT'SUGAR FL I LLC, IT'SUGAR LLC, IT'SUGAR ATLANTIC CITY LLC AND IT'SUGAR FLGC LLC* [ECF No. 428] (the “**WPG Objection**”) filed on June 3, 2021 has been resolved pursuant to the language set forth in Paragraph 43 of this Order and by the Debtors’ payment of their post-petition rent obligations. Except for the WPG Objection, all objections (informal or otherwise), responses, statements, and comments in opposition to the Plan, other than those withdrawn with prejudice in their entirety prior to the Confirmation Hearing or otherwise resolved on the record of the Confirmation Hearing and/or herein, are overruled for the reasons stated on the record.

5. Findings of Fact and Conclusions of Law. The findings of fact and the conclusions of law stated in this Confirmation Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to the proceeding by Bankruptcy Rule 9014. To the extent any finding of fact shall be determined to be a conclusion of law, it shall be so deemed, and to the extent any conclusion of law shall be determined to be a finding of fact, it shall be so deemed.

6. Plan Documents. The Plan, Plan Supplement (including, but not limited to, the First Amended Schedule of Assumed Executory Contracts and Unexpired Leases) and any amendments, modifications, and supplements thereto, and any other documents and agreements provided by the Debtors in support of confirmation of the Plan (including all exhibits and attachments thereto and documents referred to therein) (collectively, the “**Plan Documents**”), and the execution, delivery, and performance thereof by the Debtors, are authorized and approved when they are finalized, executed and delivered, and are integral to, part of and are incorporated by reference into the Plan. Without further order or authorization of this Court, the Reorganized

Debtors are authorized and empowered to make all modifications to all Plan Documents that are consistent with the Plan. Execution versions of the documents comprising the Plan Documents shall constitute legal, valid, binding, and authorized obligations of the respective parties thereto, enforceable in accordance with their terms and, to the extent applicable, shall create, as of the Effective Date, all liens and security interests purported to be created thereby.

7. Solicitation and Notice. Notice of the Confirmation Hearing complied with the terms of the Disclosure Statement Order, was appropriate and satisfactory based on the circumstances of these Chapter 11 Cases, and was in compliance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules. The solicitation of votes on the Plan and the Solicitation Materials complied with the solicitation procedures in the Disclosure Statement Order, was appropriate and satisfactory based upon the circumstances of these Chapter 11 Cases, and was in compliance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules. Notice of the Plan, and all related documents, was appropriate and satisfactory based upon the circumstances of these Chapter 11 Cases, and was in compliance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules.

8. Omission of Reference to Particular Plan Provisions. The failure to specifically describe or include any particular provision of the Plan in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Plan be approved and confirmed in its entirety.

9. Plan Classification Controlling. The classifications of Claims and Equity Interests for purposes of the distributions to be made under the Plan shall be governed solely by the terms of the Plan. The classification set forth on the Ballots tendered or returned by the Debtors'

creditors in connection with voting on the Plan were set forth on the Ballots solely for purposes of voting to accept or reject the Plan.

10. Binding Effect. Except as otherwise provided in § 1141(d)(3) of the Bankruptcy Code, upon entry of this Confirmation Order and subject to the occurrence of the Effective Date, the provisions of the Plan shall bind (i) any holder of a Claim against or Equity Interest in the Debtors and their respective successors and assigns, whether or not such Claim or Equity Interest of such holder is impaired under the Plan and whether or not such holder has accepted the Plan, (ii) any and all non-debtor parties to assumed executory contracts and unexpired leases with the Debtors, (iii) those parties who provided informal objections to the Plan, (iv) every other party in interest in these Chapter 11 Cases, and (v) all parties receiving distributions under the Plan, and their respective heirs, executors, administrators, successors, or assigns.

11. Continued Corporate Existence of the Reorganized Debtors. Pursuant to and in accordance with Article 12.3 of the Plan, on or as soon as practicable after the Effective Date, the Debtors and/or the Reorganized Debtors, as applicable, shall take such actions as may be or become necessary, without further action being required under applicable law, regulation, order or rule (including, without limitation, any action by the board of directors, stockholders, partners, members or managers of any Debtor or members of the Reorganized Debtors), and cause the Equity Interests to revest in the current holders of the Equity Interests in their current proportionate shares. In addition, as of the Effective Date or as soon as practicable thereafter and without the need for any further action by this Court or any other court or governmental unit, or by the board of directors, stockholders, partners, members or managers of any Reorganized Debtor, the Reorganized Debtors may, pursuant to and in accordance with the Plan, engage in any other transaction in furtherance of the Plan.

12. On the Effective Date (except to the extent otherwise provided in the Plan), each note, instrument, certificate or other document evidencing a Claim or Equity Interest shall be cancelled and the obligations of the Debtors discharged in accordance with § 1141(d)(1) of the Bankruptcy Code.

13. Issuance of New Equity: On the Effective Date, free and clear of all Liens, Claims, interests and encumbrances and in accordance with Article 3.10.2 of the Plan, the Equity Interests shall revert in the current holders of the Equity Interests in their current proportionate shares and to the extent the Reorganized Debtors issue any equity in the Reorganized Debtors is authorized without the need for any further corporate action and without any action by the holders of Claims or Equity Interests.

14. Substantive Consolidation for Voting and Distributional Purposes Only. Entry of this Order shall constitute the approval, pursuant to § 105(a) of the Bankruptcy Code, effective as of the Effective Date, of the substantive consolidation of the Debtors solely for the purpose of voting, confirmation and distribution as provided in Article 5.1 of the Plan. This consolidation shall not affect the obligation of the separate Debtors to continue to file their respective operating and Quarterly Reports and pay U.S. Trustee fees until the earlier of the closing of the Debtors' cases by the issuance of a final decree by the Court, or upon entry of an Order by the Court dismissing the Debtors' chapter 11 cases or converting the Debtors' chapter 11 cases to another chapter under the United States Bankruptcy Code.

15. The Causes of Action. On the Effective Date, the Debtors shall be deemed to have automatically transferred to the Reorganized Debtors all of their right, title, and interest in and to all of the Causes of Action, and in accordance with § 1141 of the Bankruptcy Code, all such Causes of Action shall automatically vest in the Reorganized Debtors free and clear of all Claims,

Liens, liabilities, encumbrances, charges and other interests subject only to the distributions to be made on Allowed Claims of the holders of Allowed Claims as set forth in the Plan. In connection with the vesting and transfer of the Causes of Action, including rights and causes of action, any attorney-client, work-product protection or other privilege or immunity attaching to any documents or communications (whether written or oral) transferred to the Reorganized Debtors shall vest in the Reorganized Debtors. The Debtors are authorized to take all necessary actions to effectuate the transfer of such privileges, protections and immunities. Also on the Effective Date, the Debtors shall be deemed to have waived Avoidance Actions as set forth in Article 5.9 of the Plan.

16. Distributions Under the Plan. All distributions under the Plan shall be made in accordance with Article II and Article III of the Plan, as applicable, and such methods of distribution as described in the Plan are approved.

17. Disputed Claims. The provisions of Article 6 of the Plan, including, without limitation, the provisions governing procedures for resolving Disputed Claims, are found to be fair and reasonable and are approved. In connection with distributions on account of Allowed Claims, distributions on account of such Disputed Claims shall be made in accordance with Articles II, III, VI and VII and VIII of the Plan to the extent any such Disputed Claim becomes Allowed.

18. Treatment is in Full Satisfaction. All distributions under the Plan shall be made in accordance with the Plan. Except as set forth herein and in the Plan, the treatment set forth in the Plan is in full satisfaction of the legal, contractual and equitable rights (including any liens) that each entity holding a Claim or Equity Interest may have in or against the Debtors, the Estates, or their respective property. This treatment supersedes and replaces any agreements or rights those entities may have in or against the Debtors, the Estates, or their respective property.

19. Assumption or Rejection of Executory Contracts and Unexpired Leases (11 U.S.C. § 1123(b)(2)). Pursuant to Article IV of the Plan, and pursuant to §§ 365(a) and 1123(b)(2) of the Bankruptcy Code as of the Confirmation Date, as of the Confirmation Date all executory contracts and unexpired leases that exist between the Debtors and any person or entity (A) that (i) are not already subject to a prior order of this Court, or (ii) are not listed on the First Amended Schedule of Assumed Executory Contracts and Unexpired Leases, or (iii) have not been rejected by the Debtors with the approval of the Bankruptcy Court and that are not subject of pending motions to assume or reject on the Confirmation Date, (B) shall be deemed to have been rejected by the applicable Debtor as of the Confirmation Date. Each executory contract and unexpired lease that is either assumed or rejected under the Plan shall include any and all modifications, amendments, supplements, restatements or other agreements made directly or indirectly by any agreement, instrument or other document that in any manner affects such executory contract or unexpired lease.

20. Approval of Assumption or Rejection of Executory Contracts and Unexpired Leases. Entry of this Order shall, upon the Confirmation Date, constitute the approval, pursuant to §§ 365(a) and 1123(b)(2) of the Bankruptcy Code, of the assumption, assignment, or rejection of the executory contracts and unexpired leases pursuant to Article IV of the Plan. The effect of confirmation of the Plan, the results thereof, and the transactions resulting therefrom or any other effect of these Chapter 11 Cases, including specifically any changes to the Debtors' boards of directors and equity interests, shall not be and are not a "change of control" and shall not trigger any such or similar provision of any of the executory contracts and unexpired leases assumed pursuant to the Plan.

21. Inclusiveness. Unless otherwise specified in the Plan Supplement, each executory contract and unexpired lease listed or to be listed in the First Amended Schedule of Assumed Executory Contracts and Unexpired Leases shall include any and all modifications, amendments, supplements, restatements or other agreements made directly or indirectly by any agreement, instrument or other document that in any manner affects such executory contract or unexpired lease, without regard to whether such modification, amendment, supplement, restatement agreement, instrument or other document is listed on the Plan Supplement.

22. Bar Date for Filing Proofs of Claim Relating to Executory Contracts and Unexpired Leases Rejected Pursuant to the Plan. **Claims created by the rejection of executory contracts or unexpired leases (including, without limitation, the rejection provided in Article 4.1 of the Plan) or the expiration or termination of any executory contract or unexpired lease prior to the Confirmation Date must be filed with the Bankruptcy Court and served on the Debtors no later than thirty (30) days after entry of an Order rejecting such contract or lease if such Order is entered after the Effective Date. Any rejection claim for which a proof of claim is not filed and served within the time deadlines provided in the Plan and this Order will be forever barred from assertion and shall not be enforceable against the Debtors, their assets, properties, or interests in property, or the Reorganized Debtors, or their assets, properties, or interests in property.** Unless otherwise ordered by the Bankruptcy Court, all such Claims that are timely filed as provided herein shall be treated as General Unsecured Claims in Class 4 under the Plan and shall be subject to the provisions of the Plan.

23. Vesting of Assets. Pursuant to Article 12.24 of the Plan, upon the Effective Date, all property and assets of the Debtors shall vest in the Reorganized Debtor, free and clear of all Claims, Liens, encumbrances, charges, and other interests, except as provided in the Plan,

including, without limitation, any and all Claims, Liens, liabilities, encumbrances, charges and other interests and any and all right, title and interests related thereto of governmental entities relating to any tax liabilities or similar liabilities. Such vesting does not constitute a voidable transfer under the Bankruptcy Code or applicable non-bankruptcy law. From and after the Effective Date, the Reorganized Debtors may operate the Debtors' business and may use, acquire, and dispose of property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in all respects as if there were no pending case under any chapter or provision of the Bankruptcy Code.

24. Title to Assets. Except as otherwise provided in the Plan, on the Effective Date, title to all assets and interests in property dealt with by the Plan shall vest in the Reorganized Debtors, as provided in the Plan, free and clear of all Claims, Equity Interests, Encumbrances, and other interests, and this Order shall be a judicial determination of discharge of the liabilities of the Debtors arising prior to the Effective Date, except as may be otherwise provided in the Plan.

25. Discharge of Claims and Termination of Equity Interests. Except as provided in the Plan, in consideration of the rights afforded in the Plan and the payments and distributions to be made under the Plan, all existing debts, Claims, and Equity Interests, of any kind, nature, or description whatsoever against or in the Debtors or any of their assets or properties, shall be and hereby are discharged and terminated to the fullest extent permitted by § 1141 of the Bankruptcy Code. Except as provided in the Plan, upon the Effective Date, all existing Claims against the Debtors and Equity Interests in the Debtors shall be, and shall be deemed to be, and hereby are, discharged and terminated, and all holders of Claims and Equity Interests shall be precluded and enjoined from asserting against the Reorganized Debtors and their respective successors or assignees, or any of their respective assets or properties, any other or further Claim or Equity

Interest based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not such holder has filed a proof of Claim or proof of Equity Interest, and whether or not the facts or legal bases therefore were known or existed prior to the Effective Date. Upon the Effective Date, all such persons shall be and hereby are forever precluded and enjoined, pursuant to § 524 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or terminated Equity Interest in the Debtors. For the avoidance of doubt, on the Effective Date, 100% of the equity in each Reorganized Debtor shall revert in the respective reorganized Debtor, and with respect to IT'SUGAR, the rights and claims of Holders of Equity Interests as set forth in the LLC Agreement, and any and all other organizational documents of the Debtors, shall be assumed, ratified and reinstated, including without limitation, It'Sugar Holdings, LLC's Preferred Return and Unreturned Invested Capital (as those terms are defined in the LLC Agreement).

26. Injunction. **Except as set forth in this Confirmation Order, pursuant to Article 4.5 of the Plan, as modified by Paragraph 43 of this Order, all Entities are permanently enjoined, from and after the Effective Date, from (a) commencing or continuing in any manner against the Debtors, the Reorganized Debtors, the Estates, the Creditors' Committee and their successors and assigns, and their assets and properties, (b) the enforcement, attachment, levying, collection or recovery by any manner or means of any judgment, award, decree or order against the Debtors, the Reorganized Debtors, or the Released Parties or any of their respective property or assets or any interest therein, (c) creating, perfecting, or enforcing any Lien or encumbrance of any kind against the Debtors, the Reorganized Debtors, or the Released Parties or any of their respective property or assets or any interest therein, or (d) commencing or continuing in any manner any action or other**

proceeding of any kind in respect of any Claim or Equity Interest or Cause of Action released or settled under the Plan. Such injunction extends to any successors of the Debtors, the Reorganized Debtors, and the Released Parties and their respective properties and interest in properties.

27. Injunction Against Interference With Plan. Pursuant to Article 9.5 of the Plan, upon the entry of this Order, all holders of Claims and Equity Interests and other parties in interest, along with their respective present or former employees, agents, officers, managers, directors, principals and Affiliates shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

28. Terms of Injunction. Unless otherwise provided in this Order, all injunctions or stays arising under or entered during these Chapter 11 Cases under §§ 105 or 362 of the Bankruptcy Code, or otherwise, that are in existence on the Confirmation Date, other than injunctions issued pursuant to the Plan shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

29. Releases are Approved. The releases set forth in the Plan, as modified by Paragraph 43 of this Order, are reasonable and appropriate given the facts and circumstances of these Chapter 11 Cases and the substantial consideration provided by the Released Parties. The releases are an integral part of the Plan and are supported by the substantial consideration provided therein. In evaluating the reasonableness of the releases, the Court has considered the factors set forth in *In re Seaside Engineering & Surveying, Inc.*, 780 F.3d 1070 (11th Cir. 2015) and *In re Dow Corning Corp.*, 280 F.3d 648, 658 (6th Cir. 2002). *Seaside* gives this Court the discretion to determine which of the *Dow Corning* factors is relevant in these Chapter 11 Cases. *Seaside*, 780 F.3d at 1079. The Court has considered each of the *Dow Corning* factors. For the reasons set forth

at the Confirmation Hearing, the Court concludes that the Plan satisfies a number of these factors, and the Court places particular emphasis on the following:

(a) the Debtors and parties related to this set of Released Parties (i.e., current and former Representatives) confronted novel challenges and faced unique risks, as they worked to reorganize the Debtors on an expedited basis and to be in the position to propose the Plan for creditor approval and confirmation;

(b) the Debtors, the Creditors' Committee, and parties related to this set of Released Parties. (i.e., current and former Representatives) undertook substantial efforts that, in addition to those actions described herein, also included (among other things) engaging in extensive negotiations for months to negotiate the Plan which will provide to the holders of Allowed Claims in Class 4 (General Unsecured Claims) a one-time lump sum distribution comprised of 15% of the respective Allowed General Unsecured Claim on the later of: (i) the Effective Date or as soon as practicable thereafter; (ii) the first Business Day after the date that is ten (10) Business Days after the date such Claim becomes an Allowed General Unsecured Claim; and (iii) the date or dates agreed to by the Debtors and the holder of the General Unsecured Claim; and

(c) The Debtors' efforts with respect to the lease negotiations with substantially all of the Debtors landlords, as estimated by the Debtors, resulted in substantial cost benefits and restructuring of the Debtors' lease obligations, which also resulted in far fewer lease rejections (and related general unsecured lease rejection damage claims), thereby providing for a higher percentage distribution to the holders of Allowed General Unsecured Claims in Class 4 of the Plan than otherwise would have occurred had the Debtors been required to reject a higher number of their store leases.

For the reasons discussed herein, the releases contained in the Plan, as modified by Paragraph 43 of this Order, are integral to the Debtors' efficient reorganization, and all holders of Claims voting on the Plan, including those impacted by the releases, have voted almost universally to support the Plan.

30. Releases by the Debtors and Their Estates. Pursuant to Article 9.8.1 of the Plan, as of the Effective Date, for the good and valuable consideration provided by each of the Released Parties, each of the Debtors, the Reorganized Debtors, their Estates, and each of their current and former Affiliates and Representatives shall be deemed to have provided a full, complete, unconditional and irrevocable release to the Released Parties (and each such Released Party so released shall be deemed released by the Debtors and their current and former Affiliates and Representatives, the Estates and the Creditors' Committee and its members but solely in their capacity as members of the Creditors' Committee and not in their individual capacities), from any and all Causes of Action and any other debts, obligations, rights, suits, damages, actions, remedies and liabilities whatsoever, whether accrued or unaccrued, whether known or unknown, foreseen or unforeseen, existing before the Effective Date, as of the Effective Date or arising thereafter, 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, the Debtors' in- or out-of court restructuring efforts, any intercompany transactions, transactions pursuant and/or related to the Prepetition Line of Credit, the Prepetition Equipment Loan, the DIP Loan (and any payments or transfers in connection therewith), any preference or avoidance

claims pursuant to §§ 544, 547, 548, or 549 of the Bankruptcy Code, the formulation, preparation, dissemination, negotiation, or consummation of the Exit Facility, the settlements contemplated by the Plan, or any contract, instrument, release, or other agreement or document (including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion) created or entered into in connection with the Disclosure Statement, the Plan, the Exit Facility, the Chapter 11 Cases, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the issuance or distribution of Securities pursuant to the Plan (if any), or the distribution of property under the Plan, or any other related agreement, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date related or relating to the foregoing, including, without limitation, those that any of the Debtors would have been legally entitled to assert or that any holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for or on behalf of any of the Debtors or the Estates, including those in any way related to the Chapter 11 Cases or the Plan; provided, however, that the foregoing release shall not prohibit the Debtors, the Reorganized Debtors or the Estates from asserting any and all defenses and counterclaims in respect of any Disputed Claim asserted by any Released Parties; provided further that nothing contained in the foregoing provision or elsewhere in the Plan or Confirmation Order shall be construed as a release of any claims against any Released Party resulting from an act or omission determined by a final order of a court of competent jurisdiction to have constituted

willful misconduct or gross negligence, provided that each such Released Party shall be entitled to rely upon the advice of counsel concerning its duties pursuant to, or in connection with, its actions or inactions.

31. Releases by Holders of Claims. Pursuant to Article 9.8.2 of the Plan, as modified by Paragraph 43 of this Order, as of the Effective Date, each Person, other than any of the Debtors, who votes to accept the Plan or accepts a Distribution under the Plan, or is deemed to accept the Plan, or abstains from voting on the Plan, shall be deemed to fully, completely, unconditionally, irrevocably, and forever release the Released Parties of and from any and all Claims and Causes of Action and any other debts, obligations, rights, suits, damages, actions, remedies and liabilities whatsoever, whether accrued or unaccrued, whether known or unknown, foreseen or unforeseen, existing before the Effective Date, as of the Effective Date or arising thereafter, 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 the day-to-day management of the Debtors, any decisions made or not made by the Debtors' board members, and/or the ownership or operation of the Debtors), Reorganized IT'SUGAR (including the formation thereof), the Debtors' in- or out-of-court restructuring efforts, any intercompany transactions, transactions pursuant and/or related to the Prepetition Line of Credit, the Prepetition Equipment Loan, the DIP Loan (and any payments or transfers in connection therewith), the formulation, preparation, dissemination, negotiation, or consummation of the Exit Facility, the settlements contemplated by the Plan, or any contract, instrument, release,

or other agreement or document (including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion) created or entered into in connection with the Disclosure Statement, the Plan, the Exit Facility, the Chapter 11 Cases, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the administration and implementation of the Plan, including the issuance or distribution of Securities pursuant to the Plan (if any), or the distribution of property under the Plan, or any other related agreement, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date related or relating to the foregoing, whether direct, derivative, accrued or unaccrued, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, in law, equity or otherwise; provided that nothing contained in the foregoing provision or elsewhere in the Plan or Confirmation Order shall be construed as a release of any claims against any Released Party resulting from an act or omission determined by a final order of a court of competent jurisdiction to have constituted willful misconduct or gross negligence, provided that each such Released Party shall be entitled to rely upon the advice of counsel concerning its duties pursuant to, or in connection with, its actions or inactions; provided, however that such releases shall not affect any rights of any non-Debtor Person or Entity with respect to any written personal or cross-corporate guarantees of the Debtors' obligations executed by such non-Debtor Person or Entity to and in favor of any Party or Entity in connection with the Debtors' prepetition operations. Notwithstanding the foregoing, for those who do not vote in favor of the Plan or are deemed not to vote in favor of the Plan, the Debtors'

Professionals and Creditors' Committee Professionals shall not be deemed "Released Parties" or "Representatives" for purposes of this Section 9.8.2.

32. Exculpation. As provided for in Article 11.2 of the Plan, as modified by Paragraph 43 of this Order, the Debtors, SHL, BBX Capital, Inc., the Creditors' Committee, and their respective officers, directors, members, managers, and managing members (acting in such capacity) shall neither have nor incur any liability whatsoever to any Person or Entity for any act taken or omitted to be taken in good faith in connection with or related to the formulation, preparation, dissemination, or confirmation of the Plan, the Disclosure Statement, any Plan Document, or any contract, instrument, release, or other agreement or document created or entered into, or any other act taken or omitted to be taken, in connection with the plan or the Bankruptcy Case; provided, however, that this exculpation from liability provision shall not be applicable to any liability found by a court of competent jurisdiction to have resulted from fraud or the willful misconduct or gross negligence of any such party. The rights granted hereby are cumulative with (and not restrictive of) any and all rights, remedies, and benefits that the Debtors, SHL, and BBX Capital, Inc., the Creditors' Committee, the Reorganized Debtors, and their respective agents have or obtain pursuant to any provision of the Code or other applicable law, or any agreement. This exculpation from liability provision is an integral part of the Plan and is essential to its implementation. Notwithstanding anything to the contrary contained herein, the provisions hereof shall not release or be deemed a release of any of the Causes of Action otherwise preserved by the Plan. The terms of this exculpation shall only apply to liability arising from actions taken on or prior to the Effective Date.

The exculpation provisions in Article 11.2 of the Plan, as modified by Paragraph 43 of this Order, are approved as they do not exclude liability for gross negligence or willful conduct.

33. Government Carve-Out. Except for the Claims described in Articles II and III or other Final Order of the Bankruptcy Court that are discharged and released under this Plan, nothing in the Plan or the Confirmation Order shall (i) effect a release of any other claim by the United States Government or any of its agencies or any state and local authority whatsoever against the Released Parties, including without limitation any claim arising under the Internal Revenue Code, securities laws, the environmental laws or any criminal laws of the United States or any state and local authority, (ii) enjoin the United States Government or any of its agencies or any state and local authority whatsoever from bringing any claim, suit, action or other proceedings against the Released Parties asserting any other liability, including without limitation any claim, suit or action arising under the Internal Revenue Code, securities laws, environmental laws or any criminal laws of the United States or any state or local authority, and (iii) exculpate any of the Released Parties from any other liability to the United States Government or any of its agencies or any state and local authority whatsoever, including any liabilities arising under the Internal Revenue Code, securities laws, environmental laws or any criminal laws of the United States or any state and local authority.

34. Limitations on Exculpation and Releases of Representatives. Nothing in Articles 9.8 (“Releases”) or 11.2 (“Exculpation from Liability”) of the Plan shall (i) be construed to release or exculpate any person from, or require indemnification of any Person against losses arising from, the fraud, malpractice, criminal conduct, intentional unauthorized misuse of confidential information that causes damages, or ultra vires acts of such Person, or (ii) limit the liability of the Professionals of the Debtors, the Reorganized Debtors, to their respective clients

pursuant to Rule 4-1.8(h) of the Florida Rules of Professional Conduct (“Limiting Liability for Malpractice”). Notwithstanding any of the releases, discharges, injunctions or waivers set forth in the Plan, nothing in the Plan shall modify the obligations of the Reorganized Debtors and their landlords with respect to the ongoing obligations under any assumed non-residential real property lease agreements (as modified), irrespective of whether such obligations first arose or accrued before or after the Effective Date of the Plan, including but not limited to obligations for year-end adjustments and reconciliations under such leases.

35. Retention of Causes of Action/Reservation of Rights. Except as otherwise provided in the Plan, nothing contained in the Plan or this Order shall be deemed to be a waiver or the relinquishment of any rights or causes of action that the Debtors or the Reorganized Debtors may have or which the Reorganized Debtors may choose to assert on behalf of the Debtors’ Estates under any provision of the Bankruptcy Code or any applicable nonbankruptcy law, including, without limitation, (i) any and all Claims against any person or entity, to the extent such person or entity asserts a defense, crossclaim, counterclaim, and/or Claim for setoff which seeks affirmative relief against the Debtors, the Reorganized Debtors, their officers, directors, managers or representatives, and (ii) the turnover of any property of the Debtors’ estates.

36. Nothing contained in the Plan or this Order shall be deemed to be a waiver or relinquishment of any claim, cause of action, right of setoff, or other legal or equitable defense which the Debtors or any other party had immediately prior to the Petition Date, against or with respect to any Claim. The Reorganized Debtors shall have, retain, reserve, and be entitled to assert all such claims, causes of action, rights of setoff, and other legal or equitable defenses which the Debtors had immediately prior to the Petition Date fully as if the Bankruptcy Cases had not been commenced, and all of the legal and equitable rights of the Reorganized Debtors respecting any

Claim may be asserted after the Confirmation Date to the same extent as if the Bankruptcy Cases had not been commenced.

37. Transfer Free and Clear of Liens. Except with respect to any fund established pursuant to the Plan, all right, title and interest in and to any and all assets, property, unexpired leases and executory contracts of every kind and nature to be sold, assigned, transferred or otherwise disposed of under the Plan shall be sold, assigned, transferred and disposed of free and clear of any and all Claims, Liens, liabilities, encumbrances, charges and other interests of any entity (as such term is defined in section 101(15) of the Bankruptcy Code) including, without limitation, any and all claims, liens, encumbrances and any and all right, title and interests related thereto arising or resulting from or relating to the transactions contemplated hereby and by the Plan.

38. Authorization to Consummate Plan Transactions. The Debtors and the Reorganized Debtors are all authorized to consummate the transactions contemplated in the Plan and to enter into, execute and deliver all necessary documents, including those required in connection with the Plan.

39. Conditions to Effective Date. The Plan shall not become effective unless and until the conditions set forth in Article 8.1 of the Plan have been satisfied or waived pursuant to Article 8.1 of the Plan.

40. Retention of Jurisdiction. Pursuant to Article X of the Plan, this Court shall retain and have exclusive jurisdiction over any matter arising under the Bankruptcy Code and arising in or related to these Chapter 11 Cases or the Plan, to the fullest extent as is legally permissible.

41. Effectuating Documents and Further Transactions. On or before the Effective Date, and without the need for any further order or authority, the Debtors shall file with this Court or execute, as appropriate, such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. Each of the officers of the Debtors or the Reorganized Debtors, are authorized, without the need for any further order or authority, 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 and any notes or securities issued pursuant to the Plan. The Reorganized Debtors are authorized to execute all documents and enter into all agreements as may be necessary and appropriate in connection with the Plan.

42. Compliance with Tax Requirements. In connection with the Plan, the Reorganized Debtors will comply with all withholding and reporting requirements imposed by federal, state and local taxing authorities, and all distributions under the Plan shall be subject to such withholding and reporting requirements.

43. Modifications. Pursuant to Article 12.9 of the Plan, the Debtors may amend or modify the Plan after the entry of this Order, with the consent of the Creditors' Committee, upon order of the Bankruptcy Court, in accordance with § 1127 of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan. A holder of an Allowed Claim that has accepted the Plan shall be deemed to have accepted the Plan as modified if the proposed modification does not materially and adversely change the treatment of the Claim of such holder. The Plan, as altered, amended or modified, must satisfy the conditions of §§ 1122, 1123 and 1129

of the Bankruptcy Code, and the Debtors shall have complied with § 1125 of the Bankruptcy Code. A holder of an Allowed Claim that has accepted the Plan shall be deemed to have accepted the Plan as altered, amended or modified if the proposed alteration, amendment or modification does not materially and adversely change the treatment of the Claim of such holder prior to the Effective Date, the Debtors may make appropriate technical adjustments and modifications to the Plan, without further order or approval of this Court, provided that such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Interests. The modifications include the following:

i. Article 1.2 (Definitions).

i. Article 1.2.jjjj is modified to remove “the Debtors’ Professionals” and “the Creditors’ Committee’s Professionals” to read as follows: “*Released Parties*” means, collectively, (i) the Debtors, (ii) the Creditors’ Committee and its members (solely in their capacity as members of the Creditors’ Committee), (iii) the Plan Proponents, (iv) SHL, (v) BBX Capital, Inc., and (vi) the current and former representatives of each of the foregoing described in clauses “(i)” through “(v)” hereof.

ii. Article 1.2.llll is modified to remove “attorneys, Professionals, accountants, investment bankers, financial advisors and consultants” and to further remove “and other representatives (including their respective officers, directors, employees, independent contractors, members and

professionals” to read as follows: “*Representatives*” means, with regard to an Entity (including the Debtors), any current or former members, equity holders, officers, directors, managers, principals, partners, employees, and agents.

ii. Article 2.1 (Administrative Expense Claims and Professional Claims). Article 2.1 is modified to provide that any holder of a Cure Claim is not required to file a request for payment of such claim to read as follows: Each Holder of an Allowed Administrative Expense Claim (including Professional Claims) shall, in full and final satisfaction, settlement, release and discharge thereof, and in exchange thereof, be paid the Allowed amount of its Administrative Expense Claim, in full, in Cash, on the Effective Date, or upon such other terms as may be agreed upon by the Holder of the claim and the Debtor, or, if the Claim does not become Allowed prior to the Effective Date, on the date the Allowed Amount of such claim is determined by Final Order of the Bankruptcy Court.

With the exception of Professionals seeking the allowance and payment of Professional Claims and holders of Cure Claims, all requests for payment of Administrative Expense Claims, except Administrative Expense Claims filed or asserted pursuant to § 503(b)(9) of the Bankruptcy Code (which are covered by separate Court order) (ECF No. 94) shall be filed by the Administrative Expense Claims Bar Date. If such requests for payment of Administrative Expense Claims are not so timely filed, the Administrative Expense Claims will be Disallowed Claims and will be automatically deemed forever barred and the Holders of such Disallowed Claims shall be forever barred, estopped and enjoined from asserting such Claims in any manner against the Debtors, the Estates or the Reorganized Debtors, and without the need for any objection by the Debtors or the

Reorganized Debtors, as the case may be, and without any further notice or action, order or approval of the Bankruptcy Court.

iii. Article 4.3.4 (Cure of Defaults for Assumed Executory Contracts and Unexpired Leases).

Article 4.3.4 is modified to include the following language:

- i. Upon assumption of a lease, the Debtors or Reorganized Debtors shall satisfy any accrued but unbilled amounts under a lease (if applicable) including, but not limited to, common area maintenance charges, taxes, and year-end adjustments, and shall remain liable for all obligations arising under an assumed lease including: (a) for amounts owed or accruing under such lease that are unbilled or not yet due regardless of when such amounts or obligations accrued, on account of common area maintenance, insurance, taxes, utilities and similar charges; (b) any regular or periodic adjustment or reconciliation of charges under such lease that are not due or have not been determined; (c) any percentage rent that comes due under such lease; (d) post-assumption obligations under such lease; and (e) any obligations to indemnify the non-Debtor counterparty under such lease pursuant to the terms of the lease.
- ii. If a Cure Claim is disputed, the Debtors shall satisfy the undisputed portion within five (5) days of the Plan becoming effective, with the disputed portion reserved and disbursed upon the earlier of entry of an order or agreement of the parties. A

hearing on a disputed Cure Claim, if necessary, shall be scheduled within three (3) weeks of the Confirmation Hearing.

iii. As modified, Article 4.3.4 shall read in full as follows: With respect to each of the executory contracts or unexpired leases listed on the Schedule of Assumed Executory Contracts and Unexpired Leases, the Debtors will designate a proposed Cure and the assumption or assumption and assignment of such executory contract or unexpired lease will be conditioned on the disposition of all issues with respect to Cure. All Allowed Cure Claims will be satisfied by the Debtors by payment of the Cure in Cash on or as soon as reasonably practicable after the Effective Date or entry of an Order setting forth the Allowed Cure Claim is disputed as of the Effective Date or such other later date as the parties may agree. Any provisions or terms of the Debtors' executory contracts or unexpired leases to be assumed and assigned pursuant to the Plan that are, or may be, alleged to be in default, shall be satisfied solely by the Cure, or by an agreed upon waiver of the Cure. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed in the Chapter 11 Cases, including pursuant to the Confirmation Order, and for which any applicable Cure has been fully satisfied, shall be deemed disallowed and expunged as of the Effective Date without the need for any

objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court. Upon assumption of a lease, the Debtors or Reorganized Debtors shall satisfy any accrued but unbilled amounts under a lease (if applicable) including, but not limited to, common area maintenance charges, taxes, and year-end adjustments, and shall remain liable for all obligations arising under an assumed lease including: (a) for amounts owed or accruing under such lease that are unbilled or not yet due regardless of when such amounts or obligations accrued, on account of common area maintenance, insurance, taxes, utilities and similar charges; (b) any regular or periodic adjustment or reconciliation of charges under such lease that are not due or have not been determined; (c) any percentage rent that comes due under such lease; (d) post-assumption obligations under such lease; and (e) any obligations to indemnify the non-Debtor counterparty under such lease pursuant to the terms of the lease. If a Cure Claim is disputed, the Debtors shall satisfy the undisputed portion within five (5) days of the Plan becoming effective, with the disputed portion reserved and disbursed upon the earlier of entry of an order or agreement of the parties. A hearing on a disputed Cure Claim, if necessary, shall be scheduled within three (3) weeks of the Confirmation Hearing.

iv. Article 4.3.5 (Confirmation Order). Article 4.3.5 is modified to include the following language: All executory contracts and unexpired leases on the First Amended Schedule of Assumed Executory Contracts and Unexpired Leases [ECF No. 423] shall be deemed assumed as of the entry of the Confirmation Order. With the above modifications, Article 4.3.5 shall read in full as follows: All executory contracts and unexpired leases on the First Amended Schedule of Assumed Executory Contracts and Unexpired Leases [ECF No. 423] shall be deemed assumed as of the entry of the Confirmation Order. Entry of the Confirmation Order will constitute a finding of adequate assurance of future performance by the Reorganized Debtors within the meaning of section 365 of the Bankruptcy Code. Any objections relating to adequate assurance of future performance, or any other matters relating to the assumption and assignment of executory contracts and unexpired leases (other than Cure Claim disputes) must be asserted as an objection to confirmation of the Plan. Assumption of any executory contract or unexpired lease pursuant to the Confirmation Order or other order of the Bankruptcy Court and payment of the Allowed Cure Claim will limit the Claims of any such contract counter-party to Claims for ongoing performance under the unexpired lease or executory contract by Reorganized Debtor pursuant to section 365(k) of the Bankruptcy Code.

v. Article 5.4 (Exit Facility). Article is 5.4 is modified to include the following language: Notwithstanding anything to the contrary herein, the Exit Facility Documents shall not grant a lien or other security interest in leasehold interests or provide any rights of any lender or agent to access or use any leased premises absent written consent of the landlord or the existence of a right to do so under applicable non-bankruptcy law. As modified, Article 5.4 shall read in full as follows: On the Effective Date, the Reorganized

Debtors will enter into definitive documentation which will be filed with the Court in advance of Confirmation as a supplement to the Plan, with respect to the Exit Facility in the aggregate principal amount of up to \$13 million as a first lien facility. Confirmation of the Plan shall be deemed to constitute approval of the Exit Facility and the Exit Facility Documents (including all transactions contemplated thereby and all actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtors in connection therewith, including the payment, which payment shall not be subject to disgorgement, of all fees, indemnities, and expenses provided for therein) and, subject to the occurrence of the Effective Date, authorization for the Reorganized Debtors to enter into and perform their obligations under the Exit Facility Documents and such other documents as may be reasonably required or appropriate, in each case, in accordance with the Exit Facility Documents. On the Effective Date, the Exit Facility Documents shall constitute legal, valid, binding, and authorized obligations of the Reorganized Debtors, enforceable in accordance with their terms. The financial accommodations to be extended pursuant to the Exit Facility Documents are being extended, and shall be deemed to have been extended, in good faith, for legitimate business purposes, are reasonable, shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever, and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any other applicable non-bankruptcy law. On the Effective Date, all of the guarantees, mortgages, pledges, claims, liens and other security interests granted or to be granted in accordance with the Exit Facility Documents (a) shall be legal, valid, binding, and enforceable guarantees, mortgages, pledges, claims and liens on, and security interests in,

the collateral granted thereunder in accordance with the terms of the Exit Facility Documents, (b) shall be deemed automatically attached and perfected on the Effective Date without the need for any further action, approval or filing, subject only to such liens and security interests as may be permitted under the Exit Facility Documents, and (c) shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any applicable non bankruptcy law. The Reorganized Debtors and the Entities granted such liens and security interests are authorized to make all filings and recordings, and to obtain all governmental approvals and consents necessary to establish, attach, and perfect such liens and security interests under the provisions of the applicable state, provincial, federal, or other law (whether domestic or foreign) that would be applicable in the absence of the Plan and the Confirmation Order (it being understood that perfection shall occur automatically by virtue of the entry of the Confirmation Order, and any such filings, recordings, approvals, and consents shall not be required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such liens and security interests to third parties. All such documents shall be deemed to have recorded and filed as of the Effective Date. To the extent that any Holder of a Secured Claim that has been satisfied or discharged in full pursuant to the Plan, or any agent for such Holder, has filed or recorded publicly any liens and/or security interests to secure such Holder's Secured Claim, then as soon as practicable on or after the Effective Date, such Holder (or the agent for such Holder) shall take any and all steps requested by the Debtors, the Reorganized Debtors, or any administrative agent under the

Exit Facility Documents that are necessary to cancel and/or extinguish such liens and/or security interests. Notwithstanding anything to the contrary herein, the Exit Facility Documents shall not grant a lien or other security interest in leasehold interests or provide any rights of any lender or agent to access or use any leased premises absent written consent of the landlord or the existence of a right to do so under applicable non-bankruptcy law.

vi. Article 5.5 (Indemnification of SHL). Article 5.5 is modified to include the Creditors' Committee and its and SHL's Professionals to read in full as follows: The Debtors and the Reorganized Debtors, shall (a) indemnify and hold harmless SHL, the Creditors' Committee, and their respective officers, directors, members, managers, managing members and Professionals (acting in such capacity) (the "Indemnified Parties") from and against any expense, damage or liability arising from any Cause of Action brought by any person or Entity against the Indemnified Parties relating to the Debtors or the Plan (including the implementation of the Plan) that, in each case, has arisen or may arise through and including the Effective Date (including any Cause of Action that arises in connection with events occurring prior to the Effective Date) and (b) promptly advance to the Indemnified Parties, their respective defense costs and expenses related to any such Cause of Action or any Claim, in each case (i) brought against it in any case, hearing, procedure or proceeding of any kind, (ii) threatened against it by any person or Entity, or (iii) brought against a third party and that requires the discovery from or by the Indemnified Parties, or reasonably requires any other intervention or involvement by any or each of the Indemnified Parties. This indemnification shall be enforceable regardless of whether any person (including the person from whom indemnification is sought) alleges or proves: (a) the sole, concurrent, contributory, or comparative negligence (whether such negligence is

simple or gross) or fault of the person seeking indemnification or (b) the sole or concurrent strict liability imposed upon the person seeking indemnification. Notwithstanding the foregoing, the Debtors' and Reorganized Debtors' obligation to indemnify and hold harmless the Creditors' Committee Professionals shall not extend further than the date upon which an order approving the Final Fee Application of such Professional (including all supplements thereto) becomes final and non-appealable.⁴

vii. Article 9.8.2 (Releases by Holders of Claims). Article 9.8.2 is modified as follows:

- i. to include the following phrase in the last sentence: "or post-petition", modifying the last sentence to read after the last phrase beginning with "provided however": "*provided however* that such releases shall not affect any rights of any non-Debtor Person or Entity with respect to any written personal or cross-corporate guarantees of the Debtors' obligations executed by such non-Debtor Person or Entity to and in favor of any Party or Entity in connection with the Debtors' prepetition or post-petition operations."

⁴ This provision was agreed to by the Debtors, the Reorganized Debtors, the Creditors' Committee and SHL in connection with the specific facts and circumstances of these Chapter 11 Cases. This indemnification in no way impacts the Reorganized Debtors' ability to make the Plan payments and distributions on the Effective Date, and there are no future Plan payments or distributions that will be impacted by this provision.

ii. to include the following as the last sentence: “Notwithstanding the foregoing, for those who do not vote in favor of the Plan or are deemed not to vote in favor of the Plan, the Debtors’ Professionals and Creditors’ Committee Professionals shall not be deemed ‘Released Parties’ or ‘Representatives’ for purposes of this Section 9.8.2.

iii. As modified, Article 9.8.2 shall read in full as set forth in Paragraph 31 of this Order.

viii. Articles 4.5 and 11.1 (Injunction). Articles 4.5 and 11.1 are modified to include the following language: Notwithstanding anything to the contrary in this Plan or the Confirmation Order, nothing shall modify the rights, if any, of any holder of Claims or any current or former party to an Executory Contract or Unexpired Lease, to assert any right of setoff or recoupment that such party may have under applicable bankruptcy or non-bankruptcy law, including, but not limited to, (i) the ability, if any, of such parties to setoff or recoup a security deposit held pursuant to the terms of their unexpired lease(s) with the Debtors, or any successors to the Debtors, under the Plan; (ii) assertion of rights of setoff or recoupment, if any, in connection with Claims reconciliation; or (iii) assertion of setoff or recoupment as a defense, if any, to any claim or action by the Debtors, the Reorganized Debtors, or any successors of the Debtors.

i. As modified, Article 4.5 shall read in full as follows: From and after the Effective Date, all Entities are permanently enjoined from commencing or continuing in any manner against the

Debtors, the Reorganized Debtors, the Estates, the Creditors' Committee, and their successors and assigns, and their assets and properties, as the case may be, any suit, action or other proceeding, on account of or respecting any Claim or Equity Interest, demand, liability, obligation, debt, right, Cause of Action, interest or remedy released or satisfied or to be released or satisfied pursuant to the Plan or the Confirmation Order.

Except as otherwise expressly provided for in the Plan or in obligations issued pursuant to the Plan, from and after the Effective Date, all Entities shall be precluded from asserting against the Debtors, the Reorganized Debtors, the Estates, the Creditors' Committee, and their successors and assigns and their assets and properties, any other Claims or Equity Interests based upon any documents, instruments, or any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date, solely to the extent that (a) such Claims or Equity Interests have been released or satisfied pursuant to the Plan or the Confirmation Order or (b) such Claims, Equity Interests, actions or assertions of Liens relate to property that will be distributed pursuant to the Plan or the Confirmation Order.

The rights afforded in the Plan and the treatment of all Claims and Equity Interests in the Plan shall be in exchange for

and in complete satisfaction of Claims and Equity Interests against the Debtors or any of their assets or properties solely to the extent that (a) such Claims or Equity Interests have been released or satisfied pursuant to the Plan or the Confirmation Order or (b) such Claims, Equity Interests, actions or assertions of Liens relate to property that will be distributed pursuant to the Plan or the Confirmation Order.

Except as otherwise expressly provided for in the Plan or in obligations issued pursuant to the Plan, all Persons and Entities are permanently enjoined, on and after the Effective Date, on account of any Claim or Equity Interest satisfied and released pursuant to the Plan or Confirmation Order, from:

(a) commencing or continuing in any manner any action or other proceeding of any kind against any Debtor, any Reorganized Debtor, any Estate, the Creditors' Committee, and their successors and assigns and their assets and properties;

(b) enforcing, attaching, collecting or recovering by any manner or means any judgment, award, decree or order against any Debtor, any Reorganized Debtor, any Estate, the Creditors' Committee, and their successors and assigns and their assets and properties;

(c) creating, perfecting or enforcing any encumbrance of any kind against any Debtor, any Reorganized Debtor, any

Estate, the Creditors' Committee, and their successors and assigns and their assets and properties; and

(d) commencing or continuing in any manner any action or other proceeding of any kind in respect of any Claim or Equity Interest or Cause of Action released or settled hereunder.

Notwithstanding anything to the contrary in this Plan or the Confirmation Order, nothing shall modify the rights, if any, of any holder of Claims or any current or former party to an Executory Contract or Unexpired Lease, to assert any right of setoff or recoupment that such party may have under applicable bankruptcy or non-bankruptcy law, including, but not limited to, (i) the ability, if any, of such parties to setoff or recoup a security deposit held pursuant to the terms of their unexpired lease(s) with the Debtors, or any successors to the Debtors, under the Plan; (ii) assertion of rights of setoff or recoupment, if any, in connection with Claims reconciliation; or (iii) assertion of setoff or recoupment as a defense, if any, to any claim or action by the Debtors, the Reorganized Debtors, or any successors of the Debtors.

ii. As modified, Article 11.1 shall read in full as follows: As of the Effective Date, except as otherwise provided in the Plan or the Confirmation Order, all Persons that have held, currently

hold or may hold a Claim, Equity Interest or other debt or liability that is treated pursuant to the terms of the Plan are enjoined from taking any of the following actions on account of any such Claims, Equity Interests, debts or liabilities, other than actions brought to enforce any rights or obligations under the Plan or against the Debtors, the Reorganized Debtors, the Estates, or Estate property: (i) commencing or continuing in any manner any action or other proceeding; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any lien or encumbrance; (iv) asserting a setoff of any kind against any debt, liability or obligation; and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order. Notwithstanding anything to the contrary in this Plan or the Confirmation Order, nothing shall modify the rights, if any, of any holder of Claims or any current or former party to an Executory Contract or Unexpired Lease, to assert any right of setoff or recoupment that such party may have under applicable bankruptcy or non-bankruptcy law, including, but not limited to, (i) the ability, if any, of such parties to setoff or recoup a security deposit held pursuant to the terms of their unexpired lease(s) with the Debtors, or any successors to the

Debtors, under the Plan; (ii) assertion of rights of setoff or recoupment, if any, in connection with Claims reconciliation; or (iii) assertion of setoff or recoupment as a defense, if any, to any claim or action by the Debtors, the Reorganized Debtors, or any successors of the Debtors.

ix. Article 11.2 (Exculpation from Liability). Article 11.2 is modified to remove Professionals by removing the following sentence: “With respect to the Professionals, the foregoing exculpation from liability provision shall also include claims of professional negligence arising from the services provided by such Professionals during the Bankruptcy Case.” As modified, Article 11.2 shall read in full as set for in Paragraph 32 of this Order.

44. Exemption from Transfer Taxes. Pursuant to § 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of notes or equity securities under the Plan, the creation of any mortgage, deed of trust, or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer, merger or consolidation under, in furtherance of, or in connection with the Plan, shall not be subject to any sales and use, stamp, real estate transfer, mortgage recording, or other similar tax. The Debtors are hereby authorized to deliver a notice of this Confirmation Order, with the Plan annexed, to any state or local recording officer, and such officer is hereby directed to accept for filing the above documents or instruments without charging any sales and use, stamp, real estate transfer, mortgage recording, or other similar tax. Such notice (a) shall have the effect of an Order of this Court, (b) shall constitute sufficient notice of the entry of this Confirmation Order to such filing and recording officers and (c) shall be a reasonable instrument notwithstanding any contrary provision of non-

bankruptcy law. The Bankruptcy Court specifically retains jurisdiction to enforce the foregoing direction, by contempt or otherwise.

45. Exemption from Securities Laws. To the maximum extent provided by § 1145 of the Bankruptcy Code and applicable non-bankruptcy law, the issuance of any equity in the Reorganized Debtors is exempt from registration under the Securities Act of 1933, as amended, and all rules and regulations promulgated thereunder and any other applicable non-bankruptcy law or regulation.

46. Governmental Approvals Not Required. This Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state or other governmental authority with respect to the implementation or consummation of the Plan and Disclosure Statement, any documents, instruments, or agreements, and any amendments or modifications thereto, and any other acts referred to in, or contemplated by, the Plan and the Disclosure Statement and any amendments or modifications thereto.

47. Notice of Effective Date. As soon as practicable after the occurrence of the Effective Date, the Reorganized Debtors shall file notice of the occurrence of the Effective Date and shall serve a copy of same on all parties entitled to receive notice in these Chapter 11 Cases.

48. Substantial Consummation. On the Effective Date, the Plan shall be deemed to be substantially consummated under §§ 1101 and 1127 of the Bankruptcy Code.

49. Revocation or Withdrawal of the Plan of Reorganization. The Debtors reserve the right to revoke or withdraw the Plan prior to the Effective Date, in their sole discretion. If the Plan is revoked or withdrawn prior to the Effective Date, then the Plan shall be deemed null and void. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any claims or defenses or any admission or statement against interest by any Debtor or any other

Person or to prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving any Debtor.

50. Reversal. If any of the provisions of this Order are hereafter reversed, modified or vacated by a subsequent order of the Bankruptcy Court or any other court, such reversal, modification, or vacatur shall not affect the validity of the acts or obligations incurred or undertaken under, or in connection with, the Plan prior to receipt of written notice of such order by the Debtors. Notwithstanding any such reversal, modification or vacatur of this Order, any such act or obligation incurred or undertaken pursuant to, and in reliance on, this Order prior to the effective date of such reversal, modification or vacatur shall be governed in all respects by the provisions of this Order, the Plan, all documents relating to the Plan and any amendments or modifications to any of the foregoing.

51. Conflicts Between Order and Plan. The provisions of the Plan and this Order shall be construed in a manner consistent with each other so as to effect the purpose of each; *provided, however*, that if there is any inconsistency between any Plan provision and any provision of this Order that cannot be so reconciled, then solely to the extent of such inconsistency, the provisions of this Order shall govern and any provision of this Order shall be deemed a modification of the Plan and shall control and take precedence. The provisions of this Order are integrated with each other and are non-severable and mutually dependent.

52. Final Order; Waiver of Stay. This Order is a final order and the period in which an appeal must be filed shall commence upon the entry hereof. Any stay of this Order provided by any Bankruptcy Rule (including Bankruptcy Rule 3020(e)) is hereby waived, and this Order shall be effective and enforceable immediately upon its entry by the Court.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

53. Post-Confirmation Status Conference. **The Court will conduct a post-confirmation status conference on Thursday, July 15, 2021 at 2:00 p.m.** via CourtSolutions. Appearances for CourtSolutions may be arranged online at <https://www.court-solutions.com/SignUp> or by telephone at (917) 746-7476.

###

Submitted By:

Joshua W. Dobin, Esquire
Florida Bar No. 93696
jdobin@melandbudwick.com
MELAND BUDWICK, P.A.
Counsel for Debtors
3200 Southeast Financial Center
200 South Biscayne Boulevard
Miami, Florida 33131
Telephone: (305) 358-6363
Telefax: (305) 358-1221

Copies Furnished To:

Joshua W. Dobin, Esquire, is directed to serve copies of this Order on all parties in interest and to file a Certificate of Service.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
www.flsb.uscourts.gov

In re:

IT'SUGAR FL I LLC, *et al.*,

Debtors.¹

Case No. 20-20259-RAM
(Jointly Administered)

Chapter 11

**PLAN OF REORGANIZATION FOR IT'SUGAR FL I LLC,
IT'SUGAR LLC, IT'SUGAR ATLANTIC CITY LLC AND IT'SUGAR FLGC LLC**

MELAND BUDWICK, P.A.

Michael S. Budwick, Esq.
Joshua W. Dobin, Esq.
James C. Moon, Esq.
3200 Southeast Financial Center
200 S. Biscayne Blvd.
Miami, FL 33131

Attorneys for Debtors and Debtors in Possession

Dated: April 20, 2021.

TABLE OF CONTENTS

<u>INTRODUCTION</u>	8
<u>ARTICLE I</u>	8
<u>DEFINITIONS; RULES OF INTERPRETATION; COMPUTATION OF TIME</u>	8
I. <u>Scope of Definitions.</u>	8
II. <u>Definitions.</u>	9
III. <u>Rules of Interpretation.</u>	20
IV. <u>Computation of Time.</u>	20
V. <u>United States Currency.</u>	20
VI. <u>Exhibits.</u>	20
<u>ARTICLE II</u>	21
<u>PROVISIONS FOR PAYMENT OF ALLOWED ADMINISTRATIVE EXPENSE</u>	
<u>CLAIMS, PRIORITY TAX CLAIMS AND STATUTORY FEES</u>	21
2.1 <u>Administrative Expense Claims and Professional Claims.</u>	21
2.2 <u>Priority Tax Claims.</u>	21
2.3 <u>Priority Claims (Non-Tax).</u>	21
2.4 <u>DIP Loan Claims.</u>	22
2.5 <u>United States Trustee Fees; Claims for Statutory Fees; Quarterly Reports.</u>	
<u>ARTICLE III</u>	23
<u>CLASSIFICATION, IMPAIRMENT AND TREATMENT OF CLAIMS AND EQUITY</u>	
<u>INTERESTS</u>	23
3.1 <u>Classification.</u>	23
3.2 <u>Summary.</u>	23
3.3 <u>Separate Classes and Treatment.</u>	26
3.4 <u>Claims May be in More than One Class.</u>	26
<u>Class 1 – Allowed Other Priority Claims</u>	26
3.5 <u>Allowed Other Priority Claims (Class 1).</u>	26
<u>Class 2 – Allowed Secured Claim of SHL Holdings, Inc.</u>	27
3.6 <u>Allowed Secured Claim of SHL Holdings, Inc. (Class 2).</u>	27

<u>Class 3 – Allowed Construction / Mechanic’s Lien Claims</u>	28
3.7 <u><i>Allowed Construction / Mechanic’s Lien Claims (Class 3):</i></u>	28
<u>Class 4 – Allowed General Unsecured Claims</u>	28
3.8 <u><i>Allowed General Unsecured Claims (Class 4).</i></u>	28
<u>Class 5 – Subordinated Claims</u>	29
3.9 <u><i>Subordinated Claims (Class 5).</i></u>	29
<u>Class 6 – Equity Interests</u>	29
3.10 <u><i>Equity Interests (Class 6).</i></u>	29
<u>ARTICLE IV</u>	29
<u>REJECTION OF UNEXPIRED LEASES AND EXECUTORY CONTRACTS /</u>	
<u>REJECTION CLAIMS / INJUNCTION</u>	29
4.1 <u><i>General Treatment: Rejected if not Previously Assumed.</i></u>	29
4.2 <u><i>Bar to Claims Arising from Rejection: Termination or Expiration.</i></u>	30
4.3 <u><i>Assumption of Executory Contracts and Unexpired Leases.</i></u>	30
4.4 <u><i>Rejection Claims.</i></u>	31
4.5 <u><i>Injunction.</i></u>	32
4.6 <u><i>Release of Liens.</i></u>	33
<u>ARTICLE V</u>	33
<u>MEANS OF IMPLEMENTING THE PLAN</u>	33
5.1 <u><i>Consolidation for Voting and Distribution Purposes.</i></u>	33
5.2 <u><i>Business Operations and Cash Flow.</i></u>	34
5.3 <u><i>Funds Generated During Chapter 11.</i></u>	34
5.4 <u><i>Exit Facility.</i></u>	34
5.5 <u><i>Indemnification of SHL.</i></u>	35
5.6 <u><i>Intercompany Claims.</i></u>	36
5.7 <u><i>Source of Funding for Plan Distributions.</i></u>	36
5.8 <u><i>Manner of Cash Payments Under the Plan.</i></u>	36
5.9 <u><i>Waived Avoidance Actions.</i></u>	36
5.10 <u><i>Post-Confirmation Operations.</i></u>	37
5.11 <u><i>Post-Confirmation Accounts.</i></u>	37
5.12 <u><i>Disbursing Agent.</i></u>	37

5.13	<u><i>Management and Control of the Reorganized Debtors.</i></u>	37
5.14	<u><i>Closing of the Chapter 11 Cases.</i></u>	37
5.15	<u><i>Entity Making Distributions.</i></u>	37
5.16	<u><i>Distribution Dates.</i></u>	38
5.17	<u><i>Record Date for Distributions.</i></u>	38
5.18	<u><i>Delivery of Distributions.</i></u>	38
5.19	<u><i>Undeliverable and Unclaimed Distributions.</i></u>	38
5.20	<u><i>Withholding from Distributions.</i></u>	39
5.21	<u><i>No Distributions on Late Filed Claims.</i></u>	39
5.22	<u><i>No Payments of Fractional Dollars.</i></u>	39
5.23	<u><i>Interest on Claims.</i></u>	39
5.24	<u><i>No Distribution in Excess of Allowed Amount of Claim.</i></u>	40
5.25	<u><i>De Minimis Distributions: Charitable Donation.</i></u>	40
5.26	<u><i>Distributions in Satisfaction: Allocation.</i></u>	40
5.27	<u><i>Section 1146 Exemption.</i></u>	40
5.28	<u><i>Disbursing Agent.</i></u>	41
<u>ARTICLE VI</u>		41
<u>PROCEDURES FOR RESOLVING AND TREATING DISPUTED AND</u>		
<u>CONTINGENT CLAIMS</u>		41
6.1	<u><i>Prosecution of Objections to Claims.</i></u>	41
6.2	<u><i>Disputed Claim Reserve.</i></u>	42
6.3	<u><i>Resolution of Disputed Claims.</i></u>	42
6.4	<u><i>Objections to Fully Impaired Claims.</i></u>	42
6.5	<u><i>Objection Deadline.</i></u>	42
6.6	<u><i>Estimation of Claims.</i></u>	42
6.7	<u><i>No Distribution Pending Allowance.</i></u>	43
6.8	<u><i>Resolution of Claims.</i></u>	43
6.9	<u><i>Cumulative Remedies.</i></u>	43
6.10	<u><i>Payments and Distributions on Disputed Claims.</i></u>	43
<u>ARTICLE VII</u>		45
<u>ALLOWANCE OR DISALLOWANCE OF CLAIMS AND INTERESTS</u>		45

7.1	<u><i>Disallowance of Claims.</i></u>	45
7.2	<u><i>Allowance of Claims.</i></u>	45
7.3	<u><i>Controversy Concerning Impairment.</i></u>	45
<u>ARTICLE VIII</u>		45
<u>CONDITIONS PRECEDENT TO EFFECTIVENESS OF PLAN</u>		45
8.1	<u><i>Conditions Precedent.</i></u>	45
<u>ARTICLE IX</u>		46
<u>EFFECT OF CONFIRMATION OF PLAN</u>		46
9.1	<u><i>Binding Effect.</i></u>	46
9.2	<u><i>Discharge of Claims.</i></u>	46
9.3	<u><i>Discharge of the Debtors.</i></u>	47
9.4	<u><i>Term of Bankruptcy Injunctions or Stays.</i></u>	47
9.5	<u><i>Injunction Against Interference with Plan of Reorganization.</i></u>	47
9.6	<u><i>Authority to Effectuate the Plan.</i></u>	48
9.7	<u><i>Post-Confirmation Status Report.</i></u>	48
9.8	<u><i>Releases.</i></u>	48
9.9	<u><i>Government Carve-Out.</i></u>	50
<u>ARTICLE X</u>		51
<u>RETENTION OF JURISDICTION</u>		51
10.1	<u><i>Retention of Jurisdiction.</i></u>	51
10.2	<u><i>Abstention and Other Courts.</i></u>	53
<u>ARTICLE XI</u>		54
<u>INJUNCTION AND EXCULPATION PROVISIONS</u>		54
11.1	<u><i>Injunction.</i></u>	54
11.2	<u><i>Exculpation from Liability.</i></u>	54
11.3	<u><i>Police Power.</i></u>	55
<u>ARTICLE XII</u>		55
<u>MISCELLANEOUS PROVISIONS</u>		55
12.1	<u><i>Corporate Action.</i></u>	55
12.2	<u><i>Operations of the Debtors Between the Confirmation Date and the Effective Date.</i></u>	56

12.3	<u><i>Continued Corporate Existence of the Reorganized Debtors After the Effective Date.</i></u>	56
12.4	<u><i>Effectuating Documents and Further Transactions.</i></u>	56
12.5	<u><i>Nonconsensual Confirmation (“Cram Down”).</i></u>	57
12.6	<u><i>Notice of the Effective Date.</i></u>	57
12.7	<u><i>Seperability.</i></u>	57
12.8	<u><i>Revocation and Withdrawal of the Plan.</i></u>	57
12.9	<u><i>Modification of the Plan.</i></u>	58
12.10	<u><i>Severability.</i></u>	58
12.11	<u><i>Setoff and Recoupment.</i></u>	58
12.12	<u><i>Governing Law.</i></u>	59
12.13	<u><i>Plan Documents.</i></u>	59
12.14	<u><i>Removal of Debtors</i></u>	59
12.15	<u><i>Special Provision Governing Unimpaired Claims</i></u>	59
12.16	<u><i>Transmittal of Distributions to Parties Entitled Thereto.</i></u>	59
12.17	<u><i>Expedited Determination of Post-Petition Taxes.</i></u>	60
12.18	<u><i>Headings.</i></u>	60
12.19	<u><i>Bankruptcy Rule 9019 Request: Impact.</i></u>	60
12.20	<u><i>Retention of Causes of Action.</i></u>	60
12.21	<u><i>Extension of the Effective Date.</i></u>	62
12.22	<u><i>Notices.</i></u>	62
12.23	<u><i>Manner of Payment.</i></u>	63

12.24	<u><i>Vesting of Assets in the Reorganized Debtors.</i></u>	63
12.25	<u><i>Distributions.</i></u>	64
12.26	<u><i>Surrender and Cancellation of Notes, Instruments, Certificates and Other Documents Evidencing Claims.</i></u>	64
12.27	<u><i>Post-Confirmation Accounts.</i></u>	64
12.28	<u><i>Directors, Officers, Members & Managers of the Reorganized Debtors.</i></u>	64
12.29	<u><i>Preservation of Causes of Action.</i></u>	65
12.30	<u><i>Prosecution and Settlement of Causes of Action.</i></u>	66
12.31	<u><i>Automatic Stay.</i></u>	67
12.32	<u><i>Creditors' Committee.</i></u>	67
12.33	<u><i>Successors and Assigns.</i></u>	67
12.34	<u><i>Reservation of Rights.</i></u>	67
12.35.	<u><i>Section 1125(e) Good Faith Compliance.</i></u>	67
12.36	<u><i>Further Assurances.</i></u>	67
12.37	<u><i>No Stay of Confirmation Order.</i></u>	68

INTRODUCTION

IT'SUGAR FL I, LLC, IT'SUGAR, LLC, IT'SUGAR Atlantic City, LLC and IT'SUGAR FLGC, LLC, debtors and debtors-in-possession in the above-captioned jointly administered Chapter 11 Cases (“**Debtors**”) propose the following *Plan of Reorganization for IT'SUGAR FL I, LLC, IT'SUGAR, LLC, IT'SUGAR Atlantic City, LLC and IT'SUGAR FLGC, LLC* (as may be amended from time to time, and including all addenda, exhibits, schedules and other attachments hereto, as any of the same may be amended from time to time, all of which are incorporated herein by reference, the “**Plan**”), pursuant to the provisions of Chapter 11 of the Bankruptcy Code (as defined in section 1.2 below).

For a discussion of the Debtors’ history, business, operations, assets and liabilities, for a summary and analysis of the Plan, preservation of Causes of Action, risk factors, liquidation analysis, tax implications and alternatives to the Plan, reference should be made to the *Disclosure Statement Pursuant to 11 U.S.C. § 1125 For IT'SUGAR FL I, LLC, IT'SUGAR, LLC, IT'SUGAR Atlantic City, LLC and IT'SUGAR FLGC, LLC*, dated April 20, 2021, as such disclosure statement may be amended, modified or supplemented (“**Disclosure Statement**”).

ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN ARE ENCOURAGED TO READ THE PLAN AND DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. SUBJECT TO CERTAIN RESTRICTIONS AND REQUIREMENTS SET FORTH IN SECTION 1127 OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3018 AND IN THIS PLAN, THE DEBTORS RESERVE THE RIGHT TO ALTER, AMEND, MODIFY, REVOKE OR WITHDRAW THE PLAN PRIOR TO ITS SUBSTANTIAL CONSUMMATION.

ARTICLE I

DEFINITIONS; RULES OF INTERPRETATION; COMPUTATION OF TIME

I. Scope of Definitions.

For purposes of the Plan, except as expressly provided or unless the context otherwise requires, all capitalized terms not otherwise defined shall have the meaning ascribed to them in Article I of the Plan. Any term used in the Plan that is not defined herein, but that is used in the Bankruptcy Code or the Bankruptcy Rules (as defined below), shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be. Whenever the context requires, such terms shall include the plural as well as the singular number, the masculine gender shall include the feminine and the feminine gender shall include the masculine.

II. Definitions.

a. “*Actions*” or “*Causes of Action*” means, except as provided otherwise in the Plan, the Confirmation Order or any document, instrument, release or other agreement entered into in

connection with the Plan, all claims, actions, choses in action, causes of action, suits, debts, dues, sums of money, accounts, rights to payment, reckonings, bonds, bills, specialties, controversies, variances, trespasses, damages, judgments, third-party claims, counterclaims and cross claims (including, but not limited to, any Avoidance Actions) whether known or unknown, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured and whether assertible directly or derivatively in law, equity, or otherwise, that are or may be pending on the Effective Date or instituted by the Reorganized Debtors after the Effective Date against any Person based on law or equity, including, but not limited to, under the Bankruptcy Code, whether direct, indirect, derivative, or otherwise and whether asserted or unasserted, known or unknown. Actions include, without limitation, those which are: (i) property of the bankruptcy estate under and pursuant to section 541 of the Bankruptcy Code; (ii) for subrogation and contribution; (iii) for turnover; (iv) for avoidable transfers and preferences under and pursuant to sections 542 through 550 and 553 of the Bankruptcy Code and applicable state law; (v) to determine the extent, validity and priority of liens and encumbrances; (vi) for surcharge under section 506(c) of the Bankruptcy Code; (vii) for subordination under section 510 of the Bankruptcy Code; (viii) related to federal or state securities laws; (ix) direct or derivative claims or causes of action of any type or kind; (x) against any and all current and/or former officers and directors of the Debtors, including but not limited to for breach of fiduciary duty or aiding and abetting breach of fiduciary duty; (xi) under and pursuant to any policies for insurance, including for bad faith, maintained by the Debtors, including, without limitation, any liability insurance policy; (xii) for theft of corporate opportunity; (xiii) for collection on accounts, accounts receivables, loans, notes receivables or other rights to payment; (xiv) for the right to seek a determination by the Bankruptcy Court of any tax, fine or penalty relating to a tax, or any addition to a tax, under section 505 of the Bankruptcy Code; (xv) which arise under or as a result of any section of the Bankruptcy Code; and (xvi) for common law torts or aiding and abetting common law torts. A Cause of Action will not under any circumstances be waived as a result of the failure of the Plan Proponents to describe such Cause of Action with specificity in the Plan or the Disclosure Statement, and nothing in the Plan operates as a release of any of the Causes of Action except as specifically provided in the Plan. Causes of Action exclude any Causes of Action released under this Plan including under Article 9.8 hereof or under any prior agreement approved by the Bankruptcy Court prior to the Effective Date. Causes of Action also exclude Waived Avoidance Actions.

b. “*Administrative Expense Claim*” means a Claim for costs and expenses of administration allowed under sections 503, 507(a)(1) or 507(b) of the Bankruptcy Code, including, without limitation, any actual and necessary expenses of preserving the Estate of the Debtor, any actual and necessary expenses of operating the business of the Debtor, all compensation or reimbursement of expenses to the extent allowed pursuant to Sections 330 or 503 of the Bankruptcy Code, and any fees or charges assessed against the Estate of the Debtor under section 1930, chapter 123 of title 28 of the United States Code.

c. “*Administrative Expense Claims Bar Date*” means the date first set for the Confirmation Hearing unless previously set by prior Order of the Bankruptcy Court.

d. “*Affiliate*” means, any Person that is an “affiliate” of any Debtor within the meaning of section 101(2) of the Bankruptcy Code.

e. “*Allowed*” when used with respect to a Claim, means a Claim: (a) which has been listed on the Schedules of the Debtor as other than disputed, contingent or unliquidated and as to which no proof of Claim or objection has been timely filed; (b) as to which a proof of Claim has been timely filed and either (i) no objection thereto has been timely filed or (ii) the Claim has been allowed (but only to the extent allowed) by a Final Order of the Bankruptcy Court; (c) which has been allowed under the provisions of this Plan; (d) which is a Professional Claim for which a fee award amount has been approved by Final Order of the Bankruptcy Court; or (e) which is allowed pursuant to any stipulation of amount and nature of Claim executed by the Reorganized Debtors and Holder of the Claim on or after the Effective Date. For the avoidance of doubt, all claims against the Debtors, including those identified as “Allowed” herein, remain subject to review by parties-in-interest, including the Debtors or the Creditors’ Committee, and to objection. To the extent any claim is referred to herein as “Allowed”, it is only for purposes of providing a description of such claim's treatment under the Plan if ultimately allowed. In the event an objection is filed to a claim deemed “Allowed” for purposes of voting on the Plan, the claim may later be disallowed by the Court.

f. “*Assets*” means each and every item of Property of the Debtors’ Estates and every interest of the Debtors as of the Effective Date, whether tangible or intangible, legal or equitable, liquidated or unliquidated, whether or not controlled by the Debtors, and includes without limitation: (a) all real and personal property and Cash; (b) all rights, privileges, Claims, demands, or Causes of Action, whether arising by statute or common law, and whether arising under the laws of the United States, other countries, or applicable state or local law; (c) any and all amounts owed to the Debtors, contract rights, or other rights, including without limitation rights to payment, contribution or distribution, whether due prior or subsequent to the Petition Date; and (d) all Executory Contracts, and other contracts, agreements, licenses, and leases.

g. “*Available Cash*” means Cash in the Debtors’ possession on the Effective Date and the net proceeds from the continued operations of the Debtors’ business, including, without limitation, recoveries from any prosecution of any Causes of Action.

h. “*Avoidance Actions*” means a Cause of Action that the Debtors or their Estates may assert under sections 510, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551 or 553 of the Bankruptcy Code (or any state, county, municipal or local law equivalent).

i. “*Ballot*” means the ballot, the form of which has been approved by the Bankruptcy Court, accompanying the Disclosure Statement provided to each Holder of a Claim entitled to vote to accept or reject this Plan.

j. “*Bankruptcy Code*” or “*Code*” means Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*, including any amendments thereto, in effect during the Bankruptcy Cases.

k. “*Bankruptcy Court*” or “*Court*” means the United States Bankruptcy Court for the Southern District of Florida, Miami Division, in which the Chapter 11 Cases are pending.

l. “*Bankruptcy Rules*” or “*Rules*” means the Federal Rules of Bankruptcy Procedure promulgated under Title 28, United States Code § 2075, as amended and the local rules for the Bankruptcy Court as now in effect or as the same may from time to time hereafter be amended.

m. “*Bar Date Order*” means that certain “*Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines*” dated as of September 23, 2020 [ECF No. 9], establishing December 1, 2020 as the general bar date for filing proofs of Claim in the Chapter 11 Cases, with only those exceptions permitted thereby.

n. “*Books and Records*” means, with respect to the Debtors, all books and records of such Debtor(s), including, without limitation, all documents and communications of any kind, whether physical or electronic.

o. “*Business Day*” means any day that is not a Saturday, a Sunday or “legal holiday” as such term is defined in Bankruptcy Rule 9006(a).

p. “*Cash*” means cash or cash equivalents, including but not limited to, wire transfers, checks and other readily marketable direct obligations of the United States of America and certificates of deposit issued by banks.

q. “*Cash Flow*” means the Debtors’ or the Reorganized Debtors’, as the case may be, EBITDA.

r. “*Chapter 11 Cases*” means the Debtors’ bankruptcy cases that are pending before the United States Bankruptcy Court for the Southern District of Florida, Miami Division, pursuant to Chapter 11 of the Bankruptcy Code, in the Jointly Administered Chapter 11 Bankruptcy Cases of IT’SUGAR FL I, LLC (Case No. 20-20259); IT’SUGAR, LLC (Case No. 20-20261); IT’SUGAR Atlantic City, LLC (Case No. 20-20263); and IT’SUGAR FLGC, LLC (Case NO. 20-20264).

s. “*Claim*” means (a) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; (b) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured; or (c) any other claim, as such term is defined in section 101(5) of the Bankruptcy Code.

t. “*Claims Objection Bar Date*” means the bar date for objecting to proofs of Claim, which shall be sixty (60) days after the Effective Date; provided, however, that the Debtors or Reorganized Debtors, as applicable, may seek additional extensions of this date from the

Bankruptcy Court, with notice only to those parties entitled to notice in the Chapter 11 Cases pursuant to Bankruptcy Rule 2002. A party requesting to extend the Claims Objection Bar Date may specify which entities may benefit from such an extension.

u. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in Article III of the Plan and pursuant to section 1122(a) of the Bankruptcy Code.

v. “*Confirmation*” means the process leading to confirmation of the Plan, including the entry of the Confirmation Order pursuant to 11 U.S.C. § 1129.

w. “*Confirmation Date*” means the date on which the Bankruptcy Court enters the Confirmation Order on its docket.

x. “*Confirmation Hearing*” means the hearing before the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan.

y. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code; as such order may be amended, modified or supplemented.

z. “*Contingent*” means, with reference to a Claim, a Claim that has not accrued or is not otherwise payable and the accrual of which or the obligation to make payment on which is dependent upon a future event that may or may not occur.

aa. “*Creditor*” has the same meaning ascribed in 11 U.S.C. § 101(10) of the Bankruptcy Code and shall refer to any Holder of a Claim against a Debtor or Holder of any Claim against property of a Debtor as defined in section 102(2) of the Bankruptcy Code.

bb. “*Creditors’ Committee*” shall mean the Official Committee of Unsecured Creditors appointed in these Chapter 11 Cases pursuant to the *Appointment and Notice of Appointment of Joint Committee of Creditors Holding Unsecured Claims in the Jointly Administered Cases* [ECF No. 110] as may be reconstituted from time to time.

cc. “*Cure*” means a Claim for all unpaid monetary obligations, or adequate assurance of cure or compensation, or other amounts as may be agreed upon by the parties, under an executory contract or unexpired lease (or assumed or assumed and assigned) by any Debtor pursuant to section 365 of the Bankruptcy Code or the Plan.

dd. “*Cure Claim*” means a Claim for a Cure.

ee. “*Debtors*” collectively means (1) IT’SUGAR FL I, LLC, (2) IT’SUGAR, LLC, (3) IT’SUGAR Atlantic City, LLC and (4) IT’SUGAR FLGC, LLC and where applicable, the Estates thereof.

ff. “*Debtor(s) in Possession*” means the Debtors collectively, and each Debtor individually, with the status and rights conferred by sections 1107 and 1108 of the Bankruptcy Code.

gg. “*DIP Loan*” means the senior secured postpetition financing received by the Debtors under the DIP Loan Documents.

hh. “*DIP Loan Documents*” means the terms and conditions of that certain Loan and Security Agreement by and among the Debtors, as borrowers, and SHL, as lender.

ii. “*Disallowed*” means, when referring to a Claim, a Claim or any portion of a Claim that has been disallowed or expunged by a Final Order of a Court.

jj. “*Disclosure Statement*” means the disclosure statement for the Plan filed by the Plan Proponents and approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code (including all schedules and exhibits thereto) as such disclosure statement may be amended or modified from time to time.

kk. “*Disclosure Statement Approval Order*” means that certain order of the Bankruptcy Court, dated [TBD] (Doc. No. [TBD]) approving, among other things, the Disclosure Statement as containing adequate information pursuant to section 1125 of the Bankruptcy Code, and setting various deadlines in connection with Confirmation of the Plan.

ll. “*Disputed*” means, with respect to any Claim: (a) listed on the Schedules as unliquidated, disputed or contingent, unless a proof of Claim has been filed in a liquidated, non-contingent amount; (b) as to which the Debtors or any other party in interest, has interposed a timely objection or request for estimation in accordance with the Bankruptcy Code and the Bankruptcy Rules; or (c) as otherwise disputed in accordance with applicable bankruptcy or insolvency law, which objection, request for estimation or dispute has not been withdrawn or determined by a Final Order.

mm. “*Disputed Claims Reserve*” means the reserve funds created pursuant to Article VII herein.

nn. “*Distributions*” means distributions of Cash to be made to the Holders of Allowed Claims in accordance with the Plan.

oo. “*Distribution Agent*” means the Person or Entity responsible for making Distributions under the Plan, and which may be Reorganized Debtor s.

pp. “*EBITDA*” means earnings before interest, taxes, depreciation and amortization (EBITDA).

qq. “*Effective Date*” means the first Business Day after the Confirmation Date selected by the Plan Proponents on which the conditions precedent specified in Article VIII of this Plan have been either satisfied or waived. Within five (5) Business days of the Effective Date, notice of the Effective Date shall be filed in the Bankruptcy Court.

rr. “*Entity*” has the meaning ascribed in 11 U.S.C. § 101(15).

ss. “*Equity Interests*” or “*Interests*” means any ownership interest or share in any of the Debtors (including, without limitation all rights to obtain such an interest or share in any of the Debtors).

tt. “*Estate(s)*” means the estates created in these Chapter 11 Cases for the Debtors pursuant to section 541 of the Bankruptcy Code.

uu. “*Executory Contract*” means every unexpired lease to which any of the Debtors are a party, and every other contract that is subject to being assumed or rejected by any of the Debtors under section 365 of the Bankruptcy code, pursuant to the Plan or pursuant to separate motion.

vv. “*Exit Facility*” means exit financing in the form of a senior secured debt facility in the aggregate principal amount of up to \$13 million to be entered into by the Reorganized Debtors and SHL as contemplated in Article 5.4 of this Plan, pursuant to the Exit Facility Documents.

ww. “*Exit Facility Documents*” means the documentation providing for and/or entered into in connection with the Exit Facility (each as amended, modified or supplemented from time to time in accordance with the terms thereof).

xx. “*Final Decree*” means the Bankruptcy Court’s final decree pursuant to section 350(a) of the Bankruptcy Code and Bankruptcy Rules 3022 and 5009 closing the Chapter 11 Cases after the Estates have been fully administered.

yy. “*Final Distribution*” means the final Distribution to the Holders of Allowed Claims after all Causes of action have been liquidated and converted to Cash or abandoned.

zz. “*Final Distribution Date*” means the date as soon as practicable after the last to occur of: (a) the date that the last Claim becomes an Allowed Claim; or (b) the date upon which all Causes of Action have been liquidated and converted to Cash or abandoned.

aaa. “*Final Order*” means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction with respect to the subject matter, which has not been reversed, stayed, modified or amended, and as to which the time to file an appeal, motion for reconsideration or rehearing, or request for a stay has expired with no appeal, motion for reconsideration or rehearing, or request for a stay having been timely filed.

bbb. “*General Unsecured Claims*” means Claims against any Debtor that are not Administrative Expense Claims, a Secured Claim, a Priority Claim, a Subordinated Claim, an Intercompany Claim, any other class of Claim as defined in Article III, or Interests.

ccc. “*Holder*” means an Entity or individual holding a Claim or Interest, as applicable or any authorized agent who has completed, executed and delivered a Ballot in according with the applicable voting instructions.

ddd. “*Impaired*” means “*impaired*” within the meaning of sections 1123(a)(4) and 1124 of the Bankruptcy Code, with respect to a Claim, Equity Interest, or Class of Claims or Equity Interests.

eee. “*Insider*” has the meaning ascribed in section 101(31) of the Bankruptcy Code.

fff. “*Intercompany Claim*” shall mean any Claim held by one Debtor against another Debtor arising at any time before the Effective Date.

ggg. “*IT’SUGAR*” means “IT’SUGAR, LLC.

hhh. “*Lien*” means any mortgage, lien, charge, security interest, encumbrance, or other security device of like kind affecting any asset or property of the Debtors as contemplated by section 101(37) of the Bankruptcy Code, but only to the extent that such interest is recognized as valid by a court of competent jurisdiction if the validity or scope of such interest is challenged by Debtors or any other party with standing to bring such a challenge.

iii. “*LLC Agreement*” means the Sixth Amended and Restated LLC Agreement of IT’SUGAR, LLC.

jjj. “*Order*” means a determination, decree, adjudication or judgment issued or entered by the Bankruptcy Court.

kkk. “*Other Priority Claims*” means Claims accorded priority in right of payment under section 507(a) of the Bankruptcy Code, other than Priority Tax Claims.

lll. “*Person*” means an individual, corporation, limited partnership, general partnership, association, limited liability company, estate, trust, joint venture, unincorporated organization, any governmental unit, other entity or group.

mmm. “*Personal Property*” means all tangible personal property of the Debtors.

nnn. “*Petition Date*” means September 22, 2020, the date on which the Debtors filed their voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

ooo. “*Plan*” means this Chapter 11 Plan of Reorganization (as may be amended from time to time, and including all addenda, exhibits, schedules and other attachments hereto, as any of the same may be amended from time to time, all of which are incorporated herein by reference).

ppp. “*Plan Documents*” means all documents that aid in effectuating the Plan, including, without limitation, all addenda, exhibits, schedules, and the Plan Supplement, which documents (as may be amended, modified or supplemented from time to time) shall be in form and substance reasonably acceptable to the Plan Proponents.

qqq. “*Plan Payments*” means payments made by the Debtors or Reorganized Debtors pursuant to the terms of the Plan.

rrr. “*Plan Proponents*” means the Debtors.

sss. “*Plan Supplement*” means the supplement, if any, to the Plan containing certain documents and forms of documents specified in the Plan each in form and substance reasonably acceptable to the Plan Proponents, which documents and forms shall be filed with the Bankruptcy Court no later than ten (10) days prior to the commencement of the hearing on confirmation of the Plan.

ttt. “*Prepetition*” means the period of time preceding the Petition Date and concluding on the Petition Date.

uuu. “*Prepetition Line of Credit*” means the revolving line of credit evidenced by that certain Credit Agreement dated August 24, 2018, as amended, in the principal amount of \$6 million as of the Petition Date, by and among IT’SUGAR, as borrower, and SHL, as lender.

vvv. “*Prepetition Equipment Loan*” means the equipment loan evidenced by that certain Master Loan and Security Agreement No. 45868-7000 dated September 6, 2018, by and among certain of the Debtors, as borrowers, and Banc of America Leasing and Capital, LLC and that certain Equipment Security Note Number 001 dated September 6, 2018, executed by IT’SUGAR in the original principal amount of \$620,074.91, which loan was assigned to SHL prepetition.

www. “*Priority Claim*” means a Claim to the extent that it is of the kind described in, and entitled to priority under sections 507(a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (a)(8) or (a)(9) of the Bankruptcy Code.

xxx. “*Priority Non-Tax Claim*” means a Claim to the extent that it is of the kind described in, and entitled to priority under sections 507(a)(3), (a)(4), (a)(5), (a)(6), (a)(7) or (a)(9) of the Bankruptcy Code, that is not a Priority Tax Claim.

yyy. “*Priority Tax Claim*” means every Unsecured Claim or portion thereof that is entitled to priority pursuant to section 507(a)(8) of the Bankruptcy Code.

zzz. “*Priority Unsecured Claim*” means every Unsecured Claim or portion thereof that is not an Administrative Expense Claim or a Priority Tax Claim, and that is entitled to priority under any applicable provision of section 507 of the Bankruptcy Code.

aaaa. “*Pro Rata*” shall mean the proportion (expressed as a percentage) that the amount of a Claim in a particular Class or Classes bears to the aggregate amount of all Claims (including Disputed Claims, but excluding disallowed Claims) in such Class or Classes, unless this Plan provides otherwise.

bbbb. “*Professional(s)*” means: (i) any professional retained by the Debtors or the Creditors Committee in the Chapter 11 Cases pursuant to an order of the Bankruptcy Court in accordance with Bankruptcy Code §§ 327 or 1103; (ii) any attorney or accountant seeking compensation or reimbursement of expenses pursuant to Bankruptcy Code § 503(b); and (iii) any entity whose fees and expenses are subject to approval by the Bankruptcy Court as reasonable pursuant to Bankruptcy Code § 1129(a)(4).

cccc. “*Professional Claim*” means an Administrative Expense Claim of a Professional for compensation and/or reimbursement of expenses pursuant to section 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code in connection with an application made to the Bankruptcy Court in this Chapter 11 Case.

dddd. “*Proof of Claim*” means the form filed with the Bankruptcy Court by a Creditor on which the specifics of a Claim are set forth as required by the Bankruptcy Code and the Bankruptcy Rules.

eeee. “*Proof of Interest*” means the form filed with the Bankruptcy Court by an Equity Interest Holder on which the specifics of an Equity Interest are set forth as required by the Bankruptcy Code and the Bankruptcy Rules.

ffff. “*Property of the Estate*” shall have the meaning ascribed to it in section 541 of the Bankruptcy Code.

gggg. “*Property Tax Administrative Expense Claim*” means every Claim of any state or local governmental unit that is an Administrative Expense Claim for unpaid property taxes, unpaid personal property taxes, or unpaid sales taxes or leasing taxes, and every prorated portion thereof arising on and after the Petition Date until the Effective Date. Allowed Property Tax Administrative Expense Claims will be classified and paid under the Plan as the Plan provides for Administrative Expense Claims.

hhhh. “*Record Date*” means the date that the Disclosure Statement is conditionally approved by the Bankruptcy Court.

iiii. “*Rejection Claim*” means a claim for damages resulting from the rejection of an executory contract by the Debtors pursuant to Article IV of the Plan.

jjjj. “*Released Parties*” means, collectively, (i) the Debtors, (ii) the Debtors’ Professionals, (iii) the Creditors’ Committee and its members (solely in their capacity as members of the Creditors’ Committee), (iv) the Creditors’ Committee’s Professionals, (v) the Plan Proponents, (vi) SHL, (vii) BBX Capital, Inc., and (viii) the current and former Representatives of each of the foregoing described in clauses “(i)” through “(vii)” hereof.

kkkk. “*Reorganized Debtors*” refers to the Debtors upon the Effective Date in accordance with the Plan, and their successors.

llll. “*Representatives*” means, with regard to an Entity (including the Debtors), any current or former members, equity holders, officers, directors, managers, principals, partners, employees, attorneys, Professionals, accountants, investment bankers, financial advisors, consultants, agents and other representatives (including their respective officers, directors, employees, independent contractors, members and professionals.

mmmm. “*Schedules*” means the Debtors’ schedules of assets and liabilities filed with the clerk of the Bankruptcy Court pursuant to Bankruptcy Rule 1007, as they have been or may be amended or supplemented from time to time in accordance with Bankruptcy Rule 1009.

nnnn. “*Secured Claims*” means Claim(s) against the Debtors that are secured by a Lien on property in which the Estates have an interest, which Liens are valid, perfected and enforceable under applicable law or by reason of a Final Order, or that are subject to setoff under section 553 of the Bankruptcy Code, to the extent of the value of the Claim holder’s interest in the Estates’ interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code.

oooo. “*Secured Tax Claim*” means a Claim secured by a statutory lien on Assets for unpaid taxes on such Assets.

pppp. “*Security Interest*” shall have the meaning ascribed to it in section 101(51) of the Bankruptcy Code.

qqqq. “*SHL*” means SHL Holdings, Inc., a Florida corporation and wholly owned subsidiary of BBX Capital, Inc.

rrrr. “*Subordinated Claims*” means (a) any Claim of any Person or Entity that is liable with the respective Debtor on or has secured the Claim of another creditor to the extent that such co-obligor’s Claim is for indemnity, contribution, or reimbursement and is not Allowed on or before the Confirmation Date, (b) any Claim for penalties or punitive damages and any other Claim of the type described in section 726(a)(4) of the Bankruptcy Code (and notwithstanding the general inapplicability of Chapter 7 of the Bankruptcy Code), including any lien securing such Claim, (c) any Claim subordinated under section 510 of the Bankruptcy Code and any lien securing such

Claim, or (d) any Claim subordinated per the terms of this Plan or otherwise by Final Order of the Bankruptcy Court.

ssss. “*Tax Code*” means the United States Internal Revenue Code of 1986, as amended.

tttt. “*Tax Returns*” means all tax returns, reports, certificates, forms or similar statements or documents, including amended tax returns or requests for refunds.

uuuu. “*Unclaimed Property*” means any Cash, or any other property of the Debtors unclaimed for a period of six (6) months after any Distribution or, in the event that the Distribution was made on the Final Distribution Date, six (6) months after the Final Distribution Date.

vvvv. “*Unimpaired*” means not “impaired” within the meaning of sections 1123(a)(4) and 1124 of the Bankruptcy Code, with respect to a Claim, Equity Interest, or Class of Claims or Equity Interests.

wwww. “*United States Trustee*” shall have the meaning ascribed to it in 28 U.S.C. § 581 *et. seq.* and, as used in the Plan, means the office of the United States Trustee for Region 21 located in the Southern District of Florida, Miami, Florida.

xxxx. “*Voting Deadline*” means the date set in an order of the Bankruptcy Court as the deadline for the return of Ballots accepting or rejecting the Plan.

yyyy. “*Waived Avoidance Actions*” means those Avoidance Actions held by the Debtors or their Estates on the Effective Date against holders of General Unsecured Claims in Class 4 (“General Unsecured Claims”), which shall be released and waived upon the Effective Date.

III. Rules of Interpretation.

For purposes of the Plan, (a) any reference in the Plan to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (b) any reference in the Plan to an existing document or exhibit filed or to be filed means such document or exhibit, as it may have been or may be amended, modified or supplemented; (c) unless otherwise specified, all references in the Plan to Articles, Sections, Schedules and Exhibits are references to Articles, Sections, Schedules and Exhibits of or to the Plan (d) the words “herein” and “hereto” refer to the Plan in their entirety rather than to a particular portion of the Plan; (e) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; and (f) the rules of construction set forth in section 102 of the Bankruptcy Code and in the Bankruptcy Rules shall apply.

IV. Computation of Time.

In computing any period of time prescribed or allowed by the Plan, unless otherwise expressly provided, the provisions of Bankruptcy Rule 9006 shall apply.

V. United States Currency.

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

VI. Exhibits.

All exhibits and schedules, if any, to the Plan are incorporated into and are part of the Plan as if set forth herein. All exhibits and schedules to the Plan, shall be filed with the Clerk of the Bankruptcy Court not later than three (3) days prior to the deadline set by the Bankruptcy Court to vote to accept or reject the Plan. Such exhibits may be inspected in the office of the Clerk of the Bankruptcy Court during normal hours of operation of the Bankruptcy Court. Holders of Claims or Equity Interests may also obtain a copy of such exhibits, once filed, from the Debtors' counsel by a written request sent to the following address:

Meland Budwick, P.A.
3200 Southeast Financial Center
200 South Biscayne Boulevard
Miami, Florida 33131
Attn: Joshua W. Dobin
Telephone: 305.358.6363
Email: jdobin@melandbudwick.com

ARTICLE II

PROVISIONS FOR PAYMENT OF ALLOWED ADMINISTRATIVE EXPENSE CLAIMS, PRIORITY TAX CLAIMS AND STATUTORY FEES

2.1 Administrative Expense Claims and Professional Claims.

Each Holder of an Allowed Administrative Expense Claim (including Professional Claims) shall, in full and final satisfaction, settlement, release and discharge thereof, and in exchange thereof, be paid the Allowed amount of its Administrative Expense Claim, in full, in Cash, on the Effective Date, or upon such other terms as may be agreed upon by the Holder of the claim and the Debtor, or, if the Claim does not become Allowed prior to the Effective Date, on the date the Allowed Amount of such claim is determined by Final Order of the Bankruptcy Court.

With the exception of Professionals seeking the allowance and payment of Professional Claims, all requests for payment of Administrative Expense Claims, except Administrative Expense Claims filed or asserted pursuant to § 503(b)(9) of the Bankruptcy Code (which are covered by separate Court order) (ECF No. 94) shall be filed by the Administrative Expense Claims Bar Date. If such requests for payment of Administrative Expense Claims are not so timely filed, the Administrative Expense Claims will be Disallowed Claims and will be automatically deemed forever barred and the Holders of such Disallowed Claims shall be forever barred, estopped and enjoined from asserting such Claims in any manner against the Debtors, the Estates or the Reorganized Debtors, and without the need for any objection by the Debtors or the Reorganized Debtors, as the case may be, and without any further notice or action, order or approval of the Bankruptcy Court.

2.2 Priority Tax Claims.

The Debtors shall pay each holder of an Allowed Priority Tax Claim, in satisfaction of such Allowed Priority Tax Claim, the full unpaid amount of such Allowed Priority Tax Claim in Cash, on the later of (i) the Effective Date, (ii) the date such Allowed Priority Tax Claim becomes Allowed or as soon as practicable thereafter and (iii) the date such Allowed Priority Tax Claim is payable under applicable non-bankruptcy law; provided, however, that the Debtors shall not pay any premium, interest or penalty in connection with such Allowed Priority Tax Claim.

2.3 *Priority Claims (Non-Tax).*

Except to the extent that the Holder and the Debtors have agreed or may agree to different treatment, in full satisfaction of each Allowed Priority Claim (non-tax), exclusive of Priority Tax Claims under 11 U.S.C. § 507(a)(8), each Holder of an Allowed Priority Claim shall receive payment of such Claim in full in Cash on the Effective Date. Payment will be made on the Effective Date or the date on which such Priority Claim becomes Allowed.

2.4 *DIP Loan Claims.*

Except to the extent that SHL agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of and in exchange for each Allowed DIP Loan Claim, SHL shall be paid in full through the Exit Facility. Upon the payment or satisfaction of the Allowed DIP Loan Claims in accordance with this Article II, all Liens and security interests granted to secure the Allowed DIP Loan Claims shall be automatically terminated and of no further force and effect without any further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

2.5 *United States Trustee Fees; Claims for Statutory Fees; Quarterly Reports.*

The Reorganized Debtors shall pay the U.S. Trustee the appropriate sum required pursuant to 28 U.S.C. § 1930(a)(6), within ten (10) days of the Effective Date, for pre-confirmation periods.

The Reorganized Debtors shall further pay the U.S. Trustee the appropriate sum required pursuant to 28 U.S.C. § 1930(a)(6) for post-confirmation periods within the time period set forth in 28 U.S.C. § 1930(a)(6), based upon all post-confirmation disbursements made by the Debtors or Reorganized Debtors, as applicable, until the earlier of the closing of this case by the issuance of a Final Decree by the Bankruptcy Court, or upon the entry of an Order by the Bankruptcy Court dismissing this case or converting this case to another chapter under the United States Bankruptcy Code. After the Confirmation Date, the Debtors or Reorganized Debtors, as applicable, shall file a quarterly Post-Confirmation Operating Report which shall include, among other things, all payments made under the Plan and payments made in the ordinary course of business. Each Debtor or Reorganized Debtor, as applicable, shall remain obligated to pay quarterly fees to the Office of the U.S. Trustee until the earliest of that particular Debtor's or Reorganized Debtors', as applicable, case being closed pursuant to the terms of this Plan, dismissed or converted to a case under chapter 7 of the Bankruptcy Code.

Any United States Trustee Fees owed on or before the Effective Date will be paid when due in the ordinary course from cash on hand.

ARTICLE III

CLASSIFICATION, IMPAIRMENT AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

3.1 *Classification.*

The Plan constitutes a separate chapter 11 plan of reorganization for each Debtor. All Claims and Equity Interests, except Administrative Expense Claims (including Professional Claims), Priority Tax Claims and Claims for Statutory Fees, are placed in Classes as described below. A Claim or Equity Interest is placed in a particular Class for all purposes, including voting, confirmation, and Distribution under the Plan and under §§ 1122 and 1123(a)(1) of the Bankruptcy Code; provided, that a Claim or Equity Interest is placed in a particular Class for the purpose of receiving Distributions pursuant to the Plan only to the extent that such Claim or Equity Interest is an Allowed Claim or an Allowed Equity Interest in that Class and such Allowed Claim or Allowed Equity Interest has not been satisfied, released, or otherwise settled prior to the Effective Date.

It is not possible to predict precisely the total amount of Claims in a particular Class or the Distributions that will be ultimately paid to Holders of Claims in the different Classes because of the variables involved in the calculations (including the results of the claims objection process).

3.2 *Summary.*

The categories of Claims and Equity Interests listed below, which exclude Administrative Expense Claims and Priority Claims (Tax and Non-Tax) in accordance with section 1123(a)(1) of the Bankruptcy Code, are classified for all purposes, including voting, confirmation and distribution pursuant to the Plan.

The following table designates the Classes of Claims against and Equity Interests in the Debtors and specifies which of those Classes are (a) Impaired or Unimpaired by the Plan and (b) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code.

CLASS	TYPE OF CLAIM OR EQUITY INTEREST	STATUS	TREATMENT	ENTITLED TO VOTE?
Class 1	Allowed Other Priority Claims	Unimpaired	Except to the extent that a holder of an Allowed Other Priority Claim has been paid by the Debtors prior to the Effective Date or agrees to a less favorable classification and treatment, each holder of an Allowed Other Priority Claim shall receive the full unpaid amount of such Allowed Other Priority Claim in Cash, on the later of (i) the Effective Date or as soon as practicable thereafter, (ii) the date such Allowed Other Priority Claim becomes Allowed or as soon as practicable thereafter and (iii) the date such Allowed Other Priority Claim is payable under applicable non-bankruptcy law; provided, however, that the Debtors shall not pay any premium, interest or penalty in connection with such Allowed Other Priority Claim.	No

Class 2	Allowed Secured Claim of SHL Holdings, Inc.	Impaired	<p>(1) Except to the extent that SHL agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of and in exchange for each Allowed Prepetition Line of Credit Secured Claim, SHL shall be paid in full through the Exit Facility. Upon payment or satisfaction of the Allowed Prepetition Line of Credit Secured Claim, all Liens and security interests granted to secure the Allowed Prepetition Line of Credit Secured Claim shall be automatically terminated and of no further force and effect without any further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.</p> <p>(2) Except to the extent that SHL agrees to a less favorable treatment of its Allowed Prepetition Equipment Loan Secured Claim, SHL's Allowed Prepetition Equipment Loan Secured Claim shall be assumed, ratified, and reinstated.</p>	Yes
---------	---	----------	--	-----

Class 3	Allowed Secured Construction/Mechanics Lien Claims	Impaired	Except to the extent that a holder of an Allowed Secured Construction / Mechanic' Lien Claim has been paid by the Debtors prior to the Effective Date or agrees to a less favorable classification and treatment, each holder of an Allowed Secured Construction / Mechanic' Lien Claim shall receive the full unpaid amount of such Allowed Secured Construction / Mechanic' Lien Claim, in Cash, on the later of: (i) the Effective Date or as soon as practicable thereafter; (ii) the first Business Day after the date that is ten (10) Business Days after the date such Claim becomes an Allowed Secured Claim; and (iii) the date or dates agreed to by the Debtors and the holder of the Allowed Secured Construction / Mechanic' Lien Claim.	Yes
Class 4	Allowed General Unsecured Claims	Impaired	One-time distribution comprised of 15% of the respective Allowed General Unsecured Claim on the later of: (i) the Effective Date or as soon as practicable thereafter; (ii) the first Business Day after the date that is ten (10) Business Days after the date such Claim becomes an Allowed General Unsecured Claim; and (iii) the date or dates agreed to by the Debtors and the holder of the General Unsecured Claim.	Yes
Class 5	Subordinated Claims	Impaired	No Distribution shall be made under the Plan from the Estates in respect of the Subordinated Claims.	No; Deemed to reject the Plan

Class 6	Equity Interests in the Debtors	Impaired	No Distribution shall be made under the Plan from the Estates in respect of the Equity Interests.	No; Deemed to reject the Plan
---------	---------------------------------	----------	---	-------------------------------

3.3 *Se parare Classes and Treatment.*

No Class, member of any Class or Holder of any Claim against the Debtors shall be entitled to or receive Cash or other property allocated for distribution to any other Class or to a Holder of a Claim, except as expressly specified in the Plan. The Reorganized Debtors shall not distribute any Cash or other property allocated to a Class, member of any Class or a Holder of a Claim to any other Class or member thereof or Holder of a Claim, except as expressly specified in the Plan or the Confirmation Order.

3.4 *Claims May be in More than One Class.*

A Claim is part of a particular Class only to the extent that the Claim qualifies within the definition of that Class and such Claim is part of a different Class to the extent that the remainder of the Claim qualifies within the description of a different Class.

Class 1 – Allowed Other Priority Claims

3.5 *Allowed Other Priority Claims (Class 1).*

3.5.1 *Classification:* Class 1 is comprised of Priority Claims other than Priority Tax Claims.

Nature and Treatment of Allowed Other Priority Claims: As of the Petition Date Priority Claims other than Priority Tax Claims amount to approximately \$458,089.00 (“**Other Priority Claims**”). Except to the extent that a holder of an Allowed Other Priority Claim has been paid by the Debtors prior to the Effective Date or agrees to a less favorable classification and treatment, each holder of an Allowed Other Priority Claim shall receive the full unpaid amount of such Allowed Other Priority Claim in Cash, on the later of (i) the Effective Date or as soon as practicable thereafter, (ii) the date such Allowed Other Priority Claim becomes Allowed or as soon as practicable thereafter and (iii) the date such Allowed Other Priority Claim is payable under applicable non-bankruptcy law; provided, however, that the Debtors shall not pay any premium, interest or penalty in connection with such Allowed Other Priority Claim.

3.5.2 *Voting*: Class 1 is unimpaired. The Holders of Claims in Class 1 are not entitled to vote to accept or reject the Plan.

Class 2 – Allowed Secured Claim of SHL Holdings, Inc.

3.6 *Allowed Secured Claim of SHL Holdings, Inc. (Class 2).*

3.6.1 *Classification*: Class 2 is comprised of the Allowed Secured Claim of SHL Holdings, Inc.

3.6.2 *Nature and Treatment of Allowed Secured Claim of SHL Holdings, Inc.:*

As of the Petition Date, the Debtors acknowledge that SHL is owed \$6,000,000.00 on account of its Allowed Prepetition Line of Credit Secured Claim. Except to the extent that SHL agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of and in exchange for each Allowed Prepetition Line of Credit Secured Claim, SHL shall be paid in full through the Exit Facility. Upon payment or satisfaction of the Allowed Prepetition Line of Credit Secured Claim, all Liens and security interests granted to secure the Allowed Prepetition Line of Credit Secured Claim shall be automatically terminated and of no further force and effect without any further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

As of the Petition Date, the Debtors acknowledge that SHL is owed \$148,653 on account of its Allowed Prepetition Equipment Loan Secured Claim. Except to the extent that SHL agrees to less favorable treatment, SHL's Allowed Prepetition Equipment Loan Secured Claim shall be assumed, ratified, and reinstated.

3.6.3 *Voting*: Class 2 is impaired. The Holder of Claims in Class 2 is entitled to vote to accept or reject the Plan.

Class 3 – Allowed Construction / Mechanic's Lien Claims

3.7 *Allowed Construction / Mechanic's Lien Claims (Class 3):*

3.7.1 *Classification*. Class 3 is comprised of the Allowed Construction / Mechanic's Lien Claims.

3.7.2 *Nature and Treatment of Allowed Construction/Mechanic's Lien Claims*: As of the Petition Date Construction / Mechanic's Lien Claims amount to approximately \$405,090.00 ("Construction / Mechanic's Lien Claims"). Except to the extent that a holder of an Allowed Secured Construction / Mechanic' Lien Claim has been paid by the Debtors prior to the Effective Date or agrees to a less favorable classification and treatment, each holder of an Allowed Secured Construction / Mechanic' Lien Claim shall receive the full unpaid amount of such Allowed Secured Construction / Mechanic' Lien Claim, in Cash, on the later of: (i) the Effective Date or as

soon as practicable thereafter; (ii) the first Business Day after the date that is ten (10) Business Days after the date such Claim becomes an Allowed Secured Claim; and (iii) the date or dates agreed to by the Debtors and the holder of the Allowed Secured Claim.

3.7.3 *Voting.* Class 3 is impaired. The Holder of Claims in Class 3 is entitled to vote to accept or reject the Plan.

Class 4 – Allowed General Unsecured Claims

3.8 *Allowed General Unsecured Claims* (Class 4).

3.8.1 *Classification:* Class 4 is comprised of Allowed General Unsecured Claims against all Debtors.

3.8.2 *Nature and Treatment of Allowed General Unsecured Claims:* As of the Petition Date General Unsecured Claims amount to approximately \$10,396,241.00. In full satisfaction of the Allowed Class 4 Claims, holders of such claims shall receive a one-time lump sum distribution comprised of 15% of the respective Allowed General Unsecured Claim on the later of: (i) the Effective Date or as soon as practicable thereafter; (ii) the first Business Day after the date that is ten (10) Business Days after the date such Claim becomes an Allowed General Unsecured Claim; and (iii) the date or dates agreed to by the Debtors and the holder of the General Unsecured Claim.

3.8.3 *Voting:* Class 4 is impaired. The Holders of Claims in Class 4 are entitled to vote to accept or reject the Plan.

Class 5 – Subordinated Claims

3.9 *Subordinated Claims* (Class 5).

3.9.1 *Classification:* Class 5 is comprised of subordinated claims.

3.9.2 *Nature and Treatment of Subordinated Claims:* No Distribution shall be made under the Plan from the Estates in respect of the Subordinated Claims.

3.9.3 *Voting:* Class 5 is impaired but is deemed to reject the Plan and not entitled to vote.

Class 6 – Equity Interests

3.10 *Equity Interests* (Class 6).

3.10.1 *Classification:* Class 6 is comprised of any and all ownership interests currently issued or authorized in the Debtors.

3.10.2 *Nature and Treatment of Equity Interests:* On the Effective Date, 100% of the equity in each Reorganized Debtor shall revert in the respective Reorganized Debtor. For the avoidance of doubt, with respect to IT'SUGAR, the rights and claims of Holders of Equity Interests as set forth in the LLC Agreement, and any and all other organizational documents of the Debtors, shall be assumed, ratified, and reinstated, including, without limitation, IT'SUGAR Holdings, LLC's Preferred Return and Unreturned Invested Capital (as defined in the LLC Agreement).

3.10.3 *Voting:* Class 6 is Impaired but is deemed to reject the Plan and not entitled to vote.

ARTICLE IV

REJECTION OF UNEXPIRED LEASES AND EXECUTORY CONTRACTS / REJECTION CLAIMS / INJUNCTION

4.1 *General Treatment: Rejected if not Previously Assumed.*

Pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, upon the Effective Date, all executory contracts and unexpired leases that exist between the Debtors and any Person or Entity shall be deemed rejected by the Debtors, except for any executory contract or unexpired lease (i) that has been assumed or rejected pursuant to an order of the Bankruptcy Court entered prior to the Effective Date, (ii) as to which a motion for approval of the assumption of such executory contract or unexpired lease has been filed and served prior to the Effective Date, or (iii) that is specifically designated as an executory contract or unexpired lease to be assumed on the attached Schedule of Assumed Executory Contracts and Unexpired Leases, provided however, that the Plan Proponents reserve the right, on or prior to the Confirmation Date, to amend the Schedule of Assumed Executory Contracts and Unexpired Leases to delete any executory contract therefrom, or add any executory contract, in which event such executory contract(s) shall be deemed to be, respectively, either rejected or assumed as of the Effective Date. Subject to the occurrence of the Effective Date, entry of the Confirmation Order shall constitute approval of such assumption or rejection pursuant to section 365(a) of the Bankruptcy Code and a finding by the Bankruptcy Court that each such assumption or rejection is in the best interests of the Debtors, the Reorganized Debtors, their Estates, and all parties in interest in the Chapter 11 Cases.

4.2 *Bar to Claims Arising from Rejection; Termination or Expiration.*

Claims created by the rejection of executory contracts or unexpired leases under the Plan (including, without limitation, the rejection provided in Article 4.1 herein ("General Treatment; Rejected if not Previously Assumed") or the expiration or termination of any executory contract

or unexpired lease prior to the Confirmation Date must be filed with the Bankruptcy Court and served on the Debtors or Reorganized Debtors, as applicable, not later than thirty (30) days after the Effective Date or thirty (30) days after entry of an Order rejecting such contract or lease if such Order is entered after the Effective Date. Any rejection claim for which a proof of claim is not filed and served within the time provided herein will be forever barred from assertion and shall not be enforceable against the Debtors, or their estates, assets, properties, or interests in property, or the Reorganized Debtors, or their estate, assets, properties, or interests in property. Nothing contained herein shall be deemed an admission by the Debtors or any of them that such rejection gives rise to or results in a Claim or shall be deemed a waiver by the Debtors or the Reorganized Debtors of any objections to such Claim if asserted.

4.3 *Assumption of Executory Contracts and Unexpired Leases.*

4.3.1 Assumption of Executory Contracts and Unexpired Leases; Schedule of Assumed Executory Contracts and Unexpired Leases. The Debtors are assuming all of the executory contracts and unexpired leases listed on the Schedule of Assumed Executory Contracts and Unexpired Leases attached hereto as **Exhibit "A"**, and the Plan shall be deemed to be a Motion pursuant to Rule 9013 by the Debtors to assume the Executory Contracts and Unexpired Leases set forth on the attached Exhibit A. Unless subject to separate motion and order of the Bankruptcy Court, the Confirmation Order will constitute an order of the Bankruptcy Court approving assumption of all of the executory contracts and unexpired leases listed on the Schedule of Assumed Executory Contracts and Unexpired Leases attached to the Plan pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

4.3.2 Modifications, Amendments, Supplements, Restatements, or Other Agreements. Unless otherwise provided in the Plan, each executory contract or unexpired lease that is assumed pursuant to the Plan will include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such executory contract or unexpired lease, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated, or is rejected or repudiated pursuant to the Plan or separate motion and Final Order of the Bankruptcy Court.

4.3.3 Modification of the Schedule of Assumed Executory Contracts and Unexpired Leases. The Schedule of Assumed Executory Contracts and Unexpired Leases may be modified by either of the Plan Proponents to add or delete contracts and leases up to three (3) days prior to the scheduled Confirmation Hearing.

4.3.4 Cure of Defaults for Assumed Executory Contracts and Unexpired Leases. With respect to each of the executory contracts or unexpired leases listed on the Schedule of Assumed Executory Contracts and Unexpired Leases, the Debtors will designate a proposed Cure and the assumption or assumption and assignment of such executory contract or unexpired lease will be conditioned

on the disposition of all issues with respect to Cure. All Allowed Cure Claims will be satisfied by the Debtors by payment of the Cure in Cash on or as soon as reasonably practicable after the Effective Date or entry of an Order setting forth the Allowed Cure Claim is disputed as of the Effective Date or such other later date as the parties may agree. Any provisions or terms of the Debtors' executory contracts or unexpired leases to be assumed and assigned pursuant to the Plan that are, or may be, alleged to be in default, shall be satisfied solely by the Cure, or by an agreed-upon waiver of the Cure. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed in the Chapter 11 Cases, including pursuant to the Confirmation Order, and for which any applicable Cure has been fully satisfied, shall be deemed disallowed and expunged as of the Effective Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

4.3.5 Confirmation Order. Entry of the Confirmation Order will constitute a finding of adequate assurance of future performance by the Reorganized Debtors within the meaning of section 365 of the Bankruptcy Code. Any objections relating to adequate assurance of future performance, or any other matters relating to the assumption and assignment of executory contracts and unexpired leases (other than Cure Claim disputes) must be asserted as an objection to confirmation of the Plan. Assumption of any executory contract or unexpired lease pursuant to the Confirmation Order or other order of the Bankruptcy Court and payment of the Allowed Cure Claim will limit the Claims of any such contract counter-party to Claims for ongoing performance under the unexpired lease or executory contract by Reorganized Debtor pursuant to section 365(k) of the Bankruptcy Code.

4.4 *Rejection Claims.*

Any Claim arising out of the rejection of an Executory Contract pursuant to the Confirmation Order must be filed with the Bankruptcy Court on or before thirty (30) days from the date of the Confirmation Order (the "**Rejection Claim Bar Date**"), and shall be served on counsel for the Debtor and the U.S. Trustee. Any such Claims not filed by the Rejection Claim Bar Date shall be discharged and forever barred. Each Allowed Claim arising from the rejection of an Executory Contract shall be treated as an Allowed General Unsecured Claim. Any Rejection Claim arising from the rejection of an unexpired lease or executory contract not barred by Section 4.2 of the Plan shall be treated as a General Unsecured Claim pursuant to Article III of this Plan. Nothing contained herein shall be deemed an admission by the Debtors that such rejection gives rise to or results in a Claim or shall be deemed a waiver by the Debtors or the Reorganized Debtors of any objections to such Claim if asserted.

4.5 *Injunction.*

From and after the Effective Date, all Entities are permanently enjoined from commencing or continuing in any manner against the Debtors, the Reorganized Debtors, the Estates, the Creditors' Committee, and their successors and assigns, and their assets and properties, as the case

may be, any suit, action or other proceeding, on account of or respecting any Claim or Equity Interest, demand, liability, obligation, debt, right, Cause of Action, interest or remedy released or satisfied or to be released or satisfied pursuant to the Plan or the Confirmation Order.

Except as otherwise expressly provided for in the Plan or in obligations issued pursuant to the Plan, from and after the Effective Date, all Entities shall be precluded from asserting against the Debtors, the Reorganized Debtors, the Estates, the Creditors' Committee, and their successors and assigns and their assets and properties, any other Claims or Equity Interests based upon any documents, instruments, or any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date, solely to the extent that (a) such Claims or Equity Interests have been released or satisfied pursuant to the Plan or the Confirmation Order or (b) such Claims, Equity Interests, actions or assertions of Liens relate to property that will be distributed pursuant to the Plan or the Confirmation Order.

The rights afforded in the Plan and the treatment of all Claims and Equity Interests in the Plan shall be in exchange for and in complete satisfaction of Claims and Equity Interests against the Debtors or any of their assets or properties solely to the extent that (a) such Claims or Equity Interests have been released or satisfied pursuant to the Plan or the Confirmation Order or (b) such Claims, Equity Interests, actions or assertions of Liens relate to property that will be distributed pursuant to the Plan or the Confirmation Order.

Except as otherwise expressly provided for in the Plan or in obligations issued pursuant to the Plan, all Persons and Entities are permanently enjoined, on and after the Effective Date, on account of any Claim or Equity Interest satisfied and released pursuant to the Plan or Confirmation Order, from:

(a) commencing or continuing in any manner any action or other proceeding of any kind against any Debtor, any Reorganized Debtor, any Estate, the Creditors' Committee, and their successors and assigns and their assets and properties;

(b) enforcing, attaching, collecting or recovering by any manner or means any judgment, award, decree or order against any Debtor, any Reorganized Debtor, any Estate, the Creditors' Committee, and their successors and assigns and their assets and properties;

(c) creating, perfecting or enforcing any encumbrance of any kind against any Debtor, any Reorganized Debtor, any Estate, the Creditors' Committee, and their successors and assigns and their assets and properties; and

(d) commencing or continuing in any manner any action or other proceeding of any kind in respect of any Claim or Equity Interest or Cause of Action released or settled hereunder.

4.6 *Release of Liens.*

Except as otherwise provided herein or in any contract, instrument, release or other agreement or document created pursuant to the Plan, on the Effective Date, all mortgages, deeds of trust, Liens, pledges or other security interests against property of the Estates distributed under the Plan shall be fully released and discharged and all of the right, title and interest of any holder of such mortgages, deeds of trust, Liens, pledges or other security interest shall revert, as applicable, to the Debtors or Reorganized Debtors.

ARTICLE V

MEANS OF IMPLEMENTING THE PLAN

5.1 *Consolidation for Voting and Distribution Purposes.*

The Debtors comprise a single Estate solely for the purposes of classification of Claims, voting on the Plan, confirmation of the Plan, and making Distributions under the Plan with respect to Allowed Claims against the Debtors. Such treatment shall not affect any Debtor's status as a separate legal entity, change the organization structure of the Debtors' business enterprise, constitute a change of control of any Debtor for any purpose, cause a merger or consolidation of any legal entities, cause the transfer of any assets, nor result in the substantive consolidation of the Debtors; and, except as otherwise provided by or permitted in the Plan, all Debtors shall continue to exist as separate legal entities. Such treatment shall also not affect any Cause of Action available to any Debtor or the Debtors' Estates. The above-described treatment serves only as a mechanism to effect a fair distribution of value to the Holders of Allowed Claims.

The Plan shall be deemed to be a motion, pursuant to Bankruptcy Rule 9013, by the Debtors for limited and partial substantive consolidation with respect to the Plan as set forth therein. Any objection by an affected Creditor to such consolidation shall be treated as an objection to Confirmation and shall be determined by the Bankruptcy Court at the Confirmation hearing. Failure to timely object to such limited or partial substantive consolidation may result in consolidation of the Debtors in accordance herewith, without further hearing.

The substantive consolidation effected pursuant to this section shall not affect, without limitation: any (a) Claim(s) or Cause(s) of Action, including, without limitation, any of the Debtor's defenses thereto or their ability to assert any counterclaim; (b) the Debtors' setoff or recoupment rights, or (c) the requirements for any third party to establish mutuality prior to the Debtors' or the Estates' substantive consolidation in order to assert a right of setoff against the Debtors, the Reorganized Debtors, or the Estates.

5.2 *Business Operations and Cash Flow.*

The Debtors will continue to operate with reduced operating expenses and lease payments as a result of lease modifications. The Plan Proponents believe the cash flow generated from

operations following the restructuring of debt and the Exit Facility will be sufficient to make all Plan Payments.

5.3 *Funds Generated During Chapter 11.*

Funds generated from operations through the Effective Date will be used for Plan Payments; however, the Debtors' cash on hand as of Confirmation will be available for payment of Administrative Expense Claims.

5.4 *Exit Facility.*

On the Effective Date, the Reorganized Debtors will enter into definitive documentation which will be filed with the Court in advance of Confirmation as a supplement to the Plan, with respect to the Exit Facility in the aggregate principal amount of up to \$13 million as a first lien facility. Confirmation of the Plan shall be deemed to constitute approval of the Exit Facility and the Exit Facility Documents (including all transactions contemplated thereby and all actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtors in connection therewith, including the payment, which payment shall not be subject to disgorgement, of all fees, indemnities, and expenses provided for therein) and, subject to the occurrence of the Effective Date, authorization for the Reorganized Debtors to enter into and perform their obligations under the Exit Facility Documents and such other documents as may be reasonably required or appropriate, in each case, in accordance with the Exit Facility Documents. On the Effective Date, the Exit Facility Documents shall constitute legal, valid, binding, and authorized obligations of the Reorganized Debtors, enforceable in accordance with their terms. The financial accommodations to be extended pursuant to the Exit Facility Documents are being extended, and shall be deemed to have been extended, in good faith, for legitimate business purposes, are reasonable, shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever, and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any other applicable non-bankruptcy law. On the Effective Date, all of the guarantees, mortgages, pledges, claims, liens and other security interests granted or to be granted in accordance with the Exit Facility Documents (a) shall be legal, valid, binding, and enforceable guarantees, mortgages, pledges, claims and liens on, and security interests in, the collateral granted thereunder in accordance with the terms of the Exit Facility Documents, (b) shall be deemed automatically attached and perfected on the Effective Date without the need for any further action, approval or filing, subject only to such liens and security interests as may be permitted under the Exit Facility Documents, and (c) shall not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any applicable non bankruptcy law. The Reorganized Debtors and the Entities granted such liens and security interests are authorized to make all filings and recordings, and to obtain all governmental approvals and consents necessary to establish, attach, and perfect such liens and security interests under the provisions of the applicable state, provincial, federal, or other law (whether domestic or foreign) that would be applicable in the absence of the Plan and the

Confirmation Order (it being understood that perfection shall occur automatically by virtue of the entry of the Confirmation Order, and any such filings, recordings, approvals, and consents shall not be required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such liens and security interests to third parties. All such documents shall be deemed to have recorded and filed as of the Effective Date. To the extent that any Holder of a Secured Claim that has been satisfied or discharged in full pursuant to the Plan, or any agent for such Holder, has filed or recorded publicly any liens and/or security interests to secure such Holder's Secured Claim, then as soon as practicable on or after the Effective Date, such Holder (or the agent for such Holder) shall take any and all steps requested by the Debtors, the Reorganized Debtors, or any administrative agent under the Exit Facility Documents that are necessary to cancel and/or extinguish such liens and/or security interests.

5.5 *Indemnification of SHL.*

The Debtors and the Reorganized Debtors, shall (a) indemnify and hold harmless SHL from and against any expense, damage or liability arising from any Cause of Action brought by any person or Entity against SHL relating to the Debtors or the Plan (including the implementation of the Plan) that, in each case, has arisen or may arise through and including the Effective Date (including any Cause of Action that arises in connection with events occurring prior to the Effective Date), and (b) promptly advance to SHL its respective defense costs and expenses related to any such Cause of Action or any Claim, in each case (i) brought against it in any case, hearing, procedure or proceeding of any kind, (ii) threatened against it by any person or Entity, or (iii) brought against a third party and that requires the discovery of SHL or reasonably requires any other intervention or involvement by SHL therein. This indemnification shall be enforceable regardless of whether any person (including the person from whom indemnification is sought) alleges or proves: (a) the sole, concurrent, contributory, or comparative negligence (whether such negligence is simple or gross) or fault of the person seeking indemnification or (b) the sole or concurrent strict liability imposed upon the person seeking indemnification.

5.6 *Intercompany Claims.*

Except as otherwise provided herein, Intercompany Claims held by one Debtor against another Debtor (if any) shall, solely for purposes of receiving Distributions under the Plan, be deemed waived, released and Disallowed, such that no such Intercompany Claim owed from one Debtor to another Debtor shall receive a Distribution under the Plan and the applicable Debtor shall not be entitled to vote on the Plan in connection therewith.

5.7 *Source of Funding for Plan Distributions.*

The Debtors or the Reorganized Debtors, as applicable, will use the (i) proceeds from the Exit Facility, (ii) Available Cash on the Effective Date, (iii) Cash Flow on and after the Effective Date, or, where applicable, (iv) Disputed Claims Reserve, to make all Distributions required to be

made by the Debtors or the Reorganized Debtors, as applicable, on and after the Effective Date in accordance with the Plan.

5.8 *Manner of Cash Payments Under the Plan.*

Any Distribution pursuant to the Plan, to the extent posted in the United States mail, shall be deemed made when deposited by the Debtors or the Reorganized Debtors (or their respective agent(s)), as applicable, into the United States mail. At the option of the Debtors or the Reorganized Debtors, as applicable, any Cash payment to be made pursuant to the Plan shall be made, at the election of the Debtors or the Reorganized Debtors, as applicable, by check drawn on a domestic bank, by wire transfer, or by ACH, from a domestic bank, or other method mutually agreed upon by the holder of the Allowed Claim and the Debtors or the Reorganized Debtors. Whenever any Distribution to be made under the Plan shall be due on a day other than a Business Day, such Distribution shall instead be made, without interest, on the immediately succeeding Business Day, but shall be deemed to have been made on that due date.

5.9 *Waived Avoidance Actions.*

Notwithstanding anything to the contrary herein or in the Confirmation Order, upon the Effective Date, the Debtors shall be deemed to have waived and released the Waived Avoidance Actions. Effective as of the Effective Date, the Debtors and Reorganized Debtors, as applicable, waive any right to pursue, offensively or defensively, Avoidance Actions against the holders of General Unsecured Claims in Class 4 (“General Unsecured Claims”).

5.10 *Post-Confirmation Operations.*

Following Confirmation, the Debtors shall execute such documents and take such other actions as are necessary to make effective the transactions provided for in the Plan.

5.11 *Post-Confirmation Accounts.*

The Debtors may establish one or more interest-bearing accounts as they determine may be necessary or appropriate to effectuate the provisions of the Plan consistent with § 345 of the Bankruptcy Code and any orders of the Bankruptcy Court.

5.12 *Disbursing Agent.*

The Reorganized Debtors will serve as the Disbursing Agents for all Distributions to be made under the Plan. In addition, the Reorganized Debtors will oversee and direct all claim objections and all other actions required to be taken under the Plan, the Bankruptcy Code, or by order of the Bankruptcy Court.

5.13 *Management and Control of the Reorganized Debtors.*

The operations of the Reorganized Debtors will continue to be managed by the Debtors' management following Confirmation which will have continuing authorization to manage the day-to-day normal business operations of the Reorganized Debtors with all the powers and duties of a manager as set forth in the Debtors' operating agreements.

5.14 *Closing of the Chapter 11 Cases.*

Notwithstanding anything to the contrary in the Bankruptcy Rules or Local Rules providing for earlier closure of the chapter 11 case, when all Claims against the Debtors have become Allowed Claims or disallowed Claims, and the Debtors' Cash has been distributed in accordance with the Plan, or at such earlier time as the Reorganized Debtors deem appropriate, the Reorganized Debtors shall seek authority from the Bankruptcy Court to close the Chapter 11 Cases in accordance with the Bankruptcy Code and the Bankruptcy Rules.

5.15 *Entity Making Distributions.*

Except as otherwise provided in the Plan, Distributions to holders of Allowed Claims shall be made, and the responsibility for holding the Disputed Claims Reserve will be, by the Debtors, if before the Effective Date, or the Reorganized Debtors or the Distribution Agent, as the case may be, if on or after the Effective Date. The Debtors, the Reorganized Debtors and the Distribution Agent shall not be required to give any bond or surety or other security for the performance of their duties, unless otherwise ordered by the Bankruptcy Court.

5.16 *Distribution Dates.*

Distributions to holders of Claims shall be made as provided in Articles II and III of this Plan. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

5.17 *Record Date for Distributions.*

Except as otherwise provided in a Final Order of the Bankruptcy Court, the transferees of Claims that are transferred pursuant to Bankruptcy Rule 3001 on or prior to the Record Date will be treated as the holders of those Claims for all purposes, notwithstanding that any period provided by Bankruptcy Rule 3001 for objecting to the transfer may not have expired by the Record Date. The Debtors or Reorganized Debtors, as applicable, shall have no obligation to recognize any transfer of any Claim occurring after the Record Date. In making any Distribution with respect to any Claim, the Debtors or Reorganized Debtors, as applicable, shall be entitled instead to recognize and deal with, for all purposes hereunder, only the Entity that is listed on the proof of Claim filed with respect thereto or on the Schedules as the holder thereof as of the close of business on the

Record Date and upon such other evidence or record of transfer or assignment that was known to the Debtors as of the Record Date.

5.18 *Delivery of Distributions.*

Subject to Bankruptcy Rule 9010 and except as otherwise provided herein, Distributions to the holders of Allowed Claims shall be made by the Debtors or Reorganized Debtors, as applicable, at (a) the address of each holder as set forth in the Schedules, unless superseded by the address set forth on proofs of Claim filed by such holder or (b) the last known address of such holder if no proof of Claim is filed or if the Debtors or Reorganized Debtors, as applicable, have not been notified in writing of a change of address.

5.19 *Undeliverable and Unclaimed Distributions.*

In the event that any Distribution to any holder of an Allowed Claim made by the Debtors or Reorganized Debtors, as applicable is returned as undeliverable, the Debtors or Reorganized Debtors, as applicable, shall use commercially reasonable efforts to determine the current address of each holder, but no Distribution to such holder shall be made unless and until the Debtors or Reorganized Debtors, as applicable, has determined the then current address of such holder; provided, however, that all Distributions to holders of Allowed Claims made by the Debtors or Reorganized Debtors, as applicable, that are unclaimed for a period of ninety (90) days after the date of the first attempted Distribution shall have its, his or her Claim for such undeliverable Distribution deemed satisfied and will be forever barred from asserting any such Claim against the Debtors or Reorganized Debtors, as applicable, or their property. Any Distributions which are undeliverable or have not been negotiated within the time period set forth above shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and revested in the Debtors or Reorganized Debtors, as applicable. The Debtors or Reorganized Debtors, as applicable, shall have no further obligation to make any Distribution to the holder of such Claim on account of such Claim, and any entitlement of any holder of such Claim to any such Distributions shall be extinguished and forever barred; provided, however, that the holder of such Claim may receive future Distributions on account of such Claim by contacting the Debtors or Reorganized Debtors, as applicable, at some point prior to the final Distribution.

5.20 *Withholding from Distributions.*

Any federal, state or local withholding taxes or other amounts required to be withheld under applicable law shall be deducted from Distributions pursuant to the Plan. The Debtors or Reorganized Debtors, as applicable, may withhold from amounts distributable pursuant to the Plan to any Person or Entity any and all amounts, determined in the reasonable discretion of the Debtors or Reorganized Debtors, as applicable, required to be withheld by any law, regulation, rule, ruling, directive, or other governmental requirement.

5.21 *No Distributions on Late Filed Claims.*

Except as otherwise provided in a Final Order of the Bankruptcy Court, any Claim as to which a proof of Claim was required to be filed and was first filed after the applicable bar date in the Chapter 11 Cases, including, without limitation, the General Bar Date and any bar date established in the Plan or in the Confirmation Order, shall automatically be deemed a late-filed Claim that is disallowed in the Chapter 11 Cases, without the need for (a) any further action by the Debtors or (b) an order of the Bankruptcy Court. Nothing in this paragraph is intended to expand or modify the applicable bar dates or any orders of the Bankruptcy Court relating thereto.

5.22 *No Payments of Fractional Dollars.*

Notwithstanding any other provision of the Plan to the contrary, no payment of fractional dollars shall be made pursuant to the Plan. Whenever any payment of a fraction of a dollar under the Plan would otherwise be required, the actual Distribution made shall reflect a rounding down of such fraction to the nearest whole dollar.

5.23 *Interest on Claims.*

Except as specifically provided for in this Plan or the Confirmation Order or required by the Bankruptcy Code, interest shall not accrue on Claims and no holder of a Claim shall be entitled to interest on any Claim accruing on or after the Petition Date. Interest shall not accrue on any General Unsecured Claim that is a Disputed Claim in respect of the period from the Effective Date to the date a final Distribution is made thereon if and after that Disputed Claim becomes an Allowed Claim. Except as expressly provided herein or in a Final Order of the Bankruptcy Court, no prepetition Claim shall be Allowed to the extent that it is for postpetition interest or similar charges.

5.24 *No Distribution in Excess of Allowed Amount of Claim.*

Notwithstanding anything to the contrary contained in the Plan, no holder of an Allowed Claim shall receive in respect of that Claim any Distribution in excess of the Allowed amount of such Claim.

5.25 *De Minimis Distributions; Charitable Donation.*

Notwithstanding anything to the contrary in the Plan, the Debtors or Reorganized Debtors, as applicable, shall not be required to make a Distribution to any Creditor if the dollar amount of the Distribution is less than \$10 or otherwise so small that the cost of making that Distribution exceeds the dollar amount of such Distribution. On or about the time that the final Distribution is made, the Debtors or Reorganized Debtors, as applicable, may make a donation of undistributable funds as defined by Local Rule 3011-1(C)(1), in the reasonable discretion of the Debtors or Reorganized Debtors, as applicable, to one or more of the following organizations (each of which qualifies for not-for-profit status under section 501(c)(3) of the Tax Code) with undistributable

funds if, in the reasonable judgment of the Debtors or Reorganized Debtors, as applicable, the cost of calculating and making the final Distribution of the undistributable funds remaining is excessive in relation to the benefits to the or holders of Claims who would otherwise be entitled to such Distributions: (i) the Bankruptcy Bar Foundation of the Bankruptcy Bar Association of the Southern District of Florida; or (ii) The Eleanor R. Cristol and Judge A. Jay Cristol Bankruptcy Pro Bono Assistance Clinic at the University of Miami School of Law.

5.26 *Distributions in Satisfaction; Allocation.*

Except for the obligations expressly imposed by the Plan and the property and rights expressly retained under the Plan, if any, the Distributions and rights that are provided in the Plan shall be in complete satisfaction and release of all Claims against, liabilities in, Liens on, obligations of and Equity Interests in the Debtors and their Estates, whether known or unknown, that arose or existed prior to the Effective Date. Distributions received in respect of Allowed Claims will be allocated first to the principal amount of such Claims, with any excess allocated to unpaid accrued interest (if any).

5.27 *Section 1146 Exemption.*

Pursuant to section 1146 of the Bankruptcy Code, the issuance, distribution, transfer or exchange of any equity security or notes, or the creation, making, assignment delivery or recording of any mortgage, deed of trust, instrument of transfer, pursuant to, in implementation of or as contemplated by the Plan or any Plan Document, or the vesting, re-vesting, transfer or sale of any property of, by or in the Debtors or their Estates or Reorganized Debtors pursuant to, in implementation of or as contemplated by the Plan or any Plan Document, or any transaction arising out of, contemplated by or in any way related to the foregoing, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangible or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, sales and use Uniform Commercial Code filing or recording fee, or other similar tax or governmental assessment, and the appropriate state or local governmental officials or agents shall, by the Confirmation Order, be directed to forego the collection of any such tax or governmental assessment and to accept for filing and recording any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

5.28 *Disbursing Agent.*

The Reorganized Debtors will serve as the Disbursing Agents for all Distributions to be made under the Plan. In addition, the Reorganized Debtors will oversee and direct all claim objections and all other actions required to be taken under the Plan, the Bankruptcy Code, or by order of the Bankruptcy Court.

ARTICLE VI

PROCEDURES FOR RESOLVING AND TREATING DISPUTED AND CONTINGENT CLAIMS

6.1 *Prosecution of Objections to Claims.*

Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, and except as otherwise provided in the Plan, Debtors shall have the exclusive right to make and file objections to all Claims, other than those claims deemed as “Allowed” under the terms of the Plan. All objections commenced prior to the Confirmation Date shall be finished by the Reorganized Debtors.

Unless another time is set by order of the Bankruptcy Court, all objections to Claims and Equity Interests shall be filed with the Bankruptcy Court and served upon the Holders of each of the Claims to which objections are made by the Claims Objection Bar Date.

Except as may be specifically set forth herein (including in Section 5.9 herein), nothing in the Plan, the Disclosure Statement, the Confirmation Order, or any order in aid of Confirmation, shall constitute, or be deemed to constitute, a waiver or release of any claim, cause of action, right of setoff, or other legal or equitable defense that the Debtors had immediately prior to the commencement of the Bankruptcy Cases against or with respect to any Claim or Equity Interest, with the exception of claims against any creditor who holds a stipulated and Allowed Claim under the Plan. Except as set forth in the Plan, upon Confirmation the Debtors shall have, retain, reserve and be entitled to assert all such claims, Causes of Action, rights of setoff and other legal or equitable defenses that either Debtors had immediately prior to the commencement of the Bankruptcy Case as if the Bankruptcy Case had not been commenced.

6.2 *Disputed Claim Reserve.*

The Debtors or Reorganized Debtors, as applicable, will withhold from the property that would otherwise be distributed to holders of Claims within a given Class an amount sufficient to be distributed on account of Claims that are not Allowed Claims within that Class as of the Effective Date, and shall place such withheld property in a Disputed Claims Reserve, which thereafter will be retained and administered by the Debtors.

6.3 *Resolution of Disputed Claims.*

The Debtors or Reorganized Debtors, as applicable, shall have the right to make and file objections to Claims in the Bankruptcy Court. Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, all Disputed Claims shall be subject to the exclusive jurisdiction of the Bankruptcy Court.

6.4 *Objections to Fully Impaired Claims.*

Certain Claims and all Equity Interests are fully Impaired under the Plan and not entitled to any distribution under the Plan. As a result, the Debtors do not intend to object to any such Claims or Equity Interests since the allowance or disallowance of such Claims or Equity Interests will have no impact on the Debtors or their Estates. However, the Debtors (and after the Effective Date, the Reorganized Debtors) reserve the right to file objections to such Claims and Equity Interests at any time they deem appropriate, if ever, until the closing of this Chapter 11 Case.

6.5 *Objection Deadline.*

All objections to Disputed Claims shall be filed no later than the Claims Objection Bar Date, unless otherwise ordered by the Bankruptcy Court after notice and a hearing, with notice only to those parties entitled to notice in the Chapter 11 Cases pursuant to Bankruptcy Rule 2002.

6.6 *Estimation of Claims.*

The Debtors may, at any time, request that the Bankruptcy Court estimate any contingent, disputed, or unliquidated Claim pursuant to § 502(c) of the Code, regardless of whether the Debtors have previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection; and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event the Bankruptcy Court estimates any contingent, disputed, or unliquidated Claim, that estimated amount will 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 such Claim, the Debtors may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim.

6.7 *No Distribution Pending Allowance.*

Notwithstanding any other provision in the Plan, if any portion of a Claim is disputed, no payment or Distribution provided under the Plan shall be made on account of such Claim unless and until such Disputed Claim becomes an Allowed Claim.

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, Distributions (if any) shall be made to the holder of such Allowed Claim in accordance with the provisions of the Plan. Upon allowance, a holder of the Allowed Disputed Claim shall receive any Distributions that would have been made up to the date of allowance to such holder under the Plan had the Disputed Claim been allowed on the Effective Date.

6.8 *Resolution of Claims.*

On and after the Effective Date, the Debtors shall have the authority to compromise, settle, otherwise resolve or withdraw any objections to Claims, and to compromise, settle, or otherwise resolve any Disputed Claims without approval of the Bankruptcy Court.

6.9 *Cumulative Remedies.*

All of the aforementioned Claims objections, estimation, and resolution procedures are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court. Until such time as an Administrative Expense Claim, Claim, or Equity Interest becomes an Allowed Claim, such Claim shall be treated as a Disputed Administrative Expense Claim, Disputed Claim, or Disputed Equity Interest for purposes related to allocations, distributions, and voting under the Plan.

6.10 *Payments and Distributions on Disputed Claims.*

As and when authorized by a Final Order, Disputed Claims or Interests that become “Allowed” shall be paid by the Reorganized Debtors such that the Holder of such Allowed Claim or Interest receives all payments and distributions to which such Holder is entitled under the Plan in order to bring payments to the affected Claimants current with the other participants in the particular Class in question. Except as otherwise provided herein, no partial payments and no partial distributions will be made with respect to a Disputed Claim or Interest until the resolution of such dispute by settlement or Final Order. Unless otherwise agreed to by the Reorganized Debtors or as otherwise specifically provided herein, a Creditor or Equity Interest Holder who holds both an Allowed Claim and a Disputed Claim or Interest will not receive a distribution until such dispute is resolved by settlement or Final Order.

ARTICLE VII

ALLOWANCE OR DISALLOWANCE OF CLAIMS AND INTERESTS

7.1 *Disallowance of Claims.*

All Claims held by entities against whom the Debtors have obtained a Final Order establishing liability for a cause of action under sections 542, 543, 522(f), 522(h), 544, 545, 547, 548, 549, or 550 of the Code shall be deemed disallowed pursuant to section 502(d) of the Code, and Holders of such Claims may not vote to accept or reject the Plan, both consequences to be in effect until such time as such causes of action against that entity have been settled or resolved by a Final Order and all sums due the Debtors by that Entity are turned over to the Debtors. The Debtors, and the Reorganized Debtors when appropriate, shall have the exclusive right and authority to bring any causes of action under Chapter 5 of the Bankruptcy Code (except the Waived Avoidance Actions).

7.2 *Allowance of Claims.*

Except as expressly provided herein, no Claim or Equity Interest shall be deemed Allowed by virtue of the Plan, Confirmation Order, or any Order of the Bankruptcy Court in the Chapter 11 Cases, unless and until such Claim or Equity Interest is deemed Allowed under the Code or the Bankruptcy Court enters a Final Order in the Chapter 11 Cases allowing such Claim or Equity Interest or the Claims Objection Bar Date lapses and no objection is filed by the Reorganized Debtors.

7.3 *Controversy Concerning Impairment.*

If a controversy arises as to whether any Claims or Equity Interests or any Class of Claims or Equity Interests are Impaired under the Plan, the Bankruptcy Court, after notice and a hearing, shall determine such controversy before the Confirmation Date. If such controversy is not resolved prior to the Effective Date, the Plan Proponents' interpretation of the Plan shall govern.

ARTICLE VIII

CONDITIONS PRECEDENT TO EFFECTIVENESS OF PLAN

8.1 *Conditions Precedent.*

The Effective Date of the Plan shall not occur unless and until the following conditions shall have been satisfied or waived by the Plan Proponents, as determined in their sole discretion: (a) the Bankruptcy Court shall have entered the Confirmation Order in form and substance acceptable to the Plan Proponents, and such Confirmation Order shall not have been appealed within fourteen (14) calendar days of entry or, if such Confirmation Order is appealed, shall not have been stayed pending appeal, and there shall not have been entered by any court of competent

jurisdiction any reversal, modification or vacation, in whole or in part, of such Confirmation Order; (b) the Bankruptcy Court shall have approved the information contained in the Disclosure Statement as adequate pursuant to § 1125 of the Bankruptcy Code; (c) all documents, instruments and agreements provided for hereunder or necessary to implement the Plan shall have been executed and delivered by the parties thereto; (d) there is sufficient available Cash of the Debtors to pay all Allowed Administrative Expense Claims (including Allowed Professional Claims), Allowed Priority Claims and Allowed Priority Tax Claims, as applicable; and (f) no order of a court restraining the Debtors from consummating the Plan shall have been entered and shall remain in effect.

The conditions precedent specified above may be waived in whole or in part by the Plan Proponents. Subject to the foregoing, any such written waiver of a condition precedent set forth in this Section may be effected at any time, without notice, without leave or order of the Bankruptcy Court, and without any formal action other than proceeding to consummate the Plan. Any actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously, and no such action shall be deemed to have occurred prior to the taking of any other such action. If the Debtors decide that one of the foregoing conditions cannot be satisfied, and the occurrence of such condition is not waived in writing by the Debtors, then the Debtors shall file a notice of the failure of the Effective Date with the Bankruptcy Court, at which time the Plan and the Confirmation Order shall be deemed null and void.

ARTICLE IX

EFFECT OF CONFIRMATION OF PLAN

9.1 *Binding Effect.*

Subject to the occurrence of the Effective Date, on and after the Confirmation Date, the provisions of the Plan shall bind the Debtors, the Reorganized Debtors, and any Holder of a Claim against, or Equity Interest in, the Debtors and such Holder's 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.

9.2 *Discharge of Claims.*

Except as provided herein, the rights afforded in the Plan and the payments and Distributions to be made hereunder shall discharge all existing debts and Claims, of any kind, nature, or description whatsoever against or in the Debtors or any of their assets or properties to the fullest extent permitted by § 1141 of the Bankruptcy Code. Except as provided herein, upon the Effective Date, all existing Claims against the Debtors shall be discharged and terminated, and all Holders of Claims and Equity Interests shall be precluded and enjoined from asserting against the Reorganized Debtors, their respective successors or assignees, or any of their respective assets or properties, any other or further Claim or Equity Interest based upon any act or omission,

transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not such Holder has filed a proof of claim or proof of equity interest, and whether or not the facts or legal bases therefore were known or existed prior to the Effective Date. Upon the Effective Date, all such persons shall be forever precluded and enjoined, pursuant to § 524 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or Equity Interest in the Debtors or the Reorganized Debtors. Nothing in this section should be interpreted as a discharge of the Debtors' or Reorganized Debtors' rights or obligations under the Plan.

9.3 *Discharge of the Debtors.*

Pursuant to section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan or in the Confirmation Order, the Distributions and rights that are provided in the Plan will be in complete satisfaction, discharge, and release, of any and all Claims, whether known or unknown, against the Debtors or Reorganized Debtors or any of their assets or properties, regardless of whether the property has been distributed or retained pursuant to the Plan. Without limiting the generality of the foregoing, the Debtors or Reorganized Debtors will be discharged from any and all Claims and debts of the kind specified in sections 502(g), 502(h) of 502(i) of the Bankruptcy Code, in each case whether or not (a) a proof of claim is filed or deemed filed under section 501 of the Bankruptcy Code, (b) a Claim is allowed under section 502 of the Bankruptcy Code, or (c) the holder of such a Claim accepted the Plan. Except as otherwise provided in the Plan, the Confirmation Order shall be a judicial determination of discharge of all liabilities of the Debtors arising before the Effective Date. Under section 524 of the Bankruptcy Code, the discharge granted under this section shall avoid any judgment against the Debtors at any time obtained (to the extent it relates to a discharged Claim), and operates as an injunction against the prosecution of any action against the Debtors or the Estates (to the extent such action relates to a discharged claim). Nothing in this Article 9.3 should be interpreted as a discharge of the Debtors' or Reorganized Debtors' rights or obligations under the Plan.

9.4 *Term of Bankruptcy Injunctions or Stays.*

Unless otherwise provided herein, all injunctions or stays arising under or entered during the Chapter 11 Cases under § 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, other than injunctions issued pursuant to the Plan shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

9.5 *Injunction Against Interference with Plan of Reorganization.*

Upon the entry of the Confirmation Order, all Holders of Claims and Equity Interests and other parties in interest, along with their respective present or former employees, agents, officers, managers, directors, principals and Affiliates shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

9.6 *Autho rity to Effectuate the Plan.*

Upon the entry of the Confirmation Order by the Bankruptcy Court, all matters provided for under the Plan will be deemed to be authorized and approved without further approval from the Bankruptcy Court. Unless otherwise noted herein, Reorganized Debtors shall be authorized, without further application to or order of the Bankruptcy Court, to take whatever action is necessary to achieve Consummation and carry out the Plan.

9.7 *Post-Confirmat ion Status Report.*

Within 90 days of the entry of the Confirmation Order, the Reorganized Debtors will file a status report with the Bankruptcy Court explaining what progress has been made toward consummation of the confirmed Plan. The status report will be served on the United States Trustee, and those parties who have requested special notice post-confirmation. The Bankruptcy Court may schedule subsequent status conferences in its discretion.

9.8 *Rele ases.*

9.8.1 **Releases by the Debtors and their Estates.** Notwithstanding anything contained in the Plan to the contrary, as of the Effective Date, for the good and valuable consideration provided by each of the Released Parties, each of the Debtors, the Reorganized Debtors, their Estates, and each of their current and former Affiliates and Representatives shall be deemed to have provided a full, complete, unconditional and irrevocable release to the Released Parties (and each such Released Party so released shall be deemed released by the Debtors and their current and former Affiliates and Representatives, the Estates and the Creditors' Committee and its members but solely in their capacity as members of the Creditors' Committee and not in their individual capacities), from any and all Causes of Action and any other debts, obligations, rights, suits, damages, actions, remedies and liabilities whatsoever, whether accrued or unaccrued, whether known or unknown, foreseen or unforeseen, existing before the Effective Date, as of the Effective Date or arising thereafter, 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, the Debtors' in- or out-of-court restructuring efforts, any intercompany transactions, transactions pursuant and/or related to the Prepetition Line of Credit, the Prepetition Equipment Loan, the DIP Loan (and any payments or transfers in connection therewith), any preference or avoidance claims pursuant to sections 544, 547, 548, or 549 of the Bankruptcy Code, the formulation, preparation, dissemination, negotiation, or consummation of the Exit Facility, the settlements contemplated by the Plan, or any contract, instrument, release, or other agreement or document (including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement

contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion) created or entered into in connection with the Disclosure Statement, the Plan, the Exit Facility, the Chapter 11 Cases, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the issuance or distribution of Securities pursuant to the Plan (if any), or the distribution of property under the Plan, or any other related agreement, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date related or relating to the foregoing, including, without limitation, those that any of the Debtors would have been legally entitled to assert or that any holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for or on behalf of any of the Debtors or the Estates, including those in any way related to the Chapter 11 Cases or the Plan; provided, however, that the foregoing release shall not prohibit the Debtors, the Reorganized Debtors or the Estates from asserting any and all defenses and counterclaims in respect of any Disputed Claim asserted by any Released Parties; provided further that nothing contained in the foregoing provision or elsewhere in the Plan or Confirmation Order shall be construed as a release of any claims against any Released Party resulting from an act or omission determined by a final order of a court of competent jurisdiction to have constituted willful misconduct or gross negligence, provided that each such Released Party shall be entitled to rely upon the advice of counsel concerning its duties pursuant to, or in connection with, its actions or inactions.

9.8.2 **Releases by Holders of Claims.** Except as otherwise provided in this Article 9.8.2 of the Plan, as of the Effective Date, each Person, other than any of the Debtors, who votes to accept the Plan or accepts a Distribution under the Plan, or is deemed to accept the Plan, or abstains from voting on the Plan, shall be deemed to fully, completely, unconditionally, irrevocably, and forever release the Released Parties of and from any and all Claims and Causes of Action and any other debts, obligations, rights, suits, damages, actions, remedies and liabilities whatsoever, whether accrued or unaccrued, whether known or unknown, foreseen or unforeseen, existing before the Effective Date, as of the Effective Date or arising thereafter, 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 the day-to-day management of the Debtors, any decisions made or not made by the Debtors' board members, and/or the ownership or operation of the Debtors), Reorganized IT'SUGAR (including the formation thereof), the Debtors' in- or out-of-court restructuring efforts, any intercompany transactions, transactions pursuant and/or related to the Prepetition Line of Credit, the Prepetition Equipment Loan, the DIP Loan (and any payments or transfers in connection therewith), the formulation, preparation, dissemination, negotiation, or consummation of the Exit Facility, the settlements contemplated by the Plan, or any contract, instrument, release, or other agreement or document (including providing

any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion) created or entered into in connection with the Disclosure Statement, the Plan, the Exit Facility, the Chapter 11 Cases, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the administration and implementation of the Plan, including the issuance or distribution of Securities pursuant to the Plan (if any), or the distribution of property under the Plan, or any other related agreement, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date related or relating to the foregoing, whether direct, derivative, accrued or unaccrued, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, in law, equity or otherwise; provided that nothing contained in the foregoing provision or elsewhere in the Plan or Confirmation Order shall be construed as a release of any claims against any Released Party resulting from an act or omission determined by a final order of a court of competent jurisdiction to have constituted willful misconduct or gross negligence, provided that each such Released Party shall be entitled to rely upon the advice of counsel concerning its duties pursuant to, or in connection with, its actions or inactions; *provided, however* that such releases shall not affect any rights of any non-Debtor Person or Entity with respect to any written personal or cross-corporate guarantees of the Debtors' obligations executed by such non-Debtor Person or Entity to and in favor of any Party or Entity in connection with the Debtors' prepetition operations.

9.8.3 Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the releases set forth in this Article 9.8.3 pursuant to Bankruptcy Rule 9019 and its finding that they are: (a) in exchange for good and valuable consideration, representing a good faith settlement and compromise of the Claims and Causes of Action released by this Plan; (b) in the best interests of the Debtors and all holders of Claims; (c) fair, equitable and reasonable; (d) approved after due notice and opportunity for hearing; and (e) a bar to the assertion of any Claim or Cause of Action thereby released.

9.9 *Government Carve-Out.*

Except for the Claims described in Articles II and III or other Final Order of the Bankruptcy Court that are discharged and released under this Plan, nothing in the Plan or the Confirmation Order shall (i) effect a release of any other claim by the United States Government or any of its agencies or any state and local authority whatsoever against the Released Parties, including without limitation any claim arising under the Internal Revenue Code, securities laws, the environmental laws or any criminal laws of the United States or any state and local authority, (ii) enjoin the United States Government or any of its agencies or any state and local authority whatsoever from bringing any claim, suit, action or other proceedings against the Released Parties asserting any other liability, including without limitation any claim, suit or action arising under the Internal Revenue Code, securities laws, environmental laws or any criminal laws of the United

States or any state or local authority, and (iii) exculpate any of the Released Parties from any other liability to the United States Government or any of its agencies or any state and local authority whatsoever, including any liabilities arising under the Internal Revenue Code, securities laws, environmental laws or any criminal laws of the United States or any state and local authority.

ARTICLE X

RETENTION OF JURISDICTION

10.1 *Retention of Jurisdiction.*

Pursuant to §§ 1334 and 157 of title 28 of the United States Code, the Bankruptcy Court shall retain jurisdiction of all matters arising in, arising under, and related to the Chapter 11 Cases and the Plan, for the purposes of §§ 105(a) and 1142 of the Bankruptcy Code, and for, among other things, the following purposes:

a) to hear and to determine all controversies, disputes, and suits which may arise in connection with the execution, interpretation, implementation, consummation, or enforcement of the Plan, any documents related to the Plan, including but not limited to the Plan Documents, the Confirmation Order, or in connection with the enforcement of any remedies made available hereunder;

b) 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;

c) to enforce the terms of any settlement approved as a part of the Plan or otherwise in the Chapter 11 Cases;

d) to determine such other matters and for such other purposes as may be provided in the Confirmation Order;

e) to enter, enforce and implement 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 or motion to modify the Plan in accordance with § 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 recover all property of the Estates, wherever located, which jurisdiction shall not be limited;
- i) to hear and to determine any and all objections to or applications concerning the allowance of Claims or Equity Interests or the allowance, classification, priority, compromise, estimation, or payment of any Claim or Equity Interest;
- j) to hear and determine any objections to the allowance of Claims or Equity Interests arising prior to the Effective Date, whether filed, asserted, or made before or after the Effective Date, including, without express or implied limitation, to hear and determine any objections to the classification, priority, compromise, estimation, or payment of any Claim or Equity Interest in whole or in part;
- k) to liquidate any Disputed, contingent, or Unliquidated Claims or to estimate any Disputed Claims;
- l) to hear and determine all motions or applications pending on the Confirmation Date for the rejection, assumption, or assumption and assignment of unexpired leases and executory contracts to which any Debtor is a party or with respect to which any Debtor may be liable, and the allowance of Claims resulting therefrom or from the expiration or termination prior to the Confirmation Date of any executory contract or unexpired lease;
- m) to hear and determine any disputes relating to the Distributions to Holders of Allowed Claims as provided herein;
- n) to hear and determine all applications for allowances of compensation and reimbursement of expenses of Professional Claims and any other fees and expenses authorized to be paid or reimbursed under the Plan;
- o) to hear and determine any and all motions for the use, sale or lease of property pursuant to § 363 of the Bankruptcy Code and all issues related thereto, which transactions completed after the Confirmation Date shall be deemed to have been made pursuant to the Plan and therefore, exempt from recording and other taxes under § 1146 of the Bankruptcy Code;
- p) to hear and determine any and all adversary proceedings, applications, motions, and contested or litigated matters, including the Causes of Action, and any other litigated matter, as well as any remands from any appeals, that may be pending on the Effective Date or that, pursuant to the Plan, may be instituted by the Reorganized Debtors after the Effective Date, including, without express or implied limitation, any claims to avoid any preferences, fraudulent transfers, or other voidable transfers, or otherwise to recover assets for the benefit of the Reorganized Debtors, as successor to the Debtors' Estates;

q) to enable the Reorganized Debtor to prosecute any and all Causes of Action, including proceedings which may be brought to set aside Liens or encumbrances and to recover any transfers, assets, properties or damages to which the Reorganized Debtors may be entitled under applicable provisions of the Plan, the Bankruptcy Code or any federal, state or local laws, including controversies, disputes and conflicts between the Debtors and any other party, including but not limited to any objections to Claims, motions for subordination on any grounds and claims preserved hereunder and pursuant to the Confirmation Order;

r) to the extent that Bankruptcy Court approval is required, to consider and act on the compromise and settlement of any Claim or cause of action by or against any Debtors' Estate;

s) to hear and determine matters concerning state, local, and federal taxes, fines, penalties, or additions to taxes for which the Debtors, as Debtors or Debtors in Possession or the Reorganized Debtors, may be liable, directly or indirectly, in accordance with §§ 346, 505, and 1146 of the Bankruptcy Code (including any request for expedited determination under § 505(b)(2) of the Bankruptcy Code);

t) to enter, enforce and implement such orders (including orders entered prior to the Confirmation Date) as may be necessary or appropriate to execute, interpret, implement, consummate or enforce the terms and conditions of the Plan and the transactions contemplated thereunder;

u) to issue such orders in aid of execution of the Plan to the extent authorized or contemplated by § 1142 of the Bankruptcy Code;

v) to hear and to determine any other matter not inconsistent with the Bankruptcy Code and title 28 of the United States Code that may arise in connection with or related to the Plan; and

w) to enter a final decree closing any and all of the Chapter 11 Cases.

10.2 *Abstention and Other Courts.*

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of or relating to these Chapter 11 Cases, this section of the Plan 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. Nothing herein shall preclude the Reorganized Debtors from prosecuting a Cause of Action in a forum other than the Bankruptcy Court.

ARTICLE XI

INJUNCTION AND EXCULPATION PROVISIONS

11.1 *Injunction.*

As of the Effective Date, except as otherwise provided in the Plan or the Confirmation Order, all Persons that have held, currently hold or may hold a Claim, Equity Interest or other debt or liability that is treated pursuant to the terms of the Plan are enjoined from taking any of the following actions on account of any such Claims, Equity Interests, debts or liabilities, other than actions brought to enforce any rights or obligations under the Plan or against the Debtors, the Reorganized Debtors, the Estates, or Estate property: (i) commencing or continuing in any manner any action or other proceeding; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any lien or encumbrance; (iv) asserting a setoff of any kind against any debt, liability or obligation; and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order.

11.2 *Exculpation from Liability.*

The Plan Proponents, SHL, BBX Capital, Inc., the Creditors' Committee, and their officers, directors, members, managers, managing members and Professionals (acting in such capacity) shall neither have nor incur any liability whatsoever to any Person or Entity for any act taken or omitted to be taken in good faith in connection with or related to the formulation, preparation, dissemination, or confirmation of the Plan, the Disclosure Statement, any Plan Document, or any contract, instrument, release, or other agreement or document created or entered into, or any other act taken or omitted to be taken, in connection with the plan or the Bankruptcy Case; *provided, however*, that this exculpation from liability provision shall not be applicable to any liability found by a court of competent jurisdiction to have resulted from fraud or the willful misconduct or gross negligence of any such party. With respect to the Professionals, the foregoing exculpation from liability provision shall also include claims of professional negligence arising from the services provided by such Professionals during the Bankruptcy Case. The rights granted hereby are cumulative with (and not restrictive of) any and all rights, remedies, and benefits that the Plan Proponents, SHL, and BBX Capital, Inc., the Creditors' Committee, the Reorganized Debtors, and their respective agents have or obtain pursuant to any provision of the Code or other applicable law, or any agreement. This exculpation from liability provision is an integral part of the Plan and is essential to its implementation. Notwithstanding anything to the contrary contained herein, the provisions hereof shall not release or be deemed a release of any of the Causes of Action otherwise preserved by the Plan. The terms of this exculpation shall only apply to liability arising from actions taken on or prior to the Effective Date.

ANY BALLOT VOTED IN FAVOR OF THE PLAN SHALL ACT AS CONSENT BY THE CREDITOR CASTING SUCH BALLOT TO THIS EXCULPATION FROM LIABILITY PROVISION. MOREOVER, ANY CREDITOR WHO DOES NOT VOTE IN FAVOR OF

THE PLAN AND WHO HOLDS A CLAIM THAT MAY BE AFFECTED BY THIS EXCULPATION FROM LIABILITY PROVISION MUST FILE A CIVIL ACTION IN THE BANKRUPTCY COURT OR ANY OTHER COURT OF COMPETENT JURISDICTION ASSERTING SUCH LIABILITY WITHIN NINETY (90) DAYS FOLLOWING THE EFFECTIVE DATE OR SUCH CLAIMS SHALL BE FOREVER BARRED; PROVIDED THAT, THE FOREGOING TIME LIMITATION SHALL NOT APPLY TO CLAIMS OF FRAUD, GROSS NEGLIGENCE, OR WILLFUL OR GROSS MISCONDUCT IN THE FORMULATION, PREPARATION, DISSEMINATION, OR CONFIRMATION OF THE PLAN. THE TIME TO BRING SUCH CLAIMS SHALL BE GOVERNED BY THE APPLICABLE STATUTE OF LIMITATION.

Notwithstanding the foregoing, (i) the Reorganized Debtors shall remain obligated to make payments to Holders of Allowed Claims as required pursuant to the Plan, and (ii) the Debtors' members, managers or executive officers shall not be relieved or released from any personal contractual liability except as otherwise provided in the Plan.

11.3 *Police Power.*

No provision of this Article shall be deemed to effect, impair, or restrict any federal or state governmental unit from pursuing its police or regulatory enforcement action against any person or entity, other than to recover monetary claims against the Debtors for any act, omission, or event occurring prior to Confirmation Date to the extent such monetary claims are discharged pursuant to section 1141 of the Code.

ARTICLE XII

MISCELLANEOUS PROVISIONS

12.1 *Corporate Action.*

All actions contemplated to be performed by the Debtors or the Reorganized Debtors pursuant to the Plan, or any corporate action to be taken by or required of the Debtors or the Reorganized Debtors, shall, as of the Effective Date, be deemed to have occurred and be effective as provided herein, and shall be authorized and approved in all respects without any requirement for further action by the shareholders, partners, members or managers of the Debtors or the Reorganized Debtors. All Persons, the Reorganized Debtors, Governmental Units, title agencies, licensing agencies and offices of recordation may rely upon the authority vested in the Debtors' officers, or managers to act on the Debtors' behalf in order to effectuate the Plan and the transactions contemplated herein.

12.2 *Operations of the Debtors Between the Confirmation Date and the Effective Date.*

The Debtors shall continue to operate as debtors-in-possession during the period from the Confirmation Date through and until the Effective Date. The retention and employment of the Professionals retained by the Debtors shall terminate as of the Effective Date, provided, however, that the Debtors shall be deemed to exist, and their Professionals shall be retained, after such date only with respect to applications (if any) filed pursuant to sections 330 and 331 of the Bankruptcy Code.

12.3 *Continued Corporate Existence of the Reorganized Debtors After the Effective Date.*

Except as otherwise provided in the Plan, each of the Reorganized Debtors will exist after the Effective Date as a reorganized, separate corporate entity or other business entity form, with all of the powers of a corporation or other business form under applicable law in the jurisdiction in which such Debtor is incorporated or otherwise formed and pursuant to its certificate of incorporation and bylaws or other organizational documents in effect before the Effective Date, except to the extent such certificate of incorporation or bylaws (or other formation documents in the case of a limited liability company or limited partnership) are amended by the Plan or otherwise, and to the extent such documents are amended, such documents are deemed to be authorized pursuant hereto and without the need for any other approvals, authorizations, actions or consents.

Notwithstanding, each of the Debtors or Reorganized Debtors may change its status of incorporation or alter its corporate structure or business form (either through a merger, consolidation, restructuring, conversion, disposition, liquidation, dissolution, or otherwise) on or after the Effective Date as may be determined by the Debtors or Reorganized Debtors to be appropriate. In each case in which the surviving, resulting, or acquiring company in any such transaction is a successor to a Debtor or Reorganized Debtor, such successor company shall perform the obligations of the applicable Debtor or Reorganized Debtor under the Plan, if any.

12.4 *Effectuating Documents and Further Transactions.*

On or before the Effective Date, and without the need for any further order or authority, the Debtors shall file with the Bankruptcy Court or execute, as appropriate, such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtors, the Reorganized Debtors, and any other necessary party, as applicable, shall perform all actions reasonably contemplated regarding the implementation of the Plan. Each of the directors, officers, partners, members and managers, as the case may be, of the Debtors and the Reorganized Debtors is authorized, without the need for any further order or authority, (i) to execute, deliver, file, or record such contracts, instruments, releases, indentures, mortgages, and other agreements or documents and take such actions as may be necessary or appropriate to implement or consummate the Plan, and (ii) to undertake any other action on behalf of the Debtors to implement or consummate the Plan. Each of the matters provided for under the Plan involving the corporate structure of the Debtors or corporate action to be taken by or required

of any Debtor will, as of the Effective Date, be deemed to have occurred and be effective as provided herein, and shall be authorized, approved, and (to the extent taken before the Effective Date) ratified in all respects without any requirement of further action by any member, creditor or director of the respective Debtor.

12.5 *Nonconsensual Confirmation (“Cram Down”).*

The Plan Proponents intend to undertake to have the Bankruptcy Court confirm the Plan under section 1129(b) of the Bankruptcy Code as to any Classes that reject or are deemed to reject the Plan. This section shall constitute the Plan Proponents’ request, pursuant to section 1129(b)(1) of the Bankruptcy Code, that the Bankruptcy Court confirm the Plan notwithstanding the fact that the requirements of section 1129(a)(8) of the Bankruptcy Code may not be met.

12.6 *Notice of the Effective Date.*

On the Effective Date, the Debtors shall file a notice of the occurrence of the Effective Date with the Court.

12.7 *Separability.*

Notwithstanding anything to the contrary, the Plan constitutes a separate chapter 11 plan for each Debtor. Accordingly, and subject to the Plan Proponents’ consent, if the Bankruptcy Court does not confirm the Plan with respect to one or more Debtors, it may still confirm the Plan, if appropriate, with respect to any other Debtor that satisfies the confirmation requirements of § 1129 of the Bankruptcy Code.

12.8 *Revocation and Withdrawal of the Plan.*

The Plan Proponents reserve the right in their sole discretion to revoke or withdraw the Plan prior to the entry of the Confirmation Order, and to file subsequent chapter 11 plans. If the Plan Proponents revoke or withdraw the Plan or if entry of the Confirmation Order or the Effective Date does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan, assumption or rejection of executory contracts effected by the Plan, and any document or agreement executed pursuant hereto shall be deemed null and void; and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, such Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtors or any other Entity; or (c) constitute an admission of any sort by the Debtors or any other Entity.

12.9 *Modification of the Plan.*

The Plan may be altered, amended or modified by the Plan Proponents, before or after the Confirmation Date, as provided in § 1127 of the Bankruptcy Code with the consent of the

Creditors' Committee; provided, however, that no such alterations, amendments or modifications that are material shall be made without the consent of the Plan Proponents; provided further, however that the Plan Proponents may, with the approval of the Bankruptcy Court and without notice to Holders of Claims and Equity Interests, correct any nonmaterial defect, omission, or inconsistency herein in such manner and to such extent as may be necessary or desirable. A Holder of an Allowed Claim that has accepted the Plan shall be deemed to have accepted the Plan as modified if the proposed modification does not materially and adversely change the treatment of the Claim of such Holder.

On or before substantial consummation of the Plan, the Plan Proponents may issue, execute, deliver, or file with the Bankruptcy Court, or record any agreements and other documents, and take any action as may be necessary or appropriate to effectuate, consummate and further evidence the terms and conditions of the Plan.

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 Plan Proponents, 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, unless agreed otherwise by the Plan Proponents, 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.

12.11 *Setoff and Recoupment.*

The Debtors or Reorganized Debtors, as applicable, may setoff against, or recoup from, any Claim and the Distributions to be made pursuant to the Plan in respect thereof, any Claims or defenses of any nature whatsoever that any of the Debtors or Reorganized Debtors, as applicable, or the Estates may have against the holder of such Claim, but neither the failure to do so nor the allowance of any Claim under the Plan shall constitute a waiver or release by the Debtors or Reorganized Debtors, as applicable, or the Estates of any right of setoff or recoupment that any of them may have against the holder of any Claim. Any such setoff or recoupment may be challenged in Bankruptcy Court. Notwithstanding any provision in the Plan to the contrary, nothing herein shall bar any creditor from asserting its setoff or recoupment rights to the extent permitted under section 553 or any other provision of the Bankruptcy Code; provided, however, that such setoff or

recoupment rights are timely asserted; provided further that all rights of the Debtors or Reorganized Debtors, as applicable, and the Estates with respect thereto are reserved.

12.12 *Governing Law.*

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), the laws of the State of Florida, without giving effect to the conflicts of laws principles thereof, shall govern the construction of the Plan and any agreements, documents, and instruments executed in connection with the Plan, except as otherwise expressly provided in such instruments, agreements or documents.

12.13 *Plan Documents.*

All Plan Documents, including, but not limited to the exhibits and schedules to the Plan, are incorporated into and are a part of the Plan as set forth in full herein. From and after the Effective Date, the authority to amend, modify, or supplement the Plan and Exhibits to the Plan shall be as provided in such Plan Supplement, Exhibits to the Plan Supplement and Exhibits to the Plan and their respective attachments.

12.14 *Removal of Debtors*

At the sole discretion of the Plan Proponents, a Debtor may be removed from the Plan. In such event, the Plan will omit any treatment of the assets and liabilities of such Debtor, unless otherwise agreed. The removal of any Debtor from the Plan will not affect the Plan with respect to any other Debtor.

12.15 *Special Provision Governing Unimpaired Claims*

Except as otherwise provided in the Plan, nothing under the Plan shall affect the Debtors' rights with respect to any Unimpaired Claim, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired.

12.16 *Transmittal of Distributions to Parties Entitled Thereto.*

All Distributions by check shall be deemed made at the time such check is duly deposited in the United States mail, postage prepaid. All Distributions by wire transfer shall be deemed made as of the date the Federal Reserve or other wire transfer is made. Except as otherwise agreed with the Holder of an Allowed Claim in respect thereof or as provided in this Plan, any property to be distributed on account of an Allowed Claim shall be distributed by mail upon compliance by the Holder with the provisions of this Plan to (i) its address set forth in its proof of claim, (ii) the latest mailing address filed for the Holder of an Allowed Claim entitled to a distribution, (iii) the latest mailing address filed for a Holder of a filed power of attorney designated by the Holder of such Allowed Claim to receive distributions, (iv) the latest mailing address filed for the Holder's

transferee as identified in a filed notice served on the Debtors pursuant to Bankruptcy Rule 3001(e), or (v) if no such mailing address has been filed, the mailing address reflected on the Schedules or in the Debtors' books and records.

12.17 *Expedited Determination of Post-Petition Taxes.*

The Debtors and the Reorganized Debtors are authorized (but not required) to request an expedited determination of taxes under § 505(b) of the Bankruptcy Code for all tax returns filed for, or on behalf of, the Debtors for all taxable periods (or portions thereof) from the Petition Date through (and including) the Effective Date.

12.18 *Headings.*

The headings used in the Plan are inserted for convenience only and neither constitute a portion of the Plan nor in any manner affect the construction of the provisions of the Plan.

12.19 *Bankruptcy Rule 9019 Request; Impact.*

Pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the Distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims and Equity Interests. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all Claims and Equity Interests, as well as a finding by the Bankruptcy Court that such compromises or settlements are fair, equitable, reasonable and in the best interests of the Debtors, the Estates and holders of Claims and Equity Interests.

12.20 *Retention of Causes of Action.*

Pursuant to the Bankruptcy Code, a debtor may seek to recover, through adversary proceedings in the bankruptcy court, certain transfers of the debtor's property, including payments of cash, made while the debtor was insolvent during the ninety (90) days immediately prior to the commencement of the bankruptcy case (or, in the case of a transfer to, or on behalf of, an "insider," one year prior to the commencement of the bankruptcy case) in respect of antecedent debts to the extent the transferee received more than it would have received on accounts of such pre-existing debt had the debtor been liquidated under chapter 7 of the Bankruptcy Code. Such adversary proceedings typically arise under §§ 542, 543, 544, 547 through 551, and/or 553 of the Bankruptcy Code.

However, there are certain defenses to claims seeking to avoid and recover transfers made by a debtor described above. For example, transfers made in the ordinary course of the debtor's and the transferee's business according to ordinary business terms are not recoverable. Furthermore, if the transferee extended credit contemporaneously with or subsequent to the

payment, and prior to the commencement of the bankruptcy case, for which the defendant was not repaid, such extension constitutes an offset against an otherwise recoverable transfer of property. If a payment is recovered by a debtor, the defendant has a general unsecured claim against the debtor to the extent of the recovery.

During the ninety (90) day period immediately preceding the Petition Date, while the Debtors were presumed to be insolvent, the Debtors made various payments and other transfers of their property to creditors on account of antecedent debts. In addition, during the one-year period before the Petition Date, the Debtors may have made certain transfers of their property to, or for the benefit of, certain "insiders." Some of the aforementioned payments or transfers may be subject to adversary proceedings seeking to avoid and recover the payments or transfers by the Debtor's bankruptcy Estate pursuant to §§ 329, 542, 543, 544, 547 through 551, and/or 553 of the Bankruptcy Code.

The Reorganized Debtors will hold all Claims, Causes of Action, and other legal and equitable rights that the Debtors had (or had power to assert) immediately prior to confirmation of the Plan, including without limitation: (i) a cause of action against the Mashantucket Pequot Nation with respect to a potential refund for overpayment of taxes, (ii) a cause of action against Phoenix Diversified Group, Inc. ("**Phoenix**") related to services provided and liens filed against the Debtors' estates by certain subcontractors which should have been paid by Phoenix, and for which the Debtors had paid Phoenix for such work completed at the IT'SUGAR store located in the American Dream Mall in East Rutherford, New Jersey; and (iii) actions for the avoidance and recovery of Estate property under Bankruptcy Code sections 329 and 550, or transfers avoidable under sections 542, 543, 544, 547 through 551, and/or 553 of the Bankruptcy Code (other than the Waived Avoidance Actions). The Plan preserves all of the Debtors' rights in respect of all Claims and Causes of Action (other than the Waived Avoidance Actions), transfers the Debtors' rights in respect of such Claims and Causes of Action to the Reorganized Debtors, and empowers the Reorganized Debtors to investigate, prosecute, collect, and/or settle the Claims and Causes of Action as the Reorganized Debtors, in their business judgment, may deem appropriate.

The Debtors' Schedules of Assets and Liabilities, as amended, identify creditors whose Claims are disputed, and the Debtors' Statement of Financial Affairs identifies the parties (known to the Debtors as of the Petition Date) who received payments and transfers from the Debtors, which payments and transfers may be avoidable under the Bankruptcy Code. THE PLAN DOES NOT, AND IS NOT INTENDED TO, RELEASE ANY SUCH AFOREMENTIONED AVOIDANCE ACTIONS, CAUSES OF ACTION, OR OBJECTIONS TO PROOFS OF CLAIM (OTHER THAN THE WAIVED AVOIDANCE ACTIONS). ENTRY OF THE CONFIRMATION ORDER SHALL NOT CONSTITUTE A WAIVER OR RELEASE BY THE DEBTORS OR THEIR ESTATES OF ANY AVOIDANCE ACTION, CAUSE OF ACTION, OR OBJECTION TO PROOF OF CLAIM, EXCEPT AS EXPRESSLY PROVIDED FOR BY THE PLAN OR BY FINAL ORDER OF THE BANKRUPTCY COURT.

Creditors should understand that legal rights, Claims, and Causes of Action the Debtors may have against them, if any exist, are retained under the Plan for prosecution unless a specific order of the court authorizes the Debtors to release such legal rights, Claims, and Causes of Action. AS SUCH, CREDITORS ARE CAUTIONED NOT TO RELY ON (I) THE ABSENCE OF THE LISTING OF ANY LEGAL RIGHT, CLAIMS, OR RIGHT OF ACTION AGAINST A PARTICULAR CREDITOR IN THE DISCLOSURE STATEMENT, PLAN, SCHEDULES OF ASSETS AND LIABILITIES, OR STATEMENT OF FINANCIAL AFFAIRS OR (II) THE ABSENCE OF LITIGATION OR DEMAND PRIOR TO THE EFFECTIVE DATE OF THE PLAN AS ANY INDICATION THAT THE DEBTOR S DO NOT POSSESS OR DO NOT INTEND TO PROSECUTE A PARTICULAR RIGHT, CLAIM, OR RIGHT OF ACTION IF A PARTICULAR CREDITOR VOTES TO ACCEPT THE PLAN. IT IS THE EXPRESSED INTENTION OF THE PLAN TO PRESERVE ALL RIGHTS, CLAIMS, AND CAUSES OF ACTION OF THE DEBTORS, WHETHER NOW KNOWN OR UNKNOWN, FOR THE BENEFIT OF THE DEBTORS' ESTATE AND ITS CREDITORS.

IN REVIEWING THIS DISCLOSURE STATEMENT AND THE PLAN, AND IN DETERMINING WHETHER TO VOTE IN FAVOR OF OR AGAINST THE PLAN, CREDITORS AND INTEREST HOLDERS (INCLUDING PARTIES THAT RECEIVED PAYMENTS FROM THE DEBTOR S WITHIN NINETY (90) DAYS PRIOR TO THE PETITION DATE) SHOULD CONSIDER THAT A CAUSE OF ACTION MAY EXIST AGAINST THEM, THAT THE PLAN PRESERVES ALL AVOIDANCE ACTIONS, CAUSES OF ACTION, AND OBJECTIONS TO CLAIMS, AND THAT THE PLAN AUTHORIZES THE REORGANIZED DEBTORS TO PROSECUTE THE SAME.

12.21 *Extension of the Effective Date.*

Through a notice with the Court, the Effective Date may be extended by the mutual consent of the Plan Proponents.

12.22 *Notices.*

Any notice required or permitted to be provided under the Plan shall be in writing and served by either (a) certified mail, return receipt requested, postage prepaid, (b) hand delivery or (c) prepaid overnight delivery service and addressed as follows:

Counsel for the Debtors:

Meland Budwick, P.A.
Attn : Joshua W. Dobin, Esq.
3200 Southeast Financial Center
200 South Biscayne Blvd.
Miami, Florida 33131

Telephone: 305.358.6363
Email: jdobin@melandbudwick.com

Debtors:

IT'SUGAR, LLC, *et al.*
Attn: Jeff Rubin
4600 Conference Way N
Ste. 100
Boca Raton, FL 33431
Telephone: 954.519.5101
Email: jeff@itsugar.com

United States Trustee:

Steven D. Schneiderman, Esq.
Trial Attorney
United States Department of Justice
Office of the United States Trustee
51 S.W. First Ave., Suite 1204
Miami, Florida 33130
Telephone: 305.536.7408
Email: Steven.D.Schneiderman@usdoj.gov

12.23 *Manner of Payment.*

Any payment of Cash made under this Plan may be made either by check drawn on an account of the Reorganized Debtors, by wire transfer, or by automated clearing house transfer from a domestic bank, at the option of the Reorganized Debtors.

12.24 *Vesting of Assets in the Reorganized Debtors.*

Except as otherwise provided in the Plan or the other Plan Documents, pursuant to sections 1123(a)(5), 1123(b)(3) and 1141(b) and (c) of the Bankruptcy Code, on the Effective Date, all property of each Estate shall vest in each respective Reorganized Debtor free and clear of all Liens, Claims, charges, or other encumbrances (except for liens and security interests securing the Exit Facility and/or granted under the Exit Facility Documents). As of the Effective Date, the Reorganized Debtors may operate their businesses and use, acquire, and dispose of their property, free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, other than those restrictions expressly imposed by the Plan and the Confirmation Order as well as the documents and instruments executed and delivered in connection therewith, including without limitation, the Exit Facility Documents. All privileges with respect to the property of the Estates, including the

attorney/client privilege, to which the Debtors are entitled shall automatically vest in, and may be asserted by or waived on behalf of, the Reorganized Debtors.

12.25 *Distributions.*

The Distributions will be made in accordance with the Plan by the Debtors, the Reorganized Debtors, and/or the Distribution Agent.

12.26 *Surrender and Cancellation of Notes, Instruments, Certificates and Other Documents Evidencing Claims.*

On the Effective Date, except to the extent otherwise provided in the Plan, all notes, instruments, certificates, and other documents evidencing Claims will be cancelled and the obligations of the Debtors discharged in accordance with section 1141(d)(1) of the Bankruptcy Code.

12.27 *Post-Confirmation Accounts.*

The Debtors may establish one or more interest-bearing accounts as they determine may be necessary or appropriate to effectuate the provisions of the Plan consistent with the section 345 of the Bankruptcy Code and any orders of the Bankruptcy Court.

12.28 *Directors, Officers, Members & Managers of the Reorganized Debtors.*

Subject to any requirement of Bankruptcy Court approval pursuant to section 1129(a)(5) of the Bankruptcy Code, as of the Effective Date, the directors, officers, partners, members and managers, as the case may be, of each of the Debtors immediately prior to the Effective Date shall be deemed to be the directors, officers, partners, members and managers, as the case may be, of each of the Reorganized Debtors without any further action by any party. Pursuant to section 1129(a)(5) of the Bankruptcy Code, the Debtors have disclosed, in the Disclosure Statement or the Plan Supplement, the identity and affiliation of any individuals who will serve as the initial partners, members and managers of the Reorganized Debtors.

On and after the Effective Date, the operations of the Reorganized Debtors shall continue to be the responsibility of their directors, officers, partners, members and managers, as the case may be, or as set forth in the applicable existing organizational or operational documents of each of the Debtors. Each director, officer, partner, member and manager, as applicable, of the Reorganized Debtors shall serve from and after the Effective Date until his or her successor is duly elected or appointed and qualified or until his or her earlier death, resignation or removal in accordance with the applicable articles or certificate of incorporation, operating agreement or other organizational documents of the Reorganized Debtors.

From and after the Confirmation Date, the directors, officers, partners, members and managers, as applicable, of the Debtors and the Reorganized Debtors, as the case may be, shall

have all powers accorded by law to put into effect and carry out the Plan and the Confirmation Order.

12.29 *Pres ervation of Causes of Action.*

Except as provided in this Plan, including in Article 9.8 (“Releases”) and Section 5.9 (“Waived Avoidance Actions”), the Debtors (prior to the Effective Date) and the Reorganized Debtors (on and after the Effective Date) shall retain all Causes of Action.

On the Effective Date, the Causes of Action shall be preserved and vested in the Reorganized Debtors.

The Debtors are currently not in a position to express an opinion on the merits of any of the Causes of Action or on the recoverability of any amounts as a result of any such Causes of Action. **FOR PURPOSES OF PROVIDING NOTICE, THE DEBTORS STATE THAT ANY PARTY IN INTEREST THAT ENGAGED IN BUSINESS OR OTHER TRANSACTIONS WITH ANY OF THE DEBTORS PREPETITION OR THAT RECEIVED PAYMENTS FROM ANY OF THE DEBTORS PREPETITION MAY BE SUBJECT TO LITIGATION TO THE EXTENT THAT APPLICABLE BANKRUPTCY OR NON -BANKRUPTCY LAW SUPPORTS SUCH LITIGATION ; PROVIDED, HOWEVER, THE DEBTORS AND REORGANIZED DEBTORS, AS APPLICABLE, HAVE EXPLICITLY WAIVED ANY RIGHT TO PURSUE AVOIDANCE ACTIONS AGAINST THE HOLDERS OF CLAIMS IN CLASS 4 (“GENERAL UNSECURED CLAIMS”).** Unless otherwise covered by insurance, the Reorganized Debtors will fund the costs and expenses (including legal fees) to pursue the Causes of Action.

No Creditor or other party should vote for the Plan or otherwise rely on the Confirmation of the Plan or the entry of the Confirmation Order in order to obtain, or on the belief that it will obtain, any defense to any Cause of Action. No Creditor or other party should act or refrain from acting on the belief that it will obtain any defense to any Cause of Action. **ADDITIONALLY, THE PLAN DOES NOT, AND IS NOT INTENDED TO, RELEASE ANY CAUSE OF ACTION OR OBJECTIONS TO CLAIMS -- OTHER THAN TO THE WAIVED AVOIDANCE ACTIONS , AND ALL SUCH RIGHTS ARE SPECIFICALLY RESERVED IN FAVOR OF THE DEBTORS AND THE REORGANIZED DEBTORS.** Creditors are advised that legal rights, claims and rights of action the Debtors may have against them, if they exist, are retained under the Plan for prosecution unless a specific order of the Bankruptcy Court authorizes the Debtors to release such claims. As such, Creditors are cautioned not to rely on (i) the absence of the listing of any legal right, claim or right of action against a particular Creditor in the Disclosure Statement, the Plan, or the Schedules, or (ii) the absence of litigation or demand prior to the Effective Date of the Plan as any indication that the Debtors or Reorganized Debtors do not possess or do not intend to prosecute a particular claim or Cause of Action if a particular Creditor votes to accept the Plan. It is the expressed intention of the Plan to preserve rights, objections to Claims, and rights of action of the Debtors, whether now known or unknown, for the benefit of Reorganized Debtors. A Cause of Action shall not, under any circumstances, be waived

as a result of the failure of the Debtors to describe such Cause of Action with specificity in the Plan or in the Disclosure Statement; nor shall the Reorganized Debtors, as a result of such failure, be estopped or precluded under any theory from pursuing any such Cause of Action. Nothing in the Plan operates as a release of any Cause of Action.

The Debtors do not presently know the full extent of the Causes of Action and, for purposes of voting on the Plan, all Creditors are advised that the Reorganized Debtors will have substantially the same rights that a Chapter 7 trustee would have with respect to the Causes of Action. Accordingly, neither a vote to accept the Plan by any Creditor nor the entry of the Confirmation Order will act as a release, waiver, bar or estoppel of any Cause of Action against such Creditor or any other Person or Entity, unless such Creditor, Person or Entity is specifically identified by name as a Released Party in the Plan, in the Confirmation Order, or in any other Final Order of the Bankruptcy Court. Confirmation of the Plan and entry of the Confirmation Order is not intended to and shall not be deemed to have any res judicata or collateral estoppel or other preclusive effect that would precede, preclude, or inhibit prosecution of such Cause of Action following Confirmation of the Plan.

The Estates shall remain open, even if the Bankruptcy Cases shall have been closed, as to any and all Causes of Action until such time as the Causes of Action have been fully administered and the recoveries therefrom have been received by Reorganized Debtors.

12.30 *Prosecution and Settlement of Causes of Action.*

The Debtors or Reorganized Debtors, as applicable, (a) may commence or continue in any appropriate court, tribunal or any other appropriate setting (e.g., American Arbitration Association or other arbitration association) any suit or other proceeding for the enforcement of any Cause of Action which the Debtors had or had power to assert immediately prior to the Effective Date, and (b) may settle or adjust such Cause of Action; provided, however, that from and after the Effective Date, the Reorganized Debtors shall be authorized to compromise and settle any Cause of Action or objection to a Claim upon approval by the Bankruptcy Court after notice and a hearing.

12.31 *Automatic Stay.*

The automatic stay provided for under section 362 of the Bankruptcy Code shall remain in effect in the Chapter 11 Cases until the Effective Date.

12.32 *Creditors' Committee.*

Upon the Effective Date, the Creditors' Committee shall dissolve, and their members shall be released and discharged from all further authority, duties, responsibilities and obligations relating to and arising from the Chapter 11 Cases. The retention and employment of the Professionals retained by the Creditors' Committee shall terminate as of the Effective Date, provided, however, that the Creditors' Committee shall exist, and their Professionals shall be retained, after such date with respect to applications (if any) filed pursuant to sections 330, 331

and 1103 of the Bankruptcy Code and motions seeking the enforcement of the provisions of the Plan or the Confirmation Order.

12.33 *Successors and Assigns.*

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

12.34 *Reservation of Rights.*

The Plan shall have no force or effect unless and until the Effective Date occurs. Neither the filing of the Plan, any statement or provision contained herein, nor the taking of any action by a Debtor, a Plan Proponent, or any Entity with respect to the Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) any Debtor with respect to the holders of Claims or Equity Interests or other parties-in-interest; or (2) any holder of a Claim or other party-in-interest prior to the Effective Date.

12.35. *Section 1125(e) Good Faith Compliance.*

Confirmation of the Plan shall act as a finding by the Court that the Plan Proponents and each of their respective Representatives have acted in “good faith” under section 1125(e) of the Bankruptcy Code.

12.36 *Further Assurances.*

The Plan Proponents, all holders of Claims receiving Distributions hereunder and all other parties in interest shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan or the Confirmation Order.

12.37 *No Stay of Confirmation Order.*

The Plan Proponents shall request that the Court waive stay of enforcement of the Confirmation Order otherwise applicable, including pursuant to Federal Rules of Bankruptcy Procedure 3020(e), 6004(h) and 7062.

[Remainder of page intentionally left blank. Next page is signature page.]

Dated: April ___, 2021

Respectfully Submitted,

IT'SUGAR FL I, LLC

By:/s/ Jeff Rubin
Name: Jeff Rubin
Title: Authorized Representative

IT'SUGAR Atlantic City, LLC

By:/s/ Jeff Rubin
Name: Jeff Rubin
Title: Authorized Representative

IT'SUGAR, LLC

By:/s/ Jeff Rubin
Name: Jeff Rubin
Title: Authorized Representative

IT'SUGAR FLGC, LLC

By:/s/ Jeff Rubin
Name: Jeff Rubin
Title: Authorized Representative

E-Filed by:

MELAND BUDWICK, P.A.

s/ Joshua W. Dobin, Esq.
Michael S. Budwick, Esq.
Fla. Bar No.: 938777
mbudwick@melandbudwick.com
Joshua W. Dobin, Esq.
Fla. Bar. No.: 93696
jdobin@melandbudwick.com
James C. Moon, Esq.
Fla. Bar No.: 938211
jmoon@melandbudwick.com
3200 Southeast Financial Center
200 S. Biscayne Blvd.
Miami, FL 33131

Attorneys for Debtors and Debtors-in-Possession

UNAUDITED PRO FORMA CONSOLIDATED FINANCIAL INFORMATION FOR BBX CAPITAL, INC.

The unaudited pro forma consolidated financial statements set forth below have been derived from BBX Capital, Inc.'s ("BBX Capital" or the "Company") historical annual and interim financial statements, including its unaudited statement of financial condition as of March 31, 2021 and its unaudited statement of operations and comprehensive income for the three months ended March 31, 2021, which are included in the Company's Quarterly Report on Form 10-Q for the three months ended March 31, 2021 filed with the SEC, and its audited statement of operations for the year ended December 31, 2020, which is included in the Company's Annual Report on Form 10-K for the year ended December 31, 2020 filed with the SEC.

BBX Capital, through its wholly-owned subsidiary, BBX Sweet Holdings, LLC, owns approximately 93% of the equity interests in It'Sugar, LLC (collectively with its subsidiaries, "IT'SUGAR"), a specialty candy retailer whose products include bulk candy, candy in giant packaging, and licensed and novelty items. Prior to September 22, 2020, the Company consolidated the financial statements of IT'SUGAR as a result of its 93% ownership of IT'SUGAR. However, on September 22, 2020, IT'SUGAR filed voluntary petitions to reorganize under Chapter 11 of Title 11 of the U.S. Code (the "Bankruptcy Code") in the U.S. Bankruptcy Court for the Southern District of Florida (the "Bankruptcy Court") (the cases commenced by such filings, the "Chapter 11 Cases"), and the Company deconsolidated IT'SUGAR as a result of the filings, the uncertainties surrounding the nature, timing, and specifics of the bankruptcy proceedings, and the Company's resulting loss of control and significant influence over IT'SUGAR. Following the deconsolidation of IT'SUGAR, the Company accounted for its investment in IT'SUGAR at cost less impairment, if any.

Following approval of the proposed plan by IT'SUGAR's unsecured creditors, the Bankruptcy Court entered an order (the "Confirmation Order") on June 16, 2021 confirming the plan of reorganization filed by IT'SUGAR, as modified by the Confirmation Order (the "Plan"). The Plan became effective on June 17, 2021 (the "Effective Date"). Pursuant to the terms of the Plan, the Company's equity interests in IT'SUGAR were reverted on the Effective Date, and all organizational documents of IT'SUGAR were assumed, ratified, and reinstated. As a result of the confirmation and effectiveness of the Plan and the reversion of its equity interests in IT'SUGAR, the Company was deemed to have reacquired a controlling financial interest in IT'SUGAR and will consolidate the results of IT'SUGAR into its consolidated financial statements from and after the date that it reacquired control of IT'SUGAR. The Company will account for the consolidation of IT'SUGAR under the acquisition method of accounting, which requires that the assets acquired and liabilities assumed associated with an acquiree be recognized at their fair values at the acquisition date. The Company will be required to remeasure the carrying value of its equity interests in IT'SUGAR at fair value as of the acquisition date, with the remeasurement adjustment recognized in the Company's statement of operations, and recognize goodwill (or a bargain purchase gain, if applicable) based on the difference between (i) the fair values of IT'SUGAR's identifiable assets and liabilities at the acquisition date and (ii) the fair values of the Company's existing interests in IT'SUGAR and the noncontrolling interests in IT'SUGAR.

The unaudited pro forma consolidated statements of operations and comprehensive income for the three months ended March 31, 2021 and the year ended December 31, 2020 give effect to BBX Capital reacquiring control of IT'SUGAR as if IT'SUGAR emerged from the Chapter 11 Cases pursuant to the Plan and BBX Capital applied the acquisition method of accounting for the emergence on January 1, 2020. The unaudited pro forma statement of financial condition as of March 31, 2021 gives effect to BBX Capital reacquiring control of IT'SUGAR as if IT'SUGAR emerged from the Chapter 11 Cases pursuant to the Plan and BBX Capital applied the acquisition method of accounting for the emergence on March 31, 2021. Further, as the terms of lease amendments executed by IT'SUGAR and the landlords of its retail locations during the Chapter 11 Cases were an integral component of the Plan and IT'SUGAR's emergence from bankruptcy, the unaudited pro forma consolidated statements of operations and comprehensive income for the three months ended March 31, 2021 and the year ended December 31, 2020 give effect to the terms of IT'SUGAR's lease agreements upon its emergence from bankruptcy pursuant to the Plan as if such terms were in place on January 1, 2020, while the unaudited pro forma statement of financial condition as of March 31, 2021 gives effect to the terms of such lease agreements as if such terms were in place on March 31, 2021.

The "Transaction Accounting Adjustments" columns in the accompanying unaudited pro forma consolidated financial statements include adjustments necessary to account for IT'SUGAR's emergence from the Chapter 11 Cases pursuant to the Plan and BBX Capital's resulting consolidation of IT'SUGAR, including the recognition of the assets acquired

and liabilities assumed associated with IT'SUGAR at their estimated fair values. In addition, the "Transaction Accounting Adjustments" column in the unaudited pro forma statement of financial condition includes reorganization adjustments to account for the impact of the Plan on pre-petition liabilities included in IT'SUGAR's historical statement of financial condition as of March 31, 2021, including amounts that will be paid to IT'SUGAR's creditors pursuant to the Plan and the reversal of previously accrued liabilities that are no longer outstanding as a result of the Plan.

The "Other Transaction Accounting Adjustments" columns in the accompanying unaudited pro forma consolidated financial statements include adjustments related to (i) the elimination of intercompany balances and transactions between BBX Capital and IT'SUGAR as a result of BBX Capital consolidating IT'SUGAR and (ii) the recognition of costs related to the bankruptcy, including legal and advisory fees. In addition, the "Other Transaction Accounting Adjustments" column in the unaudited pro forma statements of operations and comprehensive income include (i) adjustments to remove the operating results of 17 retail locations that were closed by IT'SUGAR during the Chapter 11 Cases and (ii) adjustments necessary to account for IT'SUGAR's lease agreements as if the terms of such agreements upon its emergence from bankruptcy were in place as of January 1, 2020.

In management's opinion, the unaudited pro forma consolidated financial statements reflect adjustments necessary to present fairly the Company's pro forma results and financial position as of and for the periods indicated. The Transaction Accounting Adjustments and Other Transaction Accounting Adjustments reflected in the unaudited pro forma consolidated financial statements are based on currently available information and assumptions management believes are, under the circumstances and given the information available at this time, reasonable and directly attributable to BBX Capital's consolidation of IT'SUGAR upon IT'SUGAR's emergence from bankruptcy pursuant to the Plan. In addition, as described in further detail below, BBX Capital's accounting for the consolidation of IT'SUGAR, including, but not limited to, the estimated fair value of BBX Capital's existing interests in IT'SUGAR as of the acquisition date and the estimated fair values of the assets acquired and liabilities assumed associated with IT'SUGAR, is preliminary and subject to change, as management is in the process of completing its valuation analyses and its accounting for the consolidation of IT'SUGAR is not complete as of the date of this report.

The unaudited pro forma consolidated financial statements are for illustrative and informational purposes only and are not intended to represent what BBX Capital's results of operations or financial position would have been had the consolidation of IT'SUGAR and related transactions occurred on the dates assumed. The unaudited pro forma consolidated financial statements also should not be considered indicative of BBX Capital's future results of operations or financial position following the consolidation of IT'SUGAR.

The unaudited pro forma consolidated financial statements have been derived from and should be read in conjunction with BBX Capital's historical financial statements included in its Annual Report on Form 10-K for the year ended December 31, 2020 and its Quarterly Report on Form 10-Q for the three months ended March 31, 2021. The amounts included in the "IT'SUGAR, LLC Historical" columns in the pro forma consolidated financial statements reflect the historical financial statements of IT'SUGAR for the applicable periods presented as derived from the historical accounting records of IT'SUGAR.

BBX Capital, Inc.
Unaudited Pro Forma Consolidated Statement of Financial Condition
As of March 31, 2021
(In thousands, except share data)

	BBX Capital, Inc. Historical	IT'SUGAR, LLC Historical	Transaction Accounting Adjustments	Other Transaction Accounting Adjustments	Pro Forma
ASSETS					
Cash and cash equivalents	87,807	7,034	(4,719)(1)	200 (5)	90,322
Restricted cash	350	20	—	—	370
Trade accounts receivable, net	29,489	504	—	—	29,993
Trade inventory	31,724	4,592	—	—	36,316
Real estate	47,243	—	—	—	47,243
Investments in and advances to unconsolidated real estate joint ventures	60,402	—	—	—	60,402
Investment in and advances to IT'SUGAR, LLC	23,209	—	(12,700)(2)	(10,509)(5)	-
Note receivable from Bluegreen Vacations Holding Corporation	75,000	—	—	—	75,000
Property and equipment, net	7,856	20,583	(1,332)(3)	—	27,107
Goodwill	6,936	14,864	(1,122)(3)	—	20,678
Intangible assets, net	21,999	3,067	6,583 (3)	—	31,649
Operating lease assets	13,825	55,793	5,445 (3)	—	75,063
Deferred tax asset, net	7,470	—	(4,474)(4)	—	2,996
Other assets	28,641	1,130	—	(14)(5)	29,757
Total assets	441,951	107,587	(12,319)	(10,323)	526,896
LIABILITIES AND EQUITY					
Liabilities:					
Accounts payable	13,504	2,116	—	(146)(5)	15,474
Accrued expenses	30,524	16,526	(11,424)(1)	(86)(5)	35,540
Other liabilities	5,649	209	—	—	5,858
Operating lease liabilities	13,643	68,726	(4,129)(3)	—	78,240
Notes payable and other borrowings	68,947	10,091	—	(10,091)(5)	68,947
Total liabilities	132,267	97,668	(15,553)	(10,323)	204,059
Equity:					
Redeemable noncontrolling interest	—	—	(269)(3)	—	(269)
Preferred stock of \$.01 par value; authorized 10,000,000 shares	—	—	—	—	-
Class A Common Stock of \$.01 par value; authorized 30,000,000 shares; issued and outstanding 15,285,194	153	—	—	—	153
Class B Common Stock of \$.01 par value; authorized 4,000,000 shares; issued and outstanding 3,693,596	37	—	—	—	37
Additional paid-in capital	308,455	64,299	(64,299)	—	308,455
Accumulated earnings (deficit)	(1,112)	(54,380)	67,802	—	12,310
Accumulated other comprehensive income	1,942	—	—	—	1,942
Total shareholders' equity	309,475	9,919	3,503	—	322,897
Noncontrolling interests	209	—	—	—	209
Total equity	309,684	9,919	3,234	—	322,837
Total liabilities and equity	\$ 441,951	107,587	(12,319)	(10,323)	526,896

See Notes to Unaudited Pro Forma Statement of Financial Condition

Notes to Unaudited Pro Forma Statement of Financial Condition

1. Amounts represent adjustments to account for (i) the impact of the Plan on pre-petition liabilities included in IT'SUGAR's historical statement of financial condition as of March 31, 2021, including amounts paid to IT'SUGAR's creditors and the reversal of previously accrued liabilities that are no longer outstanding as a result of the Plan, and (ii) the payment of professional fees related to the bankruptcy proceedings. In connection with the effectiveness of the Plan, IT'SUGAR paid approximately \$2.5 million to its creditors in relation to construction/mechanic's lien claims and general unsecured claims and paid \$2.2 million of professional fees (excluding professional fees previously paid by IT'SUGAR during the pendency of the Chapter 11 Cases).
2. Amount represents the elimination of the Company's equity investment in IT'SUGAR as of March 31, 2021.
3. Purchase Accounting Adjustments included in the Transaction Accounting Adjustments column are comprised of the following adjustments:

	IT'SUGAR Historical As Adjusted (a)	Estimated Fair Value of Net Assets Acquired (b)	Purchase Accounting Adjustments (b)
Cash and restricted cash	\$ 2,335	2,335	—
Property and equipment	20,583	19,251	(1,332)
Trade accounts receivable, inventory and other assets	6,226	6,226	—
Operating lease assets	55,793	61,238	5,445
Identifiable intangible assets	3,067	9,650	6,583
Total identifiable assets acquired	88,004	98,700	10,696
Accounts payable and other liabilities	7,427	7,427	—
Operating lease liabilities	68,726	64,597	(4,129)
Total liabilities assumed	76,153	72,024	(4,129)
Total net identifiable assets acquired	11,851	26,676	14,825
Redeemable noncontrolling interest	—	269	269
Goodwill	14,864	13,742	(1,122)
Fair value of net assets acquired	\$ 26,715	40,687	13,972

- a. Amounts included in the IT'SUGAR Historical As Adjusted column represent IT'SUGAR's historical amounts as of March 31, 2021 adjusted for (i) the items described in Note 1 above and (ii) intercompany balances between IT'SUGAR and BBX Capital that will be eliminated as a result of BBX Capital's consolidation of IT'SUGAR.
- b. The Estimated Fair Value of Net Assets Acquired column summarizes the estimated provisional fair values of IT'SUGAR's net assets acquired, including identifiable intangible assets and goodwill, and the Purchase Accounting Adjustments column represents adjustments necessary to remeasure IT'SUGAR's historical assets and liabilities at their estimated provisional fair values.

Certain of the identifiable net assets acquired in the above table, including, but not limited to, cash and cash equivalents and net working capital, were calculated from IT'SUGAR's historical financial statements as of March 31, 2021 and will change based on the actual cash and cash equivalents and net working capital acquired on the acquisition date.

The following summarizes the Company's methodologies for estimating the provisional fair values of certain assets and liabilities associated with the acquisition of IT'SUGAR and the fair value of BBX Capital's existing investment in IT'SUGAR:

Property and Equipment – Property and equipment acquired consists primarily of leasehold improvements at IT'SUGAR's retail locations. The fair value of IT'SUGAR's property and equipment was estimated based on the replacement cost approach.

Identifiable Intangible Assets – The primary identifiable intangible asset acquired consists of IT’SUGAR’s trademark. The fair value of the acquired trademark was estimated using the relief-from-royalty method, a form of the income approach. Under this approach, the fair value was estimated by calculating the present value using a risk-adjusted discount rate of the expected future royalty payments that would have to be paid if the IT’SUGAR trademark was not owned.

Operating Lease Assets and Lease Liabilities – Operating lease assets and lease liabilities were measured based on the present value of the fixed lease payments included in IT’SUGAR’s lease agreements pursuant to the provisions of ASC 842, *Leases*. In addition, IT’SUGAR’s operating lease assets have been adjusted to reflect an estimate of favorable or unfavorable terms of IT’SUGAR’s lease agreements when compared with market terms. These adjustments were estimated by calculating the present value using a risk-adjusted discount rate of the difference between the contractual amounts to be paid pursuant to the lease agreements and the estimate of market lease rates at the acquisition date.

Goodwill – Goodwill recognized in connection with the consolidation of IT’SUGAR reflects the difference between the (i) the fair values of IT’SUGAR’s identifiable assets and liabilities at the acquisition date and (ii) the fair values of the Company’s existing interests and any noncontrolling interests in IT’SUGAR at the acquisition date.

Remeasurement of Existing Investment in IT’SUGAR – As part of the acquisition method of accounting, the Company is required to remeasure the carrying value of its existing interests in IT’SUGAR at fair value as of the acquisition date, with the remeasurement adjustment recognized in the Company’s statement of operations. The Company applied an income approach utilizing a discounted cash flow methodology to estimate the provisional fair value of its investment in IT’SUGAR as of the acquisition date. The Company’s discounted cash flow methodology established a provisional estimate of the fair value of IT’SUGAR by estimating the present value of the projected future cash flows to be generated from IT’SUGAR. The discount rate applied to the projected future cash flows to arrive at the present value is intended to reflect all risks of ownership and the associated risks of realizing the stream of projected future cash flows associated with IT’SUGAR. The most significant assumptions used in the discounted cash flow methodology to estimate the preliminary fair value of IT’SUGAR were the terminal value, the discount rate, and the forecast of future cash flows. Based on the preliminary estimated fair value of the Company’s interest in IT’SUGAR and the carrying amount of its interests, the Company would recognize a remeasurement gain, net of taxes, of approximately \$13.5 million; however, as management completes our valuation analyses and finalizes our accounting for the transaction, we expect that this estimate may be updated in subsequent periods.

Redeemable Noncontrolling Interest - Represents a 9.65% redeemable noncontrolling interest in IT’SUGAR, reduced by \$1.4 million of loans receivable due from the noncontrolling interest.

As management is still in the process of completing its valuation analyses related to IT’SUGAR, our accounting for the consolidation of IT’SUGAR is not complete as of the date of this report. As a result, the amounts reported in the above table, including the estimated fair values of the assets acquired and liabilities assumed associated with IT’SUGAR and the estimated fair value of our existing investment in IT’SUGAR, are provisional amounts that may be updated in subsequent periods to reflect the completion of our valuation analyses and any additional information obtained during the measurement period.

4. Amount represents the recognition of a deferred tax adjustment associated with the remeasurement gain expected to be recognized related to our investment in IT’SUGAR at the estimated statutory effective tax rate of 25%.
5. Amounts primarily reflect the elimination of intercompany transactions, including credit facilities, between the Company and IT’SUGAR.

BBX Capital, Inc.
Unaudited Consolidated Statement of Operations and Comprehensive Income
For the Year Ended December 31, 2020

	BBX Capital, Inc.	IT'SUGAR, LLC	Transaction	Other	
	Historical (1)	Historical (2)	Accounting	Transaction	Pro Forma
			Adjustments	Accounting	
				Adjustments	
Revenues:					
Trade sales	\$ 147,210	17,683	—	(2,261) (4)	162,632
Sales of real estate inventory	20,363	—	—	—	20,363
Interest income	2,399	—	—	(37) (5)	2,362
Net gains on sales of real estate assets	255	—	—	—	255
Other revenue	3,002	—	—	—	3,002
Total revenues	173,229	17,683	—	(2,298)	188,614
Costs and Expenses:					
Cost of trade sales	126,152	12,791	—	(2,084) (6)	136,859
Cost of real estate inventory sold	13,171	—	—	—	13,171
Interest expense	237	50	—	(92) (5)	195
Recoveries from loan losses, net	(8,876)	—	—	—	(8,876)
Impairment losses	30,772	—	—	—	30,772
Selling, general and administrative expenses	66,757	9,601	388 (3)	687 (7)	77,433
Total costs and expenses	228,213	22,442	388	(1,489)	249,554
Operating losses	(54,984)	(4,759)	(388)	(809)	(60,940)
Equity in net earnings of unconsolidated real estate joint ventures	465	—	—	—	465
Loss on the deconsolidation of IT'SUGAR, LLC	(3,326)	—	—	3,326 (8)	—
Other income (loss)	290	(42)	—	—	248
Foreign exchange loss	(692)	—	—	—	(692)
Loss before income taxes	(58,247)	(4,801)	(388)	2,517	(60,919)
Benefit for income taxes	11,231	—	1,173 (10)	(648) (9)	11,756
Net loss from continuing operations	(47,016)	(4,801)	785	1,869	(49,163)
Discontinued operations					
Loss from operations	(91)	—	—	—	(91)
Benefit for income taxes	17	—	—	—	17
Loss from discontinued operations	(74)	—	—	—	(74)
Net loss	(47,090)	(4,801)	785	1,869	(49,237)
Net loss attributable to noncontrolling interests	4,803	—	535	74	5,412
Net loss attributable to shareholders	\$ (42,287)	(4,801)	1,320	1,943	(43,825)
Basic and diluted loss per share from continuing operations					
	(2.19)				(2.26)
Basic and diluted loss per share from discontinued operations					
	—				—
Total basic and diluted loss per share	(2.19)				(2.26)
Weighted average number of common shares outstanding					
	19,318				19,318
Net loss	(47,090)	(4,801)	785	1,869	(49,237)
Other comprehensive income, net of tax:					
Unrealized gain on securities available for sale	35	—	—	—	35
Foreign currency translation adjustments	241	—	—	—	241
Other comprehensive income, net	276	—	—	—	276
Comprehensive loss, net of tax	(46,814)	(4,801)	785	1,869	(48,961)
Less: Comprehensive loss attributable to noncontrolling interests	4,803	—	535	74	5,412
Comprehensive loss attributable to shareholders	(42,011)	(4,801)	1,320	1,943	(43,549)

See Notes to Unaudited Pro Forma Statements of Operations and Comprehensive Income

Notes to Unaudited Pro Forma Statement of Operation and Comprehensive Income

1. Amounts in the BBX Capital, Inc. Historical column include IT'SUGAR's operating results from January 1, 2020 through September 22, 2020, the date of the bankruptcy filings and the resulting deconsolidation of IT'SUGAR by BBX Capital.
2. Amounts in the IT'SUGAR, LLC Historical column represent IT'SUGAR's operating results from September 22, 2020 through the remainder of 2020.
3. Amount represents the difference between i) the historical depreciation and amortization expense recognized by IT'SUGAR related to its property and equipment and intangible assets and ii) the estimated depreciation and amortization expense expected to be recognized by IT'SUGAR based on the estimated fair values of the IT'SUGAR's property and equipment and identifiable intangible assets as of the acquisition date, including \$346,000 of additional amortization expenses associated with intangible assets and \$42,000 of higher depreciation expenses associated property and equipment. As described above, the estimated fair values of the assets acquired and liabilities assumed associated with IT'SUGAR are preliminary and subject to change, as management is in the process of completing its valuation analyses and its accounting for the consolidation of IT'SUGAR is not complete as of the date of this report.
4. Amount represents the elimination of historical trade sales associated with IT'SUGAR's retail locations that were closed during the Chapter 11 Cases.
5. Amounts represent the elimination of interest income and interest expense associated with a prepetition credit facility and debtor-in-possession credit facility due from IT'SUGAR to a subsidiary of BBX Capital. In connection with the Effective Date, these facilities were superseded and replaced by an Exit Facility due from IT'SUGAR to BBX Capital's subsidiary. As a result of the consolidation of IT'SUGAR, amounts related to the Exit Facility will be eliminated in BBX Capital's consolidated financial statements.
6. Amount represents the elimination of historical costs of trade sales (including rent expense and gains from the termination of retail lease obligations) of \$0.8 million associated with IT'SUGAR's retail locations that were closed during the Chapter 11 Cases and a \$1.3 million adjustment to reduce operating lease costs associated with IT'SUGAR's retail locations. As the terms of lease amendments executed by IT'SUGAR and the landlords of its retail locations during the Chapter 11 Cases were an integral component of the Plan and IT'SUGAR's emergence from bankruptcy, the unaudited pro forma consolidated statements of operations and comprehensive income give effect to the terms of IT'SUGAR's lease agreements upon its emergence from bankruptcy as if such terms were in place on January 1, 2020. Accordingly, operating lease costs have been adjusted to reflect contractual fixed lease costs contemplated in the terms of the leases that were in place at the time that IT'SUGAR emerged from bankruptcy. Further, variable lease costs based on a percentage of sales generated at leased locations were calculated by applying the contractual percentage contemplated in the terms of the lease at the time of IT'SUGAR's emergence from bankruptcy to IT'SUGAR's sales during the applicable period presented, while other variable lease costs, including certain operating costs billed to IT'SUGAR by its landlords pursuant to such lease agreements, were in certain cases estimated based on prior historical amounts billed by landlords.
7. Amount is comprised of an adjustment to recognize \$2.4 million of professional costs related to the bankruptcy proceedings that were not included in the historical amounts, partially offset by an adjustment of \$1.7 million to eliminate selling, general and administrative expenses associated with IT'SUGAR's retail locations that were closed during the Chapter 11 Cases. The pro forma consolidated statement of operations and comprehensive income for the year ended December 31, 2020 includes approximately \$3.7 million in legal and advisory fees related to the bankruptcy proceedings.
8. Amount represents the elimination of the loss on the deconsolidation of IT'SUGAR recognized by BBX Capital during the year ended December 31, 2020. As the pro forma consolidated statements of operations and comprehensive income give effect to BBX Capital reacquiring control of IT'SUGAR as if IT'SUGAR emerged from the Chapter 11 Cases pursuant to the Plan on January 1, 2020 and BBX Capital applied the acquisition method to account for the emergence on that date, the pro forma consolidated statements of operations and comprehensive income exclude the impact of any gains or losses recognized, or expected to be recognized, in connection with the deconsolidation of IT'SUGAR in September 2020 and the subsequent reconsolidation of IT'SUGAR in June 2021.

9. Amount represents an adjustment to BBX Capital's benefit for income taxes by applying the estimated statutory effective tax rate of 25% to the impact of the Other Transaction Accounting Adjustments before income taxes, adjusted for amounts attributable to a noncontrolling interest.
10. Amount represents an adjustment to BBX Capital's benefit for income taxes by applying the estimated statutory effective tax rate of 25% to IT'SUGAR's historical loss before income taxes of \$4.8 million and the impact of the Transaction Accounting Adjustments before income taxes, adjusted for amounts attributable to a noncontrolling interest.

BBX Capital, Inc.
Unaudited Consolidated Statement of Operations and Comprehensive Income
For the Three Months Ended March 31, 2021

	BBX Capital, Inc. Historical	IT'SUGAR, LLC Historical	Transaction Accounting Adjustments	Other Transaction Accounting Adjustments		Pro Forma
Revenues:						
Trade sales	\$ 45,914	19,137	—	(72)	(2)	64,979
Sales of real estate inventory	13,535	—	—	—	—	13,535
Interest income	1,650	—	—	(51)	(3)	1,599
Net gains on sales of real estate assets	105	—	—	—	—	105
Other revenue	671	2	—	—	—	673
Total revenues	61,875	19,139	—	(123)	—	80,891
Costs and Expenses:						
Cost of trade sales	36,893	12,130	—	335	(4)	49,358
Cost of real estate inventory sold	7,858	—	—	—	—	7,858
Interest expense	290	51	—	(51)	(3)	290
Recoveries from loan losses, net	(508)	—	—	—	—	(508)
Impairment losses	—	—	—	—	—	—
Selling, general and administrative expenses	13,198	9,130	18	(1,310)	(5)	21,036
Total costs and expenses	57,731	21,311	18	(1,026)	—	78,034
Operating profits	4,144	(2,172)	(18)	903	—	2,857
Equity in net losses of unconsolidated real estate joint ventures	(271)	—	—	—	—	(271)
Other income	63	12	—	—	—	75
Foreign exchange loss	(480)	—	—	—	—	(480)
Income (loss) before income taxes	3,456	(2,160)	(18)	903	—	2,181
(Provision) benefit for income taxes	(1,001)	—	483	(204)	(6)	(722)
Net income (loss)	2,455	(2,160)	465	699	—	1,459
Net (income) loss attributable to noncontrolling interests	(110)	—	245	(87)	—	48
Net income (loss) attributable to shareholders	\$ 2,345	(2,160)	710	612	—	1,507
Total basic and diluted earnings per share	0.12	—	—	—	—	0.08
Weighted average number of common shares outstanding	19,282	—	—	—	—	19,282
Net income (loss)	2,455	(2,160)	465	699	—	1,459
Other comprehensive income, net of tax:						
Unrealized loss on securities available for sale	(2)	—	—	—	—	(2)
Foreign currency translation adjustments	114	—	—	—	—	114
Other comprehensive income, net	112	—	—	—	—	112
Comprehensive income (loss), net of tax	2,567	(2,160)	465	699	—	1,571
Less: Comprehensive income attributable to noncontrolling interests	(110)	—	245	(87)	—	48
Comprehensive income (loss) attributable to shareholders	2,457	(2,160)	710	612	—	1,619

See Notes to Unaudited Pro Forma Statements of Operations and Comprehensive Income

Notes to Unaudited Pro Forma Statement of Operation and Comprehensive Income

1. Amount represents the difference between i) the historical depreciation and amortization expense recognized by IT'SUGAR related to its property and equipment and intangible assets and ii) the estimated depreciation and amortization expense expected to be recognized by IT'SUGAR based on the estimated fair values of the IT'SUGAR's property and equipment and identifiable intangible assets as of the acquisition date, including \$87,000 of additional amortization expenses associated with intangible assets and \$69,000 of lower depreciation expenses associated property and equipment. As described above, the estimated fair values of the assets acquired and liabilities assumed associated with IT'SUGAR are preliminary and subject to change, as management is in the process of completing its valuation analyses and its accounting for the consolidation of IT'SUGAR is not complete as of the date of this report.
2. Amount represents the elimination of historical trade sales associated with IT'SUGAR's retail locations that were closed during the Chapter 11 Cases.
3. Amounts represent the elimination of interest income and interest expense associated with a prepetition credit facility and debtor-in-possession credit facility due from IT'SUGAR to a subsidiary of BBX Capital. In connection with the Effective Date, these facilities were superseded and replaced by an Exit Facility due from IT'SUGAR to BBX Capital's subsidiary. As a result of the consolidation of IT'SUGAR, amounts related to the Exit Facility will be eliminated in BBX Capital's consolidated financial statements.
4. Amount primarily represents an adjustment to increase operating lease costs associated with IT'SUGAR's retail locations. As the terms of lease amendments executed by IT'SUGAR and the landlords of its retail locations during the Chapter 11 Cases were an integral component of the Plan and IT'SUGAR's emergence from bankruptcy, the unaudited pro forma consolidated statements of operations and comprehensive income give effect to the terms of IT'SUGAR's lease agreements upon its emergence from bankruptcy as if such terms were in place on January 1, 2020. Accordingly, operating lease costs have been adjusted to reflect contractual fixed lease costs contemplated in the terms of the leases that were in place at the time that IT'SUGAR emerged from bankruptcy. Further, variable lease costs based on a percentage of sales generated at leased locations were calculated by applying the contractual percentage contemplated in the terms of the lease at the time of IT'SUGAR's emergence from bankruptcy to IT'SUGAR's sales during the applicable period presented, while other variable lease costs, including certain operating costs billed to IT'SUGAR by its landlords pursuant to such lease agreements, were in certain cases estimated based on prior historical amounts billed by landlords.
5. Amount is comprised of (i) an adjustment to reverse \$0.9 million of professional costs related to the bankruptcy proceedings that were recognized in the historical amounts for the three months ended March 31, 2021 (and have been added to selling, general and administrative expenses in the pro forma consolidated statement of operations and comprehensive income for the year ended December 31, 2020) and (ii) an adjustment of \$0.4 million to eliminate selling, general and administrative expenses associated with IT'SUGAR's retail locations that were closed during the Chapter 11 Cases.
6. Amount represents an adjustment to BBX Capital's benefit for income taxes by applying the estimated statutory effective tax rate of 25% to the impact of the Other Transaction Accounting Adjustments before income taxes, adjusted for amounts attributable to a noncontrolling interest.
7. Amount represents an adjustment to BBX Capital's benefit for income taxes by applying the estimated statutory effective tax rate of 25% to IT'SUGAR's historical loss before income taxes of \$2.2 million and the impact of the Transaction Accounting Adjustments before income taxes, adjusted for amounts attributable to a noncontrolling interest.



BBX Capital Announces Confirmation of IT'SUGAR's Plan of Reorganization

FORT LAUDERDALE, Florida – June 14, 2021 – BBX Capital, Inc. (OTCQX: BBXIA) (PINK: BBXIB) (“BBX Capital” or the “Company”) announced today that, on June 11, 2021, the United States Bankruptcy Court for the Southern District of Florida (the “Bankruptcy Court”) announced its intention to enter an order (the “Confirmation Order”) confirming the plan of reorganization filed by IT'SUGAR LLC and its wholly owned subsidiaries (collectively, “IT'SUGAR”) as modified by the Confirmation Order (the “Plan”). As previously announced, on September 22, 2020, IT'SUGAR filed petitions for voluntary relief under Chapter 11 of Title 11 of the United States Bankruptcy Code (“Chapter 11”) in the Bankruptcy Court.

IT'SUGAR expects that the Confirmation Order will be entered this week. The effective date of the Plan will occur as soon as all conditions precedent to the Plan have been satisfied (the “Effective Date”). IT'SUGAR believes that the Effective Date will occur within thirty days of Plan confirmation. It is also possible that technical amendments could be made to the Plan prior to the Effective Date. On the Effective Date, the equity interests in IT'SUGAR will revert in BBX Capital, and as a result of the Plan confirmation, BBX Capital will be deemed to have reacquired control of IT'SUGAR and again consolidate the results of IT'SUGAR into its financial statements.

The Plan contemplates the following treatment of claims against and interests in IT'SUGAR:

- the Company's subsidiary, which holds an Allowed Prepetition Line of Credit Secured Claim, will be repaid in full through the Exit Facility (as more particularly described below);
 - the Allowed Prepetition Equipment Loan Secured Claim held by the Company's subsidiary will be assumed, ratified, and reinstated on the Effective Date;
 - except to the extent such holders agree otherwise, each holder of an Allowed Construction / Mechanic's Lien Claim will receive payment in full in cash on the Effective Date or as soon as practicable thereafter;
 - each holder of an Allowed General Unsecured Claim will receive, in full satisfaction of such claims, a one-time lump sum distribution equal to 15% of its Allowed General Unsecured Claim on the Effective date or as soon as practicable thereafter;
 - holders of Subordinated Claims will not receive any distribution in respect thereof; and
 - the Company and the other holder of an equity interest in IT'SUGAR will have such interests reverted, and all organizational documents of IT'SUGAR will be assumed, ratified, and reinstated.
-

The Plan is expected to be funded by IT'SUGAR's cash on-hand and a secured exit credit facility (the "Exit Facility") advanced by a subsidiary of the Company of up to \$13.0 million (less the amount of the subsidiary's existing Prepetition Line of Credit and DIP Loan due from IT'SUGAR, which had an aggregate principal balance of \$10.0 million), subject to certain customary terms and conditions.

The Plan incorporates an integrated compromise and settlement of claims. Unless otherwise specified in the Plan, the Plan and the Confirmation Order will be in full satisfaction of all claims against and interests in IT'SUGAR, and all of IT'SUGAR's existing funded debt will be discharged on the Effective Date.

IT'SUGAR's creditors overwhelmingly voted to accept the Plan, with creditor acceptance of the Plan representing approximately 99% in both number and dollar amount of ballots cast.

During the bankruptcy proceedings, Meland Budwick, P.A. served as legal counsel to IT'SUGAR, and Stearns Weaver Miller Weissler Alhadeff & Sitterson served as legal counsel to BBX Capital and its subsidiary which was an IT'SUGAR creditor. In addition, the Algon Group provided restructuring advisory services to IT'SUGAR, with Troy Taylor, the Algon Group's President, serving as IT'SUGAR's Chief Restructuring Officer during the bankruptcy proceedings.

About BBX Capital, Inc.: BBX Capital, Inc. (OTCQX: BBXIA) (PINK: BBXIB) is a Florida-based diversified holding company whose principal holdings include BBX Capital Real Estate, BBX Sweet Holdings, and Renin. For additional information, please visit www.BBXCcapital.com.

This press release contains forward-looking statements. All opinions, forecasts, projections, future plans or other statements, other than statements of historical fact, are forward-looking statements. The forward-looking statements in this press release are also forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements are based on current expectations and involve risks, uncertainties, and other factors, many of which are beyond the Company's control, that may cause actual results or performance to differ from those set forth or implied in the forward-looking statements. These risks and uncertainties include, without limitation, those relating to the entry of the Confirmation Order by the Bankruptcy Court and the timing of the effectiveness of the Plan, including that the Plan may not become effective when expected; the impact of the consolidation of IT'SUGAR's results into the Company's financial statements; the potential adverse impact of the Chapter 11 proceedings and the success of the restructuring; the continuing adverse impact of the COVID-19 pandemic on IT'SUGAR, including its operations, results, and financial condition; and general economic conditions and other factors. In addition, reference is also made to the risks and uncertainties relating to the business, operations, affairs, results and financial condition of BBX Capital and its subsidiaries, and the ownership of BBX Capital's stock, detailed in reports filed by BBX Capital with the SEC, including its Annual Report on Form 10-K for the year ended December 31, 2020 (including the "Risk Factors" section thereof) and Quarterly Report on Form 10-Q for the quarter ended March 31, 2021, which may be viewed on the SEC's website at www.sec.gov and in the "About - Investor Relations" section of the Company's website at www.bbxcapital.com. The Company cautions that the foregoing factors are not exclusive. Readers should not place undue

reliance on any forward-looking statement, which speaks only as of the date made. The Company does not undertake, and it specifically disclaims any obligation, to update or supplement any forward-looking statements, except as may be required by law. In addition, past performance may not be indicative of future results.

BBX Capital, Inc. Contact Info:

Investor Relations Contact:

Leo Hinkley, Managing Director, Investor Relations Officer
954-940-5300, Email: LHinkley@BBXCapital.com

Media Relations Contact:

Kip Hunter, Kip Hunter Marketing
954-303-5551, Email: kip@kiphuntermarketing.com



BBX Capital Announces IT'SUGAR's Emergence from Bankruptcy

FORT LAUDERDALE, Florida – June 17, 2021 – BBX Capital, Inc. (OTCQX: BBXIA) (PINK: BBXIB) (“BBX Capital” or the “Company”) announced today that IT'SUGAR LLC and its wholly owned subsidiaries (collectively, “IT'SUGAR”) have emerged from bankruptcy and BBX Capital has reacquired control of IT'SUGAR and will again consolidate the results of IT'SUGAR into its financial statements.

As previously announced, on September 22, 2020, IT'SUGAR filed petitions for voluntary relief under Chapter 11 of Title 11 of the United States Bankruptcy Code (“Chapter 11”) in the United States Bankruptcy Court for the Southern District of Florida (the “Bankruptcy Court”). On June 16, 2021, the Bankruptcy Court entered an order (the “Confirmation Order”) confirming the plan of reorganization filed by IT'SUGAR as modified by the Confirmation Order (the “Plan”). On June 17, 2021 (the “Effective Date”), all conditions precedent to the Plan were satisfied or waived. Accordingly, on the Effective Date, BBX Capital's equity interests in IT'SUGAR were revested in BBX Capital. As a result of the confirmation of the Plan, BBX Capital was deemed to have reacquired a controlling financial interest in IT'SUGAR and will again consolidate the results of IT'SUGAR into its financial statements.

Pursuant to the Plan, claims against and interests in IT'SUGAR were treated as follows:

- the Company's subsidiary, which held an Allowed Prepetition Line of Credit Secured Claim, was repaid in full through the Exit Facility (as defined and more particularly described below);
- the Allowed Prepetition Equipment Loan Secured Claim held by the Company's subsidiary was assumed, ratified, and reinstated on the Effective Date;
- each holder of an Allowed Construction / Mechanic's Lien Claim received payment in full in cash on the Effective Date or will receive such payment as soon as practicable after the Effective Date;
- each holder of an Allowed General Unsecured Claim received, in full satisfaction of such claims, a one-time lump sum distribution equal to 15% of its Allowed General Unsecured Claim on the Effective Date or will receive such payment as soon as practicable after the Effective Date;
- holders of Subordinated Claims will not receive any distribution in respect thereof; and
- BBX Capital and the other holder of equity interests in IT'SUGAR had their respective interests revested, and all organizational documents of IT'SUGAR were assumed, ratified, and reinstated.

The Plan was funded by IT'SUGAR's cash on-hand and a secured exit credit facility (the “Exit Facility”) advanced by a subsidiary of the Company of up to \$13.0 million (less the amount of the subsidiary's existing Prepetition Line of Credit and DIP Loan due from IT'SUGAR, which had an aggregate principal balance of \$10.0 million as of the Effective Date), subject to certain customary terms and conditions.

The Plan incorporates an integrated compromise and settlement of claims. Unless otherwise specified in the Plan, the Plan and the Confirmation Order were in full satisfaction of all claims against and interests in IT'SUGAR, and all of IT'SUGAR's existing funded debt was discharged on the Effective Date.

As previously announced, IT'SUGAR's creditors overwhelmingly voted to accept the Plan, with creditor acceptance of the Plan representing approximately 99% in both number and dollar amount of ballots cast.

IT'SUGAR is currently operating 96 retail locations across the United States, including the 10 "temporary" retail locations.

BBX Capital expects to file a Current Report on Form 8-K with the SEC on June 17, 2021 that will include additional information related to the Plan, a business update related to IT'SUGAR, and pro forma financial information related to BBX Capital's reacquisition of control of IT'SUGAR.

About BBX Capital, Inc.: BBX Capital, Inc. (OTCQX: BBXIA) (PINK: BBXIB) is a Florida-based diversified holding company whose principal holdings include BBX Capital Real Estate, BBX Sweet Holdings, and Renin. For additional information, please visit www.BBXCcapital.com.

This press release contains forward-looking statements. All opinions, forecasts, projections, future plans or other statements, other than statements of historical fact, are forward-looking statements. The forward-looking statements in this press release are also forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements are based on current expectations and involve risks, uncertainties, and other factors, many of which are beyond the Company's control, that may cause actual results or performance to differ from those set forth or implied in the forward-looking statements. These risks and uncertainties include, without limitation, the impact of the consolidation of IT'SUGAR's results into the Company's financial statements; the potential adverse impact of the Chapter 11 proceedings and the success of the restructuring; the continuing adverse impact of the COVID-19 pandemic on IT'SUGAR, including its operations, results, and financial condition; and general economic conditions and other factors. In addition, reference is also made to the risks and uncertainties relating to the business, operations, affairs, results and financial condition of BBX Capital and its subsidiaries, and the ownership of BBX Capital's stock, detailed in reports filed by BBX Capital with the SEC, including its Annual Report on Form 10-K for the year ended December 31, 2020 (including the "Risk Factors" section thereof) and Quarterly Report on Form 10-Q for the quarter ended March 31, 2021, which may be viewed on the SEC's website at www.sec.gov and in the "About - Investor Relations" section of the Company's website at www.bbxcapital.com. The Company cautions that the foregoing factors are not exclusive. Readers should not place undue reliance on any forward-looking statement, which speaks only as of the date made. The Company does not undertake, and it specifically disclaims any obligation, to update or supplement any forward-looking statements, except as may be required by law. In addition, past performance may not be indicative of future results.

BBX Capital, Inc. Contact Info:

Investor Relations Contact:

Leo Hinkley, Managing Director, Investor Relations Officer
954-940-5300, Email: LHinkley@BBXCcapital.com

Media Relations Contact:

Kip Hunter, Kip Hunter Marketing
954-303-5551, Email: kip@kiphuntermarketing.com
