

Presentment Date: October 23, 2020 at 12:30 p.m. (Eastern Time)
Objection Deadline: October 23, 2020 at 11:30 a.m. (Eastern Time)

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*Counsel for the Liquidating Trust
of Airfasttickets, Inc.*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X		
In re:	:	
	:	Chapter 11
AIRFASTTICKETS, INC.,	:	
	:	Case No. 15-11951 (SHL)
	:	
Debtor.	:	
-----X		

NOTICE OF PRESENTMENT OF MOTION OF LIQUIDATING TRUST OF AIRFASTTICKETS, INC. FOR AN ORDER (I) APPROVING DISTRIBUTIONS TO HOLDERS OF ALLOWED GENERAL UNSECURED CLAIMS; AND (II) DEEMING CERTAIN ADMINISTRATIVE EXPENSE CLAIMS AND PRIORITY UNSECURED CLAIMS TO BE FULLY SATISFIED

PLEASE TAKE NOTICE that upon the annexed *Motion of the Liquidating Trust of Airfasttickets, Inc. for an Order (I) Approving Distributions to Holders of Allowed General Unsecured Claims; and (II) Deeming Certain Administrative Expense Claims and Priority Unsecured Claims to be Fully Satisfied* (the "Motion"), the undersigned will present the attached proposed order to the Honorable Sean H. Lane, United States Bankruptcy Court (the "Court"), One Bowling Green, New York, New York 10004-1408, for signature on **October 23, 2020 at 12:30 p.m.** (prevailing Eastern Time).

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Motion and

proposed order must be in writing, must conform to the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and the Local Bankruptcy Rules for the Southern District of New York, must set forth the name of the objecting party, must state with particularity the basis for the objection and the specific grounds therefor, and must be filed with the Clerk of the Court (with a courtesy copy delivered to Judge Lane’s Chambers) and served upon (a) the attorney for the Liquidating Trust of Airfasttickets, Inc., Arent Fox LLP, 1301 Avenue of the Americas, Floor 42, New York, New York 10019 (Attn: Nicholas A. Marten, Esq.) and (b) the Office of the United States Trustee for the Southern District of New York, 201 Varick Street, Suite 1006, New York, New York 10014; so as to be filed and actually received in the Bankruptcy Judge’s Chambers no later than **October 23, 2020 at 11:30 a.m.** (prevailing Eastern Time). The electronic case filing docket number to which the filing relates shall be included in the upper right hand corner of the caption of all objections. Unless objections are received by that time, the order may be signed.

PLEASE TAKE FURTHER NOTICE that if the Bankruptcy Court determines to hold a hearing on the Motion, parties wishing to telephonically appear or attend any such hearing must make arrangements through CourtSolutions LLC at www.Court-Solutions.com. Additional instructions for registering with CourtSolutions, LLC may be found at <http://www.nysb.uscourts.gov/sites/default/files/m543.pdf>.

PLEASE TAKE FURTHER NOTICE if you are receiving this notice, you may be the holder of an Allowed Claim against the Debtor’s bankruptcy estate. The Motion seeks, among other things, entry of an order (i) authorizing the Liquidating Trust to make distributions to certain holders of Allowed Claims listed on Exhibit 1 to the Proposed Distribution Order (Exhibit A to the Motion) (the “Distribution List”) and (ii) deeming certain Allowed Claims

listed on Exhibit 2 to the Proposed Distribution Order to be fully paid and satisfied under the terms of the Confirmed Plan.

PLEASE TAKE FURTHER NOTICE that section 13.4 of the Liquidating Trust Agreement, the Liquidating Trustee may condition payment of any distribution to any beneficiaries of the Liquidating Trust upon the Liquidating Trust's receipt of requested employer or taxpayer identification numbers and requested documents. On June 5, 2020, the Liquidating Trust transmitted a request for the return of employer or taxpayer identification information and Internal Revenue Service documentation. and (ii) conditioned payment of any distributions upon the return of such information within sixty (60) days of the request. Any holders of an Allowed Claim that failed to timely supply such information are not entitled to receive a distribution under the Plan and the distribution to which they would otherwise be entitled will be treated as unclaimed property in accordance with Section 347(b) of the Bankruptcy Code and Section 8.12 of the Confirmed Plan. *See* Liquidating Trust Agreement, §§ 8.8 and 13.4.

PLEASE TAKE FURTHER NOTICE that any party not listed on Exhibit 1 or Exhibit 2 to the Proposed Distribution Order will not receive a distribution under the Confirmed Plan. If you believe you are the holder of an Allowed Claim and you are not listed in any such Exhibit, it may be because you have not provided the Plan Administrator the tax information required under section 13.4 of the Liquidating Trust Agreement. In order to become entitled to a distribution, holders of Allowed Claims must contact undersigned counsel and provide the required tax information no later than October 23, 2020 at 11:30 a.m. (Eastern time). Any holder of an Allowed Claim not listed on Exhibit 1 or Exhibit 2 to the Proposed Distribution Order and who does not provide the required tax information by October 23, 2020 at 11:30 a.m. will not be entitled to a distribution.

PLEASE TAKE FURTHER NOTICE that copies of the Motion may be obtained free of charge by visiting the website of BMC Group, Inc. at <https://www.bmcgroup.com/restructuring/Docket.aspx?ClientID=378>. You may also obtain copies of any pleadings by visiting the Court's website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

Dated: New York, New York
October 9, 2020

Respectfully submitted,

ARENT FOX LLP

By: /s/ Nicholas A. Marten

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*Counsel for the Liquidating Trust
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*Counsel for the Liquidating Trust
of Airfasttickets, Inc.*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	Chapter 11
AIRFASTTICKETS, INC.,	:	Case No. 15-11951 (SHL)
	:	
Debtor.	:	
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MOTION OF LIQUIDATING TRUST OF AIRFASTTICKETS, INC. FOR AN ORDER (I) APPROVING DISTRIBUTIONS TO HOLDERS OF ALLOWED GENERAL UNSECURED CLAIMS; (II) DEEMING CERTAIN ADMINISTRATIVE EXPENSE CLAIMS AND PRIORITY UNSECURED CLAIMS TO BE FULLY SATISFIED

The Liquidating Trust of Airfasttickets, Inc. (the “Liquidating Trust”), through Adam Meislik, the duly appointed trustee of the Liquidating Trust (the “Trustee”) pursuant to the *Debtor’s Chapter 11 Plan of Liquidation* [Docket No. 157], as amended [Docket No. 238] (the “Confirmed Plan”), by its undersigned counsel, hereby files this motion (the “Motion”) for an order, substantially in the form annexed hereto as Exhibit A (the “Proposed Distribution Order”):

- (a) approving distribution to the holders of Allowed General Unsecured Claims listed on Exhibit 1 to the Proposed Distribution Order (the “Distribution List”);
- (b) deeming fully satisfied the Satisfied Priority/Administrative Claims listed on Exhibit 2 to the Proposed Distribution Order;

- (c) ordering that any individual or entity that has not complied with section 13.04 of the Liquidating Trust Agreement by providing the requested TIN Form is not entitled to receive a distribution and such distribution is deemed unclaimed property in accordance with section 347(b) of the Bankruptcy Code and section 8.8 of the Liquidating Trust Agreement;
- (d) forever barring any individuals or entities not listed in Exhibit 1 or Exhibit 2 to the Proposed Distribution Order from receiving a distribution or payment from the Liquidating Trust as an Allowed Claim; and
- (e) instructing the Claims Agent to revise the Claims Register to reflect that the Konica Claims is a general unsecured claim in the amount of \$16,510.90.

In support of this Motion, the Liquidating Trust respectfully represents as follows:

PRELIMINARY STATEMENT

1. The Liquidating Trust files this Motion in furtherance of the Liquidating Trust's purpose of resolving claims and distributing the Liquidating Trust Assets¹ in accordance with the terms of the Confirmed Plan, Confirmation Order and Liquidating Trust Agreement. Specifically, the Liquidating Trust seeks entry of an order approving distributions to holders of Allowed General Unsecured claims listed on Exhibit 1 (the "Distribution List") to the Proposed Distribution Order that have returned the requisite tax identification information and documentation. The Motion also seeks to reconcile the Claims Register by (i) deeming satisfied certain administrative expense priority and unsecured priority claims identified in the Claims Register as outstanding but which claims have been paid or will be paid by the Presentment Date (defined below) of this Motion; and (ii) instructing the Claims Agent to revise the Claims Register so that it correctly identifies the Konica Claim as a general unsecured claim in the amount of \$16,510.90.

2. This Motion is brought in order to provide Beneficiaries and parties whose claims have been disallowed by operation of law, the Confirmed Plan or prior order of the Court with

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Confirmed Plan or the Liquidating Trust Agreement (defined below) as appropriate.

notice that this first and (likely) final distribution is being made to the parties listed on the Distribution List. Following this distribution to the parties on the Distribution List, and only those distributees listed thereon, all funds in the Liquidating Trust will have been distributed, other than certain amounts reserved by the Liquidating Trust to satisfy its remaining obligations and close the estate. It is anticipated that no further distributions will be made by the Liquidating Trust.

3. Although no further relief need be sought, the Liquidating Trust seeks final approval of the Distribution List as a courtesy to holders of Allowed Claims, putting them on notice of the parties to be included in the Distribution List and to notify them that if they are not included in the Distribution List, it may be because they have not provided the requisite tax information and documentation and they should provide such information and documentation to undersigned counsel no later than October 23, 2020 at 11:30 a.m. (prevailing Eastern Time), the deadline to object to this Motion (the “Objection Deadline”), to become entitled to a distribution.²

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction to consider the Motion under 28 U.S.C. §§ 157(a) and 1334(b). Further, under Article XI of the Confirmed Plan, the Court has jurisdiction over any matter arising under the title 11 of the United States Code (the “Bankruptcy Code”), arising in or related to this Chapter 11 Case, or the Confirmed Plan.

5. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

6. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b).

² The Liquidating Trust reserves all rights, arguments and defenses, and nothing herein should be construed as an admission of law or fact, and all defenses are expressly preserved, including that the instant Motion does not grant or revert rights that have already been adjusted or modified.

FACTUAL BACKGROUND

A. General Background

7. On July 27, 2015, an involuntary petition was filed against Airfasttickets, Inc. (“Debtor”) to seek an order for relief under chapter 7 of title 11 of the Bankruptcy Code in the Bankruptcy Court of the Southern District of New York. On September 21, 2015, the Debtor consented to entry of the relief order [Docket No. 8]. On October 27, 2015, the Court entered an order converting the case to one under chapter 11 of the Bankruptcy Code [Docket No. 28].

8. On November 24, 2015, the Court approved the sale of substantially all of the Debtor’s intellectual property, software and related assets to Travana, Inc. (“Travana”) [Docket No. 65] (the “Sale Order”).

9. On December 2, 2015, the Court entered an Order [Docket No. 68] approving the retention and appointment of BMC Group, Inc. as the Debtor’s claims and noticing agent (the “Claims Agent”). Since the Claims Agent’s retention and engagement, it has maintained a public register of claims (the “Claims Register”).

10. On October 26, 2016, the Court entered its Order confirming the Confirmed Plan [Docket No. 251] (the “Confirmation Order”), that, *inter alia*, approved the *Liquidating Trust Agreement* attached thereto [Docket No. 251-2].

11. On December 2, 2016 (the “Effective Date”), the Plan became effective. *See Notice of Occurrence of Effective Date* [Docket No. 262].

12. On the Effective Date and in accordance with the Liquidating Trust Agreement, the Liquidating Trust was established, Adam Meislik was duly appointed as the Liquidating Trustee and the Liquidating Trust was funded with all assets of the Debtor and the estate, including without limitation Cash, Causes of Action and Avoidance Actions for the primary

purposes of (i) administering the Liquidating Trust Assets for the benefit of beneficiaries of the Liquidating Trust (“Beneficiaries”); (ii) reconciling claims asserted against the Debtor and its estate; (iii) pursuing reserved claims and causes of action; and (iii) distributing Liquidating Trust Assets for the benefit of Beneficiaries. *See* Confirmed Plan § 5.2; Liquidating Trust Agreement § 3.3.

13. Pursuant to the Confirmed Plan and the Liquidating Trust Agreement all Liquidating Trust Assets not used for the administration of the Liquidating Trust, is to be distributed to Beneficiaries (i.e., holders of Allowed Class 2-A and 2-B claims) on a *pro rata* basis, following payment in full of all Allowed administrative expense and priority claims. *See id.* at § 4.05.

B. Estate Administration and Reconciliation

14. Since the Effective Date, the Liquidating Trust has been working to fulfill their duties under the Plan and Liquidating Trust Agreement. Specifically, the Liquidating Trust, among other things, obtained final resolutions in three preserved estate claims, including claims against the Debtor’s former directors and officers and avoidance actions. The resolution and monetization of these claims resulted in \$3,026,314.35 in net value to the Liquidating Trust plus the waiver of the Debtor’s former principal’s \$2 million administrative expense claim and approximately \$45.9 million general unsecured and priority claim.

15. Likewise, on January 13, 2017, the Liquidating Trust filed its *First Omnibus Objection to Claims of the Liquidating Trust of Airfasttickets, Inc. to Certain Proofs of Claim (Amended and Superseded Claims, Claims to be Reclassified and/or Reduced, and No Liability Claims)* [Docket No. 280] (the “First Omnibus Objection”), asserting various objections to disputed claims.

16. On February 27, 2018, the Court entered its *Order Granting First Omnibus Objection to Claims of the Liquidating Trust of Airfasttickets, Inc. to Certain Proofs of Claim (Amended and Superseded Claims, Claims to be Reclassified and/or Reduced, and No Liability Claims)* [Docket No. 293] (the “First Omnibus Objection Order”), sustaining substantially all of the objections raised in the First Omnibus Objection, with the notable exceptions of the objections to the claims of Steven and Mary-Philippa Barrett, which were consensually resolved pursuant to the terms contained in the First Omnibus Objection Order, and claims no. 86 of Fareportal, Inc. (“Fareportal”).

17. The objections to Fareportal’s claim raised in the First Omnibus Objection were subsequently deemed to be contested matters and adjourned to provide Fareportal an opportunity to obtain information in support of its claim from Travana. Following years of delays in Fareportal’s efforts to obtain such information, largely caused by the filing of Travana’s own bankruptcy case in another jurisdiction, Fareportal and the Liquidating Trust agreed to a consensual resolution to the claim objections, allowing Fareportal a single unsecured claim in the amount of \$3 million, a reduction of at least than \$7 million,³ the terms for which were memorialized by and approved in this Court’s *Stipulated and Agreed Order Resolving Objections of Liquidating Trust of Airfasttickets, Inc. to Claim No. 86 of Fareportal, Inc.* [Docket No. 428].

18. In connection with the Fareportal contested matter, the Liquidating Trust became custodian (the “Travana Custodianship”) for certain assets, primarily intellectual property and the computer hardware and cloud services on which the intellectual property is saved (collectively, the “Travana Assets”) pursuant to that *Stipulation to Appoint the Liquidating Trust*

³ Fareportal’s claim was filed in a general unsecured amount of *not less than* \$10 million.

of Airfasttickets, Inc. as Custodian for Intellectual Property, Software and Related Assets of Travana, Inc. [Docket No. 376, Ex. B] (the “Custodian Agreement”) between the Liquidating Trust; Fareportal; Jason Chen, Edgar Park and AirTourist Holdings LLC (collectively, the “Chen Parties”); and HNA Group (International) Co., Ltd. And HNA Capital Ltd. (collectively, “HNA” and, together with the Liquidating Trust, Fareportal and the Chen Parties, the “Custodianship Parties”) pursuant to this Court’s *Order Approving Stipulation to Establish Custodianship for Travana Assets* [Docket No. 382]. As of the filing of this motion, the Travana Custodianship remains active.

19. As of the filing of this Motion, the Liquidating Trust estimates that it currently holds approximately \$2,688,032.55⁴ in Cash available for distribution in accordance with the Confirmed Plan, the Liquidating Trust Agreement and the Proposed Distribution Order.

C. Requirement for Certain Tax Information

20. Under section 13.04 of the Liquidating Trust Agreement, the Liquidating Trustee “may require any Beneficiary to furnish to the Liquidating Trustee, (i) its employer or tax payer identification number as assigned by the Internal Revenue Service, and (ii) such other information, records or documents necessary to satisfy the Liquidating Trustee[.]” Additionally, the “Liquidating Trustee may condition the payment of any Distribution to any Beneficiary upon receipt of such identification information and requested documents.” *Id.* Should a Beneficiary not provide the Liquidating Trustee with the information and documentation requested by the deadline established by the Liquidating Trustee, “the Distribution to such Beneficiary shall be

⁴ This amount reflects the current Cash on hand after subtracting the aggregate total of Outstanding Priority/Administrative Claims (defined below) and certain reserves for the Liquidating Trust to complete its remaining obligations and close the estate, including but not limited to the preparation and filing final tax returns, payment of statutory fees to the United States Trustee, funds necessary to finalize the Travana Custodianship, and the payment of the final professional expenses, including those of counsel and the Claims Agent (the “Liquidating Trust Reserve”).

administered as an unclaimed distribution[.]” *Id.* Pursuant to section 8.8⁵ of the Liquidating Trust Agreement, “all unclaimed property or interest in property shall revert to the Liquidating Trust to be distributed in avoidance with the terms of this Agreement and the [Confirmed] Plan, and the Claim of any holder to such property or interest shall be discharged and forever barred” in accordance with section 347(b) of the Bankruptcy Code. The tax information is necessary for the Liquidating Trust to comply with its tax withholding and record obligations in pursuant to section 8.10 of the Liquidating Trust Agreement.

21. In June 2020, the Liquidating Trust mailed letters (“TIN Request Letters”) to all of the Debtor’s creditors holding Allowed Claims at the addresses provided in their proofs of claim (or for holders of Scheduled Claims, in the Debtors’ Schedules) informing them of these requirements and requesting the relevant tax forms (the “TIN Forms”).⁶ The TIN Request Letters also informed holders of Allowed Claims that the Liquidating Trustee set August 4, 2020 (the “TIN Deadline”), sixty (60) days after the mailing of the TIN Request Letters, as the deadline to return the TIN Forms.

22. While many timely provided their TIN Forms, a number of holders of Allowed General Unsecured Claims have not. The holders of Allowed General Unsecured Claims listed on Exhibit 1 to the Proposed Distribution Order (the “Distribution List”) have provided the requisite TIN Forms. Holders of Allowed Claims who have not provided the required TIN Forms are omitted from the Distribution List.

⁵ Section 13.04 of the Liquidating Trust Agreement provides that distributions to Beneficiaries that do not return the required TIN Forms shall be administered as unclaimed distributions in accordance with section 7.8 of the Liquidating Trust Agreement. The Liquidating Trust Agreement does not include a section 7.8. Section 8.8 of the Liquidating Trust Agreement, however, does pertain to unclaimed distributions.

⁶ To the best of the Liquidating Trustee’s and his professionals’ knowledge and based on the Debtor’s books and records, schedules, the filed proofs of claim and other pleadings and filings, the letter was mailed to the address of record for all creditors who as of the date of mailing held Claims that were not already Disallowed.

23. While a second request is not required under the Confirmed Plan, the Liquidating Trustee's professionals directly contacted those holders with whom they have had some direct contact during this Chapter 11 Case. In addition, the Plan Administrator served copies of this Motion on all holders of Allowed Claims, notifying them that if they are not included in the Distribution List, it may be because they have not provided their applicable TIN Form and they should provide such form to undersigned counsel no later than October 23, 2020 at 11:30 a.m. (prevailing Eastern Time) deadline to object to this Motion (the "Objection Deadline") to become entitled to a distribution. While not required under the Confirmed Plan, these additional measures are taken as a courtesy to holders of Allowed Claims.

24. Accordingly, the Liquidating Trustee respectfully requests that the order granting this Motion confirm that any holder of an Allowed Claim who has not complied with section 13.04 of the Liquidating Trust Agreement by providing the Liquidating Trustee with its TIN Form prior to the Objection Deadline will not receive a distribution in accordance sections 8.8 and 13.04 of the Liquidating Trust Agreement.

D. Priority and Administrative Claims

25. During the course of the case, certain creditors filed claims seeking administrative expense claim priority or unsecured priority under sections 503 and 507(a) of the Bankruptcy Code. Notwithstanding that most administrative expense claims and unsecured priority claims were paid, satisfied or otherwise resolved in accordance with the Plan and Liquidating Trust Agreement prior to the filing of this Motion, the Liquidating Trust identified certain administrative expense claims and unsecured priority claims that remain listed as outstanding claims on the Claims Register. Accordingly, this Motion seeks entry of an Order deeming certain these claims resolved and instructing the Claims Agent to correct the Claims Register.

26. Specifically, the claims identified on Exhibit 2 to the Proposed Distribution Order (the “Satisfied Priority/Administrative Claims”) were paid, satisfied or otherwise resolved during the course of this Chapter 11 Case by the Debtor or the Liquidating Trust prior to the filing of this Motion or will be paid, satisfied or otherwise resolved prior to the presentment date and time for this Motion: October 23, 2020 at 12:30 p.m. (prevailing Eastern Time) (the “Presentment Date”).

27. Additionally, on September 28, 2015, Konica Minolta filed a proof of claim (assigned Claim No. 2) asserting a general unsecured claim in the amount of \$16,510.90 for services performed (the “Konica Claim”), attached to which Konica Minolta included a list of open invoices dated from March 2 to July 6, 2015 totaling \$16,510.90. A copy of the of the Konica Claim is attached hereto as Exhibit B. Notwithstanding that the Konica Claim identifies a general unsecured claim in the amount of \$16,510.90, supported by documents in the same amount, the Claims Register identifies the Konica Claim as consisting of both a general unsecured claim and unsecured priority claim, each in the amount of \$16,510.90, for a total of \$33,021.80. The Motion also seeks entry of an Order instructing the Claims Register to be corrected, to properly reflect the correct amount of the Konica Claim.⁷

RELIEF REQUESTED

28. By this Motion, the Liquidating Trustee respectfully seeks entry of the Proposed Distribution Order:

(a) approving distribution to the holders of Allowed General Unsecured Claims listed on Exhibit 1 to the Proposed Distribution Order (the “Distribution List”);

⁷ Notwithstanding the request herein to correct the Konica Claim on the Claims Register, Konica Minolta has not yet returned the requested tax information and documentation and will not be included in Exhibit 3 and will not be entitled to a distribution from the Liquidating Trust unless it returns the required tax information and documentation by the Objection Deadline.

- (b) deeming fully satisfied the Satisfied Priority/Administrative Claims listed on Exhibit 2 to the Proposed Distribution Order;
- (c) ordering that any individual or entity that has not complied with section 13.04 of the Liquidating Trust Agreement by providing the requested TIN Form is not entitled to receive a distribution and such distribution is deemed unclaimed property in accordance with section 347(b) of the Bankruptcy Code and section 8.8 of the Liquidating Trust Agreement;
- (d) forever barring any individuals or entities not listed in Exhibit 1 or Exhibit 2 to the Proposed Distribution Order from receiving a distribution or payment from the Liquidating Trust as an Allowed Claim; and
- (e) instructing the Claims Agent to revise the Claims Register to reflect that the Konica Claims is a general unsecured claim in the amount of \$16,510.90.

APPROVAL OF DISTRIBUTION LISTS

29. Subject to the Court's approval of the relief requested herein, and certain exceptions provided below, the Liquidating Trust is prepared to make the first and (likely)⁸ final distributions to the holders of Allowed General Unsecured Claims identified on the Distribution List, Exhibit 1 to the Proposed Distribution Order. And the Debtor or the Liquidating Trust already made, or will make prior to the Presentment Date, final distributions to certain holders of Allowed Claims identified on Exhibit 2 to the Proposed Distribution Order, which are referred to herein as the "Satisfied Priority/Administrative Claims."

30. The holders identified on the Distribution List are those holders of Allowed Claims who have provided the Liquidating Trust with the relevant TIN Forms that are required under the Liquidating Trust Agreement as a precondition to receiving a distribution. To the extent holders of Allowed Claims not listed on the Distribution List supply their applicable TIN Form prior to the Objection Deadline for this Motion, they will be added to the Distribution List. Absent such tax information, however, holders of Allowed Claims are not entitled to receive a

⁸ If sufficient funds remain in the Liquidating Trust Reserve after satisfaction of all of the Liquidating Trust's remaining duties and obligations to make a meaning full distribution to the Allowed General Unsecured Claims identified on Exhibit 1 to the Proposed Distribution Order, a second and final distribution to such holders will be made.

distribution under the terms of the Liquidating Trust Agreement. Accordingly, the Plan Administrator respectfully requests that the order granting this Motion confirm that any holder of an Allowed Claim who has not complied with Section 13.04 of the Liquidating Trust Agreement by providing the Liquidating Trust with its tax information will not receive a distribution in accordance sections 8.8 and 13.04 of the Liquidating Trust Agreement.

A. Approval of Distributions to Holders of Allowed General Unsecured Claims

31. The Liquidating Trust completed its claims reconciliation process and is prepared to make its first and (likely) final distribution to holders of Allowed General Unsecured Claims that returned completed TIN Forms, each of which are identified in the Distribution List. The Allowed General Unsecured Claims that returned TIN Forms total \$55,091,016.02 and are expected to share pro rata in the estimated amount of \$2,688,032.55 currently held by the Liquidating Trust, less the amounts necessary to pay the Outstanding Priority/Administrative Claims and reserved for the Liquidating Trust Reserve.

32. Accordingly, the Liquidating Trust respectfully requests entry of an order approving distributions to holders of Allowed General Unsecured Claims identified in the Distribution List, and providing that any holder of a General Unsecured Claim omitted from such exhibit shall receive no distributions on account of such Claim. This request is made pursuant to sections 105 and 1142(a) of the Bankruptcy Code, in accordance with section 13.04 of the Liquidating Trust Agreement.

B. Payment of Satisfied Priority/Administrative Claims

33. Each of the Satisfied Priority/Administrative Claims identified on Exhibit 2 to the Proposed Distribution Order has been paid or otherwise fully satisfied. Accordingly, pursuant to section 105 of the Bankruptcy Code, and for the purpose of fostering efficient distribution under

the Confirmed Plan and Liquidating Trust Agreement, the Liquidating Trust requests entry of an order deeming the Satisfied Priority/Administrative Claims identified on Exhibit 2 to the Proposed Distribution Order to be fully satisfied. The Liquidating Trust also respectfully requests entry of an Order providing that any holder of an administrative expense priority claim or unsecured priority claim omitted from Exhibit 2 shall receive no distribution on account of such claim.

RECONCILIATION OF KONICA CLAIM

34. The Liquidating Trust also seeks entry of an Order reconciling the Konica Claim and authorizing the Claims Agent to modify the Claims Register to reflect that the Konica Claim is a general unsecured claim in the amount of \$16,510.90. In items 4 and 5 on the proof of claim form, Konica Minolta identified that the total amount of the Konica Claim is a general unsecured claim of \$16,510.90. Konica Minolta also attached to the form a schedule of outstanding invoices in the aggregate total of \$16,510.90. Nevertheless, the Claims Register identifies the Konica Claim as totaling \$33,021.80, consisting of a general unsecured claim and unsecured priority claim, each in the amount of \$16,510.90.

35. This error is likely a transcription error resulting from Konica Minolta's erroneous additional inclusion of the \$16,510.90 figure in the priority unsecured portion item 4. The inclusion of the duplicate figure in the priority portion of item 4, however, should be disregarded. Konica Minolta failed to mark boxes in item 4 identifying that any portion of its unsecured claim is entitled to priority or indicating the basis for such priority. The inclusion of the figure in item 4 also contradicts the information in item 5, which expressly identifies that the total amount asserted in the Konica Claim is a \$16,510.90 general unsecured claim, and the schedule of invoices attached to the Konica Claim.

36. Accordingly, the Liquidating Trust respectfully requests entry of an order authorizing the Claims Agent to modify the Claims Register to reflect that the Konica Claim is a general unsecured claim in the amount of \$16,510.90.

NOTICE

37. Notice of this Motion, together with exhibits and the Notice of Motion, has been served upon (a) all holders of Allowed General Unsecured Claims; (b) the creditors identified on Exhibit 1 and Exhibit 2; (b) the United States Trustee for the Southern District of New York; (c) the Liquidating Trust Advisory Board (as defined in the Liquidating Trust Agreement); and (d) all parties who filed a notice of appearance and request for documents in the case. The Liquidating Trust respectfully submits that such form and manner of notice shall provide good and sufficient notice of the relief sought herein in accordance with the provisions of the Bankruptcy Code and the Bankruptcy Rules and that no other notice is necessary.

38. No previous motion for the relief sought herein has been made to this or any other court.

WHEREFORE the Liquidating Trust respectfully requests that the Court enter the Proposed Distribution Order, substantially in the form annexed hereto as Exhibit A: (a) approving distribution to the holders of Allowed General Unsecured Claims listed on Exhibit 1 to the Proposed Distribution Order; (b) deeming fully satisfied the Satisfied Priority/Administrative Claims listed on Exhibit 2 to the Proposed Distribution Order; (c) ordering that any individual or entity that has not complied with section 13.04 of the Liquidating Trust Agreement by providing the requested TIN Form is not entitled to receive a distribution and such distribution is deemed unclaimed property in accordance with section 347(b) of the Bankruptcy Code and section 8.8 of the Liquidating Trust Agreement; (d) forever

barring any individuals or entities not listed in Exhibit 1 or Exhibit 2 to the Proposed Distribution Order from receiving a distribution or payment from the Liquidating Trust as an Allowed Claim; and (e) instructing the Claims Agent to revise the Claims Register to reflect that the Konica Claims is a general unsecured claim in the amount of \$16,510.90.

Dated: New York, New York
October 9, 2020

Respectfully submitted,

ARENT FOX LLP

By: /s/ Nicholas A. Marten

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