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Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

)	
In re:)	Chapter 11
)	
ATARI, INC., <i>et al.</i> ,)	Case No. 13-10176 (JMP)
)	
Debtors. ¹)	(Jointly Administered)
)	

**NOTICE OF FILING OF PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER CONFIRMING THE DEBTORS' JOINT PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

PLEASE TAKE NOTICE THAT on September 20, 2013, the Debtors filed the *Debtors' Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code* [Docket No. 379].

PLEASE TAKE FURTHER NOTICE THAT on December 4, 2013, the Debtors filed the proposed *Findings of Fact, Conclusions of Law and Order Confirming the Debtors' Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code*, attached hereto as Exhibit 1.

¹ The "**Debtors**" are: Atari, Inc.; Atari Interactive, Inc.; Humongous, Inc.; and California U.S. Holdings, Inc.

New York, New York
Dated: December 4, 2013

AKIN GUMP STRAUSS HAUER & FELD LLP

By: /s/ Ira S. Dizengoff

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EXHIBIT 1

Proposed Confirmation Order

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In re:)	Chapter 11
ATARI, INC., <i>et al.</i> , ¹)	Case No. 13-10176 (JMP)
Debtors.)	(Jointly Administered)
)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING
THE DEBTORS' JOINT PLAN OF REORGANIZATION UNDER
CHAPTER 11 OF THE BANKRUPTCY CODE**

Atari, Inc., Atari Interactive, Inc., Humongous, Inc. and California U.S. Holdings, Inc. as debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases having:

- a. Filed on September 20, 2013, *Debtors’ Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code* [Docket No. 379], a copy of which is annexed hereto as Exhibit A (the “Plan”)² with the United States Bankruptcy Court for the Southern District of New York (the “Court”);

¹ The Debtors are: Atari, Inc.; Atari Interactive, Inc.; Humongous, Inc.; and California U.S. Holdings, Inc.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Plan or the Disclosure Statement, as applicable.

- b. Filed on September 20, 2013, *Disclosure Statement for the Debtors' Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code* [Docket No. 378];
- c. Filed on October 25, 2013, the *Amended Disclosure Statement for the Debtors' Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code* [Docket No. 435] (as amended, the "Disclosure Statement");
- d. Distributed solicitation materials beginning on or about October 30, 2013, consistent with the Bankruptcy Code, the Bankruptcy Rules and the *Order Approving the Debtors' Disclosure Statement and Establishing Solicitation and Voting Procedures with Respect Thereto* (the "Disclosure Statement Order") [Docket No. 438], which Disclosure Statement Order also approved, among other things, solicitation procedures (the "Solicitation Procedures") and related notices, forms and ballots (collectively, the "Solicitation Package") as evidenced by the *Affidavit of Service of Varouj Bakhshian* [Docket No. 449] (the "BMC Affidavit");
- e. Published, on October 31, 2013, notice of the Confirmation Hearing (the "Confirmation Hearing Notice") in the national edition of *USA Today*, as evidenced by the Verification of Publication [Docket No. 481] (the "Publication Verification");
- f. Filed, on November 27, 2013, the Plan Supplement [Docket No. 487] (the "Plan Supplement");
- g. Filed, on November 27, 2013, the *Declaration of Noticing and Balloting Agent Regarding Solicitation and Tabulation of Votes in Connection with the Debtors' Joint Plan of Reorganization* [Docket No. 486] (the "Voting Certification") detailing the results of the Plan voting process;
- h. Filed, on December 4, 2013, the *Declaration of Kristen J. Keller in Support of Confirmation of the Debtors' Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code* [Docket No. 490] (the "Keller Declaration"); and
- i. Filed, on December 4, 2013, the *Declaration of Guy Davis in Support of Confirmation of the Debtors' Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code* [Docket No. 491] (the "Davis Declaration").

The Court having:

- a. Entered, on October 29, 2013, the Disclosure Statement Order;
- b. Set December 5, 2013, at 10:00 a.m., prevailing Eastern Time, as the date and time for the commencement of the Confirmation Hearing pursuant to Bankruptcy Rules 3017 and 3018 and Bankruptcy Code sections 1126, 1128 and 1129;
- c. Reviewed the Plan, the Disclosure Statement and all pleadings, exhibits, statements, and comments regarding the confirmation of the Plan (the "Confirmation");

- d. Heard the statements and arguments made by counsel in respect of Confirmation;
- e. Considered all oral representations, testimony, documents, filings and other evidence regarding Confirmation; and
- f. Taken judicial notice of all papers and pleadings filed in the Cases;

NOW, THEREFORE, after due deliberation and based upon the record set forth above and at the Confirmation Hearing, it appearing to the Court that notice of the Confirmation Hearing and the Plan have been adequate and appropriate as to all parties affected or to be affected by the Plan and the transactions contemplated thereby and that any party in interest so affected has had the opportunity to object to Confirmation; and, after due deliberation and based upon the record described above, it appearing to the Court that the legal and factual bases set forth in the documents filed in support of Confirmation and presented at the Confirmation Hearing establish just cause for the relief granted herein; the Court hereby makes and issues the following Findings of Fact, Conclusions of Law and Order:³

FINDING OF FACTS AND CONCLUSIONS OF LAW

IT IS HEREBY DETERMINED, FOUND, ADJUDGED, DECREED AND ORDERED

THAT:

A. Jurisdiction and Venue

1. On the Petition Date, the Debtors commenced the Cases in this Court. Venue in this Court was proper as of the Petition Date with respect to the Debtors pursuant to 28 U.S.C. §§ 1408 and 1409. Confirmation of the Plan is a core proceeding under 28 U.S.C. § 157(b)(2). The Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C.

³ The findings of fact and the conclusions of law set forth herein shall constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

§ 1334. The Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed.

B. Eligibility for Relief

2. The Debtors were and are entities eligible for relief under Bankruptcy Code section 109.

C. Commencement and Joint Administration of the Cases

3. On the Petition Date, the Debtors commenced the Cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code with the Court. By prior order of the Court, the Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015 [Docket No. 27]. The Debtors have operated their businesses and managed their properties as a debtor in possession since the Petition Date pursuant to Bankruptcy Code sections 1107(a) and 1108. No trustee or examiner has been appointed in the Cases. On February 6, 2013, the United States Trustee for the Southern District of New York appointed the Creditors' Committee.

D. Judicial Notice

4. The Court takes judicial notice of the docket of the Cases maintained by the Clerk of the Court and/or its duly appointed agent, including, without limitation, all pleadings and other documents filed and orders entered thereon. The Court also takes judicial notice of all evidence proffered or adduced and all arguments made at the hearings held before the Court during the pendency of the Cases.

E. Plan Supplement

5. The Plan Supplement consists of the following: (a) the Global Secured Promissory Note; (b) the Postconfirmation Organizational Documents; (b) the identity of the members of each of the Reorganized Debtors' board of directors (the "Directors") and the nature

and compensation for any director who is an “insider” under the Bankruptcy Code; (c) the identity of the officers of each of the Reorganized Debtors (the “Officers”) and the compensation for any officer who is an “insider” under the Bankruptcy Code; (d) the schedule of assumed Executory Contracts and unexpired leases and proposed cure amounts thereto; and (e) the disclosure of the Committee Designee and the engagement letter memorializing the terms of the Committee Designee’s engagement.

6. All materials included in the Plan Supplement are integral to, part of and incorporated by reference into, the Plan. The documents contained in the Plan Supplement comply with the terms of the Plan, and the filing and notice of such documents was good and proper in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Disclosure Statement Order, and no other or further notice is or shall be required.

F. Disclosure Statement Order

7. The Disclosure Statement Order, which, among other things: (a) approved the Disclosure Statement in the form attached to the Disclosure Statement Order as containing adequate information within the meaning of Bankruptcy Code section 1125 and Bankruptcy Rule 3017; (b) fixed October 29, 2013, as the Voting Record Date; (c) fixed November 25, 2013, at 5:00 p.m., prevailing Eastern Time, as the deadline for voting to accept or reject the Plan (the “Voting Deadline”); (d) fixed November 27, 2013, at 5:00 p.m., prevailing Eastern Time, as the deadline for objecting to the Plan; (e) fixed December 5, 2013, at 10:00 a.m., prevailing Eastern Time, as the date and time for the commencement of the Confirmation Hearing; (f) approved the Solicitation Procedures and the form of the Solicitation Packages; and (g) approved the form and method of notice of the Confirmation Hearing Notice.

G. Notice, Transmittal and Mailing of Materials

8. As evidenced by the BMC Affidavit, due, adequate and sufficient notice of the Disclosure Statement, the Plan, the Plan Supplement and the Confirmation Hearing, together with all deadlines for voting on or objecting to the Plan and with respect to Confirmation, has been given to: (a) all known holders of Claims and Interests; (b) all parties that requested notice in accordance with Bankruptcy Rule 2002; and (c) all counterparties to Executory Contracts and unexpired leases with the Debtors, in substantial compliance with the Disclosure Statement Order and Bankruptcy Rules 2002(b), 3017 and 3020(b), and no other or further notice is or shall be required. Adequate and sufficient notice of the Confirmation Hearing, and any applicable dates, deadlines and hearings described in the Disclosure Statement Order was given in compliance with the Bankruptcy Rules, the Disclosure Statement Order, as evidenced by the BMC Affidavit and the Publication Verification, and no other or further notice is or shall be required.

9. The Debtors published the Confirmation Hearing Notice once in the *USA Today (National Edition)* in substantial compliance with the Disclosure Statement Order and Bankruptcy Rule 2002(l), as evidenced by the Publication Verification, and no other or further notice is or shall be required.

H. Solicitation

10. Votes for acceptance and rejection of the Plan were solicited in good faith and in compliance with Bankruptcy Code sections 1125 and 1126, Bankruptcy Rules 3017 and 3018, the Disclosure Statement, the Disclosure Statement Order, all other applicable provisions of the Bankruptcy Code, and all other applicable rules, laws and regulations.

11. Specifically, the Solicitation Packages approved by the Disclosure Statement Order (including the Disclosure Statement, the Plan, the form of ballots and related notices approved thereby) were transmitted to and served on all holders of Claims or Interest in

Classes that were entitled to vote to accept or reject the Plan, and relevant portions of the Solicitation Package and other notices approved by the Disclosure Statement Order were transmitted and served on other parties in interest in the Cases, all in compliance with Bankruptcy Code section 1125, the Disclosure Statement Order, the Solicitation Procedures and the Bankruptcy Rules. Transmittal and service were adequate and sufficient, and no further notice is or shall be required.

I. Voting Certification

12. The Debtors filed the Voting Certification before the commencement of the Confirmation Hearing, consistent with the Disclosure Statement Order. All procedures used to tabulate ballots received in connection with Confirmation were fair and conducted in accordance with the Disclosure Statement Order, as evidenced by the Voting Certification.

13. As set forth in the Plan and Disclosure Statement, holders of Claims in Classes 3, 4 and 5 (the “Voting Classes”) were eligible to vote on the Plan pursuant to the Solicitation Procedures. In addition, holders of Claims in Classes 1, 2 and 6 (together, the “Deemed Accepting Classes”) are deemed to accept the Plan, and therefore, are not entitled to vote to accept or reject the Plan. Each of the Voting Classes voted to accept the Plan (the “Impaired Accepting Classes”) as evidenced by the Voting Certification.

J. Bankruptcy Rule 3016(a)

14. The Plan reflects the date it was filed with the Court and identifies the entities submitting it as Proponents, thereby satisfying Bankruptcy Rule 3016(a). The filing of the Disclosure Statement with the clerk of the Court satisfied Bankruptcy Rule 3016(b).

K. Burden of Proof

15. The Debtors and the Sponsor, as Proponents, have the burden of proving the elements of Bankruptcy Code section 1129 by a preponderance of the evidence, and they have met that burden as found and determined herein.

L. Compliance with the Requirements of Bankruptcy Code Section 1129

16. The Plan complies with all applicable provisions of Bankruptcy Code section 1129 as set forth below.

i. *Compliance of the Plan with the Applicable Provisions of the Bankruptcy Code (11 U.S.C. § 1129(a)(1))*

17. The Plan complies with the applicable provision of the Bankruptcy Code, as required by Bankruptcy Code section 1129(a)(1), including, without limitation, Bankruptcy Code sections 1122 and 1123.

a. Sections 1122 and 1123(a)(1)—Proper Classification

18. The classification of Claims and Interests under the Plan is proper under the Bankruptcy Code. Pursuant to Bankruptcy Code sections 1122(a) and 1123(a)(1), article III of the Plan provides for the separate classification of Claims and Interest into six (6) Classes based on difference in the legal nature or priority of such Claims and Interests (other than the DIP Loan Claims, Administrative Claims, Professional Fee Claims, Priority Tax Claims and statutory fees owed to the U.S. Trustee (the “Statutory Fees”), which are addressed in section 3.1 of the Plan and which are not required to be designated as separate Classes pursuant to Bankruptcy Code section 1123(a)(1)). Valid business, factual and legal reasons exist for the separate classification of the various Classes of Claims and Interests created under the Plan, and the classifications were not created for any improper purpose. In addition, the creation of such Classes does not unfairly discriminate between or among holders of Claims or Interests. As required by Bankruptcy Code section 1122(a), each Class of Claims and Interests contains only

Claims or Interests that are substantially similar to the other Claims or Interests within that Class. Accordingly, the requirements of Bankruptcy Code sections 1122(a) and 1123(a)(1) have been satisfied.

b. Section 1123(a)(2)—Specification of Unimpaired Classes

19. Article III of the Plan properly specifies that Claims in Classes 1, 2 and 6 are Unimpaired under the Plan. Additionally, section 3.1 of the Plan specifies the DIP Loan Claims, Administrative Claims, Professional Fee Claims, Priority Tax Claims and Statutory Fees are Unimpaired, although these Claims are not classified under the Plan. Accordingly, the Plan satisfies Bankruptcy Code section 1123(a)(2).

c. Section 1123(a)(3)—Specification of Treatment of Impaired Classes

20. Article IV of the Plan properly specifies the treatment of each Class of Claims or Interests that is Impaired under the Plan, including Classes 3, 4 and 5. Accordingly, the requirements of Bankruptcy Code section 1123(a)(3) have been satisfied.

d. Section 1123(a)(4)—No Discrimination

21. Pursuant to Bankruptcy Code section 1123(a)(4), article IV of the Plan provides for the same treatment for each Claim or Interest in a particular Class, as the case may be, unless the holder of a particular Claim or Interest has agreed to a less favorable treatment with respect to such Claim. Accordingly, the requirements of Bankruptcy Code section 1123(a)(4) have been satisfied.

e. Section 1123(a)(5)—Adequate Means for Plan Implementation

22. Pursuant to Bankruptcy Code section 1123(a)(5), article VII of the Plan and various other provisions of the Plan specifically provide in detail adequate and proper means for the Plan's implementation, including, without limitation the: (a) general settlement of Claims

and Interests; (b) sources of consideration for Plan distributions; (c) Debtors' continued corporate existence; (d) authorization of the Postconfirmation Reorganization Documents; (e) selection of the initial Reorganized Debtors' Directors; (f) selection of the initial Officers of the Reorganized Debtors; (g) vesting of retained Assets in the Reorganized Debtors; (h) proposed restructuring transactions under the Plan; (i) authorization for post-Confirmation corporate action by the Reorganized Debtors; (j) treatment of Intercompany Claims under the Plan; (k) authorization to enter into the D&O Insurance Policy; (l) preservation of certain specified rights and Causes of Action; and (m) Reorganized Debtors' entry into the Global Secured Promissory Note to secure the Reorganized Debtors' obligations to make the Second GUC Distribution and the Third GUC Distribution. Moreover, upon the Effective Date, the Reorganized Debtors will have sufficient Cash from their own operations and from the Sponsor Contributions to make all payments required to be made on the Effective Date pursuant to the terms of the Plan. Accordingly, the requirements of the Bankruptcy Code section 1123(a)(5) have been satisfied.

f. Section 1123(a)(6)—Voting Power of Equity Securities

23. The Reorganized Debtors' amended certificates of incorporation, filed as part of the Plan Supplement, prohibit the issuance of non-voting equity securities in violation of Bankruptcy Code section 1123(a)(6), thereby satisfying Bankruptcy Code section 1123(a)(6).

g. Section 1123(a)(7)—Selection of Officers and Directors

24. The identities and affiliations of the initial Directors and Officers of each of the Reorganized Debtors as of the Effective Date are listed in Exhibit D to the Plan Supplement. The Postconfirmation Organization Documents describe the manner of the selection of additional Directors following the Effective Date. The selection of the initial

Directors and Officers of each Reorganized Debtor was, is and will be consistent with the interests of holders of Claims and Interests and public policy. Accordingly, the requirements of Bankruptcy Code section 1123(a)(7) have been satisfied.

h. Section 1123(b)—Discretionary Contents of the Plan

25. The Plan contains various provisions that may be construed as discretionary, but are not required for Confirmation under the Bankruptcy Code. As set forth below, such discretionary provisions comply with Bankruptcy Code section 1123(b) and are not inconsistent with the applicable provisions of the Bankruptcy Code. Thus, Bankruptcy Code section 1123(b) is satisfied.

1. Section 1123(b)(1)-(2)—Claims and Executory Contracts

26. Pursuant to Bankruptcy Code sections 1123(b)(1) and 1123(b)(2), article IV of the Plan impairs or leaves unimpaired, as the case may be, each Class of Claims and Interests, and article X of the Plan provides for the assumption or rejection of the Debtors' Executory Contracts and unexpired leases not previously assumed, assumed and assigned or rejected pursuant to Bankruptcy Code section 365 and appropriate authorizing orders of the Court; *provided, however*, that subject to the limitations set forth in the Plan, the Debtors shall be authorized to alter, amend, modify or supplement the list of Executory Contracts and unexpired leases identified in the Plan Supplement prior to the Effective Date.

2. Section 1123(b)(3)—Settlement, Releases, Exculpation, Injunction and Preservation of Claims and Causes of Action

a. Settlements Under the Plan

27. The Plan embodies a negotiated compromise (the "Plan Settlement") between the Creditors' Committee, Alden, the Sponsor and the Debtors of the various issues raised in the Cases, including the substantive consolidation of the Debtors and the

recharacterization of certain intercompany claims, which ensures a fair recovery for all creditors and parties in interest and allows for accelerated distributions to holders of Allowed Claims. This compromise is in consideration for the distributions and other benefits provided under the Plan to the compromising parties. Any other compromise and settlement provisions of the Plan and the Plan itself constitute a compromise of all Claims, Interests or Causes of Action relating to the contractual, legal and subordination rights that a holder of a Claim or Interest may have with respect to any Allowed Claim or Interest or any distribution to be made on account of such an Allowed Claim or Interest.

28. The settlements contained in the Plan, including the Plan Settlement, are the product of extensive arm's-length negotiations. Therefore, the settlements, including the Plan Settlement, are fair and equitable and in the best interest of the Estates and are approved pursuant to Bankruptcy Rule 9019, to the extent that the Court has not already approved such settlements.

b. Debtors' Releases, Third-Party Releases, Exculpation, Plan Injunction and Retained Causes of Action

29. Releases by the Debtors. The releases and discharges of Claims and Causes of Action given by the Debtors described in section 12.7 of the Plan (the "Debtor Releases") are a necessary and important aspect of the Plan. The Debtor Releases are based on sound business judgment and are reasonable and acceptable pursuant to the standards that courts in this district generally apply.

30. Mutual Releases of Released Parties. The mutual releases and discharges of the Released Parties contained in section 12.9 of the Plan (the "Mutual Releases") are a necessary and important aspect of the Plan, and are reasonable and acceptable under the applicable standards employed by the courts in this district.

31. Exculpation. The Exculpation provision described in section 12.6 of the Plan is appropriate under applicable law because it is part of a Plan proposed in good faith, was vital to the Plan formulation process and is appropriately limited in scope. The Exculpation provision, including its carve-out for gross negligence and willful misconduct, is entirely consistent with established practice in this jurisdiction and others.

32. Injunction. The injunction provision set forth in section 12.10 of the Plan (the "Plan Injunction") is essential to the Plan and is necessary to preserve and enforce the Debtor Releases and the Plan, and is narrowly tailored to achieve that purpose.

33. Third-Party Releases by Holders of Claims and Interests. The releases of Claims and Causes of Action by holders of Claims and Interests described in section 12.8 of the Plan (the "Third-Party Releases") are an important and critical aspect of the Plan and the Debtors' successful reorganization. They are designed to provide finality for the Released Parties regarding the Parties' respective obligations under the Plan. The Released Parties consist of the DIP Lender, Alden, the Creditors' Committee and its members, the Sponsor and certain other Parties, including, the current and former employees, directors, officers, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals of the Debtors, which parties have either made significant contributions to the Cases and the Plan or would be entitled to assert indemnification or contribution claims against the Debtors. Specifically, with respect to the Third-Party Releases of the Sponsor, Alden, the Creditors' Committee and their respective representatives, these parties have played an integral role in the negotiation of the compromises embedded in, and in the development and formulation of, the Plan and have expended significant time and resources analyzing and negotiating the issues presented by the Cases, the Debtors' prepetition capital structure, the Debtors' prepetition

obligations and related issues. As contemplated by *Deutsche Bank AG, London Branch v. Metromedia Fiber Network, Inc. (In re Metromedia Fiber Network, Inc.)*, 416 F.3d 136 (2d Cir. 2005), these parties have provided substantial consideration to the Cases by compromising aspects of their asserted Claims or other legal and/or equitable rights to reach the consensual resolution of the various issues embodied in the Plan that allowed for the maximization and preservation of value for all of the Debtors' creditors and, without which, the Plan would not be possible. Specifically, absent the foregoing compromises, the potential resulting litigation would substantially have reduced the value available for distribution to General Unsecured Creditors due to an increase in administrative costs attendant to such litigation and the likely substantial delay in concluding these Cases.

34. In addition, absent receiving a release pursuant to the Third-Party Releases, the relevant Released Parties would have potential Claims for indemnification and contribution against the Debtors for any liabilities incurred in connection with their services to the Debtors, as well as any expenses incurred to defend such liabilities, which would adversely impact the Estates, including the recovery to the Debtors' unsecured creditors. Further, several of these parties were integral to achieving the compromises embedded in the Plan and thus also, provided substantial consideration to the Cases in their capacity as such. The Third-Party Releases are therefore appropriate, important to the success of the Plan and consistent with controlling Second Circuit precedent.

35. Thus, each of the releases, including the Third-Party Release, Mutual Release, Exculpation and Plan Injunction provisions set forth in the Plan: (a) is within the jurisdiction of the Court under 28 U.S.C. §§ 1334(a), 1334(b) and 1334(d); (b) is an essential means of implementing the Plan pursuant to Bankruptcy Code section 1123(a)(6); (c) is an

integral element of the transactions incorporated into the Plan; (d) confers material benefits on, and is in the best interests of, the Debtors, the Estates and all the stakeholders in the Cases; (e) is important to the overall objectives of the Plan to finally resolve all Claims among or against the parties-in-interest in the Cases with respect to the Debtors; and (f) is consistent with Bankruptcy Code sections 105, 1123 and 1129, other applicable provisions of the Bankruptcy Code, and other applicable law, including controlling Second Circuit case law. Moreover, the record of the Confirmation Hearing and the Cases is sufficient to support the Exculpation, Third-Party Releases, Debtor Releases, Mutual Releases and Plan Injunction provisions contained in article XII of the Plan.

36. Preservation of Claims and Causes of Action. Section 12.5 of the Plan appropriately provides for the preservation by the Debtors, the Reorganized Debtors or the Sponsor, as applicable, of the Causes of Action in accordance with Bankruptcy Code section 1123(b)(3)(B). This provision is appropriate and in the best interests of the Debtors, the Estates and all holders of Claims and Interests.

1. Section 1123(d)—Cure of Defaults

37. Section 10.2 of the Plan provides for the satisfaction of any monetary defaults under each Executory Contract and unexpired lease to be assumed pursuant to the Plan in accordance with Bankruptcy Code section 365(b) by payment for any “cure amount” pursuant to the terms thereof. The Debtors, in accordance with the Plan, have filed the schedule of Executory Contracts and unexpired leases to be assumed as Exhibit E to the Plan Supplement, and distributed a notice of proposed assumption and proposed cure amounts to the applicable counterparties, which notice included procedures for objecting to and resolving proposed assumptions of Executory Contracts and unexpired leases and any cure amounts proposed to be

paid in connection therewith. Accordingly, the requirements of Bankruptcy Code section 1123(d) are satisfied.

ii. *Compliance of the Debtors and Others with the Applicable Provisions of the Bankruptcy Code (11 U.S.C. § 1129(a)(2))*

38. The Debtors and the Sponsor, as Proponents, have complied with the applicable provisions of the Bankruptcy Code as required by Bankruptcy Code section 1129(a)(2), including Bankruptcy Code sections 1122, 1123, 1124, 1125, 1126 and 1128 and Bankruptcy Rules 3017, 3018 and 3019.

39. Votes to accept or reject the Plan were solicited by the Proponents and their respective present and former members, partners, representatives, officers, directors, employees, advisors, attorneys and agents after the Court approved the adequacy of the Disclosure Statement pursuant to Bankruptcy Code section 1125(a).

40. The Proponents and their respective present and former members, partners, representatives, officers, directors, employees, advisors, attorneys and agents have solicited and tabulated votes on the Plan and have participated in the activities described in Bankruptcy Code section 1125 fairly, in good faith within the meaning of Bankruptcy Code section 1125(e) and in a manner consistent with the applicable provisions of the Disclosure Statement Order, the Disclosure Statement, the Bankruptcy Code, the Bankruptcy Rules and all other applicable rules, laws and regulations, and are therefore entitled to the protections afforded by Bankruptcy Code section 1125(e) and the Debtor Releases, Mutual Releases, Exculpation, Third-Party Releases and Plan Injunction provisions set forth in article XII of the Plan.

41. The Proponents and their respective present and former members, partners, officers, directors, employees, advisors, attorneys and agents have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code with regard to the

offering, issuance and distribution of recoveries under the Plan and therefore, are not, and on account of such distributions will not be, liable at any time for the violation of any applicable law, rule or regulation governing the solicitation of acceptances or rejections of the Plan or distributions made pursuant to the Plan, so long as such distributions are made consistent with, and pursuant to, the Plan. Accordingly, the requirements of Bankruptcy Code section 1129(a)(2) are satisfied.

iii. *Proposal of Plan in Good Faith (11 U.S.C. § 1129(a)(3))*

42. The Proponents have proposed the Plan in good faith and not by any means forbidden by law. In determining that the Plan has been proposed in good faith, the Court has examined the totality of the circumstances surrounding the filing of the Cases, the Plan itself and the process leading to its formulation. The good faith of each of the entities who negotiated the Plan is evident from the facts and records of the Cases, the Disclosure Statement and the hearing thereon and the record of the Confirmation Hearing and other proceedings held in the Cases.

43. The Plan is the product of arm's-length negotiations between and among the Debtors and each of their key stakeholders. The Plan itself, and the process leading to its formulation, provide independent evidence of the good faith of the parties who negotiated the Plan, serve the public interest and assure fair treatment of holders of Claims and Interests. The Debtors and their key stakeholders negotiated the Plan (following extensive discussions regarding the terms thereof and settlements embodied therein) for the legitimate and honest purpose of maximizing the value of the Debtors' Estates for the benefit of all creditors. Consistent with the overriding purpose of chapter 11 of the Bankruptcy Code, the Cases were

filed by the Debtors, and the Plan was proposed, with the legitimate purpose of maximizing the value of the Debtors' Estates to satisfy the Debtors' obligations to creditors.

iv. *Court Approval of Certain Payments as Reasonable (11 U.S.C. § 1129(a)(4))*

44. The procedures set forth in the Plan for the Court's review and ultimate determination of the fees and expenses to be paid by the Debtors in connection with the Cases, or in connection with the Plan and incident to the Cases, satisfy the objectives of, and are in compliance with, Bankruptcy Code section 1129(a)(4). Accordingly, the requirements of Bankruptcy Code section 1129(a)(4) are satisfied.

v. *Disclosure of Identify of Proposed Management, Compensation of Insiders and Consistency of Management Proposals with the Interests of Creditors and Public Policy (11 U.S.C. § 1129(a)(5))*

45. The identities and affiliations of the directors and officers of each of the Reorganized Debtors, and the identities and the nature of compensation of insiders that will be employed or retained by the Reorganized Debtors, have been disclosed in the Plan Supplement. The appointment to, or continuance in, such offices by the proposed directors and officers is consistent with the interests of holders of Claims and Interests and with public policy.

vi. *No Rate Changes (11 U.S.C. § 1129(a)(6))*

46. The Plan does not contain any rate changes subject to the jurisdiction of any governmental regulatory commission and does not require approval of any governmental regulator. The Plan, therefore, satisfies Bankruptcy Code section 1129(a)(6).

vii. *Best Interests of Creditors (11 U.S.C. § 1129(a)(7))*

47. The liquidation analysis annexed as Exhibit C to the Disclosure Statement and supported by the Davis Declaration and the Keller Declaration (i) is reasonable, persuasive and credible, (ii) is based upon sound methodology and assumptions, (iii) has not be controverted

by other evidence, (iv) provides a reasonable estimate of the liquidation values of the Debtors in the event the Cases are liquidated under chapter 7 of the Bankruptcy Code and (v) establishes that each holder of an Impaired Claim either has accepted the Plan or 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 such holder would receive or retain if the Debtors were liquidated under chapter 7 on such date.

viii. *Conclusive Presumption of Acceptance by Unimpaired Classes; Acceptance of the Plan by Each Impaired Class (11 U.S.C. § 1129(a)(8))*

48. Classes 1, 2 and 6 are each of the Classes of Unimpaired Claims or Interests that are conclusively presumed to have accepted the Plan under Bankruptcy Code section 1126(f). Classes 3, 4 and 5 are Classes of Impaired Claims and have each voted to accept the Plan. The Plan, therefore, meets the requirements of Bankruptcy Code section 1129(a)(8).

ix. *Treatment of Administrative Claims, Priority Tax Claims and Priority Non-Tax Claims (11 U.S.C. § 1129(a)(9))*

49. Except to the extent that the holder of a particular Claim has agreed to different treatment, the Plan provides treatment for Administrative Claims, Priority Tax Claims, and Priority Non-Tax Claims that is consistent with the requirements of Bankruptcy Code section 1129(a)(9).

x. *Acceptance by at Least One Impaired Class (11 U.S.C. § 1129(a)(10))*

50. As evidenced by the Voting Certification, the Plan has been accepted by all Impaired Classes of Claims, without including any acceptance of the Plan by an insider. Accordingly, the Plan satisfies Bankruptcy Code section 1129(a)(10).

xi. *Feasibility of the Plan (11 U.S.C. § 1129(a)(11))*

51. The evidence supporting the Plan proffered or adduced by the Debtors at, or prior to, or in declarations filed in connection with, the Confirmation Hearing: (a) is reasonable, persuasive, credible and accurate as of the dates such analysis or evidence was prepared, presented or proffered; (b) utilizes reasonable and appropriate methodologies and assumptions; (c) has not been controverted by other evidence; (d) establishes that the Plan is feasible and Confirmation of the Plan is not likely to be followed by the need for further financial reorganization; and (e) establishes that the Reorganized Debtors will have sufficient funds available to meet their obligations under the Plan. Accordingly, the requirements of Bankruptcy Code section 1129(a)(11) have been satisfied.

xii. *Payment of Bankruptcy Fees (11 U.S.C. § 1129 (a)(12))*

52. The Plan provides that all fees payable pursuant to section 1930 of title 28 of the United States Code, due and payable through the Effective Date shall be paid by the Debtors on or before the Effective Date, and the amounts due thereafter shall be paid by the Reorganized Debtors in the ordinary course until the entry of a final decree closing the Cases.

xiii. *Retiree Benefits (11 U.S.C. § 1129(a)(13))*

53. Bankruptcy Code section 1129(a)(13) requires a plan to provide for the continuation of “retiree benefits” at levels established pursuant to Bankruptcy Code section 1114. Because the Debtors have no retiree benefits obligations, this section of the Bankruptcy Code is inapplicable.

xiv. *Domestic Support Obligations; Unsecured Claims Against Individual Debtors; Transfers by Nonprofit Organizations (11 U.S.C. §§ 1129(a)(14), (15) & (16))*

54. None of the Debtors have domestic support obligations, are individuals or are nonprofit organizations. Therefore, Bankruptcy Code sections 1129(a)(14), (15) and (16) do not apply to the Cases.

xv. *Only One Plan (11 U.S.C. § 1129 (c))*

55. The Plan is the only plan that has been filed in the Cases. Accordingly, Bankruptcy Code section 1129(c) is satisfied.

xvi. *The Principal Purpose of the Plan is Not Avoidance of Taxes (11 U.S.C. § 1129(d))*

56. No governmental unit has requested that the Court refuse to confirm the Plan on the grounds that the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act. As evidenced by its terms, the principal purpose of the Plan is not such avoidance. Accordingly, the requirements of Bankruptcy Code section 1129(d) have been satisfied.

M. Satisfaction of Plan Confirmation Requirements

57. Based on the foregoing, the Plan satisfies the requirements of confirmation set forth in Bankruptcy Code section 1129.

N. Disclosure: Agreements and Other Documents

58. The Debtors have disclosed all material facts regarding the Plan and the documents included in the Plan Supplement, including: (a) the forms of the Postconfirmation Organizational Documents; (b) the Global Secured Promissory Note; (c) to the extent known, the identity of the new Directors and Officers and the nature and compensation for any Director or Officer who is an “insider” under the Bankruptcy Code; (d) the assumed Executory Contract and unexpired lease schedule; and (g) the selection of the Committee Designee.

O. Plan Consolidation

59. A preponderance of the evidence presented to the Court demonstrates that no Creditor will be harmed by the proposed limited substantive consolidation of the Debtors' Estates solely with respect to the holders of Allowed General Unsecured Claims for Plan purposes. Furthermore, no Creditor or Interest holder has objected to or opposed the limited consolidation under the Plan.

P. Conditions to Confirmation

60. Article XI of the Plan sets forth the following conditions precedent to Confirmation: (i) the Plan and Disclosure Statement shall be in form and substance mutually acceptable to the Debtors, the Sponsor and the Guarantor; (ii) the Court shall have entered the Disclosure Statement Order, in form and substance reasonably satisfactory to the Proponents, on or before October 30, 2013; (iii) the occurrence of the deadline to vote on the Plan on or before November 25, 2013; (iv) the occurrence of the Confirmation Objection Deadline on or before November 27, 2013; and (v) the Sponsor Commitment Letter shall be in full force and effect. Each of these conditions has been satisfied.

Q. Likelihood of Satisfaction of Conditions Precedent to the Effective Date

61. Each of the conditions precedent to the Effective Date, as set forth in article XI of the Plan, are reasonably likely to be satisfied or, as set forth in and subject to the terms of the Plan, may be waived, in writing, by the Proponents.

R. Implementation

62. All documents and agreements necessary to implement the Plan, including, without limitation, those contained in the Plan Supplement, and all other relevant and necessary documents have been negotiated in good faith, at arm's-length, and are in the best interests of the Debtors and the Reorganized Debtors and shall, upon completion of such

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

S. Corporate Action

63. Upon the Effective Date, all corporate actions contemplated by the Plan shall be deemed authorized and approved in all respects.

T. Assumption or Rejection of Executory Contracts and Unexpired Leases

64. The Debtors have exercised their reasonable business judgment prior to the Confirmation Hearing in determining whether to assume or reject each of their Executory Contracts and unexpired leases as set forth in article X of the Plan, the Plan Supplement, the Confirmation Order or otherwise. Notwithstanding any provision of this Confirmation Order or the Plan to the contrary, the Debtors may amend, modify or supplement the schedule of the Executory Contractors or unexpired leases identified as Exhibit E to the Plan Supplement prior to the Effective Date. Each assumption or rejection of an Executory Contract or unexpired lease pursuant to this Confirmation Order and in accordance with article X of the Plan or otherwise shall be legal, valid and binding upon the applicable Debtor or Reorganized Debtor and all non-Debtor entities party to such Executory Contract or unexpired lease (subject to the rights of the non-debtor entities party to such agreements to object to such assumption or rejection and the rights of the applicable Reorganized Debtor in response to any such objection).

65. The filing of the Plan, Disclosure Statement, Plan Supplement and the Confirmation Hearing Notice and the entry of this Confirmation Order provided adequate notice of the assumption, assumption and assignment or rejection, as the case may be, of the Executory Contracts and unexpired leases pursuant to article X of the Plan.

66. The Debtors have provided adequate assurance of future performance for each of the Executory Contracts and unexpired leases that is being assumed by the Debtors

pursuant to the Plan. Further, the Debtors have cured or provided adequate assurance that the Reorganized Debtors will cure defaults (if any) under, or relating to, each of the Executory Contracts and unexpired leases that are being assumed by the Debtors pursuant to the Plan. The Plan and such assumptions, therefore, satisfy the requirements of Bankruptcy Code section 365.

U. Retention of Jurisdiction

67. The Court properly may retain jurisdiction over the matters set forth in article XIII, other applicable provisions of the Plan, and all other documents included in the Plan Supplement.

ORDER

BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

68. This Confirmation Order shall confirm the Plan, a copy of which is attached hereto as Exhibit A.

A. Confirmation

69. The Plan, including all provisions thereof, all exhibits attached thereto and the Plan Supplement (as such may be amended by this Confirmation Order or in accordance with the Plan), are approved and confirmed under Bankruptcy Code section 1129. The terms of the Plan (as modified), the Plan Supplement and exhibits thereto are incorporated by reference into and are an integral part of this Confirmation Order. All acceptances and rejections previously cast for or against the Plan are hereby deemed to constitute acceptances or rejections of the Plan in the form attached to this Confirmation Order. The documents contained in the Plan Supplement and any amendments, modifications and supplements thereto and all documents and agreements related thereto (including all exhibits and attachments thereto and documents referred to in such papers) and the execution, delivery and performance thereof by the Debtors

and the Reorganized Debtors, are authorized and approved as finalized, executed and delivered. Without further order or authorizations of the Court, the Debtors, the Reorganized Debtors and their successors are authorized and empowered to make all modifications to all documents included as part of the Plan Supplement that are consistent with the Plan.

70. The terms of the Plan shall be effective and binding from and after the Confirmation Date, but subject to the Effective Date.

71. All of the conditions precedent to confirmation of the Plan set forth in article XI of the Plan have been satisfied.

72. The Effective Date shall occur on the first Business Day on which all conditions set forth in section 11.2 of the Plan have been satisfied or, if applicable, have been waived in accordance with section 11.3 of the Plan.

73. All parties have had a full and fair opportunity to litigate all issues raised, or that might have been raised, to the Plan, including, without limitation, any objections that could have been raised to any documents contained in the Plan Supplement or related thereto. Any objections or responses to confirmation of the Plan and the reservation of rights contained therein that (a) have not been withdrawn, waived or settled prior to the entry of this Confirmation Order or (b) are not cured by the relief granted herein, are hereby OVERRULED on their merits, and all withdrawn objections or responses are hereby deemed withdrawn with prejudice.

B. Effect of Confirmation

74. All sections of article XII of the Plan regarding the effect of confirmation of the Plan are incorporated in this Confirmation Order as though fully set forth herein and are approved and so ordered in all respects.

C. Plan Classification is Controlling

75. The terms of the Plan shall govern the classification of Claims and Interests for purposes of the distributions to be made thereunder. The classifications set forth on the ballots tendered to or returned by the holders of Claims or Interests in connection with voting on the Plan pursuant to the Disclosure Statement Order: (a) were set forth on the ballots for purposes of voting to accept or reject the Plan; (b) in no event shall be deemed to modify or otherwise affect, the actual classification of such Claims and Interests under the Plan for distribution purposes; (c) may not be relied upon by any holder of a Claim or Interest as representing the actual classification of such Claim or Interest under the Plan for distribution purposes; and (d) shall not be binding on the Debtors, Reorganized Debtors or the Committee Designee, as applicable, except for voting purposes.

D. Approval of Settlements

76. The settlements embodied in the Plan, including the negotiated compromise reached among the Debtors, the Creditors' Committee, Alden and the Sponsor regarding the resolution of the numerous issues in the Cases, are expressly approved in all respects pursuant to Bankruptcy Rule 9019 and Bankruptcy Code section 1123.

E. Approval of Injunctions

77. The injunctions set forth in article XII of the Plan are essential to the Plan, necessary to preserve and enforce the Plan and narrowly tailored to achieve that purpose, and are therefore approved. By accepting distributions pursuant to the Plan, each holder of a Claim shall be deemed to have specifically consented to the injunctions set forth in section 12.10 of the Plan.

F. Approval of Releases

78. The releases set forth in sections 12.7 through 12.9 of the Plan, including, without limitation, the releases by holders of Claims and Interests, represent a valid exercise of the Debtors' business judgment, and no party has objected to same. The releases in sections 12.7 through 12.9 of the Plan therefore are approved and so ordered, and shall be immediately effective on the Effective Date without further order or action by the Court, any of the parties to such releases or any other party.

G. Approval of Exculpation

79. The exculpation provisions as set forth in section 12.6 of the Plan are essential to the Plan. The record in the Cases fully supports the exculpation, and the exculpation provisions, as modified herein, are appropriately tailored to protect the exculpated Parties from inappropriate litigation related to acts or omissions up to and including the Effective Date and are hereby approved; *provided* that nothing in the Plan shall (a) exculpate any Person from any liability resulting from any acts that constitute fraud, gross negligence or willful misconduct as determined by a final order of the Court or (b) limit the liability of the Professionals of the Exculpated Parties to their respective clients pursuant to N.Y. Comp. Codes R. & Regs. title 22 § 1200.0 Rule 1.8(h)(1)(2011).

H. Vesting of Assets and Operations as of the Effective Date

80. As of the Effective Date, each of the Debtors, their respective properties and interests in property shall be released from the custody and jurisdiction of the Court, and the property of the Debtors shall vest in the relevant Reorganized Debtors, free and clear of any Claims, Liens, encumbrances, charges and other interests, except as provided in the Plan. Additionally, as of the Effective Date, each Reorganized Debtor may, consistent with and in accordance with the Plan, operate its businesses and may use, acquire and dispose of its property, and settle and compromise Claims and Interests without supervision or approval by the Court,

and free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in all respects as if there were no pending cases under any chapter or provision of the Bankruptcy Code.

I. Order Binding on All Parties

81. Subject to the provisions of section 12.2 of the Plan and Bankruptcy Rule 3020(e), to the extent applicable, in accordance with Bankruptcy Code section 1141(a) and notwithstanding any otherwise applicable law, upon the occurrence of the Effective Date, the terms of the Plan and this Order shall be binding upon, and inure to the benefit of the Debtors, all holders of Claims and Interests and their respective successors and assigns.

J. Limited Substantive Consolidation of the Debtors for Purposes of Voting, Confirmation and Distribution

82. The consolidation of the Debtors solely with respect to holders of Allowed General Unsecured Claims, for the limited purposes of voting, confirmation and making distributions under the Plan, as set forth in article II of the Plan, is hereby approved. Except as set forth in article II of the Plan, such substantive consolidation shall not affect (a) the legal or organizational structure of each of the Debtors, (b) pre- or post-Effective Date guarantees, liens and security interests that are required to be maintained pursuant to the Plan, (c) any obligations under any leases or Executory Contracts assumed or entered into pursuant to the Plan or otherwise after the Petition Date, (d) Interests between and among the Debtors, or (e) the vesting of assets in the separate Reorganized Debtors upon the Effective Date.

K. Vesting of Assets and Release of Liens

83. On the Effective Date, pursuant to Bankruptcy Code sections 1141(b) and (c), each of the Debtors, their respective properties and interests in property shall be released from the custody and jurisdiction of the Court, and the property of each Debtor shall vest in the relevant Reorganized Debtor, free and clear of all Claims, Liens, encumbrances, charges and

other interests, except as provided in the Plan. As of the Effective Date, each Reorganized Debtor may operate its business, use, acquire and dispose of its property free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules or the Local Bankruptcy Rules, subject to the terms and conditions of the Plan and this Confirmation Order.

L. Preservation and Prosecution of Claims and Causes of Action

84. Sections 12.1 and 12.5 of the Plan appropriately provide for the preservation and retention by the Debtors, the Reorganized Debtors or the Sponsor, as applicable, of all Claims and Causes of Action in accordance with Bankruptcy Code section 1123(b). The Debtors, the Reorganized Debtors or the Sponsor, as applicable, shall retain and may enforce all rights to commence and pursue, as appropriate, any and all retained Causes of Action. The provisions regarding the retained Causes of Action in the Plan are appropriate and in the best interests of the Debtors, their Estates and all holders of Claims and Interests.

M. Approval of Discharge of Claims and Termination of Interests

85. The discharge provision as set forth in section 12.3 of the Plan is approved, is so ordered and shall be immediately effective on the Effective Date without further order or action on the part of the Court or any other party. Except as provided in the Plan or this Confirmation Order, the rights afforded in and the payments and distributions to be made under the Plan shall discharge all existing debts, Claims and Causes of Action 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 Bankruptcy Code section 1141. Except as provided in the Plan, upon the Effective Date, all existing Claims and Causes of Action against the Debtors shall be, and shall be deemed to be, discharged and terminated, and all holders of such Claims (and all representatives, transferees or agents on behalf of each holder) shall be precluded and enjoined from asserting against the Debtors, their successors or assigns, or against any of the assets or

properties of the Debtors, any other or further Claim or Cause of Action 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 Interest and whether or not the facts or legal bases therefor were known or existed prior to the Effective Date.

N. Approval of Discharge of Debtors

86. The discharge provision as set forth in section 12.4 of the Plan is approved, is so ordered and shall be immediately effective on the Effective Date without further order or action on the part of the Court or any other party.

87. Except as specifically set forth in the Plan, as of the Effective Date, each Person that is a holder (as well as any trustees and agents on behalf of such Person) of a Claim, Interest or Cause of Action and any Affiliate of such holder shall be deemed to have forever waived, released and discharged the Debtors, to the fullest extent permitted by Bankruptcy Code section 1141, of and from any and all Claims, Interests and Causes of Action that arose prior to the Effective Date. Except as otherwise provided in the Plan, upon the Effective Date, all such holders of Claims and Interests and their Affiliates shall be forever precluded and enjoined, pursuant to Bankruptcy Code section 524, from prosecuting or asserting any such discharged Claim and Cause of Action against, or terminated Interests in, the Debtors.

O. Authority to Enter Into the Secured GUC Note

88. The Debtors are authorized in all respects to execute and fully perform under the Secured GUC Note. The Secured GUC Note shall become immediately effective upon execution thereof. The executed version of the Secured GUC Note shall constitute a legal, valid, binding and authorized obligation of the Reorganized Debtors, enforceable in accordance with its terms. The Secured GUC Note shall be deemed to have been entered into in good faith and for legitimate business purposes, to be reasonable, and shall not constitute a preferential transfer or

fraudulent conveyance under the Bankruptcy Code or any other applicable nonbankruptcy law. On the Effective Date, all of the liens and security interests to be granted in accordance with the Secured GUC Note shall be legal, binding and enforceable liens on, and security interests in, the collateral granted thereunder in accordance with the terms of the Secured GUC Note and shall be deemed perfected on the Effective Date. The Reorganized Debtors are hereby authorized to enter into, fully perform all acts under, and make, execute and deliver all documents in connection with the Secured GUC Note without further order of the Court. In furtherance of the Secured GUC Note, the Committee Designee, as the holder of the Secured GUC Note, is hereby authorized to file or record financing statements, notices of liens or similar instruments in any jurisdiction (whether domestic or foreign), or take any action to validate and perfect the liens and security interests granted hereunder or under the Secured GUC Note that would be applicable in the absence of the Plan and this Order (it being understood that perfection shall occur automatically by virtue of the entry of this Order, but subject to the occurrence of the Effective Date, and any such filings, recordings, approvals and consents shall not be required). The Debtors and the Reorganized Debtors shall execute and deliver to the Committee Designee, as appropriate, all such agreements, financing statements, instruments and other documents that the Committee Designee may reasonably request to more fully evidence, confirm, validate, perfect, preserve and enforce the Secured GUC Note and the security interests arising thereunder or related thereto. All such documents will be deemed to have been recorded and filed as of the Effective Date.

P. Approval of Assumption and Rejection of Executory Contracts and Unexpired Leases

89. All Executory Contracts and unexpired leases to which any of the Debtors is a party shall be deemed automatically rejected pursuant to Bankruptcy Code sections 365 and

1123 effective as of and subject to the occurrence of the Effective Date, except for those Executory Contracts or unexpired leases that: (a) have already been assumed or rejected pursuant to a final order of the Court entered prior to the Effective Date; (b) have previously expired or been terminated pursuant to their own terms (and were not otherwise extended); (c) are the subject of a separate motion to assume or reject pending on the Effective Date; or (d) are specifically designated in the Plan Supplement as contracts or leases to be assumed by the Reorganized Debtors pursuant to the Plan. The Debtors shall have the right to alter, amend, modify or supplement the list of the Executory Contracts and unexpired leases identified in the Plan Supplement prior to the Effective Date.

90. Entry of this Confirmation Order shall, subject only to the occurrence of the Effective Date, constitute the approval, (a) pursuant to Bankruptcy Code sections 365(a) and 1123(b)(2), of the assumption of the Executory Contracts and unexpired leases assumed pursuant to article X of the Plan, (b) pursuant to Bankruptcy Code sections 365(a) and 1123(b)(2), of the assumption and assignment of the Executory Contracts and unexpired leases assumed and assigned pursuant to article X of the Plan and (c) pursuant to Bankruptcy Code sections 365(a) and 1123(b)(2), of the rejection of the Executory Contracts and unexpired leases rejected pursuant to article X of the Plan. To the extent any provision of an Executory Contract or unexpired lease to be assumed by any of the Reorganized Debtors under the Plan limits such Reorganized Debtor's ability to assign such Executory Contract or unexpired lease, the effectiveness of such provision shall be limited or nullified to the full extent provided in Bankruptcy Code section 365(f).

91. Unless otherwise specified in the Plan Supplement, on a schedule to the Plan or a notice sent to a given party, each Executory Contract and unexpired lease listed or to be

listed thereon shall include any and all modifications, amendments, supplements, restatements and 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 agreement, instrument or other document is listed thereon.

Q. Notice of Assumption and Rejection of Executory Contracts and Unexpired Leases Assumed Under the Plan

92. The filing of the Plan, the Plan Supplement and the schedules thereto and the publication of notice of the entry of this Confirmation Order provide adequate notice of the assumption, assumption and assignment and rejection of the Executory Contracts and unexpired leases pursuant to article X of the Plan (both for contracts and leases that appear in the Plan Supplement and for contracts and leases assumed or rejected by category or default).

R. Cure of Defaults

93. The parties to each Executory Contract and unexpired lease to be assumed, or assumed and assigned pursuant to the Plan were afforded good and sufficient notice of such assumption or assumption and assignment and an opportunity to object and be heard.

94. Consistent with article X of the Plan, except as may otherwise be agreed to by the parties, any default under an Executory Contract or unexpired lease to be assumed pursuant to the Plan shall be satisfied, under Bankruptcy Code section 365(b)(1), by the payment of the applicable Cure Amount in Cash within thirty (30) days of the later of: (i) the Effective Date or (ii) in the case of a disputed default, the date such dispute is resolved, whether by agreement or by the entry of a Final Order, *provided* that the Debtors or Reorganized Debtors, as applicable, shall be authorized to reject any Executory Contract or unexpired lease to the extent the Debtors or Reorganized Debtors, in the exercise of their sound business judgment, conclude that the amount of the cure obligation as determined by such Final Order renders the assumption

of such Executory Contract or unexpired lease unfavorable to the Debtors or Reorganized Debtors, as applicable.

95. Any party that fails to object to the applicable Cure Amount listed in the Plan Supplement within thirty (30) days of the filing thereof shall be forever barred, estopped, and enjoined from disputing such amount and/or from asserting any Claim against the applicable Debtor under Bankruptcy Code section 365(b)(1) in excess of such Cure Amount.

S. Rejection Claims and Rejection Bar Date

96. Any proofs of Claim with respect to Rejection Damage Claims shall be filed with the Court and served on the Reorganized Debtors on or before (a) the first Business Day that is thirty (30) calendar days after the Effective Date, with respect to the Executory Contracts and unexpired leases rejected pursuant to the Plan, (b) the first Business Day that is thirty (30) calendar days after entry of an order authorizing the rejection of the relevant Executory Contract or unexpired lease, with respect to the Executory Contracts and unexpired leases rejected other than pursuant to the Plan or (c) such other date as is ordered by the Court. The failure to properly file and serve a proof of Claim with respect to a Rejection Damage Claim by the applicable deadline set forth herein and in section 10.4 of the Plan shall result in such Claim being deemed forever barred and disallowed as of the Effective Date without the need for any objection by the Reorganized Debtors or further notice to, or action, order or approval of, the Court. The Debtors, the Reorganized Debtors or the Committee Designee, as applicable, may contest any Rejection Damage Claim in accordance with, and to the extent provided by, article IX of the Plan and the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules.

T. Adequate Assurance for Counterparties to Executory Contracts Assumed Under the Plan

97. Subject only to the occurrence of the Effective Date, all counterparties to the Executory Contracts and unexpired leases of the Debtors assumed and assigned in accordance with article X of the Plan are deemed to have been provided with adequate assurance of future performance pursuant to Bankruptcy Code section 365(f).

U. Administrative Claims Bar Date

98. The Administrative Claims Bar Date shall be 5:00 p.m. (prevailing Eastern Time) on the first Business Day occurring after the thirtieth (30th) day following the Effective Date. The Administrative Claims Objection Deadline shall be ninety (90) days following the Administrative Claims Bar Date or such other date as established by a final order of the Court.

V. Professional Fee Claims

99. Each Professional or other Person asserting a Professional Fee Claim shall file and serve on the Debtors, the Sponsor and such other Persons who are designated by the Bankruptcy Rules, the Confirmation Order, the Interim Compensation Order or other final order of this Court an application for final allowance of such Professional Fee Claim no later than the Administrative Claims Bar Date. Objections to any such Claim shall be filed and served on the Debtors, the Sponsor, the U.S. Trustee and the requesting party no later than twenty-one (21) days following the Administrative Claims Bar Date; *provided, however*, that (1) neither the Sponsor nor Alden shall object to the allowance of any reasonable Professional Fee Claim on account of fees and expenses incurred by the relevant Professional during the period beginning August 1, 2013 through the Effective Date to the extent such Claim does not exceed the amount established for the relevant Professional in the Professional Fee Budget and (2) any pending objections to Professional Fee Claims of the Creditors' Committee's Professionals are hereby deemed withdrawn with prejudice.

100. If no objections are timely filed and properly served in accordance with the procedures contained herein with respect to a given request or all timely objections are subsequently resolved, such Professional shall submit to the Court for consideration a proposed order approving the Professional Fee Claim as an Allowed Professional Fee Claim in the amount requested (or otherwise agreed), and the order may be entered without a hearing or further notice to any party; *provided, however*, that as has been agreed between the Sponsor and each Professional, Allowed Professional Fee Claims for fees and expenses incurred by such Professional during the period beginning August 1, 2013 through the Effective Date shall not exceed the amounts set forth for such Professional in the Professional Fee Budget. The Allowed amounts of any Professional Fee Claims subject to unresolved timely objections will be determined by the Court at a hearing to be held no later than sixty (60) calendar days after the Administrative Claims Bar Date.

101. On the Effective Date, the Reorganized Debtors shall establish the Professional Fee Escrow Account, funded with Cash in the aggregate amount established for the fees and expenses of Professionals in the Professional Fee Budget, less any agreed-upon reductions in the amounts set forth for the Professional Fee Claims (in the sole discretion of each Professional) in the Professional Fee Budget, for the purposes of paying Allowed Professional Fee Claims; *provided, however*, that the amount funded by the Reorganized Debtors into the Professional Fee Escrow Account shall be reduced by any amounts paid to Professionals prior to the Effective Date.

W. Plan Implementation

i. Sources of Consideration

102. All payments or distributions under the Plan shall be funded by existing Cash on hand with the Debtors or Reorganized Debtors, as applicable, as of the Effective Date,

including any proceeds from the sales of certain assets of the Debtors prior to the Effective Date, and a Cash contribution made by the Sponsor to the Estates on the Effective Date in the maximum aggregate amount of \$3,419,000.00. Further, and in addition to the Sponsor Intercompany Claims Waivers, on the Effective Date, the Sponsor shall make the following non-monetary contributions of value to the Estates in the aggregate amount of approximately \$1,749,000.00: (i) the waiver of the Sponsor's claim on account of certain postpetition royalty payments accrued and payable to the Sponsor from the Debtors' use of the "Dungeons & Dragons" license during the Cases in the amount of approximately \$875,000.00; (ii) the assumption of certain salary and rent expenses of the Debtors in the maximum amounts of \$240,000.00 and \$190,000.00, respectively, to be paid in the ordinary course as such expenses become due and payable; and (iii) the waiver of the Sponsor's right to any claims for errors and omissions and the Sponsor's assumption of liability for business-travel-related accidents, resulting in savings of \$444,000.00 for the Estates.

103. In consideration for the Sponsor Contributions, the existing holders of Interests in the Debtors shall retain such Interests on the Effective Date. Any Cash remaining in the Estates following the completion of all payments or distributions under the Plan shall be repaid to the Sponsor. Further, the Sponsor Cash Contribution shall be reduced, on a dollar-for-dollar basis, by any funds received by the Debtors from DTI Software, Inc. on or before the Effective Date.

ii. *Continued Corporate Existence*

104. Each Debtor, as a Reorganized Debtor, shall continue to exist after the Effective Date as a separate legal entity, in accordance with the applicable laws in the jurisdiction in which each Debtor is incorporated, and pursuant to the relevant certificates or

articles of incorporation, memoranda of association, articles of association and by-laws, as applicable, of each Debtor in effect prior to the Effective Date, except to the extent such documents are amended pursuant to the Plan.

iii. *Postconfirmation Organization Documents*

105. On the Effective Date, or as soon thereafter as practicable, to the extent required by law, each Reorganized Debtor will file its Postconfirmation Organizational Documents, substantially in the forms disclosed in the Plan Supplement, as required or deemed appropriate, with the appropriate Persons in its jurisdiction of incorporation.

iv. *Directors of the Reorganized Debtors*

106. Upon the occurrence of the Effective Date, the Persons proposed to serve as the new Directors of the Reorganized Debtors, as identified in the Plan Supplement, shall automatically constitute the new board of directors of the Reorganized Debtors.

v. *Compensation of Officers and Directors of Reorganized Debtors*

107. The entry of this Confirmation Order constitutes authorization and approval to retain Officers and Directors in accordance with the Plan Supplement detailing post-emergence compensation of the Officers and Directors.

vi. *Exemption from Securities Laws*

108. To the maximum extent provided by Bankruptcy Code section 1145 and applicable non-bankruptcy law, the issuance under the Plan of the Secured GUC Note and any other securities pursuant to the Plan and any subsequent sales, resales, transfers or other distributions of such Secured GUC Note or other securities shall be exempt from registration under the Securities Act, any other federal or state securities law registration requirements and all rules and regulations promulgated thereunder.

vii. *Effectuating Documents and/or Further Transactions*

109. On or before the Effective Date, and without the need for any further order or authority, the Debtors or Reorganized Debtors, as applicable, shall file with the Court or execute, as appropriate, such agreements and other documents that are in form and substance reasonably satisfactory to the Sponsor as may be necessary or appropriate to effectuate, implement and further evidence the terms and conditions of the Plan. The Debtors are authorized to execute, deliver, file or record such contracts, instruments, releases 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.

viii. *Exemption from Transfer Taxes*

110. Pursuant to Bankruptcy Code section 1146(a), the issuance, transfer or exchange of any notes or equity securities under or in connection with the Plan, the creation, filing or recording of any mortgage, deed of trust or other security interest, the making, assignment filing or recording of any lease or sublease, the transfer of title to or ownership of any of the Debtors' interests in any property, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including, without limitation, the issuance of the Secured GUC Note, any merger agreements or agreements of consolidation, deeds, bills of sale or assignments executed in connection with any of the transactions contemplated under the Plan shall not be subject to any document recording, stamp, real estate transfer, sales and use, mortgage recording or other similar tax.

ix. *Corporate Action*

111. On the Effective Date, all matters provided for under the Plan that would otherwise require approval of the managers, directors or shareholders of one or more of the

Debtors shall be in effect from and after the Effective Date pursuant to the applicable general corporation law of the states of Delaware or California, as applicable, without any requirement of further action by the managers, directors or shareholders of the Reorganized Debtors.

112. In accordance with Bankruptcy Code section 1142, section 303 of the Delaware General Corporation Law and any comparable provisions of the business corporation law of any other state, but subject to the fulfillment or waiver of all conditions precedent listed in section 11.1 of the Plan, without further action by the Court or the stockholders, managers or directors of any Debtor or Reorganized Debtor, the Debtors, the Reorganized Debtors, as well as the president, the chief executive officer, the chief financial officer, any vice president, the secretary and the treasurer of the Corporation of the appropriate Debtor or Reorganized Debtor, are authorized to: (a) take any and all actions necessary or appropriate to implement, effectuate and consummate the Plan, this Confirmation Order or the transactions contemplated thereby or hereby, including, without limitation, those transactions identified in the Plan and the payment of any taxes owing in respect of distributions under the Plan and (b) execute and deliver, adopt or amend, as the case may be, any contracts, instruments, releases, agreements and documents necessary to implement, effectuate and consummate the Plan.

X. Stay of Confirmation Order Waived

113. The provisions of Federal Rule of Civil Procedure 62, as applicable pursuant to Bankruptcy Rule 7062 and Bankruptcy Rule 3020(e) shall not apply to this Confirmation Order and the Debtors are authorized to consummate the Plan immediately upon entry of this Confirmation Order. It is intended that the period in which an appeal with respect to this Confirmation Order must be filed shall commence immediately upon the entry of this Confirmation Order.

Y. Binding Effect of Prior Orders

114. Pursuant to Bankruptcy Code section 1141, effective as of and subject to the occurrence of the Effective Date and subject to the terms of the Plan and this Confirmation Order, all prior orders entered in the Cases, all documents and agreements executed by the Debtors as authorized and directed thereunder and all motions or requests for relief by the Debtors pending before the Court as of the Effective Date shall be binding upon and shall inure to the benefit of the Debtors, the Reorganized Debtors and their respective successors and assigns.

Z. Binding Effect of the Plan

115. The Plan shall be binding upon and inure to the benefit of the Debtors, the Reorganized Debtors, the Committee Designee, all present and former holders of Claims or Interests and their respective heirs, executors, administrators, successors and assigns.

AA. Notice of Confirmation of the Plan and Effective Date

116. Pursuant to Bankruptcy Rules 2002(f)(7) and 3020(c)(2), the Debtors or the Reorganized Debtors are directed to electronically file with the Court and serve a notice of the entry of this Confirmation Order and the Effective Date, on all parties that received the Confirmation Hearing Notice and parties to Executory Contracts or unexpired leases no later than five (5) Business Days after the Effective Date; *provided, however*, that the Debtors or the Reorganized Debtors shall be obligated to serve such notice only on the record holders of Claims or Interests as of the Confirmation Date. As soon as practicable after the entry of this Order, the Debtors shall make copies of this Confirmation Order and the notice available on their website at <http://www.bmcgroup.com/atari>.

BB. Miscellaneous Provisions

i. *Reservation of Rights*

117. Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Court enters the Confirmation Order and the Confirmation Order shall have no force or effect if the Effective Date does not occur. None of the filing of the Plan, any statement or provision contained in the Plan, or the taking of any action by the Debtors with respect to the Plan, Disclosure Statement, or Plan Supplement shall be deemed to be an admission or waiver of any rights of the Debtors with respect to the holders of Claims or Interests prior to the Effective Date.

ii. *Plan Modifications*

118. The Plan may be altered, amended or modified at any time after the Confirmation Date and before substantial consummation, but only after consultation with and consent (which consent shall not be unreasonably withheld) to such alteration, amendment, or modification by the Sponsor; *provided, however*, that the Plan, as altered, amended or modified, satisfies the requirements of Bankruptcy Code sections 1122 and 1123, and the Court, after notice and a hearing, confirms the Plan, as altered, amended, or modified, under Bankruptcy Code section 1129, and the circumstances warrant such alterations, amendments or modifications. A holder of a Claim or Interest that has accepted the Plan will 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 such holder's Claim or Interest.

119. Prior to the Effective Date, the Debtors, with the consent of the Sponsor (which consent shall not be unreasonably withheld), may make appropriate technical adjustments and modifications to the Plan without further order or approval of the Court, provided that such

technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Interests.

iii. *Approval of Consents*

120. This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules and regulations of all states and any other governmental authority with respect to the implementation or consummation of the Plan and any documents, instruments, or agreements, and any amendments or modifications thereto, and any other acts and transactions referred to in or contemplated by the Plan, the Plan Supplement, the Disclosure Statement, and any documents, instruments or agreements, and any amendments or modifications thereto.

iv. *Payment of Professionals*

121. Upon the Effective Date, any requirement that Professionals comply with Bankruptcy Code sections 327 through 331 in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtors may employ and pay all Professionals in the ordinary course of business (including with respect to the month in which the Effective Date occurs) without any further notice to, action by or order or approval of this Court or any other party. Professionals shall be paid pursuant to the "Monthly Statement" process set forth in the Interim Compensation Order with respect to all calendar months ending prior to the Effective Date.

v. *Dissolution of Creditors' Committee*

122. On the Effective Date, the Creditors' Committee shall be automatically dissolved and its members shall be released and discharged of all further authority, duties, responsibilities and obligations related to and arising from, and in connection with, the Cases and

under the Bankruptcy Code, provided further that the retention or employment of the Creditors' Committee's Professionals shall terminate, except that such Professionals shall be permitted to (i) file and prosecute their respective applications for final allowance of their Professional Fee Claims and (ii) participate in any appeal of the Confirmation Order, which may be filed by a party other than the Creditors' Committee.

vi. *Continued Engagement of Professionals*

123. On the Effective Date, the engagement of each Professional retained by the Debtors and the Creditors' Committee may be terminated without further order of the Court or act of the parties; *provided, however*, such Professional shall be entitled to prosecute their respective Professional Fee Claims and represent their respective constituents with respect to applications for payment of such Professional Fee Claims.

vii. *Plan as Confirmed*

124. Any document related to the Plan that refers to a plan of reorganization of the Debtors other than the Plan confirmed by this Confirmation Order shall be, and hereby is, deemed to be modified such that the reference to a plan of reorganization of the Debtors in such document shall mean the Plan confirmed by this Confirmation Order, as appropriate.

viii. *Inconsistencies*

125. In the event of an inconsistency between the Plan, on the one hand, and any other agreement, instrument, or document intended to implement the provisions of the Plan, on the other, the provisions of the Plan shall govern, unless otherwise expressly provided for in such agreement, instrument or document. In the event of any inconsistency between the Plan or any agreement, instrument or document intended to implement the Plan, on the one hand, and this Confirmation Order, on the other, the provisions of this Confirmation Order shall govern.

ix. *Non-Occurrence of Effective Date*

126. If the Effective Date does not so occur, then: (a) this Confirmation Order shall be vacated and all provisions contained herein, including without limitation, any provisions relating to discharge, shall be null and void; (b) no distributions under the Plan shall be made; (c) the Debtors and all holders of Claims and Interests shall be restored to the *status quo ante* as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred; and (d) the Debtors' obligations with respect to the Claims and Interests shall remain unchanged and nothing contained in the Plan shall constitute or be deemed a waiver or release of any Claims or Interests by or against the Debtors or any other person or to prejudice in any manner the rights of the Debtors or any person in any further proceedings involving the Debtors.

127. If the Plan is revoked or withdrawn pursuant to section 14.3 of the Plan prior to the Effective Date, the Plan and all settlements and compromises set forth in the Plan, and not otherwise approved by a separate final order, shall be deemed null and void.

x. *Continuing Jurisdiction*

128. The businesses and assets of the Debtors shall remain subject to the jurisdiction of the Court until the Effective Date. Notwithstanding the entry of this Confirmation Order, from and after the Effective Date, the Court shall retain such jurisdiction as is legally permissible, including jurisdiction over those matters and issues described in article XIII of the Plan.

xi. *Governing Law*

129. Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent an exhibit to the Plan or Plan Supplement

provides otherwise (in which case the governing law specified therein shall be applicable to such exhibit), the rights, duties and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of New York without giving effect to its principles of conflict of law.

xii. *Substantial Consummation*

130. On the Effective Date, the Plan shall be deemed to be substantially consummated under Bankruptcy Code sections 1101 and 1127(b).

xiii. *References to Plan Provisions*

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

xiv. *Findings of Facts*

132. The determinations, findings, judgments, decrees and orders set forth and incorporated herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. Each finding of fact set forth or incorporated herein, to the extent it is or may be deemed a conclusion of law, shall also constitute a conclusion of law. Each conclusion of law set forth or incorporated herein, to the extent it is or may be deemed a finding of fact, shall also constitute a finding of fact.

xv. *Post-Confirmation Order*

133. Unless otherwise ordered by this Court, on or after the Effective Date, the requirements of Local Bankruptcy Rule 3021-1 are hereby waived with respect to the Reorganized Debtors.

xvi. *Final Order*

134. This Confirmation Order is intended to be a final order and the period in which an appeal must be filed to commence upon the entry hereof. Notwithstanding Bankruptcy Rule 3020(e) or any other Bankruptcy Rule, this Confirmation Order shall immediately be effective and enforceable upon its entry.

Dated: December __, 2013
New York, New York

/s/

THE HONORABLE JAMES PECK
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

Plan

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Attorneys for the Sponsor

Attorneys for the Debtors

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

)	
In re)	Chapter 11
)	
ATARI, INC. et al., ¹)	Case No. 13-10176 (JMP)
)	
Debtors.)	(Jointly Administered)
)	

**DEBTORS' JOINT PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

¹ The Debtors are Atari, Inc., Atari Interactive, Inc., Humongous, Inc., and California U.S. Holdings, Inc.

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INTRODUCTION²

Atari, Inc. and its affiliated debtors and debtors in possession in the above-captioned cases (collectively, the “*Debtors*”), together with Atari, S.A. (the “*Sponsor*,” and, together with the Debtors, the “*Proponents*”), the direct or indirect parent company of each of the Debtors, propose the following joint chapter 11 plan of reorganization for the resolution of outstanding Claims against and Interests in the Debtors pursuant to section 1129 of the Bankruptcy Code. Reference is made to the Disclosure Statement for a discussion of the Debtors’ history, assets, and historical financial data, and for a summary and analysis of the Plan and certain related matters, including, among other things, the consideration to be issued and/or distributed under the Plan.

All holders of Claims against the Debtors are encouraged to read the Plan, the Disclosure Statement, and the related solicitation materials in their entirety before voting to accept or reject the Plan. No materials other than the Disclosure Statement, the respective schedules and exhibits attached thereto and referenced therein, and the letter from the Creditors’ Committee with respect to the Plan, have been authorized by the Bankruptcy Court for use in soliciting acceptances or rejections of the Plan. Nothing in the Plan should be construed as constituting a solicitation of acceptances of the Plan unless and until the Disclosure Statement has been approved and distributed to all holders of Claims and Interests to the extent required by section 1125 of the Bankruptcy Code.

ARTICLE I. DEFINITIONS AND INTERPRETATION

A. Definitions.

Except as expressly provided or unless the context otherwise requires, all capitalized terms used in the Plan shall have the meanings ascribed to them in Article I hereof or any exhibit hereto, and all capitalized terms used but not defined herein that are defined in the Bankruptcy Code or the Bankruptcy Rules shall have the meanings ascribed to such terms in the Bankruptcy Code or the Bankruptcy Rules. Whenever the context requires, the terms defined herein shall include the plural as well as the singular form, the masculine gender shall include the feminine, and the feminine gender shall include the masculine.

1.1. *Accrued Professional Compensation* means, at any given moment, all accrued fees and expenses (including success fees) for services rendered by all Professionals through and including the Effective Date, to the extent such fees and expenses have not been paid and regardless of whether a fee application has been filed for such fees and expenses, *provided that* to the extent there is a Final Order denying some or all of a Professional’s fees or expenses, such denied amounts shall no longer be considered Accrued Professional Compensation.

² All capitalized terms used but not defined in this Introduction shall have the meanings set forth in Article I.

1.2. *Administrative Claim* means any right to payment constituting a cost or expense of administration of the Cases Allowed under sections 330, 503(b), 507(a)(2) and 507(b) of the Bankruptcy Code, including, without limitation, (a) any actual and necessary costs and expenses of preserving the Debtors' Estates, (b) any actual and necessary costs and expenses of operating the Debtors' businesses, (c) any indebtedness or obligations incurred or assumed by the Debtors in Possession during the Cases, (d) Claims, pursuant to section 503(b)(9) of the Bankruptcy Code, for the value of goods received by the Debtors in the 20 days immediately prior to the Petition Date and sold to the Debtors in the ordinary course of the Debtors' businesses, (e) any compensation for professional services rendered and reimbursement of expenses incurred during the Cases, (f) all reasonable and customary fees and expenses of the DIP Lender (including, without limitation, all reasonable fees and expenses of DIP Lender's legal counsel), as provided in the DIP Loan Agreement, without the need for application to or approval of the Bankruptcy Court, (g) all actual and documented reasonable fees and expenses of the Sponsor's counsel relating to the preparation of the Plan, Disclosure Statement, and documents related thereto, and (h) fees or charges assessed against the Estates under section 1930 of chapter 123 of title 28 of the United States Code.

1.3. *Administrative Claims Bar Date* means 5:00 p.m. (prevailing Eastern Time) on the first Business Day occurring after the thirtieth (30th) day following the Effective Date.

1.4. *Administrative Claims Objection Deadline* means ninety (90) days following the Administrative Claims Bar Date, or such other date as may be established by a Final Order of the Bankruptcy Court.

1.5. *Affiliate* has the meaning set forth in section 101(2) of the Bankruptcy Code.

1.6. *Alden* means Alden Global Value Recovery Master Fund, L.P.

1.7. *Alden Limited Waiver* means the agreement of Alden to waive, on a limited basis, its right to enforce the Test Drive Lien and the Alden Secured Claim solely for the purposes of the Plan, as set forth in Section 4.2(c) hereof.

1.8. *Alden Secured Claim* means the Claim held by Alden on account of the Alden Secured Credit Facility.

1.9. *Alden Secured Credit Facility* means the credit facility established by the Credit Facility Agreement among Atari Europe, the Sponsor and Banc of Americas Securities Limited dated April 21, 2006, as amended from time to time, assigned to Blue Bay Value (Master) Fund Limited, and further assigned to Alden on February 5, 2013.

1.10. *Allowed* means, with reference to any Claim against the Debtors, (a) any Claim that has been listed by the Debtors in the Schedules (as such Schedules may be amended by the Debtors from time to time in accordance with Bankruptcy Rule 1009) as liquidated in amount and not Disputed or a Contingent Claim, and for which no contrary proof of Claim has been filed, (b) any timely filed proof of Claim as to which no objection to the allowance thereof, or action to equitably subordinate or otherwise limit recovery with respect thereto, has been interposed within the applicable period of limitation fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules or a Final Order, or as to which an objection has been interposed and such

Claim has been allowed in whole or in part (only with respect to that portion of such Claim that has been allowed) by a Final Order, (c) any Claim expressly allowed by a Final Order or under the Plan, or (d) any Claim that is compromised, settled or otherwise resolved pursuant to a Final Order of the Bankruptcy Court or the authority granted to the Reorganized Debtors under Section 9.4 hereof; *provided, however*, that Claims allowed solely for the purpose of voting to accept or reject the Plan pursuant to an order of the Bankruptcy Court shall not be considered Allowed Claims. Unless otherwise specified in the Plan or by order of the Bankruptcy Court, (i) Allowed Claims shall not, for any purpose under the Plan, include interest on such Claim from and after the Petition Date, and (ii) Allowed Claims shall not include any Claim subject to disallowance in accordance with section 502(d) of the Bankruptcy Code. For purposes of determining the amount of an Allowed Claim, there shall be deducted therefrom an amount equal to the amount of any claim which the Debtors may hold against the holder thereof, to the extent such claim may be set off pursuant to applicable bankruptcy and nonbankruptcy law.

1.11. *Atari Europe* means Atari Europe SAS.

1.12. *Atari Europe Secured Claim* means the Secured Claim of Atari Europe against Atari, Inc. arising under that certain Credit Agreement, dated as of April 30, 2008, as amended, between Atari, Inc. and Infogrames Entertainment S.A. and secured by the Blanket Lien, and reflected in the Debtors' books and records as an obligation of approximately \$25.3 million.

1.13. *Atari, Inc.* means Debtor Atari, Inc., a Delaware corporation.

1.14. *Ballot* means the form distributed to each holder of an Impaired Claim that is entitled to vote to accept or reject the Plan on which is to be indicated an acceptance or rejection of the Plan.

1.15. *Bankruptcy Code* means title 11 of the United States Code, as amended from time to time, as applicable to the Cases.

1.16. *Bankruptcy Court* means the United States Bankruptcy Court for the Southern District of New York or any other court of the United States having jurisdiction over the Cases.

1.17. *Bankruptcy Rules* means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, as amended from time to time.

1.18. *Blanket Lien* means the security interest evidenced by the financing statement filed by the Sponsor on all assets of Atari, Inc. except for the Test Drive IP.

1.19. *Business Day* means any day other than a Saturday, Sunday, or a "legal holiday," as set forth in Bankruptcy Rule 9006(a).

1.20. *Cases* means the jointly administered cases commenced by the Debtors under chapter 11 of the Bankruptcy Code.

1.21. *Cash* means legal tender of the United States of America.

1.22. *Causes of Action* means all actions, causes of action, Claims, liabilities, obligations, rights, suits, debts, damages, judgments, remedies, demands, setoffs, defenses, recoupments, crossclaims, counterclaims, third party claims, indemnity claims, contribution claims or any other claims, whether Disputed or undisputed, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, and whether arising in law, equity or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Cases, including through the Effective Date.

1.23. *Claim* means a claim, as defined in section 101(5) of the Bankruptcy Code, against a Debtor.

1.24. *Claims Agent* means BMC Group, Inc.

1.25. *Claims Bar Date Order* means the Debtors' *Motion for Entry of an Order (A) Establishing the Deadline for Filing Proofs of Claim Against the Debtors, Including Administrative Claims Pursuant to Bankruptcy Code Section 503(b)(9); (B) Approving the Form and Manner for Filing Such Proofs of Claim; and (C) Approving the Form and Manner of Notice Thereof* [Docket No. 138].

1.26. *Claims Objection Deadline* shall have the meaning set forth in Section 9.3 hereof.

1.27. *Claims Waivers* means, collectively, the Alden Limited Waiver and the Sponsor Intercompany Claims Waivers.

1.28. *Class* means a category of holders of Claims or Interests set forth in ARTICLE III through ARTICLE IV hereof.

1.29. *Collateral* means any property or interest in property of the Estates subject to a Lien, charge or other encumbrance which Lien, charge or other encumbrance is not subject to avoidance or otherwise invalid under the Bankruptcy Code or applicable state law.

1.30. *Company* means, collectively, the Debtors.

1.31. *Confirmation Date* means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket.

1.32. *Confirmation Hearing* means the hearing conducted by the Bankruptcy Court pursuant to section 1128(a) of the Bankruptcy Code to consider confirmation of the Plan, as such hearing may be adjourned or continued from time to time.

1.33. *Confirmation Objection Deadline* means the deadline to be established by the Bankruptcy Court pursuant to the Confirmation Scheduling Order for the filing and service by any and all parties in interest of objections to confirmation of the Plan.

1.34. *Confirmation Order* means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code, which order shall be in form and substance satisfactory to the Proponents.

1.35. *Confirmation Scheduling Order* means the order to be entered by the Bankruptcy Court (a) scheduling the Confirmation Hearing, (b) establishing the deadline to accept or reject the Plan, and (c) establishing the Confirmation Objection Deadline.

1.36. *Contingent Claim* means any Claim, the liability for which attaches or is dependent upon the occurrence or happening of, or is triggered by, an event, which event has not yet occurred, happened or been triggered as of the date on which such Claim is sought to be estimated or an objection to such Claim is filed, whether or not such event is within the actual or presumed contemplation of the holder of such Claim and whether or not a relationship between the holder of such Claim and the applicable Debtor now or hereafter exists or previously existed.

1.37. *Cooley* means Cooley LLP, in its capacity as counsel to the Creditors' Committee.

1.38. *Creditors' Committee* means the committee of unsecured creditors appointed in the Cases pursuant to section 1102(a) of the Bankruptcy Code.

1.39. *Cure Amount* means all amounts required to cure any monetary defaults under any Executory Contract or unexpired lease that is to be assumed by the Debtors pursuant to sections 365 or 1123 of the Bankruptcy Code.

1.40. *CUSH* means Debtor California U.S. Holdings, Inc., a California corporation.

1.41. *Debtors* shall have the meaning set forth in the Introduction.

1.42. *Debtors in Possession* means the Debtors in their capacity as debtors in possession in the Cases under sections 1107(a) and 1108 of the Bankruptcy Code.

1.43. *DIP Lender* means the lenders, including all successors and assigns, to the Debtors pursuant to the DIP Loan Agreement.

1.44. *DIP Loan* means the borrowings by, and any other extensions of credit provided to, the Debtors under the DIP Loan Agreement, the DIP Loan Order, or any of the other DIP Loan Documents.

1.45. *DIP Loan Agreement* means the Senior Secured, Super-Priority Debtor-in-Possession Credit Agreement, dated March 27, 2013, together with all amendments, modifications and supplements thereto, executed by, among others, the DIP Lender, the Debtors, and the DIP Loan Collateral Agent.

1.46. *DIP Loan Claims* means all Claims arising under or related to the DIP Loan or any of the DIP Loan Documents.

1.47. *DIP Loan Collateral Agent* means Imperial Capital Loan Trading, LLC, in its capacity as Collateral Agent under the DIP Loan Agreement.

1.48. *DIP Loan Documents* means the DIP Loan Agreement, together with all other documents and order related to any of the DIP Loan and DIP Loan Claims, including, to the

extent relating to any of the foregoing, the DIP Loan Order, and any and all other amendments, supplements, or modification to the foregoing.

1.49. *DIP Loan Motion* means the (*Corrected*) Motion of Debtors and Debtors-in-Possession Pursuant to 11 U.S.C. §§ 105, 361, 362, 364 and 507 and Fed. R. Bankr. P. 2002, 4001 and 9014 for Entry of Interim and Final Orders (I) Authorizing the Debtors to Incur Post-Petition Secured Indebtedness, (II) Granting First Priority Priming Liens and Providing Superpriority Administrative Expense Status, (III) Granting Adequate Protection, (IV) Modifying Automatic Stay, and (V) Scheduling a Final Hearing, filed on January 22, 2013 [Docket No. 17].

1.50. *DIP Loan Order* means the Final Order entered on March 7, 2013, approving the DIP Loan Motion [Docket No. 125].

1.51. *Disbursing Agent* means any entity in its capacity as a disbursing agent under this Plan.

1.52. *Disclosure Statement* means that certain disclosure statement relating to the Plan, including, without limitation, all exhibits and schedules thereto, as the same may be amended, supplemented or otherwise modified from time to time, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code.

1.53. *Disclosure Statement Order* means the order of the Bankruptcy Court, in form and substance satisfactory to the Proponents, approving, among other things, the Disclosure Statement and establishing certain procedures with respect to the solicitation and tabulation of votes to accept or reject the Plan.

1.54. *Disputed* means, with reference to any Claim or portion thereof, any Claim against any Debtor which such Debtor believes, subject to the reasonable consent of the Sponsor, is unliquidated, disputed or contingent, and which has not become Allowed in accordance with the Plan.

1.55. *Distribution Record Date* means December 20, 2013.

1.56. *Duff & Phelps* means Duff & Phelps Securities, LLC, in its capacity as financial advisor to the Creditors' Committee.

1.57. *Effective Date* means a Business Day selected by the Debtors and the Sponsor on or after the Confirmation Date, on which (a) no stay of the Confirmation Order is in effect and (b) the conditions precedent to the effectiveness of the Plan specified in Section 11.2 hereof shall have been satisfied or waived as provided in Section 11.3 hereof.

1.58. *Estate* means, with respect to each Debtor, the estate created in its respective Case pursuant to section 541 of the Bankruptcy Code.

1.59. *Exculpated Parties* means (i) the Debtors, (ii) the Reorganized Debtors, (iii) the Sponsor, (iv) Atari Europe, (v) the Guarantor, (vi) Alden, (vii) the Creditors' Committee, and (viii) each present or former member of the Creditors' Committee (but solely in their respective capacities as such) and (ix) for each of (i) through (viii), their respective predecessors, successors

and assigns, subsidiaries, Affiliates, and their current and former officers, directors, partners, principals, shareholders, members, employees, agents, financial advisors, attorneys, counsel, accountants, investment bankers, financial advisors, consultants, representatives, and other Professionals (in each case, solely in their capacity as such), as applicable.

1.60. *Executory Contracts* means the various executory contracts and agreements within the meaning of section 365 of the Bankruptcy Code to which the Debtors are a party.

1.61. *Final Order* means an order or judgment of a court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court and has not been reversed, vacated or stayed and as to which (a) the time to appeal, petition for certiorari or move for a new trial, reargument or rehearing has expired and no appeal, petition for certiorari or other proceedings for a new trial, reargument or rehearing shall then be pending or, (b) if an appeal, writ of certiorari, new trial, reargument or rehearing thereof has been sought, (i) such order or judgment shall have been affirmed by the highest court to which such order was appealed, certiorari shall have been denied or a new trial, reargument or rehearing shall have been denied or resulted in no modification of such order and (ii) the time to take any further appeal, petition for certiorari, or move for a new trial, reargument or rehearing shall have expired; *provided, however,* that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or the Local Bankruptcy Rules, may be filed relating to such order shall not prevent such order from being a Final Order.

1.62. *General Unsecured Claim* means any Claim against the Debtors that is not a DIP Loan Claim, Administrative Claim, Professional Fee Claim, Priority Tax Claim, Priority Non-Tax Claim, Secured Tax Claim, Other Secured Claim, Alden Secured Claim, or Sponsor Intercompany Claim, but shall not include any claim that is disallowed or released, whether by operation of law, Final Order, written agreement, the provisions of this Plan or otherwise.

1.63. *Guarantor* shall mean Frederic Chesnais.

1.64. *GUC Escrow Account* shall have the meaning set forth in Section 9.1 hereof.

1.65. *Humongous* means Debtor Humongous, Inc., a Delaware corporation.

1.66. *Impaired* means, with respect to a Class of Claims or Interests, that such Class is “impaired” within the meaning of section 1124 of the Bankruptcy Code.

1.67. *Initial GUC Distribution* shall have the meaning set forth in Section 4.2(d) hereof.

1.68. *Initial Objection* shall have the meaning set forth in Section 9.3 hereof.

1.69. *Insurance Policy* means any policy of insurance under which any of the Debtors could have asserted or did assert, or may in the future assert, a right to coverage for any Claim, together with any other contracts which pertain or relate to such policy (including, by way of example and not limitation, any insurance settlement agreements or coverage-in-place agreements).

1.70. *Insured Claim* means that portion of any Claim arising from an incident or occurrence that occurred prior to the Effective Date: (i) as to which any Insurer is obligated pursuant to the terms, conditions, limitations, and exclusions of its Insurance Policy, to pay any cost, expense, judgment, settlement, or contractual obligation with respect to the Debtors or (ii) that any Insurer otherwise agrees to pay as part of a settlement or compromise of a claim made under the applicable Insurance Policy.

1.71. *Insurer* means any company or other entity that issued, or is responsible for, an Insurance Policy.

1.72. *Interactive* means Debtor Atari Interactive, Inc., a Delaware corporation.

1.73. *Interest* means the legal, equitable, contractual, or other rights of any Person with respect to any capital stock or other ownership interest in any Debtor, whether or not transferable, and any option, warrant or right to purchase, sell, subscribe for, or otherwise acquire or receive an ownership interest or other equity security in any Debtor.

1.74. *Intercompany Claim* means any Claim held by a Debtor against another Debtor.

1.75. *Intercompany Interest* means any Interest held by a Debtor in another Debtor.

1.76. *Interim Compensation Order* means the *Order Establishing Procedures for Interim Monthly Compensation and Reimbursement of Expenses of Professionals*, entered by the Bankruptcy Court on February 15, 2013 [Docket No. 81].

1.77. *Lien* means any charge against or interest in property to secure payment of a debt or performance of an obligation.

1.78. *Local Bankruptcy Rules* means the Local Bankruptcy Rules for the Southern District of New York, as amended from time to time.

1.79. *Person* means an individual, partnership, corporation, limited liability company, cooperative, trust, unincorporated organization, association, joint venture, government or agency or political subdivision thereof or any other form of legal entity.

1.80. *Petition Date* means January 21, 2013, the date on which the Debtors commenced the Cases.

1.81. *Plan* means this Joint Plan of Reorganization, including, without limitation, the exhibits and schedules hereto including the Plan Supplement, as the same may be amended, modified or supplemented from time to time in accordance with the provisions of the Bankruptcy Code and the terms hereof.

1.82. *Plan Supplement* means the supplement or supplements to the Plan containing certain documents relevant to the implementation of the Plan specified in Section 14.4 hereof.

1.83. *Postconfirmation Organizational Documents* means the certificates of incorporation, bylaws, and other organizational documents for the Reorganized Debtors, the

forms of which shall be in form and substance reasonably acceptable to the Sponsor and consistent with section 1123(a)(6) of the Bankruptcy Code. The Postconfirmation Organizational Documents shall be included in the Plan Supplement.

1.84. *Prepetition Period* means the time period prior to the Petition Date.

1.85. *Priority Non-Tax Claim* means a Claim entitled to priority in payment as specified in section 507(a)(4), (5), (6) or (7) of the Bankruptcy Code.

1.86. *Priority Tax Claim* means any Claim of a governmental unit of the kind entitled to priority in payment as specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

1.87. *Professional* means a Person: (i) employed pursuant to a Final Order of the Bankruptcy Court in accordance with section 327, 363, or 1103 of the Bankruptcy Code and to be compensated for services rendered on or before the Effective Date, pursuant to section 327, 328, 329, 330, 363, or 331 of the Bankruptcy Code; or (ii) awarded compensation and reimbursement by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

1.88. *Professional Fee Budget* means the budget, included as part of the Sponsor Analysis, that has been agreed upon between the Sponsor and each Professional setting forth the maximum amount of fees and expenses to be incurred by each Professional for the period beginning August 1, 2013, through the Effective Date.

1.89. *Professional Fee Claim* means a Claim of a Professional for Accrued Professional Compensation.

1.90. *Professional Fee Escrow Account* shall have the meaning set forth in Section 4.1(c) hereof.

1.91. *Proponents* shall have the meaning set forth in the Introduction.

1.92. *Pro Rata Share* means the proportion that an Allowed Claim bears to the aggregate amount of all Claims in a particular Class, including, without limitation, Disputed Claims that have not been disallowed by a Final Order.

1.93. *Other Secured Claim* means any Secured Claim other than a Secured Tax Claim, Alden Secured Claim, Atari Europe Secured Claim, or Sponsor Secured Claim.

1.94. *Rejection Damage Claim* means a Claim for damages arising from the rejection by any Debtor of any Executory Contract or unexpired lease pursuant to section 365 or 1123 of the Bankruptcy Code.

1.95. *Rejection Damage Claim Bar Date* means the date that is the first Business Day that is thirty (30) days after the date the Debtors serve notice of the entry of an order authorizing the rejection of an Executory Contract or unexpired lease, except as otherwise set forth in any order (including, without limitation, the Confirmation Order) authorizing rejection of an Executory Contract or unexpired lease, as provided in the Claims Bar Date Order.

1.96. Released Parties means (a) the DIP Lender; (b) Alden; (c) the Creditors' Committee and its members; (d) the Sponsor; (e) Atari Europe; (f) the Guarantor; (g) with respect to any entities in the foregoing clauses (a) through (f), such entities' predecessors, successors and assigns, subsidiaries, affiliates, managed accounts or funds, and their current and former officers, directors, principals, shareholders, members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, and other Professionals (in each case, solely in their capacity as such); and (h) the Debtors' and the Reorganized Debtors' current and former employees, their current and former directors, officers, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, and such persons' respective heirs, executors, estates, servants and nominees (in each clause (a) through (h), solely in their capacity as such).

1.97. Reorganized Debtors means, collectively, Atari, Inc., CUSH, Humongous, and Interactive, on or after the Effective Date.

1.98. Schedules means, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and unexpired leases and statements of financial affairs filed by the Debtors under section 521 of the Bankruptcy Code, Bankruptcy Rule 1007 and the Official Bankruptcy Forms in the Cases, as the same may have been amended or supplemented through the Confirmation Date pursuant to Bankruptcy Rules 1007 and 1009. For the avoidance of doubt, Schedules do not include any schedules or exhibits to this Plan or any Plan Supplement.

1.99. Second GUC Distribution shall have the meaning set forth in Section 4.1(d) hereof.

1.100. Secured Claim means any Claim that is secured by a Lien on Collateral to the extent of the value of such Collateral, as determined in accordance with section 506(a) of the Bankruptcy Code, or, in the event that such Claim is subject to a permissible setoff under section 553 of the Bankruptcy Code, to the extent of such permissible setoff.

1.101. Secured Tax Claim means any Secured Claim that, absent its secured status, would be entitled to priority in right of payment under sections 502(i) and 507(a)(8) of the Bankruptcy Code (determined irrespective of any time limitations therein and including any related Secured Claim for penalties).

1.102. Securities Act means the Securities Act of 1933, as amended.

1.103. Security means any instrument that qualifies as a "security" under section 2(a)(1) of the Securities Act.

1.104. Sponsor shall have the meaning set forth in the Introduction.

1.105. Sponsor Analysis means the analysis attached hereto as Schedule 1.

1.106. Sponsor Atari, Inc. Intercompany Claims means, collectively, (i) the Atari Europe Secured Claim, (ii) the Sponsor Management Fee Claim, and (iii) the Sponsor Secured Claim.

1.107. *Sponsor Commitment Letter* means that certain commitment letter executed by and between the Debtors and the Sponsor in connection with the Sponsor Contributions, which is attached hereto as Schedule 2.

1.108. *Sponsor Cash Contribution* shall have the meaning set forth in Section 7.1 hereof.

1.109. *Sponsor Contributions* means the Sponsor Cash Contribution and the Sponsor Value Contributions identified in the Sponsor Analysis.

1.110. *Sponsor Interactive Intercompany Claim* means the approximately \$260.7 million in net obligations of Interactive to the Sponsor based on the Debtors' books and records.

1.111. *Sponsor Intercompany Claims Waivers* means the agreement of the Sponsor and Atari Europe to waive, with respect to the Sponsor Intercompany Claims, their right to recover from the assets of the Debtors, as set forth in Section 4.2(e) hereof.

1.112. *Sponsor Intercompany Claims* means, collectively, the Sponsor Atari, Inc. Intercompany Claims and the Sponsor Interactive Intercompany Claim.

1.113. *Sponsor Management Fee Claim* means the approximately \$16.4 million Claim of the Sponsor against Atari, Inc. pursuant to that certain Management Agreement, effective as of April 1, 2010, among the Sponsor, Atari, Inc., Atari Europe, Eden S.A.S., Atari U.K. Publishing Ltd, and Cryptic.

1.114. *Sponsor Secured Claim* means the Claim in the approximate amount of \$4.9 million owed by Atari, Inc. to the Sponsor arising under that certain Credit Agreement, dated as of April 30, 2008, as amended, between Atari, Inc. and Infogrames Entertainment S.A. and secured by the Blanket Lien.

1.115. *Sponsor Value Contributions* shall have the meaning set forth in Section 7.1 hereof.

1.116. *Tax Code* means the Internal Revenue Code of 1986, as amended.

1.117. *Test Drive IP* means that certain intellectual property known as the "Test Drive Unlimited" franchise.

1.118. *Test Drive Lien* means the lien on the Test Drive IP evidenced by a UCC-1 financing statement dated April 24, 2009, securing the Alden Secured Credit Facility.

1.119. *Third GUC Distribution* shall have the meaning set forth in Section 4.2(d) hereof.

1.120. *Unimpaired* means, with respect to a Class of Claims or Interests, that such Class is not Impaired.

1.121. *Unliquidated Claim* means any Claim, the amount of liability for which has not been fixed, whether pursuant to agreement, applicable law or otherwise, as of the date on which such Claim is asserted or sought to be estimated.

1.122. *U.S. Trustee* means the United States Trustee appointed under section 581 of title 28 of the United States Code to serve in Region 2.

1.123. *Voting Record Date* means October 29, 2013.

B. Rules of Interpretation and Computation of Time

Unless otherwise specified, for the purposes of this Plan: (a) references to sections, articles, schedules, or exhibits in the Plan are to the sections, articles, schedules, or exhibits of or to the Plan or the Plan Supplement, as the same may be amended, waived or modified from time to time; (b) the words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Plan as a whole and not to any particular section, subsection or clause contained in the Plan; (c) the rules of construction contained in section 102 of the Bankruptcy Code shall apply to the construction of the Plan; (d) the headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof; and (e) the provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed by the Plan.

**ARTICLE II.
PLAN CONSOLIDATION**

2.1. *Limited Plan Consolidation*

The Plan provides for the substantive consolidation of the Debtors’ Estates, solely with respect to holders of Allowed General Unsecured Claims, for the limited purposes of voting, confirmation, and making distributions under the Plan. For the avoidance of doubt, and other than for the purposes of effectuating the Plan, such consolidation shall not affect (a) the legal or organizational structure of each of the Debtors, (b) pre- or post-Effective Date guarantees, liens, and security interests that are required to be maintained pursuant to the Plan, (c) any obligations under any leases or Executory Contracts assumed or entered into pursuant to the Plan or otherwise after the Petition Date, (d) Interests between and among the Debtors, or (e) the vesting of assets in the separate Reorganized Debtors upon the Effective Date.

2.2. *Order Granting Plan Consolidation*

The Plan shall serve as a motion seeking the entry of an order consolidating the Debtors, solely with respect to holders of Allowed General Unsecured Claims, for the purposes set forth in Section 2.1 above. Unless an objection to such consolidation is made in writing by an affected creditor and filed by the Confirmation Objection Deadline, the Bankruptcy Court may enter an order approving such consolidation. In the event any such objections are timely filed, a hearing with respect thereto shall occur at the Confirmation Hearing.

**ARTICLE III.
CLASSIFICATION OF CLAIMS AND INTERESTS**

3.1. *Unclassified Claims*

In accordance with section 1123(a)(1) of the Bankruptcy Code, DIP Loan Claims, Administrative Claims, Professional Fee Claims, and Priority Tax Claims are not classified within any Classes and are not entitled to vote on the Plan.

3.2. *Classification of Claims and Interests*

The following table (i) designates the Classes of Claims against and Interests in the Debtors, (ii) specifies the Classes of Claims and Interests against the Debtors that are Impaired by the Plan and are therefore deemed to reject the Plan or are entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code, and (iii) specifies the Classes of Claims and Interests in the Debtors that are Unimpaired by the Plan and are therefore deemed to accept the Plan in accordance with section 1126 of the Bankruptcy Code.

A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class, and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes. A Claim is also placed in a particular Class for the purposes of receiving distributions pursuant to the Plan only to the extent that such Claim is Allowed in that Class and such Claim has not been paid, released, or otherwise settled prior to the Effective Date.

Class	Designation	Impairment	Entitled to Vote
1	Priority Non-Tax Claims	Unimpaired	No (deemed to accept)
2	Secured Tax Claims	Unimpaired	No (deemed to accept)
3	Alden Secured Claim Against Atari, Inc.	Impaired	Yes
4	General Unsecured Claims	Impaired	Yes
5	Sponsor Intercompany Claims	Impaired	Yes
6	Interests	Unimpaired	No (deemed to accept)

**ARTICLE IV.
TREATMENT OF CLAIMS AND INTERESTS**

4.1. *Unclassified Claims*

(a) *DIP Loan Claims*

All DIP Loan Claims shall be Allowed, and shall not be not subject to offsets, defenses, counterclaims, reductions or credits of any kind whatsoever, and on the Effective Date, or as soon as practicable thereafter, each holder of an Allowed DIP Loan Claim shall receive subject to the Carveout, as such term is defined in the DIP Loan Order (i) payment in full in Cash of such Allowed DIP Loan Claim in full and final satisfaction thereof, other than the obligations under the indemnity and other provisions of the DIP Loan Agreement that by their terms survive the termination of the DIP Loan Agreement or the payment of other Allowed DIP Loan Claims, or (ii) such other treatment as to which the Proponents and the holder of such Allowed DIP Loan Claim may agree in writing. Also, on the Effective Date, all commitments under the DIP Loan Agreement shall terminate and shall be treated in accordance with the terms of the DIP Loan Agreement.

(b) **Administrative Claims**

Except with respect to Administrative Claims that are Professional Fee Claims, each holder of an Allowed Administrative Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for its Allowed Administrative Claim, on the later of (i) the Effective Date, or as soon as practicable thereafter, (ii) the date such Claim becomes Allowed, or as soon as practicable thereafter, and (iii) such other date as may be agreed upon between the holder of such Claim and the Reorganized Debtors, (x) Cash equal to the unpaid portion of its Allowed Administrative Claim, (y) such other treatment as to which the Proponents and the holder of such Allowed Administrative Claim may agree, or (z) such other treatment as may otherwise be required under applicable law.

(c) **Professional Fee Claims**

(i) **Claims for Accrued Professional Compensation**

On the Effective Date, the Reorganized Debtors shall establish an interest-bearing escrow account (the “*Professional Fee Escrow Account*”), funded with Cash in the aggregate amount established for the fees and expenses of Professionals in the Professional Fee Budget, less any agreed-upon reductions in the amounts set forth for the Professional Fee Claims (in the sole discretion of each Professional) in the Professional Fee Budget, for the purposes of paying Allowed Professional Fee Claims. The Professional Fee Escrow Account shall be maintained in trust for Professionals with respect to accrued and unpaid fees or expenses as of the Effective Date, and funds therein shall not be considered property of the Debtors or Reorganized Debtors. Except to the extent that a holder of an Allowed Professional Fee Claim agrees to a different treatment, each holder of such an Allowed Professional Fee Claim shall receive, in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Professional Fee Claim, Cash, up to the amount set forth for such Professional in the Professional Fee Budget, from funds held in the Professional Fee Escrow Account on the later of (1) the date such Claim becomes Allowed, or as soon as practicable thereafter, and (2) such other date as may be agreed upon between the holder of such Claim and the Reorganized Debtors.

For the avoidance of doubt, if the Allowed Professional Fee Claims of a Professional are less than the amounts set forth in the Professional Fee Budget for such Professional, holders of General Unsecured Claims shall not be entitled to a distribution of such unused amounts and such amounts shall be returned to the Sponsor. As soon as practicable after all Professional Fee Claims have been either Allowed (and paid in full in accordance with the Plan) or disallowed by the Plan, the Confirmation Order, or Final Order of the Bankruptcy Court, the Reorganized Debtors shall determine the amount of the excess funds in the Professional Fee Escrow Account and return such funds to the Sponsor.

(ii) **The Sponsor's Fees**

The actual and documented reasonable fees and expenses of the Sponsor's counsel shall be paid in full as Allowed Administrative Claims (or reimbursed if previously paid by the Sponsor, as the case may be, but solely to the extent such amounts relate to the preparation of the Plan, Disclosure Statement and documents related thereto) in Cash on the Effective Date, without the need to obtain further approval of the Bankruptcy Court or to comply with sections 327 through 331 of the Bankruptcy Code or any U.S. Trustee guidelines, as applicable, in the aggregate amount not to exceed the amounts set forth for such professionals in the Sponsor Analysis.

(d) **Priority Tax Claims**

Except to the extent that a holder of an Allowed Priority Tax Claim has been paid by the Debtors prior to the Effective Date or agrees to a different treatment, each holder of an Allowed Priority Tax Claim shall receive in full settlement, satisfaction, and release of such Claim, Cash in an amount equal to the Allowed but unpaid portion of such Claim on the later of (a) the Effective Date, or as soon as practicable thereafter, (b) the date such Claim becomes Allowed, or as soon as practicable thereafter, (c) the date such Claim would have been due if the Cases had not been commenced, and (d) such other date as may be agreed upon between the holder of such Claim and the Reorganized Debtors; *provided, however*, that the Reorganized Debtors, in lieu of payment in full of Allowed Priority Tax Claims on the Effective Date, may make cash payments respecting Allowed Priority Tax Claims deferred to the extent permitted by section 1129(a)(9) of the Bankruptcy Code, and in such event, unless otherwise provided herein, interest shall be paid on the unpaid portion of such Allowed Priority Tax Claim at the federal statutory rate.

4.2. Classified Claims

(a) **Priority Non-Tax Claims (Class 1)**

(i) **Impairment and Voting**

Class 1 is Unimpaired by the Plan. Each holder of an Allowed Priority Non-Tax Claim is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

(ii) **Treatment**

Except to the extent that a holder of an Allowed Priority Non-Tax Claim agrees to a different treatment, each holder of such an Allowed Priority Non-Tax Claim shall receive Cash in an amount equal to such Allowed Priority Non-Tax Claim on the later of (a) the Effective Date, or as soon as practicable thereafter, (b) the date such Claim becomes Allowed, or as soon as practicable thereafter, and (c) such other date as may be agreed upon between the holder of such Claim and the Reorganized Debtors.

(b) **Secured Tax Claims (Class 2)**

(i) Impairment and Voting

Class 2 is Unimpaired by the Plan. Each holder of an Allowed Secured Tax Claim is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

(ii) Treatment

Except to the extent that a holder of an Allowed Secured Tax Claim agrees to a different treatment, each holder of such an Allowed Secured Tax Claim shall receive Cash in an amount equal to such Allowed Secured Tax Claim on the later of (a) the Effective Date, or as soon as practicable thereafter, (b) the date such Claim becomes Allowed, or as soon as practicable thereafter, and (c) such other date as may be agreed upon between the holder of such Claim and the Reorganized Debtors.

(c) **Alden Secured Claim Against Atari, Inc. (Class 3)**

(i) Impairment and Voting

Class 3 is Impaired by the Plan. Each holder of the Allowed Alden Secured Claim will be entitled to vote to accept or reject the Plan.

(ii) Treatment

The holder of the Allowed Alden Secured Claim will waive its rights to (a) enforce the Test Drive Lien and the Alden Secured Claim and (b) receive distributions in respect of such Claim, solely for the purposes of the Plan, following the payment in full of the DIP Loan Claims. For the avoidance of doubt, the holder of the Allowed Alden Secured Claim shall retain the Test Drive Lien and the Alden Secured Claim following the Effective Date. Neither the Test Drive Lien nor the Alden Secured Claim shall be deemed waived, released or discharged under the Plan.

(d) **General Unsecured Claims (Class 4)**

(i) Impairment and Voting

Class 4 is Impaired by the Plan. Each holder of an Allowed General Unsecured Claim will be entitled to vote to accept or reject the Plan.

(ii) Treatment

Each holder of an Allowed General Unsecured Claim against each of the Debtors shall receive the following distributions under the Plan:

- (1) a cash payment on the Effective Date, or as soon as practicable after such holder's General Unsecured Claim becomes Allowed, in an amount equal to the lesser of (a) eight percent (8%) of such holder's Allowed General Unsecured Claim and (b) such holder's Pro Rata Share of \$560,000.00 (the "**Initial GUC Distribution**");
- (2) a cash payment on the first anniversary of the Effective Date in an amount equal to the lesser of (a) eight percent (8%) of such holder's Allowed General Unsecured Claim and (b) such holder's Pro Rata Share of \$560,000.00 (the "**Second GUC Distribution**"); and
- (3) a cash payment on the second anniversary of the Effective Date in an amount equal to the lesser of (a) nine percent (9%) of such holder's Allowed General Unsecured Claim and (b) such holder's Pro Rata Share of \$630,000.00 (the "**Third GUC Distribution**").

On the Effective Date, Interactive shall issue a global promissory note (the "**Secured GUC Note**"), substantially in the form included in the Plan Supplement, to a person or entity designated by the Creditors' Committee (the "**Committee Designee**"), which Committee Designee shall be disclosed in the Plan Supplement, obligating the Reorganized Debtors to fund the Second GUC Distribution and Third GUC Distribution pursuant to the terms of the Plan. The Secured GUC Note will be secured by a first priority lien on all assets of the Reorganized Debtors and shall be senior on such assets in all respects, including, but not limited to, any interests of Alden, the Sponsor, Atari Europe, or their Affiliates. The Second GUC Distribution and the Third GUC Distribution are contingent upon the Reorganized Debtors' compliance with their payment obligations under the Plan and/or the enforcement value of the Secured GUC Note in the event of a default by the Reorganized Debtors.

The Committee Designee shall be entitled to enforce the Secured GUC Note against the Reorganized Debtors for the benefit of holders of Allowed General Unsecured Claims. Upon the Effective Date, the Committee Designee shall be funded with \$50,000.00 to cover the costs and expenses associated with making the Second GUC Distribution and the Third GUC (if not made by the Reorganized Debtors) and monitoring and enforcing the obligations of the Reorganized Debtors under the Secured GUC Note. The Committee Designee's unpaid costs and expenses shall be considered obligations under the Secured GUC Note, and the Reorganized Debtors shall have no obligation to pay such costs and expenses beyond the initial funding of \$50,000.00. Following the Third GUC Distribution, any funds not expended by the Committee Designee shall be returned to the Sponsor.

(e) **Sponsor Intercompany Claims (Class 5)**

(i) Impairment and Voting

Class 5 is Impaired by the Plan, and each holder of Allowed Sponsor Intercompany Claims will be entitled to vote to accept or reject the Plan.

(ii) Treatment

Each holder of Allowed Sponsor Intercompany Claims will waive its right to receive distributions in respect of such Claims.

(f) **Interests (Class 6)**

(i) Impairment and Voting

Class 6 is Unimpaired by the Plan. Each holder of an Interest is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

(ii) Treatment

Each holder of an Interest will retain such Interest on the Effective Date.

4.3. Intercompany Claims

Intercompany Claims will be released, waived, and discharged as of the Effective Date.

4.4. Reservation of Rights Regarding Claims

Except as otherwise explicitly provided in this Plan, nothing herein shall be deemed to be a waiver or relinquishment of any rights, counterclaims, or defenses the Debtors or Reorganized Debtors, as applicable, or the Sponsor may have, whether at law or in equity, with respect to any Claims.

**ARTICLE V.
FILING OF ADMINISTRATIVE CLAIMS**

5.1. Professional Fee Claims

(a) **Final Fee Applications**

Each Professional or other Person asserting a Professional Fee Claim must file and serve on the Debtors, the Sponsor, and such other Persons who are designated by the Bankruptcy Rules, the Confirmation Order, the Interim Compensation Order, or other Final Order of the Bankruptcy Court an application for final allowance of such Professional Fee Claim no later than the Administrative Claims Bar Date. Objections to any such Claim must be filed and served on the Debtors, the Sponsor, the U.S. Trustee and the requesting party no later than twenty-one (21) days following the Administrative Claims Bar Date; *provided, however*, that (1) neither the

Sponsor nor Alden shall object to the allowance of any reasonable Professional Fee Claim on account of fees and expenses incurred by the relevant Professional during the period beginning August 1, 2013 through the Effective Date to the extent such Claim does not exceed the amount established for the relevant Professional in the Professional Fee Budget and (2) any pending objections to Professional Fee Claims of the Creditors' Committee's Professionals shall be withdrawn. If no objections are timely filed and properly served in accordance with the procedures contained in this paragraph with respect to a given request, or all timely objections are subsequently resolved, such Professional will submit to the Bankruptcy Court for consideration a proposed order approving the Professional Fee Claim as an Allowed Professional Fee Claim in the amount requested (or otherwise agreed), and the order may be entered without a hearing or further notice to any party; *provided, however*, that as has been agreed between the Sponsor and each Professional, Allowed Professional Fee Claims for fees and expenses incurred by such Professional during the period beginning August 1, 2013 through the Effective Date shall not exceed the amounts set forth for such Professional in the Professional Fee Budget. The Allowed amounts of any Professional Fee Claims subject to unresolved timely objections will be determined by the Bankruptcy Court at a hearing to be held no later than sixty (60) calendar days after the Administrative Claims Bar Date.

(b) Payment of Interim Amounts

Professionals shall be paid pursuant to the monthly fee statement process set forth in the Interim Compensation Order with respect to all calendar months ending prior to the Effective Date.

(c) Post-Effective Date Fees and Expenses

Upon the Effective Date, any requirement that Professionals comply with sections 327 through 331 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtors may employ any professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court. From and after the Effective Date, the Reorganized Debtors may pay in Cash the reasonable legal fees and expenses incurred by the Reorganized Debtors' professionals in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, *provided that* such fees and expenses may not be incurred without the prior written consent of the Reorganized Debtors. If the Reorganized Debtors dispute the reasonableness of any such invoice, the affected professional may submit such dispute to the Bankruptcy Court for a determination of the reasonableness of any such invoice, and the disputed portion of such invoice shall not be paid until the dispute is resolved. The undisputed portion of such reasonable fees and expenses shall be paid as provided herein.

5.2. Other Administrative Claims

A notice setting forth the Administrative Claims Bar Date will be (i) filed on the Bankruptcy Court's docket and (ii) posted on the Debtors' case information website at www.bmcgroup.com/atari. No other notice of the Administrative Claims Bar Date will be provided.

All requests for payment of Administrative Claims that accrued on or before the Effective Date (other than Professional Fee Claims, which are subject to the provisions of Section 5.1 of the Plan) must be filed with the Claims Agent and served on counsel for the Debtors, the Reorganized Debtors and the Sponsor by the Administrative Claims Bar Date. Any requests for payment of Administrative Claims pursuant to this Section 5.2 that are not properly filed and served by the Administrative Claim Bar Date shall not appear on the register of claims maintained by the Claims Agent and shall be disallowed automatically without the need for any objection from the Debtors or the Reorganized Debtors or any action by the Bankruptcy Court.

The Debtors or Reorganized Debtors, as applicable, and the Sponsor shall have the exclusive right to object to Administrative Claims (other than Administrative Claims that are Allowed as of the Effective Date) on or before the Administrative Claims Objection Deadline, subject to extension from time to time by order of the Bankruptcy Court. Unless such an objection is interposed to a timely-filed and properly-served Administrative Claim and payment request, such Claim shall be deemed Allowed in the amount requested. In the event that the Debtors or Reorganized Debtors, as applicable, or the Sponsor object to an Administrative Claim, the parties may confer to try to reach a settlement and, failing that, the Bankruptcy Court shall resolve the dispute. The Debtors or Reorganized Debtors, as applicable, and/or the Sponsor, as the case may be, may settle Administrative Claims in the ordinary course of business and without further Bankruptcy Court approval.

ARTICLE VI. ACCEPTANCE OR REJECTION OF THE PLAN

6.1. *Voting of Claims*

Each holder of an Allowed Claim in an Impaired Class of Claims that is entitled to vote on the Plan pursuant to ARTICLE III and ARTICLE IV hereof shall be entitled to vote separately to accept or reject the Plan, as provided in the Disclosure Statement Order or any other order of the Bankruptcy Court.

6.2. *Presumed Acceptance of Plan*

Priority Non-Tax Claims (Class 1), Secured Tax Claims (Class 2) and Interests (Class 6) are Unimpaired by the Plan. Pursuant to section 1126(f) of the Bankruptcy Code, the holders of Claims or Interests, as applicable, in such Classes are conclusively presumed to have accepted the Plan and the votes of such holders will not be solicited.

6.3. *Acceptance by Impaired Classes*

Pursuant to section 1126(c) of the Bankruptcy Code, and except as provided in section 1126(e) of the Bankruptcy Code, an Impaired Class of Claims shall have accepted the Plan if the Plan is accepted by the holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims in such Class that have timely and properly voted to accept the Plan.

Alden Secured Claims against Atari, Inc. (Class 3), General Unsecured Claims (Class 4) and Sponsor Intercompany Claims (Class 5) are Impaired, and the votes of holders of Claims in

such Classes will be solicited. If holders of Claims in a particular Impaired Class of Claims were given the opportunity to vote to accept or reject the Plan, but no holders of Claims in such Impaired Class of Claims voted to accept or reject the Plan, then such Class of Claims shall be deemed to have accepted the Plan.

6.4. *Elimination of Vacant Classes*

Any Class of Claims that does not have a holder of an Allowed Claim or a Claim temporarily Allowed by the Bankruptcy Court as of the date of the Confirmation Hearing shall be deemed eliminated from the Plan for purposes of (i) voting to accept or reject the Plan and (ii) determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

6.5. *Controversy Concerning Impairment*

If a controversy arises as to whether any Claims or Interests, or any Class of Claims or Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

6.6. *Nonconsensual Confirmation*

If any Impaired Class of Claims entitled to vote does not accept the Plan by the requisite statutory majority provided in section 1126(c) of the Bankruptcy Code, the Debtors, with the consent of the Sponsor (which consent shall not be unreasonably withheld), reserve the right to (i) amend the Plan, (ii) re-classify any Claim or Interest, or (iii) undertake to have the Bankruptcy Court confirm the Plan under section 1129(b) of the Bankruptcy Code.

ARTICLE VII. MEANS OF IMPLEMENTATION

7.1. *Sources of Consideration for Plan Distributions and Sponsor Contributions*

All payments or distributions under the Plan shall be funded by existing Cash on hand with the Debtors or Reorganized Debtors, as applicable, as of the Effective Date, including any proceeds from the sales of certain assets of the Debtors prior to the Effective Date, and a Cash contribution made by the Sponsor to the Estates on the Effective Date in the maximum aggregate amount of \$3,419,000.00 (the "***Sponsor Cash Contribution***"). Further, and in addition to the Sponsor Intercompany Claims Waivers, on the Effective Date, the Sponsor shall make the following non-monetary contributions of value to the Estates in the aggregate amount of approximately \$1,749,000.00: (i) the waiver of the Sponsor's claim on account of certain postpetition royalty payments accrued and payable to the Sponsor from the Debtors' use of the "Dungeons & Dragons" license during the Cases in the amount of approximately \$875,000.00; (ii) the assumption of certain salary and rent expenses of the Debtors in the maximum amounts of \$240,000.00 and \$190,000.00, respectively, to be paid in the ordinary course as such expenses become due and payable; and (iii) the waiver of the Sponsor's right to any claims for errors and omissions and the Sponsor's assumption of liability for business travel-related accidents, resulting in savings of \$444,000.00 for the Estates (collectively, the "***Sponsor Value Contributions***").

In consideration for the Sponsor Contributions, the existing holders of Interests in the Debtors shall retain such Interests on the Effective Date. Any Cash remaining in the Estates following the completion of all payments or distributions under the Plan shall be repaid to the Sponsor. Further, the Sponsor Cash Contribution shall be reduced, on a dollar-for-dollar basis, by any funds received by the Debtors from DTI Software, Inc. on or before the Effective Date.

7.2. *Continued Corporate Existence*

Each Debtor shall, as a Reorganized Debtor, continue to exist after the Effective Date as a separate legal entity, in accordance with the applicable laws in the jurisdiction in which each Debtor is incorporated, and pursuant to the relevant certificates or articles of incorporation, memoranda of association, articles of association, and by-laws, as applicable, of each Debtor in effect prior to the Effective Date, except to the extent such documents are amended pursuant to the Plan.

7.3. *Filing of Postconfirmation Organizational Documents*

On the Effective Date, or as soon thereafter as practicable, to the extent required by law, each Reorganized Debtor will file its Postconfirmation Organizational Documents, substantially in the forms disclosed in the Plan Supplement, as required or deemed appropriate, with the appropriate Persons in its jurisdiction of incorporation.

7.4. *Directors of the Reorganized Debtors*

The directors of each of the Debtors immediately prior to the Effective Date will serve as the initial directors of the respective Reorganized Debtors on and after the Effective Date. The initial directors shall be disclosed in the Plan Supplement. Such directors will serve, and may be removed or replaced, as the case may be, in accordance with applicable non-bankruptcy law and the Postconfirmation Organizational Documents for each respective Reorganized Debtor.

7.5. *Officers of the Reorganized Debtors*

The officers of each of the Debtors immediately prior to the Effective Date will serve as the initial officers of the respective Reorganized Debtors on and after the Effective Date. The initial officers shall be disclosed in the Plan Supplement. Such officers will serve, and may be removed or replaced, as the case may be, in accordance with applicable non-bankruptcy law, any employment agreement with the relevant Reorganized Debtor, and the Postconfirmation Organizational Documents of such Reorganized Debtor.

7.6. *D&O Insurance Policy*

On or prior to November 30, 2013, the Debtors shall purchase a D&O tail policy (the "***D&O Policy***") for the benefit of the Debtors' current and former officers and directors that will remain in force and effect for six (6) years after the Effective Date, as reflected in the Sponsor Analysis.

7.7. *Exemption From Securities Laws*

To the maximum extent provided by section 1145 of the Bankruptcy Code and applicable non-bankruptcy law, the issuance under the Plan of the Secured GUC Note and any other securities pursuant to this Plan and any subsequent sales, resales, transfers or other distributions of such Secured GUC Note or other securities shall be exempt from registration under the Securities Act, any other federal or state securities law registration requirements, and all rules and regulations promulgated thereunder.

7.8. *Effectuating Documents and Further Transactions*

On or before the Effective Date, and without the need for any further order or authority, the Debtors or Reorganized Debtors, as applicable, shall file with the Bankruptcy Court or execute, as appropriate, such agreements and other documents that are in form and substance reasonably satisfactory to the Sponsor as may be necessary or appropriate to effectuate, implement and further evidence the terms and conditions of the Plan. The Debtors are authorized to execute, deliver, file, or record such contracts, instruments, releases, 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.

7.9. *Exemption from Transfer Taxes*

Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of any notes or equity securities under or in connection with the Plan, the creation, filing or recording of any mortgage, deed of trust or other security interest, the making, assignment filing or recording of any lease or sublease, the transfer of title to or ownership of any of the Debtors' interests in any property, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, including, without limitation, the issuance of the Secured GUC Note, any merger agreements or agreements of consolidation, deeds, bills of sale or assignments executed in connection with any of the transactions contemplated under the Plan shall not be subject to any document recording, stamp, real estate transfer, sales and use, mortgage recording or other similar tax.

7.10. *Expedited Tax Determination*

The Debtors, with the consent of the Sponsor (which consent shall not be unreasonably withheld), are authorized to request an expedited determination of taxes under section 505(b) of the Bankruptcy Code for any or all returns filed for, or on behalf of, the Debtors for any and all taxable periods (or portions thereof) ending on or before the Effective Date.

7.11. *Corporate Action*

On the Effective Date, all matters provided for under the Plan that would otherwise require approval of the managers, directors or shareholders of one or more of the Debtors shall be in effect from and after the Effective Date pursuant to the applicable general corporation law of the states of Delaware or California, as applicable, without any requirement of further action by the managers, directors or shareholders of the Reorganized Debtors.

**ARTICLE VIII.
PROVISIONS GOVERNING DISTRIBUTIONS**

8.1. *Date of Distributions*

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.

8.2. *Disbursing Agent*

Except as otherwise provided in ARTICLE IV with respect to distributions on account of the General Unsecured Claims under the Secured GUC Note, on or after the Effective Date, the Reorganized Debtors shall designate a Person or entity to serve as the Disbursing Agent under the Plan, on terms and conditions mutually agreeable between the Reorganized Debtors and such Person or entity, to make all distributions under the Plan, including without limitation, the Initial GUC Distribution.

8.3. *Rights and Powers of Disbursing Agent*

The Disbursing Agent shall be empowered to (a) effect all actions and execute all agreements, instruments and other documents necessary to perform its duties under the Plan, (b) make all distributions contemplated hereby (except for the distributions on account of General Unsecured Claims under the Secured GUC Note), (c) employ professionals to represent it with respect to its responsibilities, and (d) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof. In furtherance of the rights and powers of the Disbursing Agent, the Disbursing Agent shall have no duty or obligation to make distributions to any holder of an Allowed Claim unless and until such holder executes and delivers, in a form acceptable to the Disbursing Agent, any documents applicable to such distributions.

8.4. *Delivery of Distributions*

With respect to all holders of Allowed Claims, distributions shall only be made to the record holders of such Allowed Claims as of the Distribution Record Date. On the Distribution Record Date, the Claims register shall be deemed closed for purposes of determining whether a holder of such a Claim is a record holder entitled to distributions under the Plan. The Debtors, Reorganized Debtors, Disbursing Agent, and the Committee Designee, and all of their respective agents, successors and assigns, as applicable, shall have no obligation to recognize, for purposes of distributions pursuant to or in any way arising from the Plan (or for any other purpose), any Claims that are transferred after the Distribution Record Date. Instead, they shall be entitled to recognize only those record holders set forth in the Claims register as of the Distribution Record Date, irrespective of the number of distributions made under the Plan or the date of such distributions. Furthermore, if a Claim is transferred twenty (20) or fewer calendar days before the Distribution Record Date, the Disbursing Agents or the Committee Designee, as applicable, shall

make distributions to the transferee only if the transfer form contains an unconditional and explicit certification and waiver of any objection to the transfer by the transferor.

If any dispute arises as to the identity of a holder of an Allowed Claim that is entitled to receive a distribution pursuant to the Plan, the Disbursing Agent or Committee Designee, as applicable, may, in lieu of making such distribution to such person, make the distribution into an escrow account until the disposition thereof is determined by Final Order or by written agreement among the interested parties to such dispute.

Subject to Bankruptcy Rule 9010, all distributions to any holder of an Allowed Claim shall be made at the address of such holder as set forth on the Schedules filed with the Bankruptcy Court or on the books and records of the Debtors or their agents, as applicable, unless the Debtors have been notified in writing of a change of address by the filing of a proof of Claim by such holder that contains an address for such holder different than the address of such holder as set forth on the Schedules. Nothing in this Plan shall require the Debtors to attempt to locate any holder of an Allowed Claim.

8.5. *Undeliverable or Unclaimed Distributions*

If any distribution to a holder of an Allowed Claim is returned as undeliverable, no further distributions to such holder shall be made unless and until the Disbursing Agent or the Committee Designee, as applicable, is notified in writing of such holder's then-current address, at which time the undelivered distribution shall be made to such holder without interest or dividends. Undeliverable distributions shall be returned to the applicable Reorganized Debtor until such distributions are claimed. All distributions under the Plan that remain unclaimed for six (6) months after the Third GUC Distribution shall indefeasibly revert to the applicable Reorganized Debtor. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

8.6. *Manner of Payment*

At the option of the Disbursing Agent or the Committee Designee, as applicable, any Cash payment to be made hereunder may be made by a check or wire transfer or as otherwise required or provided in applicable agreements.

8.7. *Limitation on Distributions*

Notwithstanding any other provision of the Plan, none of the Reorganized Debtors, the Disbursing Agent or the Committee Designee, as applicable, shall have any obligation to make any distributions under the Plan with a value of less than twenty-five (25) dollars, unless a written request therefor is received by the Disbursing Agent or the Committee Designee, as applicable, from the relevant recipient within 120 days after the later of the (a) Effective Date and (b) date such Claim becomes an Allowed Claim.

8.8. *Setoffs and Recoupment*

The Debtors may, but shall not be required to, with the consent of the Sponsor (which consent shall not be unreasonably withheld), setoff against or recoup from any Claim and the payments to be made pursuant to the Plan in respect of such Claim any and all claims, rights and Causes of Action of any nature whatsoever that the Debtors may have against the claimant, pursuant to the Bankruptcy Code or applicable non-bankruptcy law; *provided, however*, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver, abandonment or release by the Debtors of any such claims, rights and Causes of Action that the Debtors may have against such claimant.

8.9. *Allocation of Plan Distributions Between Principal and Interest*

For tax purposes, distributions in full or partial satisfaction of Allowed Claims shall be allocated first to the principal amount of Allowed Claims, with any excess allocated to unpaid interest that accrued on such Claims.

ARTICLE IX. PROCEDURES FOR TREATING DISPUTED CLAIMS

9.1. *GUC Escrow Account*

On the Effective Date, the Reorganized Debtors shall establish an interest-bearing escrow account (the “*GUC Escrow Account*”), funded with \$560,000.00, for purposes of paying the Initial GUC Distribution to holders of General Unsecured Claims, including General Unsecured Claims that are Disputed as of the Effective Date. As soon as practicable after all General Unsecured Claims against the Debtors have been either Allowed (and received a distribution in accordance with the Plan) or disallowed by the Plan, the Confirmation Order, or Final Order of the Bankruptcy Court, the Reorganized Debtors shall determine the amount of the excess funds in the GUC Escrow Account and return such funds to the Sponsor.

9.2. *Administrative Reserve*

On the Effective Date, the Reorganized Debtors shall establish a reserve (the “*Administrative Reserve*”), funded with \$100,000.00, for purposes of paying Administrative Claims that are (i) Disputed as of the Effective Date and (ii) not Professional Fee Claims. As soon as practicable after all such Administrative Claims against the Debtors have been either Allowed (and paid in full in accordance with the Plan) or disallowed by the Plan, the Confirmation Order, or Final Order of the Bankruptcy Court, the Reorganized Debtors shall determine the amount of the excess funds in the Administrative Reserve and return such funds to the Sponsor.

9.3. *Objections/Requests for Estimation*

As of the Effective Date, objections to, and requests for estimation of, Claims against the Debtors may be interposed and prosecuted only by the Reorganized Debtors (or, with respect to General Unsecured Claims, if the Reorganized Debtors refuse to interpose or prosecute an objection to or request for estimation of a specified General Unsecured Claim following written

request by the Committee Designee to do so, by the Committee Designee); *provided, however*, that neither the Reorganized Debtors nor the Committee Designee shall object to Claims held by a DIP Lender, Alden, the Sponsor, Atari Europe, or Claims that have been expressly allowed by Final Order or under the Plan. Such objections and requests for estimation shall be served on the respective claimant and filed with the Bankruptcy Court on or before the later of: (i) one hundred twenty (120) days after the Effective Date or (ii) such later date as may be fixed by the Bankruptcy Court (the “**Claims Objection Deadline**”); *provided, however*, that with respect to Claims that, as of the Claims Objection Deadline, are subject to a pending claim objection, contested matter, or adversary proceeding (an “**Initial Objection**”) wherein the Reorganized Debtors’ objection to such claim is ultimately denied, the Claims Objection Deadline shall be extended to the latter of: (a) sixty (60) days from the date on which the Bankruptcy Court enters an order denying such Initial Objection or (b) sixty (60) days from the date on which any appellate court enters a Final Order reversing or vacating an order of the Bankruptcy Court granting such Initial Objection, *provided further* that with respect to Claims that (x) are filed (whether as an amended Claim, new Claim, or otherwise) after the Effective Date, and (y) that are not otherwise subject to adjustment, expunction or disallowance pursuant to any other provision of this Plan, the Claims Objection Deadline shall be one hundred twenty (120) days after the date on which such Claim was filed.

The Reorganized Debtors shall prosecute all claims objections pending as of the Effective Date, and shall not withdraw or compromise any such objections without the approval of the Committee Designee, which approval shall not be unreasonably withheld, provided that such approval (i) shall not be required for the withdrawal or compromise of objections to Claims filed for less than \$150,000, and (ii) shall no longer be required after the aggregate amount of outstanding General Unsecured Claims is reduced below \$7,000,000.

Nothing herein shall affect the Debtors’ ability to amend the Schedules in accordance with the Bankruptcy Code and the Bankruptcy Rules.

9.4. Adjustment to Certain Claims Without a Filed Objection

Any Claim that has been settled, paid and satisfied, or amended and superseded, may be adjusted or expunged on the Claims register by the Reorganized Debtors without a claims objection having to be filed and without any further notice to or action, order or approval of the Bankruptcy Court.

9.5. No Distributions Pending Allowance

Notwithstanding any other provision hereof, if any portion of a Claim is Disputed, no payment or distribution provided hereunder shall be made on account of such Claim unless and until such Disputed Claim becomes Allowed.

9.6. Estimation of Claims

The Debtors, with the consent of the Sponsor (which consent shall not be unreasonably withheld), may at any time request that the Bankruptcy Court estimate any Contingent Claim, Unliquidated Claim or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code for any reason or purpose, regardless of whether any of the Debtors previously objected to such

Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any Contingent Claim, Unliquidated Claim or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim for all purposes under the Plan (including for purposes of distribution), as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtors, with the consent of the Sponsor (which consent shall not be unreasonably withheld), may pursue supplementary proceedings to object to the ultimate allowance of such Claim.

All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

9.7. *Interest*

To the extent that a Disputed Claim becomes an Allowed Claim after the Effective Date, the holder of such Claim shall not be entitled to any interest thereon, except as specifically provided for herein, or as may be required by Final Order, the Confirmation Order or applicable bankruptcy and non-bankruptcy law.

9.8. *Offer of Judgment*

The Reorganized Debtors are authorized to serve upon a holder of a Claim an offer to allow judgment to be taken on account of such Claim, and, pursuant to Bankruptcy Rules 7068 and 9014, Federal Rule of Civil Procedure 68 shall apply to such offer of judgment. To the extent the holder of a Claim must pay the costs incurred by the Debtors after the making of such offer, the Debtors are entitled, in consultation with the Sponsor, to set off such amounts against the amount of any distribution to be paid to such holder without any further notice to or action, order or approval of the Bankruptcy Court.

9.9. *Amendments to Claims*

Except for Administrative Claims, on or after the Effective Date, a Claim may not be filed or amended without the prior authorization of the Bankruptcy Court or the Reorganized Debtors and any such new or amended Claim filed without prior authorization shall be deemed disallowed in full and expunged without any further action.

9.10. *Claims Paid and Payable by Third Parties*

A Claim shall be disallowed without a Claims objection having to be filed and without any further notice to or action, order or approval of the Bankruptcy Court, to the extent that the holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtor. No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' Insurance Policies until the holder of such Allowed Claim has exhausted all remedies with respect to such Insurance Policy. To the extent that one or

more of the Debtors' Insurers agrees to satisfy in full a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such Insurers' agreement, such Claim may be expunged from the Claims register without a Claims objection having to be filed and without any further notice to or action, order or approval of the Bankruptcy Court.

9.11. *Distributions After Allowance*

With respect to Disputed Claims, from and after the Effective Date, the Disbursing Agent will make distributions, if any, from the GUC Escrow Account or Administrative Reserve, as the case may be, quarterly (i) on account of any Disputed Claims that have become Allowed Claims during the preceding calendar quarter, and (ii) on account of previously Allowed Claims that would have been distributed to holders of such Claims on the dates distributions were previously made to holders of Allowed Claims in such Class had the Disputed Claims that have become Allowed Claims been Allowed on such dates. Such distributions will be made pursuant to the applicable provisions of ARTICLE VIII hereof.

ARTICLE X. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

10.1. *Assumption and Rejection of Executory Contracts and Unexpired Leases*

All Executory Contracts and unexpired leases to which any of the Debtors is a party shall be deemed automatically rejected pursuant to sections 365 and 1123 of the Bankruptcy Code effective as of and subject to the occurrence of the Effective Date, except for those Executory Contracts or unexpired leases that: (a) have already been assumed or rejected pursuant to a Final Order of the Bankruptcy Court entered prior to the Effective Date; (b) have previously expired or been terminated pursuant to their own terms (and were not otherwise extended); (c) are the subject of a separate motion to assume or reject pending on the Effective Date; or (d) are specifically designated in the Plan Supplement as contracts or leases to be assumed by the Reorganized Debtors pursuant to the Plan.

Subject to and upon the occurrence of the Effective Date, entry of the Confirmation Order shall constitute an order of the Bankruptcy Court under sections 365 and 1123(b) of the Bankruptcy Code approving the assumptions and assignments or rejections described above. All assumptions and assignments or rejections of Executory Contracts and unexpired leases in the Plan will be effective as of the Effective Date. To the extent any provision of an Executory Contract or unexpired lease to be assumed by any of the Reorganized Debtors under the Plan limits such Reorganized Debtor's ability to assign such Executory Contract or unexpired lease, the effectiveness of such provision shall be limited or nullified to the full extent provided in section 365(f) of the Bankruptcy Code.

Notwithstanding the foregoing, the Debtors reserve the right to alter, amend, modify, or supplement the list of the Executory Contracts and unexpired leases identified in the Plan Supplement prior to the Effective Date.

10.2. *Cure of Defaults*

Except as may otherwise be agreed to by the parties, any default under an Executory Contract or unexpired lease to be assumed pursuant to the Plan shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the payment of the applicable Cure Amount in Cash within thirty (30) days of the later of: (i) the Effective Date or (ii) in the case of a disputed default, the date such dispute is resolved, whether by agreement or by the entry of a Final Order, *provided that* the Debtors or Reorganized Debtors, as applicable, shall be authorized to reject any Executory Contract or unexpired lease to the extent the Debtors or Reorganized Debtors, in the exercise of their sound business judgment, conclude that the amount of the cure obligation as determined by such Final Order renders the assumption of such Executory Contract or unexpired lease unfavorable to the Debtors or Reorganized Debtors, as applicable.

The proposed Cure Amount for each Executory Contract or unexpired lease to be assumed under the Plan shall be set forth in the Plan Supplement. Any party that fails to object to the applicable Cure Amount listed in the Plan Supplement within thirty (30) days of the filing thereof shall be forever barred, estopped, and enjoined from disputing such amount and/or from asserting any Claim against the applicable Debtor under section 365(b)(1) of the Bankruptcy Code in excess of such Cure Amount.

10.3. *Objections to Rejection*

Any non-Debtor party to an Executory Contract or unexpired lease that wishes to object to the rejection of such Executory Contract or unexpired lease, shall file an objection with the Bankruptcy Court prior to the Confirmation Objection Deadline and serve such objection on counsel to the Proponents. The failure to properly file and serve an objection to the rejection on or before the Confirmation Objection Deadline shall result in the non-Debtor party to the applicable Executory Contract or unexpired lease being (a) deemed to consent to such rejection and (b) barred, estopped, and permanently enjoined from (i) objecting to such rejection and precluded from being heard at the Confirmation Hearing with respect to such objection and (ii) asserting against the Debtors, the Estates, or any of the Debtors' property any default existing as of the Effective Date or any counterclaim, defense, setoff, or any other interest. With respect to any timely-filed and properly-served objection to the proposed rejection, the Debtors, with the consent of the Sponsor (which consent shall not be unreasonably withheld), may settle or otherwise resolve such objection, or respond to such objection (in which case the Bankruptcy Court shall determine such objection at the Confirmation Hearing).

10.4. *Rejection Damage Claims*

Any proofs of claim with respect to Rejection Damage Claims shall be filed with the Bankruptcy Court and served on the Reorganized Debtors on or before (a) the first Business Day that is thirty (30) calendar days after the Effective Date, with respect to the Executory Contracts and unexpired leases rejected pursuant to the Plan, (b) the first Business Day that is thirty (30) calendar days after entry of an order authorizing the rejection of the relevant Executory Contract or unexpired lease, with respect to the Executory Contracts and unexpired leases rejected other than pursuant to the Plan, or (c) such other date as is ordered by the Bankruptcy Court. The failure to properly file and serve a proof of claim with respect to a Rejection Damage Claim by the applicable deadline set forth in this Section 10.4 shall result in such Claim being deemed forever barred and disallowed as of the Effective Date without the need for any objection by the

Reorganized Debtors or further notice to, or action, order or approval of, the Bankruptcy Court. All Rejection Damage Claims shall be classified as General Unsecured Claims, and may be objected to in accordance with the provisions of ARTICLE IX of the Plan and the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules.

10.5. Modifications

Any modifications, amendments, supplements, and restatements to prepetition Executory Contracts and unexpired leases that have been executed by the Debtors during the Cases and actions taken in accordance therewith, (a) do not alter in any way the prepetition nature of the Executory Contracts and unexpired leases, or the validity, priority or amount of any Claims against the Debtors that may arise under such Executory Contracts or unexpired leases, (b) are not and do not create postpetition contracts or leases, (c) do not elevate to Administrative Claims status any Claims of the counterparties to the Executory Contracts and unexpired leases against any of the Debtors, and (d) do not entitle any entity to a Claim under any section of the Bankruptcy Code on account of the difference between the terms of any prepetition Executory Contracts or unexpired leases and subsequent modifications, amendments, supplements or restatements.

ARTICLE XI.

CONDITIONS PRECEDENT TO CONFIRMATION AND EFFECTIVE DATE

11.1. Conditions Precedent to Confirmation

The following are conditions precedent to confirmation of the Plan, each of which must be satisfied or waived in accordance with Section 11.3 hereof:

(a) The Plan and Disclosure Statement shall be in form and substance mutually acceptable to the Debtors, the Sponsor, and the Guarantor;

(b) The Bankruptcy Court shall have entered the Disclosure Statement Order, in form and substance reasonably satisfactory to the Proponents, on or before October 30, 2013;

(c) The occurrence of the deadline to vote on the Plan on or before November 25, 2013;

(d) The occurrence of the Confirmation Objection Deadline on or before November 27, 2013; and

(e) The Sponsor Commitment Letter shall be in full force and effect.

11.2. Conditions Precedent to Effective Date

The following are conditions precedent to the occurrence of the Effective Date, each of which must be satisfied or waived in accordance with Section 11.3 hereof:

(a) The Bankruptcy Court shall have entered the Confirmation Order, in form and substance mutually acceptable to the Debtors, the Sponsor, and the Guarantor, on or prior to

December 6, 2013, and such order shall not have been stayed, modified or vacated on appeal; *provided, however*, that the form and substance of the Confirmation Order shall not be found unsatisfactory solely by reason of the Bankruptcy Court declining to approve the third party releases discussed in Section 12.8;

(b) The final version of the Plan, the Plan Supplement and all of the documents and exhibits contained therein shall have been filed and approved in form and substance mutually acceptable to the Debtors, the Sponsor, and the Guarantor;

(c) All actions and all agreements, instruments, or other documents necessary to implement the terms and provisions of the Plan are effected or executed and delivered, as applicable, in form and substance mutually acceptable to the Debtors, the Sponsor, and the Guarantor;

(d) All governmental, regulatory, and material third party approvals and consents, including Bankruptcy Court approval, necessary in connection with the transactions contemplated herein shall have been obtained and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose any conditions on such transactions;

(e) All conditions set forth in the Sponsor Commitment Letter shall have been satisfied or waived by the Sponsor, the Guarantor, or the Debtors, as applicable;

(f) Each of the GUC Escrow Account, the Professional Fee Escrow Account and the Administrative Reserve shall have been established and funded up to their respective caps and in accordance with the terms and conditions hereof; and

(g) The D&O Policy shall have been purchased.

11.3. *Waiver or Satisfaction of Conditions*

Each of the conditions precedent in Sections 11.1 and 11.2 hereof may be waived in writing, in whole or in part, by the Proponents. Any such waivers 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. Except as expressly provided or permitted in 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, with the consent of the Sponsor (which consent shall not be unreasonably withheld), that one of the conditions precedent to confirmation or the Effective Date cannot be satisfied and the occurrence of such condition is not waived or cannot be waived, then the Debtors shall file a notice of the inability to satisfy such condition prior to confirmation or the Effective Date, as applicable, with the Bankruptcy Court.

The failure of the Debtors or Reorganized Debtors, as applicable, to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right, which may be asserted at any time.

11.4. *Effects of Non-Occurrence of Conditions to Effective Date*

Each of the conditions precedent to the Effective Date must be satisfied or duly waived, and the Effective Date must occur on or before December 20, 2013. If the Effective Date does not so occur, then: (a) the Confirmation Order shall be vacated and all provisions contained therein, including without limitation, any provisions relating to discharge, shall be null and void; (b) no distributions under the Plan shall be made; (c) the Debtors and all holders of Claims and Interests shall be restored to the *status quo ante* as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred; and (d) the Debtors' obligations with respect to the Claims and Interests shall remain unchanged and nothing contained in the Plan shall constitute or be deemed a waiver or release of any Claims or Interests by or against the Debtors or any other person or to prejudice in any manner the rights of the Debtors or any person in any further proceedings involving the Debtors.

**ARTICLE XII.
EFFECT OF CONFIRMATION**

12.1. *Vesting of Assets and Release of Liens*

On the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, each of the Debtors, their respective properties and interests in property shall be released from the custody and jurisdiction of the Bankruptcy Court, and the property of each Debtor shall vest in the relevant Reorganized Debtor, free and clear of all Claims, Liens, encumbrances, charges and other interests, except as provided in the Plan. As of the Effective Date, each Reorganized Debtor may operate its business, use, acquire and dispose of its property free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules or the Local Bankruptcy Rules, subject to the terms and conditions of the Plan.

12.2. *Binding Effect*

Subject to the occurrence of the Effective Date, on and after the Confirmation Date, the provisions of the Plan shall bind any holder of a Claim against, or Interest in, the Debtors and such holder's respective successors and assigns, whether or not the Claim or Interest of such holder is Impaired under the Plan, whether or not such holder has accepted the Plan, and whether or not such holder is entitled to a distribution under the Plan.

12.3. *Discharge of Claims*

Except as provided in the Plan the Confirmation Order, the rights afforded in and the payments and distributions to be made under the Plan shall discharge all existing debts, Claims and Causes of Action 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 section 1141 of the Bankruptcy Code. Except as provided in the Plan, upon the Effective Date, all existing Claims and Causes of Action against the Debtors shall be, and shall be deemed to be, discharged and terminated, and all holders of such Claims (and all representatives, transferees or agents on behalf of each holder) shall be precluded and enjoined from asserting against the Debtors, their successors or assigns, or against any of the assets or properties of the Debtors, any other or further Claim or Cause of Action 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 interest and whether or not the facts or legal bases therefor were known or existed prior to the Effective Date.

12.4. *Discharge of Debtors*

Upon the Effective Date, in consideration of the distributions to be made under the Plan and except as otherwise expressly provided in the Plan, each holder (as well as any representatives, trustees and agents on behalf of each holder) of a Claim, Interest or Cause of Action and any Affiliate of such holder shall be deemed to have forever waived, released and discharged the Debtors, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Interests and Causes of Action that arose prior to the Effective Date. Upon the Effective Date, all such Persons shall be forever precluded and enjoined, pursuant to section 524 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claims and Causes of Action against, or terminated Interests in, the Debtors.

12.5. *Reservation of Causes of Action/Reservation of Rights*

Except as expressly released or exculpated hereunder, nothing contained in the Plan shall be deemed to be a waiver or relinquishment of any rights or Causes of Action that the Debtors, the Reorganized Debtors or the Sponsor may have or may choose to assert against any Person.

12.6. *Exculpation*

Pursuant to the Plan and to the maximum extent permitted by applicable law, none of the Exculpated Parties shall have or incur any liability for any Claim, cause of action or other assertion of liability for any act taken or omitted to be taken in connection with, or arising out of, the Cases, the formulation, dissemination, confirmation, consummation or administration of the Plan, property to be distributed under the Plan or any other act or omission in connection with the Cases, the Plan, the Disclosure Statement or any contract, instrument, document or other agreement related thereto; *provided, however*, that the foregoing shall not affect the liability of any Person that otherwise would result from any such act or omission to the extent such act or omission is determined by a Final Order to have constituted willful misconduct or gross negligence.

12.7. *Releases by the Debtors*

Pursuant to section 1123(b) of the Bankruptcy Code, to the maximum extent permitted by applicable law, and except as otherwise specifically provided in the Plan, on and after the Effective Date, for good and valuable consideration provided by the Released Parties, the Released Parties shall be deemed released and discharged by each of the Debtors, the Reorganized Debtors and their Estates from any and all Claims, obligations, debts, rights, suits, damages, Causes of Action, remedies and liabilities whatsoever, including any derivative claims asserted on behalf of the Debtors, their Estates and/or the Reorganized Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that the Debtors, the Reorganized Debtors, their Estates or their Affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other entity or that any holder of a

Claim or Interest or other entity would have been legally entitled to assert for or on behalf of the Debtors, their Estates or the Reorganized Debtors, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Reorganized Debtors, the Cases, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party excluding any assumed Executory Contract or lease, the restructuring of Claims and Interests prior to or in the Cases, the negotiation, formulation or preparation of the Plan, the Disclosure Statement, the Plan Supplement, or related agreements, instruments or other documents, or upon any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct or gross negligence.

12.8. *Third Party Releases*

Except as otherwise specifically provided in the Plan, for good and valuable consideration, on and after the Effective Date, to the maximum extent permitted by applicable law, holders of Claims shall be deemed to have conclusively, absolutely, unconditionally, irrevocably and forever, released and discharged each of the Debtors, the Reorganized Debtors and the Released Parties from any and all claims, equity interests, obligations, debts, rights, suits, damages, Causes of Action, remedies and liabilities whatsoever, including any derivative claims asserted on behalf of the Debtors, their Estates and/or the Reorganized Debtors, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, that such entity would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Reorganized Debtors, the restructuring, the Cases, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party excluding any assumed Executory Contract or lease, the restructuring of Claims and Interests prior to or in the Cases, the negotiation, formulation or preparation of the Plan, the Disclosure Statement, the Plan Supplement or related agreements, instruments or other documents, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that is determined in a Final Order to have constituted willful misconduct or gross negligence.

12.9. *Mutual Releases of Released Parties*

Except as otherwise specifically provided in the Plan, for good and valuable consideration, on and after the Effective Date, to the maximum extent permitted by applicable law, each Released Party shall release and discharge and shall be deemed released and discharged by each of the other Released Parties from any and all Claims, obligations, debts, rights, suits, damages, Causes of Action, remedies and liabilities whatsoever, including any derivative claims asserted on behalf of the Released Party, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that the Released Party or its Affiliates, as applicable, would have been legally entitled to assert in its own right or on behalf of the holder of any

Claim or Interest or other entity or that any holder of a Claim or Interest or other entity would have been legally entitled to assert for or on behalf of the Released Party, based on or relating to, or in any manner arising from, in whole or in part, the Cases, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party excluding any assumed Executory Contract or lease, the restructuring of Claims and Interests prior to or in the Cases, the negotiation, formulation or preparation of the Plan, the Disclosure Statement, the Plan Supplement, or related agreements, instruments or other documents, or upon any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date; *provided, however*, that nothing contained in this paragraph shall (a) release any Released Party from claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct or gross negligence, (b) release any liens and claims that Alden or its affiliates may have, under or in connection with the Alden Secured Credit Facility, against any of (i) the Sponsor, Atari Europe, or any co-borrower or guarantor under the Alden Secured Credit Facility, (ii) the Debtors, or (iii) the Reorganized Debtors, or (c) preclude enforcement of parties' rights under the Plan and the related documents.

12.10. Injunction or Stay

Except as otherwise expressly provided in the Plan, all Persons or entities who have held, hold or may hold Claims, Causes of Action or Interests and all other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, representatives and Affiliates, are permanently enjoined, from and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim, Cause of Action or Interest against any of the Debtors, the Reorganized Debtors or property of any Debtor or Reorganized Debtor, other than to enforce any right to a distribution under the Plan, (ii) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order against any of the Debtors, the Reorganized Debtors or property of any Debtor or Reorganized Debtor, other than to enforce any right to a distribution under the Plan, (iii) creating, perfecting or enforcing any Lien or encumbrance of any kind against any of the Debtors or Reorganized Debtors or against the property or interests in property of any Debtor or Reorganized Debtor other than to enforce any right to a distribution under the Plan or (iv) asserting any right of set-off, subrogation or recoupment of any kind against any obligation due from any of the Debtors or Reorganized Debtors or against the property or interests in property of any Debtor or Reorganized Debtor, with respect to any such Claim, Cause of Action or Interest. Such injunction shall extend to any successors or assignees of each of the Debtors and Reorganized Debtors and their respective properties and interest in properties.

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays arising under or entered during the Cases under section 105 or 362 of the Bankruptcy Code, or otherwise, that are in existence on the Confirmation Date shall remain in full force and effect until the Effective Date; *provided, however*, that no such injunction or stay shall preclude enforcement of parties' rights under the Plan and the related documents.

12.11. Avoidance Actions

Except as explicitly set forth in this Plan, any Plan Supplement, or any Final Order, on the Effective Date, the Reorganized Debtors shall be deemed to have waived and released all the avoidance actions arising under chapter 5 of the Bankruptcy Code.

12.12. *Compromise and Settlement of Claims and Controversies*

Pursuant to sections 363 and 1123 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 will constitute a good faith compromise of all Claims, Causes of Action and controversies relating to the contractual, legal and subordination rights that a holder of a Claim may have with respect to any Allowed Claim, or any distribution to be made on account of such an Allowed Claim. Pursuant to sections 363 and 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the benefits provided under the Plan and as a mechanism to effect a fair distribution of value to the Debtors' constituencies, except as set forth in the Plan, the provisions of the Plan will also constitute a good faith compromise of all Claims, Causes of Action and controversies by any Debtor against any other Debtor. In each case, the entry of the Confirmation Order will constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims or controversies and the Bankruptcy Court's finding that such compromise or settlement is in the best interests of the Debtors, their Estates and the holders of such Claims and is fair, equitable and reasonable. In accordance with the provisions of the Plan, pursuant to sections 363 and 1123 of the Bankruptcy Code and Bankruptcy Rule 9019(a), without any further notice or action, order or approval of the Bankruptcy Court, the Debtors with the consent of the Sponsor (which consent shall not be unreasonably withheld) may compromise and settle Claims against them and Causes of Action against other Entities, in their sole and absolute discretion, and after the Effective Date, such right will pass to the Reorganized Debtors.

**ARTICLE XIII.
RETENTION OF JURISDICTION**

13.1. *Scope of Retention of Jurisdiction*

Under sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, and except as otherwise ordered by the Bankruptcy Court, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, or related to, the Cases and the Plan to the fullest extent permitted by law, including, without limitation:

(a) to hear and determine all matters with respect to the assumption or rejection of Executory Contracts or unexpired leases and the allowance of cure amounts and Claims resulting therefrom;

(b) to hear and determine any and all adversary proceedings, applications and contested matters pending on or after the Confirmation Date;

(c) to hear and determine all applications for compensation and reimbursement of expenses under sections 328(a), 330, 331, and 503(b) of the Bankruptcy Code;

(d) to hear and determine any timely objections to, or requests for estimation of Disputed Claims, in whole or in part or disputes related to the distribution of cash pursuant hereto and to ensure that the distributions contemplated hereunder are accomplished as provided herein;

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

(f) to issue such orders in aid of execution, enforcement, implementation and consummation of the Plan, to the extent authorized by section 1142 of the Bankruptcy Code;

(g) to consider any amendments to or modifications of the Plan or to cure any defect or omission, or reconcile any inconsistency, in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

(h) to hear and determine disputes or issues arising in connection with the interpretation, implementation or enforcement of the Plan, the Confirmation Order, any transactions or payments contemplated hereby, any agreement, instrument, or other document governing or relating to any of the foregoing or any settlement approved by the Bankruptcy Court, including specifically, the GUC Secured Note;

(i) to hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code, including, without limitation, any request by the Debtors, with the consent of the Sponsor (which consent shall not be unreasonably withheld), prior to the Effective Date or request by the Reorganized Debtors after the Effective Date for an expedited determination of tax under section 505(b) of the Bankruptcy Code;

(j) to hear and determine all disputes involving the existence, scope and nature of the discharges granted under the Plan, the Confirmation Order or the Bankruptcy Code;

(k) to issue injunctions and effect any other actions that may be necessary or appropriate to restrain interference by any person or entity with the consummation, implementation or enforcement of the Plan, the Confirmation Order or any other order of the Bankruptcy Court;

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

(m) to hear and determine any rights, Claims or causes of action held by or accruing to the Debtors pursuant to the Bankruptcy Code or pursuant to any federal or state statute or legal theory;

(n) to recover all assets of the Debtors and property of the Estates, wherever located;

(o) to enter a final decree closing the Cases; and

(p) to hear any other matter not inconsistent with the Bankruptcy Code.

13.2. *Failure of the Bankruptcy Court to Exercise Jurisdiction*

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to the Cases, including the matters set forth in Section 11.1 hereof, the provisions of this ARTICLE XIII shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court have jurisdiction with respect to such matter.

ARTICLE XIV. MISCELLANEOUS PROVISIONS

14.1. *Withholding and Reporting Requirements*

In connection with the Plan and all instruments issued in connection therewith and distributed thereon, any party issuing any instrument or making any distribution under the Plan shall comply with all applicable withholding and reporting requirements imposed by any U.S. and non-U.S. federal, state or local taxing authority, and all distributions under the Plan shall be subject to any such withholding or reporting requirements. Notwithstanding the above, each holder of an Allowed Claim that is to receive a distribution under the Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed on such holder by any governmental unit, including income, withholding and other tax obligations, on account of such distribution. Any party issuing any instrument or making any distribution under the Plan has the right, but not the obligation, to not make a distribution until such holder has made arrangements satisfactory to such issuing or disbursing party for payment of any such tax obligations.

14.2. *Modification of Plan*

Alterations, amendments, or modifications of or to the Plan may be proposed in writing by the Debtors at any time prior to the Confirmation Date, but only after consultation with and consent (which consent shall not be unreasonably withheld) to such alteration, amendment, or modification by the Sponsor; *provided, however*, that the Plan, as altered, amended or modified satisfies the conditions of sections 1122 and 1123 of the Bankruptcy Code and the Debtors have complied with section 1125 of the Bankruptcy Code. The Plan may be altered, amended, or modified at any time after the Confirmation Date and before substantial consummation, but only after consultation with and consent (which consent shall not be unreasonably withheld) to such alteration, amendment, or modification by the Sponsor; *provided further*, that the Plan, as altered, amended, or modified, satisfies the requirements of sections 1122 and 1123 of the Bankruptcy Code, and the Bankruptcy Court, after notice and a hearing, confirms the Plan, as altered, amended, or modified, under section 1129 of the Bankruptcy Code and the circumstances warrant such alterations, amendments, or modifications. A holder of a Claim that has accepted the Plan will 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 such holder's Claim.

Prior to the Effective Date, the Debtors, with the consent of the Sponsor (which consent shall not be unreasonably withheld), may make appropriate technical adjustments and modifications to the Plan without further order or approval of the Bankruptcy Court, *provided that* such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Interests.

14.3. *Revocation or Withdrawal of the Plan*

The Debtors, with the consent of the Sponsor (which consent shall not be unreasonably withheld) reserve the right to revoke or withdraw the Plan prior to the Confirmation Date. If the Debtors revoke or withdraw the Plan with respect to any one or more of the Debtors in accordance with this Section 14.3, or if the Effective Date does not occur as to any Debtor, then, as to such Debtor, the Plan and all settlements and compromises set forth in the Plan and not otherwise approved by a separate Final Order shall be deemed null and void. In such event, nothing contained herein shall constitute or be deemed a waiver or release of any Claims or Interests by or against the Debtors or any other Person or to prejudice in any manner the rights of the Debtors or any person in any further proceedings involving the Debtors.

14.4. *Plan Supplement*

Any Plan Supplement and the documents contained therein shall be in form, scope and substance satisfactory to the Debtors and the Sponsor, and shall be filed with the Bankruptcy Court no later than five (5) Business Days before the Confirmation Hearing, *provided that* the documents included therein may thereafter be amended and supplemented, subject to the consent of the Sponsor (which consent shall not be unreasonably withheld), prior to execution, so long as no such amendment or supplement materially affects the rights of holders of Claims. The Plan Supplement and the documents contained therein are incorporated into and made a part of the Plan as if set forth in full herein.

14.5. *Payment of Statutory Fees*

On the Effective Date, all fees payable under section 1930 of chapter 123 of title 28 of the United States Code shall be paid in Cash as Allowed Administrative Claims. Following the Effective Date, all such fees shall be paid by the Reorganized Debtors until the earlier of the conversion or dismissal of the applicable Case under section 1112 of the Bankruptcy Code, or the closing of the applicable Case pursuant to section 350(a) of the Bankruptcy Code.

14.6. *Dissolution of the Creditors' Committee*

On the Effective Date, the Creditors' Committee shall be dissolved automatically and its members shall be released and discharged of all further authority, duties, responsibilities and obligations related to and arising from and in connection with the Cases and under the Bankruptcy Code, *provided further* that the retention or employment of the Creditors' Committee's Professionals shall terminate, except that such Professionals shall be permitted to (i) file and prosecute their respective applications for final allowance of their Professional Fee Claims and (ii) participate in any appeal of the Confirmation Order, which may be filed by a party other than the Creditors' Committee.

14.7. Exhibits/Schedules

All exhibits and schedules to the Plan, including the Plan Supplement, are incorporated into and are a part of the Plan as if set forth in full herein.

14.8. Substantial Consummation

On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

14.9. Closing of Chapter 11 Cases

The Reorganized Debtors shall, promptly after the full administration of the Cases, file with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Cases.

14.10. Severability of Plan Provisions

In the event that, prior to the Confirmation Date, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court shall, at the request of the Debtors, subject to the consent of the Sponsor (which consent shall not be unreasonably withheld), have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall 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 in accordance with its terms.

14.11. Governing Law

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent an exhibit to the Plan or Plan Supplement provides otherwise (in which case the governing law specified therein shall be applicable to such exhibit), the rights, duties, and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of New York without giving effect to its principles of conflict of law.

14.12. Conflicts

Except as set forth in this Plan, to the extent that any provision of the Disclosure Statement conflicts with or is in, any way inconsistent with any provision of the Plan, the Plan shall govern and control.

14.13. Notices

All notices, requests and demands to or upon the Debtors and the Sponsor must be in writing (including by facsimile transmission or electronic mail) to be effective and, unless otherwise expressly provided under the Plan, will be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

If to the Debtors:

ATARI, INC.
475 Park Avenue South, 12th Floor
New York, New York 10016
Attn: Gene Davis
Kristen Keller
Todd Shallbetter
Facsimile: (212) 726-4214

with a copy to:

AKIN GUMP STRAUSS HAUER & FELD LLP
One Bryant Park
New York, New York 10036
Attn: Ira S. Dizengoff
Kristine G. Manoukian
Facsimile: (212) 872-1002
Emails: idizengoff@akingump.com
kmanoukian@akingump.com

1333 New Hampshire Avenue, N.W.
Washington, DC 20036-1564
Attn: Scott L. Alberino
Facsimile: (202) 887-4288
Email: salberino@akingump.com

If to the Sponsor:

ALLEN & OVERY LLP
1221 Avenue of the Americas
New York, New York 10020
Attn: Ken Coleman
Jonathan Cho
Facsimile: (212) 610-6399
Emails: ken.coleman@allenovery.com
jonathan.cho@allenovery.com

If to the Creditors' Committee:

COOLEY LLP
1114 Avenue of the Americas
New York, New York 10036
Attn: Cathy Hershcopf
Jeffrey L. Cohen
Facsimile: (212) 479-6275
Email: chershcopf@cooley.com
jcohen@cooley.com

(Signature Pages to Follow)

Dated: New York, New York
September 20, 2013

Respectfully submitted,

Atari, Inc., et al.
(for itself and on behalf of each of the other Debtors)

By: 

Name: Eugene I. Davis

Title: Chairman of the Boards of Directors

Dated: New York, New York
September 20, 2013

Respectfully submitted,

Atari, S.A.

By: /s/ Frederic Chesnais
Name: Frederic Chesnais
Title: President-Director General

Schedule 1

Sponsor Analysis

Schedule 1

Atari, Inc.
Sponsor Analysis
Sources and Uses of Cash at Effective Date
\$ in 000s

	Amount
I) Sources: Prior to Sponsor Funding	
A) Projected cash on hand at Effective Date	
From operations	\$ 2,538
From Game sale proceeds	5,051
B) Accounts Receivable (collected after Effective Date)	-
C) RCT Cash Generated (collected after Effective Date)	-
Cash on hand at Effective Date	7,589
 II) Uses: Required funding on the effective date	
A) DIP Loan	
Principle Balance	3,500
Interest through Effective Date	286
B) Administrative Expenses	
Professional Fee Escrow	
Akin	2,332
Protiviti	339
Cooley	691
Duff	218
Bracewell	308
Perella	1,150
Allen & Overy - Plan	250
Allen & Overy - DS	125
Cure Costs - Atari Games	122
Cure Costs - Test Drive	179
Trade payables (paid after Effective Date)	-
Royalty payable to Atari SA (waived)	-
Administrative reserve - non-professionals	100
Tax preparation (paid after Effective Date)	-
D&O tail policy	227
Chairman compensation	400
Disbursing Agent	50
C) Priority Tax Claims	-
D) Priority Non-Tax claims (remaining loyalty)	172
E) General Unsecured Claims initial funding	560
Total Uses	11,009
Required Sponsorship Funding (max)	\$ (3,419)

Schedule 2

Sponsor Commitment Letter

Atari, S.A.

September 19, 2013

Atari, Inc.
Atari Interactive, Inc.
California U.S. Holdings, Inc.
Humongous, Inc.
475 Park Avenue South, 12th floor
New York, NY 10016

EQUITY COMMITMENT LETTER

Ladies and Gentlemen:

Reference is made to that certain Indicative Chapter 11 Plan Term Sheet for Atari, Inc. *et al.* attached as Annex I hereto (together with the schedules thereto, the "Term Sheet") in connection with a proposed joint plan of reorganization (the "Plan") for Atari, Inc., Atari Interactive, Inc., Humongous, Inc. and California U.S. Holdings, Inc. (collectively, the "Debtors").

Capitalized terms not defined herein shall have the meanings assigned to such terms in the Term Sheet.

Section 1. Commitment

Subject to the terms and conditions described in this letter (including the Term Sheet, this "Commitment Letter"),¹ Atari, S.A. (the "Sponsor") hereby commits to support the Plan and to provide to the Debtors funding required by the Debtors pursuant to the Plan as set forth in the Term Sheet, up to a maximum aggregate amount of \$3,419,000, subject to the terms and conditions set forth therein (the "Sponsor Cash Contribution"). In connection therewith, the Sponsor also will make, on the Effective Date, the following contributions of value in the aggregate amount of \$1,749,000 to the Debtors' estates (collectively, the "Sponsor Value Contributions", and together with the Sponsor Cash Contribution, the "Sponsor Contributions"):

- i. the Sponsor will waive its claim on account of certain postpetition royalty payments accrued and payable to the Sponsor from the Debtors' use of the "Dungeons & Dragons" license during the Cases, which amount is currently estimated to equal \$875,000;
- ii. the Sponsor will assume and pay in the ordinary course the following expenses of the Debtors up to a maximum amount of (i) \$240,000 for salaries and (ii) \$190,000 for rents, as such expenses become due and payable, in accordance with the Term Sheet; and
- iii. the Sponsor will waive its rights to any claims for errors and omissions and will assume liability for business travel-related accidents, resulting in savings of \$444,000 for the estates of the Debtors.

The Sponsor Contributions therefore have an aggregate value of \$5,168,000.

¹ In the event of any inconsistency between the Term Sheet and this Commitment Letter, this Commitment Letter shall control.

The Sponsor Cash Contribution shall be funded by a cash payment by the Sponsor, *provided that* funds received by the Debtors from DTI Software, Inc. on or before the Effective Date, if any, shall reduce the amount of the Sponsor Cash Contribution on a dollar-for-dollar basis.

Provided that the Debtors have not materially breached this Commitment Letter, Frederic Chesnais (the "Guarantor," and together with the Sponsor and the Debtors, the "Parties"), a signatory hereto and the Sponsor's indirect shareholder, irrevocably agrees to guarantee the Sponsor Cash Contribution under this Commitment Letter in the event that the Sponsor breaches its obligations hereunder.

Section 2. Conditions Precedent

The Sponsor's obligations to support the Plan and fund or contribute the Sponsor Contributions, and the Guarantor's obligations to guarantee the Sponsor Cash Contribution, are subject to the prior satisfaction (or waiver by the Sponsor, the Guarantor, and the Debtors) of the following conditions precedent: (i) the preparation, execution and delivery of documentation with respect to the Plan consistent in all material respects with the Term Sheet, in form and substance mutually acceptable to the Debtors and the Sponsor, and containing the usual terms and conditions for plan sponsor exculpation, release, and indemnification (the "Operative Documents"); (ii) this Commitment Letter remaining in effect and the Debtors' compliance in all material respects with the terms of this Commitment Letter; (iii) the accuracy and completeness in all material respects of all representations that you make to us, as set forth in section 7 of this Commitment Letter; (iv) the approval by the Court of the Disclosure Statement; (v) the entry of an order by the Court confirming the Plan in form and substance acceptable to the Sponsor (the "Confirmation Order") on or prior to December 6, 2013, which date may be extended from time to time by mutual agreement of the Debtors, the Sponsor, and the Guarantor; (vi) the time for an appeal of the Confirmation Order having expired without the Confirmation Order being subject to a stay; and (vii) the satisfaction of all conditions precedent to the occurrence of the Effective Date of the Plan, as set forth in the Term Sheet.

Section 3. Commitment Termination

The Sponsor and the Guarantor may only terminate this Commitment Letter, upon five (5) business days written notice to the Debtors, if: (a) the Sponsor is not in breach of this Commitment Letter and (b)(i) the Debtors lose the exclusive right to file a plan under section 1121 of the Bankruptcy Code, (ii) any covenant or agreement in this Commitment Letter is materially breached by the Debtors and is not cured within five (5) business days of notice thereof, (iii) any event occurs or information becomes available that results in the failure to satisfy any condition precedent set forth in this Commitment Letter or the Operative Documents, (iv) the Debtors file a plan that has not been approved in form and substance by the Sponsor and the Guarantor, as evidenced in writing, or (v) the Debtors have not filed the Plan, in form and substance acceptable to the Sponsor and the Guarantor, on or prior to September 20, 2013. The Parties' obligations under Sections 4 through 10 hereof shall survive the expiration or termination of this Commitment Letter.

Section 4. Indemnification

Subject to the Plan becoming effective, the Debtors shall indemnify and hold harmless the Sponsor, the Guarantor, and their respective affiliates, and each of their respective officers, directors, employees, agents, advisors, attorneys and representatives (each, an "Indemnified Party") from and against any and all claims, damages, losses, liabilities and expenses (including, without limitation, fees and disbursements of counsel), joint or several, that may be incurred by or asserted or awarded against any Indemnified Party (including, without limitation, in connection with or relating to any investigation, litigation or proceeding or the preparation of a defense in connection therewith), in each case arising out of or in connection with or by reason of this Commitment Letter or the Operative Documents, or the transactions contemplated hereby or thereby, except to the extent such claim, damage, loss, liability or expense results from such

Indemnified Party's gross negligence or willful misconduct. In the case of an investigation, litigation or other proceeding to which the indemnity in this section applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by the Debtors, any of their directors or creditors, an Indemnified Party or any other person, or an Indemnified Party is otherwise a party thereto and whether or not the transactions contemplated hereby are consummated.

No Indemnified Party shall have any liability (whether in contract, tort or otherwise) to the Debtors for or in connection with the transactions contemplated hereby, except (i) to the extent such liability results from such Indemnified Party's gross negligence or willful misconduct or (ii) for a breach by such Indemnified Party of this Commitment Letter or any other agreement.

Section 5. Costs and Expenses

Subject to the Plan becoming effective, the Debtors shall pay all costs and expenses of the Sponsor and the Guarantor (including, without limitation, the fees and disbursements of counsel) incurred in connection with the enforcement of any of their rights and remedies under this Commitment Letter.

Section 6. Confidentiality

By accepting delivery of this Commitment Letter, the Debtors agree that this Commitment Letter is for their confidential use only and that neither its existence nor the terms hereof will be disclosed by the Debtors to any person other than (i) their officers, directors, employees, accountants, attorneys and other advisors, and then only on a "need to know" and confidential basis in connection with the transactions contemplated hereby and (ii) in connection with the Debtors seeking approval of the Plan and the Disclosure Statement by the Court. Notwithstanding the foregoing, and in addition to the disclosures permitted above, following acceptance of the provisions hereof as provided below by the Debtors and your return of an executed counterpart of this Commitment Letter to the Sponsor, the Parties may make such other public disclosures of the terms and conditions hereto as the Parties are required by law or compulsory judicial process.

Section 7. Representations and Warranties of the Debtors

The Debtors represent and warrant that (i) all information that has been or will hereafter be made available to the Sponsor by the Debtors or any of their representatives in connection with the transactions contemplated hereby is and will be true and correct in all material respects and does not and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not misleading in light of the circumstances under which such statements were or are made, in each case giving effect to the Debtors' limited financial resources and limited employees, and (ii) all financial projections, if any, that have been or will be prepared by the Debtors and made available to the Sponsor have been or will be prepared in good faith based upon assumptions that were reasonable as of the date of the preparation of such financial projections. The Debtors agree to use good faith efforts to supplement the information and projections from time to time until the Operative Documents become effective so that the representations and warranties contained in this paragraph remain correct.

The Debtors acknowledge that the Sponsor has informed the Debtors that, in providing this Commitment Letter, the Sponsor is relying on the accuracy of the information furnished to it by or on behalf of the Debtors (to the extent of the representations contained herein) without independent verification thereof.

Section 8. Representations and Warranties of the Sponsor

Beginning on the date of this Commitment Letter and continuing until the date of termination in accordance with Section 3 hereof, the Sponsor and the Guarantor represent and warrant that each (i) has full power and authority to enter into and perform under this Commitment Letter and (ii) has, as of the

date hereof, cash and/or the right to draw down available lines of credit in a combined amount necessary to fund the maximum Sponsor Cash Contribution.

Section 9. No Third Party Reliance, etc.

The agreement of the Sponsor hereunder to provide the Sponsor Contributions is made solely for the benefit of the Debtors and may not be relied upon or enforced by any other person. For the avoidance of doubt, those matters that are not covered or made clear in this Commitment Letter are subject to mutual agreement of the Parties. The Debtors may not assign or delegate any of their rights or obligations hereunder to a third party without the Sponsor's prior written consent. This Commitment Letter may not be amended or modified, or any provisions hereof waived, except by a written agreement signed by the Parties. This Commitment Letter is not intended to create a fiduciary relationship among the Parties.

Section 10. Miscellaneous Provisions

This Commitment Letter shall be governed by, and construed in accordance with, the laws of the State of New York. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Commitment Letter shall be brought exclusively in the Court. The Parties further agree that each of the Parties hereby irrevocably consents to the jurisdiction of the Court (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in such courts or that any such suit, action or proceeding which is brought in such courts has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any Party anywhere in the world, whether within or without the jurisdiction of the Court. This Commitment Letter sets forth the entire agreement between the Parties with respect to the matters addressed herein and supersedes all prior communications, written or oral, with respect hereto. This Commitment Letter may be executed in any number of counterparts, each of which, when so executed, shall be deemed to be an original and all of which, taken together, shall constitute one and the same Commitment Letter. Delivery of an executed counterpart of a signature page to this Commitment Letter by facsimile or electronic mail shall be as effective as delivery of a manually executed counterpart of this Commitment Letter. This Commitment Letter may not be amended, modified or supplemented except by an agreement in writing signed by the Parties.

Section 11. Waiver of Jury Trial

Each party hereto irrevocably waives all rights to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to the Commitment Letter the transactions contemplated by the Commitment Letter, or the actions of the Sponsor or any of its affiliates in the negotiation, performance or enforcement of the Commitment Letter.

Section 12. Assignment

This Commitment Letter is assignable by the Sponsor or the Guarantor upon written notice to the Debtors, *provided that* (i) such assignment shall not discharge the obligations of the Sponsor or the Guarantor under this Commitment Letter and (ii) neither the Sponsor nor the Guarantor may assign this Commitment Letter to an unaffiliated third party without the Debtors' prior written consent (not to be unreasonably withheld) which, if granted, shall not constitute a waiver of this requirement as to any subsequent assignment. Any purported assignment of this Commitment Letter in contravention of this section shall be void.

Section 13. Amendments

This Commitment Letter, including any exhibits or schedules hereto, may not be modified, amended or supplemented except in a writing signed by the Parties.

Section 14. Sponsor Cooperation

The Sponsor shall (i) negotiate in good faith the Operative Documents and support confirmation of the Plan, (ii) do all things necessary and appropriate in furtherance of obtaining entry of the Confirmation Order within the time frames contemplated by the Term Sheet and this Commitment Letter, and (iii) act in good faith and use commercially reasonable efforts to consummate the restructuring transactions as contemplated by the Term Sheet and this Commitment Letter.

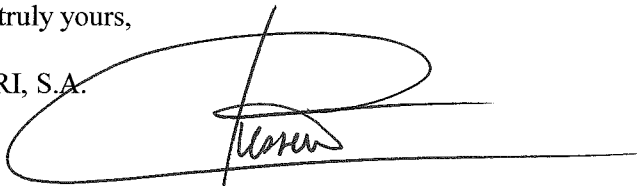
Section 15. Effectiveness

This Commitment Letter shall become effective as of the date set forth above.

(Signature Pages to Follow)

Very truly yours,

ATARI, S.A.

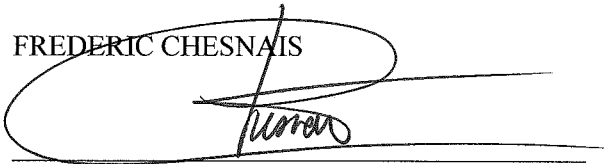


By: _____

Name: Frederic Chesnais

Title: *PRESIDENT DIRECTEUR GENERAL*

FREDERIC CHESNAIS



AGREED AND ACCEPTED

on _____, ____:

ATARI, INC.

By: _____

Name: _____

Title: _____

ATARI INTERACTIVE, INC.

By: _____

Name: _____

Title: _____

HUMONGOUS, INC.

By: _____

Name: _____

Title: _____

CALIFORNIA U.S. HOLDINGS, INC.

By: _____

Name: _____

Title: _____

Very truly yours,

ATARI, S.A.

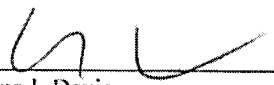
By: _____
Name: Frederic Chesnais
Title:

FREDERIC CHESNAIS

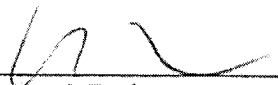
AGREED AND ACCEPTED

on Sept., 19: 2013


ATARI, INC.

By: 
Name: Eugene I. Davis
Title: Chairman of the Board of Directors

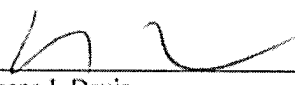
ATARI INTERACTIVE, INC.

By: 
Name: Eugene I. Davis
Title: Chairman of the Board of Directors

HUMONGOUS, INC.

By: 
Name: Eugene I. Davis
Title: Chairman of the Board of Directors

CALIFORNIA U.S. HOLDINGS, INC.

By: 
Name: Eugene I. Davis
Title: Chairman of the Board of Directors

ANNEX I
TERM SHEET

INDICATIVE TERM SHEET FOR ATARI, INC. ET AL.

JOINT PLAN OF REORGANIZATION

This restructuring term sheet (the “Term Sheet”) embodies the terms of an agreement reached between the Debtors, the Sponsor, the DIP Lender and the Committee (each as defined below and a “Party”, and collectively, the “Parties”) and is attached as an exhibit to an equity commitment letter (the “ECL”) to be executed by the Sponsor.

This Term Sheet does not include a description of all of the terms, conditions, and other provisions that are to be contained in a Plan (as defined below) and the related definitive documentation contemplated by this Term Sheet (the “Definitive Documents”). The Definitive Documents shall satisfy the requirements of the Bankruptcy Code and be consistent with this Term Sheet. The terms and conditions set forth in this Term Sheet are meant to be part of a comprehensive agreement, each element of which is consideration for the other elements and an integral aspect of the proposed Plan.

This Term Sheet is for discussion purposes only, is not an offer for the sale of securities, and is not a solicitation of acceptances or rejections of a chapter 11 plan of reorganization. Any such solicitation will comply with all applicable provisions of the Bankruptcy Code and will be conducted only pursuant to a disclosure statement that has been approved by the Court. The terms of this Term Sheet set forth below are intended to provide a framework for a proposed transaction and do not constitute a binding agreement with respect to the specific transaction structure contemplated herein.

This Term Sheet is being distributed subject to the Parties’ agreement that it will not be used as evidence in any litigation and is subject to the provisions of Rule 408 of the Federal Rules of Evidence and other similar applicable rules under federal and state law. This Term Sheet is confidential and shall not be shared with any party without the prior written consent of the Debtors and the Sponsor.

<p>Transaction Summary:</p>	<p>This Term Sheet describes the principal terms of a joint chapter 11 plan of reorganization (the “Plan”) for Atari, Inc. and its affiliated debtors and debtors in possession (collectively, the “Debtors”,¹ and after the Effective Date (as defined below), the “Reorganized Debtors”, proposed by the Debtors and Atari, S.A. (the “Sponsor”, and together with the Debtors, the “Proponents”) and supported by the Debtors’ debtor in possession lender (the “DIP Lender” or “Alden”) and the Official Committee of Unsecured Creditors (the “Committee”) appointed in the Debtors’ chapter 11 cases (the “Cases”). The Proponents will file and seek to confirm and consummate the Plan in the Cases, which were commenced on January 21, 2013 (the “Petition Date”) and are being jointly administered under Case No. 13-10176 (JMP) in the United States Bankruptcy Court for the Southern District of New York (the “Court”).</p> <p>Distributions under the Plan shall be funded by (i) cash on hand with the Debtors as of the Effective Date (the “Existing Cash”), which shall include any remaining proceeds from the pre-Effective Date sales of certain assets of the Debtors and (ii) cash contributions of up to a maximum aggregate amount of \$3,419,000 (the “Sponsor Contribution Limit”) by the Sponsor, pursuant to the ECL (the</p>
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¹ Specifically, the Debtors in these chapter 11 cases are Atari, Inc., Atari Interactive, Inc. (“**Interactive**”), California U.S. Holdings, Inc. (“**CUSH**”), and Humongous, Inc. (“**Humongous**”).

	<p>“Sponsor Contribution”).</p> <p>Pursuant to the Plan, the Sponsor shall retain its Existing Equity Interests in Interactive and CUSH, and CUSH shall retain its Existing Equity Interests in Atari, Inc. and Humongous.</p> <p>Pursuant to the Plan, the Existing Cash and the Sponsor Contributions shall be distributed in accordance with the terms described below.</p>
<p>Retention of Assets by Reorganized Debtors:</p>	<p>Assets not sold prior to the Effective Date – including the Test Drive IP, assets relating to Rollercoaster Tycoon, Airborne Rangers, and the Atari Brand, and certain <i>de minimis</i> assets not sold to third parties – will be retained by the respective Debtors or the Reorganized Debtors, as applicable, subject to the Debtors’ rights to reject executory contracts under section 365 of the Bankruptcy Code. Such assets will be described in a separate schedule to the Plan.</p> <p>Prior to the hearing on the confirmation of the Plan, a plan supplement will be filed listing all executory contracts of the Debtors to be assumed and/or assigned under the Plan.</p>
<p>CERTAIN TERMS UNDER THE PLAN</p>	
<p>The Proponents agree to seek to confirm a Plan that implements the following distributions:</p>	
<p>DIP Claims:</p> <p>(Estimated Allowed Amount: \$3,786,000)</p>	<p>DIP Claims shall be paid in full, in cash, on the Effective Date in accordance with the DIP Financing Order. Subject to the Carveout (as such term is defined in the DIP Financing Order), the DIP Claims shall be paid in full before any other Claims receive distributions under the Plan.</p> <p>Following such payment, Alden will waive the enforcement of the Test Drive Lien and the Alden Secured Claim solely for the purposes of the Plan (the “Alden Limited Waiver”). For the avoidance of doubt, the Test Drive Lien and the Alden Secured Claim will otherwise remain in place to secure the Alden Facility following the Effective Date.</p>
<p>Allowed Administrative Claims:</p> <p>(Estimated Aggregate Allowed Amount: \$[])</p>	<p>Each holder of an Administrative Claim shall be paid in full, in cash, (i) on the later of (a) the date the Plan effectuating the restructuring (the “Restructuring”) contemplated herein becomes effective (the “Effective Date”), (b) the date on which the Court enters an order allowing such Administrative Claim, or (c) the date on which the Reorganized Debtors or the Debtors, as applicable, and the holder of an Allowed Administrative Claim otherwise agree, and (ii) in such amounts as (a) are incurred in the ordinary course of business by the Debtors, (b) are allowed by the Court, (c) may be agreed upon between the holder of such Allowed Administrative Claim and the Reorganized Debtors or the Debtors or (d) may otherwise be required</p>

	<p>under applicable law.</p> <p>The Allowed Administrative Claims shall include costs incurred in the operation of the Debtors’ businesses after the Petition Date, the Allowed fees and expenses of professionals retained by the Debtors, and the fees due to the United States Trustee pursuant to 28 U.S.C. § 1930.</p> <p>As has been agreed upon between the Sponsor and each Professional, Allowed Administrative Claims for fees and expenses incurred by a Professional during the period beginning August 1, 2013 through the Effective Date shall not exceed the amounts set forth for such Professional in the Professional Fee Budget.</p> <p>On the Effective Date, the Debtors shall establish and fund a reserve (the “Administrative Reserve”) to cover any Administrative Claims that are disputed as of the Effective Date. For the avoidance of doubt, the Administrative Reserve shall not cover any Administrative Claims of Professionals.</p> <p>Additionally, on the Effective Date, the Debtors shall establish an interest-bearing escrow account (the “Professional Fee Escrow Account”) and fund the Professional Fee Escrow Account with cash equal to the aggregate Professional Fee Reserve Amount for the sole purpose of paying all allowed and unpaid fees and expenses of Professionals in the Cases. The Professional Fee Escrow Account shall be maintained in trust for the Professionals with respect to whom fees or expenses have been held back pursuant to the Interim Compensation Order. Such funds shall not be considered property of the Reorganized Debtors or the Debtors. Fees and expenses owing to the Professionals shall be paid in cash to such professionals by the Reorganized Debtors, as applicable, from the Professional Fee Escrow Account when such claims are allowed by the Court order. When all claims of Professionals have been paid in full, amounts remaining in the Professional Fee Escrow Account, if any, shall be paid to the Sponsor.</p>
<p>Treatment of Priority Tax Claims:</p>	<p>Each holder of a priority tax claim (a “Priority Tax Claim”) shall be paid in full, in cash, upon the later of (a) the Effective Date, (b) the date upon which there is a final order allowing such claim as an Allowed Priority Tax Claim, (c) the date that such Allowed Priority Tax Claim would have been due if the Cases had not been commenced, or (d) upon such other terms as may be agreed to between the Reorganized Debtors or the Debtors, as applicable, and any holder of an Allowed Priority Tax Claim; <u>provided, however</u>, that the Reorganized Debtors or Debtors, as applicable, in lieu of payment in full of Allowed Priority Tax Claims on the Effective Date, may make cash payments respecting Allowed Priority Tax Claims deferred to the extent permitted by section 1129(a)(9) of the Bankruptcy Code, and in such event, unless otherwise provided herein, interest shall be paid on the unpaid portion of such Allowed Priority Tax Claim at the federal</p>

	statutory rate.
Treatment of Priority Non-Tax Claims:	Each holder of a priority non-tax claim (a “Priority Non-Tax Claim”) that has been allowed shall receive cash in an amount equal to such Allowed Priority Non-Tax Claim on the later of the Effective Date and the date such Priority Non-Tax Claim becomes an Allowed Priority Non-Tax Claim, or as soon thereafter as is practicable, unless the holder of an Allowed Priority Non-Tax Claim and the Reorganized Debtors or the Debtors, as applicable, agree otherwise.
General Unsecured Claims: (Estimated Aggregate Allowed Amount: \$5,000,000 to \$7,000,000)	<p>All holders of Allowed General Unsecured Claims against each of the Debtors shall receive the following treatment under the Plan:</p> <ol style="list-style-type: none"> 1. Each holder of an Allowed General Unsecured Claim shall receive a cash payment: (a) on the Effective Date or as soon as practicable after such claim becomes allowed, in an amount equal to the lesser of (i) 8 percent (8%) of such holder’s Allowed General Unsecured Claim and (ii) such holder’s pro rata share of \$560,000.00 (the “Initial GUC Distribution”); (b) on the first anniversary of the Effective Date, in an amount equal to the lesser of (i) 8 percent (8%) of all Allowed General Unsecured Claims and (ii) such holder’s pro rata share of \$560,000.00 (the “Second GUC Distribution”); and (c) on the second anniversary of the Effective Date, in an amount equal to the lesser of (i) 9 percent (9%) of such holder’s Allowed General Unsecured Claim and (ii) such holders pro rata share of \$630,000.00 (the “Third GUC Distribution”). 2. The Initial GUC Distribution amount shall be funded into an escrow account (the “GUC Escrow Account”) on the Effective Date. To the extent that all Allowed General Unsecured Claims have received an 8% distribution and there remain no disputed claims, any remaining cash held in escrow will be returned to the Sponsor. 3. The Debtors shall issue a promissory note (the “Secured GUC Note”), secured by a first priority lien on the assets of the Reorganized Debtors, to a person or entity designated by the Committee (the “Committee Designee”) obligating the Reorganized Debtors to fund the Second GUC Distribution and Third GUC Distribution pursuant to the terms of the Plan. <p>The Committee Designee shall be entitled to enforce the Secured GUC Note against the Reorganized Debtors for the benefit of holders of Allowed General Unsecured Claims. Upon the Effective Date, the Committee Designee shall be funded with \$50,000.00 to cover costs and expenses associated with making distributions (if not made by the Reorganized Debtors) and to monitor/enforce the obligations of the Reorganized Debtors under the Secured GUC Note. The Committee Designee’s unpaid costs and expenses shall be considered obligations under the Secured GUC Note, and the Reorganized Debtors shall have</p>

	<p>no obligation to pay such costs and expenses beyond the initial \$50,000.00.</p> <p>For the avoidance of doubt, the Secured GUC Note will only be secured by the assets of the Reorganized Debtors, and not by the assets of either the Sponsor or Atari Europe. The Secured GUC Note will be senior in all respects on the assets of the Reorganized Debtors, including, but not limited to, any interest of Alden, the Sponsor or their affiliates. Any funds not expended by the Committee Designee shall be returned to the Sponsor after the Third GUC Distribution occurs.</p>
Interactive Intercompany Claims:	Waived.
Sponsor Intercompany Claims:	Upon the Effective Date, the Sponsor and Atari Europe will waive their rights to receive distributions on the Sponsor Intercompany Claims (the “ Sponsor Claims Waivers ”).
Sponsor Contribution Limit:	For the avoidance of doubt, the Sponsor’s obligation to make the Sponsor Contribution shall not exceed the Sponsor Contribution Limit.
Global Settlement:	<p>The Sponsor Contributions and the Claims Waivers described in this Term Sheet will be provided for in the Plan as consideration for a global settlement and compromise among the Parties, which includes the agreement of the Parties to support the Plan, and provide customary waivers and releases with respect to potential Claims and Causes of Action against (i) the Sponsor, the Guarantor (as defined in the ECL), and Atari Europe and their respective affiliates, directors, officers, managers, employees, agents, and professionals, (ii) the Debtors and their directors, officers, employees, agents and professionals, (iii) Alden and its affiliates, directors, officers, employees, agents, and professionals, and (iv) the Committee, its members, and its professionals (the “Releases”).</p> <p>Neither this Term Sheet nor the Plan constitute an admission or waiver by any of the Parties with respect to any purported Claims or Causes of Action, including with respect to substantive consolidation, the validity and enforceability of the Sponsor Intercompany Claims, and the validity and enforceability of the Test Drive Lien.</p>
Avoidance Actions:	On the Effective Date, all avoidance actions arising under chapter 5 of the Bankruptcy Code shall be deemed waived.
Documentation and Sponsor Expense Reimbursement:	The Sponsor’s counsel shall be responsible for preparing initial drafts of the Plan, the disclosure statement related thereto (the “ Disclosure Statement ”) and ancillary documents. The actual and documented reasonable fees and expenses incurred by the Sponsor’s counsel in connection with the Plan shall be paid by the Debtors or the Reorganized Debtors, as applicable, as Allowed Administrative Claims up to the amounts set forth for the Sponsor’s counsel in the

	Sponsor Analysis.
Waiver of Objections to Professionals' Fees:	The Sponsor and Alden will not object to the fees and expenses incurred by the Professionals from the Petition Date through July 31, 2013, and for the period beginning August 1, 2013 through the Effective Date to the extent such fees and expenses do not exceed the amounts set forth in the Professional Fee Budget, and will withdraw any pending objections to the Committee's Professionals' fees.
Committee Standstill and Plan Support:	<p>The Committee will agree to standstill from (i) investigating or challenging the Test Drive Lien, the Sponsor Intercompany Claims, and the Blanket Lien and (ii) pursuing the substantive consolidation of the Cases.</p> <p>The Committee will agree to (i) support the Plan; (ii) not object to the confirmation of the Plan; and (iii) include a committee support letter in the solicitation package for the Plan; <u>provided that</u> the Plan is reasonably acceptable to the Committee.</p> <p>As a condition to the foregoing standstill, the deadline for the Committee to investigate and challenge the Waived Claims (as defined in the DIP Financing Order) shall be extended until entry of an order approving or denying confirmation of the Plan (the "Confirmation Order"), and shall be extended until the Effective Date if the Plan is confirmed. The Committee's deadline to investigate and challenge the Waived Claims shall terminate upon the Effective Date.</p>
Other Plan Provisions:	<p>The Plan and Disclosure Statement must be consistent with this Term Sheet and such documents, and any other Definitive Documents, must be reasonably acceptable, in form and substance, to each of the Proponents. The Plan will contain such other customary terms and conditions not described herein, including, but not limited to, releases, indemnification, and exculpation to the maximum extent permitted under the Bankruptcy Code. To the extent that the Proponents seek approval of third party releases as part of the Plan, the Proponents shall not be excused from any obligations contained herein in the event the Court does not approve such third party releases.</p> <p>On or before November 30, 2013, the Debtors will purchase a D&O tail policy (the "D&O Policy") for the benefit of the Debtors' current and former officers and directors that will remain in force for six years after the Effective Date, as reflected in the Sponsor Analysis.</p>
Conditions Precedent to Confirmation:	<p>The following are conditions precedent to the occurrence of confirmation of the Plan, each of which must be satisfied or waived in writing by the Proponents:</p> <p>(a) The Plan and Disclosure Statement (as defined in the Plan) shall be in form and substance mutually acceptable to the Debtors, the</p>

	<p>Sponsor, and the Guarantor;</p> <p>(b) The Court shall have entered the Disclosure Statement Order (as defined in the Plan), in form and substance reasonably satisfactory to the Proponents, on or before October 30, 2013;</p> <p>(c) The occurrence of the deadline to vote on the Plan on or before November 25, 2013;</p> <p>(d) The occurrence of the Confirmation Objection Deadline (as defined in the Plan) on or before November 27, 2013; and</p> <p>(e) The ECL shall be in full force and effect.</p>
<p>Conditions Precedent to the Effective Date:</p>	<p>The following are conditions precedent to the occurrence of the Effective Date, each of which must be satisfied or waived in writing by the Proponents:</p> <p>(a) The Court shall have entered the Confirmation Order (as defined in the Plan), in form and substance mutually acceptable to the Debtors, the Sponsor, and the Guarantor, on or prior to December 6, 2013, and such order shall not have been stayed, modified or vacated on appeal; <u>provided, however</u>, that the form and substance of the Confirmation Order shall not be found unsatisfactory solely by reason of the Court declining to approve the third party releases discussed in the Plan;</p> <p>(b) The final version of the Plan, the Plan Supplement (as defined in the Plan) and all of the documents and exhibits contained therein shall have been filed and approved in form and substance mutually acceptable to the Debtors, the Sponsor, and the Guarantor;</p> <p>(c) All actions and all agreements, instruments, or other documents necessary to implement the terms and provisions of the Plan are effected or executed and delivered, as applicable, in form and substance mutually acceptable to the Debtors, the Sponsor, and the Guarantor;</p> <p>(d) All governmental, regulatory, and material third party approvals and consents, including Court approval, necessary in connection with the transactions contemplated herein shall have been obtained and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose any conditions on such transactions;</p> <p>(e) All conditions set forth in the ECL shall have been satisfied or waived by the Sponsor, the Guarantor, or the Debtors, as</p>

	<p>applicable;</p> <p>(f) Each of the GUC Escrow Account, the Professional Fee Escrow Account and the Administrative Reserve (each as defined in the Plan) shall have been established and funded up to their respective caps and in accordance with the terms and conditions hereof; and</p> <p>(g) The D&O Policy shall have been purchased.</p>
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CERTAIN DEFINED TERMS

<p>Certain Defined Terms:</p>	<p>(a) “Accrued Professional Compensation” means, at any given moment, all accrued fees and expenses (including success fees) for services rendered by all Professionals through and including the Effective Date, to the extent such fees and expenses have not been paid and regardless of whether a fee application has been filed for such fees and expenses. To the extent there is a final order denying some or all of a Professional’s fees or expenses, such denied amounts shall no longer be considered Accrued Professional Compensation.</p> <p>(b) “Administrative Expenses” means all expenses of administration of the Debtors estates, as defined by section 503(b) of the Bankruptcy Code.</p> <p>(c) “Administrative Claims” mean all Claims arising from Administrative Expenses.</p> <p>(d) “Affiliate” has the meaning set forth in section 101(2) of the Bankruptcy Code.</p> <p>(e) “Alden” means Alden Global Value Recovery Master Fund, L.P.</p> <p>(f) “Alden Facility” means the credit facility established by the master credit agreement with Banc of America Securities Limited, entered into on April 21, 2006, as amended, assigned to Blue Bay Value Recovery (Master) Fund Limited, which was assigned to Alden on February 5, 2013.</p> <p>(g) “Alden Secured Claim” means the Claim held by Alden on account of the Alden Facility.</p> <p>(h) “Allowed” means, with references to any Claim or interest, (a) any Claim or interest as to which no objection to allowance has been interposed on or before the Effective Date or such other applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules or the Court, or as to which any objection has been determined by a final</p>
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	<p>order of the Court to the extent such objection is determined in favor of the respective holder of such Claim or interest, (b) any Claim or interest to which the liability of the Debtors and the amount thereof are determined by a final order of a court of competent jurisdiction other than the Court, or (c) any Claim or interest expressly deemed allowed by the Plan.</p> <p>(i) “Atari Europe” means Atari Europe SAS.</p> <p>(j) “Atari Europe Atari, Inc. Secured Claim” means the secured claim of Atari Europe against Atari Inc. arising under that certain Credit Agreement, dated as of April 30, 2008, as amended, between Atari Inc. and Infogrames Entertainment S.A. and secured by the Blanket Lien, and reflected in the Debtors’ books and records as a net trade obligation of approximately \$25.3 million.</p> <p>(k) “Bankruptcy Code” means title 11 of the United States Code.</p> <p>(l) “Bankruptcy Rules” mean the Federal Rules of Bankruptcy Procedure.</p> <p>(m) “Blanket Lien” means the security interest evidenced by the financing statement filed by Parent on all assets of Atari, Inc. except for the Test Drive IP.</p> <p>(n) “Causes of Action” means all actions, causes of action, liabilities, obligations, rights, suits, damages, judgments, remedies, demands, setoffs, defenses, recoupments, crossclaims, counterclaims, third-party claims, indemnity claims, contribution claims, or any other claims whatsoever, whether known or unknown, matured or unmatured, fixed or contingent, liquidated or unliquidated, disputed or undisputed, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter/thereafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the commencement of the Cases or during the course of the Cases, including through the Effective Date.</p> <p>(o) “Claim” has the meaning set forth in the Bankruptcy Code.</p> <p>(p) “Claims Waivers” means, collectively, the Alden Limited Waiver and the Sponsor Claims Waivers.</p> <p>(q) “DIP Claims” means the claims of Alden pursuant to the debtor in possession financing facility provided by Alden and approved by the Court on a final basis pursuant to an order entered on March 7, 2013 (the “DIP Financing Order”).</p> <p>(r) “Entity” has the meaning set forth in section 101(15) of</p>
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	<p>the Bankruptcy Code.</p> <p>(s) “Existing Equity Interests” means the common stock of each of Interactive, CUSH, Atari, Inc. and Humongous.</p> <p>(t) “General Unsecured Claims” mean all Claims other than the DIP Claims, Administrative Claims, Priority Tax Claims, Priority Non-Tax Claims, the Alden Secured Claim, the Interactive Intercompany Claims, and the Sponsor Intercompany Claims.</p> <p>(u) “Interactive Intercompany Claims” means any Administrative Claims of Interactive against Atari, Inc., CUSH, or Humongous on account of any funds advanced by Interactive to Atari, Inc., CUSH, or Humongous during the course of the Cases.</p> <p>(v) “Interim Compensation Order” means the <i>Order Establishing Procedures for Interim Monthly Compensation and Reimbursement of Expenses of Professionals</i> [Docket No. 81] entered on February 15, 2013.</p> <p>(w) “Parent” means Atari, S.A. and Atari Europe SAS.</p> <p>(x) “Professional Fee Budget” means a budget, included as part of the Sponsor Analysis, that has been agreed upon between the Sponsor and each Professional setting forth the maximum amount of fees and expenses to be incurred by each Professional for the period beginning August 1, 2013 through the Effective Date.</p> <p>(y) “Professional” means an Entity: (a) employed pursuant to the Court order in accordance with sections 327 or 1103 of the Bankruptcy Code and to be compensated for services rendered prior to or on the Effective Date, pursuant to sections 327, 328, 329, 330, and 331 of the Bankruptcy Code; or (b) awarded compensation and reimbursement by the Court pursuant to section 503(b)(4) of the Bankruptcy Code.</p> <p>(z) “Professional Fee Reserve Amount” means Accrued Professional Compensation through the Effective Date as estimated by the Professionals in accordance with the following limitations: to receive payment for unbilled fees and expenses incurred through the Effective Date, on or before the Effective Date, the Professionals shall estimate their Accrued Professional Compensation prior to and as of the Effective Date and shall deliver such estimate to the Debtors. If a Professional does not provide an estimate, the Debtors or the Reorganized Debtors, as applicable, may estimate the unbilled fees and expenses of such Professional; <u>provided, however</u>, that such estimate shall not be considered an admission with respect to the fees and</p>
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	<p>expenses of such Professional. The total amount so estimated as of the Effective Date shall comprise the Professional Fee Reserve Amount.</p> <p>(aa) “Sponsor Analysis” means an analysis, attached hereto as <u>Schedule 1</u>, setting forth the Sponsor’s analysis of the financial requirements of the Plan.</p> <p>(bb) “Sponsor Atari, Inc. Intercompany Claims” means, collectively, the Atari Europe Atari Inc. Secured Claim, the Sponsor Atari, Inc. Secured Claim, and the Sponsor Management Fee Claim.</p> <p>(cc) “Sponsor Atari, Inc. Secured Claim” means the secured claim of the Sponsor against Atari Inc. arising under that certain Credit Agreement, dated as of April 30, 2008, as amended, between Atari Inc. and Infogrames Entertainment S.A. and secured by the Blanket Lien.</p> <p>(dd) “Sponsor Interactive Intercompany Claim” means the unsecured claim of the Sponsor against Interactive in the approximate amount of \$252 million.</p> <p>(ee) “Sponsor Intercompany Claims” means, collectively, the Sponsor Atari, Inc. Intercompany Claims and the Sponsor Interactive Intercompany Claim.</p> <p>(ff) “Sponsor Management Fee Claim” means, the claim of the Sponsor against Atari, Inc. in the approximate amount of \$16 million pursuant to that certain Management Agreement, effective as of April 1, 2010, among the Sponsor, Atari, Inc., Atari Europe, Eden S.A.S., Atari UK Publishing Ltd, and Cryptic.</p> <p>(gg) “Test Drive IP” means that certain intellectual property known as the “Test Drive Unlimited” franchise.</p> <p>(hh) “Test Drive Lien” means the lien on the Test Drive IP evidenced by a UCC-1 statement dated April 24, 2009, securing the Alden Facility.</p>
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Schedule 1

Sponsor Analysis

Schedule 1

Atari, Inc.
Sponsor Analysis
Sources and Uses of Cash at Effective Date
\$ in 000s

	<u>Amount</u>
I) Sources: Prior to Sponsor Funding	
A) Projected cash on hand at Effective Date	
From operations	\$ 2,538
From Game sale proceeds	5,051
B) Accounts Receivable (collected after Effective Date)	-
C) RCT Cash Generated (collected after Effective Date)	<u>-</u>
Cash on hand at Effective Date	7,589
II) Uses: Required funding on the effective date	
A) DIP Loan	
Principle Balance	3,500
Interest through Effective Date	286
B) Administrative Expenses	
Professional Fee Escrow	
Akin	2,332
Protiviti	339
Cooley	691
Duff	218
Bracewell	308
Perella	1,150
Allen & Overy - Plan	250
Allen & Overy - DS	125
Cure Costs - Atari Games	122
Cure Costs - Test Drive	179
Trade payables (paid after Effective Date)	-
Royalty payable to Atari SA (waived)	-
Administrative reserve - non-professionals	100
Tax preparation (paid after Effective Date)	-
D&O tail policy	227
Chairman compensation	400
Disbursing Agent	50
C) Priority Tax Claims	-
D) Priority Non-Tax claims (remaining loyalty)	172
E) General Unsecured Claims initial funding	<u>560</u>
Total Uses	<u>11,009</u>
Required Sponsorship Funding (max)	<u><u>\$ (3,419)</u></u>