

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF YATSEN GROUP OF COMPANIES INC.,  
SAR REAL ESTATE INC. AND THE COMPANIES LISTED IN  
SCHEDULE "A"**

**APPLICANTS**

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**PLAN OF COMPROMISE AND ARRANGEMENT  
pursuant to the *Companies' Creditors Arrangement Act*  
concerning, affecting and involving**

**YATSEN GROUP OF COMPANIES INC., SAR REAL ESTATE INC.  
AND THE COMPANIES LISTED IN SCHEDULE "A"**

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**●, 2021**

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## PLAN OF COMPROMISE AND ARRANGEMENT

**WHEREAS** Yatsen Group of Companies Inc. (“YGC”), SAR Real Estate Inc. and the companies listed in Schedule “A” hereto (collectively, the “**Applicants**”) are debtor companies under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”);

**AND WHEREAS** on January 25, 2021 (the “**Filing Date**”), the Applicants commenced proceedings under the CCAA (the “**CCAA Proceedings**”) and obtained an Initial Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under the CCAA dated January 25, 2021 (the “**Initial Order**”);

**AND WHEREAS** the Initial Order was amended and restated pursuant to the Amended and Restated Initial Order of the Court under the CCAA dated February 2, 2021 (as it may be amended, restated, varied and/or supplemented from time to time, the “**Amended and Restated Initial Order**”);

**AND WHEREAS** on January 25, 2021, the Monitor (as defined below) commenced recognition proceedings on behalf of the Applicants pursuant to Chapter 15 of the United States Bankruptcy Code (the “**Chapter 15 Proceedings**”), and on February 24, 2021 obtained an order of the United States Bankruptcy Court for the District of Delaware (the “**US Court**”) recognizing, on a final basis, the CCAA Proceedings as foreign main proceedings and recognizing and enforcing the Amended and Restated Initial Order in the United States;

**AND WHEREAS** the Applicants file the Plan (as defined below) with the Court pursuant to the CCAA and hereby propose and present the Plan to the Affected Landlord Creditors (as defined below) under and pursuant to the CCAA.

### ARTICLE 1 INTERPRETATION

#### 1.1 Definitions

In the Plan, unless otherwise stated or unless the subject matter or context otherwise requires:

“**Affected Landlord Claim**” means any Claim by a Landlord against one or more of the Applicants that is not an Unaffected Claim, including, for certainty, an Existing Allowed Landlord Claim.

“**Affected Landlord Creditor**” means any Landlord holding an Affected Landlord Claim, but only in respect of and to the extent of its Affected Landlord Claim, including, for certainty, an Existing Allowed Landlord Creditor, and including any transferee or assignee of a transferred Affected Landlord Claim that is recognized as an Affected Landlord Creditor in accordance with the Meeting Order, or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through the Affected Landlord Creditor.

“**Affected Landlord Creditors Class**” means the class of Affected Landlord Creditors entitled to vote on the Plan at the Creditors’ Meeting in accordance with the terms of the Meeting Order.

**“Aggregate Disputed Claims Potential Payable Amount”** has the meaning ascribed thereto in Section 4.1(a) hereof.

**“Allowed Distribution Claim”** means an Affected Landlord Claim, or such portion thereof, that is not barred by any provision of the Claims Procedure Order and that has been finally determined and accepted for distribution purposes in accordance with the Claims Procedure Order and the CCAA (including, for certainty, the Existing Allowed Landlord Claims).

**“Amended and Restated Initial Order”** has the meaning ascribed thereto in the recitals hereof.

**“Applicable Law”** means any law, statute, order, decree, judgment, rule, regulation, ordinance or other pronouncement having the effect of law whether in Canada, the United States or any other country, or any domestic or foreign state, county, province, city or other political subdivision of any Governmental Entity.

**“Applicants”** has the meaning ascribed thereto in the recitals hereof.

**“Barred D&O Claim”** means any D&O Claim that has been forever barred pursuant to the Claims Procedure Order.

**“Business Day”** means a day, other than Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario.

**“Canadian Tax Act”** means the *Income Tax Act* (Canada), as amended.

**“CCAA”** has the meaning ascribed thereto in the recitals hereof.

**“CCAA Proceedings”** has the meaning ascribed thereto in the recitals hereof.

**“Chapter 15 Proceedings”** has the meaning ascribed thereto in the recitals hereof.

**“Charges”** has the meaning ascribed thereto in the Amended and Restated Initial Order and any other Court-ordered charge(s) that may be granted in these CCAA Proceedings.

**“Claim”** means:

- (a) any right or claim of any Person against any of the Applicants, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of any such Applicant in existence on the Filing Date, and costs payable in respect thereof, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts which existed prior to the Filing

Date and any other claims that would have been claims provable in bankruptcy had such Applicant become bankrupt on the Filing Date; and

(b) any Restructuring Period Claim,

provided that, for greater certainty, the definition of “Claim” herein shall not include any D&O Claim.

“**Claims Procedure Order**” means the Order granted by the Court under the CCAA in the CCAA Proceedings dated August 4, 2021, establishing a claims procedure in respect of the Applicants and the Directors and Officers, as same may be further amended, restated, varied and/or supplemented from time to time.

“**Company Advisors**” means the Applicants’ legal counsel, Goodmans LLP and Katten Muchin Rosenman LLP, and advisor, Hilco Real Estate, LLC.

“**Court**” has the meaning ascribed thereto in the recitals.

“**Creditors’ Meeting**” means the virtual meeting of the Affected Landlord Creditors called by the Applicants for the purpose of considering and voting in respect of the Plan pursuant to the Meeting Order.

“**D&O Claim**” means any right or claim of any Landlord against one or more of the Directors and/or Officers howsoever arising, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Landlord to advance a claim for contribution or indemnity or otherwise against any such Directors and/or Officers with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer.

“**Director**” means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or *de facto* director of any of the Applicants, in such capacity.

“**Disputed Distribution Claim**” means an Affected Landlord Claim, or such portion thereof, that is not barred by any provision of the Claims Procedure Order, that has not been finally determined as an Allowed Distribution Claim, that is validly disputed for distribution purposes in accordance with the Claims Procedure Order and that remains subject to adjudication for distribution purposes in accordance with the Claims Procedure Order (and for certainty does not include any Existing Allowed Landlord Claim).

“**Disputed Distribution Claims Reserve**” means the reserve, if any, to be established by the Applicants and to be held in a segregated account by the Monitor, which reserve shall be comprised of an amount reserved on the Plan Implementation Date equal to the Aggregate Disputed Claims Potential Payable Amount in respect of Affected Landlord Claims that are Disputed Distribution Claims as at the Plan Implementation Date.

**“Distribution Amount”** has the meaning ascribed thereto in Section 3.4(b).

**“Effective Time”** means such time on the Plan Implementation Date as the Applicants may determine.

**“Encumbrance”** means any charge, mortgage, lien, pledge, claim, restriction, hypothec, adverse interest, security interest or other encumbrance whether created or arising by agreement, statute or otherwise at law, attaching to property, interests or rights and shall be construed in the widest possible terms and principles known under the law applicable to such property, interests or rights and whether or not they constitute specific or floating charges as those terms are understood under the laws of the Province of Ontario.

**“Existing Allowed Landlord Claim”** means a Claim of a Landlord against one or more of the Applicants that, as at the date of the Claims Procedure Order, has been agreed to in writing by such Landlord and the applicable Applicant(s), and consented to by the Monitor for voting and distribution purposes.

**“Existing Allowed Landlord Creditor”** means a Landlord in respect of and to the extent of its Existing Allowed Landlord Claim.

**“Filing Date”** has the meaning ascribed thereto in the recitals hereof.

**“Final Order”** means any order, ruling or judgment of the Court, or any other court of competent jurisdiction, (i) that is in full force and effect, (ii) that has not been reversed, modified or vacated and is not subject to any stay, and (iii) in respect of which all applicable appeal periods have expired and any appeals therefrom have been finally disposed of, leaving such order, ruling or judgment wholly operable.

**“Governmental Entity”** means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

**“Initial Order”** has the meaning ascribed thereto in the recitals hereof.

**“Insurance Policy”** means any insurance policy pursuant to which any Director or Officer is insured in its capacity as a Director or Officer of an Applicant.

**“Intercompany Claim”** means any Claim against an Applicant by (A) another Applicant or (B) a non-Applicant affiliate of one or more of the Applicants.

**“Landlord”** means a landlord under a Lease, on behalf of itself and all of such landlord’s affiliates, shareholders, directors, officers, agents and other representatives who are a party to or may have a Claim in respect of such Lease (and, for certainty, does not include a landlord under a real property lease that has been guaranteed by YGC but under which the tenant is not an Applicant, in such landlord’s capacity as landlord under such lease).

**“Lease”** means a real property lease or occupancy agreement with an Applicant as the tenant under such lease or occupancy agreement, as such lease or occupancy agreement may have been or may be amended from time to time pursuant to its terms (and, for certainty, does not include a real property lease or occupancy agreement that has been guaranteed by YGC but under which the tenant is not an Applicant).

**“Lease Amendment”** means an amending agreement to a Lease between one or more Applicants and a Landlord, which amending agreement has been entered into by such Applicant(s) and the Landlord after the Filing Date and on or prior to the Plan Implementation Date.

**“Meeting Order”** means the Order granted by the Court under the CCAA in the CCAA Proceedings dated August 4, 2021, that, among other things, sets the date for the Creditors’ Meeting, as same may be amended, restated, varied and/or supplemented from time to time.

**“Monitor”** means Alvarez & Marsal Canada Inc., in its capacity as Court-appointed Monitor of the Applicants in the CCAA Proceedings.

**“Monitor’s Website”** means the case website established by the Monitor in respect of the CCAA Proceedings at the following URL: [www.alvarezandmarsal.com/YatsenGroup](http://www.alvarezandmarsal.com/YatsenGroup).

**“Non-Barred D&O Claim”** means any D&O Claim that is not a Barred D&O Claim.

**“Non-Released D&O Claims”** has the meaning ascribed thereto in Section 7.1 hereof.

**“Notice of Claim”** has the meaning ascribed thereto in the Claims Procedure Order.

**“Officer”** means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of any of the Applicants, in such capacity.

**“Order”** means any order of the Court made in connection with the CCAA Proceedings.

**“Person”** means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade union, Governmental Entity or any agency, regulatory body or officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status.

**“Plan”** means this Plan of Compromise and Arrangement filed by the Applicants pursuant to the CCAA and the Meeting Order, as this Plan may be amended, restated, modified and/or supplemented from time to time in accordance with the terms hereof.

**“Plan Implementation Date”** means the Business Day on which the Plan becomes effective, which shall be the Business Day on which, pursuant to Section 9.2 hereof, the Applicants (or their counsel) deliver written notice to the Monitor (or its counsel) that the conditions set out in Section 9.1 hereof have been satisfied or waived in accordance with the terms hereof.



**“Post-Filing Lease Payments”** means any payment obligations incurred by any of the Applicants pursuant to a Lease from and after the Filing Date but before the earlier of (i) the Plan Implementation Date, and (ii) if applicable, the disclaimer, repudiation, resiliation or termination of the applicable Lease, in each case which are required to be paid pursuant to the Amended and Restated Initial Order.

**“Released Claims”** has the meaning ascribed thereto in Section 7.1 hereof.

**“Released Party”** and **“Released Parties”** have the meanings ascribed thereto in Section 7.1 hereof.

**“Required Majorities”** means with respect to the Affected Landlord Creditors Class, a majority in number of Affected Landlord Creditors representing at least two thirds in value of the Voting Claims of Affected Landlord Creditors, in each case who are entitled to vote at the Creditors’ Meeting in accordance with the Meeting Order and who are present and voting in person or by proxy on the resolution approving the Plan at the Creditors’ Meeting.

**“Restructuring Period Claim”** means any right or claim of any Person against any of the Applicants in connection with any indebtedness, liability or obligation of any kind whatsoever owed by any such Applicant to such Person arising out of the restructuring, disclaimer, resiliation, termination or breach by such Applicant on or after the Filing Date of any contract, lease or other agreement whether written or oral.

**“Sanction Order”** means the Order of the Court sanctioning and approving the Plan.

**“Taxing Authority”** means any one of Her Majesty the Queen, Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any province or territory of Canada, the Canada Revenue Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada and any political subdivision thereof, the United States Internal Revenue Service, any similar revenue or taxing authority of the United States and each and every state of the United States, and any Canadian, American or other government, regulatory authority, government department, agency, commission, bureau, minister, court, tribunal or body or regulation making entity exercising taxing authority or power.

**“Unaffected Claim”** means:

- (a) any Claim secured by any of the Charges;
- (b) any Claim enumerated in section 19(2) of the CCAA;
- (c) any equity claim enumerated in section 2(1) of the CCAA;
- (d) any Claim in respect of a Post-Filing Lease Payment;
- (e) any Unaffected YGC Guarantee Claim;
- (f) any Intercompany Claim; and

- (g) any other Claim by any Person that is not a Landlord, including, without limitation, any Claims of Wells Fargo against YGC as guarantor under the Wells Fargo Canadian Guarantee.

**“Unaffected Creditor”** means a Person who has an Unaffected Claim, but only in respect of and to the extent of such Unaffected Claim.

**“Unaffected YGC Guarantee Claims”** means any Claims pursuant to any guarantees provided by YGC in respect of obligations of any of its subsidiaries that are not Applicants in the CCAA Proceedings, and for certainty does not include the guarantees provided by YGC in respect of obligations of any of its subsidiaries that are Applicants in the CCAA Proceedings.

**“Undeliverable Distribution”** has the meaning ascribed thereto in Section 4.6 hereof.

**“US Court”** has the meaning ascribed thereto in the recitals hereof.

**“US Dollars”** means the lawful currency of the United States of America.

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

**“Voting Claim”** shall have the meaning ascribed thereto in the Claims Procedure Order.

**“Wells Fargo”** means Wells Fargo Bank, National Association, as the administrative agent under the Wells Fargo Canadian Guarantee.

**“Wells Fargo Canadian Guarantee”** means the Canadian Guaranty and Security Agreement dated as of September 30, 2019, among Edjar Food Group Inc., as grantor, and each other grantor from time to time party thereto.

**“YGC”** has the meaning ascribed thereto in the recitals hereof.

## **1.2 Certain Rules of Interpretation**

For the purposes of the Plan:

- (a) any reference in the Plan to a contract, lease or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions;
- (b) any reference in the Plan to an Order or an existing document or exhibit filed or to be filed means such Order, document or exhibit as it may have been or may be amended, modified, or supplemented;
- (c) unless otherwise specified, all references to currency are in US Dollars;
- (d) the division of the Plan into “articles” and “sections” and the insertion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of the Plan, nor are the descriptive headings of

“articles” and “sections” intended as complete or accurate descriptions of the content thereof;

- (e) the use of words in the singular or plural, or with a particular gender, including a definition, shall not limit the scope or exclude the application of any provision of the Plan or a schedule hereto to such Person (or Persons) or circumstances as the context otherwise permits;
- (f) the words “includes” and “including” and similar terms of inclusion shall not, unless expressly modified by the words “only” or “solely”, be construed as terms of limitation, but rather shall mean “includes but is not limited to” and “including but not limited to”, so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (g) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. (Toronto time) on such Business Day;
- (h) unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day;
- (i) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation; and
- (j) references to a specified “article” or “section” shall, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specified article or section of the Plan, whereas the terms “the Plan”, “hereof”, “herein”, “hereto”, “hereunder” and similar expressions shall be deemed to refer generally to the Plan and not to any particular “article”, “section” or other portion of the Plan and include any documents supplemental hereto.

### **1.3 Successors and Assigns**

The Plan shall be binding upon and shall enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of any Person or party directly or indirectly named or referred to in or subject to Plan.

### **1.4 Governing Law**

The Plan shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. All questions as to the interpretation

or application of the Plan and all proceedings taken in connection with the Plan and its provisions shall be subject to the jurisdiction of the Court.

## **ARTICLE 2**

### **PURPOSE AND EFFECT OF THE PLAN**

#### **2.1 Purpose**

The purpose of the Plan is:

- (a) to implement a restructuring of the Applicants;
- (b) to provide for a settlement of, and consideration for, all Allowed Distribution Claims;
- (c) to effect a release and discharge of all Affected Landlord Claims and Released Claims; and
- (d) to ensure the continuation of the Applicants and their business,

in the expectation that the Persons who have a valid economic interest in the Applicants will derive a greater benefit from the implementation of the Plan than they would derive from a bankruptcy of the Applicants.

#### **2.2 Persons Affected**

The Plan provides for a full and final release and discharge of the Affected Landlord Claims and Released Claims, a compromise and settlement of, and consideration for, all Allowed Distribution Claims and a restructuring of the Applicants. The Plan will become effective at the Effective Time in accordance with its terms and in the sequence set forth in Section 5.2 hereof and shall be binding on and enure to the benefit of the Applicants, the Affected Landlord Creditors, the Released Parties, any Person with a Released Claim and all other Persons directly or indirectly named or referred to in or subject to Plan.

#### **2.3 Persons Not Affected**

The Plan does not affect the Unaffected Creditors. Nothing in the Plan shall affect the Applicants' rights and defences, both legal and equitable, with respect to any Unaffected Claims including all rights with respect to legal and equitable defences or entitlements to set-offs or recoupments against such Unaffected Claims.

## **ARTICLE 3**

### **CLASSIFICATION AND TREATMENT OF CREDITORS AND RELATED MATTERS**

#### **3.1 Claims Procedure**

The procedure for determining the validity and quantum of the Affected Landlord Claims for voting and distribution purposes under the Plan shall be governed by the Claims Procedure Order, the Meeting Order, the CCAA, the Plan and any further Order of the Court, as applicable.

### **3.2 Classification of Creditors**

In accordance with the Meeting Order, the only class of creditors for the purposes of considering and voting on the Plan will be the Affected Landlord Creditors Class.

### **3.3 Creditors' Meetings**

The Creditors' Meeting shall be held in accordance with the Meeting Order and any further Order of the Court, as applicable. The only Persons entitled to attend and vote at the Creditors' Meeting are those specified in the Meeting Order and any further Order of the Court, as applicable.

### **3.4 Treatment of Affected Landlord Claims**

- (a) Each Affected Landlord Creditor shall receive distributions as set forth below only to the extent that its Affected Landlord Claim is an Allowed Distribution Claim and has not been paid, released, or otherwise satisfied prior to the Plan Implementation Date.
- (b) In accordance with the terms and in the sequence set forth in Section 5.2 hereof, under the supervision of the Monitor, and in full and final satisfaction of all Affected Landlord Claims, each Affected Landlord Creditor with an Allowed Distribution Claim will receive a cash payment equal to 50% of such Affected Landlord Creditor's Allowed Distribution Claim (each, a **"Distribution Amount"**).

### **3.5 Unaffected Claims**

- (a) Unaffected Claims shall not be compromised, released, discharged, cancelled or barred by the Plan.
- (b) Unaffected Creditors will not receive any consideration or distributions under the Plan in respect of their Unaffected Claims, and they shall not be entitled to vote on the Plan at the Creditors' Meetings in respect of their Unaffected Claims.

### **3.6 Disputed Distribution Claims**

Any Affected Landlord Creditor with a Disputed Distribution Claim shall not be entitled to receive any distribution hereunder with respect to such Disputed Distribution Claim unless and until such Claim becomes an Allowed Distribution Claim, and then only in respect of and to the extent of such Allowed Distribution Claim. A Disputed Distribution Claim shall be resolved in the manner set out in the Claims Procedure Order. Distributions pursuant to Section 3.4 hereof shall be made in respect of any Disputed Distribution Claim that is finally determined to be an Allowed Distribution Claim in accordance with the Claims Procedure Order, which distributions shall be made pursuant to Article 6 hereof.

### **3.7 D&O Claims**

All Barred D&O Claims shall be fully, finally, irrevocably and forever released, discharged, and cancelled without consideration on the Plan Implementation Date. All Non-Barred D&O Claims will not be compromised, released, discharged or cancelled pursuant to the Plan and shall be treated as set forth in Section 7.2 hereof. Any Claim of a Director or Officer against the Applicants for indemnification or contribution in respect of any Non-Barred D&O Claim or any Non-Released D&O Claim shall be treated for all purposes under the Plan as an Unaffected Claim.

### **3.8 Extinguishment of Claims**

On the Plan Implementation Date, in accordance with the terms and in the sequence set forth in Section 5.2 hereof and in accordance with the provisions of the Sanction Order, the treatment of Affected Landlord Claims and all Released Claims, in each case as set forth herein, shall be final and binding on the Applicants, all Affected Landlord Creditors and any Person having a Released Claim (and their respective heirs, executors, administrators, legal personal representatives, successors and assigns), and all Affected Landlord Claims and all Released Claims shall be fully, finally, irrevocably and forever compromised, settled, released, discharged, cancelled and barred, and the Applicants and the Released Parties shall thereupon have no further obligation whatsoever in respect of the Affected Landlord Claims or the Released Claims; provided that nothing herein releases the Applicants or any other Person from their obligations to make distributions in the manner and to the extent provided for in the Plan or to comply with the terms of any Leases or Lease Amendments from and after the Plan Implementation Date, and provided further that such discharge and release of the Applicants shall be without prejudice to the right of a Landlord in respect of a Disputed Distribution Claim to prove such Disputed Distribution Claim in accordance with the Claims Procedure Order so that such Disputed Distribution Claim may, as applicable, become an Allowed Distribution Claim entitled to receive consideration under Section 3.4 hereof.

### **3.9 Guarantees and Similar Covenants**

No Person who has a Claim under any guarantee, indemnity or similar covenant in respect of any Claim that is compromised and released under the Plan or who has any right to claim over in respect of or to be subrogated to the rights of any Person in respect of a Claim that is compromised and/or released under the Plan shall be entitled to any greater rights than the Person whose Claim is compromised and/or released under the Plan.

## **ARTICLE 4**

### **PROVISIONS REGARDING DISTRIBUTIONS AND PAYMENTS**

#### **4.1 Distribution Mechanics with respect to Allowed Distribution Claims**

- (a) On or prior to the Plan Implementation Date, the Applicants shall, in consultation with the Monitor, determine (i) the aggregate amount payable to Affected Landlord Creditors in respect of Allowed Distribution Claims as at the Plan Implementation Date, and (ii) the aggregate amount that would otherwise be payable to Affected Landlord Creditors in respect of Disputed Distribution Claims

should such Disputed Distribution Claims be finally determined and accepted in full as Allowed Distribution Claims (with the amount described in this subsection (ii) being the “**Aggregate Disputed Claims Potential Payable Amount**”).

- (b) On the Plan Implementation Date, or as soon as practicable thereafter, the Applicants shall, in consultation with the Monitor, pay or cause to be paid to each Affected Landlord Creditor with an Allowed Distribution Claim, its Distribution Amount by way of cheque sent by courier or prepaid ordinary mail to the address set forth on such Affected Landlord Creditor’s Notice of Claim (or such other address provided to the Applicants by the applicable Affected Landlord Creditor by no later than five (5) Business Days prior to the Plan Implementation Date), or by way of such other payment method and by any later date as agreed to by the Applicants and the applicable Affected Landlord Creditor.
- (c) On the Plan Implementation Date, the Applicants shall segregate and pay to the Monitor, in trust, an amount equal to the Aggregate Disputed Claims Potential Payable Amount, and the Monitor shall hold such amount, in trust, in the Disputed Distribution Claims Reserve.

#### **4.2 Modifications to Distribution Mechanics**

Subject to the consent of the Monitor, the Applicants shall be entitled to make such modifications to the process for making distributions pursuant to the Plan as the Applicants deem necessary or desirable in order to achieve the proper distribution of consideration to be distributed pursuant to the Plan, and any such modifications shall not require an amendment to the Plan or any further Order of the Court.

#### **4.3 Currency**

Unless otherwise specifically provided for in the Plan or the Sanction Order, all monetary amounts referred to in the Plan shall be denominated in US Dollars and, for the purposes of distributions under the Plan, Claims shall be denominated in US Dollars and all payments and distributions provided for in the Plan shall be made in US Dollars. Any Claims denominated in any other currency shall be converted to US Dollars at the Bank of Canada daily exchange rate in effect at the Filing Date.

#### **4.4 Interest**

Interest shall not accrue or be paid on Affected Landlord Claims on or after the Filing Date, and no holder of an Affected Landlord Claim shall be entitled to interest accruing on or after the Filing Date.

#### **4.5 Allocation of Distributions**

All distributions made pursuant to the Plan shall be allocated first towards the repayment of any accrued but unpaid interest in respect of such Claim, and second, towards the repayment of the principal amount in respect of such Claim, in each case, to the extent applicable.

#### **4.6 Treatment of Undeliverable Distributions**

If any distribution to an Affected Landlord Creditor under this Article 4 is returned as undeliverable (an “**Undeliverable Distribution**”), no further distributions to the applicable Affected Landlord Creditor shall be made unless and until the Applicants are notified by such Affected Landlord Creditor of such Affected Landlord Creditor’s current address, at which time all such distributions shall be made to such Affected Landlord Creditor at such address. All claims for Undeliverable Distributions must be made on or before the date that is six months following the Plan Implementation Date, after which date any entitlement with respect to such Undeliverable Distribution shall be forever released and discharged and forever barred, without any compensation or claim therefor, notwithstanding any federal, state or provincial laws to the contrary, at which time any such Undeliverable Distributions shall be returned to the Applicants. Nothing contained in the Plan shall require the Applicants to attempt to locate any Person to whom a distribution is payable. No interest shall be payable in respect of an Undeliverable Distribution.

#### **4.7 Withholding Rights**

The Applicants and the Monitor shall be entitled to deduct and withhold from any consideration payable to any Person such amounts as the Applicants or the Monitor are required to deduct and withhold with respect to such payment under the Canadian Tax Act, the US Tax Code or other Applicable Law, or corresponding provision of provincial, territorial or state law or other Applicable Law. To the extent that amounts are so withheld or deducted, such withheld or deducted amounts shall be treated for all purposes hereof as having been paid to the Person in respect of which such withholding was made, provided that such amounts are actually remitted to the appropriate Taxing Authority.

#### **4.8 Calculations**

All amounts of consideration to be received hereunder will be calculated to the nearest cent (\$0.01). All calculations and determination made by the Monitor and/or the Applicants and agreed to by the Monitor for the purposes of and in accordance with the Plan, including, without limitation, the allocation of consideration, shall be conclusive, final and binding upon the Affected Landlord Creditors and the Applicants.

### **ARTICLE 5 PLAN IMPLEMENTATION**

#### **5.1 Corporate Actions**

The adoption, execution, delivery, implementation and consummation of all matters contemplated under the Plan involving corporate actions of the Applicants will occur and be effective as of the Plan Implementation Date, and shall be deemed to be authorized and approved under the Plan and by the Court, where applicable, as part of the Sanction Order, in all respects and for all purposes without any requirement of further action by shareholders, directors or officers of the Applicants. All necessary approvals to take actions shall be deemed to have been obtained from the directors, officers or the shareholders of the Applicants, as applicable, including the deemed passing by shareholders of any resolution or special resolution, and any



shareholders' agreement or agreement between a shareholder and another Person limiting in any way the right to vote shares held by such shareholder or shareholders with respect to any of the steps contemplated by the Plan shall be deemed to have no force or effect.

## **5.2 Plan Implementation Date Transactions**

The following steps, agreements, compromises and releases to be effected in the implementation of the Plan shall occur, and be deemed to have occurred, concurrently (unless otherwise noted herein or determined by the Applicants, in consultation with the Monitor), without any further act or formality on the Plan Implementation Date beginning at the Effective Time:

- (a) in accordance with Sections 3.4(b) and Article 4, the Applicants shall cause to be paid to each Affected Landlord Creditor with an Allowed Distribution Claim its Distribution Amount, in each case, in final and full compromise and satisfaction of such Affected Landlord Creditor's Allowed Distribution Claims, and all Allowed Distribution Claims shall be fully, finally, irrevocably and forever compromised, settled, released, discharged, cancelled and barred;
- (b) the Applicants shall transfer to the Monitor cash in an amount equal to the Aggregate Disputed Claims Potential Payable Amount in respect of any Affected Landlord Claims that are Disputed Distribution Claims and the Monitor shall hold such cash in the Disputed Distribution Claims Reserve to be distributed pursuant to Article 6 hereof, and all Affected Landlord Claims that are Disputed Distribution Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred as against the Applicants, and the recourse of any Affected Landlord Creditors with Disputed Distribution Claims shall be solely as against the Disputed Distribution Claims Reserve pursuant to the terms and subject to the conditions of Article 6 hereof;
- (c) any amounts secured by the Charges shall be paid or otherwise satisfied or provided for in a manner acceptable to the Applicants, the Monitor and the beneficiaries of such Charges, as applicable, and the Charges shall be, and shall be deemed to be, released pursuant to the Sanction Order; and
- (d) the releases set forth in Article 7 shall become effective.

## **5.3 Issuances Free and Clear**

Any payment of consideration pursuant to the Plan will be free and clear of any Encumbrances.

# **ARTICLE 6 PROCEDURE FOR DISTRIBUTIONS REGARDING DISPUTED DISTRIBUTION CLAIMS**

## **6.1 No Distribution Pending Allowance**

An Affected Landlord Creditor holding a Disputed Distribution Claim will not be entitled to receive a distribution under the Plan in respect of such Disputed Distribution Claim or any

portion thereof unless and until, and then only to the extent that, such Disputed Distribution Claim becomes an Allowed Distribution Claim.

## **6.2 Disputed Distribution Claims**

- (a) On the Plan Implementation Date, pursuant to Section 5.2(b) hereof, an amount of cash equal to the Aggregate Disputed Claims Potential Payable Amount shall be transferred to the Monitor by the Applicants and held by the Monitor in the Disputed Distribution Claims Reserve for the benefit of the Affected Landlord Creditors with Disputed Distribution Claims, pending the final determination of the Disputed Distribution Claims in accordance with the Claims Procedure Order and the Plan.
- (b) To the extent that any Disputed Distribution Claim becomes an Allowed Distribution Claim in accordance with the Claims Procedure Order, the Monitor, in consultation with the Applicants, shall distribute from the Disputed Distribution Claims Reserve to the holder of such Allowed Distribution Claim its Distribution Amount.
- (c) At any applicable time, the Monitor shall be permitted, in consultation with the Applicants, to release to the Applicants (or as may be directed by the Applicants) any amounts in the Disputed Distribution Claims Reserve that were reserved in respect of Disputed Distribution Claims (or portions thereof) that have been finally determined to not be Allowed Distribution Claims in accordance with the Claims Procedure Order.
- (d) On the date that all Disputed Distribution Claims have been finally resolved in accordance with the Claims Procedure Order, the Monitor shall, in consultation with the Applicants, release all remaining cash, if any, from the Disputed Distribution Claims Reserve to the Applicants (or as may be directed by the Applicants).

## **ARTICLE 7 RELEASES**

### **7.1 Plan Releases**

On the Plan Implementation Date, in accordance with the terms set forth in Section 5.2 hereof, the Applicants, the Directors and the Officers, the Monitor, the Monitor's counsel, the Company Advisors, and each and every present and former affiliate, subsidiary, director, officer, member, partner, employee, auditor, financial advisor, legal counsel and agent of any of the foregoing Persons (each of the Persons being herein referred to individually as a "**Released Party**" and all referred to collectively as "**Released Parties**") shall be released and discharged from any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions, Encumbrances and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature, including claims for contribution or indemnity, or rights of subrogation, which any Person may be entitled to assert,

whether or not reduced to judgment, liquidated or unliquidated, fixed, contingent, known or unknown, matured or unmatured, direct, indirect or derivative, foreseen or unforeseen, existing or hereafter arising, by guarantee, surety or otherwise, and whether or not executory or anticipatory in nature, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the Plan Implementation Date, that constitute or are in any way relating to, arising out of or in connection with any Claims, any D&O Claims, the business and affairs of the Applicants whenever or however conducted, the administration and/or management of the Applicants, the Plan, the CCAA Proceedings, the Chapter 15 Proceedings, or any document, instrument, matter or transaction involving any of the Applicants taking place in connection with the Plan or the implementation of the Plan (referred to collectively as the “**Released Claims**”), and all Released Claims shall be deemed to be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties, all to the fullest extent permitted by Applicable Law; provided that nothing herein will waive, discharge, release, cancel or bar: (1) the right to enforce the Applicants’ obligations under the Plan from and after the Plan Implementation Date; (2) the right to enforce the Applicants’ obligations from and after the Filing Date under any Leases or Lease Amendments, save and except for any Leases which may have been the subject of a disclaimer, rescission, rejection or termination in the CCAA Proceedings and in such cases from and after the effective date of such disclaimer, rescission, rejection or termination; (3) the right to enforce any claims for indemnification which a Landlord now has or may hereafter have against an Applicant under the relevant Lease in connection with any unrelated third party claims arising out of facts occurring prior to the Plan Implementation Date, save and except for any Leases which may have been the subject of a disclaimer, rescission, rejection or termination in the CCAA Proceedings and in such cases only for unrelated third party claims occurring prior to the effective date of such disclaimer, rescission, rejection or termination; (4) the Applicants from or in respect of any Unaffected Claim; (5) a Released Party if the Released Party is adjudged by the express terms of a judgment rendered on a final determination on the merits to have committed fraud; or (6) any Director or Officer from any D&O Claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA (“**Non-Released D&O Claims**”) or from any Non-Barred D&O Claims, all of which shall be treated as set forth in Section 7.2 below. For certainty, all Barred D&O Claims shall constitute Released Claims to the fullest extent permitted by Applicable Law.

## **7.2 Treatment of D&O Claims**

Notwithstanding anything to the contrary in Section 7.1 hereof, Non-Barred D&O Claims and Non-Released D&O Claims shall not be compromised, released, discharged or cancelled by the Plan, provided that from and after the Plan Implementation Date, any Person having a Non-Barred D&O Claim or a Non-Released D&O Claim shall be irrevocably limited to recovery in respect of such Non-Barred D&O Claim or Non-Released D&O Claim solely from the proceeds of the applicable Insurance Policies, and Persons with a Non-Barred D&O Claim or Non-Released D&O Claim shall have no right to, and shall not, directly or indirectly, make any claim or seek any recoveries in respect thereof from the Applicants, any Director or Officer or any other Released Party, other than enforcing such Person’s rights to be paid by the applicable insurer(s) from the proceeds of the applicable Insurance Policies. This Section 7.2 may be relied upon and raised or pled by any of the Applicants, any Director or Officer or any Released Party in defence or estoppel of or to enjoin any claim, action or proceeding brought in contravention of

this Section. Nothing in the Plan shall prejudice, compromise, release or otherwise affect any right or defence of any insurer in respect of an Insurance Policy or any insured in respect of a Non-Barred D&O Claim or Non-Released D&O Claim.

### **7.3 Injunctions**

All Persons are permanently and forever barred, estopped, stayed and enjoined, from and after the Effective Time, with respect to any and all Released Claims, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any actions, suits, demands or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against any of the Released Parties; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against any of the Released Parties or their property; (iii) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or (iv) taking any actions to interfere with the implementation or consummation of the Plan; provided, however, that the foregoing shall not apply to the enforcement of any obligations under the Plan. Without limiting the generality of the foregoing, any and all litigation by any Landlord involving any one or more Applicants that is outstanding prior to or as at the Plan Implementation Date shall be permanently and forever barred, estopped, stayed and enjoined, from and after the Effective Time. The provisions of this Section 7.3 shall apply to Non-Barred D&O Claims and Non-Released D&O Claims in the same manner as Released Claims, except to the extent that the rights of such Persons to enforce such Non-Barred D&O Claims or Non-Released D&O Claims against an insurer in respect of an Insurance Policy are expressly preserved pursuant to Section 7.2 hereof.

## **ARTICLE 8 COURT SANCTION**

### **8.1 Application for Sanction Order**

If the Required Majorities of the Affected Landlord Creditors in the Affected Landlord Creditors Class approve the Plan, the Applicants shall be entitled to apply for the Sanction Order on such date as the Court may set.

### **8.2 Sanction Order**

The Applicants shall seek a Sanction Order that, among other things:

- (a) declares that the Plan and the transactions contemplated thereby are fair and reasonable;
- (b) declares that as of the Effective Time, the Plan and all associated steps, compromises, transactions, arrangements, agreements and releases effected thereby are approved pursuant to section 6 of the CCAA, binding and effective as set out in the Plan upon and with respect to the Applicants, all Affected Landlord Creditors, the Released Parties, all Persons with Released Claims and all other Persons named or referred to in or subject to Plan;

- (c) declares that the steps to be taken and the compromises and releases to be effective on the Plan Implementation Date are deemed to occur and be effected as contemplated by Section 5.2 hereof on the Plan Implementation Date, beginning at the Effective Time;
- (d) declares that the releases effected by the Plan shall be approved and declared to be binding and effective as of the Plan Implementation Date upon all Affected Landlord Creditors, all Persons with Released Claims and all other Persons named or referred to in or subject to Plan, and shall enure to the benefit of such Persons;
- (e) declares that, subject to performance by the Applicants of their obligations under the Plan and except as specifically provided in the Plan, all Leases, Lease Amendments and other agreements to which any of the Applicants is a party on the Plan Implementation Date shall be and remain in full force and effect, unamended as at the Plan Implementation Date and no party to any such obligation or agreement shall on or following the Plan Implementation Date, accelerate, terminate, refuse to renew, rescind, repudiate or refuse to perform its obligations thereunder, or enforce or exercise (or purport to enforce or exercise) any right or remedy under or in respect of any such lease or other agreement, by reason:
  - (i) of any event which occurred prior to, and not continuing after, the Plan Implementation Date, or which is or continues to be suspended or waived under the Plan, which would have entitled such party to enforce those rights or remedies;
  - (ii) that the Applicants have sought or obtained relief or have taken steps as part of the Plan or in the CCAA Proceedings or the Chapter 15 Proceedings;
  - (iii) of any default or event of default arising as a result of the financial condition or insolvency of the Applicants;
  - (iv) of the effect upon the Applicants of the completion of any of the transactions contemplated by the Plan; or
  - (v) of any compromises, settlements, steps or restructurings effected pursuant to the Plan;
- (f) authorizes the Monitor to perform its functions and fulfil its obligations under the Plan to facilitate the implementation of the Plan and matters relating the resolution of Disputed Distribution Claims and distributions from the Disputed Distribution Claims Reserve following implementation of the Plan and the termination of the CCAA Proceedings;
- (g) provides that the Monitor and its legal counsel shall not be required to pass their accounts from and after the implementation of the Plan; and

- (h) subject to payment or other satisfaction (including, without limitation, by way of a reserve of funds to be held by the Monitor in an amount acceptable to the Monitor and the Applicants) of any amounts secured by the Charges that remain owing on the Plan Implementation Date or that may become owing following the Plan Implementation Date in respect of matters relating to the completion of the CCAA Proceedings or the Chapter 15 Proceedings, declares that each of the Charges shall be terminated, discharged and released upon a filing of the Monitor of a certificate confirming the implementation of the Plan and the termination of the CCAA Proceedings on the Plan Implementation Date.

## **ARTICLE 9**

### **CONDITIONS PRECEDENT AND IMPLEMENTATION**

#### **9.1 Conditions Precedent to Implementation of the Plan**

The implementation of the Plan shall be conditional upon satisfaction of the following conditions prior to or at the Effective Time, each of which is for the benefit of the Applicants and may be waived only by the Applicants, in consultation with the Monitor:

- (a) the Plan shall have been approved by the Required Majorities of the Affected Landlord Creditor Class;
- (b) the Sanction Order shall have been made on terms acceptable to the Applicants and shall have become a Final Order;
- (c) the Sanction Order shall have been recognized pursuant to an order of the US Court in the Chapter 15 Proceedings and such order shall have become a Final Order;
- (d) all other orders made and judgments rendered by any competent court of law, and all rulings and decrees of any competent regulatory body, agent or official in relation to the CCAA Proceedings or the Plan shall be satisfactory to the Applicants;
- (e) all material agreements, consents and other documents relating to the Plan shall be in form and in content satisfactory to the Applicants; and
- (f) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Entity, no application shall have been made to any Governmental Entity, and no action or investigation shall have been announced, threatened or commenced by any Governmental Entity, in consequence of or in connection with the Plan that restrains, impedes or prohibits (or if granted could reasonably be expected to restrain, impede or prohibit), the Plan or any material part thereof or requires or purports to require a variation of the Plan.

#### **9.2 Monitor's Certificate**

Upon delivery of written notice from the Applicants of the satisfaction or waiver of the conditions set out in Section 9.1 hereof, the Monitor shall forthwith deliver to the Applicants a

certificate stating that the Plan Implementation Date has occurred and that the Plan is effective in accordance with its terms and the terms of the Sanction Order. As soon as practicable on or following the Plan Implementation Date, the Monitor shall file a copy of such certificate with the Court.

## **ARTICLE 10 GENERAL**

### **10.1 Binding Effect**

The Plan will become effective on the Plan Implementation Date. On the Plan Implementation Date:

- (a) the treatment of Affected Landlord Claims and Released Claims under the Plan shall be final and binding for all purposes and shall be binding upon and enure to the benefit of the Applicants, all Affected Landlord Creditors, any Person having a Released Claim and all other Persons directly or indirectly named or referred to in or subject to the Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns;
- (b) all Affected Landlord Claims shall be forever discharged and released;
- (c) all Released Claims shall be forever discharged and released;
- (d) each Affected Landlord Creditor, each Person holding a Released Claim and all other Persons directly or indirectly named or referred to in or subject to the Plan shall be deemed to have consented and agreed to all of the provisions of the Plan, in its entirety; and
- (e) each Affected Landlord Creditor, each Person holding a Released Claim and all other Persons directly or indirectly named or referred to in or subject to Plan shall be deemed to have executed and delivered to the Applicants and to the Released Parties, as applicable, all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.

### **10.2 Waiver of Defaults**

From and after the Plan Implementation Date, all Persons shall be deemed to have waived any and all defaults of the Applicants then existing or previously committed by any of the Applicants, or caused by any of the Applicants, by any of the provisions in the Plan or steps or transactions contemplated in the Plan, or any non-compliance with any covenant, warranty, representation, term, provision, condition or obligation, expressed or implied, in any contract, lease or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and any of the Applicants (for greater certainty, including any default by YGC under any lease in respect of which YGC is a guarantor), and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith shall be deemed to have been rescinded and of no further force or effect, provided that nothing shall be deemed to excuse the Applicants from performing their

obligations under the Plan or be a waiver of defaults by any of the Applicants under the Plan and the related documents.

### **10.3 Deeming Provisions**

In the Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

### **10.4 Non-Consummation**

The Applicants reserve the right to revoke or withdraw the Plan at any time prior to the Plan Implementation Date. If the Applicants revoke or withdraw the Plan, or if the Sanction Order is not issued, nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against any of the Applicants or any other Person, (ii) prejudice in any manner the rights of the Applicants or any other Person in any further proceedings involving any of the Applicants, or (iii) constitute an admission of any sort by any of the Applicants or any other Person.

### **10.5 Modification of the Plan**

- (a) The Applicants reserve the right, at any time and from time to time, to amend, restate, modify and/or supplement the Plan provided that any such amendment, restatement, modification and/or supplement must be contained in a written document which shall be served by the Applicants to the service list in the CCAA Proceedings, filed with the Court and posted by the Monitor on the Monitor's Website, and (i) if made prior to or at the Creditors' Meeting, communicated to the Affected Landlord Creditors prior to or at the Creditors' Meeting; and (ii) if made following the Creditors' Meeting, approved by the Court following notice to the Affected Landlord Creditors.
- (b) Notwithstanding Section 10.5(a) hereof, any amendment, restatement, modification and/or supplement may be made by the Applicants with the consent of the Monitor, without further Order or approval of the Court, provided that it concerns a matter which, in the opinion of the Applicants, acting reasonably, is of an administrative nature and required to better give effect to the implementation of the Plan and the Sanction Order or to cure any errors, omissions or ambiguities and is not materially adverse to the financial or economic interests of the Affected Landlord Creditors.
- (c) Any amended, restated, modified and/or supplementary plan or plans of compromise or arrangement filed with the Court and, if required by this Section, approved by the Court, shall, for all purposes, be and be deemed to constitute the Plan.

### **10.6 Paramountcy**

From and after the Effective Time on the Plan Implementation Date, any conflict between:

- (a) the Plan or any Order in the CCAA Proceedings; and



- (b) the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, lease or other agreement, written or oral, and any and all amendments or supplements thereto existing between one or more of the Affected Landlord Creditors and one or more of the Applicants as at the Plan Implementation Date or the articles, bylaws or other constating documents of the Applicants at the Plan Implementation Date,

will be deemed to be governed by the terms, conditions and provisions of the Plan and the applicable Order, which shall take precedence and priority.

#### **10.7 Severability of Plan Provisions**

If any term or provision of the Plan is held by the Court to be invalid, void or unenforceable, the Court, at the request of the Applicants, shall have the power to either (a) sever such term or provision from the balance of the Plan and provide the Applicants with the option to proceed with the implementation of the balance of the Plan, (b) 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, or (c) withdraw the Plan. Provided that the Applicants proceed with the implementation of the Plan, then 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.

#### **10.8 Responsibilities of the Monitor**

Alvarez & Marsal Canada Inc. is acting in its capacity as Monitor in the CCAA Proceedings with respect to the Applicants, the CCAA Proceedings and the Plan and not in its personal or corporate capacity, and will not be responsible or liable for any obligations of the Applicants under the Plan, the Sanction Order or otherwise. The Monitor will have the powers and protections granted to it by the Plan, the CCAA, the Amended and Restated Initial Order, the Sanction Order and any other Order made in the CCAA Proceedings.

#### **10.9 Passing of Accounts of the Monitor**

From and after the implementation of the Plan, the Monitor and its counsel shall no longer be required to pass their accounts pursuant to the CCAA and the Amended and Restated Initial Order, subject to such matters being confirmed in the Sanction Order, and the Affected Landlord Creditors hereby consent to the fees and expenses of the Monitor and its counsel subject to the waiver of the requirement to pass accounts being granted under the Sanction Order.

#### **10.10 Notices**

Any notice or other communication to be delivered hereunder must be in writing and reference the Plan and may, subject as hereinafter provided, be made or given by personal delivery, prepaid ordinary mail, prepaid courier, fax or email addressed to the respective parties as follows:

If to the Applicants:

c/o Goodmans LLP  
Bay Adelaide Centre  
333 Bay Street, Suite 3400  
Toronto, Ontario M5H 2S7

Attention: L. Joseph Latham / Caroline Descours  
Email: [jlatham@goodmans.ca](mailto:jlatham@goodmans.ca) / [cdescours@goodmans.ca](mailto:cdescours@goodmans.ca)

If to the Monitor:

Alvarez & Marsal Canada Inc.  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900  
Toronto, ON M5J 2J5

Attention: Alan J. Hutchens / Joshua Nevsky / Andrew Sterling  
Email: [ahutchens@alvarezandmarsal.com](mailto:ahutchens@alvarezandmarsal.com) /  
[jnevsky@alvarezandmarsal.com](mailto:jnevsky@alvarezandmarsal.com) /  
[asterling@alvarezandmarsal.com](mailto:asterling@alvarezandmarsal.com)

with a copy (which shall not constitute notice) to:

Osler, Hoskin & Harcourt LLP  
Box 50, 1 First Canadian Place  
100 King Street West, Suite 6200  
Toronto, ON M5X 1B8

Attention: Tracy C. Sandler / Dave Rosenblat  
Email: [tsandler@osler.com](mailto:tsandler@osler.com) / [drosenblat@osler.com](mailto:drosenblat@osler.com)

If to an Affected Landlord Creditor, to the mailing address, fax number or email address provided on such Affected Landlord Creditor's Notice of Claim (or where such Affected Landlord Creditor is represented by counsel known by the Applicants, the address, fax number and email address of such counsel may be substituted)

or to such other address as any party may from time to time notify the others in accordance with this Section. Any such communication so given or made shall be deemed to have been given or made and to have been received (a) if made by personal delivery, on the day of delivery, (b) if sent by ordinary mail, on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario) or in the United States, and the tenth Business Day after mailing internationally (other than the United States), (c) if sent by courier, on the next Business Day following dispatch, and (d) if sent by fax, e-mail or other means of electronic communication, on the day of faxing or sending, provided that such day in either event is a Business Day and the communication is so sent before 5:00 p.m. (Toronto time) on such day; otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

#### **10.11 Further Assurances**

Each of the Persons directly or indirectly named or referred to in or subject to Plan will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of the Plan and to give effect to the transactions contemplated herein.

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## **SCHEDULE “A”**

1. HEAP Japanese Food Inc.
2. KB Wisconsin Food Inc.
3. MT Security Square Food Inc.
4. SAR Buckland Food Inc.
5. SAR Coastland Food Inc.
6. SAR Coventry Food Inc.
7. SAR Dulles Expo Center Inc.
8. SAR First Colony Food Inc.
9. SAR Glenbrook Food Inc.
10. SAR Greenbrier Food Inc.
11. SAR Laurel Food Inc.
12. SAR Lloyd Food Inc.
13. SAR Oglethorpe Food Inc.
14. SAR Orange Park Food Inc.
15. SAR Oviedo Food Inc.
16. SAR Park Place Food Inc.
17. SAR Plymouth Food Inc.
18. SAR Ramsey Food Inc.
19. SAR Santa Rosa Food Inc.
20. SAR Security Square Food Inc.
21. SAR St. Charles Food Inc.
22. SAR Stafford Food Inc.
23. SAR Superstition Springs Food Inc.

24. SAR Tanforan Food Inc.
25. SAR Valley Plaza Food Inc.
26. SAR Westgate Massachusetts Food Inc.
27. SAR Willowbrook Food Inc.
28. SJ Arsenal Inc.
29. SJ Boynton Inc.
30. SJ Fox Run Inc.
31. SJ Lenox Food Inc.
32. SJ Macon Food Inc.
33. SJ Rosspark Food Inc.
34. SJ Savannah Food Inc.
35. SJ South Hills Food Inc.