

Court no. 500-11-058645-207

**IN THE MATTER OF THE PLAN OF ARRANGEMENT AND COMPROMISE OF:**

**FLIGHTHUB GROUP INC.  
FLIGHTHUB SERVICES INC.  
SSFP CORP.  
JUSTFLY INC.  
JUSTFLY CORP.  
11644670 CANADA INC.**

**AMENDED PLAN OF COMPROMISE AND ARRANGEMENT**

**March 10, 2021**

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## PLAN OF COMPROMISE AND ARRANGEMENT

### WHEREAS

1. FlightHub Group Inc., FlightHub Service Inc., SSFP Corp, JustFly Inc., JustFly Corp. and 11644670 Canada Inc. (collectively, the “**Debtors**”) are insolvent;
2. On April 30, 2020, JustFly Inc. filed a notice of intention to make a proposal under the *BIA* and on May 8, 2020, the Debtors obtained an Order (as amended and restated on May 19, 2020, the “**Initial Order**”) of the Superior Court of Québec, sitting in the Commercial Division, in the judicial district of Montréal (the “**Court**”), pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the “**CCAA**”);
3. The Initial Order appointed MNP Ltd. (the “**Monitor**”) to act as monitor of the Debtors and granted the Debtors the authority to file a plan of compromise and arrangement with their creditors, in accordance with the CCAA;
4. On June 19, 2020, the Debtors obtained an Order from the Court (the “**Claims Procedure Order**”), which, among other things, established a procedure for the solicitation and determination of Claims against the Debtors and their Directors;
5. Pursuant to the Claims Procedure Order, all Persons holding Affected Claims against the Debtors and their Directors were ordered to file a Proof of Claim with the Monitor on or before the Claims Bar Date; and
6. Defined terms used above and not otherwise defined have the meanings ascribed thereto below.

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In this Plan (including the Schedules hereto), unless otherwise stated or unless the subject matter or context otherwise requires:

“**Administration Charge**” has the meaning ascribed to such term in the Initial Order;

“**Administration Claim**” means a claim or any other indebtedness or obligation secured by the Administration Charge;

“**Affected Claim**” means any Claim other than an Unaffected Claim, and for greater certainty, shall include any Claim by the Commissioner, both against the Debtors as well as against the Sponsors, in their individual capacity;

“**Affected Creditor**” means any Creditor with an Affected Claim, but only with respect to and to the extent of such Affected Claim;

**“Applicable Law”** means any law (including any principle of civil law, common law or equity), statute, Order, decree, judgment, rule, regulation, ordinance, or other pronouncement having the effect of law, whether in Canada or any other country or any domestic or foreign province, state, city, county or other political subdivision;

**“BIA”** means the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3;

**“Business”** means the direct and indirect business operations and activities of the Debtors and their affiliates;

**“Business Day”** means any day on which commercial banks are generally open for business in Montreal, Québec, other than a Saturday, a Sunday or a day observed as a holiday in Montreal under the laws of the Province of Québec or the federal laws of Canada applicable therein;

**“CBCA”** means the *Canada Business Corporations Act*, R.S.C., 1985, c. C-44;

**“CCAA”** has the meaning ascribed thereto in the recitals;

**“CCAA Charges”** has the meaning ascribed to such term in the Initial Order;

**“CCAA Proceedings”** means the proceedings under the CCAA in respect of the Debtors;

**“Claim”** means any right or claim of any Person against the Debtors in connection with any indebtedness, liability or obligation of any kind whatsoever, whether reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, unknown, by guarantee, by surety, by warranty or otherwise, and whether or not such right is executory or anticipatory in nature, including without limitation, any claim arising from or caused by the termination, disclaimer, rescission, assignment or repudiation of any contract, lease or other agreement, whether written or oral, the commission of a tort (intentional or unintentional), any breach of duty (including without limitation, any legal, statutory, equitable or fiduciary duty), any right of ownership of or title to property, employment, contract, a trust, howsoever created or any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any grievance, matter, action, cause or chose in action, whether existing at present or commenced in the future, based in whole or in part on facts which existed on the Determination Date (including a Claim which relates to any time period prior to the Determination Date), together with any other claims of any kind that, if unsecured, would constitute a debt provable in bankruptcy within the meaning of the BIA, including, without limitation, any Restructuring Claim;

**“Claim Against the Directors”** means any Claim against a Director pursuant to paragraph 5.1(1) of the CCAA;

**“Claims Bar Date”** means the claims bar date for Claims against the Debtors and the Directors as set out in the Claims Procedure Order;

**“Claims Procedure Order”** has the meaning ascribed thereto in the recitals;

**“Commissioner”** means the Commissioner of Competition responsible for the administration and enforcement of the *Competition Act*, R.S.C., 1985, c. C-34;

**“Conditions Precedent”** means the conditions precedent to the implementation of the Plan set out in Article 8.3 of the Plan;

**“Consent Agreement”** means the consent agreement signed on February 12, 2021 by the Commissioner, as well as by FlightHub Group Inc., Matthew Keezer and Nicholas Hart, and registered with the Competition Tribunal;

**“Contribution”** means an aggregate CA\$4,000,000 contributed by the Sponsors and the Investor or such other greater amount as may be agreed to by the Sponsors and the Investor, in their sole discretion;

**“Convenience Class”** has the meaning ascribed to it in Article 3.2 of the Plan;

**“Convenience Class Claim”** means one or more Proven Claims of a Convenience Class Creditor;

**“Convenience Class Creditor”** means an Affected Creditor having a Proven Claim, who elects, or is deemed to have elected, to form part of the Convenience Class pursuant to Article 3.2 of the Plan;

**“Creditor”** means any Person asserting a Claim and may, where the context requires, include the assignee of such Claim or a personal representative, agent, mandatary, trustee, interim receiver, receiver, receiver and manager, liquidator or other Person acting on behalf of such Person;

**“Creditors’ Meeting”** means the meeting or meetings of Affected Creditors to be convened and held pursuant to the Meeting Order, for the purpose of considering and voting upon the Plan and includes any adjournment, postponement or rescheduling of such meeting or meetings;

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

**“Debtors”** has the meaning ascribed thereto in the recitals;

**“Debtors’ Released Claims”** has the meaning ascribed to it in Article 7.1(a) of the Plan;

**“Debtors’ Released Party”** has the meaning ascribed to it in Article 7.1(a) of this Plan;

**“Determination Date”** means (i) for JustFly Inc., April 30, 2020, and (ii) for FlightHub Group Inc., FlightHub Service Inc., SSFP Corp., JustFly Corp. and 11644670 Canada Inc., May 8, 2020;

**“Director”** means the Persons that were directors of any of the Debtors prior to or as of the Determination Date;

**“Disputed Claim”** means that portion of an Affected Claim of an Affected Creditor in respect of which a Proof of Claim has been filed in accordance with the Claims Procedure Order, and which is the subject of negotiation with the Monitor or adjudication before the Court, and that at any particular time, has not been finally determined to be a Proven Claim in whole or in part, or is subject to a revision or disallowance that is contested in accordance with the Claims Procedure Order, or any other Order made in the CCAA Proceedings and as such is not a Proven Claim in whole or in part;

**“Distribution Date”** means the date or dates from time to time set in accordance with the provisions of the Plan at the sole and absolute discretion of the Monitor to effect distributions in respect of the Proven Claims of the Affected Creditors;

**“Employees”** means any and all former and current employees of the Debtors, including, for greater certainty and without limiting the generality of the foregoing, (i) full-time, part-time or temporary employees, (ii) employees who are on approved leaves of absence (including maternity leave, parental leave, short-term disability leave, workers’ compensation and other statutory leaves), and (iii) employees being the object of a temporary or permanent layoff;

**“Employee Priority Claim”** means of the following Claims of Employees:

- (a) Claims equal to the amounts that such Employees would have been qualified to receive under paragraph 136(1)(d) of the BIA if the Debtors had become bankrupt on the Determination Date; and
- (b) Claims for wages, salaries, commissions or compensation for services rendered by them after the Determination Date and on or before the Plan Sanction Date;

**“Excluded Claim”** means any right or claim that would otherwise be a Claim that is:

- (a) a Claim enumerated in sections 5.1(2) and 19(2) of the CCAA, to the extent it is ordered by the Court to be treated as an Excluded Claim;
- (b) a Claim secured by any of the CCAA Charges, including the Administration Charge;
- (c) an Intercompany Claim;
- (d) a Claim against the Debtors that is held by any of the Sponsors; and
- (e) a Secured Claim.

**“Final Order”** means a final order of the Court, the implementation, operation or effect of which shall not have been stayed, varied, vacated or subject to pending appeal and as to which any appeal periods relating thereto shall have expired;

**“Governmental Authority”** means any (i) multinational, national, provincial, state, regional, municipal, local or other government, governmental or public

department, ministry, central bank, court, tribunal, arbitral body, commission, board, official, minister, bureau or agency, domestic or foreign, (ii) subdivision, agent, commission, board or authority of any of the foregoing; or (iii) quasi-governmental or private body, including any tribunal, commission, regulatory agency or self-regulatory organization, exercising any regulatory, expropriation or taxing authority under, or for the account of, any of the foregoing, including the Commissioner;

**“Government Priority Claims”** means all Claims of Governmental Authorities in respect of amounts that are outstanding and that are of a kind that could be subject to a demand on or before the Distribution Date under:

- (f) subsections 224(1.2) and 224(1.3) of the Tax Act;
- (g) any provision of the *Canada Pension Plan* or the *Employment Insurance Act* (Canada) that refers to subsection 224(1.2) of the Tax Act and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, or employee’s premium or employer’s premium as defined in the *Employment Insurance Act* (Canada), or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts; or
- (h) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the Tax Act, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
  - (i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the Tax Act; or
  - (ii) is of the same nature as a contribution under the *Canada Pension Plan* if the province is a "province providing a comprehensive pension plan" as defined in subsection 3(1) of the *Canada Pension Plan* and the provincial legislation establishes a "provincial pension plan" as defined in that subsection;

**“Investor”** means 11656511 Limited Partnership, acting through its general partner 11656511 Canada Inc. or any other Person nominated by it;

**“Intercompany Claims”** means any claim against a Debtor that is held by another Debtor, or that is held by any other entity that is controlled, directly or indirectly, by the shareholders of the Debtors;

**“Meeting Order”** means the Order to be made by the Court under and pursuant to the CCAA that, among other things, establishes procedures for the Creditors’ Meeting, as same may be amended, restated or varied from time to time;

**“Monitor”** has the meaning ascribed thereto in the recitals;



**“Monitor’s Certificate”** means the certificate to be filed by the Monitor, declaring that all of the Conditions Precedent to implementation of the Plan have been satisfied or waived and the Contribution has been remitted to the Monitor;

**“Monitor’s Website”** means the following website:  
<https://mnpdebt.ca/en/corporate/corporate-engagements/flighthub-group>;

**“Order”** means any order of the Court;

**“Outside Date”** has the meaning ascribed to it in Article 4.3 of this Plan;

**“Person”** is to be broadly interpreted and includes, without limitation, an individual, a partnership, a corporation, a trust, a joint venture, any governmental authority, any trade union, any employee association or any incorporated or unincorporated entity or association of any nature and the executors, administrators, or other representatives of an individual in such capacity;

**“Plan”** means this *Plan of Arrangement and Compromise* filed by the Debtors under and pursuant to the CCAA, as such Plan may be amended, varied or supplemented from time to time by the Debtors, acting reasonably, all in accordance with the terms hereof;

**“Plan Implementation Date”** means the Business Day that is five (5) Business Days after the day on which all of the Conditions Precedent have been fulfilled or, to the extent permitted pursuant to the terms and conditions of the Plan, waived, as evidenced by the Monitor’s Certificate to be filed with the Court;

**“Plan Modification”** has the meaning ascribed to it in Article 9.3 of this Plan;

**“Plan Sanction Date”** means the date that the Sanction Order is made by the Court;

**“Post-Filing Trade Payables”** means post-Determination Date trade payables that were incurred by the Debtors (i) after the Determination Date and before the Plan Implementation Date, and (ii) in the ordinary course of Business;

**“Proof of Claim”** means the form to be completed and filed by a Creditor pursuant to the Claims Procedure Order, by the applicable Claims Bar Date, setting forth its applicable Claim;

**“Proven Claim”** means a Claim of an Affected Creditor as finally determined for voting and distribution purposes in accordance with the Claims Procedure Order, the Meeting Order and the Plan;

**“Released Claims”** has the meaning ascribed to it in Article 7.1(b) of this Plan;

**“Released Parties”** has the meaning ascribed to it in Article 7.1(b) of this Plan;

**“Reorganization”** means the corporate reorganization of the Debtors and certain other Persons carried out pursuant to the terms and conditions set out in the Reorganization Steps Notice;

**“Reorganization Steps Notice”** means the notice describing in detail the steps of the Reorganization, as such notice may be amended, restated or varied from time to time with the prior consent of the Monitor and which shall be posted on the Monitor’s Website;

**“Required Majority”** means a majority in number of Affected Creditors who represent at least two-thirds in value of the Voting Claims of such Affected Creditors who actually vote on the Resolution (in person or by proxy) at the Creditors’ Meeting;

**“Resolution”** means the resolution approving the Plan presented to the Affected Creditors for consideration at the Creditors’ Meeting;

**“Restructuring Claim”** means any right or claim of any Person against the Debtors in connection with any indebtedness or obligation of any kind owed to such Person arising out of the Debtors’ disclaimer, rescission, termination of any contract, lease or other agreement whether written or oral, and includes any right or claim resulting, directly or indirectly, from the consequences and effects of the Plan’s acceptance by the Affected Creditors, the Plan’s sanction by the Sanction Order, the Plan’s implementation; provided, however, that a Restructuring Claim shall not include an Excluded Claim. For greater certainty, a Restructuring Claim is an Affected Claim;

**“Sanction Hearing”** means the Court hearing on the Debtors’ application for the Sanction Order;

**“Sanction Order”** means the Order to be granted by the Court as contemplated under the Plan which, *inter alia*, approves and sanctions the Plan and the transactions and releases contemplated thereunder, which shall be a Final Order;

**“Secured Claim”** means a claim of a Secured Creditor;

**“Secured Creditor”** has the meaning ascribed to it in the CCAA;

**“Sponsors”** means Matthew Keezer and Nicholas Hart, acting in their personal capacity;

**“Sponsors’ Released Claims”** has the meaning ascribed to it in Article 7.1(b) of this Plan;

**“Tax”** means any and all taxes including all income, sales, use, goods and services, harmonized sales, value added, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer, health, excise, franchise, real property, and personal property taxes and other taxes, customs, duties, fees, levies, imposts and other assessments or similar charges in the nature of a tax, including Canada Pension Plan and provincial pension plan contributions, employment insurance and unemployment insurance payments and workers’ compensation premiums, together with any instalments with respect thereto, and any interest, penalties, fines, fees, other charges and additions with respect thereto;

“**Tax Act**” means the *Income Tax Act* (Canada) and the legislations promulgated thereunder, as amended from time to time;

“**Tax Obligation**” means any amount of Tax owing by a Person to a Taxing Authority;

“**Tax Statutes**” means (...) section 14 of the *Tax Administration Act (Quebec)*, or any other similar (...) provincial or territorial tax legislation;

“**Taxing Authorities**” means anyone 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 and any Canadian or non-Canadian government, regulatory authority, government department, agency, commission, bureau, minister (...) or body or regulation making entity exercising taxing authority or power, and “**Taxing Authority**” means any one of the Taxing Authorities, as well as any corresponding taxing authorities of a foreign jurisdiction;

“**Unaffected Claim**” means:

- (a) any Employee Priority Claim;
- (b) any Government Priority Claim;
- (c) any Post-Filing Trade Payables; and
- (d) any Excluded Claim.

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

“**Undelivered Distribution**” has the meaning ascribed to it in Article 5.9 of the Plan.

“**Unsecured Creditors’ Class**” has the meaning ascribed to it in Article 3.2 of the Plan;

“**US Bankruptcy Code**” means Title 11 of the United States Code (U.S.C.);

“**US Bankruptcy Court**” means the United States Bankruptcy Court for the District of Delaware;

“**US Bankruptcy Proceedings**” means the proceedings commenced by FHG, as foreign representative for the Debtors, pursuant to Chapter 15 of the US Bankruptcy Code before the US Bankruptcy Court;

“**Voting Claim**” means the amount of the Affected Claim of an Affected Creditor as finally determined for voting purposes entitling such Affected Creditor to vote at the Creditors’ Meeting in accordance with the provisions of the Claims

Procedure Order and Meeting Order, the Plan and the CCAA, and includes, for greater certainty, a Proven Claim;

“**Withholding Obligation**” has the meaning ascribed to it in Article 5.8c) of the Plan.

## 1.2 Interpretation

For the purposes of the Plan:

- (a) any reference to a time in the Plan and in any document issued pursuant thereto means prevailing local time in Montreal, Québec, Canada, unless otherwise stipulated;
- (b) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions;
- (c) 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;
- (d) unless otherwise specified, the words “hereof”, “herein” and “hereto” refer to the Plan in its entirety rather than to any particular portion of the Plan;
- (e) the division of the Plan into “articles” 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” intended as complete or accurate descriptions of the content thereof;
- (f) 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;
- (g) 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;
- (h) the deeming provisions are not rebuttable and are conclusive and irrevocable; and
- (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.

### **1.3 Date and Time for any Action**

For purposes of the Plan:

- (a) In the event that any date on which any action is required to be taken under the Plan by any Person is not a Business Day, that action shall be required to be taken on the next succeeding day which is a Business Day, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day; and
- (b) 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.

## **ARTICLE 2 PURPOSE AND EFFECT OF THE PLAN**

### **2.1 Purpose and Background**

The purpose of the Plan is to effect compromise, settlement and payment of all Affected Claims as finally determined for voting and distribution purposes as well as to effect the Reorganization, in order to enable the Business of the Debtors to continue with the expectation that all Persons with an economic interest in the Debtors will derive a greater benefit from the implementation of the Plan than would result from a bankruptcy.

### **2.2 Persons Affected**

The Plan provides for the compromise of Affected Claims, as well as a full and final release of all Released Claims against the Released Parties. On the Plan Implementation Date, each Affected Claim, as well as all Released Claims against the Released Parties, will be fully and finally compromised, released, settled and discharged under the Plan. The Plan shall be binding on and enure to the benefit of the Debtors, the Affected Creditors, the Released Parties and all other Persons named or referred to in, or subject to, the Plan.

### **2.3 Persons Not Affected**

For greater certainty, the Plan does not affect the Unaffected Creditors with respect to and to the extent of their Unaffected Claims. Unaffected Claims shall not be compromised, released, discharged, cancelled or barred by the Plan.

**ARTICLE 3**  
**CLASSIFICATION OF CREDITORS AND RELATED MATTERS**

**3.1 Claims Procedure**

The procedure for determining the validity and quantum of the Affected 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.

**3.2 Classification of Creditors**

For the purpose of considering and voting on the Plan, the Affected Creditors shall constitute a single class, the “**Unsecured Creditors’ Class**”.

For the purpose of receiving distribution under the Plan, the Affected Creditors who are not Employees and who have a Proven Claim shall have the option to elect to form part of the “**Convenience Class**”, by sending written notice of such election to the Monitor by no later than 5:00 p.m. on the Proxy Deadline (as defined in the Meeting Order), failing which they will be deemed to form part of the Unsecured Creditor’s Class for the purpose of receiving distribution under the Plan.

For the purpose of receiving distribution under the Plan, the Affected Creditors who are Employees and who have a Proven Claim will be deemed to form part of the Convenience Class.

**3.3 Claims of Affected Creditors / Convenience Class Creditors**

Affected Creditors who have proven their Affected Claims in accordance with the Claims Procedure Order and the CCAA will be entitled to:

- (a) vote their Voting Claim at the Creditors’ Meeting in respect of the Resolution to adopt the Plan; and
- (b) receive the rights and distributions provided for under and pursuant to the Plan and the Sanction Order, in accordance with the CCAA.

Convenience Class Creditors who have proven their Affected Claims in accordance with the Claims Procedure Order and the CCAA will be:

- (a) deemed to vote in favour of the Plan, provided, however, that Convenience Class Creditors who are Employees retain the right to vote against the Plan at the Creditors’ Meeting; and
- (b) entitled to receive the rights and distributions provided for under and pursuant to the Plan and the Sanction Order, in accordance with the CCAA.

For greater certainty, Convenience Class Creditors who are Employees and who do not vote in person or by proxy at the Creditors’ Meeting, shall be deemed to have voted in favour of the Plan.

### **3.4 Unaffected Claims**

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' Meeting in respect of their Unaffected Claims.

The following treatment shall be afforded to specific categories of Unaffected Claims:

- (a) Employee Priority Claims, if any, will be paid in such amounts as required under the CCAA immediately after the Plan Sanction Date;
- (b) Government Priority Claims, if any, will be paid in full by the Applicant within 6 months immediately following the Plan Sanction Date;
- (c) Post-Filing Trade Payables will be paid in full by the Debtors in the normal course of their Business, as and when they become due;
- (d) Excluded Claims, if any, will remain in full force and effect in accordance with their terms after the Plan Implementation Date, and will be paid in full by the Debtors in the normal course of their Business, as and when they become due.

### **3.5 Creditors' Meeting**

The Creditors' Meeting shall be held in a virtual-only format in accordance with the Plan, the Meeting Order and any further Order of the Court. The only Persons entitled to attend the Creditors' Meeting shall be representatives of the Debtors and their legal counsel and advisors, the Monitor and its legal counsel and all other Persons, including the holders of proxies, entitled to vote at the Creditors' Meeting and their legal counsel and advisors, subject to being duly registered to attend the Creditors' Meeting, the whole in accordance with the Plan, the Meeting Order and any further Order of the Court.

### **3.6 Procedure for Valuing and Voting Claims**

The procedure for the filing and adjudication of Claims is set forth in the Claims Procedure Order.

Each Affected Creditor in the Unsecured Creditors' Class who is entitled to vote at the Creditors' Meeting, pursuant to and in accordance with the Claims Procedure Order and Meeting Order, the Plan and the CCAA, shall be entitled to one vote equal to the dollar value of its Affected Claim or the aggregate value of all its Affected Claims (without regard as to whether the Affected Claims are against the same or different Debtors), as the case may be, determined as a Voting Claim.

Convenience Class Creditors shall be deemed to vote in favour of the Plan.

### 3.7 Approval by Creditors

In order to be approved, the Plan must receive an affirmative vote in the Required Majority of the Unsecured Creditors' Class.

### 3.8 Interest

Interest shall not accrue or be paid on Affected Claims after the Determination Date, and no holder of an Affected Claim shall be entitled to interest accruing nor to fees and expenses incurred in respect of an Affected Claim on or after the Determination Date and any Claims in respect of interest accruing or fees and expenses incurred on or after the Determination Date shall be deemed to be forever extinguished and released.

## ARTICLE 4 CONTRIBUTIONS

### 4.1 Contributions

Subject to the Conditions Precedent having been met by no later than the Outside Date, the following amounts will be funded towards the Plan, in accordance with an investment structure to be determined and approved by the Sponsors, the Investor and the Debtors, in consultation with the Monitor:

- (a) each Sponsor will contribute, in cash, CA\$500,000; and
- (b) the Investor will contribute, in cash, an amount equal to the Contribution minus the amounts contributed by the Sponsors.

### 4.2 Maximum Contribution

The maximum amount to be contributed by the Sponsors under this Plan is capped at CA\$1,000,000 and the maximum amount to be contributed by the Investor under the Plan is CA\$3,000,000. Under no circumstances shall any provision of this Plan be interpreted as a representation or an undertaking, express or implied, that the Sponsors, the Investor or the Debtors have undertaken to provide any funding over and above the amount of the Contribution.

### 4.3 Timeline

The provision and distribution of the Contribution by the Sponsors and the Investor is subject to the fulfillment of the Conditions Precedent to the implementation of the Plan, as set out in Article 8.3, no later than May 31, 2021 (the "**Outside Date**") which Outside Date may be extended by the Sponsors, in their sole and absolute discretion, by written notice by email to the Monitor at pierre.marchand@mnp.ca with a copy to the CCAA Service List.



## **ARTICLE 5 DISTRIBUTIONS AND PAYMENTS**

### **5.1 Distribution of the Contribution**

The Contribution will be distributed by the Monitor, as soon as practicable after the Plan Implementation Date, as follows:

- a) First, to pay in full the Employee Priority Claims and the Government Priority Claims;
- b) Second, to pay to each Convenience Class Creditor a distribution equal to the lesser of (A) CA\$5,000, or (B) the amount of its Convenience Class Claim;
- c) Third, to pay, on a *pro rata* basis, a special distribution of CA\$800,000 to any Affected Creditors that have Proven Claims against the Sponsors in their individual capacity; and
- d) Fourth, to pay to the Affected Creditors, to the exclusion of the Convenience Class Creditors, a distribution equal to the balance of the Contribution amount on a *pro rata* basis based on their Proven Claims.

For greater certainty, Affected Creditors that receive a distribution on account of their Proven Claims as part of the Convenience Class shall not share any additional distribution on account of their Proven Claims as part of the distribution to the Unsecured Creditors' Class.

In the event that an Affected Creditor has asserted an Affected Claim against more than one of the Debtors, there shall be one single recovery on account of such Affected Claim as if it had been asserted against only one of the Debtors.

### **5.2 Calculation**

All amounts of consideration to be received hereunder will be calculated to the nearest cent (CA\$0.01). All calculations and determination made by the Monitor and/or the Debtors 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 Creditors and the Debtors.

### **5.3 Reserve for Disputed Claims**

The Monitor may, in its sole discretion, create a reserve with regards to the Disputed Claims pending final adjudication of such Disputed Claims.

### **5.4 Distribution to Affected Creditors**

Distributions shall be made by the Monitor (i) at the addresses set forth on the Proof of Claim form filed by the Affected Creditors, (ii) at the addresses set forth in any written notice of address change delivered to the Monitor after the date of any related Proof of Claim.

## **5.5 Assignment of Claims Prior to the Creditors' Meeting**

An Affected Creditor may transfer or assign the whole of its Claim prior to the Creditors' Meeting, provided that neither the Debtors nor the Monitor shall be obligated to give notice to or otherwise deal with the transferee or assignee of such Claim as an Affected Creditor in respect thereof, including allowing such transferee or assignee of an Affected Claim to vote at the Creditors' Meeting, unless and until actual notice of the transfer or assignment, together with satisfactory evidence of such transfer or assignment, has been received and acknowledged by the Monitor in writing no later than 5:00 p.m. on the date that is seven (7) days prior to the Creditors' Meeting. Thereafter such transferee or assignee shall, for all purposes in accordance with the Claims Procedure Order and the Meeting Order, constitute an Affected Creditor and shall be bound by any and all notices previously given to the transferor or assignor and any and all steps taken in respect of such Claim.

## **5.6 Assignment of Claims After the Creditors' Meeting**

An Affected Creditor may transfer or assign the whole of its Claim for distribution purposes after the Creditors' Meeting provided that the Debtors shall not be obligated to make distributions to any such transferee or assignee or otherwise deal with such transferee or assignee as an Affected Creditor in respect thereof unless and until actual notice of the transfer or assignment, together with satisfactory evidence of such transfer or assignment, has been received and acknowledged by the Monitor in writing; thereafter, such transferee or assignee shall, for all purposes in accordance with the Claims Procedure Order, the Meeting Order and the Plan, constitute an Affected Creditor and shall be bound by any and all notices previously given to the transferor or assignor and any and all steps taken in respect of such Claim.

## **5.7 Treatment of Undelivered Distributions**

If any distribution to an Affected Creditor is returned as undeliverable, or is not cashed ("**Undelivered Distribution**"), no further distributions to such Creditor shall be made unless and until the Monitor is notified in writing of the then-current address of such Creditor, at which time all missed distributions shall be made to such Creditor. Nothing contained in the Plan or the Sanction Order shall require the Debtors or the Monitor to attempt to locate any Person to whom a distribution is payable hereunder. No interest is payable in respect of an Undelivered Distribution. Any claim for an Undelivered Distribution must be made on or before the date that is three (3) months following the final Payment Date, after which date, any entitlement with respect to such Undelivered Distribution shall be forever discharged and forever barred, without any compensation therefor, at which time, any such Undelivered Distributions shall be returned to the Debtors.

## **5.8 Tax Matters**

For the purposes of the interpretation and implementation of the Plan:

- (a) Notwithstanding any provisions of the Plan, and except as otherwise provided in this Section 5.8, each Person that receives a distribution, disbursement or other payment pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any Tax Obligations imposed on such Person by any Taxing Authority on account of such distribution, disbursement or payment.
- (b) Any payor shall be entitled to deduct and withhold and remit from any distribution, payment or consideration otherwise payable to any Person pursuant to the Plan such amounts as are required (a **"Withholding Obligation"**) to be deducted and withheld with respect to such payment under the Tax Act, or any provision of federal, provincial, territorial, state, local or foreign tax law, in each case, as amended or succeeded. For greater certainty, no distribution, payment or other consideration shall be made to or on behalf of a Person until such Person has delivered to the Monitor and the Debtors such documentation prescribed by Applicable Law or otherwise reasonably required by the Debtors as will enable the Debtors to determine whether or not, and to what extent, such distribution, payment or consideration to such Person is subject to any Withholding Obligation imposed by any Taxing Authority.
- (c) All distributions made by the Monitor pursuant to the Plan shall be first in satisfaction of the portion of Affected Claims that are not subject to any Withholding Obligation.
- (d) To the extent that amounts are withheld or deducted and paid over to the applicable Taxing Authority, such withheld or deducted amounts shall be treated for all purposes of the Plan as having been paid to such Person as the remainder of the payment in respect of which such withholding and deduction were made.
- (e) For the avoidance of doubt, it is expressly acknowledged and agreed that, for the purposes hereof, neither the Monitor (...) nor any Director or Officer will (...) hold any assets, including cash, of the Debtors (...), or make any distributions, payments or disbursements of any assets of the Debtors deriving from any liquidation of the Debtors' assets, and no provision hereof shall be construed to have such effects.

## ARTICLE 6 REORGANIZATION

The Reorganization will be effected on the Plan Implementation Date in the manner and in the sequence set out in the Reorganization Steps Notice.

## ARTICLE 7 PLAN RELEASES

### 7.1 Plan Releases

For all intents and purposes, the releases, discharges, and injunction set forth in the Plan and their effects shall not extend to or release the Released Parties (as such

term is defined below) from their obligations to comply with Applicable Law, and shall not inhibit or preclude any acts of a Governmental Authority, other than the enforcement of a monetary Claim that is subject to the Plan. Without limiting the foregoing, the following releases shall apply in respect of the Plan:

- (a) On the Plan Implementation Date, (i) the Debtors and (ii) the Directors, in regards of Claims Against the Directors, (collectively, the “**Debtors’ 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, penalties, fines, assessments, damages, judgments, orders, including for oppression remedy, 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 which any Creditor, Affected Creditor or other Person may be entitled to assert, including any and all Claims in respect of the payment and receipt of proceeds and statutory or regulatory liabilities of the Directors, the Employees and any alleged fiduciary or other duty (whether such Employees are acting as director, officer, member or employee), whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the Determination Date that are in any way relating to, arising out of or in connection with the Claims, the Business whenever or however conducted, the Plan, the CCAA Proceedings, or any Claim that has been barred or extinguished by this Plan or the Claims Procedure Order (collectively, the “**Debtors’ Released Claims**”) and all Claims arising out of such actions or omissions shall be forever waived and released (other than the right to enforce the Debtors’ obligations under the Plan or any related document), all to the full extent permitted by Applicable Law. For greater certainty, the Debtors’ Released Claims shall include any Proven Claims in the form of administrative monetary penalties and/or damages asserted against the Debtors by the Commissioner, the US Department of Transportation and the City of San Francisco, as well as any Claim from any source based, in whole or in part, on any reviewable conduct alleged in the preamble of the Consent Agreement.
- (b) On the Plan Implementation Date, in consideration of the Contribution funded by the Sponsors, each of the Sponsors (together with the Debtors’ Released Parties, the “**Released Parties**”) shall be released and discharged from any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, penalties, fines, assessments, accounts, covenants, damages, judgments, orders, 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 which any Person may assert against the Sponsors in relation with the Business of the Debtors (the “**Sponsors’ Released Claims**”, together with the Debtors’ Released Claims, the “**Released Claims**”), whether

known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the Determination Date, all to the full extent permitted by Applicable Law. For greater certainty, the Sponsors' Released Claims shall include any Proven Claims in the form of administrative monetary penalties and/or damages asserted against the Sponsors by the Commissioner, as well as any Claim from any source based, in whole or in part, on any reviewable conduct alleged in the preamble of the Consent Agreement.

## **7.2 Injunctions**

The Sanction Order will enjoin the prosecution by any Person, including the Commissioner, before any court or tribunal in any jurisdiction whatsoever, whether directly, derivatively or otherwise, of the Released Claims which have been released, discharged, compromised or terminated pursuant to the Plan.

## **ARTICLE 8 COURT SANCTION, CONDITIONS PRECEDENT AND IMPLEMENTATION**

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

If the Required Majority of the Affected Creditors approves the Plan, the Debtors shall apply for the Sanction Order on or before the date set in the Meeting Order for the hearing of the Sanction Order or such later date as the Court may set. The Sanction Order shall not become effective until the Plan Implementation Date.

### **8.2 Sanction Order**

The Sanction Order shall, among other things:

- (a) declare that (i) the Plan has been approved by the Required Majority of Affected Creditors with Proven Claims in conformity with the CCAA, (ii) the Debtors have complied with the provisions of the CCAA and the Orders of the Court made in the CCAA Proceedings in all respects, (iii) the Court is satisfied that the Debtors have not done or purported to do anything that is not authorized by the CCAA, and (iv) the Plan is fair and reasonable;
- (b) declare that as of the filing of the Monitor's Certificate, the Plan and all associated steps, compromises, transactions, arrangements, and releases effected thereby are approved, binding and effective upon the Debtors, all Affected Creditors, the Released Parties and all other Persons and Parties affected by the Plan;
- (c) authorize the Monitor to perform its duties and functions and fulfil its obligations under the Plan to facilitate the implementation thereof;
- (d) compromise, discharge and release the Released Parties from any and all Released Claims of any nature in accordance with the Plan, and

declare that the ability of any Person to proceed against the Released Parties in respect of or relating to any Released Claims shall be forever discharged and restrained, and all proceedings with respect to, in connection with or relating to such Released Claims be permanently stayed, subject only to the right of Affected Creditors to receive distributions pursuant to the Plan in respect of their Affected Claims;

- (e) authorize and direct the Monitor, as required, to administer and finally determine the Affected Claims of Affected Creditors and to manage the distribution of the Contribution in accordance with the applicable provisions of the Plan;
- (f) declare that any Affected Claim for which a Proof of Claim has not been filed by the Claims Bar Date in accordance with the Claims and Meeting Order shall be forever barred and extinguished;
- (g) declare that all distributions to and payments by or at the direction of the Monitor, in each case on behalf of the Debtors, to the Affected Creditors with Proven Claims under the Plan are for the account of the Debtors and the fulfillment of its obligations under the Plan including to make distributions to Affected Creditors with Proven Claims;
- (h) declare that the Monitor shall not incur any liability under the Tax Statutes in respect of its making any payments, ordered or permitted under the Sanction Order and is thereby forever released, remised and discharged from any Claims against it under the Tax Statutes (...), arising in respect of payments made under the Plan and the Sanction Order and any Claims of such nature are thereby forever barred;
- (i) declare that in no circumstances will the Monitor have any liability for the Debtors' tax liabilities regardless of how or when such liability may have arisen;
- (j) approve and authorize the Reorganization; and
- (k) declare that the Debtors and the Monitor may apply to the Court from time to time for advice and direction in respect of any matters arising from or under the Plan, including without limitation regarding the distribution mechanics thereunder and under the Plan.

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

The implementation of the Plan shall be conditional upon the fulfilment or waiver, where applicable, of the following conditions precedent by no later than the Outside Date (collectively the "**Conditions Precedent**"):

- (a) The Meeting Order shall have been granted by the Court;
- (b) The Plan shall have been approved by the Required Majority of the Affected Creditors in the Unsecured Creditors' Class at the Creditors' Meeting;

- (c) The Sanction Order shall have been granted by the Court in form satisfactory to the Debtors and the Monitor, and for greater certainty shall be a Final Order;
- (d) A Final Order recognizing and enforcing the Sanction Order in the US Bankruptcy Proceedings shall have been granted by the US Bankruptcy Court;
- (e) All the documentation and steps to effect the Reorganization shall be to the satisfaction of the Sponsors and the Investor, in their sole discretion.

#### **8.4 Monitor's Certificate**

The Monitor shall file the Monitor's Certificate with the Court forthwith upon the occurrence of the following events:

- (a) the Conditions Precedent to implementation of the Plan shall have been satisfied or waived by the Sponsors; and
- (b) the full amount of the Contribution shall have been remitted to the Monitor for distribution in accordance with the provisions of the Plan.

### **ARTICLE 9 GENERAL**

#### **9.1 Binding Effect**

On the Plan Implementation Date:

- (a) the Plan will become effective;
- (b) the treatment of Affected Claims under the Plan shall be final and binding for all purposes and enure to the benefit of the Debtors, all Affected Creditors, the Released Parties and all other Persons and Parties named or referred to in, or subject to the Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns;
- (c) all Affected Claims shall be and shall be deemed to be forever discharged and released, except only the obligations to make distributions in respect of such Affected Claims in the manner and to the extent provided for in the Plan;
- (d) each Person named or referred to in, or subject to the Plan, will be deemed to have consented and agreed to all of the provisions of the Plan, in its entirety; and
- (e) each Person named or referred to in, or subject to the Plan, shall be deemed to have executed and delivered to the Debtors all consents, releases, directions, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.

## 9.2 Waiver of Defaults

From and after the Plan Implementation Date, all Persons shall be deemed to have waived any and all defaults of the Debtors then existing or previously committed by the Debtors, or caused by the Debtors, directly or indirectly, or non-compliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any contract, instrument, credit document, lease, guarantee, agreement for sale, deed, licence, permit or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and the Debtors arising directly or indirectly from the filing by the Debtors under the CCAA and the implementation of the Plan and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under any such agreement shall be deemed to have been rescinded and of no further force or effect, provided that nothing shall be deemed to excuse the Debtors from performing its obligations under the Plan or be a waiver of defaults by the Debtors under the Plan and the related documents. This Article does not affect the rights of any Person to pursue any recoveries for a Claim that may be obtained from a guarantor (other than the Debtors) and any security granted by such guarantor.

## 9.3 Modification of the Plan

The Debtors, in consultation with the Monitor and the Sponsors:

- (a) reserve the right, at any time and from time to time, to make any amendment, restatement, modification or supplement to, the Plan at or before the Creditors' Meeting, in which case any such amendment, restatement, modification or supplement, shall, for all purposes, be and be deemed to form part of and be incorporated into the Plan. The Debtors shall file any supplementary plans with the Court as soon as practicable. The Debtors shall give notice to Affected Creditors of the details of any such modification, amendment or supplement at the Creditors' Meeting prior to the vote being taken to approve the Plan. The Debtors may give notice of a proposed modification, amendment or supplement to the Plan at or before the Creditors' Meeting by notice which shall be sufficient if given to those Affected Creditors present at such meeting in person or by proxy; and/or
- (b) after the Creditors' Meeting (and both prior to and subsequent to the obtaining of the Sanction Order), the Debtors may, in consultation with the Sponsors and with the consent of the Monitor, at any time and from time to time vary, amend, modify or supplement the Plan, without the need for obtaining an Order of the Court or providing notice to the Affected Creditors if the Monitor determines that such variation, amendment, modification or supplement would not be materially prejudicial to the interests of the Affected Creditors under the Plan or the Sanction Order and is of an administrative nature necessary in order to better give effect to the substance of the Plan or the Sanction Order, or to cure any errors, omissions or ambiguities. All of the foregoing shall not require any further vote by or approval by the Affected Creditors or any approval by the Court.



Any amended, restated modified or supplementary plan shall nevertheless be filed with the Court and shall thereafter, subject to the foregoing and for all purposes, be deemed to constitute the Plan.

Notwithstanding the foregoing, the Debtors, in consultation with the Monitor and the Sponsors, may at any time and from time to time, modify, amend, vary or supplement the Reorganization Steps Notice, without the need for obtaining an Order or providing notice to the Affected Creditors. The Monitor shall post on the Monitor's Website, as soon as possible, any such modification, amendment, variation or supplement to such Reorganization Steps Notice.

#### **9.4 Paramountcy**

Except with respect to the Unaffected Claims, on the Plan Implementation Date, any conflict between:

- (a) the Plan; and
- (b) the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, mortgage, security agreement, indenture, trust indenture, loan agreement, commitment letter, agreement for sale, lease or other agreement, written or oral and any and all amendments or supplements thereto existing between any Person and the Debtors as at the Plan Implementation Date;

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

#### **9.5 Severability of Plan Provisions**

If, prior to the Plan Sanction Date, 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 Debtors and with the consent of the Monitor, shall have the power to either (a) sever such term or provision from the balance of the Plan and provide the Debtors with the option to proceed with the implementation of the balance of the Plan as of and with effect from the Plan Implementation Date, or (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. Notwithstanding any such holding, alteration or interpretation, and provided that the Debtors proceeds with the implementation of the Plan, 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.

#### **9.6 Responsibilities of the Monitor**

The Monitor is acting in its capacity as Monitor in the CCAA Proceedings with respect to the Debtors and not in its personal or corporate capacity for any and all acts, or decisions to not act in the implementation of the Plan, whether same occurs before or after the Plan Implementation Date. The Monitor is acting and will continue to act in its capacity as Monitor in the CCAA Proceedings with respect to the Debtors and not in its

personal and corporate capacities while establishing any of the Distribution Dates or the timing or sequence of the transactions under the Plan. The Monitor will not be responsible or liable for any obligations, errors, omissions or faults of the Debtors, including with respect to the making of distributions or the receipt of any distribution by a Affected Creditor pursuant to the Plan. The Monitor will have the powers and protections granted to it by the Plan, the CCAA, the Initial Order, the Claims and Meeting Order, and any other Order made in the CCAA Proceedings.

### **9.7 Different Capacities**

Persons who are affected by the Plan may be affected in more than one capacity. Unless provided herein to the contrary, a Person will be entitled to participate hereunder in each such capacity. Any action taken by a Person in one capacity will not affect such Person in any other capacity, unless expressly agreed by the Person in writing or unless its Claims overlap or are otherwise duplicative or unless otherwise provided herein.

### **9.8 Further Assurances**

Each of the Persons named or referred to in, or subject to, the 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, notwithstanding any provision of this Plan that deems any transaction or event to occur without further formality.

### **9.9 Successors and Assigns**

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

### **9.10 Governing Law**

The Plan shall be governed by and construed in accordance with the laws of the Province of Québec and the Federal laws of Canada applicable therein. All questions as to the interpretation of or application of the Plan and all proceedings taken in connection with the Plan and its provisions shall be subject to the exclusive jurisdiction of the Court.

### **9.11 Governing Language**

In the event of any conflict, inconsistency, ambiguity or difference between the English version of the Plan and any translations thereof, the English version shall govern and be paramount, and the applicable provision in the translation thereof shall be deemed to be amended to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

**DATED as of the 10<sup>th</sup> day of March, 2021.**