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

----- X
In re : Chapter 11
METROPARK USA, INC., :
Debtor. : Case No. 11-_____ (RDD)
----- X

**MOTION FOR AN ORDER, PURSUANT TO
SECTION 105(a) OF THE BANKRUPTCY CODE AND
BANKRUPTCY RULES 1015(c) AND 9007 IMPLEMENTING
CERTAIN NOTICE AND CASE MANAGEMENT PROCEDURES**

TO THE HONORABLE ROBERT D. DRAIN, UNITED STATES BANKRUPTCY JUDGE:

Metropark USA, Inc., as debtor and debtor in possession (the "Debtor"),¹

respectfully represents:

BACKGROUND

General

1. On the date hereof (the "Petition Date"), the Debtor commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The Debtor is authorized to operate its businesses and manage its properties as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory creditors' committee has been appointed in this chapter 11 case.

The Debtor's Business

¹ The last four digits of the Debtor's federal tax identification number are 6659.

2. Metropark was founded in 2004 to capitalize on the large Gen Y segment (the 25-35 year old customer) who had moved on from teen retailers, but were still looking for fashion-forward apparel and accessories. Through a multi-channel sales strategy, including sales through brick-and-mortar stores and e-commerce, Metropark caters to trendsetting young adult customers by offering a unique and highly differentiated merchandise assortment introducing a “Fashion, Music, Art” philosophy into the marketplace.

3. Since its founding in 2004, Metropark has grown rapidly from its four original store locations to approximately 70 stores in 21 states, in addition to its newly redesigned online retail presence at www.metroparkusa.com. Metropark offers its customers a unique mix of premium quality apparel and accessories geared toward the 25-35 year old trendsetter. The Metropark retail stores provide a truly unique experiential lifestyle shopping environment including, style consultants, in-store events (e.g. live art installations, fashion shows and DJ performances) and a carefully edited inventory assortment of highly sought after brands with a strong offering of up and coming, fashion forward designer talent to deliver an authentic and culturally relevant mix of diverse brands to the customer.

4. As a result of several internal and external factors, the Debtor faced extraordinary liquidity constraints in the first quarter of 2011. Because of this reality, the Debtor spent the better part of the first quarter of 2011 trying to identify a financial partner to provide an equity infusion, debt investment or otherwise stabilize the financial wherewithal of the Company. Unfortunately, a transaction in the best interest of the Company, its creditors and its shareholders was not available outside of chapter 11 and the Company has reached the end of its liquidity runway. Accordingly, the Debtor has determined that the commencement of this case would provide the sole opportunity to, among other things, sell substantially all of the assets of the Debtor as a going concern or liquidation and, if successful in identifying a going concern buyer, right-size the Debtor’s business through (i) the evaluation and elimination of liabilities that serve as a drain on the Debtor’s profitability, and (ii) operational improvements.

JURISDICTION

5. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

6. The Debtor seeks authority, pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rules 1015(c) and 9007, to implement certain procedures (the "Procedures") in connection with the administration of this chapter 11 case. The Debtor requests that, to the extent that any of the Procedures conflict with the provisions of the Bankruptcy Code or the Local Bankruptcy Rules for the Southern District of New York (the "Local Bankruptcy Rules"), the Procedures shall govern and shall supersede such provisions and rules.

BASIS FOR RELIEF REQUESTED

7. The Procedures establish requirements for the filing and serving of motions, pleadings, applications, and other requests for relief (collectively, the "Pleadings") in this chapter 11 case. As set forth more fully below, the Procedures (i) delineate standards for notice; (ii) authorize the Debtor to schedule, in cooperation with the Court, periodic omnibus hearing dates; and (iii) articulate mandatory guidelines for the scheduling of hearings and objection deadlines.

The Procedures

8. As set forth more fully on Exhibit 1 to the proposed order, the Case Management Procedures, among other things:

- (a) provide for scheduling of periodic omnibus hearings and emergency hearings;
- (b) establish requirements for filing and serving notices, motions, applications, declarations, objections, responses, memoranda, briefs, supporting documents and other papers filed in this chapter 11 case (collectively, the "Court Papers");

- (c) delineate standards for notices of hearings and agenda letters;
- (d) fix periodic omnibus hearing dates and articulate mandatory guidelines for the scheduling of hearings and objection deadlines;
- (e) define the entities entitled to service in this chapter 11 case and provide for the right to request service of papers pursuant to Rule 2002 of the Bankruptcy Rules;
- (f) provide procedures for service of filings, certificates of service; and
- (g) limit matters that are required to be heard by the Court.

9. Given the size and scope of these cases, the Debtor believes that the Procedures will facilitate service of Court Papers that will be less burdensome and costly than serving such pleadings on every potentially interested party, which, in turn, will maximize the efficiency and orderly administration of this chapter 11 case, while at the same time ensuring that appropriate notice is provided, particularly to parties who have expressed an interest in this case and those directly affected by a request for relief. In particular, the Procedures are intended to:

- (a) reduce the need for emergency hearings and requests for expedited relief;
- (b) provide for omnibus hearings for the Court to consider motions, pleadings, applications, objections and responses thereto;
- (c) foster consensual resolution of important matters;
- (d) assure prompt receipt of appropriate notice affecting parties' interests;
- (e) allow for electronic notice pursuant to the Court's electronic filing system;
- (f) provide ample opportunity to parties in interest to prepare for and respond to matters before this Court;
- (g) reduce the substantial administrative and financial burden that would otherwise be placed on the Debtor and other parties in interest who file documents in this chapter 11 case; and
- (h) reduce the administrative burdens on the Court and the Clerk's office.

10. To ensure that parties in interest in this chapter 11 case are made aware of the Case Management Procedures, the Debtor proposes to: (a) serve the Procedures on the Master Service List (as defined in the Procedures); (b) publish the Procedures on the Debtor's restructuring website at www.omnimgt.com/metropark (the "Case Website"); and (c) make the Procedures readily available on request to the Debtor's proposed notice and claims agent, Omni Management Group, LLC (the "Notice and Claims Agent"). In the event the Procedures are modified during this chapter 11 case, the Debtor will ensure updated versions of the Procedures are available on the Case Website and will file notice of the same electronically on the docket.

Establishing the Procedures is in the Best Interests of the Debtor's Estate

11. Section 105(a) of the Bankruptcy Code provides in relevant part that "[t]he Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Further, Bankruptcy Rule 9007 grants the Court general authority to regulate the manner of any notices required to be given under the Bankruptcy Rules. The Debtor submits that implementation of the Procedures is appropriate in this chapter 11 case and well within the Court's equitable powers under section 105 of the Bankruptcy Code and Bankruptcy Rule 9007.

12. The Debtor submits that approval of the Procedures is in the best interests of the Debtor's estate and its creditors. The Debtor believes the administration of its chapter 11 case would be more efficient and cost-effective if the relief requested herein were granted. The nature of the Debtor's financial difficulties has placed significant demands on the Debtor and its personnel and professionals. In addition to the discharge of their ordinary duties, the Debtor's personnel now carry the additional burdens imposed by the commencement of this chapter 11 case. By authorizing the Debtor to schedule omnibus hearing dates, establishing clear timelines for the filing of requests for relief, and allowing, with certain exceptions, electronic service, the Procedures will assist the Debtor's management in

preserving the Debtor's time and directing the attention of their personnel to issues raised in this chapter 11 case.

NOTICE

13. The Debtor has served notice of this Application on (i) the U.S. Trustee (Attn: Susan Golden, Esq.), (ii) Riemer & Braunstein LLP, Three Center Plaza, Boston, MA 02108 (Attn: Donald E. Rothman, Esq.) as counsel for Wells Fargo Bank, N.A., (iii) Solomon Ward Seidenwurm & Smith, LLP, 401 B Street, Ste. 1200 San Diego, CA 92101 (Attn: Michael D. Breslauer, Esq.) as counsel to Bricoleur Capital Partners, LP in its capacity as second lien agent, (iv) the Debtor's 30 largest unsecured creditors, and (v) the office of the United States Attorney for the Southern District of New York, and (vi) the attorneys general for the states in which the Debtor operates. In light of the nature of the relief requested, the Debtor submits that no other or further notice need be provided.

14. No previous request for the relief sought herein has been made by the Debtor to this or any other court.

WHEREFORE, the Debtor respectfully requests that the Court grant the relief requested herein and such other and further relief as is just and appropriate.

Dated: May 2, 2011
New York, New York

Respectfully submitted,

By: /s/ Cathy Hershcopf
Cathy Hershcopf

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

----- X
In re :
METROPARK USA, INC., : **Chapter 11**
 :
Debtor. : **Case No. 11-_____ (RDD)**
 :
----- X

**ORDER PURSUANT TO SECTION 105(a) OF THE
BANKRUPTCY CODE AND BANKRUPTCY
RULES 1015(c) AND 9007 TO IMPLEMENT CERTAIN
NOTICE AND CASE MANAGEMENT PROCEDURES**

Upon the motion, dated May 2, 2011 (the "Motion")¹ of Metropark USA, Inc., as debtor and debtor in possession (the "Debtor"),² for an order, pursuant to section 105(a) of chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 1015(c) and 9007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), implementing notice and case management procedures (the "Procedures"), all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the Standing Order of Referral of Cases to Bankruptcy Judges of the District Court for the Southern District of New York, dated July 19, 1984 (Ward, Acting C.J.); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to (i) the U.S. Trustee (Attn: Susan Golden, Esq.), (ii) Riemer & Braunstein LLP, Three Center Plaza, Boston, MA 02108 (Attn: Donald E. Rothman, Esq.) as counsel for Wells Fargo Bank, N.A., (iii) Solomon Ward Seidenwurm & Smith, LLP, 401 B Street, Ste. 1200 San Diego, CA 92101 (Attn: Michael D. Breslauer, Esq.) as counsel to Bricoleur Capital Partners, LP in its capacity as second lien agent, (iv) the Debtor's 30 largest unsecured creditors, and (v) the office of the United States Attorney for the Southern District of

¹ Capitalized terms used but not defined herein shall have the respective meanings ascribed to them in the Motion.

² The last four digits of the Debtor's federal tax identification number are 6659.

New York, and (vi) the attorneys general for the states in which the Debtor operates, and it appearing that no other or further notice need be provided; and the Court having determined that the relief requested in the Motion being in the best interests of the Debtor, its creditors, and all parties in interest; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED that the Motion is granted to the extent provided herein; and it is further

ORDERED that the Procedures, as set forth on Exhibit 1 hereto, are approved and shall govern all applicable aspects of this chapter 11 case, except as otherwise ordered by the Court; and it is further

ORDERED that the first two omnibus hearings are scheduled as follows:

- __: __ .m. on the __th day of _____, 2011; and
- __: __ .m. on the __th day of _____, 2011; and it is further

ORDERED that the Debtor's notice and claims agent, Omni Management Group, LLC, is authorized to establish a case website available at www.omnimgt.com/metropark where, among other things, electronic copies of all pleadings filed in the Debtor's chapter 11 case may be posted to be viewed free of charge; and it is further

ORDERED that any notice sent by the Debtor or any other party in interest shall be deemed to comply with the requirements set forth in section 342(c)(1) of the Bankruptcy Code so long as the notice contains a reference to the information contained in footnote 2 of this Order; and it is further

ORDERED that the requirements set forth in Local Rule 9013-1(b) are satisfied by the contents of the Motion; and it is further

ORDERED that the Debtor is authorized and empowered to take all actions necessary to implement the relief granted in this Order; and it is further

ORDERED that this Court retains jurisdiction with respect to all matters arising from or related to the implementation of this ORDER.

Dated: _____, 2011
White Plains, New York

HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

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

----- X
In re : **Chapter 11**
METROPARK USA, INC., :
Debtor. : **Case No. 11-_____ (RDD)**
----- X

NOTICE, CASE MANAGEMENT AND ADMINISTRATIVE PROCEDURES

On May 2, 2011, Metropark USA, Inc., as debtor and debtor in possession (the "Debtor")¹ filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Court"). The Debtor is operating its business and managing its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

On May ____, 2011, the Court entered an order (the "Procedures Order") approving the notice, case management and administrative procedures (the "Case Management Procedures") set forth herein pursuant to sections 102(1), 105(a) and 105(d) of the Bankruptcy Code, Rules 2002(m), 9007 and 9036 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 2002-2 of the Local Bankruptcy Rules for the Southern District of New York (the "Local Rules") [Docket No. ____]. Anyone may obtain a copy of the Procedures Order, as well as any document filed with the Court in these chapter 11 cases, by: (a) accessing the website maintained by Omni Management Group, LLC ("Omni" or the "Notice and Claims Agent"), at www.omnimgt.com/metropark (the "Case Website"); (b) contacting Omni directly at Metropark USA, Inc. c/o Omni Management Group, LLC 16161 Ventura Blvd., Suite C, PMB 480, Encino, CA 91436, by telephone at (866) 989-6144, or by facsimile at (818) 783-2737; or (c) accessing the PACER system on the Court's web site at <http://www.nysb.uscourts.gov> for a nominal fee. Finally, paper copies of all pleadings filed in the Debtor's chapter 11 case may be available from the Court.

Pursuant to the Case Management Procedures Order, all notices, motions, applications, briefs, memoranda, affidavits, declarations, objections, responses and other documents filed in this chapter 11 case are subject to, and will not be deemed properly served unless they are served in accordance with, these Case Management Procedures. Additionally, while the Bankruptcy Code, the Bankruptcy Rules and the Local Rules apply to these chapter 11 cases, to the extent there is a conflict between the foregoing and the Case Management Procedures, the Case Management Procedures govern in all respects. As such, all parties in interest are strongly encouraged to review these Case Management Procedures in their entirety and consult their own legal counsel with respect to any of the matters discussed herein prior to filing any documents in this chapter 11 case.

¹ The last four digits of the Debtor's federal tax identification number are 6659.

Case Management Procedures

I. Omnibus Hearing Dates

- A. All Matters to be Heard at Omnibus Hearings. The Court shall schedule periodic omnibus hearings (the "Omnibus Hearings") to consider all notices, motions, applications and other requests for relief, all briefs, memoranda, affidavits, declarations, replies and other documents filed in support of such papers seeking relief (collectively, the "Requests for Relief") and all objections and responses to such Requests for Relief (collectively, the "Objections," and together with the Requests for Relief and all other filed documents, the "Court Filings") pursuant to the following procedures:
- (i) Ordinary Scheduling Procedures. In accordance with Rule 9006-1(b) of the Local Rules, in the event that a party files and serves a Request for Relief at least 15 days before the next regularly scheduled Omnibus Hearing, the matter shall be set for hearing on the next regularly scheduled Omnibus Hearing date.
 - (ii) Emergency Scheduling Procedures. Notwithstanding the Ordinary Scheduling Procedures, every party shall retain the ability to request an emergency hearing pursuant to the Local Bankruptcy Rules.
 - (iii) Initial Omnibus Hearings. The first two Omnibus Hearings shall be held on the following dates and times:
 - ___:___ a.m. on the [__]th day of [___], 2011; and
 - ___:___ a.m. on the [__]th day of [___], 2011.
- B. Subsequent Omnibus Hearings. At or before the Omnibus Hearing held on [___], 2011, the Debtors shall request that the Court schedule additional Omnibus Hearings. The Court shall schedule such Omnibus Hearings and, upon scheduling, the Notice and Claims Agent shall post the date of the Omnibus Hearing on the Case Website. Entities may contact Notice and Claims Agent for information concerning all scheduled Omnibus Hearings.
- C. Telephonic Participation in Hearings. If a party desires to participate in a hearing by telephone, such party must request permission from chambers and notify the attorneys for the Debtors at least forty-eight (48) hours prior to the scheduled hearing. If chambers permits telephonic participation, the party participating telephonically must arrange such telephonic participation with Court Call, adhering to the procedures for telephonic participation applicable in the United States Bankruptcy Court for the Southern District of New York. Those parties participating by phone may not use speakerphones, unless first authorized by the Court; by reason of technical limitations of the equipment and the way speakerphones disrupt proceedings in the courtroom, speakerphone authorizations usually will not be granted. Parties participating by phone must put their phones on "mute" except when they need to be heard. Parties so participating are not to put their phones on "hold" in any circumstances.

- D. Proposed Omnibus Hearing Agenda. The Debtor shall prepare Omnibus Hearing agendas in accordance with the following:
- (i) Two (2) business days prior to each Omnibus Hearing, Debtor's counsel shall file a proposed agenda with regard to the matters that are scheduled to be heard at such Omnibus Hearing (the "Proposed Hearing Agenda"). The Proposed Hearing Agenda may include notice of matters that have been consensually adjourned to a later Omnibus Hearing in lieu of parties filing a separate notice of such adjournment; *provided*, that, for all matters adjourned to be heard at a later Omnibus Hearing or some other future date, the Debtor will also electronically file on the docket (but need not serve) a notice of adjournment with respect to such matter(s).
 - (ii) The Proposed Hearing Agenda will include, to the extent known by Debtor's counsel: (i) the docket number and title of each matter to be scheduled for hearing on such Omnibus Hearing, including the initial filing and any responses, replies or documents related thereto; (ii) whether the matters are contested or uncontested; (iii) whether the matters have settled or are proposed to be continued; (iv) other comments that will assist the Court; and (v) a suggestion for the order in which the matters should be addressed.

II. **Filing and Notice Procedures; Deadlines for the Filing of Responsive Pleadings**

- A. Procedures Established for Filing Court Filings. All Court Filings filed in the chapter 11 case shall be filed electronically with the Court on the docket of *In re Metropark USA, Inc.*, Case No. 11-_____ (RDD), in accordance with the Court's General Order M-242, by registered users of the Court's electronic case filing system and by all other parties in interest on a 3.5 inch floppy disk. Further, pursuant to Local Bankruptcy Rule 9070-1, at least one hard copy of any Court Document filed with the Court (other than proofs of claim) shall be (a) marked "**Chambers Copy**" and delivered in an unsealed envelope to the chambers of the Honorable Judge Robert D. Drain, United States Bankruptcy Court, 300 Quarropas Street, White Plains, New York 10601, not later than the next business day following the date on which such Document is electronically filed and (b) delivered by first class mail to the Office of the United States Trustee for the Southern District of New York (the "U.S. Trustee") as well as every party listed on the Master Service List (as defined herein).
- B. Procedures Established for Notices. All Court Filings shall be filed with the Court or other applicable court and served in accordance with the notice procedures set forth herein (the "Notice Procedures").
- C. Notices of Requests for Relief. A notice shall be affixed to the front of each Request for Relief, and the notice shall set forth (a) the title of the Request for Relief, (b) the time and date of the objection deadline (as determined herein) and (c) the Omnibus Hearing date at which the party intends to present the Request for Relief. The notice may also include a statement that the relief requested therein may be granted without a hearing if no objection is timely filed and served in accordance with the Case Management Procedures (a "Presentment Notice"). If the notice filed with a Request for Relief includes a

Presentment Notice, after the objection deadline has passed and if no objection has been filed and served in accordance with the procedures set forth herein, counsel to the entity who has filed a Request for Relief may file a certification that no objection has been filed or served on the entity who has filed the Request for Relief and may request that the proposed order be entered without a hearing.

D. Filing and Service of Objections, Replies and Other Responsive Pleadings.

(i) Deadline for Objections. The deadline to file Objections (the "Objection Deadline") shall be (i) seven (7) calendar days before the applicable hearing by 4:00 p.m. (Eastern Time) or (ii) otherwise as ordered by the Court. For Requests for Relief that are set on an expedited basis and less than ten (10) days after such Request for Relief is filed, the Objection Deadline shall be by 12:00 p.m. (Eastern Time) on the business day preceding the hearing date. Failure to file Objections by the Objection Deadline may cause the Court to not consider the Objection.

(ii) Extension of Objection Deadline. The Objection Deadline may be extended without order of the Court upon the consent of the entity filing the Request for Relief.

(iii) Service of Objections. All Objections shall be filed with the Court and served by the applicable Objection Deadline upon the entity filing the Request for Relief, those entities on the Master Service List, the 2002 List, and each Affected Entity (all as defined herein), with such Affected Entities to be determined based on the particular Court Filing being served; *provided, however*, that if the Objection Deadline is after the date that is seven (7) days before the applicable hearing, then Objections shall also be served by e-mail, facsimile, hand delivery, or overnight mail upon the Debtor, the Committee (as defined herein) and its counsel, any other committee appointed in the case and each Affected Entity.

(iv) Service of Replies to Objections. If a Court Filing is a reply to an Objection, such reply shall be filed with the Court and served so as to actually be received by the Debtor, each party that filed an Objection, the Committee and each Affected Entity, in all cases by 12:00 p.m. (Eastern Time) at least one (1) business day before the applicable hearing date, unless otherwise agreed by the Affected Entity(ies) and the Debtor.

E. Definition of Entities Entitled to Service. All Court Filings shall be served on the Master Service List, the 2002 List and any other Affected Entities (each as defined hereinafter and collectively referred to as the "Service List") according to the notice procedures described herein.

(i) Master Service List. In accordance with Bankruptcy Rule 2002 and Local Bankruptcy Rule 2002-1, Notice and Claims Agent shall maintain a master service list (the "Master Service List"), which shall be updated monthly. An updated Master Service List shall be made available by (a) accessing the Case Website; (b) contacting Notice and Claims Agent

directly; or (c) contacting the Debtor's counsel directly. The Master Service List shall include the following parties:

- (A) The Office of the United States Trustee for the Southern District of New York;
 - (B) the Debtor and its counsel;
 - (C) the members and counsel to the statutory committee of unsecured creditors appointed in the chapter 11 cases (the "Committee"), or until such time as any committee is appointed, the entities listed on the Consolidated List of Creditors Holding the 30 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d);
 - (D) any other committee appointed in the cases;
 - (E) counsel to the Debtor's prepetition secured lenders;
 - (F) the Attorneys General in all states in which the Debtors have operations; and
 - (G) the Internal Revenue Service.
- (ii) 2002 List. This group shall be comprised of all entities that have filed a request for service of filings pursuant to Bankruptcy Rule 2002. An updated 2002 List can be obtained on the Case Website.
- (iii) Affected Entities. This group shall be comprised of all entities with a particularized interest in the subject matter of the specific Court Filing, including the entity filing the Request for Relief (each, an "Affected Entity").
- F. Filing Requests for Documents Requires E-mail Address. A request for service of papers pursuant to Rule 2002 of the Bankruptcy Rules (each, a "2002 Notice Request") filed with the Court shall be deemed proper if and only if it includes the following information with request to the party filing such request: (a) name; (b) street address; (c) name of client(s), if applicable; (d) telephone number; (e) facsimile number; and (f) electronic mail (or e-mail) address.
- G. Certification Opting Out of E-mail Service. Any individual or entity filing a 2002 Notice Request who does not maintain (and cannot practicably obtain) an e-mail address and thereafter cannot receive service by e-mail must include in the 2002 Notice Request a certification to that effect (the "Certification"). The Certification shall include a statement certifying that the individual or entity (a) does not maintain an e-mail address and (b) cannot practicably obtain an e-mail address at which the individual or entity could receive service by e-mail. Such individual entity will thereafter receive paper service as provided in the Case Management Procedures.
- H. 2002 Notice List. The Debtor shall be responsible for maintaining an updated list (the "2002 List") of those who have submitted a proper 2002 Notice Request.

It is the responsibility of each entity submitting a 2002 Notice Request to file with the Court updated 2002 Notice Requests from time to time as necessary to reflect changes to any information, including e-mail address and contact person, and to serve a copy of any such update upon the Debtor.

- I. At least every fifteen (15) days during the first sixty (60) days of the Debtor's chapter 11 case, and thereafter at least every 30 days, Notice and Claims Agent shall maintain and update the 2002 List by: (a) making any additions and deletions; (b) filing the updated 2002 List; (c) serving the updated 2002 List on the parties listed thereon; (d) filing a proof of service; and (e) simultaneously with the filing of the 2002 List, posting an updated version of the 2002 List on the Case Website.

- J. Service of Motions. With respect to filings for which particular notices are required to be served on all creditors and parties in interest, including Bankruptcy Rules 2002(a)(2) and (3), 4001, 6004, 6007 or 9019, parties shall serve all such filings only on the Service List by electronic mail or otherwise (if an exemption is granted) or, in the case of those parties on the Master Service List, by electronic mail or by first class mail, in accordance with the following procedures, unless otherwise ordered by the Court —
 - (i) in the case of any use, sale, lease or abandonment of substantially all of the Debtor's property, on each entity asserting an interest in that property;
 - (ii) in the case of a motion for relief or modification of the automatic stay, on each entity asserting a lien or encumbrance on the affected property;
 - (iii) in the case of a motion relating to the use of cash collateral or obtaining credit, each party asserting an interest in the cash collateral or a lien or other interest in property upon which a lien or encumbrance is proposed to be granted;
 - (iv) in the case of a motion under Bankruptcy Rule 9019, all parties that are parties to the relevant compromise and settlement or that may be directly affected by such compromise or settlement;
 - (v) in the case of assumption, assignment or rejection of an executory contract or an unexpired lease, each party to the executory contract or the unexpired lease;
 - (vi) any objection, opposition, response, reply or further document filed directly in response to a document shall be served on the entity who filed such document; and
 - (vii) all matters for which the Bankruptcy Rules specifically require notice to all parties in interest shall be served on all parties in interest unless otherwise directed by the Court.

- K. Except as set forth herein or otherwise provided by order of the Court, the Notice Procedures shall not apply to notices of the matters or proceedings described in the following Bankruptcy Rules:

- (i) Bankruptcy Rule 2002(a)(1) (meeting of creditors pursuant to section 341 of the Bankruptcy Code);
- (ii) Bankruptcy Rule 2002(a)(2) (any proposed use, sale or lease of property of the estate other than in the ordinary course of business, to the extent that such use, sale or lease concerns all or substantially all of the Debtor's assets);
- (iii) Bankruptcy Rule 2002(a)(4) (hearing on the dismissal of a case or cases or the conversion of a case to another chapter);
- (iv) Bankruptcy Rule 2002(a)(5) (time fixed to accept or reject a proposed modification of a chapter 11 plan);
- (v) Bankruptcy Rule 2002(a)(7) (time fixed for filing a proof of claim pursuant to Bankruptcy Rule 3003(c));
- (vi) Bankruptcy Rule 2002(b)(1) (time fixed for filing objections and any hearing to consider approval of a disclosure statement);
- (vii) Bankruptcy Rule 2002(b)(2) (time fixed for filing objections and any hearing to consider confirmation of a chapter 11 plan);
- (viii) Bankruptcy Rule 2002(d) (certain matters for which notice is to be provided to equity security holders);
- (ix) Bankruptcy Rule 2002(f)(1) (entry of an order for relief);
- (x) Bankruptcy Rule 2002(f)(2) (dismissal or conversion of a case to another chapter of the Bankruptcy Code);
- (xi) Bankruptcy Rule 2002(f)(3) (time allowed for filing claims pursuant to Bankruptcy Rule 3002);
- (xii) Bankruptcy Rule 2002(f)(6) (waiver, denial or revocation of a discharge as provided in Bankruptcy Rule 4006);
- (xiii) Bankruptcy Rule 2002(f)(7) (entry of an order confirming a chapter 11 plan); and
- (xiv) Bankruptcy Rule 2002(f)(8) (summary of the trustee's final report and account should a case be converted to chapter 7 of the Bankruptcy Code).

L. Certificates of Service. Certificates of service of all Court Filings, including a Service List, shall be filed with the Court; *provided, however,* that parties shall not be required to serve the certificate of service to such recipients.

M. Serving Adversary Proceedings. All pleadings and other Court Filings in any adversary proceeding commenced in the chapter 11 cases shall be served upon each Affected Entity and any other entities required to be served under any applicable Bankruptcy Rule or Local Rule.

- N. Service of Orders. All parties submitting orders shall serve a conformed copy of any entered order on (i) each Affected Entity, (ii) the Notice and Claims Agent and (iii) the Debtor within two (2) business days of entry of the order. The Debtor shall post all orders on the Case Website.
- O. Right to Request Special Notice Procedures. Nothing herein shall prejudice the right of any entity to move the Court to further limit or expand notice of contested matters and adversary proceedings upon a showing of good cause, including without limitation the right to file a motion seeking emergency ex parte relief or relief upon shortened notice.
- P. Section 342 Notice Requirements. Any notice sent by the Debtor or any other party in interest shall be deemed to comply with the requirements set forth in section 342(c)(1) of the Bankruptcy Code so long as the notice contains the information contained in footnote 1 of these Case Management Procedures.

III. Service by Electronic Mail; Service to Master Service List by First Class Mail

- A. Service by Electronic Mail. All Court Filings shall be electronically served on the Court's Electronic Filing System, other than service of a summons and complaint in an adversary proceeding or documents filed under seal, which shall be deemed to constitute proper service for all parties who are sent such electronic mail service; *provided, however,* that Court Filings shall be served on the Master Service List by electronic mail or by first class mail. Subject to the limited exclusions set forth herein, each party that has filed a notice of appearance and a request for service of papers shall be deemed to have consented to electronic service of papers. A party filing a Court Filing that is served on entities via the Court's Electronic Filing System has no further obligation for service of such Rule 2002 Court Filing with respect to such entities to be proper.
- B. If a 2002 Notice Request fails to include an e-mail address or a Certification, the Debtors shall forward a copy of these Case Management Procedures to such party within five (5) business days specifically requesting an e-mail address. If no e-mail address or no Certification is provided in response to such request, such party shall not be added to the 2002 List and shall not be served with copies of Court Filings filed in these cases unless such pleadings and/or documents directly affect such party.
- C. For purposes of clarification, the filing deadlines and requirements set forth herein do not require three additional days notice as set forth in Rule 6(e) of the Federal Rules of Civil Procedure (made applicable to contested matters indirectly by Bankruptcy Rule 9014(b) and to adversary proceedings by Bankruptcy Rule 7005(b)(2)(D)), and Bankruptcy Rule 9006(f)).