

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

In re:

USA GYMNASTICS,<sup>1</sup>

Debtor.

Chapter 11

Case No. 18-09108-RLM-11

**NOTICE OF FILING OF: (I) SECOND AMENDED JOINT CHAPTER 11  
PLAN OF REORGANIZATION PROPOSED BY USA GYMNASTICS  
AND THE ADDITIONAL TORT CLAIMANTS COMMITTEE OF SEXUAL  
ABUSE SURVIVORS; AND (II) DISCLOSURE STATEMENT FOR THE SECOND  
AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION  
PROPOSED BY USA GYMNASTICS AND THE ADDITIONAL TORT  
CLAIMANTS COMMITTEE OF SEXUAL ABUSE SURVIVORS**

**PLEASE TAKE NOTICE** that on October 1, 2021 USA Gymnastics, as debtor and debtor in possession in the above-captioned chapter 11 case (the “**Debtor**”), and the Additional Tort Claimants Committee of Sexual Abuse Survivors filed the *Second Amended Joint Chapter 11 Plan Of Reorganization Proposed By USA Gymnastics And The Additional Tort Claimants Committee Of Sexual Abuse Survivors* [Dkt. 1601] (as amended, modified, or supplemented from time to time, the “**Plan**”), and the Debtor filed the *Disclosure Statement For The Second Amended Joint Chapter 11 Plan Of Reorganization Proposed By USA Gymnastics And The Additional Tort Claimants Committee Of Sexual Abuse Survivors* [Dkt. 1602] (as amended, modified, or supplemented from time to time, the “**Disclosure Statement**”).

**PLEASE TAKE FURTHER NOTICE** that a redline, showing changes to the Plan from the prior version filed at Dkt. 1566, is attached hereto as **Exhibit A**, and that a redline, showing changes to the Disclosure Statement from the prior version filed at Dkt. 1567, is attached hereto as **Exhibit B**.

**PLEASE TAKE FURTHER NOTICE** that the Disclosure Statement Hearing is scheduled for **October 4, 2021 at 10:30 a.m. (prevailing Eastern time) in person in Courtroom 329, U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204.**

**PLEASE TAKE FURTHER NOTICE** that a dial-in telephone number for interested parties to listen to the Disclosure Statement Hearing, but not actively participate, is 1-888-273-3658, passcode: 9247462#.

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<sup>1</sup> The last four digits of the Debtor’s federal tax identification number are 7871. The location of the Debtor’s principal office is 1099 N. Meridian St., Suite 800, Indianapolis, Indiana 46204.

**PLEASE TAKE FURTHER NOTICE** that copies of the Plan, the Disclosure Statement, and the *Debtor's Motion For Order Approving The Disclosure Statement And Plan Confirmation Procedures* [Dkt. 1553], and any other materials filed in this chapter 11 case may be accessed through the case website at: <https://omniagentsolutions.com/usagymnastics>, or by contacting the Debtor's attorneys, on PACER, or from the Clerk of the Court.

Dated: October 1, 2021

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# **EXHIBIT A**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

In re:

USA GYMNASTICS,<sup>1</sup>

Debtor.

Chapter 11

Case No. 18-09108-RLM-11

~~FIRST~~-SECOND AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION  
PROPOSED BY USA GYMNASTICS AND THE ADDITIONAL  
TORT CLAIMANTS COMMITTEE OF SEXUAL ABUSE SURVIVORS

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Dated: ~~September 22~~October 1, 2021

<sup>1</sup>The last four digits of the Debtor's federal tax identification number are 7871. The location of the Debtor's principal office is 1099 N. Meridian St., Suite 800, Indianapolis, Indiana 46204.

1.1.98. “Partial Settlement Option Provisions” .....11

1.1.99. “Participating Party” .....11

1.1.100. “Participating Party Claim” .....11

1.1.101. “Person” .....11

1.1.102. “Personal Injury Claim” .....11

1.1.103. “Personal Injury Claimant” .....11

1.1.104. “Personal Injury Coverage” .....11

1.1.105. “Personal Injury Insurance Policy” .....~~11~~12

1.1.106. “Personal Injury Insurer” .....12

1.1.107. “Petition Date” .....12

1.1.108. “Plan” .....12

1.1.109. “Plan Documents” .....12

1.1.110. “Plan Support Agreement” .....12

1.1.111. “PNC Bank” .....12

1.1.112. “PNC Bank Claim” .....12

1.1.113. “PPP Loan Claim” .....12

1.1.114. “Priority Claim” .....12

1.1.115. “Priority Claimant” .....12

1.1.116. “Priority Tax Claim” .....12

1.1.117. “Professional” .....12

1.1.118. “Professional Claim” .....~~12~~13

1.1.119. “Professional Claims Bar Date” .....13

1.1.120. “Professional Fee Hold-Back” .....13

1.1.121. “Pro Rata” .....13

1.1.122. “Protected Parties” .....13

ARTICLE III. MEANS OF FUNDING THE PLAN .....18

3.1 Plan’s Objective .....18

3.1.1. Full or Partial Settlement Alternative .....18

3.1.2. Litigation Only Alternative.....19

3.2 Survivors’ Committee’s Offer To Resolve Abuse Claims. ....19

3.2.1. Survivors’ Committee’s Offer To The CGL Insurance Carriers. ....19

3.2.2. The CGL Insurer Settlement Offer. ....19

3.3 Debtor’s Representations.....2021

3.4 Deadline To Accept CGL Insurer Settlement Offer. ....21

3.5 Partial Settlement Option.....21

3.6 Funding of Agreed CGL Insurer Payments. ....21

3.7 Other Trust Funding.....21

3.8 Resolution of the Insurance Coverage Adversary Proceeding as to the Settling Insurers under the Full or Partial Settlement Alternative. ....22

3.9 Debtor CGL Settling Insurers’ Obligation To Reimburse The Debtor For Insurance Reimbursement Claims .....22

3.10 Class 9 Indemnification Claims and USOPC Claim.....23

3.11 Sexual Abuse Claims Filed After The Bar Date Or Not Deemed To Be Timely Filed. ....2324

3.12 Claims Other Than Abuse Claims, Class 9 Indemnification Claims, and the USOPC Claim.....24

3.13 Discharge .....24

ARTICLE IV. TREATMENT OF UNCLASSIFIED CLAIMS.....24

4.1 Administrative Claims .....24

4.2 Professional Claims .....24

4.2.1. Bar Dates for Professional Claims.....24

4.2.2. Objections to Professional Claims.....25

7.2.3. Treatment of Class 6 under the Litigation Only Alternative. ....28

7.3 Class 7: Personal Injury Claim .....29

7.3.1. Impaired and Voting .....29

7.3.2. Treatment .....29

7.4 Class 8: USOPC Claim .....29

7.4.1. Impairment and Voting.....29

7.4.2. Treatment of Class 8 under the Full or Partial Settlement Alternative.....29

7.4.3. Treatment of Class 8 under the Litigation Only Alternative. ....30

7.5 Class 9: Indemnification Claims .....30

7.5.1. Impairment and Voting.....30

7.5.2. Treatment of Class 9 under the Full or Partial Settlement Alternative.....30

7.5.3. Treatment of Class 9 under the Litigation Only Alternative. ....31

7.6 Class 10: Future Claimants Representative Claim.....31

7.6.1. Impaired and Voting .....31

7.6.2. Treatment .....31

7.6.3. Treatment of Class 10 under the Litigation Only Alternative. ....32

7.7 Class 11: Sexual Abuse Claims Filed After The Bar Date. ....32

7.7.1. Impaired and Voting .....32

7.7.2. Treatment .....32

7.7.3. Treatment of Class 11 under the Litigation Only Alternative. ....32

ARTICLE VIII. ACCEPTANCE OR REJECTION OF PLAN .....32

8.1 Impaired Classes to Vote .....32

8.2 Acceptance by Class of Creditors .....32

ARTICLE IX. TRUST FUNDING AND FORMATION .....[3233](#)

9.1 Applicability. ....[3233](#)

9.2 Establishment of Trust .....3233

9.3 Trust Formation and Funding .....33

    9.3.1. Trust Purpose .....33

    9.3.2. Funding of Trust .....33

9.4 Approval of Settlement .....33

9.5 Future Claimant Reserve.....3334

9.6 Closing .....3334

9.7 Appointment of the Settlement Trustee .....34

9.8 Tax Matters .....34

9.9 Cooperation by the Debtor and Reorganized Debtor.....34

9.10 Objections to Channeled Claims.....34

9.11 Trust Indemnification Obligations .....34

ARTICLE X. PARTIAL SETTLEMENT OPTION PROVISIONS .....35

    10.1 Applicability. ....35

    10.2 Partial Settlement Option Election.....35

    10.3 Selection of CGL Insurer(s) in the Partial Settlement Option. ....35

    10.4 Treatment Under Partial Settlement Option. ....3536

    10.5 Transfer of Insurance Claims Upon Failure of CGL Insurer to Accept Its CGL  
        Insurer Settlement Offer. ....36

    10.6 Treatment of CGL Insurers That Are Not A Partial Settlement Option  
        Accepted Party.....3738

    10.7 No Claims Of Non-Settling Insurers Against Settling Insurers or Non-Debtor  
        CGL Settling Insurer Covered Persons.....3738

    10.8 Abuse Claimant’s Right to Litigate Abuse Claim Upon Failure of CGL  
        Insurer to Accept Its CGL Insurer Settlement Offer. ....38

        10.8.1. Litigation Claimant’s Right to Commence or Continue Actions. ....38

        10.8.2. Effect of Trust Insurance Settlements.....38



10.8.3. Application of Claim Enhancement.....	<a href="#">3839</a>
10.8.4. Withdrawal of Litigation Claimant Election. ....	39
10.8.5. Litigation Claimant’s Allocated Settlement Payment. ....	39
10.9 Abuse Claimants’ Rights Reserved. ....	<a href="#">3940</a>
10.10 No Compromise of Insurance Policies for Claims that are not Abuse Claims.....	<a href="#">3940</a>
ARTICLE XI. LIQUIDATION AND PAYMENT OF CHANNELED CLAIMS.....	40
11.1 Applicability. ....	40
11.2 Liquidation and Resolution of Channeled Claims.....	40
11.2.1. Conditions to Payment of Abuse Claims and FCR Claims .....	40
11.2.2. Trust Documents May Not Modify The Plan .....	<a href="#">4041</a>
11.3 Effect of No Award on Channeled Claims .....	<a href="#">4041</a>
11.4 Treatment of Attorneys’ Fees and Costs of Channeled Claimants .....	41
11.5 Withdrawal of Channeled Claims.....	41
11.6 Supplementing Exhibit C to Add Participating Parties.....	41
11.6.1. Participating Party Agreement.....	41
11.6.2. Rights of Additional Participating Parties .....	<a href="#">4142</a>
11.6.3. Retention of Jurisdiction.....	<a href="#">4142</a>
11.7 Additional Settling Insurers .....	<a href="#">4142</a>
11.7.1. Rights of Additional Settling Insurers .....	42
11.7.2. Retention of Jurisdiction.....	42
11.8 Future Claimant Process .....	42
11.9 Special Distribution Conditions.....	<a href="#">4243</a>
11.9.1. Medicare Secondary Payer .....	<a href="#">4243</a>
11.9.2. Medicare-Related Obligations .....	43
11.9.3. Certification of Reports .....	<a href="#">4445</a>

11.9.4. Rejected or Non-Compliant Reports.....45

11.9.5. Medicare-Related Obligations for Unreported Settlements.....45

11.9.6. Duration of Medicare-Related Obligations.....~~45~~46

11.9.7. Prophylactic Measures.....46

11.9.8. Corrections of Reports.....46

11.9.9. Medicare Reporting Information Required.....46

11.9.10. Payment from the Trust .....~~46~~47

11.9.11. Indemnification.....47

11.9.12. Medicare Hold-back .....47

ARTICLE XII. CHANNELING INJUNCTION .....48

12.1 Applicability. ....48

12.2 Effective Date Injunctions .....48

12.3 CHANNELING INJUNCTION PREVENTING PROSECUTION OF ABUSE CLAIMS .....48

12.3.1. LIMITATIONS ON THE SCOPE OF CHANNELING INJUNCTION.....~~49~~50

12.4 ENFORCEMENT TO THE MAXIMUM EXTENT.....50

12.5 SETTLING INSURER INJUNCTION.....50

12.6 CONTRIBUTION BAR AGAINST NON-SETTLING INSURERS. ....~~50~~51

12.7 PERMANENT TERM OF INJUNCTIONS OR STAYS AND CONFIRMATION OF SETTLEMENTS WITH PARTICIPATING PARTIES AND SETTLING INSURERS .....51

12.8 RELEASE OF AVOIDANCE CLAIMS AND OTHER CLAIMS AGAINST PARTICIPATING PARTIES, NON-DEBTOR CGL SETTLING INSURER COVERED PERSONS, AND SETTLING INSURERS.....51

12.9 MUTUAL RELEASE.....~~51~~52

12.10 PROTECTED PARTY RELEASE.....52

12.11 USOPC RELEASE .....~~52~~53

12.12 KAROLYI RELEASE.....	<u>5354</u>
12.13 EXCLUDED PARTIES LIMITATION OF RELEASES AND CHANNELING INJUNCTION.....	<u>5354</u>
ARTICLE XIII. LITIGATION <del>Only Alternative Provisions</del> <u>ONLY ALTERNATIVE PROVISIONS</u> .....	54
13.1 Applicability.....	54
13.2 Lifting of Automatic Stay and Stay Imposed Under the 105 Order for the Benefit of the Holders of Class 6 Claims.....	54
13.3 Post-Effective Date Awards.....	<u>5455</u>
13.4 Cooperation with Insurers in Defense of Claims.....	<u>5455</u>
13.5 Remand of Removed Actions and Relief from Automatic Stay/Discharge .....	<u>5455</u>
ARTICLE XIV. INSURANCE NEUTRALITY .....	55
14.1 No Modification of Debtor’s Insurance Policies of Non-Settling Insurers, Other Insurers, or Personal Injury Insurer.....	55
14.2 Non-Settling Insurers’, Other Insurers’, and Personal Injury Insurer’s Duties Not Impaired.....	55
14.3 Trust Has No Impact.....	<u>5556</u>
14.4 Obligations for Claims.....	<u>5556</u>
14.5 Non-Settling Insurers’, Other Insurers’, and Personal Injury Insurer’s Defenses.....	<u>5556</u>
14.6 Reinsurance.....	56
14.7 Defenses of the Debtor, the Estate, and the Reorganized Debtor.....	56
14.8 Governing Law .....	56
ARTICLE XV. CLAIMS AND DISTRIBUTIONS.....	56
15.1 Lift of Automatic Stay for Personal Injury Claim .....	56
15.2 Objections to Claims other than Abuse Claims, the Personal Injury Claim, the USOPC Claim, Indemnification Claims, and the FCR Claim.....	<u>5657</u>
15.3 Service of Objections.....	57

15.4 Additional Documentation.....57

15.5 Provisions Governing Distribution To Holders of Allowed Claims.....[5758](#)

    15.5.1. Distribution Only to Holders of Allowed Claims.....[5758](#)

    15.5.2. Timing of Distributions .....[5758](#)

    15.5.3. Waiver of Distribution.....58

    15.5.4. Form of Distributions.....58

    15.5.5. No Professional Fees or Expenses.....58

15.6 No Distributions Pending Allowance .....[5859](#)

15.7 Claim Estimation .....[5859](#)

15.8 Setoffs .....[5859](#)

15.9 No Interest on Claims .....[5859](#)

15.10 Withholding Taxes.....59

15.11 No De Minimis Distributions.....59

15.12 Manner of Cash Payments .....[5960](#)

ARTICLE XVI. LITIGATION.....[5960](#)

    16.1 Reorganized Debtor’s Retention of Causes of Action and Litigation .....[5960](#)

    16.2 Additional Actions.....[5960](#)

ARTICLE XVII. CONDITIONS PRECEDENT.....60

    17.1 Conditions to Effectiveness .....60

    17.2 Waiver of Conditions.....[6061](#)

    17.3 Statement.....[6061](#)

    17.4 Non-Occurrence of Effective Date .....[6061](#)

ARTICLE XVIII. EFFECTS OF PLAN CONFIRMATION AND DISCHARGE .....[6061](#)

    18.1 Discharge .....[6061](#)

    18.2 Vesting of Assets .....61

18.3 Continued Existence of Reorganized Debtor.....[6162](#)

18.4 Exculpation and Limitation of Liability .....[6162](#)

ARTICLE XIX. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES .....[6263](#)

19.1 Assumed Employee Benefit Plans .....[6263](#)

19.2 General; Assumed if Not Rejected .....[6263](#)

19.3 Claims for Contract Rejection .....[6263](#)

19.4 Indemnification Claims.....[6263](#)

ARTICLE XX. NON-MONETARY COMMITMENTS .....[6263](#)

20.1 Commitment to Athlete Safety .....[6263](#)

ARTICLE XXI. MISCELLANEOUS PROVISIONS.....[6768](#)

21.1 Obligations of the Reorganized Debtor .....[6768](#)

21.2 Retention of Jurisdiction.....68

21.3 Modification of Plan .....[6869](#)

21.4 Post-Confirmation Court Approval.....[6869](#)

21.5 Election Pursuant to Section 1129(b) of the Bankruptcy Code .....69

21.6 Closing of the Chapter 11 Case .....[6970](#)

21.7 Dissolution of the Survivors’ Committee .....[6970](#)

21.8 Termination of the Appointment of the FCR.....[6970](#)

21.9 Notices .....70

21.10 Notices to Claimants .....[7071](#)

21.11 Consummation of the Plan.....[7071](#)

21.12 Severability .....[7071](#)

21.13 Headings .....[7172](#)

21.14 Exemption from Transfer Taxes .....[7172](#)

21.15 Waivers .....[7172](#)

21.16 Setoffs, Recoupments, and Defenses .....[7172](#)

21.17 Withdrawal or Revocation of the Plan.....[7172](#)

21.18 Default.....[7172](#)

21.19 Governing Law .....[7172](#)

21.20 Reservation of Rights.....[7273](#)

21.21 Successors and Assigns.....[7273](#)

21.22 Direction to a Party .....[7273](#)

21.23 Certain Actions .....[7273](#)

21.24 Rounding of Fractional Numbers.....[7273](#)

21.25 Saturday, Sunday, or Legal Holiday .....[7273](#)

21.26 Exhibits .....[7273](#)

ARTICLE XXII. CONFIRMATION REQUEST.....[7374](#)

22.1 Request for Confirmation .....[7374](#)

USA Gymnastics (“USAG” or the “Debtor”) and the Additional Tort Claimants Committee Of Sexual Abuse Survivors (the “Survivors’ Committee” and together with the Debtor, the “Plan Proponents”) propose the following Plan pursuant to the provisions of chapter 11 of title 11 of the United States Code. The Debtor and the Survivors’ Committee will separately file the *Disclosure Statement for the ~~First~~ Second Amended Joint Chapter 11 Plan of Reorganization by USA Gymnastics and the Additional Tort Claimants Committee Of Sexual Abuse Survivors* (the “Disclosure Statement”).

Subject to the provisions of Section 1127 of the Bankruptcy Code, the Plan Proponents reserve the right to amend, alter, or modify the Plan one or more times before confirmation and/or substantial consummation.

## ARTICLE I. DEFINITIONS

For the purposes of the Plan, all capitalized terms not otherwise defined in the Plan shall have the meanings ascribed to them below or in the Bankruptcy Code or Bankruptcy Rules, as applicable:

### 1.1 General Definitions.

**1.1.1. “105 Order”** means the *Agreed Stipulation And Order Pursuant To 11 U.S.C. § 105 Enjoining The Continued Prosecution Of Certain Pre-Petition Lawsuits* [Dkt. 426], entered by the Bankruptcy Court on April 22, 2019.

**1.1.2. “Abuse Claimant”** means a Holder of an Abuse Claim filed on or before the Bar Date or otherwise deemed timely pursuant to an order of the Bankruptcy Court.

**1.1.3. “Abuse Claims”** means Sexual Abuse Claims and General Unsecured Claim No. 312 alleging emotional abuse.

**1.1.4. “Abuse Claims Settlement Fund”** means the Net Settlement Payment less the Future Claimant Reserve and the Trust Reserve.

**1.1.5. “Accepting Parties”** means, collectively, those (a) CGL Insurers that have entered into the Plan Support Agreement, (b) any other Person that enters into the Plan Support Agreement with the consent of the Debtor and the Survivors’ Committee, and/or (c) any CGL Insurer that accepts its Agreed CGL Insurer Settlement Offer by the date set for approval of the Disclosure Statement or on such later date as agreed to by the Survivors’ Committee and the Debtor.

**1.1.6. “Administrative Claim”** means a Claim for costs and expenses of administration that is allowable and entitled to priority under Sections 503, 507(a)(2), or 507(b) of the Bankruptcy Code, including any post-petition tax Claims, any actual and necessary expenses of preserving the Estate, any actual and necessary expenses of operating the business of the Debtor, all Professional Claims, and any fees or charges assessed against the Estate under 28 U.S.C. § 1930.

**1.1.7. “Administrative Claimant”** means the Holder of an Administrative Claim.

**1.1.95. “Outstanding Amount”** shall have the meaning given to it in Section 3.9.

**1.1.96. “Partial Settlement Option”** shall have the meaning given to it in Section 3.5.

**1.1.97. “Partial Settlement Option Accepted Party”** means (a) the Settling Insurers; and (b) Participating Parties, but only with respect to the Abuse Claims falling under the Settling Insurance Policies; and (c) a Non-Debtor CGL Settling Insurer Covered Person, but only with respect to Abuse Claims falling under the Settling Insurance Policies.

**1.1.98. “Partial Settlement Option Provisions”** means the provisions in Article X implementing the Partial Settlement Option.

**1.1.99. “Participating Party”** means the USOPC, the Karolyis, Twistars, and any Person that becomes a Participating Party pursuant to the terms set forth in Section 11.6, and for each includes their respective employees, officers, agents, attorneys, and directors, but only to the extent acting in their capacities as such, all of which are providing or will provide consideration or a portion of the funding for the Plan in exchange for: (a) the release of any indemnification or contribution Claim by the Debtor against such Participating Party; (b) the benefit of the Channeling Injunction; and/or (c) any other benefits in favor of Participating Parties under the Plan. A Settling Insurer is not a Participating Party. A Participating Party shall release all of its Claims against the Debtor, the Estate, and the Reorganized Debtor, and each of their respective Related Persons. The list of current Participating Parties is attached hereto as Exhibit C.

**1.1.100. “Participating Party Claim”** means any Claims asserted by a Participating Party against the Debtor, including Class 9 Indemnification Claims and the USOPC Claim if the party asserting the Class 9 Indemnification Claim or the USOPC are a Participating Party.

**1.1.101. “Person”** means any individual or entity, including any corporation, limited liability company, partnership, general partnership, limited partnership, limited liability partnership, limited liability limited partnership, proprietorship, association, joint stock company, joint venture, estate, trust, trustee, personal executor or personal representative, unincorporated association, or other entity, including any federal, international, foreign, state, or local governmental or quasi-governmental entity, body, or political subdivision or any agency or instrumentality thereof and any other individual or entity within the definition of (a) “person” in section 101(41) of the Bankruptcy Code; or (b) “entity” in section 101(15) of the Bankruptcy Code.

**1.1.102. “Personal Injury Claim”** means Claim No. 251 on the public claims docket maintained by the Claims Agent.

**1.1.103. “Personal Injury Claimant”** means the Holder of the Personal Injury Claim.

**1.1.104. “Personal Injury Coverage”** means any insurance that is available under the Personal Injury Insurance Policy solely for the Personal Injury Claim.



**1.1.118. “Professional Claim”** means a Claim for compensation for services and/or reimbursement of expenses pursuant to Sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code in connection with an application made to the Bankruptcy Court in the Chapter 11 case.

**1.1.119. “Professional Claims Bar Date”** means (a) forty-five (45) days after a notice of the Effective Date is filed with the Bankruptcy Court and served on such Professional or other Persons; or (b) such later date as the Bankruptcy Court shall order upon application made prior to the end of such 45-day period.

**1.1.120. “Professional Fee Hold-Back”** means, if the Total Settlement Demand Amount is fully funded on the Effective Date, the amount retained by the Debtor or the Reorganized Debtor from the Total Settlement Demand Amount to pay Professional Claims through the Effective Date, and if Debtor and the Survivors’ Committee elect to proceed with the Partial Settlement Option, the amount retained by the Debtor or the Reorganized Debtor from all payments made by Partial Settlement Option Accepted Parties to pay Professional Claims through the Effective Date. ~~Under the Litigation Only Alternative, Professional Claims shall be paid from the Trust after the Trust Reserve is funded in an amount of \$5 million.~~

**1.1.121. “Pro Rata”** means, with respect to any Distribution on account of any Allowed Claim in any Class, the ratio of (a) the amount of such Allowed Claim to (b) the sum of (i) all Allowed Claims in such Class and (ii) the aggregate maximum of all Allowed Claims in such Class.

**1.1.122. “Protected Parties” or “Protected Party”** means the Debtor, the Estate, the Reorganized Debtor, any Participating Party, any Settling Insurer, any Non-Debtor CGL Settling Insurer Covered Person, and their respective Related Persons. For the avoidance of doubt and notwithstanding anything to the contrary herein, no Excluded Party may be a Protected Party.

**1.1.123. “PSA Termination Date”** shall have the meaning given to it in Section 3.4.

**1.1.124. “Related Person”** means, with respect to any Person, such Person’s predecessors, successors, assigns, and present and former shareholders, affiliates, parents, subsidiaries, employees, agents, brokers, adjusters, managing agents, claims agents, underwriting agents, administrators, officers, directors, trustees, partners, attorneys, financial advisors, accountants, and consultants, each in their capacities solely as such; *provided, however*, that no Person shall be a Related Person if such Person is an Excluded Party.

**1.1.125. “Released Parties”** means (a) a Participating Party; (b) the Participating Party’s Related Persons; (c) a Settling Insurer, but only to the extent that such Settling Insurer’s liability arises out of, or relates to, the Settling Insurance Policies; (d) a Settling Insurer’s Related Persons, but only to the extent such Person’s liability arises out of, or relates to, the Settling Insurance Policies; and (e) the Non-Debtor CGL Settling Insurer Covered Persons; *provided, however*, that the scope of any release for a Non-Debtor CGL Settling Insurer Covered Person under this Plan shall apply only to the extent of the liability for such Person that is covered by

Insurance Policies issued by the Settling Insurer or that is covered by a Claim of indemnity against the Debtor. The term “Released Parties” does not include any Excluded Party.

**1.1.126. “Reorganized Debtor”** means USA Gymnastics, on and after the Effective Date.

**1.1.127. “Revested Assets”** means all assets and property, real or personal, owned by the Debtor that shall be revested in the Reorganized Debtor, pursuant to Sections 1141(b) and 1123(a)(5) of the Bankruptcy Code, on the Effective Date.

**1.1.128. “RRE” or Responsible Reporting Entity”** means an entity with responsibility to ensure fulfillment of the reporting and reimbursement requirements, if any under the MSP and the MMSEA.

**1.1.129. “Schedules”** means the *Schedules of Assets and Liabilities* and *Statement of Financial Affairs* of the Debtor, as amended, filed pursuant to Section 521 of the Bankruptcy Code, the Official Bankruptcy Forms, and the Bankruptcy Rules, including any supplements or amendments thereto through the Confirmation Date [Dkts. 205, 206, 218, 219, 220, 242, 337, 474].

**1.1.130. “Settlement Trustee”** means the trustee of the Trust, who initially will be William L. Bettinelli, or such other Person the Survivors’ Committee selects and any successor trustee appointed pursuant to the terms of this Plan and the Trust Documents.

**1.1.131. “Settling Insurance Policies”** means the CGL Insurance Policies listed on Exhibit A hereto issued by any insurer that is a Settling Insurer.

**1.1.132. “Settling Insurer”** means (a) if the Total Settlement Demand Amount is funded, any CGL Insurer that accepted its CGL Insurer Settlement Offer or (b) if the Partial Settlement Option is elected by the Debtor and the Survivors’ Committee, any CGL Insurer that is a Partial Settlement Option Accepted Party. A Settling Insurer’s predecessors, successors, and assigns shall receive the benefits and protections afforded to a Settling Insurer under the Plan, but only to the extent that: (i) such predecessor’s liability was assumed by the Settling Insurer, and not independent of the liability of such Settling Insurer; and (ii) such successor’s or assign’s liability is derivative of the liability of the Settling Insurer and not independent of the liability of the Settling Insurer. Pursuant and subject to the terms of this Plan, a CGL Insurer may become a Settling Insurer after the Effective Date of the Plan with the consent of the Settlement Trustee and upon approval of the Bankruptcy Court; *provided, however*, if any outstanding defense costs are owed by such CGL Insurer, the consent of the applicable owner of the CGL Insurance Policy must also be obtained unless such rights were transferred or assigned to the Trust; and (c) under the Full or Partial Settlement Alternative, the Twistars Settling Insurers.

**1.1.133. “Settling Insurer Injunction”** means the injunctions provided in Section 12.5.

**1.1.134. “Sexual Abuse”** means any and all acts or omissions that the Debtor or a Protected Party may be or is alleged to be legally responsible for that arise out of, are based upon, or involve sexual conduct or misconduct, sexual abuse or molestation, sexual exploitation,

Each Protected Party will receive the benefit of injunctions and releases provided under this Plan, including under Article XII of the Plan. Nothing in this Plan is intended to replace and does not affect, diminish or impair the liabilities of any Non-Settling Insurer or any Person that is not a Protected Party under applicable non-bankruptcy law, including the law governing joint and several liabilities.

**3.1.2. Litigation Only Alternative:** If the CGL Insurers do not commit to fund the Total Settlement Demand Amount or the Debtor and the Survivors' Committee do not agree to proceed with the Partial Settlement Option, the Plan does not provide for the creation of a Trust or for a Future Claims Reserve. Instead, as set forth in Article XIII, the Plan permits all Holders of Abuse Claims filed or deemed to be filed by the Bar Date to prosecute their Claims against the Reorganized Debtor in name only in the courts where such Claims were pending before the Petition Date or the courts in which such Claims could have been brought, but for the automatic stay imposed by Section 362 of the Bankruptcy Code. Holders of Abuse Claims may recover any judgments or awards against the Debtor only from the proceeds of the CGL Insurance Policies issued by the Debtor's CGL Insurers. The 105 Order will be vacated. The Plan will include no injunctions and releases for the benefit of Settling Insurers or Protected Parties. The Debtor will not enter into Buy-Back Agreements with any of the Debtor's CGL Insurers and all of the Debtor's Insurance Policies shall remain in full force and effect. The Debtor will receive a discharge.

### **3.2 Survivors' Committee's Offer To Resolve Abuse Claims.**

**3.2.1. Survivors' Committee's Offer To The CGL Insurance Carriers.** Through the Plan, the Survivors' Committee offers to fully and finally resolve all Abuse Claims and the FCR Claim against the Debtor and its Related Persons, the USOPC and its Related Persons, the Karolyis and their Related Persons, the Settling Insurers, and the Non-Debtor CGL Settling Insurer Covered Persons. This is a compromise resolution of the contested Abuse Claims based upon a reasonable assessment of the risks and potential costs of continued litigation.

**3.2.2. The CGL Insurer Settlement Offer.** The CGL Insurer Settlement Offer made to each CGL Insurer set forth below is an independent offer to compromise with that CGL Insurer for Claims potentially triggering such CGL Insurer's applicable CGL Insurance ~~Policy~~ Policies and is contingent only upon: (i) the Holders of Class 6 Claims voting to accept the Plan; (ii) the acceptance of all CGL Insurer Settlement Offers by each and every CGL Insurer (for the avoidance of doubt, acceptance of the CGL Insurer Settlement Offers means, with respect to a CGL Insurer that also issued policies to the USOPC and/or the Karolyis, the acceptance of the total CGL Insurer Settlement Offer for each of those policies, as set forth below); and (iii) certain judicial determinations described below.

<b>CGL Insurers</b>	<b>CGL Insurer Settlement Offer</b>
<b>Virginia Surety Company f/k/a/ Combined Specialty Insurance Company</b> Debtor <del>Policies</del> <u>policies</u> USOPC <del>Policies</del> <u>policies</u>	\$XXXX \$XXXX  <b>Total: \$XXXX<sup>2</sup></b>
<b>National Casualty Company</b> Debtor policies USOPC policies	\$XXXX \$XXXX  <b>Total: \$XXXX</b>
<b>TIG Insurance Company</b> Debtor policies USOPC policies	\$67,157,545 \$39,044,273  <b>Total: \$106,201,818</b>
<b>CIGNA Insurance Company (n/k/a ACE American Insurance Company)</b> (Debtor <del>Policies</del> <u>policies</u> Only)	<b>Total: \$XXXX</b>
<b>National Union Fire Insurance Company of Pittsburgh, P.A. (n/k/a AIG)</b> (Debtor <del>Policies</del> <u>policies</u> Only)	<b>Total: \$XXXX</b>
<b>Gemini Insurance Company</b> (USOPC <del>Policies</del> <u>policies</u> Only)	<b>Total: \$XXXX</b>
<b>Great American Assurance Company</b> Debtor/ <del>Karolyi Policies</del> <u>policies</u> USOPC <del>Policies</del> <u>policies</u> <u>American Empire Surplus Lines Insurance Company</u> <u>Karolyi policies</u>	\$28,121,305 \$13,166,680  <u>\$XXXXXX</u> <u>\$XXXXXX</u>  <u>\$XXXXXX</u>  <b>Total: \$41,287,985 — <u>XXX</u></b>
<b>Philadelphia Indemnity Insurance Company</b> (USOPC <del>Policies</del> <u>policies</u> Only)	<b>Total: \$XXXX</b>
<b>Total:</b>	<b>Total: \$425,000,000.00</b>

<sup>2</sup> CGL Insurers who have reached agreement on a number with the Debtor, USOPC and the Survivors' Committee are shown as XXXX.

the Partial Settlement Option, a transfer of the Insurance Claims against the Non-Settling Insurers, as set forth in Section 10.5.

**3.7 Other Trust Funding.** If the Total Settlement Demand Amount is fully funded or if the Debtor and the Survivors' Committee jointly elect to proceed with the Partial Settlement Option, the Plan also provides for the implementation of the Twistars Settlement and the contribution of the Twistars Payment to the Trust. Twistars, the Twistars Settling Insurers, and certain holders of Class 6 Claims agreed to the Twistars Settlement conditioned upon the Twistars Settlement being implemented through a plan of reorganization for the Debtor that provided for a channeling injunction that protected Twistars and the Twistars Settling Insurers. The Debtor was not a party to the Twistars Settlement, however, the Debtor has agreed to implement the Twistars Settlement through the Plan. On the Effective Date, the Twistars Settling Insurers shall make the Twistars Payment to the Trust by wire transfer.

**3.8 Resolution of the Insurance Coverage Adversary Proceeding as to the Settling Insurers under the Full or Partial Settlement Alternative.** Under the Full or Partial Settlement Alternative, the Confirmation Order shall provide that, subject to the occurrence of the Effective Date, the Debtor and any other plaintiffs shall dismiss with prejudice any and all Claims against the Settling Insurers in the Insurance Coverage Adversary Proceeding, with each party to bear its own costs, *provided, however*, that such dismissal shall not affect the Claims of the Debtor and any other plaintiffs against any Non-Settling Insurers, nor shall such dismissal affect the Personal Injury Insurance Coverage, solely as to the Personal Injury Claim. The Reorganized Debtor shall continue to prosecute its Costs Motion and the recovery of Insurance Reimbursement Claims against any Non-Settling Insurers. Any recovery on account of the Costs Motion or any Insurance Reimbursement Claim shall be used first to repay the Trust its Professional Fee Hold-Back less the costs of such litigation incurred after the Effective Date with the balance of any recovery retained by the Reorganized Debtor. From and after the Effective Date, except with respect to any Settling Insurer, the Trust may pursue all other Insurance Claims through the Insurance Coverage Adversary Proceeding or such other action as the Trust determines to file.

**3.9 Debtor CGL Settling Insurers' Obligation To Reimburse The Debtor For Insurance Reimbursement Claims.** The Debtor CGL Settling Insurers will continue pay any reasonable and necessary attorneys' fees, costs, and/or expenses incurred by the Debtor of the same nature and type that such Settling Insurer has historically been paying on behalf of the Debtor, in the ordinary course of business since the Petition Date and prior to the Effective Date, pursuant to the Debtor CGL Settling Insurance Policies, including but not limited to the policies listed on Exhibit A, but such obligation shall not include any fees or costs of the nature and/or type sought in the Costs Motion, and/or any fees or costs for a claim for which that Settling Insurer previously denied coverage. To the extent any such amounts are outstanding on the Effective Date (the "**Outstanding Amount**"), the Debtor CGL Settling Insurer which owes such Outstanding Amount shall pay such Outstanding Amount to the Debtor or its applicable vendor on the Effective Date and the Debtor shall retain such Outstanding Amount (if applicable) and shall not be obligated to transfer such Outstanding Amount to the Trust. The payment of an Outstanding Amount shall be in addition to the payment of the Debtor CGL Settling Insurers' Agreed CGL Insurer Payment. All invoices for Outstanding Amounts must be submitted to the Debtor CGL Settling Insurers ten days before the Confirmation Hearing. If a Debtor CGL Settling Insurer disputes the Outstanding Amount, it shall notify the Debtor of such dispute within five days of the Confirmation Hearing

and the Bankruptcy Court will resolve any such dispute as part of approving the buyback of the Debtor CGL Settling Insurer's Policies. The Debtor retains the right to continue to pursue collection of the Outstanding Amounts and any additional amounts that may come due after the Effective Date from any of the Debtor's CGL Insurers that are not a Settling Insurer and from the Debtor's Other Insurers. Consistent with the foregoing, the Outstanding Amount owed by a Debtor CGL Settling Insurer on the Effective Date shall not include any attorneys' fees, costs or expenses for which the Debtor is seeking reimbursement in the Costs Motion. If the Outstanding Amounts owed to EPIQ are still the subject of an on-going arbitration or otherwise in dispute as of the Effective Date, the existence of any Outstanding Amounts owed by any Debtor CGL Settling Insurer to EPIQ shall in no way prevent any Debtor CGL Settling Insurer from having all of the protections afforded a Debtor CGL Settling Insurer under this Plan. If such arbitration or other dispute is resolved against a Debtor CGL Settling Insurer after the Effective Date, the Debtor CGL Settling Insurer shall pay or otherwise settle the amounts determined to be due to EPIQ by such Debtor CGL Settling Insurer notwithstanding the Buy-Back Agreement with such Debtor CGL Settling Insurer.

**3.10 Class 9 Indemnification Claims and USOPC Claim.** Under the Full or Partial Settlement Alternative, the Holders of the Class 9 Indemnification Claims and the USOPC Claim and their related Released Parties will receive the benefits of the Channeling Injunction and the other releases, covenants not to execute, injunctions and related provisions under this Plan, including the Trust's obligation to indemnify and defend a Protected Party with respect to Channeled Claims (as set forth in Section 9.11), in full and complete satisfaction of such Claims and will not receive any payment from the Trust (other than any payment required under Section 9.11), or the Debtor, or the Estate; *provided, however*, that under the Partial Settlement Alternative, the Holders of Class 9 Indemnification Claims and the USOPC Claim will retain any rights that such Holder has to receive indemnification or reimbursement from the Debtor, including all of its rights (if any) to reimbursement, indemnification, or a defense under any of the Debtor's Non-Settling Insurer insurance policies, but only for Abuse Claims falling under the Debtor's Non-Settling Insurer insurance policies and only to the extent that there is coverage under the Debtor's Non-Settling Insurer insurance policies for such Indemnification Claim or the USOPC Claim and then only to the extent of any payment made by such Debtor Non-Settling Insurer, which shall be the sole source of recovery on account of any Class 9 Claim or the USOPC Claim under the Partial Settlement Option. Under the Litigation Only Alternative, there will be no Distribution to the Holders of the Class 9 Indemnification Claims; *provided, however*, that all rights that the Holders of Class 9 Indemnification Claims have to reimbursement or indemnification from the Debtor are preserved but the sole source of recovery for such Claims shall be from the Debtor's CGL Insurance Policies. Under the Litigation Only Alternative, the USOPC Claim will be treated as a Class 5 General Unsecured Claim in the maximum amount of \$88,983.34; *provided, however*, (a) that nothing herein shall be deemed to be a determination that the USOPC Claim is Allowed in the amount of \$88,983.34, and the Debtor shall retain the right to object to the USOPC Claim as a Class 5 General Unsecured Claim; and (b) that all rights that the Holder of the USOPC Claim has to reimbursement or indemnification from the Debtor are preserved, but the sole source of recovery for any such reimbursement or indemnification Claim shall be from the Debtor's CGL Insurance Policies. Under the Full or Partial Settlement Alternative or the Litigation Only Alternative, the Holders of Class 9 Indemnification Claims and the USOPC Claim shall not be entitled to recover on account of their Class 9 Indemnification Claims and the USOPC Claim from the Reorganized Debtor's Revested Assets or property acquired by the Reorganized Debtor after the Effective Date

(except, and only under the Litigation Only Alternative, to the extent some or all of the \$88,983.34 portion of the USOPC Claim is Allowed as a Class 5 General Unsecured Claim, such portion shall be paid in accordance with this Plan). For the avoidance of doubt, to the extent of any conflict between the terms of this Plan, on the one hand, and the Debtor's bylaws or any agreement between the Debtor and the Holders of the USOPC Claim or a Class 9 Indemnification Claim, on the other, this Plan controls.

**3.11 Sexual Abuse Claims Filed After The Bar Date Or Not Deemed To Be Timely Filed.** Under both the Full or Partial Settlement Alternative and the Litigation Only Alternative, Sexual Abuse Claims filed after the Bar Date that are not deemed by the Bankruptcy Court to be timely filed shall receive nothing under the Plan, but shall be subject in all respects to the Channeling Injunction and other injunctions and releases in this Plan.

**3.12 Claims Other Than Abuse Claims, Class 9 Indemnification Claims, and the USOPC Claim.** General Unsecured Claims will be paid from existing and future revenues of the Reorganized Debtor over time in accordance with the Plan. The Plan permits the Personal Injury Claimant to settle her Claim with the Personal Injury Insurer or prosecute a lawsuit against the Reorganized Debtor in name only in the court in which the Personal Injury Claim could have been brought, but for the automatic stay, and to recover any judgments or settlement awards exclusively from the Personal Injury Insurance Policy. For the avoidance of doubt, only the proceeds of the Personal Injury Insurance Policy are available to satisfy the Personal Injury Claim. The Debtor is not admitting liability for the Personal Injury Claim. The Allowed Other Priority Claims, the PNC Bank Claim, the Sharp Claim, the PPP Loan Claim, and General Unsecured Convenience Claims are unimpaired under the Plan.

**3.13 Discharge.** The Debtor will receive the benefit of a Section 1141(d) discharge under both the Full or Partial Settlement Alternative and the Litigation Only Alternative.

#### **ARTICLE IV. TREATMENT OF UNCLASSIFIED CLAIMS**

**4.1 Administrative Claims.** Requests for allowance and payment of Administrative Claims must be filed and served no later than thirty (30) days after a notice of the Effective Date is filed with the Bankruptcy Court. Each Holder of an Allowed Administrative Claim against the Debtor shall receive, in full satisfaction, settlement, release, and extinguishment of such Claim, Cash equal to the Allowed amount of such Allowed Administrative Claim, either (a) on or as soon as practicable following the Effective Date, or, if later, the Allowance Date; or (b) upon such terms as may be agreed to in writing by the Administrative Claimant. *Provided, however,* that any Administrative Claim incurred post-petition by the Debtor in the ordinary course of its operations or arising pursuant to one or more post-petition agreements or transactions entered into by the Debtor with Bankruptcy Court approval, including the PPP Loan Claim, shall be paid or performed in accordance with the terms and conditions of the particular transaction(s) and any agreement(s) relating thereto by the Debtor before the Effective Date or by the Reorganized Debtor after the Effective Date, or as otherwise agreed by the Debtor and the Estate (if before the Effective Date)

**7.6.3. Treatment of Class 10 under the Litigation Only Alternative.** The FCR Claim will not receive a Distribution; *provided, however*, that to the extent that the Holder of an FCR Claim has a right to recovery under any of the Debtor's CGL Insurance Policies, such rights are preserved and will not be impaired under the Plan.

**7.7 Class 11: Sexual Abuse Claims Filed After The Bar Date.**

**7.7.1. Impaired and Voting.** The Holders of Class 11 Claims are deemed to have voted no on the Plan.

**7.7.2. Treatment.** The Class 11 Claims will receive no Distributions under the Plan. No Holder of a Class 11 Claim shall be entitled to recover from the Reorganized Debtor's Revested Assets or property acquired by the Reorganized Debtor after the Effective Date or from the Debtor's Insurance Policies. Except as otherwise provided in the Plan (including the Settling Insurer Injunction, the Channeling Injunction, the Partial Settlement Option Election, and the exculpations and releases in this Plan), the Plan shall not affect the liability of any other Person on, or the property of any other Person for, the Class 11 Claims, which liability shall continue unaffected by the terms of this Plan or the discharge granted to the Debtor, the Estate, or the Reorganized Debtor under this Plan and Section 1141(d) of the Bankruptcy Code. Pursuant to Section 11.8 of the Plan, Holders of Class 11 Claims may file a Claim with the Settlement Trustee to be deemed a Future Claimant and may recover from the Future Claimant Reserve, provided funds remain in such Future Claimant Reserve, only if the Settlement Trustee, in consultation with the FCR, determines that the Holder of such Claim has proven by a preponderance of the evidence that such Holder meets the definition of a Future Claimant and such Holder's Claim meets the definition of a Sexual Abuse Claim.

**7.7.3. Treatment of Class 11 under the Litigation Only Alternative.** Class 11 Claims will not receive a Distribution; *provided, however*, that to the extent that the Holder of a Class 11 Claim has a right to recovery under any of the Debtor's CGL Insurance Policies, such rights are preserved and will not be impaired under the Plan.

**ARTICLE VIII. ACCEPTANCE OR REJECTION OF PLAN**

**8.1 Impaired Classes to Vote.** Each Holder of a Claim in an impaired Class shall be entitled to vote separately to accept or reject the Plan unless such Holder is deemed to accept or reject the Plan.

**8.2 Acceptance by Class of Creditors.** An impaired Class of Holders of Claims shall have accepted the Plan if the Plan is accepted by at least two-thirds (2/3) in dollar amount and



more than one-half (1/2) in number of the Allowed Claims of such Class that have voted to accept or reject the Plan.

## ARTICLE IX. TRUST FUNDING AND FORMATION

**9.1 Applicability.** This Article IX is only applicable under the Full or Partial Settlement Alternative.

**9.2 Establishment of Trust.** On the Effective Date, the Trust shall be established in accordance with the Trust Documents. The Trust is intended to qualify as a “Designated” or “Qualified Settlement Fund” pursuant to Section 468B of the Internal Revenue Code of 1986, 26 U.S.C. §§ 1 *et seq.*, as may be amended, and the regulations promulgated thereunder, 31 C.F.R. §§ 900 *et seq.* The Debtor is the “transferor” within the meaning of Treasury Regulation Section 1.468B-1(d)(1). The Settlement Trustee shall be classified as the “administrator” within the meaning of Treasury Regulation Section 1.468B-2(k)(3). The Trust Documents, including the Trust Agreement, are incorporated herein by reference. On the Effective Date, the Trust will assume liability for all Channeled Claims, which shall include Abuse Claims, the USOPC Claim to the extent that the USOPC is a Participating Party or a Partial Settlement Option Accepted Party, Indemnification Claims, the FCR Claim, and any Claim against a Protected Party arising from, in connection with, or related in any way to a Channeled Claim. The Trust will control the allocation of Trust Assets to Abuse Claimants and Future Claimants pursuant to the terms of the Allocation Protocol, the Future Claims Allocation Protocol, the Trust Agreement, the Plan, the Plan Documents and the Confirmation Order. The Settlement Trustee shall establish and maintain a reserve for Trust Expenses, which shall be paid pursuant to the terms of the Trust Agreement. The Trust shall be the applicable plan from which any Abuse Claimant and Future Claimant who might also be a Medicare Beneficiary receives payment on account of a Tort Claim.

### 9.3 Trust Formation and Funding.

**9.3.1. Trust Purpose.** The Trust shall be established for the benefit of the Abuse Claimants and Future Claimants and will assume all liability for the Channeled Claims. The Trust will receive, liquidate, and distribute Trust Assets in accordance with this Plan and the Trust Documents. The proposed Trust Agreement is attached hereto as Exhibit F.

**9.3.2. Funding of Trust.** The Trust shall be funded, on or before the Effective Date, by: (a) the Net Settlement Payment; (b) the Twistars Payment; and/or (c) the assignment of any Insurance Claims. Upon the funding of the Trust [according to the respective amounts specified in Section 3.2.2 of the Plan](#), each Buy-Back Agreement shall be binding on the Trust and the Settlement Trustee and FCR.

**9.4 Approval of Settlement And Buy-Back Agreements.** The entry of the Confirmation Order will constitute the order approving the compromises and settlements required under this Plan and approving the sales contemplated by the Buy-Back Agreements pursuant to 11 U.S.C. §363. The Bankruptcy Court’s findings of fact in the Confirmation Order shall constitute its determination that such compromises and settlements and sales are in the best interests of the Debtor, the Claimants holding Abuse Claims, the Holders of other Claims, the Protected Parties and all other parties in interest, and are fair, equitable, and within the range of reasonableness, and

an appropriate exercise of each such Person's business judgment under the applicable laws of corporate governance and that the Debtor CGL Settling Insurers are good faith purchasers within the meaning of Section 363(m) of the Bankruptcy Code.

**9.5 Future Claimant Reserve.** The Trust shall establish a Future Claimant Reserve which shall be funded with one (1%) percent of the Net Settlement Payment. Notwithstanding the entry of the Confirmation Order or the occurrence of the Effective Date, the FCR shall continue until he or his successor resigns or the funds in the Future Claimant Reserve are completely distributed as provided in Section 11.8 of the Plan.

**9.6 Closing.** Closing under this Plan will be conducted in the offices of Jenner & Block, 353 North Clark Street, Chicago, Illinois, 60654, or at such other location designated by the Reorganized Debtor, as soon as reasonably practicable following the Confirmation Date for the purpose of the Reorganized Debtor, and the Participating Parties executing and delivering the Plan Documents and completing those actions necessary for the Reorganized Debtor and the Participating Parties to establish and fund the Trust and make other Distributions required to be made upon, or promptly following, the Effective Date. As soon as practicable after the conditions set forth in Section 17.1 have been satisfied or waived in accordance with Section 17.2, the Reorganized Debtor shall file a notice of the Closing and the occurrence of the Effective Date.

**9.7 Appointment of the Settlement Trustee.** The initial Trustee shall be William L. Bettinelli. In the event Mr. Bettinelli elects not to serve, the Survivors' Committee shall identify the Settlement Trustee in a supplement to be filed within fourteen (14) days prior to the Confirmation Hearing. The Settlement Trustee shall commence serving as the Settlement Trustee on the Effective Date; *provided, however*, that the Settlement Trustee shall be permitted to act in accordance with the terms of the Trust Agreement from such earlier date, as authorized by the Debtor. The Settlement Trustee shall be entitled to seek compensation in accordance with the terms of the Trust Agreement and the Plan.

**9.8 Tax Matters.** The Trust shall not be deemed to be the same legal entity as the Debtor, but only the assignee of certain Assets of the Debtor and a representative of the Estate for delineated purposes within the meaning of Section 1123(b)(3) of the Bankruptcy Code. The Trust is expected to be tax exempt. The Settlement Trustee shall file such income tax and other returns and documents as are required to comply with the applicable provisions of the Internal Revenue Code, the regulations promulgated thereunder, and applicable state law, and shall pay from the Trust all taxes, assessments, and levies upon the Trust, if any.

**9.9 Cooperation by the Debtor and Reorganized Debtor.** The Debtor, the Estate, the Reorganized Debtor, and their counsel shall reasonably cooperate with the Settlement Trustee as requested in connection with the Settlement Trustee's administration of the Trust.

**9.10 Objections to Channeled Claims.** No Person other than the Settlement Trustee has the right to object to the Channeled Claims, and any such objection will be prosecuted and resolved in accordance with the terms of the Trust Documents.

**9.11 Trust Indemnification Obligations.** From and after the Effective Date, the Trust shall be bound by the terms of the Plan and shall defend, indemnify, and hold harmless the

the Partial Settlement Option is jointly accepted by the Survivors' Committee and the Debtor, each in their sole discretion.

**10.4 Treatment Under Partial Settlement Option.** Under the Partial Settlement Option: (a) each Partial Settlement Option Accepted Party shall receive the benefit of the Plan's Channeling Injunction and releases and shall become a Participating Party or Settling Insurer, as the case may be; (b) the Debtor shall assign all Insurance Claims against a Non-Settling Insurer to the Trust, to the extent that such assignment may be effectuated without impairing the defense and indemnity obligations under the applicable Non-Settling Insurer insurance policies, as set forth herein; (c) each Participating Party and Settling Insurer shall assign all Insurance Claims against a Non-Settling Insurer to the Trust that may be asserted against such Non-Settling Insurer with respect to Abuse Claims, to the extent such assignment may be effectuated without impairing the defense and indemnity obligations under the applicable Non-Settling Insurer insurance policies, as set forth herein; (d) any Abuse Claimant holding an Abuse Claim insured ~~solely~~ by one or more Non-Settling Insurers that provided insurance coverage to the Debtor and/or any other Participating Party and that is listed on Exhibit E hereto shall be authorized to pursue his or her Abuse Claim against the Debtor and any Participating Party to the extent authorized herein; *provided, however*, that such Abuse Claimant shall be authorized to seek payment solely from any Non-Settling Insurer on account of Claims against the Debtor and any Participating Party; and (e) the Trust shall have sole and exclusive authority to settle Insurance Claims and Abuse Claims with such Non-Settling Insurer or other party after the Effective Date of the Plan; *provided, further, however*, that with respect to Insurance Claims assigned by a Participating Party, the Trust shall only be authorized to settle such Insurance Claims with respect to Abuse Claims and Future Claims.

**10.5 Transfer of Insurance Claims Upon Failure of CGL Insurer to Accept Its CGL Insurer Settlement Offer.** If the Debtor and the Survivors' Committee, each in their sole discretion, jointly agree to the Partial Settlement Option, Insurance Claims against any Non-Settling CGL Insurer shall be transferred to the Trust as follows:

- (a) On the Effective Date, and without further action by any party, the Debtor, the Reorganized Debtor, and each of the Participating Parties will be deemed to have assigned to the Trust, the Reorganized Debtor's and the Participating Parties' rights, if any, to all Insurance Claims and recoveries on account of such Insurance Claims against the Non-Settling Insurers, exclusive of Claims for recoveries, if any, of past or future defense costs including those defense costs sought in by various motions filed in the Insurance Coverage Adversary Proceeding. The foregoing transfer shall be effective to the maximum extent permissible under applicable law and shall not be construed: (i) as an assignment of the Insurance Policies; or (ii) to entitle any Person to Insurance Coverage other than those Persons or entities entitled to coverage under the terms of the Non-Settling Insurers' insurance policies. The determination of whether the assignment of Insurance Claims is valid and does not defeat or impair the Insurance Coverage shall be made by the Bankruptcy Court at the Confirmation Hearing. If a party in interest fails to timely file an objection to the proposed assignment by the deadline for filing objections to confirmation of this Plan, that party in interest shall be deemed to have irrevocably consented

Non-Debtor CGL Settling Insurer Covered Persons, and for each of the foregoing, their Related Persons, but solely acting in their capacity as such, in form and substance acceptable to the Debtor, the Estate, the Reorganized Debtor, the Participating Parties, and the Settling Insurers, of any and all Claims arising from or relating to USAG, Abuse Claims, Future Claims or Settling Insurance Policies. In addition, within ten (10) days after receiving any payment from the Trust, an Abuse Claimant or Future Claimant shall dismiss with prejudice any lawsuit that such Abuse Claimant or Future Claimant had brought against the Debtor, any Participating Party, any Settling Insurer and any Non-Debtor CGL Settling Insurer Covered Person, and shall promptly deliver evidence of such dismissal, with prejudice, to the Settlement Trustee. The Settlement Trustee shall provide copies of such general releases and dismissal orders to the Debtor or any Protected Party that requests a copy.

**11.2.2. Trust Documents May Not Modify The Plan.** Nothing in the Trust Documents shall (a) impose any costs, directly or indirectly, upon the Debtor, the Estate, the Reorganized Debtor, any Participating Party, or any Settling Insurer relating to the treatment of Channeled Claims, or (b) otherwise modify the rights or obligations of the Debtor, the Estate, the Reorganized Debtor, any Participating Party, or any Settling Insurer as otherwise set forth in the Plan.

**11.3 Effect of No Award on Channeled Claims.** If a Channeled Claim, including an Abuse Claim filed after the Bar Date, is denied payment from the Trust, the Holder of such Channeled Claim will have no further rights against any Protected Party, the Settlement Trustee and any of his Related Persons, the FCR and any of his Related Persons, and any of their respective assets or property, including any Revested Assets, relating to such Channeled Claim.

**11.4 Treatment of Attorneys' Fees and Costs of Channeled Claimants.** The fees and expenses of attorneys representing Channeled Claimants who receive payment from the Trust will be borne by such Channeled Claimants based on applicable state law and individual arrangements made between such Channeled Claimants and their respective attorneys. The Debtor, the Estate, the Reorganized Debtor, the Released Parties, the Trust, and the Settlement Trustee will not have any liability for any fees and expenses of attorneys representing any of the Channeled Claimants, and all Claims for such fees and expenses, if any, will be disallowed.

**11.5 Withdrawal of Channeled Claims.** A Channeled Claimant may withdraw a Channeled Claim at any time on written notice to the Settlement Trustee. If withdrawn, (a) the Channeled Claim will be withdrawn with prejudice and may not be reasserted, (b) as a condition to withdrawal of the Channeled Claim, any funds paid to the Channeled Claimant by the Trust shall be returned to the Trust, and (c) any releases granted by a Channeled Claimant pursuant to Section 11.2.1 of this Plan and the Channeling Injunction granted Protected Parties in Section 12.3 of this Plan shall remain valid and enforceable against any Channeled Claimant who withdraws a Channeled Claim.

**11.6 Supplementing Exhibit C to Add Participating Parties.**

**11.6.1. Participating Party Agreement.** After the Effective Date and notwithstanding any present exclusionary language contained in this Plan, upon the consent of the Settlement Trustee, any Person may become a Participating Party if the Bankruptcy Court, after

notice and hearing, approves an agreement between such Person and the Settlement Trustee (a “**Participating Party Agreement**”). After the Effective Date, the Settlement Trustee shall have the exclusive authority to seek approval of such a Participating Party Agreement. Upon the Bankruptcy Court’s entry of a Final Order approving such an agreement, Exhibit C will be amended by the Settlement Trustee to include such Person. ~~For the purposes of defining a Participating Party, the Persons listed on Exhibit C shall include their respective predecessors, successors, and assigns, or their respective employees, officers, agents, attorneys, and directors, except as provided in the agreement.~~

**11.6.2. Rights of Additional Participating Parties.** Any Person becoming a Participating Party shall have all of the rights, remedies, and obligations of a Participating Party notwithstanding that such Person originally may have been excluded as a Participating Party under any provision of the Plan, including, without limitation, the terms and conditions of the Channeling Injunction.

**11.6.3. Retention of Jurisdiction.** The Bankruptcy Court’s retained jurisdiction to approve a Participating Party Agreement under this Section shall include jurisdiction to determine the adequacy of the notice of a motion to approve such a Participating Party Agreement.

**11.7 Additional Settling Insurers.** After the Effective Date a Person may become a Settling Insurer with the consent of the Settlement Trustee and the Reorganized Debtor, and in the case of the USOPC Insurers with the consent of the USOPC, upon approval of the Bankruptcy Court (and upon payment of an amount that is acceptable to the Settlement Trustee and the Reorganized Debtor, which amount may or may not be the same as that Person’s CGL Insurer Settlement Offer). If the addition of such Person is approved pursuant to a Final Order, the defined term “Settling Insurer” will be deemed amended to include such Person.

**11.7.1. Rights of Additional Settling Insurers.** Any Person becoming a Settling Insurer shall have all of the rights, remedies, and duties of a Settling Insurer notwithstanding that such Person originally may have been excluded as a Settling Insurer under any provision of the Plan. Such rights, remedies, and duties shall include, without limitation, the terms and conditions of the Channeling Injunction.

**11.7.2. Retention of Jurisdiction.** The Bankruptcy Court’s retained jurisdiction to approve an agreement under this Section shall include jurisdiction to determine the adequacy of notice of a motion to approve such an agreement.

**11.8 Future Claimant Process.** A Future Claimant must file a Claim with the Settlement Trustee on or before the fifth (5th) anniversary of the Effective Date. The Claim will be entitled to a Distribution from the Future Claimant Reserve, provided funds remain in such Future Claimant Reserve, only if the Settlement Trustee, in consultation with the FCR, determines that the Holder of such Claim has proven by a preponderance of the evidence that such Holder meets the definition of a Future Claimant and such Holder’s Claim meets the definition of a Sexual Abuse Claim. Except as provided in the Plan, Future Claimants will have no right to payment or any other right under the Plan or against the Debtor, the Estate, or the Reorganized Debtor, or any of their respective property including any Revested Assets, or against the Settling Insurers, or the Participating Parties, or any Persons that are Related Persons to any of the foregoing Persons.

INSURER COVERED PERSON FOR CONTRIBUTION, INDEMNITY, DEFENSE, SUBROGATION, OR SIMILAR RELIEF THAT ARISES DIRECTLY OR INDIRECTLY FROM ANY CLAIM AGAINST THE DEBTOR OR ANY NON-DEBTOR CGL SETTLING INSURER COVERED PERSON, OR ANY SETTLING INSURER POLICY; *PROVIDED, HOWEVER*, THAT SUCH INJUNCTION SHALL NOT APPLY TO THE HOLDER OF THE PERSONAL INJURY CLAIM AND HER ABILITY TO PURSUE RECOVERY FROM THE PERSONAL INJURY INSURANCE POLICY. NOTWITHSTANDING THE FOREGOING, TO THE EXTENT THE SETTLING INSURERS ARE ALSO INSURERS TO THE DEBTOR OR TO ANY PARTICIPATING PARTY UNDER POLICIES NOT SPECIFICALLY IDENTIFIED IN EXHIBIT A, THE CHANNELING INJUNCTION SHALL NOT APPLY TO CLAIMS BY THE DEBTOR OR ANY PARTICIPATING PARTY AGAINST ANY SETTLING INSURERS IN THEIR CAPACITY AS AN INSURER TO SUCH PARTIES UNDER POLICIES NOT SPECIFICALLY IDENTIFIED IN EXHIBIT A; AND (D) ANY NON-SETTLING INSURER.

**12.6 CONTRIBUTION BAR AGAINST NON-SETTLING INSURERS.** IN CONSIDERATION OF THE CRITICAL UNDERTAKINGS AND SUBSTANTIAL CONTRIBUTIONS OF THE SETTLING INSURERS PURSUANT TO THE TERMS OF THIS PLAN, INCLUDING THE FUNDING OF THE TRUST, AND TO FURTHER PRESERVE AND PROMOTE THE SETTLEMENTS EMBEDDED IN THIS PLAN BETWEEN AND AMONG THE PARTICIPATING PARTIES, THE SETTLING INSURERS, HOLDERS OF SEXUAL ABUSE CLAIMS, THE SURVIVORS' COMMITTEE, THE FCR, AND THE DEBTOR, AND PURSUANT TO SECTIONS 105(a), 363, AND 1129 OF THE BANKRUPTCY CODE, ANY NON-SETTLING INSURER IS HEREBY PERMANENTLY STAYED, ENJOINED, BARRED, AND RESTRAINED FROM TAKING ANY ACTION, DIRECTLY OR INDIRECTLY, INCLUDING FILING ANY SUIT OR CAUSE OF ACTION AGAINST ANY SETTLING INSURER, OR ANY OF ITS RELATED PERSONS, OR ANY NON-DEBTOR CGL SETTLING INSURER COVERED PERSON, FOR THE PURPOSES OF ASSERTING, ENFORCING, OR ATTEMPTING TO ASSERT OR ENFORCE ANY CLAIM, INCLUDING ANY CONTRIBUTION CLAIM, SUBROGATION CLAIM, CLAIM FOR RECOVERY OF DEFENSE COSTS OR INDEMNITY PAYMENTS, OR ANY SIMILAR CLAIM, CAUSE OF ACTION, OR REMEDY, AGAINST ANY SETTLING INSURER AND ANY NON-DEBTOR CGL SETTLING INSURER COVERED PERSON.

**12.7 PERMANENT TERM OF INJUNCTIONS OR STAYS AND CONFIRMATION OF SETTLEMENTS WITH PARTICIPATING PARTIES AND SETTLING INSURERS.** ALL INJUNCTIONS AND STAYS PROVIDED FOR IN THIS PLAN AND UNDER AND PURSUANT TO THE INJUNCTIVE PROVISIONS OF SECTIONS 524 AND 1141 OF THE BANKRUPTCY CODE ARE PERMANENT AND WILL REMAIN IN FULL FORCE AND EFFECT FOLLOWING THE EFFECTIVE DATE AND ARE NOT SUBJECT TO BEING VACATED OR MODIFIED. FOR THE AVOIDANCE OF DOUBT, ABSENCE OF OBJECTION TO THE SETTLEMENTS, RELEASES AND SALES PROVIDED IN THE PLAN CONSTITUTES CONSENT TO SUCH RELEASES AND SALES.

**12.8 RELEASE OF AVOIDANCE CLAIMS AND OTHER CLAIMS AGAINST PARTICIPATING PARTIES, NON-DEBTOR CGL SETTLING INSURER COVERED PERSONS, AND SETTLING INSURERS.** ON THE EFFECTIVE DATE, ALL AVOIDANCE RIGHTS OF THE DEBTOR, THE ESTATE, AND THE REORGANIZED DEBTOR,

SUCH CLAIM WILL SURVIVE THE EFFECTIVE DATE AND SUCH RELEASES WILL BE DEEMED GRANTED REGARDLESS OF WHETHER THE PROTECTED PARTY EXECUTES AND DELIVERS A SEPARATE RELEASE TO A DEBTOR CGL SETTling INSURER. IN ADDITION, EACH PROTECTED PARTY WILL BE DEEMED TO HAVE CONSENTED TO THE SALE BY THE DEBTOR OF EACH DEBTOR CGL INSURANCE POLICIES ISSUED BY A DEBTOR CGL SETTling INSURER BACK TO THE DEBTOR CGL SETTling INSURER. NOTWITHSTANDING THE FOREGOING, TO THE EXTENT THE DEBTOR CGL SETTling INSURERS ARE ALSO INSURERS TO THE USOPC UNDER POLICIES ISSUED TO THE USOPC OR TO THE KAROLYIS UNDER INSURANCE POLICIES ISSUED TO THE KAROLYIS, THIS RELEASE SHALL BE LIMITED BY THE USOPC RELEASE AND THE KAROLYI RELEASE.

**12.11 USOPC RELEASE.** ON THE EFFECTIVE DATE OF THE PLAN, AND SUBJECT TO ANY SEPARATE AGREEMENT BETWEEN THE USOPC AND A USOPC SETTling INSURER, WHICH SHALL CONTROL IN THE EVENT OF ANY CONFLICT WITH THIS SECTION 12.11, THE USOPC SHALL GRANT, AND SHALL BE DEEMED TO HAVE GRANTED, TO EACH USOPC SETTling INSURER AND ITS RELATED PERSONS A FULL AND COMPLETE GENERAL RELEASE OF ANY RIGHTS AND INTERESTS IN INDEMNITY COVERAGE FOR ABUSE CLAIMS UNDER ANY INSURANCE POLICY ISSUED BY A USOPC SETTling INSURER FOR WHICH THE ABUSE CLAIMANT HAS PROVIDED A FULL AND COMPLETE GENERAL RELEASE TO THE USOPC PURSUANT TO SECTION 11.2.1 OF THE PLAN. THE USOPC SHALL ALSO GRANT, AND SHALL BE DEEMED TO HAVE GRANTED, ONLY TO NATIONAL CASUALTY COMPANY AND ~~HS~~ VIRGINIA SURETY COMPANY (F/K/A AS COMBINED SPECIALTY INSURANCE COMPANY) AND THEIR RELATED PERSONS, AND ONLY IF NATIONAL CASUALTY COMPANY ~~IS~~ AND VIRGINIA SURETY COMPANY ARE EACH A SETTling INSURER, AND THEN ONLY UPON THE EFFECTIVE DATE, A FULL AND COMPLETE RELEASE OF ANY AND ALL RIGHTS AND INTERESTS TO DEFENSE COSTS INCURRED AFTER THE EFFECTIVE DATE OF THE PLAN FOR ABUSE CLAIMS UNDER ANY INSURANCE POLICY ISSUED BY NATIONAL CASUALTY COMPANY OR VIRGINIA SURETY COMPANY THAT IS SPECIFICALLY IDENTIFIED ON EXHIBIT A, WHETHER OR NOT SUCH ABUSE CLAIMS ARE THOSE FOR WHICH AN ABUSE CLAIMANT HAS PROVIDED A RELEASE TO THE USOPC PURSUANT TO SECTION 11.2.1 OF THE PLAN. NOTWITHSTANDING THE FOREGOING, THE USOPC RETAINS THE RIGHT TO REIMBURSEMENT OF, AND TO PURSUE COLLECTION OF, ANY DEFENSE COSTS INCURRED BEFORE THE EFFECTIVE DATE OF THE PLAN UNDER ANY INSURANCE POLICY ISSUED BY NATIONAL CASUALTY COMPANY OR VIRGINIA SURETY COMPANY. THE USOPC ALSO RETAINS THE RIGHT TO REIMBURSEMENT OF, AND TO PURSUE COLLECTION OF, ANY DEFENSE COSTS INCURRED BEFORE OR AFTER THE EFFECTIVE DATE OF THE PLAN UNDER ANY INSURANCE POLICY ISSUED BY A USOPC INSURER OTHER THAN NATIONAL CASUALTY COMPANY OR VIRGINIA SURETY COMPANY. NOTHING IN THIS PROVISION SHALL BE DEEMED TO LIMIT THE PROTECTED PARTY RELEASE (DESCRIBED ABOVE) GRANTED BY THE USOPC TO ANY DEBTOR CGL SETTling INSURER OF CLAIMS AGAINST A DEBTOR CGL INSURANCE POLICY. PROVIDED, HOWEVER, NOTHING IN THIS PROVISION SHALL BE CONSTRUED TO EFFECTUATE A RELEASE OF ANY CLAIM BY THE USOPC AGAINST ANY DEBTOR CGL SETTling INSURER OR USOPC SETTling INSURER

in Section 9.3.2 of the Plan have been made to the Trust; (e) if the Full or Partial Settlement Alternative are selected, the Bankruptcy Court has approved, by Final Order, the Buy-Back Agreement of each Settling Insurer in form and substance reasonably acceptable to each Settling Insurer, the Reorganized Debtor and the Survivors' Committee; and (f) if the Full or Partial Settlement Alternative are selected, the Settling Insurers have been dismissed from the Insurance Coverage Adversary Proceeding with prejudice, with each party to bear its own costs.

**17.2 Waiver of Conditions.** Any conditions set forth in Section 17.1 of this Plan may be waived only by the mutual written consent of the Debtor, the Survivors' Committee, and, if the Full or Partial Settlement Alternative is in effect, the Participating Parties, and Settling Insurers.

**17.3 Statement.** A statement shall be filed with the Court within three (3) Business Days after the Effective Date, advising the Court and all parties in interest of the occurrence of the Effective Date.

**17.4 Non-Occurrence of Effective Date.** Subject to further order of the Bankruptcy Court, in the event that the Effective Date does not occur within one hundred twenty (120) days after entry of a Final Order confirming the Plan, the Plan shall become null and void. A statement shall be filed with the Court within three (3) Business Days after the Effective Date, advising all parties of the Effective Date, or within three (3) Business Days after the occurrence of any event that renders the Plan null and void, advising all parties that the Plan is null and void.

## **ARTICLE XVIII. EFFECTS OF PLAN CONFIRMATION AND DISCHARGE**

**18.1 Discharge.** On the Effective Date of the Plan, pursuant to Section 1141(d) of the Bankruptcy Code, the Debtor, the Estate, and the Reorganized Debtor will be discharged from all liability for any and all Claims and Debts, known or unknown, whether or not giving rise to a right to payment or an equitable remedy, that arose, directly or indirectly, from any action, inaction, event, conduct, circumstance, happening, occurrence, agreement, or obligation of the Debtor, or the Debtor's Related Persons, before the Confirmation Date, or that otherwise arose before the Confirmation Date, including all interest, if any, on any such Claims and Debts, whether such interest accrued before or after the date of commencement of the Chapter 11 Case, and including all Claims and Debts based upon or arising out of Abuse Claims, the Personal Injury Claim, the USOPC Claim, or the Indemnification Claims and from any liability of the kind specified in Sections 502(g), 502(h), and 502(i) of the Bankruptcy Code, whether or not (a) a proof of claim is filed or is deemed filed under Section 501 of the Bankruptcy Code; (b) such Claim is Allowed under this Plan; or (c) the Holder of such Claim has accepted this Plan.

**18.2 Vesting of Assets.** In accordance with Sections 1141 and 1123(a)(5) of the Bankruptcy Code, the Revested Assets shall vest in the Reorganized Debtor on the Effective Date free and clear of all liens, Claims, and interests of Creditors, including successor liability Claims. On and after the Effective Date, the Reorganized Debtor may operate and manage its affairs and may use, acquire, and dispose of property without notice to any Person, and without supervision or approval by the Bankruptcy Court, and free of any restrictions imposed by the Bankruptcy Code,



## ARTICLE XXII. CONFIRMATION REQUEST

**22.1 Request for Confirmation.** The Plan Proponents request confirmation of the Plan under Section 1129 of the Bankruptcy Code with respect to any impaired class that does not accept the Plan or is deemed to reject the Plan. In addition, under the Full or Partial Settlement Alternative, the Plan Proponents seek approval of the Debtor's entry into the Buy-Back Agreements with each of the Settling Insurers in the amounts set forth in Section 3.2.2. The form of the Buy-Back Agreement will be identical for each Settling Insurer (except National Casualty Company) and will differ only with respect to the amount to be paid by such Settling Insurer. The National Casualty Company agreement contains an additional term related to coverage provided for the Personal Injury Claim. The Debtor requests that the Court approve the Buy-Back Agreements pursuant to Bankruptcy Code §§ 363(b), (f), 1123(a)(5), (b)(6), and 1129, with specific findings in the Confirmation Order that (i) each Settling Insurer is a good faith purchaser within the meaning of Bankruptcy Code §363(m), (ii) the Debtor's sale of the applicable policies to each Settling Insurer is free and clear of all liens, Claims, encumbrances, and other interests, and (iii) the consideration exchanged constitutes a fair and reasonable settlement of the respective disputes and rights and obligations under the policies that are being sold and that it constitutes reasonably equivalent value of such policies.

Dated: ~~September 22~~ October 1, 2021

Respectfully submitted,

JENNER & BLOCK LLP

PACHULSKI STANG ZIEHL & JONES

/s/ Catherine Steege

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**USA Gymnastics Plan of Reorganization  
Exhibit E, Schedule of Abuse Claims by CGL Insurance Policy of Non-Settling Insurers**

<b>GREAT AMERICAN CLAIMS</b>	
<b>Sexual Abuse Claim No.</b>	<b>Alias (If Applicable)</b>
2	Jane R5 Doe
3	Jane R4 Doe
4	Jane R7 Doe
7	Jane AC Doe
8	N/A
10	N/A
11	N/A
12	Jane KRA Doe
17	Jane NLF 1 Doe
18	Jane NLF 2 Doe
19	Jane NLF 3 Doe
20	Jane MP Doe
22	Jane D10 Doe
23	Jane D9 Doe
24	Jane BBB/D2 Doe
25	Jane D7 Doe
26	Jane D3 Doe
31	Jane Doe AC
32	N/A
34	Jane Doe 02
39	N/A
41	N/A
42	N/A
43	N/A
45	N/A
47	Jane C/A Doe
48	N/A
50	Jane K Doe
52	Jane M1 Doe
54	Jane B Doe
58	Jane J Doe
59	Jane B97 Doe
60	Jane B45 Doe
61	Jane B50 Doe
63	N/A
64	Jane B99 Doe
66	N/A

**USA Gymnastics Plan of Reorganization  
Exhibit E, Schedule of Abuse Claims by CGL Insurance Policy of Non-Settling Insurers**

<b>GREAT AMERICAN CLAIMS</b>	
<b>Sexual Abuse Claim No.</b>	<b>Alias (If Applicable)</b>
67	Jane B108 Doe
70	Jane B14 Doe
71	Jane B83 Doe
73	Jane B82 Doe
82	Jane B89 Doe
84	Jane B96 Doe
86	Jane B10 Doe
89	N/A
90	Jane B32 Doe
93	Jane B105 Doe
94	N/A
95	N/A
96	N/A
97	Jane AAK Doe
99	Jane B87 Doe
101	Jane SB Doe
104	John Doe
108	Jane A120 Doe
109	Jane LM Doe
111	N/A
112	N/A
115	Jane GM Doe
122	N/A
123	Jane KR Doe
125	N/A
127	N/A
128	Jane B52 Doe
132	N/A
133	Jane B65 Doe
134	N/A
135	Jane EL Doe
138	Jane B20 Doe
150	Jane B30 Doe
151	Jane B2 Doe
152	Jane B79 Doe
154	N/A
155	Jane B106 Doe
156	Jane I Doe

**USA Gymnastics Plan of Reorganization  
Exhibit E, Schedule of Abuse Claims by CGL Insurance Policy of Non-Settling Insurers**

<b>GREAT AMERICAN CLAIMS</b>	
<b>Sexual Abuse Claim No.</b>	<b>Alias (If Applicable)</b>
157	Jane G Doe
160	N/A
161	Jane MH Doe 38
162	N/A
170	Jane C20 Doe
171	Jane C29 Doe
172	Jane C15 Doe
173	Jane S9 Doe
174	Jane S10 Doe
178	N/A
183	Jane S11 Doe
185	Jane S6 Doe
189	Jane S1 Doe
192	Jane C1 Doe
194	Jane C21 Doe
195	Jane C4 Doe
197	Jane C3 Doe
198	Jane C31 Doe
199	Jane C5 Doe
200	Jane C26 Doe
201	Jane C8 Doe
202	N/A
203	Jane C22 Doe
204	Jane C9 Doe
205	Jane C14 Doe
206	Jane C13 Doe
208	Jane C2 Doe
209	Jane C16 Doe
210	N/A
212	Jane C33 Doe
213	Jane C36 Doe
215	N/A
217	Jane C32 Doe
220	N/A
224	N/A
225	Jane B46 Doe
226	Jane B4 Doe
227	N/A

**USA Gymnastics Plan of Reorganization  
Exhibit E, Schedule of Abuse Claims by CGL Insurance Policy of Non-Settling Insurers**

<b>GREAT AMERICAN CLAIMS</b>	
<b>Sexual Abuse Claim No.</b>	<b>Alias (If Applicable)</b>
229	N/A
232	Jane B95 Doe
233	N/A
241	Jane B13 Doe
243	Jane B101 Doe
245	N/A
246	N/A
250	N/A
251	N/A
252	N/A
253	N/A
257	Jane EH Doe
259	Jane TO Doe
270	Jane B43 Doe
271	N/A
272	N/A
276	N/A
277	N/A
278	N/A
280	N/A
283	N/A
285	N/A
286	N/A
289	N/A
291	N/A
292	N/A
293	Jane BR 2 Doe
294	Jane B15 Doe
297	Jane IL 1 Doe
298	Jane BR 2 Doe
301	Jane B31 Doe
303	N/A
306	N/A
312	Jane G/A6 Doe
316	Jane AY/A44 Doe
323	Jane MBA/A64 Doe
325	Jane A90 Doe
327	Jane A98 Doe

**USA Gymnastics Plan of Reorganization  
Exhibit E, Schedule of Abuse Claims by CGL Insurance Policy of Non-Settling Insurers**

<b>GREAT AMERICAN CLAIMS</b>	
<b>Sexual Abuse Claim No.</b>	<b>Alias (If Applicable)</b>
330	Jane MB45 Doe
331	Jane DZ Doe
332	Jane A100 Doe
335	Jane AK/A31 Doe
338	Jane BF/A50 Doe
339	Jane A79 Doe
340	Jane Doe 17
341	Jane Doe 18
342	Jane Doe 19
343	Jane Doe 20
346	Jane Doe 3
347	Jane Doe 4
350	Jane Doe 7
352	Jane Doe 9
353	Jane Doe 10
354	Jane Doe 11
355	Jane D/A3 Doe
356	Jane Doe 12
357	Jane Doe 13
358	Jane Doe 14
362	N/A
363	N/A
371	N/A
374	Jane AQ/A36 Doe
376	Jane C30 Doe
390	Jane A114 Doe
392	Jane AO/A35 Doe
394	Jane A111 Doe
395	Jane AG/A28 Doe
396	Jane A109 Doe
397	Jane A85 Doe
399	Jane A116 Doe
401	Jane BR/A59 Doe
403	Jane P/A14 Doe
404	Jane J/A8 Doe
406	Jane A103 Doe
407	Jane A/A1 Doe
412	Jane M/A11 Doe

**USA Gymnastics Plan of Reorganization  
Exhibit E, Schedule of Abuse Claims by CGL Insurance Policy of Non-Settling Insurers**

<b>GREAT AMERICAN CLAIMS</b>	
<b>Sexual Abuse Claim No.</b>	<b>Alias (If Applicable)</b>
414	N/A
415	Jane Y/A22 Doe
418	N/A
420	Jane E/A4 Doe
422	N/A
423	Jane U/A18 Doe
426	Jane AS/A38 Doe
427	Jane AN/A34 Doe
432	N/A
433	N/A
436	Jane A72/JS Doe
437	Jane BT/A60 Doe
439	N/A
441	Jane BQ/A58 Doe
442	Jane S/A16/JT Doe
444	Jane A84 Doe
446	Jane A71 Doe
449	Jane AC/A24 Doe
453	N/A
454	Jane NH Doe
455	Jane AB Doe
457	Jane ZP Doe
461	N/A
467	Jane Doe
469	N/A
471	N/A
474	Jane B32 Doe
476	Jane EC Doe
478	N/A
479	N/A
481	N/A
482	N/A
485	N/A
490	Jane E-1 Doe
491	Jane RG Doe
492	Jane AV/A41 Doe
494	Jane E-3 Doe
495	Jane BP/A57 Doe

**USA Gymnastics Plan of Reorganization  
Exhibit E, Schedule of Abuse Claims by CGL Insurance Policy of Non-Settling Insurers**

<b>GREAT AMERICAN CLAIMS</b>	
<b>Sexual Abuse Claim No.</b>	<b>Alias (If Applicable)</b>
496	Jane AG Doe
498	John E-5 Doe
501	Jane AW Doe
502	Jane E-2 Doe
504	Jane MR Doe-19
506	Jane G2 Doe
507	N/A
508	Jane J-1 Doe
511	N/A
516	N/A
520	N/A
521	N/A
523	Jane MKG Doe
527	N/A
529	N/A
539	N/A
546	N/A

<b>TIG CLAIMS</b>	
<b>Sexual Abuse Claim No.</b>	<b>Alias (If Applicable)</b>
7	Jane AC Doe
11	N/A
12	Jane KRA Doe
13	N/A
15	N/A
16	N/A
22	Jane D10 Doe
24	Jane BBB/D2 Doe
25	Jane D7 Doe
38	Jane NLF-4 Doe
39	N/A
40	Jane Doe MJ
41	N/A
42	N/A
43	N/A
45	N/A
55	N/A
59	Jane B97 Doe



USA Gymnastics Plan of Reorganization  
Exhibit F, Trust Agreement

**TRUST AGREEMENT**

This Trust Agreement is made and entered into between USA Gymnastics (“**USAG**”, the “**Debtor**”, or the “**Reorganized Debtor**”), William L. Bettinelli (the “**Settlement Trustee**”), and Fred C. Caruso, not individually but as the Future Claims Representative (“**FCR**”) pursuant to the terms of the *First-Second Amended Joint Chapter 11 Plan Of Reorganization Proposed By USA Gymnastics And The Additional Tort Claimants Committee Of Sexual Abuse Survivors* (as it may hereafter be amended or modified, the “**Plan**”), filed by the Debtor in its chapter 11 case in the United States Bankruptcy Court for the Southern District of Indiana (the “**Bankruptcy Court**”).<sup>1</sup>

**RECITALS**

A. On December 5, 2018, USAG filed a voluntary petition under chapter 11 of the Bankruptcy Code. The Debtor remained in possession of its property and continued to operate and maintain its organization as a debtor in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

B. On ~~September 22~~October 1, 2021, the Debtor filed the Plan. On [\_\_\_\_\_], 2021, the Bankruptcy Court confirmed the Plan by entering the Confirmation Order. The Debtor will become the Reorganized Debtor upon the Effective Date of the Plan.

C. Pursuant to the Plan, a Trust is created for the benefit of Abuse Claimants and Future Claimants. All Abuse Claims and Future Claims are channeled to the Trust, along with the USOPC Claim, the Indemnification Claims, all other Claims arising from or related in any way to the Abuse Claims, and any Claims for punitive damages, alter ego liability, or piercing the corporate veil against any Participating Party, Settling Insurer, or Non-Debtor CGL Settling Insurer Covered Person. Distributions to Holders of Allowed Abuse Claims and Holders of Allowed Future Claims shall be made from assets contributed to the Trust by the Settling Insurers and Participating Parties.

D. The Trust is intended to qualify as a “Designated” or “Qualified” Settlement Fund pursuant to Section 468B of the Internal Revenue Code of 1986, 26 U.S.C. §§ 1 *et seq.*, as may be amended (the “**Internal Revenue Code**”), and the regulations promulgated thereunder, 31 C.F.R. §§ 900 *et seq.* (the “**Treasury Regulations**”).

E. The Settlement Trustee is duly appointed as a representative of the Debtor and its Estate for the sole purpose of implementing the Plan through the Settlement Trustee’s administration of the Trust and Distribution of the Trust Assets (defined below) pursuant to 11 U.S.C. §1123(a)(5)(B).

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<sup>1</sup> The definitions set forth in Article I of the Plan apply to capitalized terms used, but not defined, in this Trust Agreement. The rules of construction set forth in Article II of the Plan apply to this Trust Agreement. To the extent that any provision of this Trust Agreement conflicts with any term of the Plan, the terms of the Plan shall control.

**USA Gymnastics Plan of Reorganization  
Exhibit F, Trust Agreement**

6. Fulfill all reporting obligations to the United States Department of Health and Human Services and other governmental authorities, as contemplated by Section 11.9 of the Plan.
7. File a motion with the Bankruptcy Court, with notice to parties in interest, for the enforcement of any provision of the Plan or the Confirmation Order pertaining to the Trust, or any provision of this Trust Agreement, as may be appropriate to effectuate the purpose of the Trust.
8. File a motion with the Bankruptcy Court, with notice to parties in interest, for a modification of the provisions of this Trust Agreement if the Settlement Trustee determines that such modification is necessary to effectuate the purpose of the Trust.
9. Retain and rely upon the advice of any counsel, consultants, experts, accountants, investment advisors, and such other agents or professionals (each, a “**Professional**”) as are necessary and appropriate to effectuate the purpose of, and maintain and administer, the Trust, subject to the Bankruptcy Court’s approval of such employment.
10. Fulfill any and all other obligations imposed on the Trust by this Trust Agreement, the Plan, or the Confirmation Order.

**3.2 Limitations on the Settlement Trustee.** The Settlement Trustee is prohibited from taking the following acts:

1. Making any transfers or Distributions of Trust Assets other than as authorized by this Trust Agreement, the Plan, and the Confirmation Order.
2. Loaning or encumbering the Trust Assets, or issuing a guaranty with recourse to the Trust Assets.
3. Conducting any trade or business using or affecting the Trust Assets.
4. Engaging in any investments or activities inconsistent with the treatment of the Trust as a “Designated” or “Qualified” settlement fund pursuant to the Internal Revenue Code and the Treasury Regulations.

**3.3 Powers and Duties of FCR.** The FCR shall have the power and duty to perform those actions required under Article V herein. ~~by determine whether a Claim is an allowable Future Claim.~~

#### **ARTICLE IV. ALLOCATION METHOD FOR ABUSE CLAIMS**

**4.1 Trust Assets Available For Abuse Claims.** The Trust shall make Distributions to Holders of Allowed Abuse Claims from the Trust Assets minus the amounts contained in the Future Claimant Reserve (the “**Available Trust Assets**”).

**4.2 Allocation Method.** The amount of an Abuse Claimant’s Distribution, if any, shall be governed by the Allocation Protocol attached as Exhibit H to the Plan.

USA Gymnastics Plan of Reorganization  
Exhibit F, Trust Agreement

**4.3 Pro Rata Distributions To Abuse Claimants.** Distributions to Holders of Allowed Abuse Claims shall be Pro Rata based upon the Available Trust Assets allocated to each Subclass. Members of each Subclass holding Allowed Abuse Claims shall take equal shares of the Available Trust Assets allocated to their Subclass.

**4.4 Release & Dismissal Of Litigation.** Before the Trust may make any Distribution to any Abuse Claimant, such Abuse Claimant shall execute and deliver to the Trust a full and complete release of the Debtor, the Estate, the Reorganized Debtor, the Settling Insurers, all Participating Parties, and all known or unknown parties who may claim coverage under any Insurance Policy issued to the Debtor, including the Non-Debtor CGL Settling Insurer Covered Persons, and for each of the foregoing, their Related Persons but solely acting in their capacity as such, in form and substance acceptable to the Debtor, the Estate, the Reorganized Debtor, the Participating Parties, and the Settling Insurers, of any and all Claims arising from or relating to Abuse Claims or Future Claims. In addition, within ten (10) days after receiving any payment from the Trust, an Abuse Claimant shall dismiss with prejudice any lawsuit that such Abuse Claimant had brought against the Debtor, any Participating Party, and any Non-Debtor CGL Settling Insurer Covered Person, and shall promptly deliver evidence of such dismissal, with prejudice, to the Settlement Trustee. The Settlement Trustee shall provide copies of such dismissal orders and general releases to any Protected Party that requests a copy.

**4.5 Attorneys' Fees And Costs.** The fees and expenses of attorneys representing Abuse Claimants who receive payment from the Trust will be borne exclusively by such Abuse Claimants based on applicable state law and individual arrangements made between such Abuse Claimants and their respective attorneys. The Trust, the Settlement Trustee, and the other parties listed in Section 11.4 of the Plan shall have no liability for any such fees and expenses, and any Claims for such fees and expenses shall be disallowed.

**ARTICLE V. ALLOCATION METHOD FOR FUTURE CLAIMS.**

**5.1 Submission Of Future Claims And Eligibility For Distribution.** A Future Claimant must file a Claim with the Settlement Trustee on or before the fifth (5th) anniversary of the Plan's Effective Date. The Claim shall be entitled to a Distribution exclusively from the Future Claimant Reserve and no other Trust Assets, provided funds remain in the Future Claimant Reserve, only if the Settlement Trustee, in consultation with the FCR, determines that the Holder of such Claim has proven by a preponderance of the evidence that such Holder meets the definition of a Future Claimant and such Holder's Claim meets the definition of a Sexual Abuse Claim.

**5.2 Allocation Method.** If the requirements of Section 5.1 of this Trust Agreement are satisfied, the FCR may allocate a Distribution to a Future Claimant from funds remaining in the Future Claimant Reserve. The amount of a Future Claimant's Distribution, if any, shall be governed by Section 11.8 of the Plan and the Future Claimant Allocation Protocol attached as Exhibit I to the Plan.

**5.3 Release And Dismissal Of Litigation.** Before the Trust may make any Distribution to any Future Claimant, such Future Claimant shall execute and deliver to the Trust a full and complete release of the Debtor, the Estate, the Reorganized Debtor, the Settling Insurers, all Participating Parties, and all known or unknown parties who may claim coverage under any

USA Gymnastics Plan of Reorganization  
Exhibit G, Buy-Back Agreement

**SETTLEMENT AGREEMENT, RELEASE,  
AND INSURANCE POLICY BUYBACK  
OF USA GYMNASTICS' INSURANCE POLICIES**

This Settlement Agreement, Release, and Policy Buyback of USA Gymnastics' Policies issued to USAG (the "**Agreement**") is hereby made between USA Gymnastics, a 501(c)(3) not-for-profit organization incorporated in Texas ("**USAG**"), and [~~\_\_\_\_\_~~insert name of Debtor CGL Settling Insurer] (the "**Settling Insurer**" and with USAG, the "**Parties**").

WHEREAS, USAG filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") on December 5, 2018, in the United States Bankruptcy Court for the Southern District of Indiana (the "**Chapter 11 Case**"), which Chapter 11 Case is known as Case No. 18-BK-09108-RLM-11.

WHEREAS, prior to the filing of its Chapter 11 Case, the Settling Insurer issued certain insurance policies to or for the benefit of USAG.

WHEREAS, certain disputes have arisen and may arise in the future concerning the Settling Insurer's position regarding the nature and scope of its responsibilities, if any, to provide coverage to USAG and any additional Non-Debtor CGL Settling Insurer Covered Persons for Sexual Abuse Claims and to provide a defense (the "**Coverage Disputes**").

WHEREAS, prior to the filing of its Chapter 11 Case, USAG filed a declaratory judgment action against the Settling Insurer and certain other parties in the Marion Superior Court of the State of Indiana, which was subsequently removed to the United States District Court for the Southern District of Indiana, and has since been ~~dismissed~~administratively closed by the Court without prejudice (the "**District Court Declaratory Coverage Action**").

WHEREAS, after USAG filed its Chapter 11 Case, USAG filed the Insurance Coverage Adversary Proceeding against the Settling Insurer and certain other entities on February 1, 2019, in the United States Bankruptcy Court for the Southern District of Indiana, which Insurance Coverage Adversary Proceeding was assigned Case No. 19-AP-50012.

WHEREAS, USAG and the Settling Insurer, without any admission of liability or concession of the validity of the positions or arguments advanced by each other, now wish fully and finally to compromise and resolve any and all Coverage Disputes and any and all other disputes between them, whether or not asserted in the District Court Declaratory Coverage Action, the Insurance Coverage Adversary Proceeding, or otherwise.

WHEREAS, through this Agreement and as a material part of the full and final compromise and resolution of all disputes between them, USAG intends to (i) sell the Policies ~~(as defined herein)~~ to the Settling Insurer, with the Settling Insurer buying back such Policies, and (ii) provide the Settling Insurer with a full and complete general release of the Settling Insurer with respect to any and all coverages under the Policies ~~the Policies~~, including but not limited to defense obligations and coverage.

USA Gymnastics Plan of Reorganization  
Exhibit G, Buy-Back Agreement

WHEREAS, as part of the compromise and resolution of such disputes, USAG and the Settling Insurer wish to effect a sale of the Policies to the Settling Insurer pursuant to Sections 363(b), (f) and (m) and 1123(a)(5) and (b)(6) of the Bankruptcy Code.

WHEREAS, each Party has received the advice of counsel in the preparation, drafting, and execution of this Agreement, which was negotiated by the Parties in good faith and at arm's length.

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual covenants contained in this Agreement, the sufficiency of which is hereby acknowledged, and intending to be legally bound, subject to the approval of the Bankruptcy Court, the Parties hereby agree as follows:

**1. DEFINITIONS AND CONSTRUCTION**

1.1 Terms and Meanings. As used in this Agreement, the following terms shall have the meanings set forth below. ~~Terms~~ Capitalized terms used herein but not defined below or otherwise defined in this Agreement shall have the meanings given to them in the Plan ~~(as defined herein)~~ or Bankruptcy Code, as applicable.

1.1.1. "Extra-Contractual Claim" means any known or unknown, asserted or unasserted, Claim against the Settling Insurer, seeking any type of relief, including compensatory, exemplary, or punitive damages, or attorneys' fees, costs, or any other type of relief, on account of alleged bad faith; failure to act in good faith; violation of any duty of good faith and fair dealing; violation of an unfair claims practices act or similar statute, regulation, or code; any type of alleged misconduct; or any other act or omission of the insurer of any type for which the claimant seeks relief other than coverage or benefits under a Policy. Extra-Contractual Claims include without limitation: (i) any Claim arising out of or relating to the Settling Insurer's handling of any request for insurance coverage relating to the Policies for any Claim, including, without limitation, any Sexual Abuse Claim; and (ii) the conduct of the Parties with respect to the negotiation of this Agreement. ~~However, this limitation shall not include fraud in the inducement of this Agreement.~~

1.1.2. "Insurance Coverage Claim" means any Claim for insurance coverage under the Policies.

1.1.3. "Interests" means all liens, Claims, encumbrances, interests, and other rights of any nature, whether at law or in equity, including any rights of contribution, indemnity, defense, subrogation, or similar relief relating to the Policies.

1.1.4. "Plan" means the Second Amended Joint Chapter 11 Plan of Reorganization Proposed by USA Gymnastics and the Additional Tort Claimants Committee of Sexual Abuse Survivors [Dkt. \_\_\_].

USA Gymnastics Plan of Reorganization  
Exhibit G, Buy-Back Agreement

1.1.4.1.1.5. “Policies” means (i) all insurance policies, issued or allegedly issued, by the Settling Insurer and providing insurance coverage to USAG as the named insured, as identified on Exhibit 1 to this Agreement, and (ii) USAG’s Interests in policies that the Settling Insurer issued to USOPC [and Karolyis] [inserted for Great American Assurance Company only], as identified on Exhibit 1 to this Agreement; and (iii) any and all unknown insurance policies issued or allegedly issued by the Settling Insurer to USAG.

1.2 Rules of Construction. In addition to the rules of construction set forth in the Plan, which are incorporated herein as though fully set forth herein, the following rules of construction shall apply to this Agreement:

1.2.1. Statutory and Regulatory References. References to statutes shall include all regulations promulgated thereunder and references to statutes or regulations shall be construed as including all statutory and regulatory provisions regardless of whether specifically referenced in this Agreement.

1.2.2. No Construction Against Drafter. The wording of this Agreement was reviewed by legal counsel for each of the Parties and each of them had sufficient opportunities to propose and negotiate changes prior to its execution. No Party will be entitled to have any wording of this Agreement construed against the other based on any contention as to which of the Parties drafted the language in question or which party is an insurer.

## 2. PAYMENT OF THE SETTLEMENT AMOUNT

2.1 The Settlement Amount. Subject to all of the terms of this Agreement, in full and final settlement of all Claims and responsibilities under, arising out of, or relating to the Policies, and in consideration of the sale of the Policies free and clear of all Interests of any Person, and expressly subject to fulfillment of all conditions to payment identified in Section 3 below, the Settling Insurer shall pay to USAG by wire transfer (as provided in the Plan) the Agreed CGL Insurer Payment, which is ~~\_\_\_\_\_~~ (\$~~\_\_\_\_\_~~ (\$[insert applicable amount from Section 3.2 of the Plan for Debtor CGL Settling Insurer Policies])) (the “**Settlement Amount**”). The Settlement Amount is subject to allocation between the Debtor CGL Insurance Policies and the policies issued to USOPC as set forth in Section 3.2 of the Plan. Unless otherwise agreed by USAG and the Settling Insurer, USAG shall provide the Settling Insurer with notice of the intended Effective Date not less than five days prior to such intended Effective Date. Payment of the Settlement Amount shall occur on the Effective Date of the Plan. In addition, to the extent that any Outstanding Amounts are due as of the Effective Date, the Settling Insurer shall also pay such Outstanding Amount to USAG or the applicable vendor (as provided in ~~the Plan~~) by wire transfer Section 3.9 of the Plan) on the Effective Date of the Plan. All invoices for Outstanding Amounts must be submitted to the Debtor CGL Settling Insurers ten days before the Confirmation Hearing. If a Debtor CGL

USA Gymnastics Plan of Reorganization  
Exhibit G, Buy-Back Agreement

Settling Insurer disputes the Outstanding Amount, it shall notify the Debtor of such dispute within five days of the Confirmation Hearing and the Bankruptcy Court will resolve any such dispute as part of approving the buyback of the Debtor CGL Settling Insurer's Policies. To the extent that there is a disagreement over Outstanding Amounts due as of the Effective Date, USAG and the Settling Insurer shall work in good faith to resolve such disagreement as soon as practicable. The Bankruptcy Court shall retain jurisdiction over any unresolved dispute over Outstanding Amounts and the Settling Insurer consents to the entry of an order by the Bankruptcy Court solely with respect to such dispute, without waiving and subject to any appellate rights the Settling Insurer may have; provided, however, nothing herein shall affect any arbitration regarding Outstanding Amounts owed to EPIQ pending as of the Effective Date.

- 2.2 Settlement Amount Plus Any Additional Outstanding Amounts is the Total Amount. The Parties expressly agree that ~~it is intended~~: (i) that the Settlement Amount plus any Outstanding Amounts is the total amount that the Settling Insurer is obligated to pay on account of any and all Claims of any kind made under or relating to the Policies (including the ~~Sexual~~-Abuse Claims and any reimbursement obligations for Conditional Payments under the MSP) ~~or~~ with respect to Extra-Contractual Claims relating to the Policies, or as to any Abuse Claims relating to the policies issued by Settling Insurer to the USOPC [and Karolyis] [inserted for Great American Assurance Company only] (except as expressly set forth in the Plan); (ii) that under no circumstance will the Settling Insurer ever be obligated to make any additional payments to anyone in connection with the Policies, including any amounts allegedly owed under the MSP and for Extra Contractual Claims; ~~subject to obligation to pay Outstanding Amounts~~; and (iii) that all limits of liability of the Policies, including all per person, per occurrence, and aggregate limits, shall be deemed fully and properly exhausted. The Parties further agree that the Settlement Amount is the full purchase price of the Policies and coverages referenced in this paragraph. **[Insert for NCC: Notwithstanding the foregoing, NCC shall remain liable to fully indemnify and defend the Personal Injury Claim and the buy-back of the Personal Injury Policy expressly excludes Personal Injury Insurance Coverage for the Personal Injury Claim.]**
- 2.3 Conditional Payments. The Parties agree that the Plan that is confirmed in the Confirmation Order will provide that this Agreement is binding on the Trust and that, before the Settlement Trustee disburses any of the Settlement Amount to any Abuse Claimant or Future Claimant, the Settlement Trustee shall determine whether any Conditional Payment has been made to or on behalf of any Abuse Claimant or Future Claimant. If any Conditional Payment has been made to or on behalf of any Abuse Claimant or Future Claimant, the Settlement Trustee shall, within the respective time period called for by the MSP, (i) reimburse the appropriate Medicare Trust Fund for the appropriate amount, and (ii) submit the required information for any Abuse Claimant or Future Claimant to the appropriate agency of the United States government.

USA Gymnastics Plan of Reorganization  
Exhibit G, Buy-Back Agreement

2.4 Abuse Claimant Release. As a precondition to receiving any payment from the Trust, each Abuse Claimant and each Future Claimant shall execute and deliver to the Trust and the Settling Insurer a full and complete general release of the Settling Insurer as provided in Section 11.2.1 of the Plan. In addition, within 10 days after receiving any payment from the Trust, each Abuse Claimant and each Future Claimant shall dismiss with prejudice any lawsuit as provided in Section 11.2.1 of the Plan, and shall promptly deliver evidence of such dismissal, with prejudice, to the Settlement Trustee. The Settlement Trustee shall promptly provide copies of such general release and dismissal orders to the Settling Insurer upon the Settling Insurer's request.

**3. CONDITIONS PRECEDENT TO SETTLING INSURER'S PAYMENT**

3.1 Timing of Payment. The Settling Insurer's obligation to pay the Settlement Amount in Section 2.1 above is expressly conditioned on the entry of the Confirmation Order and ~~the all~~ conditions to ~~effectiveness~~ the Effective Date of the Plan having occurred, and receipt of payment instructions (including a completed W-9 form) from the Debtor or the Reorganized Debtor.

3.2 Confirmation Order. The Plan (including any amendments and supplements) and Confirmation Order must be in all respects consistent with this Agreement, and the Confirmation Order must approve this Agreement pursuant to Bankruptcy Code Sections 363, 1123, and 105 and Bankruptcy Rule 9019 and/or under such other provisions as the Bankruptcy Court may order, and authorize the Parties to undertake the settlement and the transactions contemplated by this Agreement, and must contain no provisions that diminish or impair the benefit of the Plan or this Agreement to the Settling Insurer.

**4. RELEASES AND SALE FREE AND CLEAR**

4.1 Mutual Releases. Subject to entry of the Confirmation Order as a Final Order, and the payment of the Settlement Amount and any Outstanding Amounts, and without any further action by the Parties, USAG and its Related Persons, on the one hand, and the Settling Insurer and each of its Related Persons, on the other hand, each hereby fully, finally, and completely remises, releases, acquits, and forever discharges, as of the Effective Date, the other, and each of them, from any and all past, present, or future Claims in connection with, relating to or arising out of, in any manner or fashion, the Policies, including Claims that are actual or alleged, known or unknown, accrued or unaccrued, suspected or unsuspected (including Sexual Abuse Claims, Extra-Contractual Claims, reimbursement obligations for Conditional Payments under the MSP, and all Claims relating to, or arising out of, the Chapter 11 Case), whether such Claims seek compensatory damages, punitive damages, exemplary damages, statutorily multiplied damages, attorneys' fees, interest, costs, or any other type of monetary or nonmonetary relief; ~~provided, however, that in the event of any conflict between the releases in this Agreement~~



USA Gymnastics Plan of Reorganization  
Exhibit G, Buy-Back Agreement

~~and the Plan, the releases in the Plan shall control.~~ The Releases provided herein are in addition to, and not in replacement of, the releases provided in the Plan.

- 4.2 USAG Buyback. USAG agrees that, as set forth in the Confirmation Order, the Settling Insurer hereby buys back the Policies, free and clear of all liens, Claims, encumbrances, and other Interests (~~as set forth in the Confirmation Order~~) of any Person, including all rights and Interests of USAG, all Participating Parties, all Non-Debtor CGL Settling Insurer Covered Persons, all Persons claiming or who could claim coverage under any of the Policies, and any other Person claiming by, through, or on behalf of USAG, any other insurer, and any Abuse Claimant or Future Claimant. This sale is pursuant to Sections 363(b), 363(f), 1123(a)(5), 1123(b)(6) and 1129 of the Bankruptcy Code. The Parties acknowledge and agree that (i) the Settling Insurer is a good faith purchaser of the Policies within the meaning of Section 363(m) of the Bankruptcy Code and (ii) the consideration exchanged constitutes a fair and reasonable settlement of the Parties' disputes and of their respective rights and obligations being released hereunder and constitutes reasonably equivalent value. The Parties agree (~~as set forth in the Confirmation Order~~) that the releases in this Agreement and the ~~policy~~ buyback of the Policies comply with the Bankruptcy Code and applicable non-bankruptcy laws. Further, the Parties agree: (A) (as set forth in the Confirmation Order) that, upon the payment of the Settlement Amount and any Outstanding Amount by the Settling Insurer, the Policies shall be immediately terminated and of no further force and effect; (B) that the Settling Insurer's payment of the Settlement Amount and any Outstanding Amount constitutes the Settling Insurer's full and complete performance of any and all obligations under the Policies and exhausts all limits of liability of the Policies; and (C) the Parties agree that all rights, title, or interests of USAG or, any Participating Party, any Non-Debtor CGL Settling Insurer Covered Person, any other Settling Insurer, any Non-Settling Insurer, any Other Insurers, any Person claiming or who could claim coverage under the Policies, any Person claiming or who could assert a claim for reimbursement, contribution, subrogation, or any other payment under the Policies, and each of their respective Related Persons, may have had, may presently have, or in the future may have in the Policies are fully and finally released and extinguished pursuant to the terms of this Agreement.
- 4.3 Waiver of Surviving Claims. If, contrary to the specific intent of the Parties, any Claims released pursuant to this Agreement, including any Insurance Coverage Claims, are deemed to survive this Agreement, even though they are encompassed by the terms of the ~~release~~ releases and buybacks set forth in ~~Section 5~~ Sections 4.1 and 4.2 of this Agreement, the Parties, and the Non-Debtor CGL Settling Insurer Covered Persons, hereby forever, expressly, and irrevocably waive entitlement to and agree not to assert any and all such Claims.
- 4.4 Waiver Does not Affect Reinsurance. The releases set forth in Section ~~5~~ 4.1 of this Agreement, as well as all other provisions in this Agreement, are not intended to apply to or have any effect on the Settling Insurer's right to reinsurance recoveries

USA Gymnastics Plan of Reorganization  
Exhibit G, Buy-Back Agreement

~~under reinsurance treaties, certificates, or contracts that cover losses arising under or in connection with the Policies.~~

- 4.5 Rights and ~~Obligation~~ Obligations Under this Agreement. Nothing in this Section 4 is intended to, nor shall be construed to, release, waive, relinquish, or otherwise affect the Parties' rights and obligations under this Agreement.
- 4.6 Dismissal With Prejudice of ~~the District Court~~ Declaratory Coverage Action and Insurance Coverage Adversary Proceeding. On or prior to the Effective Date, USAG will dismiss with prejudice the District Court Declaratory Coverage Action and Insurance Coverage Adversary Proceeding as to the Settling Insurer.
- 4.7 **[Insert for NCC: Survival of Personal Injury Claim.** Notwithstanding the foregoing, NCC shall remain liable to fully indemnify and defend the Personal Injury Claim and the buy-back of the Personal Injury Policy expressly excludes Personal Injury Insurance Coverage for the Personal Injury Claim.]

**5. REPRESENTATIONS AND WARRANTIES OF THE PARTIES**

- 5.1 Representations and Warranties. Each of the Parties separately represents and warrants as follows:
- 5.1.1. **Power and Authority.** It has the requisite power and authority to enter into this Agreement and to perform the obligations contemplated by this Agreement, subject only to approval of the Bankruptcy Court.
- 5.1.2. **Authorized To Execute.** Subject to entry of the Confirmation Order as a Final Order, the execution and delivery of, and the performance of the obligations contemplated by, this Agreement have been approved by duly authorized representatives of the Parties and by all other necessary actions of the Parties.
- 5.1.3. **Arm's Length Negotiation.** This Agreement has been thoroughly negotiated and analyzed by counsel to the Parties and has been executed and delivered in good faith, pursuant to arm's length negotiations and for value and valuable consideration.
- 5.1.4. **Good Faith Search for Existing Policies.** Each of the Parties has conducted and completed a thorough and good faith search for any policy of insurance that might exist, or other evidence of any such policy of insurance, under which the Settling Insurer was or might be an insurer of USAG. Other than the Policies listed on Exhibit 1, no other policies of insurance have been located or are known to exist.

USA Gymnastics Plan of Reorganization  
Exhibit G, Buy-Back Agreement

6. ACTIONS INVOLVING THIRD PARTIES

6.1 Assignment Of Insurance Claims. The Settling Insurer shall assign to the Trust all of their Insurance Claims against any Non-Settling Insurer.

7. MISCELLANEOUS

7.1 Challenge to Agreement. In the event that any proceedings are commenced to invalidate all or any part of this Agreement, the Parties agree to cooperate fully to oppose such proceedings. In the event that any action or proceeding of any type whatsoever is commenced or prosecuted by any Person not a Party to this Agreement to invalidate, interpret, or prevent the validation, enforcement, or carrying out of all or any of the provisions of this Agreement, the Parties mutually agree, represent, warrant, and covenant to cooperate fully in opposing such action or proceeding; provided, however, that such cooperation shall not obligate either party to incur professional fees or other expenses for the benefit of the other Party.

7.2 Effectuation. Each Party agrees to take such steps and to execute any documents as may be reasonably necessary or proper to effectuate the purpose and intent of this Agreement, subject to any necessary Bankruptcy Court approvals, and to preserve its validity and enforceability.

7.3 Cooperation to Obtain Approval. The Parties shall cooperate with each other in connection with obtaining a Confirmation Order approving this Agreement. The Parties agree such cooperation shall include consulting with each other upon request concerning the status of proceedings and providing each other with copies of requested pleadings, notices, proposed orders, and other documents relating to such proceedings as soon as reasonably practicable prior to any submission thereof to the Bankruptcy Court and not taking any action to oppose confirmation of a Plan consistent with this Agreement or asking any other Person to oppose confirmation of a Plan consistent with this Agreement; *provided, however*, that nothing contained in this Section shall obligate any Party to provide to the other Party any information that is otherwise subject to the attorney-client privilege or work-product doctrine or to take any actions or refrain from taking any actions not consistent with such Party's fiduciary obligations. It is understood and agreed that in addition to the protections set forth in Section 7.6 below, all negotiations leading up to this Agreement, and all prior drafts of this Agreement, are subject to the mediation order entered by the Bankruptcy Court in the Chapter 11 Case, any prior mediation agreements, and the any confidentiality agreement imposed by the mediator.

7.4 Single Integrated Contract. This Agreement ~~constitutes, together with the Plan and Confirmation Order, constitute~~ a single integrated written contract that expresses the entire agreement and understanding between the Parties. Except as otherwise expressly provided herein, this Agreement ~~supersedes, together with the Plan and Confirmation Order, supersede~~ all prior communications, settlements, and understandings between the Parties and their representatives, regarding the matters

USA Gymnastics Plan of Reorganization  
Exhibit G, Buy-Back Agreement

addressed by this Agreement, the Plan, and Confirmation Order. Except as explicitly set forth in this Agreement, the Plan, and Confirmation Order, there are no representations, warranties, promises, or inducements, whether oral, written, expressed, or implied, that in any way affect or condition the validity of this Agreement, the Plan, and Confirmation Order or alter or supplement its terms. Any statements, promises, or inducements, whether made by any party or any agents of any party, that are not contained in this Agreement, the Plan, and Confirmation Order shall not be valid or binding. Any changes to this Agreement, the Plan, and Confirmation Order must be made in writing and with the consent of the Parties.

- 7.5 No Deemed Waiver. By entering into this Agreement, neither Party has waived or shall be deemed to have waived any rights, obligations, or positions it or they have asserted or may in the future assert in connection with any matter or Person outside the scope of this Agreement. USAG's rights under policies of insurance issued by insurers other than the Settling Insurer shall not be affected by this Agreement. No part of this Agreement, its negotiation, or its performance may be used in any manner in any action, suit, or proceeding by any Person as evidence of the rights, duties, or obligations of any of the Parties with respect to matters or Persons outside the scope of this Agreement. All actions taken and statements made by the Parties or by their representatives, relating to this Agreement or participation in this Agreement, including its development and implementation, shall be without prejudice or value as precedent and shall not be used as a standard by which other matters may be judged.
- 7.6 No Admission Compromise of Disputed Claims. This Agreement represents a compromise of disputed Claims and shall not be deemed an admission or concession by any Party of liability, culpability, wrongdoing, or insurance coverage. Settlement negotiations leading up to this Agreement and all related discussions and negotiations shall be deemed to fall within the protection afforded to compromises and to offers to compromise by Rule 408 of the Federal Rules of Evidence and any parallel state law provisions, as well as all confidentiality provisions entered by the Bankruptcy Court and the mediators in the Chapter 11 Case and/or the Insurance Coverage Adversary Proceeding and the Declaratory Coverage Action. Any evidence of the negotiations or discussions associated with this Agreement shall be inadmissible in any action or proceeding for purposes of establishing any rights, duties, or obligations of the Party, except in (i) an action or proceeding between the Parties to enforce the terms of this Agreement or (ii) any possible action or proceeding between the Settling Insurer and any of its reinsurers. This Agreement shall not be used as evidence or in any other manner, in any court or dispute resolution proceeding, to create, prove, or interpret the Settling Insurer's obligations under the Policies, the insurance policies issued to any other Person, or the Claims of any Party against the Settling Insurer.
- 7.7 No Assignment. Neither this Agreement nor the rights and obligations set forth in this Agreement shall be assigned without the prior written consent of the other Parties, except an assignment that occurs as a matter of law by virtue of a merger

USA Gymnastics Plan of Reorganization  
Exhibit G, Buy-Back Agreement

of a Party with another corporation or entity. USAG covenants that it has not and will not assign any right, interest or action in or on the Policies to any Person.

- 7.8 Headings. Section titles and/or headings contained in this Agreement are included only for ease of reference and shall have no substantive effect.
- 7.9 Notice. All notices, demands, or other communications to be provided pursuant to this Agreement shall be in writing and sent by UPS, FedEx, or other overnight delivery service, costs prepaid, to the Parties at the addresses set forth below, or to such other person or address as any of them may designate in writing from time to time:

If to USAG:

USA Gymnastics  
1099 N. Meridian St.,  
Suite 800  
Indianapolis, Indiana 46204  
Attn: Li Li Leung

*With a copy to:*

Jenner & Block LLP  
353 North Clark Street  
Chicago, Illinois 60654  
Attn: Catherine Steege and Melissa Root

If to the Settling Insurer:

[\_\_\_\_\_]

*With a copy to:*

- 7.10 Execution by Counterparts. This Agreement may be executed in multiple counterparts, all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by facsimile or e-mail, which ~~facsimile~~ counterparts shall be deemed to be originals.
- 7.11 No Admission. The Parties agree that nothing contained in this Agreement shall be deemed or construed to constitute (1) an admission by the Settling Insurer that USAG, any Participating Party, any Non-Debtor CGL Settling Insurer Covered Persons, or any other Person was or is entitled to any Insurance Coverage under the Policies or as to the validity of any of the positions that have been or could have been asserted by USAG, (2) an admission by USAG as to the validity of any of the

**USA Gymnastics Plan of Reorganization  
Exhibit G, Buy-Back Agreement**

positions or defenses to Insurance Coverage that have been or could have been asserted by the Settling Insurer or any Claims that have been or could have been asserted by USAG against the Settling Insurer, ~~or~~ (3) an admission by USAG or the Settling Insurer of any liability whatsoever with respect to any of the Sexual Abuse Claims, or (4) a statement of support by the Settling Insurer for the procedures set forth in the Allocation Protocol or admission that the Allocation Protocol accurately reflects the liability of the Debtor or any other Protected Party with respect to Abuse Claims.

- 7.12 No-Third Party Beneficiaries. The Parties agree that there are no third-party beneficiaries of this Agreement.
- 7.13 Jurisdiction. The Bankruptcy Court in the Chapter 11 Case shall retain **exclusive** jurisdiction to interpret and enforce the provisions of this Agreement, which shall be construed in accordance with Indiana law.

[Remainder of page left blank intentionally]

**USA Gymnastics Plan of Reorganization  
Exhibit G, Buy-Back Agreement**

Exhibit 1-Policies

[\[Insert Policies of Debtor CGL Settling Insurer set forth on Exhibit A to the Plan\]](#)

**EXHIBIT H**

**Allocation Protocol**

| **[To Be Supplemented Prior To The ~~Disclosure Statement Hearing~~[Solicitation Deadline](#)]**



**EXHIBIT I**

**Future Claimant Allocation Protocol**

[To Be Supplemented Prior To The ~~Disclosure Statement Hearing~~[Solicitation Deadline](#)]

USA Gymnastics Plan of Reorganization  
Exhibit J, Form of General Release

**SEXUAL ABUSE CLAIMANT GENERAL RELEASE**

This Sexual Abuse Claimant General Release (“**Release**”) is executed by [•] (the “**Claimant**”) on [•], 202[•] pursuant to, and in accordance with, the terms of the ~~First~~ Second Amended Joint Chapter 11 Plan Of Reorganization Proposed By USA Gymnastics And The Additional Tort Claimants Committee Of Sexual Abuse Survivors (the “**Plan**”).<sup>1</sup>

**RECITALS**

A. On December 5, 2018, USA Gymnastics (the “**Debtor**”) filed a voluntary petition under chapter 11 of the United States Bankruptcy Code. The Debtor remained in possession of its property and continued to operate and maintain its organization as a debtor in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

B. On ~~September 22~~ October 1, 2021, the Debtor filed the Plan. On [•], 2021, the United States Bankruptcy Court for the Southern District of Indiana confirmed the Plan by entering the Confirmation Order. On [•], 2021, the Effective Date occurred under the Plan and the Debtor became the Reorganized Debtor.

C. Pursuant to the Plan, a Trust was created for the benefit of Abuse Claimants and Future Claimants. All Abuse Claims and Future Claims are channeled to the Trust for resolution. Distributions to Holders of Allowed Abuse Claims and Holders of Allowed Future Claims shall be made from assets contributed to the Trust by the Settling Insurers and Participating Parties.

D. The Settlement Trustee has determined, in accordance with the terms of the Plan and the Plan Documents, that the Claimant holds an Allowed [Abuse/Future] Claim (the “**Claimant’s Channeled Claim**”) and is entitled to a distribution (the “**Distribution**”) from the Trust in full, complete, and final satisfaction of the Claimant’s Channeled Claim.

E. The Plan provides that, as a pre-condition to receiving the Distribution from the Trust, the Claimant shall execute and deliver to the Trust a full and complete general release of the Debtor, the Estate, the Reorganized Debtor, the Settling Insurers, all Participating Parties, and all known or unknown parties who may claim coverage under any Insurance Policy issued to the Debtor, including the Non-Debtor CGL Settling Insurer Covered Persons, and each of the Related Persons of all of the foregoing entities, of any and all Claims arising from or relating to the Debtor, Abuse Claims, Future Claims, or the Settling Insurance Policies.<sup>2</sup>

NOW, THEREFORE, in consideration of the treatment provided for the Claimant’s Channeled Claim under the Plan and the Plan Documents, and for good and valuable consideration,

---

<sup>1</sup> The definitions set forth in Article I of the Plan apply to capitalized terms used, but not defined, in this Release. The rules of construction set forth in Article II of the Plan apply to this Release. To the extent that any provision of this Release conflicts with any term of the Plan, the terms of the Plan shall control.

<sup>2</sup> The universe of parties to be released under this Release is disclosed in the Plan. For the avoidance of doubt, such released parties are also listed on Schedule 1, attached hereto.

# **EXHIBIT B**

THIS DISCLOSURE STATEMENT IS NOT A SOLICITATION OF VOTES ON THE PLAN. ACCEPTANCES OF THE PLAN MAY NOT BE SOLICITED UNTIL THE BANKRUPTCY COURT HAS APPROVED A DISCLOSURE STATEMENT. THE DEBTOR RESERVES THE RIGHT TO AMEND, SUPPLEMENT, OR OTHERWISE MODIFY THIS DISCLOSURE STATEMENT PRIOR TO THE HEARING TO APPROVE THIS DISCLOSURE STATEMENT.

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

In re:  
  
USA GYMNASTICS,<sup>1</sup>  
  
Debtor.

Chapter 11

Case No. 18-09108-RLM-11

USA GYMNASTICS' DISCLOSURE STATEMENT FOR ~~FIRST~~SECOND AMENDED  
JOINT CHAPTER 11 PLAN OF REORGANIZATION PROPOSED BY USA  
GYMNASTICS AND THE ADDITIONAL TORT CLAIMANTS COMMITTEE  
OF SEXUAL ABUSE SURVIVORS

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Dated: ~~September 22~~October 1, 2021

<sup>1</sup> The last four digits of the Debtor's federal tax identification number are 7871. The location of the Debtor's principal office is 1099 N. Meridian St., Suite 800, Indianapolis, Indiana 46204.

## DISCLAIMER

USA GYMNASTICS, AS DEBTOR AND DEBTOR IN POSSESSION IN THE ABOVE-CAPTIONED CHAPTER 11 CASE BELIEVES THAT THE ~~FIRST~~-SECOND AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION, ATTACHED AS EXHIBIT 1 TO THIS DISCLOSURE STATEMENT, IS IN THE BEST INTERESTS OF CREDITORS AND URGES ALL HOLDERS OF CLAIMS ENTITLED TO VOTE TO ACCEPT THE PLAN.

THIS DISCLOSURE STATEMENT AND ITS RELATED DOCUMENTS ARE THE ONLY DOCUMENTS APPROVED BY THE BANKRUPTCY COURT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES FOR OR AGAINST THE PLAN.

THIS DISCLOSURE STATEMENT CONTAINS ONLY A SUMMARY OF THE PLAN AND IS NOT INTENDED TO REPLACE A DETAILED REVIEW AND ANALYSIS OF THE PLAN. ALL HOLDERS OF CLAIMS ARE ENCOURAGED TO REVIEW THE FULL TEXT OF THE PLAN AND THE EXHIBITS TO THE PLAN AND THIS ENTIRE DISCLOSURE STATEMENT CAREFULLY BEFORE DECIDING WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN. IN THE EVENT OF A CONFLICT BETWEEN THE PLAN AND THIS DISCLOSURE STATEMENT, THE PROVISIONS OF THE PLAN WILL GOVERN.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF. THE DELIVERY OF THIS DISCLOSURE STATEMENT DOES NOT IMPLY THAT THE INFORMATION CONTAINED HEREIN IS CORRECT AT ANY TIME AFTER THE DATE HEREOF, AND THE DEBTOR DOES NOT ASSUME ANY OBLIGATION TO UPDATE THIS DISCLOSURE STATEMENT FOR EVENTS OR INFORMATION ARISING AFTER THE DATE HEREOF.

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS NOT BEEN SUBJECT TO A CERTIFIED AUDIT. FOR THAT REASON, AND BECAUSE OF THE IMPOSSIBILITY OF MAKING ASSUMPTIONS, ESTIMATES, AND PROJECTIONS INTO THE FUTURE WITH CERTAINTY, THE DEBTOR IS UNABLE TO WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS COMPLETE AND ACCURATE, ALTHOUGH REASONABLE EFFORT HAS BEEN MADE TO PRESENT COMPLETE AND ACCURATE INFORMATION.

HOLDERS OF CLAIMS SHALL NOT CONSTRUE THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, FINANCIAL, OR TAX ADVICE. ALL HOLDERS OF CLAIMS SHOULD CONSULT WITH THEIR OWN ADVISORS AS TO ANY MATTERS CONCERNING THE PLAN, ITS SOLICITATION, AND THE TRANSACTIONS, TREATMENT, AND DISTRIBUTIONS CONTEMPLATED BY THE PLAN.

THIS DISCLOSURE STATEMENT SHALL NOT BE CONSTRUED AS AN ADMISSION OR STIPULATION AS TO ANY CONTESTED MATTER, ADVERSARY PROCEEDING, CLAIM, OR OTHER ACTION OR THREATENED ACTION BUT AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS.

**TABLE OF CONTENTS**

I. OVERVIEW OF THIS DISCLOSURE STATEMENT AND THE PLAN..... 1

    A. Introduction..... 1

    B. Principal Terms Of The Plan. .... 5

        1. Treatment Of Abuse Claims. .... 5

            a. The Full or Partial Settlement Alternative..... 56

            b. The Litigation Only Alternative..... 910

            c. The Releases And Injunctions, Including A Release Of The USOPC, Are Necessary To The Full or Partial Settlement Alternative. .... 10

        2. USAG’s Non-Monetary Commitments And Reforms..... 1213

        3. Treatment Of Claims Other Than Abuse Claims..... 1718

    C. The Plan Is In The Best Interests Of Creditors. .... 1819

    D. Voting And Confirmation Procedures. .... 1920

II. QUESTIONS AND ANSWERS REGARDING THIS DISCLOSURE STATEMENT AND THE PLAN..... 2021

III. AN OVERVIEW OF THE CHAPTER 11 PROCESS ..... 2728

    A. A Chapter 11 Case. .... 2728

    B. A Chapter 11 Plan. .... 2728

    C. Voting On A Chapter 11 Plan..... 28

        1. Court Approval Required..... 28

        2. Impaired Classes With Recoveries Entitled To Vote. .... 2829

        3. Acceptance Of A Chapter 11 Plan..... 2829

        4. Disputed Claims May Not Vote..... 2930

    D. Confirmation of a Chapter 11 Plan. .... 2930

        1. Confirmation With Acceptance By All Classes..... 2930

        2. Confirmation With Rejection By Certain Classes. .... 2930

IV. THE DEBTOR, ITS OPERATIONS, AND THE CHAPTER 11 CASE.....[3031](#)

    A. USAG’s Operations. ....[3031](#)

    B. USAG’s Capital Structure.....[3031](#)

    C. USAG’s Board Of Directors.....31

    D. Events Leading To The Chapter 11 Case. ....[3435](#)

    E. The Chapter 11 Case.....36

        1. First Day Motions. ....36

        2. The Debtor’s Professionals.....[3637](#)

        3. The Survivors’ Committee.....[3637](#)

        4. Future Claimant Representative.....37

        5. The Bar Date. ....[3738](#)

        6. The Claims Against The Debtor And The Debtor’s Claims Objections. ....38

            a. The Abuse Claims.....38

            b. The General Claims. ....[3839](#)

        7. Postpetition Financing. ....[3940](#)

            a. Debtor In Possession Financing.....[3940](#)

            b. Paycheck Protection Program Funding.....[3940](#)

        8. Plan Exclusivity and Deadlines. ....40

        9. Litigation.....[4041](#)

            a. Insurance Coverage Adversary Proceeding.....[4041](#)

            b. Prepetition Abuse Litigation and the 105 Order.....[4142](#)

            c. Third Party Injunction Adversary Proceeding.....42

            d. California Plaintiffs’ Litigation.....[4243](#)

        10. Mediation and Settlement Conference.....[4243](#)

        11. Motion To Dismiss. ....[4344](#)

12. Plan Support Agreement .....4344

V. SUMMARY OF THE PLAN.....44

A. Treatment of Unclassified Claims. ....4445

1. Administrative Claims. ....4445

2. Professional Claims. ....4445

3. Priority Tax Claims.....4546

4. U.S. Trustee Fees. ....4546

B. Treatment of Classified Claims. ....4546

1. Class 1—Other Priority Claims. ....4647

2. Class 2—PNC Bank Claim.....4647

3. Class 3—Sharp Claim.....4647

4. Class 4—General Unsecured Convenience Claims.....4748

5. Class 5—General Unsecured Claims.....4748

6. Class 6—Abuse Claims. ....4849

7. Class 7—Personal Injury Claim.....4950

8. Class 8—USOPC Claim. ....4950

9. Class 9—Indemnification Claims.....51

10. Class 10—Future Claimant Representative Claim. ....5152

11. Class 11—Sexual Abuse Claims Filed After The Bar Date. ....5253

VI. MEANS FOR IMPLEMENTATION OF THE PLAN UNDER THE FULL OR PARTIAL SETTLEMENT ALTERNATIVE .....5253

A. Trust Formation and Funding. ....5253

1. Establishment Of The Trust.....5253

2. Trust Purpose .....5253

3. Funding of Trust .....5254

4. Approval of Settlement.....5354



5. Future Claimant Reserve.....	<u>5354</u>
6. The Settlement Trustee. ....	<u>5354</u>
7. Tax Matters. ....	<u>5354</u>
8. Cooperation By The Debtor And Reorganized Debtor.....	<u>5355</u>
9. Objections To Channeled Claims. ....	<u>5455</u>
10. Trust Indemnification Obligations.....	<u>5455</u>
B. Implementation of the Partial Settlement Option. ....	<u>5455</u>
1. Partial Settlement Option Election.....	<u>5455</u>
2. Selection of CGL Insurer(s) in the Partial Settlement Option. ....	<u>5556</u>
3. Treatment Under Partial Settlement Option. ....	<u>5556</u>
4. Transfer of Insurance Claims Upon Failure of CGL Insurer to Accept Its CGL Insurer Settlement Offer. ....	<u>5556</u>
5. Treatment of CGL Insurers That Are Not A Partial Settlement Option Accepted Party.....	<u>5657</u>
6. No Claims Of Non-Settling Insurers Against Settling Insurers Or Non-Debtor CGL Settling Insurer Covered Persons.....	<u>5657</u>
7. Abuse Claimant’s Right to Litigate Abuse Claim Upon Failure of CGL Insurer to Accept Its CGL Insurer Settlement Offer.....	<u>5657</u>
8. Litigation Claimant’s Right to Commence or Continue Actions.....	<u>5657</u>
9. Effect of Trust Insurance Settlements.....	<u>5657</u>
10. Application of Claim Enhancement.....	<u>5758</u>
11. Withdrawal of Litigation Claimant Election.....	<u>5758</u>
12. Litigation Claimant’s Allocated Settlement Payment.....	<u>5758</u>
13. Abuse Claimants’ Rights Reserved. ....	<u>5859</u>
14. No Compromise of Insurance Policies for Claims that are not Abuse Claims.....	<u>5859</u>
C. Liquidation And Payment Of Channeled Claims. ....	<u>5859</u>
1. Resolution And Payment Of Channeled Claims.....	<u>5859</u>

- 2. Conditions To Payment Of Abuse Claims And FCR Claims.....[5960](#)
- 3. Effect Of No Award On Channeled Claims. ....[5960](#)
- 4. Treatment Of Attorneys’ Fees And Costs Of Channeled Claimants.....[5960](#)
- 5. Withdrawal Of Channeled Claims.....[5960](#)
- 6. Adding Participating Parties. ....[6061](#)
- 7. Adding Settling Insurers. ....[6061](#)
- 8. Future Claimant Process. ....[6061](#)
- D. CHANNELING INJUNCTION.....[6162](#)
  - 1. EFFECTIVE DATE INJUNCTIONS.....[6162](#)
  - 2. CHANNELING INJUNCTION PREVENTING PROSECUTION OF ABUSE CLAIMS .....[6162](#)
  - 3. SCOPE OF CHANNELING INJUNCTION .....[6263](#)
  - 4. ENFORCEMENT TO THE MAXIMUM EXTENT.....[6364](#)
  - 5. SETTLING INSURER INJUNCTION.....[6364](#)
  - 6. CONTRIBUTION BAR AGAINST NON-SETTLING INSURERS. ....[6465](#)
  - 7. PERMANENT TERM OF INJUNCTIONS OR STAYS AND CONFIRMATION OF SETTLEMENTS WITH PARTICIPATING PARTIES AND SETTLING INSURERS .....[6465](#)
  - 8. RELEASE OF AVOIDANCE CLAIMS AND OTHER CLAIMS AGAINST PARTICIPATING PARTIES, NON-DEBTOR CGL SETTLING INSURER COVERED PERSONS, AND SETTLING INSURERS .....[6465](#)
  - 9. MUTUAL RELEASE.....[6566](#)
  - 10. PROTECTED PARTY RELEASE.....[6566](#)
  - 11. USOPC RELEASE.....[6667](#)
  - 12. KAROLYI RELEASE.....[6668](#)
  - 13. EXCLUDED PARTIES LIMITATION OF RELEASES AND CHANNELING INJUNCTION.....[6768](#)

VII. MEANS FOR IMPLEMENTATION OF THE PLAN UNDER THE LITIGATION

- ONLY ALTERNATIVE.....[6768](#)
- A. Lifting Of Automatic Stay And Stay Imposed Under the 105 Order for the Benefit of the Holders of Class 6 Claims .....[6768](#)
- B. Post-Effective Date Awards.....[6869](#)
- C. Cooperation with Insurers in Defense of Claims.....[6869](#)
- D. Remand of Removed Actions and Relief from Automatic Stay/Discharge .....[6869](#)

VIII. GENERALLY APPLICABLE PROVISIONS OF THE PLAN.....[6870](#)

- A. Conditions Precedent To The Effective Date. ....[6870](#)
  - 1. Conditions To Effectiveness.....[6970](#)
  - 2. Waiver of Conditions.....[6970](#)
  - 3. Non-Occurrence of Effective Date. ....[6970](#)
- B. Insurance Neutrality.....[6970](#)
  - 1. No Modification of Debtor’s Insurance Policies of Non-Settling Insurers, Other Insurers, or Personal Injury Insurer. ....[6970](#)
  - 2. Non-Settling Insurers’, Other Insurers’, and Personal Injury Insurer’s Duties Not Impaired.....[6971](#)
  - 3. Trust Has No Impact.....[7071](#)
  - 4. Obligations for Claims.....[7071](#)
  - 5. Non-Settling Insurers’, Other Insurers’, and Personal Injury Insurer’s Defenses.....[7071](#)
  - 6. Reinsurance.....[7071](#)
  - 7. Defenses of the Debtor, the Estate, and the Reorganized Debtor.....[7072](#)
  - 8. Governing Law. ....[7172](#)
- C. Treatment Of Executory Contracts And Unexpired Leases. ....[7172](#)
  - 1. Assumed Employee Benefit Plans.....[7172](#)
  - 2. General; Assumed if Not Rejected. ....[7172](#)

3. Claims for Contract Rejection. ....	<u>7172</u>
4. Indemnification Claims.....	<u>7172</u>
D. Litigation.....	<u>7172</u>
1. Reorganized Debtor’s Retention of Causes of Action and Litigation. ....	<u>7172</u>
2. Additional Actions.....	<u>7273</u>
E. Claims And Distributions. ....	<u>7273</u>
1. Lift of Automatic Stay for Personal Injury Claim. ....	<u>7273</u>
2. Objections to Claims other than Abuse Claims, the Personal Injury Claim, the USOPC Class 8 Claim, Indemnification Claims, and the FCR Claim. ....	<u>7273</u>
3. Service of Objections.....	<u>7374</u>
4. Additional Documentation.....	<u>7374</u>
5. Provisions Governing Distribution To Holders of Allowed Claims.....	<u>7374</u>
a. Distribution Only to Holders of Allowed Claims. ....	<u>7374</u>
b. Timing of Distributions.....	<u>7375</u>
6. No Distributions Pending Allowance. ....	<u>7475</u>
7. Setoffs. ....	<u>7475</u>
8. No Interest on Claims. ....	<u>7475</u>
F. Retention Of Jurisdiction. ....	<u>7476</u>
G. Miscellaneous Provisions.....	<u>7576</u>
1. Modification Of Plan. ....	<u>7576</u>
2. Post-Confirmation Court Approval.....	<u>7576</u>
3. Election Pursuant To Section 1129(b) Of The Bankruptcy Code.....	<u>7576</u>
4. Closing Of The Chapter 11 Case. ....	<u>7677</u>
5. Dissolution Of The Survivors’ Committee.....	<u>7677</u>
6. Termination Of The Appointment Of The FCR. ....	<u>7677</u>
7. Governing Law. ....	<u>7677</u>

8. Reservation Of Rights.....7778

IX. EFFECTS OF PLAN CONFIRMATION AND DISCHARGE.....7778

    A. Discharge. ....7778

    B. Vesting of Assets. ....7778

    C. Continued Existence of Reorganized Debtor.....7778

    D. Exculpation and Limitation of Liability. ....7879

X. RISK FACTORS.....7879

    A. Parties In Interest May Object To The Debtor’s Classification Of Claims. ....7879

    B. The Debtor and the Survivors’ Committee May Not Be Able To Secure Confirmation Of The Plan. ....7980

    C. Parties In Interest May Object To The Releases And Injunctions Contained In The Plan. ....7980

D. TIG Insurance Company’s Objection. ....80

~~E.~~ Nonconsensual Confirmation.....7980

~~F.~~ Non-Occurrence Of The Effective Date. ....7981

~~G.~~ Medicare Reimbursement. ....8081

XI. BEST INTERESTS TEST .....8081

XII. CERTAIN FEDERAL INCOME TAX CONSIDERATIONS .....8182

    A. Tax Consequences To Creditors .....8182

    B. Tax Consequences To The Debtor.....8283

    C. Tax Consequences To The Trust. ....8283

XIII. VOTING INSTRUCTIONS .....8284

XIV. CONCLUSION AND RECOMMENDATION.....8384

USA Gymnastics, as debtor and debtor in possession (the “Debtor” or “USAG”) respectfully submits this disclosure statement (the “Disclosure Statement”) in support of the *First Second Amended Joint Chapter 11 Plan Of Reorganization Proposed By USA Gymnastics And The Additional Tort Claimants’ Committee Of Sexual Abuse Survivors* (as it may hereafter be amended or modified, the “Plan”), a copy of which is attached to this Disclosure Statement as Exhibit 1.<sup>1</sup>

## I. OVERVIEW OF THIS DISCLOSURE STATEMENT AND THE PLAN

### A. Introduction.

On December 5, 2018, USA Gymnastics filed a voluntary chapter 11 petition with the United States Bankruptcy Court for the Southern District of Indiana (the “Bankruptcy Court”). Following its bankruptcy filing, the Debtor has engaged the Survivors’ Committee, the Debtor’s insurance carriers, athletes, the United States Olympic & Paralympic Committee (the “USOPC”), creditors, and other parties in interest in good faith and lengthy negotiations over the terms of a plan of reorganization that will compensate all Persons holding Allowed Claims against the Debtor. The Debtor’s paramount focus has been on reaching an equitable resolution of the Abuse Claims.

As a result of these efforts, the Debtor, the Survivors’ Committee, certain survivors, and certain of the Settling Insurers executed a Plan Support Agreement, which sets forth the key terms of the Plan. The Debtor and the Survivors’ Committee believe the Plan is in the best interests of, and provides the highest and most expeditious recoveries to, all parties who hold Claims against the Debtor, including Holders of Abuse Claims. **The Debtor and the Survivors’ Committee recommend that all Classes of Claims entitled to vote accept the Plan.**

This Disclosure Statement describes why Claims are placed into certain Classes, the relative allocations of property to the Holders of such Claims, the manner by which the Debtor’s Assets are to be distributed, the Allocation Protocol for distributions by the Trust to Abuse Claimants, the risks inherent in the Plan, and the applicable bankruptcy and tax consequences of the Plan. You are advised and encouraged to read both this Disclosure Statement and the Plan in their entirety before voting to accept or reject the Plan.

**Note, this paragraph will be deleted from the solicitation version of this Disclosure Statement.** As discussed in greater detail below, the Plan provides two possible alternatives: (i) the Full or Partial Settlement Alternative, or (ii) the Litigation Only Alternative. The Litigation Only Alternative will not occur if the CGL Insurers accept the CGL Insurer Settlement Offers *or* if the Debtor and the Survivors’ Committee jointly elect the Partial Settlement Option. The deadline by which the Debtor and the Survivors’ Committee must make the Partial Settlement Option election is the date set for the hearing on approval of this Disclosure Statement. The **yellow highlighted** sections of this Disclosure Statement are applicable only if the Debtor and the Survivors’ Committee jointly elect the Partial Settlement Option, and will be deleted from the Disclosure

<sup>1</sup> The definitions set forth in Article I of the Plan apply to capitalized terms used, but not defined, in this Disclosure Statement. The rules of construction set forth in Article II of the Plan apply to this Disclosure Statement.

CLASS	DESCRIPTION	IMPAIRMENT	VOTING	TREATMENT
11	Sexual Abuse Claims Filed After The Bar Date	Impaired	Deemed to Reject	<p><i>Full or Partial Settlement Alternative: \$0.00.</i></p> <p><i>Litigation Only Alternative: Class 11 Claims shall not receive a Distribution; provided, however, that to the extent that the Holder of a Class 11 Claim has a right to recovery under any of the Debtor CGL Insurance Policies, such rights are preserved and will not be impaired under the Plan.</i></p> <p><u>Pursuant to Section 11.8 of the Plan, Holders of Class 11 Claims may file a Claim with the Settlement Trustee to be deemed a Future Claimant and may recover from the Future Claimant Reserve, provided funds remain in such Future Claimant Reserve, only if the Settlement Trustee, in consultation with the FCR, determines that the Holder of such Claim has proven by a preponderance of the evidence that such Holder meets the definition of a Future Claimant and such Holder's Claim meets the definition of a Sexual Abuse Claim.</u></p>

As provided by Section 1126 of the Bankruptcy Code, only Classes of Claims that are both impaired under the Plan and entitled to a recovery under the Plan are permitted to vote to accept or reject the Plan. Here, the only Classes of Claims entitled to vote are Class 5 (General Unsecured Claims), Class 6 (Abuse Claims), Class 7 (the Personal Injury Claim), Class 8 (the USOPC Claim), Class 9 (Indemnification Claims), and, **only under the Full or Partial Settlement Alternative**, Class 10 (the FCR Claim) (collectively, the “**Voting Classes**”).

**B. Principal Terms Of The Plan.**

This Section contains a summary of the principal terms of the Plan. You should carefully review the Plan in full before determining whether to vote to accept or reject the Plan. To the extent that any provision of this Disclosure Statement conflicts with any term of the Plan, the terms of the Plan shall control.

**1. Treatment Of Abuse Claims.**

Excluding duplicative, withdrawn, untimely, and disallowed claims, 510 individuals have filed Abuse Claims against the Debtor.<sup>2</sup> As set forth in the Debtor’s liquidation analysis, a liquidation of the Debtor’s Assets (exclusive of the Debtor’s Insurance Policies) would be insufficient to make any payments to the Debtor’s general unsecured creditors and thus, in a chapter 7 case, the Holders of Abuse Claims would receive no recovery (exclusive of recoveries

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<sup>2</sup> 561 Abuse Claims were filed. 33 of those Abuse Claims are duplicative, 2 Abuse Claims have been disallowed, 1 Abuse Claim has been withdrawn, and 15 Abuse Claims were filed late. The Trust Agreement provides that these 51 duplicative, disallowed, withdrawn, and late Abuse Claims will receive nothing from the Trust (unless, with respect to a late-filed Abuse Claim, the Court deems such Abuse Claim to be timely filed).

under the Debtor’s Insurance Policies). Accordingly, the Debtor believes that the only source of potential recovery from the Debtor for Abuse Claimants is the Debtor CGL Insurance Policies (and Other Insurance Policies (if any) that provide Insurance Coverage for Abuse Claims). The Plan provides two alternatives for Abuse Claims (and the USOPC Claim and Indemnification Claims): (a) the Full or Partial Settlement Alternative; and (b) the Litigation Only Alternative.

**a. The Full or Partial Settlement Alternative.**

The first alternative is the Full or Partial Settlement Alternative. The Survivors’ Committee made the CGL Insurer Settlement Offer to each of the below CGL Insurers in the aggregate amount of \$425,000,000.00. The table below provides additional detail regarding the CGL Insurer Settlement Offers:

CGL Insurers	CGL Insurer Settlement Offer
<b>Virginia Surety Company (f/k/a/ Combined Specialty Insurance Company)</b> Debtor <del>Policies</del> policies USOPC <del>Policies</del> policies	\$XXXX \$XXXX <b>Total: \$XXXX<sup>3</sup></b>
<b>National Casualty Company</b> Debtor <del>Policies</del> policies USOPC <del>Policies</del> policies	\$XXXX \$XXXX <b>Total: \$XXXX</b>
<b>TIG Insurance Company</b> Debtor <del>Policies</del> policies — USOPC <del>Policies</del> policies	\$67,157,545 \$39,044,273 <b>Total: \$106,201,818</b>
<b>CIGNA Insurance Company (n/k/a ACE American Insurance Company)</b> (Debtor <del>Policies</del> policies Only)	<b>Total: \$XXXX</b>
<b>National Union Fire Insurance Company of Pittsburgh, P.A. (n/k/a AIG)</b> (Debtor <del>Policies</del> policies Only)	<b>Total: \$XXXX</b>
<b>Gemini Insurance Company</b> (USOPC <del>Policies</del> policies Only)	<b>Total: \$XXXX</b>

<sup>3</sup> CGL Insurers who have reached agreement on a number with the Debtor, USOPC and the Survivors’ Committee are shown as XXXX. The figures designated for National Casualty Company with XXXX are not to be shared publicly until the Committee and Debtor jointly elect to pursue the Full or Partial Settlement Alternative and will not be shared publicly in the event the Committee and Debtor do not jointly elect to pursue the Full or Partial Settlement Alternative.



CGL Insurers	CGL Insurer Settlement Offer
<b>Great American Assurance Company</b> Debtor/ <del>Karolyi Policies</del> <u>policies</u> <del>—Policies</del> USOPC <u>policies</u> <u>American Empire Surplus Lines Insurance Company</u> <u>Karolyi policies</u>	\$28,121,305 \$13,166,680  <u>\$XXX</u> <u>\$XXX</u>  <u>\$XXXX</u>  <b>Total: \$41,287,985</b> <u>XXXX</u>
<b>Philadelphia Indemnity Insurance Company</b> (USOPC Policies Only)	<b>Total: \$XXXX</b>
<b>Total:</b>	<b>\$425,000,000</b>

As of the date of this Disclosure Statement, CIGNA Insurance Company (n/k/a ACE American Insurance Company), National Union Fire Insurance Company of Pittsburgh, P.A. (n/k/a AIG), National Casualty Company, Virginia Surety Company (f/k/a Combined Specialty Insurance Company), Philadelphia Indemnity Insurance Company, ~~and~~ Gemini Insurance Company, Great American Assurance Company, and American Empire Surplus Lines Insurance Company have committed to fund their respective CGL Insurer Settlement Offers.

~~If the remaining CGL Insurers commit~~ If TIG Insurance Company commits to fund the Total Settlement Demand Amount, or if the Debtor and the Survivors' Committee jointly elect to proceed with the Partial Settlement Option, then, the Plan provides for the creation of a Trust for the exclusive benefit of Abuse Claimants and Future Claimants. The Plan provides that, on the Effective Date, each Settling Insurer shall make its Agreed CGL Insurer Payment by wire transfer to the Debtor pursuant to such Debtor's Settling Insurer's Buy-Back Agreement or other agreement with the USOPC Settling Insurers. Upon receipt of the Agreed CGL Insurer Payments from the Settling Insurers, the Debtor will wire the Net Settlement Payment to the Trust. In addition, the Trust will also be funded with the Twistars Settlement and, in the event that the Debtor and the Survivors' Committee elect to proceed with the Partial Settlement Option, a transfer of the Insurance Claims against the Non-Settling Insurers, as set forth in Section 10.5 of the Plan.

The Trust Assets will be used to fund Distributions to Holders of Abuse Claims and Holders of Future Claims. Under the Partial Settlement Option, Abuse Claimants whose Claims are covered only by a Non-Settling Insurer's by a TIG Insurance Company policy may elect to pursue litigation against the Debtor and any other defendant; *provided, however*, that any such Claims are subject to the terms of the Plan and that Claims against the Debtor or a Protected Party may recover only from a CGL Insurance Policy issued by a Non-Settling Insurer of the Debtor or a CGL Insurance Policy issued by a Non-Settling Insurer of a Protected Party. Exhibit E to the Plan identifies which Abuse Claims are covered by ~~each Non-Settling Insurer's CGL~~ a TIG

Insurance ~~Policy~~ Company policy. In exchange for payment from the Trust, Abuse Claimants shall agree to a full and complete general release of the Debtor, its Estate, the Reorganized Debtor, the Settling Insurers (identified below), the Participating Parties (identified below), and all known or unknown parties who may claim coverage under any insurance policy issued to the Debtor, including the Non-Debtor CGL Settling Insurer Covered Persons (identified below). A copy of the release will be attached to the Plan as Exhibit J.

A Future Claimant Reserve will be established for the payment of any Future Claims and any amounts remaining in the Future Claimant Reserve will revert to the Trust's general funds for use and Distribution as set forth in the Trust Agreement after five years. The Future Claimant Reserve will be funded with one percent (1.0%) of the Net Settlement Payment. Distributions and reserves from the Trust to Abuse Claimants and Future Claimants will be determined by application of the Allocation Protocol for Abuse Claims and the Future Claimant Allocation Protocol, as the case may be. Abuse Claims filed after the Bar Date or not deemed to be filed by the Bar Date will not receive any Distribution from the Trust, but will be channeled to the Trust and subject to the Channeling Injunction.

Each Protected Party will receive the benefit of the injunctions and releases provided under the Plan, including under Article XII of the Plan.

The Settling Insurers include the Debtor CGL Insurers listed immediately below, which issued the Debtor CGL Insurance Policies, and which, with the exception of National Union Fire Insurance Company of Pittsburgh, P.A. (now known as AIG), also provide coverage to the USOPC as an additional or named insured. With the exception of ACE American Insurance Company and National Union Insurance Company of Pittsburgh, P.A. (now known as AIG), the CGL Insurers also issued separate insurance policies to the USOPC.

- ACE American Insurance Company, formerly known as Cigna Insurance Company;
- National Casualty Company;
- National Union Fire Insurance Company of Pittsburgh, P.A.; and
- Virginia Surety Company, formerly known as Combined Specialty Insurance Company;
- [Great American Assurance Company](#).

The Settling Insurers also include the Twistars Settling Insurers:

- Lexington Insurance Company;
- Nationwide Mutual Insurance Company;
- New Hampshire Insurance Company;
- Philadelphia Indemnity Insurance Company; and,
- State Farm Fire and Casualty Company.

The USOPC Settling Insurers include:

- National Casualty Company;

- Philadelphia Indemnity Insurance Company;
- Gemini Insurance Company; and,
- Virginia Surety Company, formerly known as Combined Specialty Insurance Company.

The Karolyi Settling Insurer includes:

- American Empire Surplus Lines Insurance Company

The Participating Parties include:

- Karolyis
- Twistars; and,
- USOPC

The Non-Debtor CGL Settling Insurer Covered Persons include:

- All Olympia Gymnastics Center (current USAG member);
- AOGC All Olympia Gymnastics Center (current USAG member);
- Amy White (former employee of USAG);
- Artur Akopyan (former USAG member);
- Bob Colarossi (former employee of USAG);
- Bela Karolyi (former contractor);
- BMK Partners Ltd. (Karolyi owned entity);
- BMK Training Facilities Ltd. (Karolyi owned entity);
- Debra Van Horn (former employee of USAG);
- Galina Marinova (current USAG member);
- Karolyi Training Camps, LLC (Karolyi owned entity);
- Karolyi World Gymnastics (Karolyi owned entity);
- Karolyi's Elite (Karolyi owned entity);
- Kathy Scanlan (former USAG employee);
- Kathy Scanlan, LLC (LLC of former USAG employee);
- Marta Karolyi (aka Martha Karolyi) (former contractor);
- Paul Parilla (former USAG board member);
- Rhonda Faehn (former employee of USAG);
- Steve Penny (former employee of USAG);
- National Gymnastics Foundation;
- Twistars; and,
- USOPC.

In addition to the USOPC and the National Gymnastics Foundation, the Non-Debtor CGL Settling Insurer Covered Persons are former Debtor employees, coaches, gyms, members, or volunteers and they have each made claims against the Debtor's Insurance Policies related to Abuse Claims. The Settling Insurers have demanded that all Non-Debtor CGL Settling Insurer Covered Persons be released as a condition to paying the amount of the Settling Insurers' respective CGL Insurer Settlement Offers. The contribution of the Non-Debtor CGL Settling

Insurer Covered Persons is their release of any rights under the Debtor CGL Insurance Policies and in addition, in the case of the USOPC, the contribution of substantial proceeds from the USOPC Settling Insurance Policies and the waiver of its claims against the estate. The Non-Debtor CGL Settling Insurer Covered Persons do not include the Excluded Parties. The Excluded Parties are listed on Exhibit D to the Plan and include: Don Peters; SCATS Gymnastics, including without limitation any predecessor in interest thereto; Steve Rybacki; Beth Rybacki; and Charter Oak Gymnastics, including without limitation any predecessor in interest thereto.

The Plan provides that, within ten days after receiving any payment from the Trust, Abuse Claimants shall dismiss with prejudice any and all lawsuits that such Abuse Claimants previously brought against the Debtor or any Participating Party and evidence of such dismissal with prejudice shall be promptly delivered to the Trust.

**b. The Litigation Only Alternative.**

The second alternative is the Litigation Only Alternative. If the CGL Insurers do not commit to fund the Total Settlement Demand Amount and the Debtor and the Survivors' Committee do not jointly elect to proceed with the Partial Settlement Option, the Plan does not provide for the creation of a Trust or for a Future Claimant Reserve. Instead, Article XIII of the Plan permits all Holders of Abuse Claims filed or deemed to be filed by the Bar Date to prosecute their Claims against the Reorganized Debtor in name only in the courts where such Claims were pending before the Petition Date or the courts in which such Claims could have been brought, but for the automatic stay imposed by Section 362 of the Bankruptcy Code. Holders of Abuse Claims may recover any judgments or awards against the Debtor only from the proceeds of the CGL Insurance Policies issued by the Debtor's CGL Insurers. The 105 Order will be vacated. Under the Litigation Only Alternative, the Plan will not include injunctions and releases for the benefit of Settling Insurers or Protected Parties. The Debtor will not enter into Buy-Back Agreements with any of the Debtor CGL Insurers, and all of the Debtor's Insurance Policies shall remain in full force and effect. The Debtor will receive a discharge. Under the Litigation Only Alternative, the Plan does not incorporate the Twistars Settlement

**c. The Releases And Injunctions, Including A Release Of The USOPC, Are Necessary To The Full or Partial Settlement Alternative.**

The Plan provides for certain releases and plan injunctions for the Protected Parties under the Full or Partial Settlement Alternative. The Debtor and its counsel did not accept these releases and injunctions blindly. The Debtor and its counsel evaluated potential reasonably available alternatives and determined that none exist. The only way to fund the Trust is if the parties contributing to the Trust receive a full and complete release and the benefit of an injunction from all present and future claims.

Under the Full or Partial Settlement Alternative, the USOPC is a beneficiary of the Plan's releases and its injunctions. This treatment is required because of the contributions made by both the USOPC Settling Insurers and Debtor Settling Insurers<sup>4</sup> on USOPC's behalf, which in the latter

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<sup>4</sup> National Union Fire Insurance Company of Pittsburgh, PA is the only Debtor Settling Insurer that denied coverage for the USOPC and is not making any contribution on behalf of the USOPC.

- **Class 10 FCR Claim:** Under the Full or Partial Settlement Alternative, on the Effective Date, the Trust shall assume all liability for and the Trust will pay all Class 10 Claims pursuant to the provisions of the Plan and the Trust Documents; *provided, however*, that no Holder of a Class 10 Claim shall have an interest in the Trust Assets other than the Future Claimant Reserve. Under the Litigation Only Alternative, the FCR Claim receives nothing; *provided, however*, that to the extent that the Holder of an FCR Claim has a right to recovery under any of the Debtor CGL Insurance Policies, such rights are preserved and will not be impaired under the Plan.
- **Class 11 Sexual Abuse Claims Filed After the Bar Date:** Under the Full or Partial Settlement Alternative Class 11 Claims will receive no Distributions under the Plan. Under the Litigation Only Alternative, Class 11 Claims shall not receive a Distribution; *provided, however*, that to the extent that the Holder of a Class 11 Claim has a right to recovery under any of the Debtor CGL Insurance Policies, such rights are preserved and will not be impaired under the Plan. Pursuant to Section 11.8 of the Plan, Holders of Class 11 Claims may file a Claim with the Settlement Trustee to be deemed a Future Claimant and may recover from the Future Claimant Reserve, provided funds remain in such Future Claimant Reserve, only if the Settlement Trustee, in consultation with the FCR, determines that the Holder of such Claim has proven by a preponderance of the evidence that such Holder meets the definition of a Future Claimant and such Holder's Claim meets the definition of a Sexual Abuse Claim.

### C. The Plan Is In The Best Interests Of Creditors.

As discussed in the unaudited Liquidation Analysis attached to this Disclosure Statement as Exhibit 3, the Debtor estimates that recoveries under the Plan for all Holders of Allowed Claims will be greater than their recoveries in a liquidation under chapter 7 of the Bankruptcy Code. The Liquidation Analysis does not include a liquidation analysis of the Debtor CGL Insurance Policies. This is so because, in light of insurer coverage defenses and defenses to Abuse Claims, the liquidation value of those policies cannot be determined with precision. The Debtor submits, however, that in a liquidation scenario, it is unlikely that the value of the Debtor CGL Insurance Policies would exceed the amount the Debtor is receiving on account of its entry into the Buy-Back Agreements for the Debtor CGL Insurance Policies of the Debtor CGL Insurers who are Settling Insurers. This is due both because of the uncertainty of recovery in light of insurer coverage defenses, and also the delay in any recovery during a period of litigation. **With regard to any Debtor CGL Insurers who are *not* Settling Insurers, the Debtor submits that in light of the assignment of Insurance Claims to the Trust, Abuse Claimants are receiving at least what they would receive in a chapter 7 liquidation from the Debtor CGL Insurance Policies of the non-settling Debtor CGL Insurers. The Debtor CGL Insurers have asserted various coverage defenses, including that notwithstanding the lack of aggregate limits, there are occurrence limits, and how one defines an occurrence impacts significantly the value of the coverage.**

**Under the Litigation Only Alternative, the Debtor submits that Abuse Claimants are receiving at least what they would receive in a chapter 7 liquidation from the Debtor CGL Insurance Policies. This is so because, under the Litigation Only Alternative, the Plan permits Holders of Abuse Claims filed or deemed to be filed by the Bar Date to prosecute their Claims against the Reorganized Debtor in name only in the courts where such Claims were pending before**

the Petition Date or the courts in which such Claims could have been brought, but for the automatic stay imposed by Section 362 of the Bankruptcy Code, and to recover any judgments or awards against the Debtor only from the proceeds of the CGL Insurance Policies issued by the Debtor's CGL Insurers. Moreover, a chapter 7 liquidation would preserve the automatic stay and prohibit litigation against the Debtor prior to discharge

Any distributions in chapter 7 will also be reduced by the additional administrative expenses that a chapter 7 trustee (who must be appointed in any chapter 7 case) and the trustee's professionals will incur. Also, because a new deadline will be set for creditors to file claims against the Debtor's estate (including for creditors who did not file their claims in the Debtor's case), additional claims may be filed that reduce the amount available for each allowed claim. Distributions in a chapter 7 case will then be delayed due to the time it will take the chapter 7 trustee to assess the Debtor's Assets, review and analyze claims filed against the Debtor, and liquidate the Debtor's property for distribution. Claimants entitled to vote to accept or reject the Plan should review the Liquidation Analysis before casting their votes.

Because the Plan will provide the Debtor with a greater total amount of property to distribute to Holders of Allowed Claims than would be the case in a liquidation under chapter 7, the Debtor submits that the Plan is in the best interest of creditors and urges Claimants to vote in favor of the Plan.

#### **D. Voting And Confirmation Procedures.**

By order dated [•], 2021 (the "**Disclosure Statement Order**"), the Bankruptcy Court approved this Disclosure Statement as containing adequate information of a kind and in sufficient detail to enable creditors of the Debtor to make an informed decision on whether to accept the Plan. A copy of the Disclosure Statement Order is attached hereto as Exhibit 4. The Bankruptcy Court's approval of the Disclosure Statement does not constitute a recommendation by the Bankruptcy Court to creditors that they should vote to accept or to reject the Plan.

Holders of Allowed Claims in Voting Classes can find voting instructions in the Disclosure Statement Order and in the ballots that accompany this Disclosure Statement. For purposes of voting only, each Abuse Claim (Class 6), Personal Injury Claim (Class 7), USOPC Claim (Class 8), Indemnification Claim (Class 9), and FCR Claim (Class 10) (only in the case of the Full or Partial Settlement Alternative) will be allocated one dollar (\$1.00). To be counted, ballots must be properly completed, executed, and **actually received** by Omni Agent Solutions, Inc., the Debtor's claims agent (the "**Claims Agent**"), on or before November 8, 2021 (the "**Voting Deadline**").

Objections to Confirmation of the Plan must be filed and served on the Debtor, the Survivors' Committee, and the U.S. Trustee no later than November 19, 2021 at 11:59 p.m. (prevailing Eastern Time) in accordance with the notice of the Confirmation Hearing that accompanies this Disclosure Statement. Unless objections to the confirmation of the Plan are timely filed and served, those objections might not be considered by the Bankruptcy Court.

The Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan on December 8-9, 2021 at 10:00 a.m. (prevailing Eastern time) (the "**Confirmation Hearing**"), in

person in Courtroom 329, ~~116~~ U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204. This hearing may be adjourned from time to time, including without further notice other than by announcement in the Bankruptcy Court on the scheduled date of the Confirmation Hearing. At the Confirmation Hearing, the Bankruptcy Court will consider whether the Plan satisfies the various requirements of the Bankruptcy Code for confirmation. The Bankruptcy Court will also receive and consider a ballot report prepared by the Debtor's Claims Agent tabulating the votes accepting and rejecting the Plan.

## II. QUESTIONS AND ANSWERS REGARDING THIS DISCLOSURE STATEMENT AND THE PLAN

### **Why is the Debtor sending me this Disclosure Statement?**

The Debtor is seeking Bankruptcy Court approval of the Plan. This Disclosure Statement contains information about the Plan. Section 1125 of the Bankruptcy Code requires the Debtor to provide a Disclosure Statement approved by the Court with the Plan to assist you in making an informed judgment about whether you will accept or reject the Plan.

### **The Plan provides that the Debtor and the Survivors' Committee may jointly elect the Partial Settlement Option. Which is the deadline by which they must make that election?**

The deadline for the Debtor and the Survivors' Committee to jointly elect the Partial Settlement Option was the date of the hearing to approve this Disclosure Statement. At that hearing the Debtor and the Survivors' Committee jointly elected the Partial Settlement Option. Thus, the portions of the Plan pertaining to the Litigation Only Alternative are no longer relevant. At that hearing the Debtor and the Survivors' Committee did not jointly elect the Partial Settlement Option. Thus, the portions of the Plan pertaining to the Partial Settlement Option are no longer relevant.

### **What happens to my recovery if the Plan is not confirmed, or does not go effective?**

If the Plan is not confirmed, the Debtor believes that recoveries for all claimants, including Abuse Claimants, will be materially reduced.

Under the Full or Partial Settlement Alternative, a Trust will be established for the benefit of Holders of Class 6 Abuse Claims and the Class 10 FCR Claim that—as of the date of this Disclosure Statement—would include \$[•] from the Settling Insurers (less the Professional Fee Hold-Back), the \$2,125,000.00 Twistars Payment, and, under the Partial Settlement Option, an assignment of any Insurance Claims. Confirmation of the Plan is necessary to effectuate these settlements, and Abuse Claimants will lose access to the \$[•] and the assignment of any Insurance Claims if the Plan is not confirmed.

Abuse Claimants' recoveries under the Litigation Only Alternative will be determined in the state or federal courts where these claims were pending before the Chapter 11 Case. Under the Litigation Only Alternative, Holders of Abuse Claims will have thirty days following the Effective Date of the Plan to either recommence their prepetition lawsuits or initiate new lawsuits. Once that thirty-day deadline passes, individuals cannot commence any suit asserting a Claim for Sexual Abuse based upon the Debtor's conduct or omissions occurring prior to the filing of this case. The

The Trust shall pay Abuse Claims and Future Claims in accordance with the Allocation Protocol and the Future Claimant Allocation Protocol, which protocols are attached to the Plan as Exhibits H and I. The initial Settlement Trustee will be William L. Bettinelli. Mr. Bettinelli is a retired judge, and has extensive experience in mass tort cases, including serving as a trustee. The Future Claimant Reserve will be funded with 1% of the Net Settlement Payment.

### **Under the Partial Settlement Option, How Can an Abuse Claimant Litigate Her Abuse Claim?**

If the Debtor and the Survivors' Committee, each in their sole discretion, jointly elect to proceed with the Partial Settlement Option, an Abuse Claimant whose Abuse Claim is covered ~~only by a Non-Settling CGL Insurer~~ by TIG Insurance Company, as set forth on Exhibit E to the Plan, may make a one-time election to be treated as a "**Litigation Claimant**" within 60 days of the Effective Date of the Plan. A Litigation Claimant may withdraw his or her election to be a Litigation Claimant at any time. Once withdrawn, the election may not be reinstated.

The Plan permits a Litigation Claimant, at his or her own expense, to commence or continue any action against the Debtor or a Participating Party that is covered by a Non-Settling Insurer; provided, however, that such Litigation Claimant may only collect a judgment or award from the proceeds of an insurance policy issued by a Non-Settling Insurer.

To the extent the Settlement Trustee enters into a settlement agreement (such settlement, a "**Trust Settlement Agreement**") with any Non-Settling Insurer that covers a Litigation Claimant's Abuse Claim, such Litigation Claimant shall be entitled to an enhancement (the "**Claim Enhancement**") as set forth in Section 10.8.3 of the Plan to his or her allocation pursuant to the Allocation Protocol, which enhanced amount shall be deducted from the proceeds of the settlement agreement with the applicable Non-Settling Insurer. A Litigation Claimant's allocated settlement payment shall be held in reserve until one of the conditions in Section 10.8.5 of the Plan is met.

### **Will there be any releases granted to parties other than the Debtor as part of the Plan?**

Yes, but only under the Full or Partial Settlement Alternative. Under the Full or Partial Settlement Alternative, to receive a distribution from the Trust, Abuse Claimants and Future Claimants must execute a full and complete general release of the Debtor, the Estate, the Reorganized Debtor, the Settling Insurers, all Participating Parties, and all known or unknown parties who may or could claim coverage under any insurance policy issued to the Debtor, including the Non-Debtor CGL Settling Insurer Covered Persons (each as identified in Section I.B.1.a above), of any and all Claims arising from, in connection with, or relating to Abuse Claims, Future Claims, USAG and the Settling Insurance Policies listed on Exhibit A to the Plan. The release must be in form and substance acceptable to the Debtor, the Estate, the Reorganized Debtor, the Participating Parties, and the Settling Insurers and will be attached to the Plan as Exhibit J. Note, however, that under the Partial Settlement Option, there will not be releases for any Non-Settling Insurers.

By voting in favor of the Plan, Abuse Claimants and Future Claimants necessarily consent to this release. The release is a necessary component of the Full or Partial Settlement Alternative,



You are highly encouraged to submit your Ballot via the E-Ballot Platform. Do not send your ballot to the Debtor or to the Bankruptcy Court.

**What is the deadline to vote on the Plan?**

All ballots must be **actually received** by the Debtor's Claims Agent (Omni Agent Solutions) on or before the Voting Deadline of November 8, 2021, via the E-Ballot Platform or mail, overnight, or personal delivery, as set forth above and on your ballot. If your ballot is not received by the Debtor's Claims Agent by the Voting Deadline, and such deadline is not extended, your vote on the Plan will not be counted.

**What is the Confirmation Hearing and when is it scheduled to occur?**

Section 1128(a) of the Bankruptcy Code requires that the Bankruptcy Court hold a hearing on confirmation of the Plan. Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of the Plan. The standards for confirmation are set forth above and in Section 1129 of the Bankruptcy Code.

The Bankruptcy Court has scheduled the Confirmation Hearing for December 8-9, 2021 at 10:00 a.m. (prevailing Eastern time) before the Honorable Robyn Moberly, Chief United States Bankruptcy Judge, in person in Courtroom 329, ~~116~~-U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204. The Confirmation Hearing may be adjourned from time to time, including without further notice except for an announcement of the adjourned date made at the Confirmation Hearing.

Objections to Confirmation of the Plan must be filed and served on the Debtor, the Survivors' Committee, and the United States Trustee no later than November 19, 2021 at 11:59 p.m. (prevailing Eastern Time) in accordance with the notice of the Confirmation Hearing that accompanies this Disclosure Statement. Unless objections to the confirmation of the Plan are timely filed and served, those objections might not be considered by the Bankruptcy Court.

**What role does the Bankruptcy Court play after the Confirmation Hearing?**

After the Plan is confirmed, the Bankruptcy Court will still have exclusive jurisdiction over all matters arising under, in furtherance of, or in connection with, the Plan. These matters include: (1) the determination of objections to Disputed Claims and requests for payment on administrative expense of Claims entitled to priority under Section 507 of the Bankruptcy Code; (2) the resolution of disputes regarding interpretation and implementation of the Plan and related documents; (3) the entry of appropriate orders to protect parties from actions prohibited under the Plan; (4) the approval of amendments to and modifications of the Plan; (5) the determination of any and all applications, adversary proceedings, and contested or litigated matters pending on the Plan's Effective Date, including but not limited to the Insurance Coverage Adversary Proceeding; (6) the determination of any motion to determine that a Claimant is a Future Claimant or to determine that an Abuse Claim filed after the Bar Date shall be deemed to have been filed before the Bar Date; and (7) the closure of this Chapter 11 Case.

asserts damages of \$1,500,000.00 from alleged emotional abuse. This Claim is treated as an Abuse Claim under the Plan and, therefore, it will be channeled to the Trust under the Full or Partial Settlement Alternative or permitted to recover solely from the Debtor CGL Insurance Policies (and Other Insurance Policies (if any) that provide coverage for Abuse Claims), and no other assets, under a Litigation Only Alternative. Thus, the amount of general unsecured claims that must be paid through the Plan is \$1,173,087.29 in addition to the \$668,100.95 of general unsecured claims that the Debtor scheduled but for which no Claims were filed. The total General Unsecured Claims are therefore \$1,841,188.24.

## **7. Postpetition Financing.**

### **a. Debtor In Possession Financing.**

On May 1, 2019, the Debtor filed a motion seeking authority to obtain debtor-in-possession financing in the aggregate amount of \$800,000.00 pursuant to loan agreements with two of the Debtor's CGL Insurers, Great American Assurance Company and Virginia Surety Company, Inc., formerly known as Combined Specialty Insurance Company. (Dkt. 448). As of the date of the Disclosure Statement, the Debtor has not drawn on either debtor-in-possession facility.

### **b. Paycheck Protection Program Funding.**

On May 28, 2020, the Debtor moved for authority to obtain funding under the Paycheck Protection Program (the "PPP"), as authorized by the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136 (the "CARES Act"). (Dkt. 1079.) Concurrently, the Debtor initiated litigation challenging a rule promulgated by the U.S. Small Business Administration (the "SBA") that categorically barred chapter 11 debtors from receiving PPP funding. (*See USA Gymnastics v. Carranza*, No. 20-50055 (Bankr. S.D. Ind.)). Among other things, the Debtor argued that the rule violated the Administrative Procedure Act because it was arbitrary and capricious and contrary to law. The District Court agreed with the Debtor and enjoined the SBA from denying the Debtor access to PPP funding solely on account of its status as a chapter 11 debtor. (Adv. Dkt. 26.)

Following the District Court's ruling, on June 11, 2020, the Bankruptcy Court entered an order authorizing the Debtor to apply for and obtain up to \$804,500.00 in unsecured, forgivable PPP funding. (Dkt. 1125.) The SBA thereafter disbursed \$804,500.00 [through PNC Bank](#) to the Debtor. ~~The SBA~~ [PNC Bank](#) holds an administrative expense claim against the Debtor in this amount, [that is guaranteed by the SBA and](#) subject to the forgiveness provisions contained in the CARES Act. The Debtor believes that the PPP funding qualifies for forgiveness and it ~~intends to file a~~ [filed its](#) forgiveness application [on September 24, 2021](#), which it expects will be granted. [In the event that it is not granted, or any appeal of the denial is rejected, the Debtor will repay the PPP loan in accordance with its terms pursuant to Section 4.1 of the Plan.](#)

## **8. Plan Exclusivity and Deadlines.**

Pursuant to Section 1121 of the Bankruptcy Code, a debtor in possession is granted an exclusive right to file a plan of reorganization for 120 days following the commencement of the case. A debtor also has the exclusive right to solicit votes accepting any plan of reorganization within the 180 days following the commencement of the case. The Bankruptcy Code further provides that a court can increase a debtor's exclusive period to file and solicit acceptances on a

plan of reorganization for up to eighteen months and twenty months, respectively, after commencement of the case for cause. The Bankruptcy Court has extended both periods here to their statutory maximum. (Dkt. 981.) On September 2, 2021, the Bankruptcy Court ordered that the Debtor's deadline to file its Plan and this Disclosure Statement is 21 days after the conclusion of the Settlement Conference (as defined below). (Dkt. 1282, ¶ 2.)

## **9. Litigation.**

### **a. Insurance Coverage Adversary Proceeding.**

On February 1, 2019, the Debtor commenced an adversary proceeding against its insurers to determine the rights it held in its various insurance policies. (*See USA Gymnastics v. Liberty Insurance Underwriters, et al.*, No. 19-50012 (Bankr. S.D. Ind.)) Certain of the Debtor's insurers had consistently and wrongfully refused to pay the Debtor amounts due and owing under those policies. The insurer-defendants included Ace American Insurance Company, Great American Insurance Company, Liberty Insurance Underwriters, Inc., National Casualty Company, RSUI Indemnity Company, TIG Insurance Company, Virginia Surety Company, Inc., Western World Insurance Company, Endurance American Insurance Company, American Home Assurance Company, and certain other Doe Insurers. The insurer-defendants dispute the Debtor's allegations.

Since the initiation of this adversary proceeding, the Debtor has prosecuted several partial summary judgment motions against certain of its insurers, in the hopes of facilitating a global settlement of the Abuse Claims with appropriate contributions from the insurers. For instance, the Debtor requested that the Court declare that abuse and molestation exclusions in policies issued by TIG [Insurance Company](#) do not bar coverage for the Debtor. (Adv. Dkt. 173.) The Bankruptcy Court agreed with the Debtor's interpretation of the policies (Adv. Dkt. 274), which ruling the District Court accepted and entered on November 23, 2020 (*USA Gymnastics v. ACE American Ins. Co.*, No. 18-CV-1306, Dkt. 223 (November 23, 2020).) The Debtor also requested a declaration that limits in policies issued by ACE did not apply to lower the amount of the Debtor's coverage on claims arising from Nassar's abuse. (Adv. Dkt. 175.) The Bankruptcy Court rejected the Debtor's readings of those insurance policies (Adv. Dkt. 275), which ruling the District Court accepted and entered on December 7, 2020. (Dist. Dkt. 234.) The Debtor also sought a declaration that it has access to coverage under certain "lost policies" issued by TIG [Insurance Company](#). (Adv. Dkt. 204.) The Debtor and TIG [Insurance Company](#) consensually resolved this motion and stipulated to the existence of various TIG [Insurance Company](#) policies providing coverage to the Debtor during policy years 1986 through 1991. (Adv. Dkt. 617.)

In addition, the Debtor has successfully argued that Liberty Insurance Underwriters, Inc. ("LIU") wrongfully breached its duty to defend the Debtor with respect to various lawsuits, investigations, and proceedings, including prepetition litigation asserting sexual abuse, investigations by Congressional committees and the Indiana Attorney General, and the USOPC de-recognition proceeding. On October 24, 2019, the Bankruptcy Court issued proposed findings of fact and conclusions of law providing that LIU has a duty to defend USAG in these matters. (Adv. Dkt. 260.) On January 13, 2020, the District Court accepted and entered the Bankruptcy Court's recommended ruling. (Adv. Dkt. 310.) LIU has appealed the District Court's summary judgment order. Although LIU has not obtained a stay of this order, LIU has not paid the amounts due to USAG to date. USAG initiated additional motion practice in the District Court to enforce

the summary judgment against LIU, and has sought to hold LIU in contempt for its failure to comply with numerous orders of the District Court and Bankruptcy Court setting forth its coverage obligations to the Debtor. On August 2, 2021, the District Court ruled that it would enter judgment against LIU for a sum certain representing its coverage obligations to the Debtor to date (which, including pre-judgment interest will be in the amount of \$2,171,951.18 as of August 17, 2021, with an additional \$279.56 in interest for every day between August 17, 2021 and the date of payment- (Dist. Dkts. 322, 324.)

Finally, the Debtor has filed a motion for summary judgment seeking a declaration requiring certain of the insurer-defendants to pay for the cost of USAG's bankruptcy defense and for a judgment in the amount of those defense costs to date. (Adv. Dkts. 406-07.) The Bankruptcy Court issued proposed findings of fact and conclusions of law that recommend that the District Court deny this motion (Adv. Dkt. 571), which recommendation the District Court accepted and entered on August 13, 2021 (Dist. Dkt. 323). USAG is considering its options with respect to this Order.

**b. Prepetition Abuse Litigation and the 105 Order.**

Pursuant to Section 362 of the Bankruptcy Code, as of the Petition Date an automatic stay went into effect that paused all of the prepetition litigation asserted by the survivors against the Debtor. However, the automatic stay only protected the Debtor. It did not pause the lawsuits to the extent they asserted claims against defendants in addition to the Debtor.

Even if formally stayed as to the Debtor, continued litigation in the prepetition lawsuits threatened to distract the Debtor's personnel from the Chapter 11 Case and generate additional obligations for the Debtor, including from certain defendants who asserted they were entitled to indemnities from the Debtor for litigation costs.

As a result, the Debtor entered into an agreed stipulation with all of the plaintiffs and most of the defendants in those lawsuits to stay the lawsuits entirely. The Bankruptcy Court approved the stipulation on April 22, 2019, and entered an injunction prohibiting any signatory to the stipulation from proceeding with the lawsuits while the stipulation and injunction remained in effect (the "**105 Order**"). (Dkt. 426.)

**c. Third Party Injunction Adversary Proceeding.**

Although the bulk of the plaintiffs and defendants in all prepetition litigation asserting claims arising from sexual abuse against the Debtor agreed to voluntarily stay that litigation in its entirety, not every defendant agreed to sign onto the 105 Order. Instead, these defendants threatened to proceed with the cases in which they were involved. This threatened the Debtor's estate by siphoning its resources and personnel to manage litigation in which it had an interest, even if a judgment could not be obtained against the Debtor while this Chapter 11 Case remained pending.

With the support of the Survivors' Committee, the Debtor commenced an adversary proceeding on March 29, 2019, requesting the Bankruptcy Court enter an injunction barring these outlier defendants from proceeding with their litigation. (*USA Gymnastics v. Donald Peters, Richard Carlson, et al.*, No. 19-50075 (Bankr. S.D. Ind.)) While certain of those parties objected,

the Bankruptcy Court ultimately overruled the objections and entered the injunction as requested, completely staying the prepetition lawsuits with respect to all third parties and the Debtor pending further order of the Court. (Adv. Dkt. 71.)

**d. California Plaintiffs' Litigation.**

In late 2020, four Abuse Claimants withdrew from the 105 Order and re-commenced their prepetition litigation pending in California courts, nominally only against non-Debtor parties, including the USOPC. However, the plaintiffs served discovery in that litigation that threatened to distract the Debtor's personnel and professionals, impose significant litigation costs on the Debtor's estate (including costs to review documents for privileged material and personally identifying information, deposition preparation and attendance, and attending court hearings), and potentially deplete the Debtor's insurance coverage and/or generate additional indemnification claims against the Debtor's estate. Accordingly, the Debtor moved to enforce the automatic stay against the continued prosecution of the California litigation and any discovery served therein. (Dkt. 1459.) The plaintiffs filed a cross-motion for relief from the automatic stay. (Dkt. 1460.)

The Court held an evidentiary hearing on April 28, 2021 and took the cross-motions under submission. On May 11, 2021, the Debtor and the plaintiffs agreed to hold the cross-motions in abeyance pending further settlement negotiations over the terms of a consensual Plan in this case. (Dkt. 1498.) [The deadline for the parties to submit post-hearing submissions has been extended two additional times and currently expires on January 4, 2022. \(Dkt. 1563.\)](#)

**10. Mediation and Settlement Conference.**

On May 17, 2019, the Bankruptcy Court appointed Judge Gregg Zive to mediate “the resolution of the sexual abuse claims; the resolution of any disputes relating to the applicability of the Debtor's insurance coverage to the sexual abuse claims and the Debtor's insurance carriers' obligations to fund distributions on the sexual abuse claims, and related defense costs; and the resolution of any other matters necessary to equitably determine the rights of, and allocate recoveries to, survivors holding allowed sexual abuse claims.” (Dkt. 514, ¶2.) The Bankruptcy Court subsequently entered an order authorizing Paul Van Osselaer to participate as a second mediator. (Dkt. 798.)

In preparation for the mediation, the Debtor spent considerable time and resources analyzing the universe of claims, as well as the available insurance coverage for those claims, so that it could determine the extent of its liabilities and negotiate the terms of the Plan. The mediation process began in late May, 2019 and a series of in-person and telephonic mediation sessions occurred throughout 2019 and 2020. These mediation sessions did not produce an agreement among parties in interest on the terms of a global settlement and consensual plan.

On August 20, 2020, the Debtor and the Survivors' Committee jointly moved for the Bankruptcy Court to hold a settlement conference (the “**Settlement Conference**”) with the Debtor, the Survivors' Committee, the USOPC, the respective insurers for the Debtor and the USOPC, and the individual(s) with settlement authority for each party. (Dkt. 1230.) On September 2, 2020, the Court granted the motion and appointed the Honorable James M. Carr, Bankruptcy Judge for the Southern District of Indiana, to preside over the Settlement Conference. (Dkt. 1262.)

Shortly thereafter, Judge Carr commenced a series of telephonic settlement conferences and mediation sessions with the various parties in interest. The Plan, as jointly proposed by the Debtor and the Survivors' Committee, is the product of the Settlement Conference.

#### **11. Motion To Dismiss.**

On January 21, 2020, the Survivors' Committee filed its *Motion For Entry Of An Order Pursuant To 11 U.S.C. §§ 105(a), 349 And 1112(b) Dismissing The Bankruptcy Case And Granting Related Relief* [Dkt. 892] (the "**Motion to Dismiss**"). The Survivors' Committee asserted that the mediation had not yet produced a global settlement and argued that Abuse Claimants should not have to wait any longer to litigate their Claims in non-bankruptcy forums. It then alleged that cause existed to dismiss the Debtor's case because the Debtor could not confirm a plan over the objections of the Abuse Claimants. After the Debtor filed the initial version of its Plan and as settlement negotiations continued, the Survivors' Committee took the Motion to Dismiss off of the hearing schedule. The Motion to Dismiss is not currently set for hearing.

#### **12. Plan Support Agreement.**

On May 6, 2021, the Debtor and the Survivors' Committee entered into the Plan Support Agreement, subject to approval by the Court. The Plan Support Agreement memorializes the Debtor and Survivors' Committee's agreement to seek confirmation of the Plan, which provides for the global settlement and resolution of all Abuse Claims through either the Full or Partial Settlement Alternative or the Litigation Only Alternative. The Plan Support Agreement further provides that CGL Insurers may become signatories to the Plan Support Agreement upon their acceptance of the settlement offers made with respect to CGL Insurance Policies they issued and their agreement to the terms of the Plan. As of the date of this Disclosure Statement, National Casualty Company, CIGNA Insurance Company (n/k/a ACE American Insurance Company), National Union Fire Insurance Company of Pittsburgh, P.A. (n/k/a AIG), Virginia Surety Company (f/k/a Combined Specialty Insurance Company), Philadelphia Indemnity Insurance Company, ~~and Gemini~~ [Gemini Insurance Company](#), [Great American Assurance Company](#) and [American Empire Surplus Lines](#) Insurance Company have accepted their settlement offers and agreed to become Settling Insurers. ~~Great American Assurance Company and~~ TIG Insurance Company ~~are~~ is currently the only Non-Settling ~~Insurers~~ Insurer.

### **V. SUMMARY OF THE PLAN**

The Debtor and the Survivors' Committee propose the Plan in good faith and believe the Plan is feasible and in the best interest of the creditors of the Debtor. The Debtor and the Survivors' Committee therefore recommend acceptance of the Plan by holders of Claims in the Voting Classes. This Article V and Articles VI through IX summarize key components of the Plan. To the extent of any inconsistencies between these summaries and the terms of the Plan, the Plan controls. To the extent the summaries omit any provisions of the Plan, such omission has no effect on the enforceability of those provisions in the Plan. All Claimants are encouraged to carefully read the Plan before voting.

## A. Treatment of Unclassified Claims.

The following summarizes the treatment of Administrative Claims, Professional Claims, Priority Tax Claims, and U.S. Trustee Fees under the Plan. In accordance with Section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Professional Claims, Priority Tax Claims, and U.S. Trustee Fees have not been classified under the Plan. Article IV of the Plan sets forth the treatment for each of these types of Claims. The Debtor anticipates that it will pay these unclassified claims in full on the Effective Date.

### 1. Administrative Claims.

An Administrative Claim is a claim for payment of an administrative expense of a kind specified in Bankruptcy Code Section 503(b) and referred to in Bankruptcy Code Section 507(a)(2), including the actual and necessary costs and expenses of preserving the estate or operating the Debtor's businesses after the commencement of a chapter 11 case, and compensation for legal and other services and reimbursement of expenses awarded or allowed under Bankruptcy Code Sections 330(a), 331, or 503.

The Plan provides that Holders of Administrative Claims must file any requests for allowance and payment within thirty days after a notice of the Effective Date is filed with the Bankruptcy Court. Each Allowed Administrative Claim shall be paid in full in Cash under the Plan unless otherwise agreed between the Reorganized Debtor and the Holder of the Allowed Administrative Claim. Such payment shall be made either (a) on or as soon as practicable following the Effective Date, or, if later, the Allowance Date; or (b) upon such terms as may be agreed to in writing by the Administrative Claimant. However, any Administrative Claim incurred postpetition by the Debtor in the ordinary course of its operations or arising pursuant to any postpetition agreements or transactions entered into by the Debtor with Bankruptcy Court approval, including the PPP Loan Claim, will be paid or performed in accordance with the terms and conditions of the particular agreements or transactions giving rise to the claim by the Debtor before the Effective Date or by the Reorganized Debtor after the Effective Date, or as otherwise agreed by the Debtor and the ~~Administrative Claimant~~ Estate (if before the Effective Date) or the Reorganized Debtor (on and after the Effective Date), on the one hand, and the Holder of such Administrative Claim, on the other. The Debtor believes that the PPP funding qualifies for forgiveness and it filed its forgiveness application on September 24, 2021, which it expects will be granted. In the event that it is not granted, or any appeal of the denial is rejected, the Debtor will repay the PPP loan in accordance with its terms.

### 2. Professional Claims.

The Plan sets forth the manner and timing in which Professionals must submit Professional Claims to be considered for payment. All Professionals or other Persons requesting compensation or reimbursement of expenses pursuant to any of Sections 327, 328, 330, 331, 503(b), and 1103 of the Bankruptcy Code for services rendered on or before the Effective Date (including, among other things, any compensation requested by any Professional or any other Person for making a substantial contribution in the Chapter 11 Case) shall file and serve an application for final allowance of compensation and reimbursement of expenses accruing from the Petition Date to the Effective Date, no later than 45 days after the Effective Date, or such later date as ordered by the

- c. **Impairment And Voting.** The Value Lease Agreement, Equipment Sales Agreement, and Customer Care Maintenance Agreement between Sharp Business Systems and the Debtor shall be deemed assumed and will become the obligation of the Reorganized Debtor. Sharp Business Systems shall retain all of its rights and its collateral under the Value Lease Agreement, Equipment Sales Agreement, and Customer Care Maintenance Agreement.

**4. Class 4—General Unsecured Convenience Claims.**

- a. **Classification.** Class 4 consists of the Holders of General Unsecured Convenience Claims against the Debtor. These Claims are general unsecured Claims of \$500.00 or less, or general unsecured Claims voluntarily reduced to \$500.00 or less by their Holder. There are 288 filed and scheduled Claims of \$500.00 or less, asserting total liabilities of \$47,703.93. In addition, there are 46 Claims asserting amounts between \$500.00 and \$1,000.00, which the Debtor anticipates will be voluntarily reduced and become General Unsecured Convenience Claims worth \$23,000.00 in total. The Debtor therefore anticipates that the total value of General Unsecured Convenience Claims within Class 4 will be approximately \$75,000.00.
- b. **Treatment.** Class 4 is unimpaired under the Plan. The Holders of Class 4 Claims are deemed to have accepted the Plan and are not entitled to vote on the Plan.
- c. **Impairment And Voting.** The Holders of Class 4 Claims will receive either (a) payment from the Reorganized Debtor of the full amount of their Allowed General Unsecured Convenience Claims in Cash, on or as soon as reasonably practicable following the Effective Date or, if later, the Allowance Date; or (b) payment of their Allowed General Unsecured Convenience Claims upon such terms as may be agreed in writing by the Claimant and the Debtor and the Estate (if before the Effective Date) or the Reorganized Debtor (on and after the Effective Date).

**5. Class 5—General Unsecured Claims.**

- a. **Classification.** Class 5 consists of the Holders of General Unsecured Claims against the Debtor. These Claims are any Claim against the Debtor that is not an Abuse Claim, the Personal Injury Claim, the USOPC Claim, the FCR Claim, an Indemnification Claim, Administrative Claim, a Priority Tax Claim, an Other Priority Claim, or a Claim that is otherwise classified under the Plan. There are 154 General Unsecured Claims asserting total liabilities of \$1,173,082.29. In addition, the Debtor listed on its Schedules liabilities worth \$668,100.95 for which no Claims were filed. These scheduled amounts will be treated as General Unsecured Claims under the Plan ~~under the Litigation Only Alternative.~~



Documents; *provided, however*, that no Holder of a Class 10 Claim shall have an interest in the Trust Assets other than the Future Claimant Reserve. Under the Litigation Only Alternative, the FCR Claim will not receive a Distribution; *provided, however*, that to the extent that the Holder of an FCR Claim has a right to recovery under any of the Debtor CGL Insurance Policies, such rights are preserved and will not be impaired under the Plan.

**11. Class 11—Sexual Abuse Claims Filed After The Bar Date.**

- a. Classification.** Class 11 consists of the fifteen (15) Abuse Claims that were not timely filed by the Bar Date established in the case.
- b. Impairment And Voting.** Class 11 is impaired under the Plan. The Holders of Class 11 Claims are deemed to have voted no on the Plan.
- c. Treatment.** Under the Full or Partial Settlement Alternative, Class 11 Claims will receive no Distributions under the Plan. Under the Litigation Only Alternative, Class 11 Claims will receive no Distributions under the Plan; *provided, however*, that to the extent that the Holder of a Class 11 Claim has a right to recovery under any of the Debtor CGL Insurance Policies, such rights are preserved and will not be impaired under the Plan. [Pursuant to Section 11.8 of the Plan, Holders of Class 11 Claims may file a Claim with the Settlement Trustee to be deemed a Future Claimant and may recover from the Future Claimant Reserve, provided funds remain in such Future Claimant Reserve, only if the Settlement Trustee, in consultation with the FCR, determines that the Holder of such Claim has proven by a preponderance of the evidence that such Holder meets the definition of a Future Claimant and such Holder’s Claim meets the definition of a Sexual Abuse Claim.](#)

**VI. MEANS FOR IMPLEMENTATION OF THE PLAN UNDER THE FULL OR PARTIAL SETTLEMENT ALTERNATIVE**

**A. Trust Formation and Funding.**

**1. Establishment Of The Trust.**

On the Effective Date, the Trust shall be established in accordance with the Trust Documents. The Trust is intended to qualify as a “Designated” or “Qualified Settlement Fund” pursuant to Section 468B of the Internal Revenue Code of 1986.

**2. Trust Purpose.**

The Trust shall be established for the benefit of the Abuse Claimants and Future Claimants and will assume all liability for the Channeled Claims. The Trust will receive, liquidate, and distribute Trust assets in accordance with the Plan and the Trust Documents, including the Trust Agreement attached to the Plan as [Exhibit F](#), the Allocation Protocol attached to the Plan as [Exhibit H](#), and the Future Claimant Allocation Protocol attached to the Plan as [Exhibit I](#).

**3. Funding of Trust.**

The Trust shall be funded, on or before the Effective Date, by: (a) the Net Settlement Payment; (b) the Twistars Payment; and/or (c) the assignment of any Insurance Claims. Upon the funding of the Trust [according to the respective amounts specified in Section 3.2.2 of the Plan](#), each Buy-Back Agreement shall be binding on the Trust and the Settlement Trustee and FCR.

**4. Approval of Settlement and Buy-Back Agreements.**

The entry of the Confirmation Order will constitute the order approving the compromises and settlements required under the Plan and approving the sales contemplated by the Buy-Back Agreements pursuant to 11 U.S.C. §363. The Bankruptcy Court's findings of fact in the Confirmation Order shall constitute its determination that such compromises and settlements and sales are in the best interests of the Debtor, the Claimants holding Abuse Claims, the Holders of other Claims, the Protected Parties and all other parties in interest, and are fair, equitable, and within the range of reasonableness, and an appropriate exercise of each such Person's business judgment under the applicable laws of corporate governance [and that the Debtor CGL Settling Insurers are good faith purchasers within the meaning of Section 365\(m\) of the Bankruptcy Code](#).

**5. Future Claimant Reserve.**

The Trust shall establish a Future Claimant Reserve which shall be funded with one (1%) percent of the Net Settlement Payment. Notwithstanding the entry of the Confirmation Order or the occurrence of the Effective Date, the FCR shall continue until he or his successor resigns or the funds in the Future Claimant Reserve are completely distributed as provided in Section 11.8 of the Plan.

**6. The Settlement Trustee.**

The initial Settlement Trustee shall be William L. Bettinelli. In the event Mr. Bettinelli elects not to serve, the Survivors' Committee shall identify the Settlement Trustee in a supplement to be filed within fourteen (14) days prior to the Confirmation Hearing. The Settlement Trustee shall be entitled to seek compensation in accordance with the terms of the Trust Agreement and the Plan.

**7. Tax Matters.**

The Trust shall not be deemed to be the same legal entity as the Debtor, but only the assignee of certain Assets of the Debtor and a representative of the Estate for delineated purposes within the meaning of Section 1123(b)(3) of the Bankruptcy Code. The Trust is expected to be tax exempt. The Settlement Trustee shall file such income tax and other returns and documents as are required to comply with the applicable provisions of the Internal Revenue Code, the regulations promulgated thereunder, and applicable state law, and shall pay from the Trust all taxes, assessments, and levies upon the Trust, if any.

Insurer or other Participating Party. At the hearing on this Disclosure Statement, the Debtor and the Survivors' Committee gave notice that they jointly elected to include the Partial Settlement Option in the Plan.

## **2. Selection of CGL Insurer(s) in the Partial Settlement Option.**

The Debtor and the Survivors' Committee can select which CGL Insurer(s) may participate in the Partial Settlement Option and obtain the benefit of the Channeling Injunction and become a Released Party. If the Debtor and the Survivors' Committee jointly elect to proceed with the Partial Settlement Option, any CGL Insurer that has agreed to fund its full CGL Insurer Settlement Offer will be included in the Partial Settlement Option.

## **3. Treatment Under Partial Settlement Option.**

Under the Partial Settlement Option: (a) each Partial Settlement Option Accepted Party shall receive the benefit of the Plan's Channeling Injunction and releases and shall become a Participating Party or Settling Insurer, as the case may be; (b) the Debtor shall assign all Insurance Claims against a Non-Settling Insurer to the Trust, to the extent that such assignment may be effectuated without impairing the defense and indemnity obligations under the applicable Non-Settling Insurer insurance policies, as set forth ~~in Section 10.5 of the Plan~~ herein; (c) each Participating Party and Settling Insurer shall assign all Insurance Claims against a Non-Settling Insurer to the Trust that may be asserted against such Non-Settling Insurer with respect to Abuse Claims, to the extent such assignment may be effectuated without impairing the defense and indemnity obligations under the applicable Non-Settling Insurer insurance policies, as set forth ~~in Section 10.5 of the Plan~~ herein; (d) any Abuse Claimant holding an Abuse Claim insured ~~solely~~ by one or more Non-Settling Insurers that provided insurance coverage to the Debtor and/or any other Participating Party and that is listed on Exhibit E to the Plan shall be authorized to pursue his or her Abuse Claim against the Debtor and any Participating Party to the extent authorized in the Plan; provided, although however, that such Abuse Claimant shall be authorized to seek payment solely from any Non-Settling Insurer on account of Claims against the Debtor and any Participating Party; and (e) the Trust shall have sole and exclusive authority to settle Insurance Claims and Abuse Claims with such Non-Settling Insurer or other party after the Effective Date of the Plan; provided, further, however, that with respect to Insurance Claims assigned by a Participating Party, the Trust shall only be authorized to settle such Insurance Claims with respect to Abuse Claims and Future Claims.

## **4. Transfer of Insurance Claims Upon Failure of CGL Insurer to Accept Its CGL Insurer Settlement Offer.**

Upon selection of the Partial Settlement Option, Insurance Claims against any Non-Settling CGL Insurer shall be transferred to the Trust via (1) an assignment of any such Claims against the Non-Settling Insurers held by the Debtor, Reorganized Debtor, and Participating Parties to the Trust, or (2) the appointment of the Trust as representative for the Debtor, Reorganized Debtor, and Participating Parties to pursue any such Claims against the Non-Settling Insurers. If the Bankruptcy Court does not enter an order approving the assignment of Insurance Claims against any Non-Settling Insurers to the Trust, or the appointment of the Trust as representative of the Debtor, Reorganized Debtor, and Participating Parties to pursue such Claims on their behalf, the

Debtor, Reorganized Debtor, and Participating Parties shall retain such Claims but will prosecute such Claims upon the request of the Trust. In any event, no Insurance Claims will be transferred to the Trust without a Bankruptcy Court order determining that such transfer does not defeat or impair the Insurance Coverage.

**5. Treatment of CGL Insurers That Are Not A Partial Settlement Option Accepted Party.**

Any CGL Insurer or other Person that is not a Partial Settlement Option Accepted Party shall not receive the benefit of a Channeling Injunction or any release or exculpation under the Plan.

**6. No Claims Of Non-Settling Insurers Against Settling Insurers Or Non-Debtor CGL Settling Insurer Covered Persons.**

Consistent with the holdings in *Eli Lilly and Co. v. The Aetna Casualty and Surety Co., et al.*, Cause No. 49D12 0102 CP 000243 (Marion Cty. Sup. Ct. 2002) and *Southern Indiana Gas & Electric Company v. Admiral Ins. Co.*, Cause No. 49D05 0411 PL 2265 (Marion Cty. Sup. Ct. 2011), the Confirmation Order shall order that any Non-Settling Insurer shall have no Claims, causes of action, or any other remedies of any kind, in law or equity, against any Settling Insurer or Non-Debtor CGL Settling Insurer Covered Persons and any and all such Claims, causes of action, and other remedies shall be deemed released and enjoined.

**7. Abuse Claimant's Right to Litigate Abuse Claim Upon Failure of CGL Insurer to Accept Its CGL Insurer Settlement Offer.**

If the Debtor and the Survivors' Committee, each in their sole discretion, jointly elect to proceed with the Partial Settlement Option, an Abuse Claimant whose Abuse Claim is covered by ~~a Non-Settling CGL Insurer~~ [TIG Insurance Company](#), as set forth on [Exhibit E](#) to the Plan, may make a one-time election to be treated as a "Litigation Claimant" within 60 days of the Effective Date of the Plan, ~~but solely to the extent that such Abuse Claim may be covered only by CGL Insurance Policies issued by a Non-Settling Insurer(s).~~ A Future Claimant may not elect to become a Litigation Claimant. An Abuse Claimant whose Abuse Claim is covered by a Settling Insurer may not elect to become a Litigation Claimant.

**8. Litigation Claimant's Right to Commence or Continue Actions.**

A Litigation Claimant may, at his or her own expense, commence or continue any action against the Debtor or a Participating Party that is covered by a Non-Settling Insurer, but such Litigation Claimant may only collect a judgment or award from the proceeds of an insurance policy issued by a Non-Settling Insurer.

**9. Effect of Trust Insurance Settlements.**

To the extent the Settlement Trustee enters into a settlement agreement (a "Trust Insurance Settlement") with any Non-Settling Insurer that covers a Litigation Claimant's Abuse Claim (the policy or policies that respond to such Claim(s) are a "Target Policy"), such Litigation Claimant shall be entitled to an enhancement (the "Claim Enhancement") to his or her allocation

deemed subrogated to the Claims of Abuse Claimants paid by the Trust to the extent of those payments; and (b) the Trust may pursue such subrogation Claim or any contribution Claim; provided however, that no such action may be brought against a Protected Party.

**2. Conditions To Payment Of Abuse Claims And FCR Claims.**

As a pre-condition to receiving any payment from the Trust, each Abuse Claimant or Future Claimant shall execute and deliver to the Trust a full and complete general release of the Debtor, the Estate, the Reorganized Debtor, the Settling Insurers, all Participating Parties, and all known or unknown parties who may claim coverage under any Insurance Policy issued to the Debtor, including the Non-Debtor CGL Settling Insurer Covered Persons, in form and substance acceptable to the Debtor, the Estate, the Reorganized Debtor, the Participating Parties, and the Settling Insurers, of any and all Claims arising from, in connection with, or relating to USAG, Abuse Claims, Future Claims or Settling Insurance Policies issued by a Settling Insurer. In addition, within ten (10) days after receiving any payment from the Trust, an Abuse Claimant or Future Claimant shall dismiss with prejudice any and all lawsuit that such Abuse Claimant or Future Claimant had brought against the Debtor, any Participating Party, any Settling Insurer, and any Non-Debtor CGL Settling Insurer Covered Person, and shall promptly deliver evidence of such dismissal, with prejudice, to the Settlement Trustee. The Settlement Trustee shall provide copies of such [general releases and](#) dismissal orders to the Debtor any Protected Party that requests a copy.

**3. Effect Of No Award On Channeled Claims.**

If a Channeled Claim, including an Abuse Claim filed after the Bar Date, is denied payment from the Trust, the Holder of such Channeled Claim will have no further rights against any Protected Party, the Settlement Trustee and any of his Related Persons, the FCR and any of his Related Persons, and any of their respective assets or property, including any Revested Assets, relating to such Channeled Claim.

**4. Treatment Of Attorneys' Fees And Costs Of Channeled Claimants.**

The fees and expenses of attorneys representing Channeled Claimants who receive payment from the Trust will be borne by such Channeled Claimants based on applicable state law and individual arrangements made between such Channeled Claimants and their respective attorneys. The Debtor, the Estate, the Reorganized Debtor, the Released Parties, the Trust, and the Settlement Trustee will not have any liability for any fees and expenses of attorneys representing any of the Channeled Claimants, and all Claims for such fees and expenses, if any, will be disallowed.

**5. Withdrawal Of Channeled Claims.**

A Channeled Claimant may withdraw a Channeled Claim at any time on written notice to the Settlement Trustee. If withdrawn, (a) the Channeled Claim will be withdrawn with prejudice and may not be reasserted, (b) as a condition to withdrawal of the Channeled Claim, any funds paid to the Channeled Claimant by the Trust shall be returned to the Trust, and (c) any releases granted by the Channeled Claimant pursuant to Section 11.2.1 of the Plan and the Channeling

**6. CONTRIBUTION BAR AGAINST NON-SETTLING INSURERS.**

IN CONSIDERATION OF THE CRITICAL UNDERTAKINGS AND SUBSTANTIAL CONTRIBUTIONS OF THE SETTLING INSURERS PURSUANT TO THE TERMS OF THE PLAN, INCLUDING THE FUNDING OF THE TRUST, AND TO FURTHER PRESERVE AND PROMOTE THE SETTLEMENTS EMBEDDED IN THE PLAN BETWEEN AND AMONG THE PARTICIPATING PARTIES, THE SETTLING INSURERS, HOLDERS OF SEXUAL ABUSE CLAIMS, THE SURVIVORS' COMMITTEE, THE FCR, AND THE DEBTOR, AND PURSUANT TO SECTIONS 105(a), 363, AND 1129 OF THE BANKRUPTCY CODE, ANY NON-SETTLING INSURER IS HEREBY PERMANENTLY STAYED, ENJOINED, BARRED, AND RESTRAINED FROM TAKING ANY ACTION, DIRECTLY OR INDIRECTLY, INCLUDING FILING ANY SUIT OR CAUSE OF ACTION AGAINST ANY SETTLING INSURER, OR ANY OF ITS RELATED PERSONS, OR ANY NON-DEBTOR CGL SETTLING INSURER COVERED PERSON, FOR THE PURPOSES OF ASSERTING, ENFORCING, OR ATTEMPTING TO ASSERT OR ENFORCE ANY CLAIM, INCLUDING ANY CONTRIBUTION CLAIM, SUBROGATION CLAIM, CLAIM FOR RECOVERY OF DEFENSE COSTS OR INDEMNITY PAYMENTS, OR ANY SIMILAR CLAIM, CAUSE OF ACTION, OR REMEDY, AGAINST ANY SETTLING INSURER AND ANY NON-DEBTOR CGL SETTLING INSURER COVERED PERSON.

**7. PERMANENT TERM OF INJUNCTIONS OR STAYS AND CONFIRMATION OF SETTLEMENTS WITH PARTICIPATING PARTIES AND SETTLING INSURERS.**

ALL INJUNCTIONS AND STAYS PROVIDED FOR IN THE PLAN AND UNDER AND PURSUANT TO THE INJUNCTIVE PROVISIONS OF SECTIONS 524 AND 1141 OF THE BANKRUPTCY CODE ARE PERMANENT AND WILL REMAIN IN FULL FORCE AND EFFECT FOLLOWING THE EFFECTIVE DATE AND ARE NOT SUBJECT TO BEING VACATED OR MODIFIED. [FOR THE AVOIDANCE OF DOUBT, ABSENCE OF OBJECTION TO THE SETTLEMENTS, RELEASES AND SALES PROVIDED IN THE PLAN CONSTITUTES CONSENT TO SUCH RELEASES AND SALES.](#)

**8. RELEASE OF AVOIDANCE CLAIMS AND OTHER CLAIMS AGAINST PARTICIPATING PARTIES, NON-DEBTOR CGL SETTLING INSURER COVERED PERSONS, AND SETTLING INSURERS.**

ON THE EFFECTIVE DATE, ALL AVOIDANCE RIGHTS OF THE DEBTOR, THE ESTATE, AND THE REORGANIZED DEBTOR, INCLUDING THOSE ARISING UNDER SECTIONS 544, 547, 548, 549, 550, AND 553 OF THE BANKRUPTCY CODE, AGAINST EACH OF THE PARTICIPATING PARTIES, NON-DEBTOR CGL SETTLING INSURER COVERED PERSONS, AND SETTLING INSURERS SHALL BE DEEMED SETTLED, COMPROMISED, AND RELEASED BY THE PLAN. AS TO EACH SETTLING INSURER, ON THE EFFECTIVE DATE, THE INSURANCE COVERAGE ADVERSARY PROCEEDING AND ALL RELATED PROCEEDINGS IN ANY COURT SHALL IMMEDIATELY CEASE, AND THE INSURANCE COVERAGE ADVERSARY PROCEEDING AND ANY RELATED PROCEEDINGS SHALL BE DISMISSED, WITH PREJUDICE, AGAINST EACH SETTLING INSURER, WITH EACH PARTY TO BEAR ITS OWN COSTS.

SETTLING INSURER BACK TO THE DEBTOR CGL SETTling INSURER. NOTWITHSTANDING THE FOREGOING, TO THE EXTENT THE DEBTOR CGL SETTling INSURERS ARE ALSO INSURERS TO THE USOPC UNDER POLICIES ISSUED TO THE USOPC OR TO THE KAROLYIS UNDER INSURANCE POLICIES ISSUED TO THE KAROLYIS, THIS RELEASE SHALL BE LIMITED BY THE USOPC RELEASE AND THE KAROLYI RELEASE.

#### 11. USOPC RELEASE.

ON THE EFFECTIVE DATE OF THE PLAN, AND SUBJECT TO ANY SEPARATE AGREEMENT BETWEEN THE USOPC AND A USOPC SETTling INSURER, WHICH SHALL CONTROL IN THE EVENT OF ANY CONFLICT WITH THIS SECTION 11.2.1, THE USOPC SHALL GRANT, AND SHALL BE DEEMED TO HAVE GRANTED, TO EACH USOPC SETTling INSURER AND ITS RELATED PERSONS A FULL AND COMPLETE GENERAL RELEASE OF ANY RIGHTS AND INTERESTS IN INDEMNITY COVERAGE FOR ABUSE CLAIMS UNDER ANY INSURANCE POLICY ISSUED BY A USOPC SETTling INSURER FOR WHICH THE ABUSE CLAIMANT HAS PROVIDED A FULL AND COMPLETE GENERAL RELEASE TO THE USOPC PURSUANT TO SECTION 11.2.1 OF THE PLAN. THE USOPC SHALL ALSO GRANT, AND SHALL BE DEEMED TO HAVE GRANTED, ONLY TO NATIONAL CASUALTY COMPANY AND ~~ITS~~ VIRGINIA SURETY COMPANY (F/K/A AS COMBINED SPECIALTY INSURANCE COMPANY) AND THEIR RELATED PERSONS, AND ONLY IF NATIONAL CASUALTY COMPANY ~~IS~~ AND VIRGINIA SURETY COMPANY ARE EACH A SETTling INSURER, AND THEN ONLY UPON THE EFFECTIVE DATE, A FULL AND COMPLETE RELEASE OF ANY AND ALL RIGHTS AND INTERESTS TO DEFENSE COSTS INCURRED AFTER THE EFFECTIVE DATE OF THE PLAN FOR ABUSE CLAIMS UNDER ANY INSURANCE POLICY ISSUED BY NATIONAL CASUALTY COMPANY OR VIRGINIA SURETY COMPANY THAT IS SPECIFICALLY IDENTIFIED ON EXHIBIT A ~~TO THE PLAN~~, WHETHER OR NOT SUCH ABUSE CLAIMS ARE THOSE FOR WHICH AN ABUSE CLAIMANT HAS PROVIDED A RELEASE TO THE USOPC PURSUANT TO SECTION 11.2.1 OF THE PLAN. NOTWITHSTANDING THE FOREGOING, THE USOPC RETAINS THE RIGHT TO REIMBURSEMENT OF, AND TO PURSUE COLLECTION OF, ANY DEFENSE COSTS INCURRED BEFORE THE EFFECTIVE DATE OF THE PLAN UNDER ANY INSURANCE POLICY ISSUED BY NATIONAL CASUALTY COMPANY OR VIRGINIA SURETY COMPANY. THE USOPC ALSO RETAINS THE RIGHT TO REIMBURSEMENT OF, AND TO PURSUE COLLECTION OF, ANY DEFENSE COSTS INCURRED BEFORE OR AFTER THE EFFECTIVE DATE OF THE PLAN UNDER ANY INSURANCE POLICY ISSUED BY A USOPC INSURER OTHER THAN NATIONAL CASUALTY COMPANY OR VIRGINIA SURETY COMPANY. NOTHING IN THIS PROVISION SHALL BE DEEMED TO LIMIT THE PROTECTED PARTY RELEASE (DESCRIBED ABOVE) GRANTED BY THE USOPC TO ANY DEBTOR CGL SETTling INSURER OF CLAIMS AGAINST A DEBTOR CGL INSURANCE POLICY. PROVIDED, HOWEVER, NOTHING IN THIS PROVISION SHALL BE CONSTRUED TO EFFECTUATE A RELEASE OF ANY CLAIM BY THE USOPC AGAINST ANY DEBTOR CGL SETTling INSURER OR USOPC SETTling INSURER UNDER OR IN CONNECTION WITH ANY INSURANCE POLICY THAT IS NOT SUBJECT TO A CGL SETTLEMENT OFFER THAT IS ACCEPTED BY A SETTling INSURER AND THAT IS NOT LISTED ON EXHIBIT A TO THE PLAN.

## VIII. GENERALLY APPLICABLE PROVISIONS OF THE PLAN.

### A. Conditions Precedent To The Effective Date.

Section 17.1 of the Plan sets forth the conditions precedent to the effectiveness of the Plan. The Plan's Effective Date will occur when each those conditions have been satisfied or waived in accordance with Section 17.2 of the Plan.

#### 1. Conditions To Effectiveness.

The Effective Date will occur when each of the following conditions is met: (a) the Bankruptcy Court has entered the Confirmation Order in form and substance reasonably acceptable to the Reorganized Debtor and the Survivors' Committee, and in addition, if the Full or Partial Settlement Alternative is selected, to the Participating Parties and the Settling Insurers; (b) the Confirmation Order has become a Final Order on or before December 31, 2021; (c) if the Full or Partial Settlement Alternative is selected, the Settlement Trustee, the FCR, and the Reorganized Debtor have signed the Trust Agreement; (d) if the Full or Partial Settlement Alternative is selected, the Settling Insurers have made their Agreed CGL Insurer Payments to the Debtor and the transfers to the Trust contemplated in Section 9.3.2 of the Plan have been made to the Trust; (e) if the Full or Partial Settlement Alternative is selected, the Bankruptcy Court has approved, by Final Order, the Buy-Back Agreement of each Settling Insurer in form and substance reasonably acceptable to each Settling Insurer, the Reorganized Debtor, and the Survivors' Committee; and (f) if the Full or Partial Settlement Alternative is selected, the Settling Insurers have been dismissed from the Insurance Coverage Adversary Proceeding with prejudice, with each party to bear its own costs.

#### 2. Waiver of Conditions.

Any conditions described above, and as set forth in Section 17.1 of the Plan, may be waived only by the mutual written consent of the Debtor, the Survivors' Committee, and, ~~under if~~ the Full or Partial Settlement Alternative is ~~selected~~in effect, the Participating Parties and Settling Insurers.

#### 3. Non-Occurrence of Effective Date.

Subject to further order of the Bankruptcy Court, in the event that the Effective Date does not occur within one hundred twenty (120) days after entry of a Final Order confirming the Plan, the Plan shall become null and void. A statement shall be filed with the Court within three (3) Business Days after the Effective Date, advising all parties of the Effective Date, or within three (3) Business Days after the occurrence of any event that renders the Plan null and void, advising all parties that the Plan is null and void.

### B. Insurance Neutrality.

#### 1. No Modification of Debtor's Insurance Policies of Non-Settling Insurers, Other Insurers, or Personal Injury Insurer.

Nothing in the Plan, the Confirmation Order, or in any Plan Document modifies any of the terms of any Debtor's Insurance Policies.



other claims in such class. The Debtor and the Survivors' Committee believe that the classification of claims under the Plan complies with the requirements set forth in the Bankruptcy Code because the Plan creates classes of claims that only encompass claims that are substantially similar to the other claims in such class. Nevertheless, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

**B. The Debtor and the Survivors' Committee May Not Be Able To Secure Confirmation Of The Plan.**

Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation of a chapter 11 plan, and requires, among other things, findings by the bankruptcy court that: (i) such plan "does not unfairly discriminate" and is "fair and equitable" with respect to any rejecting classes; (ii) confirmation of such plan is not likely to be followed by a liquidation or a need for further financial reorganization unless such liquidation or reorganization is contemplated by the plan; and (iii) the value of distributions to rejecting holders of claims and equity interests within a particular class under such plan will not be less than the value of distributions such holders would receive if the Debtor was liquidated under chapter 7 of the Bankruptcy Code.

There can be no assurance that the Bankruptcy Court will confirm the Plan. The Bankruptcy Court could decline to confirm the Plan if it found that any of the statutory requirements for confirmation had not been met, including the requirement that the terms of the Plan do not "unfairly discriminate" and are "fair and equitable" to rejecting Classes. If the Plan is not confirmed, it is unclear what distributions that claimants holding Allowed Claims will receive with respect to their Allowed Claims, or the timing of receipt of such distributions, as it is unclear whether a confirmable alternative plan can be proposed by any other party in this Chapter 11 Case. If the Plan is not confirmed and an alternate reorganization plan is not confirmed, it is possible that the Debtor would have to liquidate, in which case it is possible that the claimants holding Allowed Claims could receive substantially less favorable treatment than they would receive under the Plan.

**C. Parties In Interest May Object To The Releases And Injunctions Contained In The Plan.**

Confirmation is also subject to the Bankruptcy Court's approval of the releases, injunction, discharge, exculpation, and related provisions described in the Plan. Certain parties in interest may assert that the Debtor and the Survivors' Committee cannot demonstrate that the Plan meets the standards for approval of releases, injunctions, discharges, and exculpations under applicable law.

**D. TIG Insurance Company's Objection.**

In its objection to the approval of the Disclosure Statement (Dkt. 1581), TIG Insurance Company asserted that the Plan seeks improper coverage determinations that may threaten TIG Insurance Company's insurance coverage. The Debtor disagrees with this assertion.

**D.E. Nonconsensual Confirmation.**

The Debtor and the Survivors' Committee believe that the Plan satisfies the requirements of Section 1129(b) of the Bankruptcy Code to seek a nonconsensual confirmation of the Plan if

### XIII. VOTING INSTRUCTIONS

The Debtor's Claims Agent will send to all Claimants entitled to vote on the Plan: (i) the Disclosure Statement Order, (ii) a notice of the Confirmation Hearing, (iii) the Disclosure Statement, as approved by the Bankruptcy Court and together with the Plan attached as an exhibit, and (iv) a ballot (collectively, the "**Solicitation Packages**"). The Solicitation Packages will also describe the procedures and deadline for submitting ballots to the Debtor's Claims Agent.

### XIV. CONCLUSION AND RECOMMENDATION

The Debtor believes that confirmation and implementation of the Plan is preferable to any other alternative. Accordingly, the Debtor urges all claimants entitled to vote to accept the Plan by so indicating on their ballots and returning them as specified in the instructions set forth in the Solicitation Packages.

Dated: ~~September 22~~October 1, 2021

Respectfully submitted,

#### JENNER & BLOCK LLP

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**EXHIBIT 1**

**~~First~~ Second Amended Joint Chapter 11 Plan Of Reorganization Proposed By USA  
Gymnastics And The Additional Tort Claimants' Committee Of Sexual Abuse Survivors**

**USA Gymnastics  
Liquidation Analysis  
As of July 31, 2021**

<b>Assets Available for Distribution</b>	<b>Book/Market Value</b>	<b>Recovery %</b>	<b>Liquidated Value</b>
Unrestricted cash	\$ 8,410,000	100%	\$ 8,410,000
Inventory	86,000	20%	17,200
Furniture and Equipment	120,000	20%	24,000
Educational and Training Materials	450,000	20%	90,000
Subtotal - Asset Value	9,066,000	94%	8,541,200
Less:			
Chapter 7 Trustee Fees & Related Costs			(275,000)
Winddown Costs			(425,000)
Auction Costs			(19,700)
<b>Net Assets Available for Distribution</b>			<b>7,821,500</b>

<b>Administrative Costs</b>			
<del>Post Petition</del> <u>Postpetition</u> - Accounts Payable	5,385,000		
Accrued Expenses	2,115,000		
Total Administrative Costs	7,500,000		7,500,000
<b>Net Assets Available after Administrative Costs</b>			<b>321,500</b>

<b>Bankruptcy Claims</b>			
Abuse Claims*	-		
Future Claims*	-		
Indemnification Claims*	-		
Personal Injury Claim*	-		
Unsecured Creditors	1,841,188		
<b>Total Bankruptcy Claims</b>	<b>1,841,188</b>		<b>1,841,188</b>

<b>Shortfall in Assets After Claims and Costs</b>	<b>\$ (1,519,688)</b>
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\*Unliquidated, covered by insurance.