# LOCAL RULES
# OF
# THE UNITED STATES BANKRUPTCY COURT FOR
# THE DISTRICT OF DELAWARE

TABLE OF CONTENTS

**LOCAL FORMS**

## PART I. COMMENCEMENT OF CASE; PROCEEDINGS RELATING TO PETITION AND ORDER FOR RELIEF

### Rule 1001-1 Scope and Application of Rules.

(a) Title and Citation. These rules ("Local Rules" or "Rules") are known as the "Local Rules of the United States Bankruptcy Court for the District of Delaware" (the "Court"). They may be cited as "Del. Bankr. L.R."

(b) Application. These Local Rules govern insofar as they are not inconsistent with the Code and the Federal Rules of Bankruptcy Procedure.

(c) Amendments to the Local Rules. These Local Rules may be amended consistent with 28 U.S.C. §§ 2071 and 2077, Fed. R. Civ. P. 83, and Fed. R. Bankr. P. 9029.

(d) Modification. The Court may modify application of these Local Rules in any case or proceeding in the interest of justice.

(e) Effective Date. These Local Rules will be effective on February 1, 2025.

(f) Relationship to Prior Rules; General Orders and Chambers Procedures; Cases and Proceedings Pending on Effective Date. These Local Rules supersede prior Local Rules, but do not affect the Court's General Orders or any Judge's chambers procedures. They govern cases or proceedings filed after their effective date. They also govern cases and proceedings pending on the effective date, except if the Court finds they would be infeasible or unjust.

(g) Relationship to District Court Rules. The District Court's local rules apply to all filings to be determined by the District Court—whether initially filed in the District Court or the Bankruptcy Court—including briefing on any motion to withdraw the reference from the Bankruptcy Court, except that: (i) the Fed. R. Bankr. P. apply to bankruptcy appeals in the District Court; and (ii) the District Court's standing order dated August 16, 2022, requiring that all electronic filings be submitted by 5:00 p.m. Eastern Time does not apply to filings that are made in the Bankruptcy Court.

**Rule 1002-1 Commencement of Case.**

(a) Petition Requirements. All petitions must comply with the Code, the Fed. R. Bankr. P., these Local Rules, the Clerk's Office Procedures, and the applicable Official Form.

(b) Voluntary Petition by Nonindividual. A voluntary petition filed by a nonindividual debtor must be (i) signed by counsel admitted to practice in the District Court and (ii) accompanied by evidence that the filing was authorized as required under applicable law.

(c) Advance Notice to the Clerk and U.S. Trustee of Filing a Chapter 11 or Chapter 15 Petition. Except in exigent circumstances, counsel for the debtor or foreign representative must contact the U.S. Trustee and the Clerk at least 2 business days before filing a petition to advise of the anticipated filing—without disclosing the identity of the debtor—and any immediate relief the debtor or foreign representative may seek.

**Rule 1007-1 Lists, Schedules and Statements.**

(a) Extension of Time to File Schedules and Statement in Voluntary Chapter 11 Case. If the debtor in a voluntary chapter 11 case has more than 200 creditors and files with its petition the list required by Local Rule 1007-2, then the debtor's time to file its Schedules and Statement of Financial Affairs is extended to 28 days from the petition date. The time may be further extended on motion for cause shown.

(b) Filing Schedules in Jointly Administered Chapter 11 Cases. In jointly administered cases, each debtor's Schedules and Statement of Financial Affairs, including amendments, must be filed in the debtor's case and in the lead case. The statistical information required by CM/ECF must be completed for each debtor.

**Rule 1007-2 List of Creditors/Mailing Matrix.**

(a) List of Creditors in a Voluntary Case. The list required by Fed. R. Bankr. P. 1007(a)(1) must be filed in the format required by the Clerk's Office Procedures.

(b) Jointly Administered Cases. In jointly administered cases with a claims and noticing agent, the lists required by Fed. R. Bankr. P. 1007(a)(1) and (d) may be consolidated for the debtors, but the debtors must provide deconsolidated lists required by Fed. R. Bankr. P. 1007(d) upon request.

(c) Individual Debtor with Recent Prior Case or Foreclosure.

(i) Prior Case. An individual debtor who was a debtor in a prior case under the Code pending within a year before the petition date must include in the list required by Fed. R. Bankr. P. 1007(a)(1) the name and address of each party and counsel that entered an appearance in the prior case.

(ii) Foreclosure. An individual debtor who was subject to an action for foreclosure, repossession, or to enforce a claim against the debtor's or a co-debtor's property pending within a year before the petition date must include in the list required by Fed. R. Bankr. P. 1007(a)(1) the name and address of each party and counsel that entered an appearance in the action.

**Rule 1009-1 Notice by Chapter 7, Chapter 12 or Chapter 13 Debtor to Creditors Not Scheduled Before Meeting of Creditors.**

The following procedures apply in a chapter 7, 12, or 13 case if the debtor amends Schedule D, E, or F or the creditor matrix to add a creditor after the Court has issued notice of the meeting of creditors under 11 U.S.C. § 341:

(a) The debtor must serve the affected creditor with the following by first class mail:

(i) A copy of the original notice of meeting of creditors under 11 U.S.C. § 341;

(ii) A notice informing the creditor of the right to file a proof of claim by the later of 21 days from the date of the notice and the bar date in the original notice of meeting of creditors under 11 U.S.C. § 341;

(iii) A notice informing the creditor of the automatic extension of time to file a complaint under Local Rules 4004-1 and 4007-1; and

(b) The debtor must file a certificate of service with the Court and provide an amended creditor matrix to the Clerk within 48 hours of filing the amendment.

**Rule 1009-2 Notice of Amendment of Schedules in Chapter 11 Cases.**

If a chapter 11 debtor's schedules are amended to change the amount, nature, classification, or characterization of a debt owed to a creditor, then the debtor or trustee must serve notice of the amendment on the creditor within 14 days of the amendment, and the notice must inform the creditor of its right to file a proof of claim by the later of (i) the bar date or (ii) 21 days from the date of the notice. A certificate of service of the notice must then be filed within 7 days after service.

**Rule 1013-1 Entry of Order for Relief on Involuntary Petition.**

An order for relief on an involuntary petition will be entered only after (i) the filing of a consent by the putative debtor, (ii) certification of Delaware counsel to the petitioning creditor or creditors that the petition and summons were served on the putative debtor in accordance with the Fed. R. Bankr. P. and that no answer was timely filed or received, or (iii) a duly noticed hearing**.**

**Rule 1014-1 Transfer of Cases or Adversary Proceedings to Another District.**

Within 7 days after entry of an unstayed order to transfer a case or adversary proceeding from this district to another district, the Clerk will transmit the following to the transferee Court: (a) certified copies of the Court's or the District Court's transfer order and any related opinion; and (b) copies of all docket entries that have been filed in the case or adversary proceeding. When the District Court orders the transfer, the District Court Clerk will transmit the District Court's transfer order to the Clerk, who will then effectuate the transfer as set out in this Local Rule. The Clerk may require counsel for the parties to assist with its duties under this Local Rule.

**Rule 1015-1 Joint Administration of Cases**

The Court may order joint administration of related cases pending in this Court without notice and an opportunity for hearing on a motion supported by an affidavit, declaration, or verification establishing that joint administration of the cases is warranted and will ease the administrative burden for the Court and the parties. A joint administration order entered under this Local Rule (i) is procedural only and does not substantively consolidate the debtors' estates and (ii) may be reconsidered on motion of a party in interest at any time.

**Rule 1016-1 Suggestion of Death.**

The debtor's attorney must file a notice of the debtor's death—using Local Form 126—as soon as possible after verifying that the debtor is deceased.

**Rule 1017-1 Petition Deficiencies.**

If a chapter 7, 12, or 13 petition is filed without all documents required by the Fed. R. Bankr. P., the Code, these Local Rules, and the Clerk's Office Procedures, then the debtor will receive a deficiency notice specifying the time for filing the omitted documents. If the documents are not filed within the time in the notice, then the petition may be dismissed, unless the debtor has moved for or obtained an extension of time to file the documents.

**Rule 1017-2 Dismissal of Chapter 11 Case.**

Except as provided in Fed. R. Bankr. P. 1017, a chapter 11 case—including one that is jointly administered with another case—may only be dismissed on motion noticed as required by Fed. R. Bankr. P. 1017 and 2002(a)(4).

**Rule 1017-3 Closing of Cases by Substantive Consolidation.**

A party seeking to substantively consolidate two or more debtors' estates, must present a separate proposed order for each consolidating debtor's case providing for each case to be closed, except for the remaining consolidated debtor case. If the request is granted, then the order must be entered on the docket for each debtor's case.

## PART II. OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS

### Rule 2002-1 Notices to Creditors, Equity Security Holders, United States and U.S. Trustee.

(a) Chapter 11 Hearings.

(i) Omnibus Hearings. The Court may, sua sponte or upon request of a party in interest made to the presiding Judge's chambers, enter an order setting omnibus hearing dates for a chapter 11 case. Upon receiving omnibus hearing dates from the presiding Judge's chambers, the requesting party must file a proposed order setting the omnibus hearing dates under certificate of counsel. Unless the Court directs otherwise, and as time permits, the Court will hear the motions and applications duly noticed for the omnibus hearing in the order listed in the hearing agenda filed under Local Rule 9029-3.

(ii) Special and Emergency Hearings. The Court may, sua sponte or upon request of a party in interest, schedule a special or emergency hearing date in a chapter 11 case for a specific motion or issue. The party requesting the hearing—or if requested by the Court, the party directed by the Court—must promptly file a notice of hearing on the docket specifying the date and time of the hearing and the issue before the Court—e.g., the title of the motion, "discovery conference," etc. The hearing will be limited to the issues identified in the notice, and no party in interest may present any other motion or issue at the hearing without leave of the Court.

(b) Serving Motions and Applications in Chapter 11 and 15 Cases. In chapter 11 and 15 cases, motions and applications—except matters specified in Fed. R. Bankr. P. 2002(a)(1), (4), (5), (7), 2002(b), 2002(f) and 2002(q) and Local Rules 4001-1 and 9013-1—must be served only on counsel for the debtor, counsel for the foreign representative, the U.S. Trustee, counsel for any official committee, counsel for any trustee, all parties who file a request for service of notices under Fed. R. Bankr. P. 2002(i), and all parties whose rights are affected by the motion or application. If an official unsecured creditors' committee has not been appointed in a chapter 11 case, then the movant or applicant must serve the motion or application on the creditors identified in the list filed under Fed. R. Bankr. P. 1007(d).

(c) Service List in Chapter 11 and 15 Cases. The claims agent must maintain a list of parties entitled to receive service required by Local Rule 2002-1(b), including specifying whether a party has opted to receive email service. Subject to any confidentiality or other restrictions imposed by rule or Court order, the claims agent must make the list available on the case website maintained by the claims agent and must provide a copy to any party upon request. If there is no claims agent, then counsel to the debtor or foreign representative, as applicable, is responsible for the duties under this Local Rule.

(d) Entry of Appearance. An entry of appearance filed in a case or adversary proceeding must identify the party appearing and its counsel, if applicable, and include the following information for counsel, or if unrepresented, the party: (i) mailing address; including a

street address for overnight and hand delivery; (ii) telephone number; and (iii) email address.

(e) Notice and Claims Agent. The Court may at the First Day Hearing authorize the retention of a claims and noticing agent—"claims agent"—under 28 U.S.C. § 156(c) on motion substantially confirming to Local Form 134. A chapter 11 debtor with more than 200 parties identified in the list filed under Local Rule 1007-2(a) must file the motion with its petition or within 7 days thereafter, unless the Court orders otherwise. The claims agent must comply with the Court's Protocol for the Employment of Claims and Noticing Agents under 28 U.S.C. § 156(c) and perform the following functions:

(i) Serve the following: (a) Notice of Chapter 11 Bankruptcy Case using the appropriate Official Form; (b) notice of any bar date for proofs of claim or interest; (c) notices of claims transfers; (d) objections to claims; (e) the notices required by Fed. R. Bankr. P. 2002(a)(5), 2002(b), 2002(d), 2002(f)(7), 2002(f)(11), 3017, 3019, and 3020; (f) notice of hearing on motions filed by the U.S. Trustee; and (g) any motion filed by the U.S. Trustee's office to convert or dismiss the case, appoint a trustee, or appoint an examiner;

(ii) File within 7 days after service a certificate of service referencing the document served and its docket number and indicating the name and complete address of each party served and the method of service;

(iii) Maintain the original copy of every proof of claim or interest filed in the case;

(iv) Maintain the official claims register, including by recording and notating, as applicable, claims transfers, claims objections, and all other filings affecting a claim, but not deleting any claim or claim information for any reason;

(v) Maintain a separate claims register and separate creditor matrix for each debtor in jointly administered cases;

(vi) File quarterly an updated claims register in alphabetical and numerical order or a certification of no claims activity if there has been no claims activity in the quarter;

(vii) Maintain an up-to-date mailing list of all parties who have filed a proof of claim or interest or request for notices for each case, post the list to the claims agent's website, and provide a copy of the list within 48 hours of a request;

(viii) Provide public access to the claims register and complete proofs of claim—including attachments—at no charge through the claims agent's case website, but protecting from public access any information protected by Court order or Local Rule 9037-1;

(ix) Within 14 days after entry of an order dismissing a case or within 28 days after entry of a final decree, forward to the Clerk an electronic version of all proofs of claim, upload the creditor matrix into CM/ECF, and docket a final claims register;

If the case is jointly administered, then docket in the lead case a combined claims register containing claims from all cases;

(x) Within 14 days after the earlier of entry of an order (a) converting the case or (b) terminating the services of the claims agent, (i) forward to the Clerk an electronic version of all proofs of claim, (ii) upload the publicly available portions of the creditor matrix into CM/ECF, (iii) forward to the Clerk the sealed portions of the creditor matrix in the format requested by the Clerk, and (iv) docket a final claims register. If the case is jointly administered, then docket in the lead case a combined claims register containing claims from all cases, and also docket a case-specific final claims register and creditor mailing matrix in each respective jointly administered case; and

(xi) If there are more than 200 creditors, then upon conversion to a chapter 7 case, (a) continue to serve all notices required to be served at the direction of the chapter 7 trustee or the Clerk's Office or (b) submit a proposed order terminating the claims agent's services.

(f) Cases with No Claims Agent.

(i) In cases with no claims agent, the Clerk serves as the notice agent, and the debtor must timely provide the Clerk with a complete, accurate, and up-to-date creditor matrix consistent with Fed. R. Bankr. P. 1007 and the procedure set forth in Local Rule 2002-1(e)(x)(ii)-(iii).

(ii) The debtor must provide an updated creditor matrix within 14 days after entry of an order converting a case or within 28 days after entry of a final decree consistent with the procedure set forth in Local Rule 2002-1(e)(x)(ii)-(iii).

(g) Chapter 15 Cases. Unless otherwise ordered by the Court, the foreign representative is responsible for (i) the notice requirements under Fed. R. Bankr. P. 2002(q) and (ii) applicable duties in Local Rule 2002-1(e).

(h) Limiting Notice in Chapter 7, 12, and 13 Cases. In a chapter 7, 12, or 13 case, the notices required by Fed. R. Bankr. P. 2002(a) may be limited to the parties specified in Fed. R. Bankr. P. 2002(h), without further order or direction of the Court.

**Rule 2003-1 Submission of Interrogatories in Lieu of Live Testimony at Meetings Conducted under 11 U.S.C. § 341 in Chapter 7 and 13 Cases.**

(a) The Court may, for cause, permit a chapter 7 or 13 debtor to submit to examination by written interrogatories in lieu of the debtor's live appearance at a meeting of creditors or equity security holders convened under 11 U.S.C. § 341. A motion for such relief must be served on the chapter 7 or 13 trustee (as applicable), the U.S. Trustee, and all parties who have filed a request for notices under Fed. R. Bankr. P. 2002.

(b) The chapter 7 or 13 trustee, as applicable, determines the form of the written interrogatories.

(c) The debtor must file an original copy of the debtor's answers to written interrogatories and serve a copy on the chapter 7 or 13 trustee, as applicable.

**Rule 2004-1 Rule 2004 Examinations.**

(a) Motion: Certification of Conference Required. Before filing a motion for examination or production under Fed. R. Bankr. P. 2004, the movant must attempt to meet and confer with the proposed examinee or, if represented, the examinee's counsel, to arrange for a mutually agreeable date, time, place and scope of an examination or production. The motion for examination or production must include a certification of counsel by Delaware counsel either (i) that the required conference was held and no agreement was reached or (ii) why no conference was held. The motion must be accompanied by a notice of motion with an objection deadline at least 7 days after the motion is served and a hearing at least 14 days after the motion is served.

(b) Examination on Parties' Agreement.

(i) Examination Notice. A motion for examination or production under Fed. R. Bankr. P. 2004 is not required if the proposed examinee agrees to voluntarily appear or produce documents. A notice setting forth the identity of the examinee, and the date, time, place and scope of the examination or production must be filed and served in accordance with this Local Rule.

(ii) Compelling Discovery; Protective Order. A party seeking or providing discovery under an examination notice may move the Court under the examination notice for relief under Fed. R. Civ. P. 37(a)(1), (3), (4) and (5) or for a protective order. An attorney may issue a subpoena to the party providing discovery under the examination notice as appropriate to obtain documents or examination subject to the Examination Notice.

(iii) Objection Deadline and Hearing. A party in interest may file an objection to the examination notice within 7 days after the examination notice is filed and served. Unless the Court orders otherwise, Local Rule 7026-1 governs the objection, any response thereto, and the hearing on the objection.

(c) Service Requirements. A motion or examination notice under this Local Rule must be served upon the following parties, through their counsel, if represented: (i) the debtor; (ii) the trustee; (iii) the U.S. Trustee; (iv) all official committees; and (v) the proposed examinee or party producing documents.

(d) Informal Discovery. Nothing in this Local Rule prohibits consensual informal discovery outside the provisions of Fed. R. Bankr. P. 2004 and this Local Rule.

**Rule 2011-1 Certification of Debtor-in-Possession Status or Trustee Qualification.**

When evidence is required that a debtor is a debtor in possession or that a trustee has qualified, the Clerk, or the Clerk's designee, may so certify in a document substantially conforming to Local Form 112A or 112B, as applicable.

**Rule 2014-1 Employment of Professional Persons.**

(a) Application for Approval. An application for approval of employment of a professional person under 11 U.S.C. § 327, 1103(a), or 1114 or Fed. R. Bankr. P. 2014 must be accompanied by a verified statement of the professional person under Fed. R. Bankr. P. 2014 and a proposed order. A professional employed or to be employed must promptly file and serve a supplemental verified statement disclosing any additional material information it learns relating to its employment, including any additional connections to parties in interest.

(b) Notice and Hearing. Except for applications to retain claims agents under 28 U.S.C. § 156(c), which may be heard at the First Day Hearing, retention applications will be heard on the first omnibus or other hearing date that would allow at least 21 days' notice of the hearing on the application.

(c) Professional Disclosure. A professional subject to this Local Rule must disclose its employment or intended employment of another professional for whom it intends to seek reimbursement under Local Rule 2016-1(f), but the Court may excuse disclosure if it would reveal privileged information or confidential litigation strategy. If disclosure is excused, the professional must still comply with the requirements of Local Rule 2016-1(f) to be reimbursed for payment made by it to the other professional.

**Rule 2015-1 Debtor-in-Possession Bank Accounts in Chapter 11 Cases.**

(a) Bank Accounts and Checks. Upon the debtor's motion, the Court may, without notice and hearing, permit the debtor to use its existing bank accounts and use its existing pre-printed checks without including its bankruptcy case number or a "Debtor-in-Possession" designation, but once the debtor's existing checks have been used, the debtor must include its bankruptcy case number and a "Debtor-in-Possession" designation on its checks.

(b) Section 345 Waiver. Except as provided in Local Rule 4001-3, the Court will not grant a waiver of the investment requirements of 11 U.S.C. § 345 without notice and a hearing, but may grant an interim waiver of the requirements pending a final hearing (i) if the debtor has more than 200 creditors or (ii) for cause shown.

**Rule 2016-1 Application for Compensation and Reimbursement of Expenses.**

(a) Scope of Rule. This Local Rule applies to:

(i) An application of a professional person employed under 11 U.S.C. § 327, 328, or 1103 requesting approval for compensation or reimbursement of expenses; and

(ii) A request for payment of an administrative expense under 11 U.S.C. § 503(b)(3) or 503(b)(4).

(b) Effect of Rule. The application or request must comply with the information and certification requirements listed in Local Rule 2016-1(c)-(g) and the respective compensation procedures order entered in the case or it will not be considered by the Court.

(c) General Information Requirements.

(i) The initial pages of the application must substantially conform to Local Form 101.

(ii) The application must explain any circumstances not apparent from the activity descriptions or that the applicant wishes to disclose, including special employment terms, billing policies, expense policies, voluntary reductions, reasons for using multiple professionals for a particular activity, or reasons for substantial time billed relating to a specific activity.

(d) Information Requirements for Compensation Requests. The application must include activity descriptions with sufficient detail to allow the Court to determine whether the time is actual, reasonable, and necessary, including the following:

(i) Activity descriptions divided into general project categories;

(ii) Complete and detailed activity descriptions;

(iii) The time allotted to each activity;

(iv) Time records in tenth-of-an-hour increments;

(v) The total fees requested for all activities within a particular time entry;

(vi) The nature of the activity (e.g., phone call, research);

(vii) The subject matter of the activity (e.g., exclusivity motion, section 341 meeting);

(viii) A separate description and a time allotment for each activity (i.e., activity descriptions should not be lumped);

(ix) Non-working travel time separately described and billed at no more than half of regular hourly rates;

(x) Activity descriptions that individually identify meetings and hearings, along with each participant, the subject of the meeting or hearing, and the participant's role; and

(xi) Activity descriptions in chronological order.

(e) Information Requirements Relating to Expense Reimbursement Requests.

(i) The application must include an expense summary by category for the period of the request, including, for example, computer-assisted legal research, photocopying, airfare, meals and lodging.

(ii) The application must also itemize each expense within each category, including the date the expense was incurred, the charge, and the individual incurring the expense, if available. Meal expense itemization must identify the meal (breakfast, lunch, etc.) and the number of persons attending. Travel expense itemization must identify the origin and destination, mode of transit, class of fare, and the name of the traveler.

(iii) The application must state the requested rate for copying charges (not to exceed $.10 per page for black and white copies and $.80 for color copies) and computer-assisted legal research charges (not to exceed actual cost).

(iv) The applicant must retain and make available upon request receipts or other support for each expense.

(f) Reimbursement of Payments Made to Other Professionals. If the application seeks reimbursement for payment the applicant made to another professional, then the applicant must provide the information required by subsections (c), (d), and (e) of this Local Rule for the services and expenses of the other professional.

(g) Certification Requirement. The application must contain a statement that the application complies with this Local Rule.

(h) Waiver Procedure. An applicant may request that the Court, for cause shown, waive one or more of this Local Rule's information requirements. The request should be made in the applicant's retention application, or as soon as possible thereafter, and must be served on debtor's counsel, counsel to any official committee, and the U.S. Trustee. The caption of the application or motion must explicitly state that a waiver of one or more of this Local Rule's information requirements is sought.

(i) Form of Order. A proposed order submitted in connection with an application must specify the amount of fees and expenses requested. In a case converted from chapter 11 to chapter 7, a proposed final fee order must provide that debtor's counsel is required to file—within 14 days of entry of the final fee order—a notice identifying the amounts of the approved fees and expenses paid and then outstanding for all chapter 11 professionals. The chapter 11 professionals must timely provide debtor's counsel with the information necessary to complete the notice.

(j) Fee Examiners. The Court, on motion of a party in interest or on its own motion, may appoint a fee examiner to review fee applications and make recommendations for approval. The fee examiner's authority terminates upon conversion of a chapter 11 case to chapter 7, unless retained by the chapter 7 trustee or otherwise ordered by the Court.

(k) Final Fee Applications in Chapter 7 Asset Cases. An estate professional must file a final fee application in a chapter 7 asset case but may not notice the application for hearing. Instead, the hearing must be stated as "TBD." The application need only be served on the chapter 7 trustee and the U.S. Trustee. After the Trustee Final Report is filed, the Court will (i) notice the hearing for the application and provide for the objection deadline and (ii) serve the notice of the application. If the estate professional inadvertently notices the application for hearing, it must include language in the proposed form of order that "fees are subject to disgorgement pending approval of TFR."

(l) Hearings on Fee Applications in Chapter 11 Cases. Interim fee applications in a chapter 11 case will be considered in accordance with the interim compensation procedures order entered in the case. Unless the order provides otherwise, the hearing on interim fee applications will be scheduled on a quarterly omnibus hearing date. The hearing dates must be designated on the proposed order scheduling omnibus hearings. Fee applications and related CNOs and CoCs must only be submitted to the Court in advance of a fee hearing in accordance with Local Rule 9029-3.

## PART III. CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY INTEREST HOLDERS; PLANS

### Rule 3001-1 Filing Proof of Claim; Transfer of Claim.

(a) Filing Proof of Claim.

(i) Paper Claims. When filing a paper proof of claim in a chapter 7, 12, or 13 case, or in a chapter 11 case with no claims agent, the creditor must also: (A) provide the Clerk with the original proof of claim and 1 copy for the trustee and (B) serve a copy on debtor's counsel or, if the debtor is not represented by counsel, the debtor. If a creditor filing a proof of claim by mail wishes to receive a clocked-in copy by return mail, then the creditor must include an additional copy of the proof of claim and a self-addressed, postage-paid envelope.

(ii) Electronic Claims. A claim submitted through a Court-approved electronic claims filing system is considered the original proof of claim, and no copy of the proof of claim need be provided to the Clerk, trustee, or debtor's counsel, but if the debtor is not represented by counsel, then the creditor must serve a copy of the proof of claim on the debtor.

(b) Transfer of Claim. A transfer of claim filed under Fed. R. Bankr. P. 3001(e)(2) or (4) must substantially conform to Local Form 138, including by specifying the claim number.

(c) Claims Bar Date in Subchapter V Cases. In a subchapter V case, the general claims bar date is 60 days after the order for relief and the governmental units claims bar date is 180 days after the order for relief, unless a different deadline is set by Court order or the Code.

**Rule 3007-1 Omnibus Objection to Claims.**

(a) Scope of Rule. This Local Rule applies to an omnibus objection to claims. An omnibus objection is an objection that objects to claims filed by different claimants. This Local Rule governs omnibus objections to the extent inconsistent with Fed. R. Bankr. P. 3007.

(b) Filed vs. Scheduled Claim. The debtor may not object to a claim if (i) the claim has been scheduled on the debtor's schedules of liabilities and is not listed as disputed, contingent, or unliquidated and (ii) no proof of claim has been filed under Fed. R. Bankr. P. 3003, 3004 or 3005. Instead, the debtor must amend its schedules under Fed. R. Bankr. P. 1009 and provide notice as required by Local Rule 1009-2.

(c) Substantive vs. Nonsubstantive Objections. An omnibus objection is deemed to be made on a substantive basis unless it is based on the following:

(i) Duplicate claim, but a claim filed against two or more different debtors is not a duplicate claim unless the debtors' estates have been substantively consolidated;

(ii) Claim filed in the wrong case;

(iii) Amended or superseded claim;

(iv) Late filed claim;

(v) Stockholder claim based on stock ownership, but not a stockholder claim for damages;

(vi) Claim that does not have a basis in the debtor's books and records and does not include or attach information or documents sufficient to constitute prima facie evidence of the validity and amount of the claim under Fed. R. Bankr. P. 3001(f). An objection under this subsection must be supported by an affidavit stating that affiant (i) has reviewed the claim and all supporting information and documents provided with the claim, (ii) believes that the documentation does not provide prima facie evidence of the validity and amount of the claim and (iii) cannot ascertain a basis for the claim after a reasonable review of the debtor's books and records;

(vii) Claim that is objectionable under 11 U.S.C. § 502(e)(1);

(viii) Claim for priority in an amount that exceeds the maximum amount under 11 U.S.C. § 507;

(ix) Reclassifying a claim to a higher priority; and

(x) Modifying a claim amount to a higher amount.

(d) General Requirements for Objections.

(i) Objection. An objection must conform to the following requirements:

(A) The objection must be filed as either substantive or nonsubstantive, but not both. A claim may be subject to both a substantive and a nonsubstantive objection if filed separately;

(B) The objection's title must state clearly whether the objection is on substantive or nonsubstantive grounds;

(C) Objections must be numbered consecutively regardless of basis, e.g., First Omnibus (duplicate), Second Omnibus (amended and superseded); not First Omnibus (duplicate), First Omnibus (amended and superseded);

(D) The objection must attach exhibits identifying the claims to which the objection relates; and

(E) The objection must contain a statement that the objection complies with this Local Rule.

(ii) Affidavit Required. Each objection must be supported by an affidavit stating that the information contained in the objection's exhibits is true and correct to the best of the affiant's knowledge and belief.

(iii) Exhibits. An exhibit attached to an objection must substantially conform to Local Form 113 and meet the following requirements:

(A) Contain only those claims to which there is one common basis for objection (e.g., exhibit A duplicate claims; exhibit B amended or superseded claims);

(B) Include only one basis for objection;

(C) List claims alphabetically by the last name of individual claimant and the name of entity claimant; and

(D) Provide sufficient detail as to why the claim should be disallowed.

(iv) Notice of Objection to Claim Holder. The party filing the objection must serve each affected creditor with either (i) a Notice of Objection to Claim substantially conforming to Official Form B420B or (ii) a copy of the objection.

(v) Counsel Certification Regarding Late Claims. If (A) the basis for a claim objection is that the claim was filed late, and (B) the claim was one that amended or superseded an earlier filed claim, then the claim objection must include a certification from the objector's counsel that either (y) the earlier filed claim was also late, or (z) the earlier filed claim was timely but the amending or superseding claim asserts new claims not asserted in the previously filed claims that do not relate back to the claims asserted in the earlier filed claim.

(vi) When Copies of Proofs of Claim Are to Be Provided to the Court.

(A) Except as set forth in this Local Rule, copies of proofs of claim need not be provided to the Court.

(B) When the objection is substantive or based on Local Rule 3007-1(c)(iii), (iv), (vi), (ix), or (x), then copies of the proof of claim and all supporting documentation must be provided to the Court as follows, unless the presiding Judge's procedure provides otherwise:

(1) At least 14 days before the hearing on the objection, the objector must file and deliver to the presiding Judge's chambers a Notice of Submission of Proofs of Claim, along with the objection and copies of the proofs of claim. The notice must also state that copies of the proofs of claim can be requested from the objector's counsel. The notice must be served on all parties who have requested notice under Fed. R. Bankr. P. 2002;

(2) The proofs of claim must be in a binder and separated by tabs; and

(3) The proofs of claim must be in the order as listed in the exhibit, and, where there is more than one exhibit, each exhibit's proofs of claims must be separated by additional tabs indicating to which exhibit the claims relate.

(e) Requirements Relating to Substantive Objections. The following apply to substantive objections:

(i) The objection may contain no more than 100 claims.

(ii) No more than 3 substantive objections may be filed in a calendar month.

(iii) The Court may grant leave from the requirements of subsections (e)(i) and (e)(ii) of this Local Rule upon a motion filed and heard before the objection is filed.

(iv) Unless the basis for the objection is incorrect classification of a claim, the objection must include all substantive objections to the claim:

(v) An objection based on incorrect classification of a claim must provide in the title—or otherwise conspicuously state—that substantive rights may be affected by the objection and by any further objection that may be filed.

(vi) Once a creditor responds to an objection, the objector may only amend the objection with respect to the creditor's claim with the creditor's written consent or the court's leave.

(f) Remote Appearance by *Pro se* Claimant Permitted. A *pro se* claimant may attend the hearing on an objection remotely using the Court's eCourtAppearances procedures.

(g) Responses to Objection. The deadline to respond to an objection must be at least 21 days after the objection is filed and at least 7 days before the hearing.

(h) Hearings on Objections and Responses. Hearings on objections, and any response thereto, may ordinarily be held on the regularly scheduled omnibus hearing dates in chapter 11 cases, consistent with these Local Rules. If the Court determines that the hearing on a particular objection will require substantial time for argument or evidence, then the Court, in its discretion, may reschedule the hearing on that claim for a different hearing date and time. The parties may also request that a separate hearing on an objection based on substantive grounds be scheduled for a date and time convenient to the Court and the parties.

**Rule 3011-1 Deposit or Release of Funds Paid into the Registry of the Court.**

(a) Deposit of Funds. Funds may only be deposited into the Registry of Court upon motion specifying the amount to be deposited and the reason for the deposit. If the deposit is for unclaimed distributions, then the movant must also specify the list of payees, including the last four digits of each payee's taxpayer identification number (which may be redacted under Local Rule 9037-1(b)), each payee's last known address, the amount due to each payee and why the distributions did not occur to the payees.

(b) Application for Withdrawal of Funds. An application for the withdrawal of funds paid into the Registry of the Court must conform to Local Form 127. The applicant must redact confidential information from the publicly-filed application and any exhibit, and deliver an unredacted copy of the application and exhibit to the Clerk's Office in a sealed envelope.

**Rule 3015-1 Chapter 12 Plan and Confirmation Requirements.**

(a) Chapter 12 Plan Filed with Petition. The Court must serve a chapter 12 plan that is filed with the petition.

(b) Chapter 12 Plan Filed After Petition. The debtor must serve a chapter 12 plan filed after the petition date—along with a notice scheduling the hearing to consider confirmation of the plan—on the chapter 12 trustee, all creditors, and all parties that requested notice. The notice must (i) give at least 28 days' notice of the confirmation hearing, unless the Court fixes a different time, and (ii) set a deadline for filing and serving objections to confirmation of the plan that is at least 7 days before the hearing.

(c) Objection to Plan Confirmation. An objection to confirmation of the plan must be served on the debtor, the debtor's counsel, the chapter 12 trustee, and all parties that requested notice.

(d) Amended Plan. If the debtor amends the plan before the confirmation hearing, then the debtor must serve the parties specified in subsection (b) of this Local Rule with a copy of the amended plan and a new notice of hearing at least 7 days before the confirmation hearing.

(e) Proposed Plan Confirmation Order. The debtor must file a proposed order confirming the plan that recites the requirements of the plan and the Court's findings under 11 U.S.C. § 1225.

**Rule 3016-1 Amended Plan and Disclosure Statement.**

When a plan proponent files an amended plan, disclosure statement, or related document, the proponent must also file a redline against the last-filed version.

**Rule 3016-2 Required Forms in Subchapter V Cases.**

(a) Subchapter V Status Report. A subchapter V debtor must file a status report—substantially conforming to Local Form 136—at least 14 days before the initial status conference.

(b) Form of Subchapter V Plan. A subchapter V plan must substantially conform to Local Form 137.

**Rule 3016-3 Plan Supplements.**

Unless the Court orders otherwise, the plan proponent must file any plan supplement at least 7 days before the earlier of (a) the deadline to submit ballots to vote to accept or reject the plan, and (b) the deadline to object to confirmation of the plan.

**Rule 3017-1 Approval of Disclosure Statement.**

(a) Hearing on Disclosure Statement. The plan proponent must obtain a disclosure statement hearing date from the Court. Unless the Court orders otherwise, the notice served under Fed. R. Bankr. P. 2002(b) and 3017 must provide at least 35 days' notice of the disclosure statement hearing and at least 28 days' notice of the deadline to object to approval of the disclosure statement.

(b) Voting Procedures. The plan proponent must file a motion to approve the voting procedures— including the form of ballots, the voting agent, and the time and manner of voting—at least 21 days before the disclosure statement hearing.

**Rule 3017-2 Combined Hearing on Disclosure Statement Approval and Plan Confirmation in a Chapter 11 Case.**

(a) Application. This Local Rule applies when a plan proponent requests a combined hearing on disclosure statement approval and plan confirmation, except a prepackaged plan.

(b) Interim Disclosure Statement Approval; Solicitation Procedures and Scheduling Combined Hearing on Approval of Disclosure Statement Adequacy and Plan Confirmation.

(i) Motion Required. A plan proponent may file a motion requesting, as applicable, (A) authority to combine the plan and disclosure statement into a single document; (B) interim disclosure statement approval; (C) approval of solicitation procedures; and (D) scheduling a joint hearing to consider final approval of the adequacy of the disclosure statement and confirmation of the proposed plan.

(ii) Notice, Objection Deadline, and Hearing. The motion must be filed at least 21 days before the hearing and be served on the parties listed in Local Rule 2002-1(b), and, if the debtor issued publicly traded securities, the SEC. The claims agent must also post the notice on the case website. If no objection is filed within 14 days after the motion is served, then the Court may grant the motion without a hearing.

(iii) Contents of Motion. The motion must identify the proposed balloting agent and any voting procedures.

(iv) Certification. The motion must certify that the notice of the deadline to object to final approval of the adequacy of the disclosure statement and confirmation of the proposed plan will comply with Fed. R. Bankr. P. 2002(b), and that the proposed date for the joint hearing will be at least 7 days after the deadline, unless the Court orders otherwise.

(v) Proposed Order. The motion must be accompanied by a proposed order that:

(A) Sets the joint hearing date;

(B) Approves the disclosure statement on an interim basis;

(C) Approves the voting procedures, including establishing a record date under Fed. R. Bankr. P. 3017(d) and 3018(a) and a voting deadline at least 10 days before the joint hearing;

(D) Approves the form of notice to be provided to creditors and interest holders; and

(E) Approves the form of ballot, and, if the plan seeks a consensual third-party release or injunction, then the ballot must disclose the release or injunction and describe how to assent to or oppose the release or injunction.

**Rule 3017-3 Length of Papers Filed in Support or Opposition to Disclosure Statement Approval and Plan Confirmation.**

Absent the Court's leave, an objection to disclosure statement approval or plan confirmation may not exceed 40 pages and a brief responding to objections and supporting disclosure statement approval or plan confirmation may not exceed 60 pages, in each case excluding tables, exhibits, addenda and other supporting materials. A brief need not repeat facts contained in any affidavit filed concurrently with the brief.

**Rule 3017-4 Scheduling Confirmation Hearing in Subchapter V Cases.**

After a subchapter V debtor files the plan required by 11 U.S.C. 1189(a), the debtor must promptly proceed with scheduling a plan confirmation hearing in consultation with the U.S. Trustee and the subchapter V trustee. If no confirmation hearing has been set by the Court within 60 days after the filing of the plan, then the debtor, in consultation with the U.S. Trustee and the subchapter V trustee, shall request a status conference with the Court to discuss the status of the case, including scheduling a confirmation hearing.

**Rule 3022-1 Final Decree in Chapter 11 Cases.**

(a) Motion for Final Decree. A motion for final decree must include a proposed final decree order that orders the closing of the case and identifies in the caption and in the body of the order the case name and case number of each case to be closed under the order.

(i) Serving the Motion. The motion must be served on the parties listed in Local Rule 2002-1(b) at least 21 days before the hearing.

(ii) Final Report. The debtor or trustee must file a final report and account at least 14 days before the hearing on the motion.

(b) Individual Debtor's Discharge. To obtain a discharge, an individual debtor who has completed plan payments must file a request for a discharge substantially conforming to Local Form 104A.

**Rule 3023-1 Special Procedures in Chapter 13 Matters.**

(a) Application. This Local Rule governs chapter 13 cases.

(b) Section 1326 Payments.

(i) The debtor must, after commencing timely payments as required by 11 U.S.C. § 1326(a)(1), continue to make subsequent payments to the trustee in accordance with the proposed plan until the trustee or Court directs otherwise.

(ii) If the proposed plan provides for payment of secured debt through the plan and the debtor is making timely pre-confirmation payments to the trustee, then the debtor need not continue to make regular payments directly on the secured debt. If the proposed plan provides for direct payments to a secured creditor, or if no proposed plan is filed on the petition date, then the debtor must continue to make regular payments to the secured creditor as and when due.

(c) Chapter 13 Plan and Plan Analysis.

(i) Filing of Plan and Nonstandard Plan Provisions.

(A) Filing of Plan. On the petition date, or within 14 days of conversion to chapter 13, the debtor must file a proposed plan in the form of Local Form 103, together with a plan analysis in the form of Local Form 103A. If a plan or plan analysis is filed after that time, the debtor must serve the plan and plan analysis on all creditors in accordance with Fed. R. Bankr. P. 2002 and file a certificate of service.

(B) Nonstandard Plan Provisions. If the proposed plan contains any nonstandard provisions, then the plan must disclose that fact in the notice section in the first paragraph of the plan. Examples of nonstandard provisions include the following:

(1) Debtor is self-employed and operating a business and therefore has additional duties and reporting requirements including timely submission of tax returns and employee tax withholdings;

(2) Debtor holds a personal injury, worker's compensation, or social security claim, and debtor's duty to report and disclose;

(3) Debtor's current or future intent to sell or refinance real estate, court approval required, and, if sold or refinanced, how liens and mortgage arrears claims will be addressed;

(4) Debtor to seek a mortgage modification and pending any modification whether ongoing payments will continue;

(5) Plan includes the cramdown of a secured vehicle claim and specific provisions as to lien and title release;

(6) Plan includes avoidance of junior liens on real estate, adversary to be filed, and treatment as to the unsecured claim of an avoided lienholder;

(7) Provision as to the treatment of claims and any unsecured deficiency of creditors where collateral is surrendered under the plan;

(8) Any matter relating to a domestic support obligation, divorce or property division; or

(9) Plan seeks to avoid a lien pursuant to 11 U.S.C. § 522(f).

(ii) Mortgage Claims and Procedures.

(A) If servicers/mortgagees include a flat fee cost in the proof of claim for review of the chapter 13 plan prior to confirmation and for the preparation of the proof of claim, it must be reasonable and fairly reflect the attorney's fee included. A postpetition charge for the review of a chapter 13 plan and/or the preparation of a proof of claim may be asserted in the servicer/mortgagee's proof of claim that asserts prepetition claims;

(B) If servicers/mortgagees include attorney fees for pursuing relief from stay, such fees must be clearly identified as well as how such fees are to be paid in any agreed order resolving a motion for relief from stay or any other matter before the Court;

(C) Servicers/mortgagees must analyze the loan for escrow changes upon the filing of a bankruptcy case and each year thereafter. A copy of the escrow analysis must be provided to the debtor and filed with the Court by the servicers/mortgagees or their representative each year;

(D) Servicers/mortgagees may not include any prepetition cost or fees or prepetition negative escrow in any postpetition escrow analysis. These amounts must be included in the prepetition claim amount unless the payment of such fee or cost was actually made by the servicer;

(E) Servicers/mortgagees must attach a statement to a formal notice of payment change outlining all postpetition contractual costs and fees not previously approved by the Court and due and owing since the prior escrow analysis or date of filing, whichever is later. This statement need not contain fees, costs, charges and expenses that are awarded or approved by Court order. In absence of any objection or challenge to such fees, the debtor must take appropriate steps to cause such fees to be paid as authorized by mortgage holder's note, security agreement and state law;

(F) Servicers/mortgagees must monitor postpetition payments. If the mortgage is paid postpetition current, then the servicers/mortgagees may not seek to recover late fees. No late fees may be recovered or demanded for systemic delay but must be limited to actual debtor default;

(G) Prepetition payments must be tracked as applied to prepetition arrears and postpetition payments must be tracked as applied to postpetition ongoing mortgage payments;

(H) Servicers/mortgagees must file a notice and reason of any payment change with the court and provide same to the debtor;

(I) Servicers/mortgagees are required, at least annually, to file a notice of any protective advances made in reference to a mortgage claim, such as non-escrow insurance premiums or taxes. Such notice must be provided to the debtors and filed with the Court;

(J) If appropriate, servicers/mortgagees should review the trustee's website or National Data Center ("NDC") to reconcile any payment discrepancies with their system prior to the filing of a motion for relief from stay;

(K) Servicers/mortgagees must clearly identify, in their proofs of claim, if the loan is an escrowed or non-escrowed loan and break out the monthly payment consisting of principal, interest, escrow and PMI components;

(L) Servicers/mortgagees must attach to their proofs of claim or otherwise identify non- traditional or non-conforming mortgage loans in their proof of claim. Servicers/mortgagee's holding loans with options should identify on the proof of claim the type of loan as well as the various contractual payment options available during the bankruptcy to the borrower/debtor;

(M) Mortgage Arrearage Claims. When filing their initial proofs of claims, servicers/mortgagees should state their mortgage arrearage up to the bankruptcy petition date, unless the plan or trustee indicates otherwise or these Rules provide otherwise. The chapter 13 trustee will use the mortgage arrearage claim to set up the arrearage balance on the claim, which in turn will show up as the "balance" on the voucher check, absent objection to the claim;

(N) Within thirty (30) days after the debtor completes all payments under the plan, the trustee will file and serve a Notice of Final Cure and Completion of Plan Payments on the servicer/mortgagee, debtor and debtor's counsel. Within twenty-one (21) days of service of this Notice the debtor must file an executed Local Form 104, and the servicer/mortgagee must file and serve on the debtor, debtor's counsel and the trustee an itemized statement as required under Fed. Bankr. Rule 3002.1(g) indicating whether it agrees that the debtor has paid in full the amount required to cure any default and whether the debtor is otherwise current on all payments. Absence of the

filing of the servicer/mortgagee statement will be deemed consent to the contents of the Notice of Final Cure and Completion of Plan Payments.

Should the servicer/mortgagee file a response under Fed. Bankr. Rule 3002.1(g) alleging unpaid cure amounts due, within twenty-one (21) days of the filing of the response, and if the response asserts unpaid plan arrears amounts, the trustee must submit to the servicer/mortgagee evidence of payments made for any allowed arrears claim paid under the plan and file a certification with the Court

If the response asserts unpaid postpetition amounts not paid under the plan, the debtor must submit to the servicer/mortgagee evidence of payments for all required postpetition amounts due and file a certification with the Court. If a party fails to timely comply with the requirements of this Local Rule, the Court may, after notice and hearing, take such action as appropriate including the actions set forth in Fed. Bankr. Rule 3002.1(i). The submissions must be considered by the Court along with the Notice of Final Cure, the response and itemized statement, upon notice and hearing scheduled pursuant to Fed. Bankr. Rule 3002.1(h). The date of the Notice of Final Cure will be the operative date for determination of the amount due for any default.

Thereafter, upon issuance of a discharge, a servicer/mortgagee must adjust its permanent records to reflect the current nature of debtor(s) account. Servicers/mortgagees should review the trustee's website or NDC at the close or discharge of the bankruptcy to reconcile any payment discrepancies with their system. If the debtor elected to defer the payment of approved postpetition charges until the conclusion of the case's administration, then a servicer/mortgagee will be authorized to collect said sums in accordance with the provisions of its note, security agreement and state law. If such an election was not made by the debtor, the mortgage must be reinstated according to its original terms, extinguishing any right of the servicer/mortgagee or its assignee(s) to recover any amounts alleged to have arisen prior to the date of the trustee's filing of a Request for Discharge of Debtor(s) and entry of order deeming any mortgage current;

(O) Prior to filing a motion (other than a motion for relief from stay) to enforce any mortgage claim, the notice requirements hereunder or plan provisions governing mortgage claims, the moving party must attempt to confer in good faith with the affected parties in an effort to resolve the dispute without Court action. All such motions must include a certification of counsel by Delaware counsel that a good faith attempt to confer was so made; and

(P) All statements, notices, escrow analysis or similar documents required under this Local Rule to be filed with the Court by servicers/mortgagees need not be signed or filed by an attorney or an attorney of record.

(d) Amended Plans.

(i) If an amended plan is filed before the scheduled confirmation hearing on the previously filed plan, it must be accompanied by a certificate of service. The certificate of service should evidence that a copy of the amended plan has been served on each of the creditors listed in the chapter 13 Schedules and Statement of Financial Affairs, the chapter 13 trustee and the U.S. Trustee, in such a manner so as to ensure that such parties receive the amended plan no less than seven (7) days prior to the confirmation hearing. When a plan is confirmed on an interim basis, any subsequent plan filed prior to the final confirmation should be filed and titled an "Amended Plan" and should be noticed by the debtor or debtor's counsel. A certificate of service therefor should be filed with the Court.

(ii) Any motion to modify a plan after confirmation must be noticed by the Court.

(e) Distribution. Before commencing distribution of the debtor's funds under a confirmed plan, the trustee must mail to the debtor a copy of the debtor's master report reflecting those creditors that have or have not filed proofs of claim. The trustee may not distribute funds to any creditor unless a proof of claim has been (i) filed and deemed (ii) allowed or allowed by Court order.

(f) Plan Funding. In all plans, funding must be by payroll deduction unless otherwise agreed by the trustee or ordered by the Court upon a demonstration of cause shown by the debtor. A wage order must be submitted by the debtor at the time the plan is confirmed by the Court in conformity with Local Form 135.

(g) Confirmation. If timely pre-confirmation payments are made to the trustee and no objections are received, the plan may be confirmed without further notice or hearing upon the filing of a certificate by the trustee recommending that the Court confirm the plan.

(h) Discharge. Debtor and debtor's counsel must file a certification substantially in the form of Local Form 104 in order to comply with 11 U.S.C. § 1328 and obtain a discharge upon completion of all plan payments. Failure to file the certification may be a basis for dismissal of the case.

## PART IV. THE DEBTOR: DUTIES AND BENEFITS

### Rule 4001-1 Procedure on Request for Relief from the Automatic Stay of 11 U.S.C. § 362(a).

(a) Notice and Service. A motion seeking relief from the automatic stay under 11 U.S.C. § 362 must be accompanied by a notice of hearing substantially conforming to Local Form 106A, and be served as follows:

(i) Service Generally. Except as provided in subsection (a)(ii) of this Local Rule, the motion and notice must be served on the parties listed in Local Rule 2002-1(b), including any party with an interest in the property subject to the motion.

(ii) Motion Related to Personal Injury or Wrongful Death Action in a Chapter 11 Case. A motion for relief from the automatic stay in a chapter 11 case to pursue a personal injury or wrongful death action need only be served on counsel for the debtor or trustee, counsel for any official committee, counsel for any lender providing postpetition financing or use of cash collateral, and any other party directly affected by the relief requested in the motion.

(b) Scheduling.

(i) Chapter 11 or 15 Case. In a chapter 11 or 15 case, the movant must obtain a hearing date from chambers before filing and serving the motion and notice or schedule the motion for the next omnibus hearing date in the case that provides sufficient notice under Local Rule 9006-1(c). If the omnibus hearing date is not within 30 days of when the motion is filed, then the movant is deemed to have consented to the stay remaining in effect until the motion is heard. If the movant consents to continuing the hearing on the motion, then the movant is deemed to consent to the stay remaining in effect until the adjourned hearing.

(ii) Chapter 7 or 13 Case. In a chapter 7 or 13 case, the movant must obtain a hearing date from the Court's website before filing and serving the motion and notice.

(c) Supporting Documentation for Motion Related to Exercise of Remedies Against Collateral. The following requirements apply to a motion for relief from stay to exercise remedies against collateral:

(i) The movant must file the following documents with the motion:

(A) An affidavit and supporting exhibits containing the following data, as applicable:

(1) True copies of any note, bond, mortgage, security agreement, financing statements, or assignment, and every other document the movant will rely on at the hearing;

(2) A statement of the amount due to the movant, including a breakdown of the following items:

(a) Unpaid principal;

(b) Accrued interest to and from specific dates;

(c) Late charges to and from specific dates;

(d) Attorneys' fees and expenses;

(e) Advances for taxes, insurance, and the like;

(f) Unearned interest; and

(g) Any other charges.

(3) A breakdown of current postpetition arrears setting forth the unpaid loan or monthly mortgage payments and any applicable late charges;

(4) A per diem interest factor; and

(5) Movant's good faith estimate of the collateral's value as of the petition date and the date of the motion.

(ii) A party opposing the motion must file and serve on the movant and other parties required to be served under this Local Rule the following documents at least 7 days before the hearing:

(A) Its response to the motion:

(B) An affidavit stating the responding party's good faith estimate of (1) the amount due to the movant and (2) the collateral's value as of the petition date and the date of the motion; and

(C) A statement as to how the movant is adequately protected if the stay is not lifted.

(iii) The hearing date in the notice of the motion will be a preliminary hearing at which the Court may (A) hear oral argument, (B) determine whether an evidentiary or other final hearing is necessary, (C) set a date by which the parties must exchange further supporting documentation, (D) set a date by which the parties must produce the report of any appraiser whose testimony is to be presented at the final hearing and (E) set a date and time for a final hearing

(d) Attorney Conference. The parties' attorneys must confer before the hearing regarding the issues raised by the motion to determine whether a consensual order may be entered, and, if not, then to attempt to agree to stipulated facts, such as the property's value and the extent, priority, and validity of any security interest.

**Rule 4001-2 Cash Collateral and Financing Orders.**

(a) Motions. A motion to approve use of cash collateral under section 363 of the Code or postpetition financing under section 364 of the Code must meet the following requirements:

(i) Form of Motion. The motion must: (A) provide a summary of the essential terms of the proposed use of cash collateral or financing, and identify where those terms appear in the proposed form of order, cash collateral stipulation or loan agreement; (B) identify whether and where provisions of the type listed below appear in the proposed form of order, cash collateral stipulation, or loan agreement; and (C) for provisions implicating subsections N through X below, explain why each provision is justified under the circumstances:

(A) The interim and final amounts of (1) cash collateral the debtor seeks permission to use and (2) credit the debtor seeks to obtain under the financing, including the committed amount of the financing and the amount of new money actually available to the debtor;

(B) Pricing and other economic terms, including, for example, letter of credit fees, commitment fees, unused line fees, exit fees, work fees, and any other fees. If the debtor seeks to file any terms under seal, then the terms should be omitted from the motion and instead disclosed in a separate document filed under seal consistent with Local Rule 9018-1, and the motion should state that the fees are disclosed in the separate document that is being filed under seal;

(C) Any provision that specifically limits the court's power or discretion to enter future orders in the case;

(D) Any provision authorizing use of cash collateral or loan proceeds to fund nondebtor affiliates, and the approximate amount of the funding;

(E) Material conditions to closing and borrowing, including budget provisions;

(F) Any carve-outs from liens or superpriority claims, including the material terms of any professional fee carve-out;

(G) Any provision that provides for postpetition liens on unencumbered assets, including the identification of the assets;

(H) Any provision that establishes sale or plan milestones;

(I) Any prepayment penalty or other provision that impacts the debtor's right, cost, or ability to repay the financing in full during the course of the chapter 11 case;

(J) In jointly administered cases, any provision that governs joint liability of the debtors, including any provision that causes one debtor to become liable for the prepetition obligations of another;

(K) Any provision that requires the debtor to pay a secured party's expenses and attorneys' fees in connection with the use of cash collateral or financing, without notice or review by the U.S. Trustee, any official committee or, upon objection, the Court;

(L) Any provision that prohibits the use of estate funds to investigate the liens and claims of the prepetition lender;

(M) Any termination or default provisions concerning the use of cash collateral or the availability of credit;

(N) Any provision that grants cross-collateralization, elevates prepetition debt to administrative expense or higher priority status, or secures prepetition debt with liens on postpetition assets;

(O) Any provision that applies the proceeds of the financing to pay, in whole or in part, prepetition debt, or otherwise has the effect of converting or "rolling up" prepetition debt into postpetition debt;

(P) Provisions that immediately prime valid, perfected, and unavoidable prepetition liens or liens perfected under section 546(b) of the Code, if the liens being primed are senior to the lender's prepetition liens, unless the affected secured creditor has affirmatively consented to the priming. If the provision provides for priming only after a subsequent hearing on notice, then the motion must describe the notice to be provided to affected secured creditors;

(Q) Provisions or findings of fact that (i) bind the estate or other parties in interest as to the validity, perfection, or amount of a prepetition claim or lien or that waive claims against a prepetition creditor without first giving parties in interest, including any official committee, at least 75 days from the entry of the first interim order to commence a challenge or (ii) limit the Court's ability to grant relief upon a successful challenge;

(R) Provisions that immediately approve all terms and conditions of an underlying loan agreement, except for provisions that merely provide the debtor is authorized to enter into and be bound by the terms and conditions of the loan agreement;

(S) Provisions that modify or terminate the automatic stay or permit the lender to enforce remedies following an event of default that do not require at least 5 days' written notice to the debtor or trustee, the U.S. Trustee, and any official committee before effective;

(T) Provisions that seek to limit what parties in interest other than the debtor may raise at any emergency hearing scheduled during the period set forth in subsection (S) above;

(U) Provisions that immediately grant the prepetition secured creditor liens on the debtor's claims and causes of action arising under sections 544, 545, 547, and 548 of the Code or their proceeds;

(V) Provisions that immediately waive the debtor's rights under section 506(c) of the Code;

(W) Provisions that immediately seek to affect the Court's power to consider the equities of the case doctrine under section 552(b)(1) of the Code; and

(X) Provisions that immediately shield the lender from the equitable doctrine of "marshalling" or any similar doctrine.

(ii) Operative Documents and Defined Terms. The motion must attach any cash collateral stipulation, postpetition loan agreement, or other document that provides material terms of the debtor's use of cash collateral or postpetition financing. Defined terms used in the motion must be defined in the motion or by reference to the specific location where the term is defined in the attached documents.

(iii) Budget. If the debtor's use of cash collateral or access to credit is subject to a budget, then (A) the budget must be attached to the motion, (B) the motion must state whether the debtor believes the budget will be adequate, considering all available assets, to pay all administrative expenses due or accruing during the period covered by the financing and the budget, and (C) the budget must detail the sources and uses of cash needed for ongoing operations on a weekly basis during the budget period.

(b) Limitations on Interim Relief. Interim relief under the motion is limited to what is necessary to avoid immediate and irreparable harm to the estate pending a final hearing. Absent extraordinary circumstances, the Court will not approve an interim order that includes the provisions identified in Local Rule 4001-2(a)(i)(P)-(X).

(c) Final Orders. A final order may be entered only after notice and a hearing under Fed. R. Bankr. P. 4001 and Local Rule 2002-1(b). The final hearing ordinarily will be held at least 7 days after the organizational meeting for an official committee of unsecured creditors.

**Rule 4001-3 Investment in Money Market Funds.**

There is "cause" for relief from the requirements of 11 U.S.C. § 345(b) if money of the estate is invested in an open-end management investment company, registered under the Investment Company Act of 1940, that is regulated as a "money market fund" pursuant to Rule 2a-7 under the Investment Company Act of 1940 so long as the debtor has filed with the Court (i) a statement identifying the fund, and (ii) the fund's certification—including the fund's currently effective prospectus filed with the SEC—that the fund:

(a) Invests exclusively in U.S. Treasury bills and U.S. Treasury Notes owned directly or through repurchase agreements;

(b) Has received the highest money market fund rating from a nationally recognized statistical rating organization, such as Standard & Poor's or Moody's;

(c) Has agreed to redeem fund shares in cash, with payment being made no later than the business day following a redemption request by a shareholder, except in the event of an unscheduled closing of Federal Reserve Banks or the New York Stock Exchange; and

(d) Has adopted a policy that it will notify its shareholders 60 days before any change in its investment or redemption policies under (a) and (c) above.

**Rule 4001-4 Procedures on Motion for Continuation or Imposition of Automatic Stay.**

(a) Contents of Motion. A motion for continuation of the automatic stay under 11 U.S.C. § 362(c)(3)(B), or a request for the imposition of a stay under 11 U.S.C. § 362(c)(4)(B), is a contested matter commenced by filing and serving a motion under Fed. R. Bankr. P. 9014. The motion must be accompanied by a notice setting an objection deadline and hearing date consistent with Local Rule 9006-1(c), unless otherwise provided in the presiding Judge's chambers procedures. The motion must state the specific facts supporting the requested relief, verified by an affidavit based on the affiant's personal knowledge. No other relief may be sought in the motion, but additional relief may be sought in a separate motion filed under Fed. R. Bankr. P. 9014 or a complaint filed under Fed. R. Bankr. P. 7001.

(b) Notice. In addition to any applicable notice requirements under the Code, the Fed. R. Bankr. P., and these Local Rules, the movant must serve a copy of the motion and notice on (i) the parties and counsel identified in Local Rule 1007-2(c) and (ii) any other party against whom the stay is proposed to be effective.

**Rule 4002-1 Duties of Debtor under 11 U.S.C. § 521 in Chapter 7 and 13 Cases.**

(a) No later than the first date set for the meeting of creditors under 11 U.S.C. § 341, the debtor must deliver to the interim trustee or the standing Chapter 13 Trustee, as applicable, all books, records and papers, including appraisals, relating to property of the estate, as well as copies of recorded documents, e.g., deeds and mortgages.

(b) No later than the first date set for the meeting of creditors under 11 U.S.C. § 341, the debtor must advise in writing the interim trustee or the standing Chapter 13 Trustee, as applicable, of the payoff amounts on all secured debts.

(c) Immediately upon the entry of an order for relief in a chapter 7 or 13 case, the debtor must give written notice of the order for relief to any court or tribunal where an action is pending against the debtor and to the parties and counsel involved in that action. If an action is commenced after the date of the order for relief, then the debtor must give similar written notice to the court or tribunal and to all parties and counsel involved.

(d) Immediately upon the entry of an order for relief, the debtor must give written notice of the order for relief to any creditor with a garnishment order, any garnishee defendant (other than the debtor's employer), and any creditor who the debtor anticipates may seek a garnishment order.

**Rule 4003-1 Exemptions.**

(a) Amendment to Claim of Exemptions. The debtor must file and serve on the trustee, the U.S. Trustee, and all creditors any amendment to a claim of exemptions under Fed. R. Bankr. P. 1009 and 4003.

(b) Automatic Extension of Time to File Objections to Claim of Exemptions in Event of Amendment to Schedules to Add a Creditor. If the debtor's Schedules are amended to add a creditor, then the affected creditor may object to the debtor's claim of exemptions by the later (i) the deadline provided in Fed. R. Bankr. P. 4003 and (ii) 28 days after the amendment is filed and served on the affected creditor.

**Rule 4004-1 <u>Automatic Extension of Time to File Complaint Objecting to Discharge in Event of Amendment</u>.**

If the debtor's Schedules are amended to add a creditor, then the affected creditor may file a complaint or motion objecting to the debtor's discharge by the later of (a) the deadline provided in Fed. R. Bankr. P. 4004(a) and (b) 60 days after the amendment is filed and served on the affected creditor. If the section 341 meeting of creditors is continued or rescheduled, then the time to file a complaint or motion objecting to discharge is the later of (y) the deadline provided in Fed. R. Bankr. P. 4004(a) and (z) 28 days after the section 341 meeting is concluded. The extensions provided in this paragraph are deemed to have been granted for cause without the need for a motion and hearing.

**Rule 4007-1 Automatic Extension of Time to File Complaint to Determine Dischargeability of a Debt in Event of Amendment.**

If the debtor's Schedules are amended to add a creditor, then the affected creditor may file a complaint to obtain a determination of the dischargeability of any debt by the later of (a) the deadline provided in Fed. R. Bankr. P. 4007 and (b) 60 days after the amendment is filed and served on the affected creditor. If the section 341 meeting of creditors is continued or rescheduled, then the time to file a complaint to obtain a determination of the dischargeability of any debt is the later of (y) the deadline provided in Fed. R. Bankr. P. 4007 and (z) 28 days after the section 341 meeting is concluded. The extensions provided in this paragraph are deemed to have been granted for cause without the need for a motion and hearing.

## PART V. COURTS AND CLERKS

### Rule 5001-1 Clerk's Office Location; Hours; After Hours Filings.

(a) Clerk's Office Location and Hours. The Clerk's Office is located at 824 North Market Street, Third Floor, Wilmington, Delaware 19801. The normal business hours of the Clerk's Office are Monday through Friday from 8:00 a.m. to 4:00 p.m. prevailing Eastern Time, except for legal holidays and as otherwise noticed on the Court's website or at the Clerk's Office.

(b) After Hours Filings. When the Clerk's Office is closed, papers not filed electronically may be filed with the Court by depositing them in the night depository maintained by the Clerk and are deemed filed as of the date and time stamped thereon. A document deposited in the night depository must be stamped in the upper right-hand corner of the first page of the document.

(c) If the Court's CM/ECF system is not available, please refer to the Clerk's Office Procedures found under the Court Info tab on the Court's website for further direction.

**Rule 5005-1 Facsimile and Emailed Documents.**

Documents may not be transmitted by facsimile or email directly to the Clerk's Office for filing, except as otherwise may be authorized by the Court.

**Rule 5005-4 Electronic Filing and Service.**

The Court has designated all cases to be assigned to the Case Management/Electronic Case Filing System ("CM/ECF").

(a) CM/ECF – General. Unless otherwise expressly provided in these Local Rules or in exceptional circumstances preventing a registered CM/ECF user from filing electronically, all petitions, complaints, motions, briefs and other pleadings and documents required to be filed with the Court must be electronically filed by a registered CM/ECF user. Attorneys who intend to practice in this Court (including those regularly admitted or admitted pro hac vice to the bar of the Court and attorneys authorized to represent the United States without being admitted to the bar) should register as CM/ECF users. U.S. Trustees, private trustees, and others as the Court deems appropriate should also register as CM/ECF users. Registration forms, requirements and procedural information for CM/ECF are available on the Court's website.

(b) Electronic Signature. The electronic signature of the person on the document electronically filed constitutes the original signature of that person for purposes of Fed. R. Bankr. P. 9011 and Local Rule 9011-1.

(c) Receipt of CM/ECF Notices and Electronic Service.

(i) By registering and becoming a CM/ECF user, the user consents to receiving electronic notices issued by the Court under Local Rule 9036-1.

(ii) By registering and becoming a CM/ECF user in a case or adversary proceeding or otherwise, the user and the user's client or principal as applicable, is consenting to service under these Local Rules, Fed. R. Bankr. P. 7005, the Fed. R. Civ. P. and any other rule pertaining to service in accordance with Fed. R. Bankr. P. 9036 and Local Rule 9036-1.

(iii) Notwithstanding subsection (ii) above, serving hard copy documents is required in the following circumstances:

(A) Serving a complaint and summons in an adversary proceeding under Fed. R. Bankr. P. 7004, a motion commencing a contested matter under Fed. R. Bankr. P. 9014, or a subpoena issued under Fed. R. Bankr. P. 9016; and

(B) Serving notice of the meeting of creditors required under Fed. R. Bankr. P. 2002(a)(1).

(iv) All CM/ECF system registered users must maintain an active email address to receive electronic notice and service from the CM/ECF system, the Court, and filing parties. A CM/ECF system registered user must promptly update the user's account information on the CM/ECF system when there is a change in email address, including the CM/ECF system registered user's primary email address and any secondary email addresses. Registration as a CM/ECF user and use of CM/ECF by a registered user each constitute the user's consent under any applicable law to

use or disclose the user's registered email addresses for purposes of receiving or sending of email incident to the service of filings made through the CM/ECF system.

(v) Documents served on physical electronic storage media must be on a commonly used electronic storage medium.

(d) Conversion to PDF for Electronic Filing. All petitions, complaints, motions, briefs and other pleadings and documents to be filed electronically with the Court must be converted to PDF, electronically, as opposed to scanning a document, where practicable.

**Rule 5009-1 Closing of Chapter 7 Cases.**

(a) Final Report and Account. The notice given by the trustee of the filing of a final report and account in the form prescribed by the U.S. Trustee in a chapter 7 case must have on its face in bold print the following language or words of similar import:

> **A PERSON SEEKING: (1) AN AWARD OF COMPENSATION OR REIMBURSEMENT OF EXPENSES OR (2) PAYMENT OR REIMBURSEMENT FOR EXPENSES INCURRED IN THE ADMINISTRATION OF THE CHAPTER 7 ESTATE MUST FILE A MOTION AND SERVE A COPY ON THE TRUSTEE AND THE U.S. TRUSTEE AT LEAST 21 DAYS BEFORE THE DATE OF THE HEARING ON THE TRUSTEE'S FINAL ACCOUNT. FAILURE TO FILE AND SERVE THE MOTION WITHIN THAT TIME MAY RESULT IN THE DISALLOWANCE OF FEES AND EXPENSES.**

(b) Closing Reports in Chapter 7 Asset and No Asset Cases. In a chapter 7 asset case, the trustee must serve on the U.S. Trustee the original closing report (in a form designated by the U.S. Trustee), together with the affidavit of final distribution. After the U.S. Trustee completes its review of the closing report, the U.S. Trustee must file the closing report with the Clerk. In a chapter 7 no asset case, the trustee must file the original closing report (in a form designated by the U.S. Trustee) and serve a copy on the U.S. Trustee.

**Rule 5009-2 Closing of Chapter 15 Cases.**

(a) Motion Required. The final report required by Fed. R. Bankr. P. 5009(c) must be included in a motion filed by the foreign representative attaching, and seeking entry of, a proposed final decree order that (i) orders the closing of the case and (ii) identifies in the caption and in the body of the order the case name and the case number of each case to be closed under the order.

(b) Service and Objection. The motion must be served on (i) the parties specified in Fed. R. Bankr. P. 5009(c), (ii) all other parties who have filed a request for notice in the case, and (iii) any other entities as the Court may direct. The foreign representative must file a certificate with the court that the motion has been served. If no objection has been filed within 30 days after the date of service, then there will be a presumption that the case has been fully administered, and the Court may enter a proposed final decree order closing the case. If an objection is timely filed, then the Court will hold a hearing on the motion.

**Rule 5010-1 Reopening Cases.**

(a) Motion to Reopen Chapter 7 or 12 Case. A motion to reopen a chapter 7 or 12 case must be served on the following parties at least 21 days before the hearing thereon: the debtor, the U.S. Trustee, the case trustee, and all other parties in interest, including any new party being added as a creditor or party in interest.

(b) Trustee in Chapter 7, 12, or 13 Case. If the movant requests that a trustee be appointed in the reopened case, then the motion must state why a trustee is necessary under Fed. R. Bankr. P. 5010, and the proposed form of order submitted with the motion must include proposed findings of fact supporting appointment of a trustee and directing the U.S. Trustee to make the appointment.

(c) Case Reopening Fee. The case reopening fee is due with the motion to reopen unless the reopening is sought to (i) correct an administrative error, (ii) file a complaint to obtain a determination of dischargeability of a debtor under Fed. R. Bankr. P. 4007, or (iii) accompanied by a request that the reopening fee be waived or deferred.

**Rule 5011-1 Motion for Withdrawal of Reference.**

A motion to withdraw the reference of a case, contested matter, or adversary proceeding must be filed with the Clerk. The Clerk must deliver the motion to the District Court Clerk for disposition by the District Court.

## PART VI. COLLECTION AND LIQUIDATION OF THE ESTATE

### Rule 6004-1 Sale and Sale Procedures Motions.

(a) Applicability of Rule. Except as otherwise provided in these Local Rules, this Rule applies to motions to sell property of the estate under 11 U.S.C. § 363(b) ("Sale Motions") and motions seeking approval of sale, bid or auction procedures in anticipation of or in conjunction with a Sale Motion ("Sale Procedures Motions").

(b) Sale Motions. Except as otherwise provided in these Local Rules, the Code, the Fed. R. Bankr. P. or an order of the Court, all Sale Motions must attach or include the following:

(i) A copy of the proposed purchase agreement, or a form of such agreement substantially similar to the one the debtor reasonably believes it will execute in connection with the proposed sale;

(ii) A copy of a proposed form of sale order;

(iii) A request, if necessary, for the appointment of a consumer privacy ombudsman under 11 U.S.C. § 332; and

(iv) Provisions to be Highlighted. The Sale Motion must highlight material terms, including, but not limited to (a) whether the proposed form of sale order and/or the underlying purchase agreement constitutes a sale or contains any provision of the type set forth below, (b) the location of any such provision in the proposed form of order or purchase agreement and (c) the justification for the inclusion of such provision:

(A) Sale to Insider. If the proposed sale is to an insider, as defined in 11 U.S.C. § 101(31), the Sale Motion must (a) identify the insider, (b) describe the insider's relationship to the debtor and (c) set forth any measures taken to ensure the fairness of the sale process and the proposed transaction.

(B) Agreements with Management. If a proposed buyer has discussed or entered into any agreements with management or key employees regarding compensation or future employment, the Sale Motion must disclose (a) the material terms of any such agreements and (b) what measures have been taken to ensure the fairness of the sale and the proposed transaction in the light of any such agreements.

(C) Releases. The Sale Motion must highlight any provisions pursuant to which an entity is being released or claims against any entity are being waived or otherwise satisfied.

(D) Private Sale/No Competitive Bidding. The Sale Motion must disclose whether an auction is contemplated, and highlight any provision in which the debtor has agreed not to solicit competing offers for the property subject to the Sale Motion or to otherwise limit shopping of the property.

(E) Closing and Other Deadlines. The Sale Motion must highlight any deadlines for the closing of the proposed sale or deadlines that are conditions to closing the proposed transaction.

(F) Good Faith Deposit. The Sale Motion must highlight whether the proposed purchaser has submitted or will be required to submit a good faith deposit and, if so, the conditions under which such deposit may be forfeited.

(G) Interim Arrangements with Proposed Buyer. The Sale Motion must highlight any provision pursuant to which a debtor is entering into any interim agreements or arrangements with the proposed purchaser, such as interim management arrangements (which, if out of the ordinary course, also must be subject to notice and a hearing under 11 U.S.C. § 363(b)) and the terms of such agreements.

(H) Use of Proceeds. The Sale Motion must highlight any provision pursuant to which a debtor proposes to release sale proceeds on or after the closing without further Court order, or to provide for a definitive allocation of sale proceeds between or among various sellers or collateral.

(I) Tax Exemption. The Sale Motion must highlight any provision seeking to have the sale declared exempt from taxes under 11 U.S.C. § 1146(a), the type of tax (e.g., recording tax, stamp tax, use tax, capital gains tax) for which the exemption is sought. It is not sufficient to refer simply to "transfer" taxes and the state or states in which the affected property is located.

(J) Record Retention. If the debtor proposes to sell substantially all of its assets, the Sale Motion must highlight whether the debtor will retain, or have reasonable access to, its books and records to enable it to administer its bankruptcy case.

(K) Sale of Avoidance Actions. The Sale Motion must highlight any provision pursuant to which the debtor seeks to sell or otherwise limit its rights to pursue avoidance claims under chapter 5 of the Code.

(L) Requested Findings as to Successor Liability. The Sale Motion should highlight any provision limiting the proposed purchaser's successor liability.

(M) Sale Free and Clear of Unexpired Leases. The Sale Motion must highlight any provision by which the debtor seeks to sell property free and clear of a possessory leasehold interest, license or other right.

(N) Credit Bid. The Sale Motion must highlight any provision by which the debtor seeks to allow, disallow or affect in any manner, credit bidding pursuant to 11 U.S.C. § 363(k).

(O) Relief from Fed. R. Bankr. P. 6004(h). The Sale Motion must highlight any provision whereby the debtor seeks relief from the 14-day stay imposed by Fed. R. Bankr. P. 6004(h).

(c) Sale Procedures Motions. A debtor may file a Sale Procedures Motion seeking approval of an order (a "Sale Procedures Order") approving bidding and auction procedures either as part of the Sale Motion or by a separate motion filed in anticipation of an auction and a proposed sale, not less than 21 days prior to a hearing on the Sale Procedures Motion. The Court will only schedule a hearing to consider approval of bidding and sale procedures in accordance with the notice procedures set forth in Local Rule 9006-1 on at least 21 days' notice, unless the requesting party files a motion to shorten notice, which may be heard at the first hearing in the case, or as otherwise ordered by the Court, and presents evidence at that hearing of compelling circumstances.

(i) Provisions to Highlight. The Sale Procedures Motion should highlight the following provisions in any Sale Procedures Order:

(A) Provisions Governing Qualification of Bidders. Any provision governing an entity becoming a qualified bidder, including but, not limited to, an entity's obligation to:

(1) Deliver financial information by a stated deadline to the debtor and other key parties (ordinarily excluding other bidders).

(2) Demonstrate its financial wherewithal to consummate a sale.

(3) Maintain the confidentiality of information obtained from the debtor or other parties or execute a non-disclosure agreement.

(4) Make a non-binding expression of interest or execute a binding agreement.

(B) Provisions Governing Qualified Bids. Any provision governing a bid being a qualified bid, including, but not limited to:

(1) Any deadlines for submitting a bid and the ability of a bidder to modify a bid not deemed a qualified bid.

(2) Any requirements regarding the form of a bid, including whether a qualified bid must be (a) marked against the form of a "stalking horse" agreement or a template of the debtor's preferred sale terms, showing amendments and other modifications (including price and other terms), (b) for all of the same assets or may be for less than all of the assets proposed to be acquired by an initial, or "stalking horse", bidder or (c) remain open for a specified period of time.

(3) Any requirement that a bid include a good faith deposit, the amount of that deposit and under what conditions the good faith deposit is not refundable.

(4) Any other conditions a debtor requires for a bid to be considered a qualified bid or to permit a qualified bidder to bid at an auction.

(C) Provisions Providing Bid Protections to "Stalking Horse" or Initial Bidder. Any provisions providing an initial or "stalking horse" bidder a form of bid protection, including, but not limited to the following:

(1) No-Shop or No-Solicitation Provisions. Any limitations on a debtor's ability or right to solicit higher or otherwise better bids.

(2) Break-Up/Topping Fees and Expense Reimbursement. Any agreement to provide or seek an order authorizing break-up or topping fees and/or expense reimbursement, and the terms and conditions under which any such fees or expense reimbursement would be paid.

(3) Bidding Increments. Any requirement regarding the amount of the initial overbid and any successive bidding increments.

(4) Treatment of Break-Up and Topping Fees and Expense Reimbursement at Auction. Any requirement that the "stalking horse" bidder receive a "credit" equal to the break-up or topping fee and/or expense reimbursement when bidding at the auction and in such case whether the "stalking horse" is deemed to have waived any such fee and expense upon submitting a higher or otherwise better bid than its initial bid at the auction.

(D) Modification of Bidding and Auction Procedures. Any provision that would authorize a debtor, without further order of the Court, to modify any procedures regarding bidding or conducting an auction.

(E) Closing with Alternative Backup Bidders. Any provision that would authorize the debtor to accept and close on alternative qualified bids received at an auction in the event that the bidder selected as the "successful bidder" at the conclusion of the auction fails to close the transaction within a specified period.

(ii) Provisions Governing the Auction. Unless otherwise ordered by the Court, the Sale Procedures Order must:

(A) Specify the date, time and place at which the auction will be conducted and the method for providing notice to parties of any changes thereto.

(B) Provide that each bidder participating at the auction will be required to confirm that it has not engaged in any collusion with respect to the bidding or the sale.

(C) State that the auction will be conducted openly and all creditors will be permitted to attend.

(D) Provide that bidding at the auction will be transcribed or videotaped.

## PART VII. ADVERSARY PROCEEDINGS

### Rule 7003-1 Adversary Proceeding Cover Sheet.

Any complaint or other document initiating an adversary proceeding that is not electronically filed must be accompanied by a completed adversary cover sheet conforming to Local Form 109.

**Rule 7004-1 Summons and Notice of Pretrial Conference in an Adversary Proceeding.**

A party or attorney filing a complaint or third-party complaint must prepare a Summons and Notice of Pretrial Conference in an Adversary Proceeding (Local Form 108) (the "Summons"). The pretrial conference date must be a date that is at least 35 days and not more than 90 days from the date of the issuance of the Summons and set in accordance with Local Rule 7004-1(a) and (b) below. The party or attorney filing the complaint or third-party complaint is responsible for serving the Summons and complaint, as well as the notice of dispute resolution alternatives substantially in compliance with Local Form 110B. The completed Summons and certificate of service must be filed in the adversary proceeding within 7 days after service of the Summons, complaint and notice of dispute resolution alternatives.

(a) Chapter 11 and Chapter 15 Cases. In an adversary proceeding, the pretrial conference date required on Local Form 108 must be obtained from (i) the order setting omnibus hearing dates located on the docket in the main bankruptcy case, when the adversary proceeding is assigned to the same Judge presiding over the main bankruptcy case, or (ii) the assigned Judge's scheduling clerk, when (A) there is no order setting omnibus hearing dates in the main bankruptcy case or (B) the adversary proceeding is assigned to a Judge other than the Judge presiding over the main bankruptcy case.

(b) Chapter 7, Chapter 12 and Chapter 13 Cases. In an adversary proceeding, the pretrial conference date required on Local Form 108 must be obtained from the respective Judge's chambers page located on the Court's website.

**Rule 7007-1 Briefs: When Required and Schedule.**

(a) Briefing and Affidavit Schedule. A party filing a motion in an adversary proceeding (except for a motion subject to Local Rule 7026-1 or a motion to approve a settlement of an adversary proceeding subject to subsection (c)) may not file a notice of motion. Unless otherwise ordered by the Court or agreed by the parties, the briefing schedule for any such motion is as follows:

(i) The opening brief and any supporting affidavit or appendix must be filed and served on the date of the filing of the motion;

(ii) The answering brief and any supporting affidavit or appendix must be filed and served no later than 14 days after service of the opening brief; and

(iii) The reply brief and any supporting affidavit or appendix must be filed and served no later than seven (7) days after service of the answering brief.

(iv) Any party may waive its right to file a brief in a filed pleading or in a separate notice filed with the Court.

(b) Citation of Subsequent Authorities. No additional briefs, affidavits or other papers in support of or in opposition to the motion may be filed without prior approval of the Court, except that a party may call to the Court's attention and briefly discuss pertinent cases decided after a party's final brief is filed or after oral argument.

(c) Settlement Motions. Motions to approve a settlement of an adversary proceeding are subject to Local Rule 9013-1 and must be filed in the main bankruptcy case and the related adversary proceeding. The Judge assigned to the main bankruptcy case will consider the relief requested in the motion.

**Rule 7007-2 Form and Contents of Briefs and Appendices.**

This Local Rule applies to motions filed in adversary proceedings, other than motions subject to Local Rules 7007-1(c) and 7026-1.

(a) Form.

(i) Covers. The front cover of each brief and appendix must contain the caption of the case, a title, the date of filing, the name and designation of the party for whom it is filed, and the name, address, telephone number and email address of counsel by whom it is filed, including the bar identification number for Delaware attorneys.

(ii) Format. All filings must be double-spaced, in Courier New or Times New Roman font and in at least 12-point typeface. Side margins of briefs may not be less than 1 inch.

(iii) Page Numbering of Appendices. Pages of an appendix must be numbered separately at the bottom. The page numbers of appendices associated with opening, answering and reply briefs, respectively, must be preceded by a capital letter "A," "B" or "C." Transcripts and other papers reproduced in a manner authorized by this Local Rule must be included in the appendix, both with original and appendix pagination.

(iv) Length. Without leave of Court, no opening or answering brief may exceed 30 pages and no reply may exceed 15 pages, exclusive of any tables of contents and citations.

(v) Form of Citations. Citations will be deemed to be in acceptable form if made in accordance with "A Uniform System of Citation" published and distributed from time to time by the Harvard Law Review Association. State reporter citations may be omitted but citations to the National Reporter System must be included. United States Supreme Court decisions must be to the official citation.

(vi) Citation by Docket Number. References to earlier filings in the case or proceeding must include a citation to the docket item number as maintained by the Clerk's Office, namely "D.I. 1."

(vii) Unreported Opinions. A copy of an unreported opinion must be attached to the document which cites it or must otherwise be provided to the Court if it is neither reported in the National Reporter System nor available on either WESTLAW or LEXIS.

(b) Contents of Briefs. If briefs are required, the following format must apply:

(i) Opening and Answering Briefs. The opening and answering briefs must contain the following under distinctive titles, in the listed order:

(A) A table of contents setting forth the page number of each section, including all headings, designated in the body of the brief;

(B) A table of citations of cases, statutes, rules, textbooks and other authorities, alphabetically arranged. If a brief does not contain any citations therein, a statement asserting this fact should be placed under this heading;

(C) A statement of the nature and stage of the proceeding;

(D) A summary of argument stating in separate numbered paragraphs the legal propositions upon which each side relies;

(E) A concise statement of facts, with supporting references to appendices or record, presenting succinctly the background of the questions involved. The statement must include a concise statement of all facts that should be known in order to determine the points in controversy. The answering counter-statement of facts need not repeat facts recited in the opening brief;

(F) An argument divided under appropriate headings distinctly setting forth separate points; and

(G) A short conclusion stating the precise relief sought.

(ii) Reply Briefs. The party filing the opening brief may not reserve material for the reply brief that should have been included in a full and fair opening brief. There may not be repetition of materials contained in the opening brief. A table of contents and a table of citations, as required by Local Rule 7007-2(b)(i)(A)-(B), must be included in the reply brief.

(c) Contents of Appendices. Each appendix must contain a paginated table of contents and may contain such parts of the record that are material to the questions presented as the party wishes the Court to read. Duplication must be avoided. Portions of the record must be arranged in chronological order. If testimony of witnesses is included, appropriate references to the pages of such testimony in the transcript must be made and asterisks or other appropriate means must be used to indicate omissions. Parts of the record not included in the appendix may be relied on in briefs or oral argument. Whenever a document, paper or testimony in a foreign language is included in any appendix or is cited from the record in any brief, an English translation made under the authority of the Court, or agreed by the parties to be correct, must be included in the appendix or in the record.

(d) Joint Appendix. The parties may agree on a joint appendix.

**Rule 7007-3 Oral Argument, Hearing on Adversary Proceeding Motions.**

No hearing will be scheduled on a motion filed only in an adversary proceeding unless the Court orders otherwise, except for discovery-related motions which shall be governed by Local Rule 7026-1. An application to the Court for oral argument on a motion must be in writing and filed with the Court and served on counsel for all parties in the proceeding by no later than 3 days after service of the reply brief or expiration without response of the deadline to answer or reply. An application for oral argument may be granted or denied at the discretion of the Court. Hearing and argument on a motion filed both in an adversary proceeding and the main case shall be governed by Local Rule 9013-1(c) and (d).

**Rule 7007-4 Notice of Completion of Briefing or Certificate of No Objection.**

After briefing is concluded, counsel to the movant must file and serve on counsel for all parties a "Notice of Completion of Briefing" containing a list of all relevant filings (and the complaint, any answer(s), and any request(s) for oral argument) with related docket numbers or a "Certificate of No Objection" to the extent the respective motion or pleading was unopposed. The notice must be filed no later than 7 days after briefing is concluded. If the motion is not opposed, a Certification of No Objection in compliance with the requirements for a CoC under Local Rule 9019-1 may be filed with or after the filing of the motion. If the motion is not objected to by the applicable objection deadline, the Certificate of No Objection may be filed 24 hours after that deadline. Upon the filing of said notice or certificate, counsel to the movant must deliver to the presiding Judge's chambers in accordance with chambers procedures a copy of the notice or certificate and the filings identified in the notice or certificate. If the movant fails to file the notice or certificate, the non-movant may file the notice or certificate. For additional information on preparing the notice and any required binder of materials, please refer to the Court's "Quick Reference Guide to Agendas and Hearing Binders" located on the Court's website.

**Rule 7008-1 Statement in Pleadings Regarding Consent to Entry of Order or Judgment in Adversary Proceeding.**

Reference is made to the requirement of Fed. R. Bankr. P. 7008 that a pleader state whether the party does or does not consent to the entry of final orders or judgments by the Court. If no such statement is included, unless otherwise ordered by the Court, the pleader will have waived the right to contest the authority of the Court to enter final orders or judgments.

**Rule 7012-1 Statement in Responsive Pleading Regarding Consent to Entry of Order or Judgment in Adversary Proceeding.**

Reference is made to the requirement of Fed. R. Bankr. P. 7012(b) that a filing party state whether the party does or does not consent to the entry of final orders or judgments by the Court. If no such statement is included, unless otherwise ordered by the Court, the filing party will have waived the right to contest the authority of the Court to enter final orders or judgments.

**Rule 7012-2 Extension of Time to Plead or File Motion.**

The deadline to plead or move in response to a complaint or other pleading in an adversary proceeding may be extended for a period of up to 28 days by stipulation of the parties docketed with the Court or, for a longer period of time, by order of the Court. Any motion for extension of time to plead or move in response to a complaint or other pleading in an adversary proceeding or a stipulation seeking entry of an order approving such an extension must be filed with the Court prior to the expiration of the deadline to be extended. Any deadline extended pursuant to this section will not affect any other deadline set forth in any Scheduling Order entered by the Court.

**Rule 7016-1 Fed. R. Civ. P. 16 Scheduling Conference.**

In any adversary proceeding, the pretrial conference scheduled in the summons and notice issued under Local Rule 7004-1 shall be deemed to be the scheduling conference under Fed. R. Civ. P. 16(b).

(a) Attorney Conference Prior to Scheduling Conference. The attorneys for all parties must confer at least 7 days prior to the Fed. R. Civ. P. 16(b) scheduling conference to discuss:

(i) The nature of the case;

(ii) Any special difficulties that counsel foresee in prosecution or defense of the case;

(iii) The possibility of settlement;

(iv) Any requests for modification of the time for the mandatory disclosure required by Fed. R. Civ. P. 16(b) and 26(f); and

(v) The items in Local Rule 7016-1(b).

(b) Scheduling Conference. At the Fed. R. Civ. P. 16(b) scheduling conference, the Court may consider, in addition to the items specified in Fed. R. Civ. P. 16(b) and 16(c), the following matters:

(i) The schedule applicable to the case, including a trial date, if appropriate;

(ii) The number of interrogatories and requests for admissions to be allowed by any party and the number and location of depositions;

(iii) How discovery disputes are to be resolved;

(iv) The briefing practices to be employed in the case, including what matters are or are not to be briefed and the length of briefs;

(v) The possibility of settlement;

(vi) Whether the matter could be resolved by voluntary mediation or binding arbitration; and

(vii) Timing and procedures for any party's motion for relief contemplated by Fed. R. Bankr. P. 7016(b).

(c) Attendance at Scheduling Conference. Unless otherwise permitted by the Court, the conference described in Local Rule 7016-1(b) will be an in-person conference. Counsel who expect to have a significant role in the prosecution or defense of the case are required to attend the conference.

(d) Written Discovery Plan and Scheduling Order. Unless otherwise ordered by the Court, the parties are not required to file a written discovery plan as provided under Fed. R. Civ. P.

26(f). Plaintiff must file a proposed scheduling order by no later than 3 days prior to the conference described in Local Rule 7016-1(b). Any other party may file a proposed scheduling order by no later than 1 day before such conference.

(e) Omnibus Procedures or Scheduling Orders. A request for entry of an omnibus procedures or scheduling order in multiple adversary proceedings must be made by motion and will not be considered by the Court prior to the date of the conference described in Local Rule 7016-1(b), absent a showing of good cause.

(f) Notification of Intent to File Fed. R. Bankr. P. 7016(b) Motion. Any party that has not consented to, or waived its right to, contest the authority of the Court to enter final orders or judgments must, to the extent reasonably practicable, notify the Court at the conference described in Local Rule 7016-1(b) of such party's intent to file a motion as contemplated by Fed. R. Bankr. P. 7016(b) and the relief the party intends to seek.

**Rule 7016-2 Pretrial Conference.**

A pretrial conference must be held if scheduled in a scheduling order issued under Local Rule 7016-1(b) or if requested by a party under this Local Rule.

(a) Request for Pretrial Conference. Any party may request that a pretrial conference be held following the completion of discovery by contacting the Court. At least 14 days' notice of the time and place of such pretrial conference must be given to all parties in interest by the attorney for the party requesting the pretrial conference.

(b) Failure to Appear at Pretrial Conference or to Cooperate. Unless otherwise permitted by the Court, all counsel who will conduct the trial are required to appear before the Court for a pretrial conference. Should an attorney for a party fail to appear or to cooperate in the preparation of the pretrial order specified in Local Rule 7016-2(d), the Court, in its discretion, may impose sanctions, such as costs and fines. The Court may further hold a pretrial hearing, ex parte or otherwise, and, after notice, enter an appropriate judgment or order.

(c) Attorney Conference Prior to Final Pretrial Conference. The parties must meet and confer in good faith so that the plaintiff may file the pretrial order in conformity with this Rule.

(d) Pretrial Order. At least 7 days prior to the final pretrial conference, the attorney for the plaintiff must file with the Court a proposed pretrial order, signed by an attorney for each party, that covers the following items, as appropriate:

(i) A statement of the nature of the action, the pleadings in which the issues are raised (e.g., third amended complaint and answer) and whether counterclaims, crossclaims, etc., are involved;

(ii) The constitutional or statutory basis of federal jurisdiction, together with a brief statement of the facts supporting such jurisdiction;

(iii) Whether the proposed order addresses the subject matters required to be addressed by Fed. R. Bankr. P. 7016(b);

(iv) A statement of the facts that are admitted and that require no proof;

(v) A statement of the issues of fact that any party contends remain to be litigated;

(vi) A statement of the issues of law that any party contends remain to be litigated, and a citation of authorities relied upon by each party;

(vii) A list of premarked exhibits, including designations of interrogatories and answers thereto, requests for admissions and responses, and depositions that each party intends to offer at trial, with a specification of those that may be admitted into evidence without objection, those to which there are objections and the Federal Rule of Evidence relied upon by the proponent of and objector to the exhibit. Copies of the exhibits, premarked and separated by tabs, must be furnished to opposing

counsel and submitted to the respective Judge's chambers in accordance with chambers procedures at least 7 days before the final pretrial conference or trial (if no final pretrial is requested). Copies of the exhibits must not be electronically filed;

(viii) The names of all witnesses a party intends to call to testify, either in person or by deposition, at the trial and the specialties of experts to be called as witnesses;

(ix) A brief statement of what the plaintiff intends to prove in support of the plaintiff's claims, including the details of the damages claimed or of other relief sought;

(x) A brief statement of what the defendant intends to prove as defenses;

(xi) Statements by counterclaimants or crossclaimants comparable to that required of the plaintiff;

(xii) Any amendments of the pleadings desired by any party with a statement whether it is unopposed or objected to and, if objected to, the grounds thereon;

(xiii) A certification that the parties have engaged in a good faith effort to explore the resolution of the controversy by settlement;

(xiv) Any other matters that the parties deem appropriate; and

(xv) The concluding paragraph of the draft of the pretrial order shall read:

**THIS ORDER SHALL CONTROL THE SUBSEQUENT COURSE OF THE ACTION UNLESS MODIFIED BY THE COURT TO PREVENT MANIFEST INJUSTICE.**

**Rule 7016-3 Remote Fed. R. Civ. P. 16 Scheduling Conference or Pretrial Conference.**

Unless the presiding judge's chambers procedures allow remote participation at a scheduling conference or pretrial conference, at least 24 hours before the time scheduled for a scheduling conference or pretrial conference, any party to the conference may request that the conference be conducted remotely or that the party be permitted to participate remotely. Such request may be made by telephone to the Court and must be communicated contemporaneously to other counsel known to be involved in the hearing or conference. Any party objecting to the request must promptly advise the Court and other counsel.

**Rule 7026-1 Discovery.**

(a) Cooperation and Proportionality. Parties are expected to confer and attempt in good faith to reach agreement cooperatively on how to conduct discovery under Fed. R. Civ. P. 26-36 and these Local Rules. Parties also are expected to use reasonable, good faith and proportional efforts including to preserve, identify and produce relevant information. This may include identifying appropriate limits to discovery, including limits on custodians, identification of relevant subject matter, time periods for discovery and other parameters to limit and guide preservation and discovery issues.

(b) Notice. All motion papers under Fed. R. Bankr. P. 7026-7037 and 9016 must be filed and served so as to be received at least 7 days before the hearing date on such motion. When service is made for a discovery related motion under this Local Rule, any objection must be filed and served so as to be received at least 1 business day before the hearing date.

(c) Motions to Include the Discovery at Issue. Any discovery motion filed under Fed. R. Bankr. P. 7026-7037 and 9016 must include, in the motion or supporting brief, a verbatim recitation of each interrogatory, request, answer, response, or objection that is the subject of the motion, or must have attached a copy of the actual discovery document which is the subject of the motion.

(d) Certification of Counsel. Except for cases or proceedings involving pro se parties or motions brought by nonparties, every motion under this Local Rule must be accompanied by an averment of Delaware counsel for the moving party that a reasonable effort has been made to reach agreement with the opposing party on the matters set forth in the motion or the basis for the moving party not making such an effort. Unless otherwise ordered, failure to so aver may result in dismissal of the motion.

**Rule 7026-2 Service of Discovery Materials.**

(a) Service With Filing. In cases involving pro se parties, all requests for discovery under Fed. R. Civ. P. 26, 30, 31, 33 through 36, and answers and responses thereto, must be served upon other counsel or parties and filed with the Court.

(b) Service Without Filing. In cases where all parties are represented by counsel, all requests for discovery under Fed. R. Civ. P. 26, 30, 31, 33 through 36 and 45, and answers and responses thereto, and all required disclosures under Fed. R. Civ. P. 26(a), must be served upon other counsel or parties but not filed. In lieu thereof, the party requesting discovery and the party serving responses thereto must file a "Notice of Service" containing a certification that a particular form of discovery or response was served on other counsel or opposing parties and the date and manner of service.

(i) Filing the notice of taking of oral depositions required by Fed. R. Civ. P. 30(b)(1) and 30(b)(6), and filing of proof of service under Fed. R. Civ. P. 45(b)(4) in connection with subpoenas, will satisfy the requirement of filing a "Notice of Service."

(ii) The party responsible for service of the discovery request or the response must retain its respective originals and become the custodian of them. The party taking an oral deposition must be custodian of the original deposition transcript; no copy must be filed except pursuant to subparagraph (iii). Unless otherwise ordered, Delaware counsel must be the custodian.

(iii) If depositions, interrogatories, requests for documents, requests for admissions, answers, or responses are to be used at trial or are necessary to a pretrial or post trial motion, the verbatim portions thereof considered pertinent by the parties must be filed with the Court when relied upon.

(iv) When discovery not previously filed with the Court is needed for appeal purposes, the Court, on its own motion, on motion by any party, or by stipulation of counsel, may order the necessary material delivered by the custodian to the Court.

(v) The Court on its own motion, on motion by any party, or on application by a nonparty, may order the custodian to file the original of any discovery document.

**Rule 7026-3 Discovery of Electronic Documents ("E- Discovery").**

(a) Introduction. This Local Rule applies to all matters covered by Fed. R. Civ. P. 26. It is expected that parties to a contested matter or adversary proceeding will cooperatively reach agreement on how to conduct e-discovery, including as provided under Local Rule 7026-1(a). However, the following default standards shall apply until further order of the Court or the parties otherwise reach agreement.

(b) Discovery Conference. In a contested matter, the parties must discuss the parameters of their anticipated e-discovery prior to or concurrent with the service of written discovery by the parties. In an adversary proceeding, the discussions will take place on or before the date of the Fed. R. Civ. P. 26(f) conference, as well as at the Fed. R. Civ. P. 16 scheduling conference with the Court. The parties must discuss the following:

(i) The issues, claims and defenses asserted in the case that define the scope of discovery;

(ii) The likely sources of potentially relevant information (i.e. the "discoverable information"), including witnesses, custodians and other data sources (e.g., paper files, email, databases, servers, etc.);

(iii) Technical information, including the exchange of production formats;

(iv) The existence and handling of privileged information; and

(v) The categories of electronic information that should be preserved.

To the extent that the state of the pleadings does not permit a meaningful discussion of the above including by the time of the Rule 26(f) conference, the parties must either agree on a date by which this information will be mutually exchanged or submit the issue for resolution by the Court including at any Rule 16 scheduling conference.

(c) On-site Inspections of Electronic Media. On-site inspections of electronic media under Fed. R. Civ. P. 34(b) will not be permitted absent exceptional circumstances, where good cause and specific need have been demonstrated.

(d) Search Methodology. If the producing party elects to use search terms to locate potentially responsive electronic documents, it must disclose such terms to the requesting party.

(e) Format. Electronic documents must be produced to the requesting party as text searchable image files. When the image file is produced, the producing party must preserve the integrity of the electronic document's contents, i.e., the original formatting of the document, its metadata and, where applicable, its revision history. The parties must produce their information in the following format: single page TIFF images and associated multi-page text files containing extracted text or OCR with Concordance and Opticon load files containing all the requisite information including relevant metadata. The only files that should be produced in native format are files not easily converted to image format, such as Excel and Access files. The parties are only obligated to provide the following

metadata for all electronic information produced, to the extent such metadata exists: Custodian, File Path, Email Subject, Conversation Index, From, To, CC, BCC, Date Sent, Time Sent, Date Received, Time Received, Filename, Author, Date Created, Date Modified, MD5 Hash, File Size, File Extension, Control Number Begin, Control Number End, Attachment Range, Attachment Begin, and Attachment End (or the equivalent thereof). After initial production in image file format is complete, a party must demonstrate particularized need for production of electronic documents in their native format.

**Rule 7030-1 Depositions.**

(a) Attendance at Deposition. A deposition may be attended only by (i) the deponent, (ii) counsel for any party and members and employees of their firms, (iii) a party who is a natural person, (iv) an officer or employee of a party who is not a natural person designated as its representative by its counsel, (v) counsel for the deponent, (vi) any consultant or expert designated by counsel for any party, (vii) the U.S. Trustee, (viii) counsel for any Chapter 7, 11, or 13 trustee, (ix) counsel for the debtor, (x) counsel for any official committee and (xi) counsel for any party providing postpetition financing to the debtor under 11 U.S.C. § 363 or 364. If a confidentiality order has been entered, any person who is not authorized under the order to have access to documents or information designated confidential must be excluded from a deposition upon request by the party who is seeking to maintain confidentiality while a deponent is being examined about any confidential document or information.

(b) Reasonable Notice of Deposition. Unless otherwise ordered by the Court, "reasonable notice" for the taking of depositions under Fed. R. Civ. P. 30(b) is not less than 7 days.

(c) Motions to Quash. Any party seeking to quash a deposition must file a motion with the Court under Fed. R. Civ. P. 26(c) or 30(d). If such motion is filed by no later than the business day before the scheduled deposition, neither the objecting party, witness, nor any attorney is required to appear at the deposition to which the motion is directed until the motion is resolved.

(d) Depositions Upon Oral Examination. From the commencement until the conclusion of deposition questioning by an opposing party, including any recesses or continuances thereof of less than 5 days, counsel for the deponent may not consult or confer with the deponent regarding the substance of the testimony already given or anticipated to be given, except for the purpose of conferring on whether to assert a privilege against testifying or on how to comply with a Court order.

**Rule 7055-1 Default.**

All applications, motions or requests for default/default judgment under Fed. R. Bankr. P. 7055 must be served on the party against whom a default is sought and the party's attorney if an entry of appearance has been filed in the adversary proceeding or bankruptcy case, in accordance with Local Rule 9013-1. Requests for default/default judgment must be in compliance with the Clerk's Office Procedures.

**Rule 7056-1 Plaintiff's Pre-Answer Summary Judgment Motion.**

If a motion for summary judgment is filed before the non-movant's deadline to answer, move or otherwise respond to the complaint, then the non-movant's deadline under Local Rule 7007-1(a)(ii) to file its answering brief and any supporting affidavit or appendix is the later of (i) 10 days after the non-movant's deadline to answer, move or otherwise respond to the complaint or (ii) 14 days after service and filing of the opening brief, unless otherwise ordered by the Court or agreed by the parties.

## PART VIII. APPEALS TO DISTRICT COURT OR BANKRUPTCY APPELLATE PANEL

**Rule 8003-1 Transmittal of Notice of Appeal to Bankruptcy Judge; Committee Notice and Request for Service.**

(a) Transmittal of Notice of Appeal to Bankruptcy Judge. When appealing from an order entered by a bankruptcy Judge, the appellant must mail or deliver a copy of the notice of appeal to the bankruptcy Judge whose order is the subject of the appeal substantially contemporaneous with the filing of the notice of appeal.

(b) Notice to Official Committees. With respect to an appeal in which any official committee in the bankruptcy case from which such appeal originated is not a named party to the appeal, the party filing such notice of appeal or notice of cross-appeal must serve a copy of such notice on counsel to any such official committee simultaneously with the filing of the notice of appeal or notice of cross-appeal and must file with the notice of appeal or notice of cross-appeal a certificate of service.

(c) Committee Request for Notice. Any official committee wishing to be placed on the service list for any appeal for the purpose of receiving notices and copies of papers served must file with the Court or District Court (if the appeal has been docketed in the District Court) a request for notice within 21 days of service of the notice of appeal or the notice of cross-appeal as provided for in Local Rule 8003-1(b).

(d) Noncompliance with Local Rule 8003-1 does not affect the validity of an appeal and may not be a basis for the Clerk to refuse to accept for filing any document that otherwise complies with Part VIII of the Fed. R. Bankr. P.

**Rule 8003-2 Opinion in Support of Order.**

Any bankruptcy Judge whose order is the subject of an appeal may file a written opinion that supports the order being appealed or that supplements any earlier written opinion or recorded oral bench ruling or opinion within 7 days after the filing date of the notice of appeal.

**Rule 8004-1 Applicability to Appeals by Leave.**

Local Rules 8003-1, 8003-2 and 8009-1 apply in connection with appeals by leave pursuant to Fed. R. Bankr. P. 8004.

**Rule 8009-1 Record on Appeal.**

(a) At the time of filing the designation identified in Fed. R. Bankr. P. 8009(a), the parties must file an index identifying by docket number, if available, the following items:

(i) Those documents identified in the designation submitted under Fed. R. Bankr. P. 8009(a)(4);

(ii) Any documents that may be expressly requested by the Clerk or the Court; and

(iii) A copy of the transcript ordered under Fed. R. Bankr. P. 8009(a); if unavailable, evidence that the transcript has been ordered.

(b) In the event that a document identified in the designations does not have a docket number (e.g., exhibits submitted during a hearing, etc.) such documents must be filed with the Clerk or the District Court (if the appeal has been docketed in the District Court) at the time the index is filed and must be referenced in the index by hearing date and exhibit number.

(c) The appellant's designation of items to be included in the record on appeal must include any written opinion issued by the bankruptcy Judge pursuant to Local Rule 8003-2.

(d) The parties must file designations consistent with the Local Rules and any applicable orders of the District Court and the Bankruptcy Court.

(e) Consistent with the District Court's Standing Order dated November 9, 2015, in addition to filing any designation of the record and statement of issues on appeal in the Bankruptcy Court as required by Fed. R. Bankr. P. 8009, a copy of the designation and statement must also be filed with the District Court and contain the Bankruptcy Court case number as well as the designated District Court civil action number for the appeal.

**Rule 8024-1 Notice of Disposition of Appeal.**

Within 3 days of issuance of an order disposing of an appeal, in whole or in part, by the District Court, Court of Appeals or Supreme Court, or a filing that reflects the resolution and/or withdrawal of the appeal in whole or in part, counsel for appellant (or movant in a miscellaneous matter) must file notice of such disposition and must provide the bankruptcy Judge with a written copy of the filing, opinion and/or order disposing of the appeal.

## PART IX. GENERAL PROVISIONS

### Rule 9004-1 Caption.

(a) Documents submitted for filing must contain in the caption the name of the debtor, the case number, the initials of the Judge to whom the case has been assigned, the docket number assigned to the case and, if applicable, the adversary proceeding number. All documents filed with the Clerk that relate to a document previously filed and docketed must contain in its title the title of the related document and its docket number, if available.

(b) The hearing date and time and the objection date and time of a motion must be set forth in bold print (i) in the caption of the notice and motion and all related filings, below the case or adversary number and (ii) in the text of the notice.

(c) The case caption only may be modified by order entered by the Court on separate motion filed and served in accordance with Local Rule 9006-1.

**Rule 9006-1 Time for Service and Filing of Motions and Objections.**

(a) Generally. Fed. R. Bankr. P. 9006 applies to all cases and proceedings.

(b) Discovery-Related Motions. All motion papers under Fed. R. Bankr. P. 7026-7037 and 9016 must be filed and served in accordance with Local Rule 7026-1.

(c) All Other Motions.

(i) Service of Motion Papers. Unless the Fed. R. Bankr. P. or these Local Rules state otherwise, all motion papers must be filed and served in accordance with Local Rule 2002-1(b) at least 14 days prior to the hearing date. Sale Procedures Motions filed pursuant to Local Rule 6004-1(c), and voting procedures motions filed pursuant to Local Rule 3017-1(b) must be filed at least 21 days prior to the hearing date.

(ii) Objection Deadlines. Where a motion is filed and served in accordance with Local Rule 9006-1(c)(i) less than 21 days prior to the hearing date, the deadline for objection(s) is 7 days before the hearing date. To the extent a motion is filed and served in accordance with Local Rule 2002-1(b) at least 21 days prior to the hearing date, however, the movant may establish any objection deadline that is no earlier than 14 days after the date of service and no later than 7 days before the hearing date. Any objection deadline may be extended by agreement of the movant; provided, however, that no objection deadline may extend beyond the deadline for filing the agenda. In all instances, any objection must be filed on or before the applicable objection deadline. The foregoing rule applies to responses/replies to (A) any Objection as defined in Local Rule 3007-1(a) (i.e., an objection to claims asserted by more than one claimant) and (B) any objection to a single claim or multiple claims filed by the same claimant.

(d) Reply Papers. Reply papers by the movant, or any party that has joined the movant, may be filed by 4:00 p.m. prevailing Eastern Time the day prior to the deadline for filing the agenda. If a motion for leave to file a late reply is filed, a motion to shorten notice is not required unless otherwise ordered by the Court. The Court will consider the motion for leave at the hearing on the underlying motion and any objection to the motion for leave may be presented at the hearing. The foregoing rule applies to replies to Omnibus Objections to Claims. See Local Rule 3007-1.

(e) Shortened Notice. No motion will be scheduled on less notice than required by these Local Rules or the Fed. R. Bankr. P. except by order of the Court, on written motion (served on all interested parties) specifying the exigencies justifying shortened notice. The motion requesting shortened notice must include an averment of Delaware counsel for the moving party that a reasonable effort has been made to notify at least counsel to the debtor, counsel to the U.S. Trustee, counsel to any official committee appointed in the case and any chapter 7, 11 or 13 trustee and whether such party objected to the relief sought, or not, or the basis for the moving party not making such an effort. Unless otherwise ordered, failure to so aver may result in denial of the motion to shorten. The motion requesting shortened notice and

the related motion must be promptly delivered to the Court in accordance with the assigned Judge's chambers procedures. The Court will rule on such motion for shortened notice promptly without need for a hearing.

**Rule 9006-2 Bridge Orders Not Required in Certain Circumstances.**

Unless otherwise provided in the Code or in the Fed. R. Bankr. P., if a motion to extend the time to take any action is filed before the expiration of the period prescribed by the Code, the Fed. R. Bankr. P., these Local Rules or Court order, the time is automatically extended until the Court acts on the motion, without the necessity for the entry of a bridge order.

**Rule 9010-1 Bar Admission.**

(a) The Bar of this Court. The Bar of this Court consists of those persons heretofore admitted to practice in the District Court and those who may hereafter be admitted in accordance with these Rules.

(b) Admission Pro Hac Vice. Attorneys admitted, practicing, and in good standing in another jurisdiction, who are not admitted to practice by the Supreme Court of the State of Delaware and the District Court, may be admitted pro hac vice in the discretion of the Court, such admission to be at the pleasure of the Court. Unless otherwise ordered by the Court, or authorized by the Constitution of the United States or acts of Congress, an applicant is not eligible for permission to practice pro hac vice if the applicant:

(i) Resides in Delaware; or

(ii) Is regularly employed in Delaware; or

(iii) Is regularly engaged in business, professional, or other similar activities in Delaware.

Any Judge of the Court may revoke, upon hearing after notice and for good cause, a pro hac vice admission in a case or proceeding before a Judge. The form for admission pro hac vice, which may be amended by the Court, is Local Form 105 and is located on the Court's website. The procedure for delivery of proposed pro hac vice orders to the Court, which procedures may be amended by the Court, is located on the Court's website under instructions for "Uploading A Proposed Order for Signature."

(c) Association with Delaware Counsel Required. Unless otherwise ordered, an attorney not admitted to practice by the District Court and the Supreme Court of the State of Delaware may not be admitted pro hac vice unless associated with an attorney who is a member of the Bar of the District Court and who maintains an office in the District of Delaware for the regular transaction of business ("Delaware counsel"). Consistent with CM/ECF Procedures, Delaware counsel must be the registered users of CM/ECF and shall be required to file all papers, including petitions. Unless otherwise ordered, Delaware counsel must attend proceedings before the Court.

(d) Time to Obtain Delaware Counsel. Except as otherwise provided in Local Rule 1002-1(b) or 9010-1(e), with respect to signing and filing petitions, a party not appearing pro se must obtain representation by a member of the Bar of the District Court or have its counsel associate with a member of the Bar of the District Court in accordance with paragraph (c) above within 28 days after:

(i) The filing of the first paper filed on its behalf; or

(ii) The filing of a case transferred or removed to this Court.

Failure to timely obtain such representation shall subject the defaulting party to appropriate sanctions.

(e) Motion for Pro Hac Vice and Association with Delaware Counsel not Required.

(i) Government Employed Attorneys. Unless the Court orders otherwise, an attorney who is a government employee who is not admitted in the District Court but admitted in another United States District Court may appear representing the United States of America (or any officer or agency thereof) or any state or local government (or officer or agency thereof) so long as a certification is filed, signed by that attorney, stating (a) the courts in which the attorney is admitted, (b) that the attorney is in good standing in all jurisdictions in which he or she has been admitted and (c) that the attorney will be bound by these Local Rules and that the attorney submits to the jurisdiction of this Court for disciplinary purposes.

(ii) Delaware Attorney with Out of State Office. Attorneys who are admitted to the Bar of the District Court and in good standing, but who do not maintain an office in the District of Delaware, may appear on behalf of parties upon approval by the Court.

(iii) Claim Litigation. Parties (pro se or through out of state counsel) may file or prosecute a proof of claim or a response to their claim. The Court may, however, direct the claimant to consult with Delaware counsel if the claim litigation will involve extensive discovery or trial time.

(f) Standards for Professional Conduct. Subject to such modifications as may be required or permitted by federal statute, court rule or decision, all attorneys admitted or authorized to practice before this Court, including attorneys admitted on motion or otherwise, shall also be governed by the Model Rules of Professional Conduct of the American Bar Association, as may be amended from time to time.

**Rule 9010-2 Substitution; Withdrawal.**

(a) Substitution. If a party in an adversary proceeding or a debtor in any case wishes to substitute attorneys, a substitution of counsel document signed by the original attorney and the substituted attorney must be filed. If a trustee, debtor or official committee wishes to substitute attorneys or any other professional whose employment was subject to approval by the Court, a motion for retention of the new professional must also be filed.

(b) Withdrawal. An attorney may withdraw an appearance for a party without the Court's permission (i) when such withdrawal will leave a member of the Bar of the District Court appearing as attorney of record for the party or (ii) when the party (a) has no controversy pending before the Court and (b) the attorney certifies that the party consents to withdrawal of counsel. Otherwise, no appearance shall be withdrawn except by order on a motion duly filed, served on each party and served on the party client by registered or certified mail addressed to the client's last known address, at least 14 days before the motion is heard by the Court. The filer is not required to confer other than with its party client prior to filing the motion to withdraw.

(c) Service. Substitutions and motions for withdrawal under this Local Rule must be served (i) in an adversary proceeding, on all parties to the proceeding and (ii) in a bankruptcy case, on all parties entitled to notice under Fed. R. Bankr. P. 2002.

(d) Effect of Failure to Comply. Until paragraph (a) or (b), as applicable, and paragraph (c) of this Local Rule are complied with and an order, if necessary, is entered, the original attorney remains the client's attorney of record for purposes of the respective case or proceeding.

**Rule 9010-3 Appearance by Supervised Law Student.**

(a) An eligible law student may, upon compliance with these Local Rules, and under supervision of an attorney, appear on behalf of any person, including the United States Attorney or the U.S. Trustee, who has consented in writing.

(b) The attorney who supervises a student must:

(i) be a member of the Bar of the District Court or an attorney in the United States Attorney's Office or the Office of the U.S. Trustee;

(ii) remain the attorney of record and will act to ensure that the student's actions are consistent with the rules of professional responsibility;

(iii) review the student's work and assist the student to the extent necessary;

(iv) appear with the student in all proceedings before the Court; and

(v) indicate in writing the attorney's consent to supervise the student.

(c) To appear, the student must:

(i) be duly enrolled in a law school approved by the American Bar Association;

(ii) have completed legal studies amounting to at least two-thirds of the credits needed for graduation or the equivalent;

(iii) be certified by either the law school dean or authorized designee as qualified to provide the legal representation permitted by this Local Rule. This certification may be withdrawn by the certifier at any time by mailing a notice to the Clerk, without notice or hearing and without showing of cause;

(iv) be introduced to the Court by an attorney satisfying the conditions set forth in the paragraph (b) above;

(v) neither ask for nor receive any compensation or remuneration of any kind from the client. This is not intended to affect the ability or right of an attorney, legal aid bureau, law school clinical program, State, or the United States from seeking attorney fees, which may include compensation for student services, and paying compensation to the eligible law student;

(vi) certify in writing that the student is familiar with and will comply with the Delaware Rules of Professional Responsibility; and

(vii) certify in writing that the student is familiar with these Local Rules and the federal procedural and evidentiary rules relevant to the action in which he is appearing.

(d) The law student may:

(i) appear as counsel in Court or at other proceedings, always accompanied by the supervising attorney, when written consent of the client (or attorney with the United States Attorney or the Office of the U.S. Trustee when the client is the United States), the supervising attorney, and the assigned Judge have been filed with the Clerk of the Court; and

(ii) prepare and sign motions, petitions, answers, briefs and other documents in connection with any matter in which the student has met the conditions of (c) above. Each such document must also be signed by the supervising attorney.

(e) The Judge's consent for the student to appear may be withdrawn without notice or hearing and without showing of cause. The withdrawal of consent by a Judge shall not be considered a reflection on the character or ability of the student.

(f) Local Form 122 must be completed and provided to the Court at each hearing at which the student must appear, by attaching the Local Form to the hearing sign-in sheet.

(g) Participation by students under this Local Rule shall not be deemed a violation in connection with the rules for admission to the bar of any jurisdiction concerning practice of law before admission to the bar.

**Rule 9011-1 Signatures.**

(a) Any motion, pleading or other document requiring a signature must, following the signature, include the address, telephone number and email address of the attorney or pro se filer.

(b) Any motion, pleading or other document requiring a signature that is electronically filed by a registered CM/ECF user must be filed as either (a) a document containing the signature of the person(s) signing said document or (b) a document displaying the name of the person(s) signing said document, preceded by an "/s/" ("electronic signature") and typed in the space where the signature would otherwise appear (e.g., "/s/ Jane Doe"). The electronic signature of the person on the document electronically filed constitutes the signature of that person for purposes of Fed. R. Bankr. P. 9011, and the use of a person's password to file a document electronically does not constitute the signature of, or a representation to the Court by, the person whose password is used for such electronic filing for purposes of Fed. R. Bankr. P. 9011. In the absence of a signature on a document electronically filed, the CM/ECF password used to file the document constitutes a signature for purposes of Fed. R. Bankr. P. 9011.

(c) The filing of a proof of claim electronically with the Clerk or duly appointed claims agent constitutes the filing claimant's approved signature by law. Electronic claimants are not required to be registered CM/ECF users. Electronically filed proofs of claim are deemed signed upon electronic submission with the Clerk or duly appointed claims agent.

**Rule 9013-1 Motions and Applications.**

(a) Scope. This Local Rule applies to any motion or application filed in a main bankruptcy case. Any motion or application filed in an adversary proceeding shall be governed by Local Rule 7007-1. References in subparts (b) through (m) of this Local Rule to "motions" should be construed as applying to "applications" to the extent context so requires.

(b) Requests for Relief. No request for relief (not otherwise governed by Fed. R. Bankr. P. 7001) may be made to the Court, except by written motion, by oral motion in open court or by certification of Delaware counsel. Letters from counsel or parties will not be considered, unless as otherwise directed by the applicable Judge.

(c) Cases with Omnibus Hearing Dates. In any case in which future omnibus hearing dates have been scheduled pursuant to Local Rule 2002-1(a), all motions and applications and related papers will be heard only on such dates, unless otherwise ordered by the Court. In any case in which no omnibus hearing dates have been scheduled, a hearing date may be obtained by contacting the Court.

(d) Evidentiary Hearing. All hearings on a contested matter will be an evidentiary hearing at which witnesses will be required to testify in person in Court with respect to any factual issue in dispute unless these Rules, the parties or the Court provides otherwise.

(e) Contents of Notice. Unless otherwise provided in these Rules or otherwise ordered by the Court, any notice of motion must, in substantial conformity with Local Form 106, provide:

(i) The title of the motion in bold print;

(ii) The date and time of the hearing on the motion;

(iii) The date and time by which objections to the motion must be filed;

(iv) The names, addresses, and email addresses of the parties on whom any objection must be served; and

(v) A statement that the motion may be granted and an order entered without a hearing unless a timely objection is made.

(f) Form of Motion. All motions must have attached thereto a notice conforming to Local Rule 9013-1(e), a proposed form of order specifying the exact relief to be granted, and a certificate of service showing the date of service, means of service and the names and addresses of the parties served. All motions must be titled in the form "[Motion/Application] of [Movant's Name] for [Relief Requested]". All motions filed pursuant to this Rule must contain a statement that the movant does or does not consent to the entry of final orders or judgments by the Court if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. If no such statement is included, the movant will have waived the right to contest the authority of the Court to enter final orders or judgments.

(g) Service of Motion and Notice. All motions must be served in accordance with Local Rule 2002-1(b).

(h) Objections. Except for motions presented on an expedited basis, any objection to a motion must be made in writing. The title of the objection must conform to Local Rule 9004-1 and must include the objector's name, the motion to which the objection relates and the docket number of the motion. The hearing date and time and the docket number of the related motion must be set forth in bold print in the caption below the case number. All objections or other responses to a motion filed pursuant to this Rule must contain a statement that the filing party does or does not consent to the entry of final orders or judgments by the Court if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. If no such statement is included, the filing party must have waived the right to contest the authority of the Court to enter final orders or judgments.

(i) Certificate of No Objection. Delaware counsel for the movant may file a certificate of no objection (the "Certificate of No Objection" or "CNO"), substantially in the form of Local Form 107, stating that no objection has been filed or served on the movant 24 hours after the objection date has passed, counting time in accordance with Fed. R. Bankr. P. 9006(a)(2), with no objection having been filed or served. By filing the CNO, Delaware counsel for the movant represents to the Court that the movant is unaware of any objection to the motion or application and that counsel has reviewed the Court's docket and no objection appears thereon. A CNO and any related documents may be delivered immediately upon filing to the presiding Judge in accordance with chambers procedures. Upon receipt of the CNO, the Court may enter the order accompanying the motion or application without further notice or hearing and, once the order is entered, the hearing scheduled on the matter may be cancelled without further notice. In any cases in which a Notice of Agenda is required under Local Rule 9029-3 and the order is not yet entered at the time of the agenda's filing, Delaware counsel for the debtor or foreign representative or trustee, as applicable, must submit to the Court the CNO and all related documents in a "CNO/CoC Binder" in accordance with Local Rule 9029-3.

(j) Proposed Orders. When a proposed order is submitted to the Court for signature either under a CNO, a CoC, or otherwise, it shall (i) reference the related motion's docket number in the caption; (ii) be paginated (and treated as if a separate document, i.e., starting with page 1, not a continuation of any CNO, COC or Motion, etc.); (iii) not contain a "stand-alone" signature page (including date); and (iv) be uploaded to CM/ECF in accordance with the Court's instructions for "Uploading A Proposed Order for Signature".

(k) Amendment of Order. Any request for amendment of an order entered by the Court must have attached the proposed amended order and a blacklined copy reflecting the changes. Additionally, any request for amendment of an order entered by the Court must be made only as follows:

(i) If the amendment is non-material, by certification of Delaware counsel that the amendment is not material and that all parties in interest have consented to the amendment;

(ii) By motion under this Local Rule; or

(iii) By the filing of a stipulation to amend, signed by all interested parties.

(l) Service of Order or Judgment. Service of an order or judgment must be made in accordance with Local Rule 9022- 1.

(m) Motions Filed with the Petition in Chapter 11 Cases or Chapter 15 Cases.

(i) Definition. This Local Rule shall govern any motion for which the debtor (or in a chapter 15 case, the foreign representative) requests, with less than 7 days' notice, a hearing or the entry of an order (whether interim or final) with such hearing to occur or such order to be entered within 21 days after the filing of the petition commencing such case.

(ii) Scope of Relief Requested. Requests for relief under this subpart of Local Rule 9013-1 must be confined to matters of a genuinely emergent nature required to preserve the estate's assets and to maintain ongoing business operations and such other matters as the Court may determine appropriate. No motion seeking authority to pay prepetition obligations will be considered unless the motion and proposed order include the maximum amount sought to satisfy the prepetition obligations.

(iii) Notice to the U.S. Trustee, Clerk and Certain Other Parties. Once a petition is filed and a Judge assigned, counsel for the debtor or foreign representative must deliver all applications and motions filed and sought to be heard on an emergent basis to the Judge in accordance with Local Rule 9029-3 and chambers procedures. The presiding Judge will contact counsel for the debtor, foreign representative, subchapter V trustee, and the United States Trustee to schedule a hearing on those applications and motions ("First Day Hearing"). The debtor or foreign representative must serve (a) all motions and applications that the debtor, foreign representative, or subchapter V trustee asks be heard at the First Day Hearing (in substantially final form) upon the U.S. Trustee and (b) the agenda as required by Local Rule 9029-3 upon the subchapter V trustee, the United States Trustee, the creditors included on any list filed under Fed. R. Bankr. P. 1007(d) and any party directly affected by the relief sought in such applications and motions, at least 24 hours in advance of the First Day Hearing, unless otherwise ordered by the Court, and must file a certificate of service to that effect within 48 hours. A courtesy copy of the agenda must also be delivered to the presiding Judge in accordance with chambers procedures. Do not provide drafts of any petition or first day motion to the Clerk's Office or the Court. The filed first day motions should be provided to chambers in the format (hard copy or electronic copy) requested by the presiding Judge.

(iv) Notice of Entry of Orders. Within 48 hours of the entry of an order entered under this Local Rule ("First Day Order"), the debtor or foreign representative must serve copies of all motions and applications filed with the Court as to which a First Day

Order has been entered, as well as all First Day Orders, on those parties referred to in Local Rule 9013-1(m)(iii), and such other entities as the Court may direct.

(v) Reconsideration of Orders. Any party in interest may file a motion to reconsider any First Day Order, other than any order entered under 11 U.S.C. §§ 363 and 364 with respect to the use of cash collateral and/or approval of postpetition financing, within 28 days of the entry of such order, unless otherwise ordered by the Court. Any such motion for reconsideration will be given expedited consideration by the Court. The burden of proof with respect to the appropriateness of the order subject to the motion for reconsideration remains with the debtor or foreign representative notwithstanding the entry of such order.

**Rule 9018-1 Exhibits; Documents under Seal; Confidentiality.**

(a) Retention of Exhibits. Exhibits admitted into evidence must be retained by the attorney or pro se party who offered them into evidence until the later of (i) the closing of the main bankruptcy case or (ii) the entry of a final, non-appealable order regarding any pending adversary proceeding, contested matter or pending appeal to which such exhibit relates, unless otherwise ordered by the Court.

(b) Access to Exhibits. Parties must make exhibits admitted into evidence (or copies thereof) available to any other party upon request to copy at such party's expense, subject to any confidentiality, seal or other order or directive of the Court.

(c) Removal of Exhibits from Court. Exhibits that are in the physical custody of the Clerk must be removed by the party responsible for the exhibits (i) if no appeal has been taken, at the expiration of the time for taking an appeal, or (ii) if an appeal has been taken, within 28 days after the record on appeal has been returned to the Clerk. Parties failing to comply with this Local Rule may be notified by the Clerk to remove their exhibits and, the Clerk may dispose of the exhibits upon failure to do so 28 days after such notification.

(d) Documents under Seal.

(i) Any filer seeking to file a document (a "Proposed Sealed Document") under seal must file a motion requesting such relief (a "Sealing Motion") no later than 3 business days after the filing of the Proposed Sealed Document. The Proposed Sealed Document must be filed separately from the Sealing Motion as a restricted document in accordance with the Court's CM/ECF procedures. The Sealing Motion must be accompanied by a separately filed proposed redacted version of the Proposed Sealed Document in a form suitable to appear on the Court's public docket (the "Proposed Redacted Document").

(ii) If the Proposed Sealed Document is known by the filer to contain another entity's confidential information then (i) prior to filing the Sealing Motion, the filer must attempt to confer in good faith with such other party in an effort to reach agreement concerning the extent of information that must remain sealed and (ii) the Sealing Motion must be accompanied by an averment of Delaware counsel that a reasonable effort has been made to reach agreement on what information must remain sealed or the basis for the moving party not making such effort.

(iii) The filer of the Sealing Motion must use reasonable efforts to file a Proposed Redacted Document that leaves unredacted to the fullest extent possible those portions of the Proposed Sealed Document that the filer reasonably believes are not subject to confidentiality rights held or asserted by the filer or another party. However, if the filer determines in good faith that the entire Proposed Sealed Document should be placed under seal, the filer of the Sealing Motion is excused from the obligation to file a Proposed Redacted Document pending further order of the Court.

(iv) In the event the Court grants relief concerning a Sealing Motion that requires additional or different redactions, counsel for the movant must file a final form of the publicly viewable version of the Proposed Sealed Document (the "Final Redacted Document") with the sealed portion(s) redacted consistent with the Court's ruling within 1 business day after the Court's ruling is issued. The Final Redacted Document must be filed and called Final Redacted Version of "[Final Redacted Document Title]".

(v) In the event the Court denies the Sealing Motion, the Clerk will take such action as the Court may direct.

(vi) If a Sealing Motion is filed in connection with a motion or application or with an objection, reply or sur-reply related to any such motion or application, unless otherwise ordered by the Court, a motion to shorten notice is not required and the Court will consider the Sealing Motion at the applicable hearing date and any objections to the Sealing Motion may be presented at the hearing.

(vii) Except with respect to redactions subject to Local Rule 9037-1 or as otherwise ordered by this Court, no document containing any redaction(s) made by a filer of a Proposed Sealed Document may be filed unless the filer has previously filed or simultaneously files an unredacted copy of the same under seal and follows all requirements of this subsection with respect to the same.

(viii) Nothing in this Local Rule 9018-1(d) is intended to or shall modify any rights or obligations any entity has in connection with confidential information or information potentially subject to protection under section 107 of the Code.

(e) Order Authorizing Future Filing of Documents under Seal. If an order has been signed granting a motion under Local Rule 9018-1(d) and authorizing the filing of future documents under seal, the related docket number of the applicable order must also be included on the cover sheet.

(f) Confidentiality. If any information or documents are designated confidential by the producing party at the time of production, disclosure must be limited to members and employees of the law firm representing the receiving party and such other persons as to which the parties agree until a confidentiality agreement has been agreed to by the parties or ordered by the Court. Such persons are under an obligation to keep such information and documents confidential and to use them only for purposes of the contested matter or the proceeding with respect to which they have been produced. Additionally, parties may stipulate to the application of this Local Rule in connection with informal discovery conducted outside a contested matter or adversary proceeding (e.g., a statutory committee's investigation of the validity, perfection or amount of a secured creditor's prepetition lien), in which case the documents and information produced must be used only for the purpose defined by the parties' stipulation.

(g) Use of Sealed Documents. If a party intends to use a document which has been previously placed under seal at a hearing or in connection with briefing, a copy of the sealed document

(in an envelope and prominently marked "CHAMBERS COPY") must be provided to the Court in the hearing binder delivered to Chambers in accordance with Local Rule 9029-3 or as otherwise required by the presiding Judge. After the hearing is concluded or the motion is decided, the Court will, at its discretion, destroy or return the Chambers copy of the sealed document to the sender.

(h) Approval of Confidentiality Agreements. In connection with any confidentiality agreement approved by order of the Court other than under a motion:

(i) Any provision of such agreement or order that preauthorizes the filing of material under seal does not relieve a filer from the obligation to comply with the provisions of Local Rule 9018-1(d); and

(ii) Any request to seal an exhibit or close the courtroom at a hearing or trial (or any objection thereto) will be considered by the Court in connection with such hearing or trial notwithstanding any contrary provision in such agreement or order.

**Rule 9019-1 Certificate of Counsel.**

An objection or response to a motion, application, claim objection, or other pleadings may be resolved by submitting a revised or agreed form of order filed with a Certificate of Counsel (a "CoC") consistent with the following requirements stated in this Local Rule. An order submitted to chambers following a hearing must be accompanied by a CoC and uploaded to CM/ECF. The CoC procedure may also be utilized in other circumstances as the Court directs, including submitting a revised order following a hearing, an order approving a stipulation that does not require notice under Fed. R. Bankr. P. 9019, and an order setting omnibus hearings as provided for in Local Rule 2002-1(a)(i).

(a) The CoC must be signed by Delaware counsel and attach a proposed revised or agreed form of order as an exhibit. A blackline showing any changes made to the original or any subsequently filed revised order must also be attached as an exhibit. The CoC must state whether the revised or agreed form of order has been reviewed and approved by all the parties affected by the order. The CoC must be served on all affected parties.

(b) If there is an applicable objection deadline, the CoC may not be filed until 24 hours after that deadline.

(c) A CoC and any related documents may be delivered immediately upon filing to the presiding Judge in accordance with chambers procedures. Upon receipt of the documents, the Court may enter the order without further notice or hearing and, once the order is entered, the hearing scheduled on the matter may be cancelled without further notice. In any cases in which a Notice of Agenda is required under Local Rule 9029-3 and the order is not yet entered at the time of the agenda's filing, Delaware counsel for the debtor or foreign representative or trustee, as applicable, must submit to the Court the CoC and all related documents in the "CNO/CoC Binder" in accordance with Local Rule 9029-3.

(d) Any stipulation or agreement submitted for approval must be accompanied by a proposed order for its approval.

**Rule 9019-2 Mediator and Arbitrator Qualifications and Compensation.**

(a) Register of Mediators and Arbitrators/ADR Program Administrator. The Clerk will establish and maintain a register of persons (the "Register of Mediators") qualified under this Local Rule and designated by the Court to serve as mediators or arbitrators in the Mediation or Voluntary Arbitration Program. The Chief Bankruptcy Judge will appoint a Judge of this Court, the Clerk or a person qualified under this Local Rule who is a member in good standing of the Bar of the State of Delaware to serve as the Alternative Dispute Resolution ("ADR") Program Administrator. Aided by a staff member of the Court, the ADR Program Administrator will receive applications for designation to the Register of Mediators, maintain the Register of Mediators, track and compile reports on the ADR Program and otherwise administer the program.

(b) Application and Certification.

(i) Application. Each applicant must submit to the ADR Program Administrator a statement of professional qualifications, experience, training and other information demonstrating, in the applicant's opinion, why the applicant should be designated to the Register of Mediators. The applicant must submit the statement substantially in compliance with Local Form 110A. The statement must set forth whether the applicant has been removed from any professional organization, or has resigned from any professional organization while an investigation into allegations of professional misconduct was pending and the circumstances of such removal or resignation. This statement must constitute an application for designation to the ADR Program. Each applicant must certify that the applicant has completed appropriate mediation or arbitration training or has sufficient experience in the mediation or arbitration process and that he/she satisfies the qualifications set forth in 9019- 2(b)(ii). If requested by the Court, each applicant hereunder must agree to accept at least one pro bono appointment per year. If after serving in a pro bono capacity insufficient matters exist to allow for compensation, credit for pro bono service will be carried into subsequent years in order to qualify the mediator or arbitrator to receive compensation for providing service as a mediator or arbitrator. In order to be eligible for appointment by the ADR Program Administrator, each applicant must meet the qualifications set forth in 9019- 2(b)(ii).

(ii) Qualifications.

(A) Attorney Applicants. An attorney applicant must certify to the Court in the Application that the applicant:

(1) Is, and has been, a member in good standing of the bar of any state or of the District of Columbia for at least 5 years;

(2) Has served as a principal attorney of record in at least three bankruptcy cases (without regard to the party represented) from case commencement to conclusion or, if the case is still pending, to the date of the Application, or has served as the principal attorney of

record for any party in interest in at least 3 adversary proceedings or contested matters from commencement to conclusion or, if the case is still pending, to the date of the Application; and

(3) Is willing to undertake to evaluate or mediate at least 1 matter each year, subject only to unavailability due to conflicts, or personal or professional commitments, on a pro bono basis.

(B) Non-Attorney Applicants. A non-attorney applicant must certify to the Court in the Application that the applicant has been a member in good standing of the applicant's particular profession for at least 5 years, and must submit a statement of professional qualifications, experience, training and other information demonstrating, in the applicant's opinion, why the applicant should be appointed to the Register of Mediators. Non-attorney applicants must make the same certification required of attorney applicants contained in Local Rule 9019- 2(b)(ii)(A).

(iii) Court Certification. The Court in its sole and absolute determination on any reasonable basis shall grant or deny any application submitted under this Local Rule. If the Court grants the application, the applicant's name will be added to the Register of Mediators, subject to removal under these Local Rules.

(iv) Reaffirmation of Qualifications. Each applicant accepted for designation to the Register of Mediators must reaffirm annually the continued existence and accuracy of the qualifications, statements and representations made in the application. The annual reaffirmation must be submitted to the ADR Program Administrator in conformity with Local Form 125 by March 31st of each year, and must include a certification of such mediator's acceptance of, or availability to perform, one pro bono appointment for the prior calendar year, and whether the mediator has been selected or appointed as a mediator in a dispute within the preceding 3 calendar years for this Court.

(c) Oath. Before serving as a mediator or arbitrator, each person designated as a mediator or arbitrator must take the following oath or affirmation:

"I, […], do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent upon me in the Mediation or Voluntary Arbitration Program of the United States Bankruptcy Court for the District of Delaware without respect to persons and will do so equally and with respect."

(d) Removal from Register of Mediators. A person will be removed from the Register of Mediators (i) at the person's request, (ii) by Court order entered on the sole and absolute determination of the Court, or (iii) by the ADR Program Administrator if the person (1) has failed to timely submit the annual reaffirmation as required in Local Rule 9019- 2(b)(iv), or (2) has not been selected or appointed as a mediator in a dispute for 3 consecutive calendar years. If removed from the Register of Mediators, the person will be eligible to file an application for reinstatement after the passage of one year from the date of removal.

(e) Appointment.

(i) Selection. Upon assignment of a matter to mediation or arbitration in accordance with these Local Rules and unless special circumstances exist as determined by the Court, the parties will select a mediator or arbitrator. If the parties fail to make such selection within the time as set by the Court, then the Court will appoint a mediator or arbitrator. A mediator or arbitrator will be selected from the Register of Mediators, unless the parties stipulate and agree to a mediator or arbitrator not on the Register of Mediators.

(ii) Inability to Serve. If the mediator or arbitrator is unable to or elects not to serve, he or she must file and serve on all parties, and on the ADR Program Administrator, within 14 days after receipt of notice of appointment, a notice of inability to accept the appointment. In such event, the parties must select an alternate mediator or arbitrator.

(iii) Disqualification.

(A) Disqualifying Events. Any person selected as a mediator or arbitrator may be disqualified for bias or prejudice in the same manner that a Judge may be disqualified under 28 U.S.C. § 44. Any person selected as a mediator or arbitrator will be disqualified in any matter where 28 U.S.C. § 455 would require disqualification if that person were a Judge.

(B) Disclosure. Promptly after receiving notice of appointment, the mediator or arbitrator must make an inquiry sufficient to determine whether there is a basis for disqualification under this Local Rule. The inquiry shall include, but shall not be limited to, a search for conflicts of interest in the manner prescribed by the applicable rules of professional conduct for attorneys and by the applicable rules pertaining to the profession of the mediator or arbitrator.

(C) Objection Based on Conflict of Interest. A party to the mediation or arbitration who believes that the assigned mediator or arbitrator has a conflict of interest must promptly bring the issue to the attention of the mediator or arbitrator, as applicable, and to the other parties. If the mediator or arbitrator does not withdraw, and the movant is dissatisfied with this decision, the issue must be brought to the attention of the ADR Program Administrator by the mediator, arbitrator or any of the parties. If the movant is dissatisfied with the decision of the ADR Program Administrator, the issue will be brought to the Court's attention by the ADR Program Administrator or any party. The Court shall take such action as it deems necessary or appropriate to resolve the alleged conflict of interest.

(iv) Liability. Aside from proof of actual fraud or unethical conduct, there shall be no liability on the part of, and no cause of action shall arise against, any person who is appointed as a mediator or arbitrator under these Local Rules on account of any act

or omission in the course and scope of such person's duties as a mediator or arbitrator.

(f) Compensation. A person will be eligible to be a paid mediator or arbitrator if that person has been admitted to the Register of Mediators maintained by the Court or otherwise has been appointed by the Court. Once eligible to serve as a mediator or arbitrator for compensation, which must be at reasonable rates, the mediator or arbitrator may require compensation and reimbursement of expenses as agreed by the parties; and such compensation and reimbursement of expenses will be paid without Court Order. If any party to the mediation or arbitration objects to the compensation or expenses required by the mediator or arbitrator, such dispute may be presented to the Court by the party or the mediator or arbitrator for disposition. If the mediator or arbitrator consents to serve without compensation and at the conclusion of the first full day of the mediation conference or arbitration proceeding it is determined by the mediator or arbitrator and the parties that additional time will be both necessary and productive in order to complete the mediation or arbitration, then:

(i) If the mediator or arbitrator consents to continue to serve without compensation, the parties may agree to continue the mediation conference or arbitration.

(ii) If the mediator or arbitrator does not consent to continue to serve without compensation, the fees and expenses must be on such terms as are satisfactory to the mediator or arbitrator and the parties, subject to Court approval. Where the parties have agreed to pay such fees and expenses, the parties must share equally all such fees and expenses unless the parties agree to some other allocation. The Court may determine a different allocation, if the parties cannot agree to an allocation.

(iii) If the estate is to be charged with such expense, the mediator or arbitrator may be reimbursed for actual transportation expenses necessarily incurred in the performance of duties.

(g) Administrative Fee. The mediator or arbitrator must be entitled to an administrative fee of $250, payable upon his or her acceptance of the appointment, in every dispute referred to mediation, except a proceeding or matter in a consumer case. The administrative fee must be a credit against any fee actually paid to the mediator or arbitrator in such proceeding or matter.

(h) Party Unable to Afford. If the Court determines that a party to a matter assigned to mediation or arbitration cannot afford to pay the fees and costs of the mediator or arbitrator, the Court may appoint a mediator or arbitrator to serve pro bono as to that party.

**Rule 9019-3 Assignment of Disputes to Mediation or Voluntary Arbitration.**

(a) Stipulation of Parties. Notwithstanding any provision of law to the contrary, the Court may refer a dispute pending before it to mediation and, upon consent of the parties, to arbitration. During a mediation, the parties may stipulate to allow the mediator, if qualified as an arbitrator, to hear and arbitrate the dispute.

(b) Safeguards in Consent to Voluntary Arbitration. Matters may proceed to voluntary arbitration by consent where

(i) Consent to arbitration is freely and knowingly obtained; and

(ii) No party is prejudiced for refusing to participate in arbitration.

**Rule 9019-4 Arbitration.**

(a) Referral to Arbitration under Fed. R. Bankr. P. 9019(c). The Court may allow the referral of a matter to final and binding arbitration under Fed. R. Bankr. P. 9019(c).

(b) Referral to Arbitration under 28 U.S.C. § 654. The Court may allow the referral of an adversary proceeding to arbitration under 28 U.S.C. § 654.

(c) Arbitrator Qualifications and Appointment. In addition to fulfilling the qualifications of a mediator found in Local Rule 9019-2(b), a person qualifying as an arbitrator hereunder will be certified as an arbitrator through a qualifying program. An arbitrator must be appointed (and may be disqualified) in the same manner as in Local Rule 9019-2(e). The arbitrator will be liable only to the extent provided in Local Rule 9019-2(e)(iv).

(d) Powers of Arbitrator.

(i) An arbitrator to whom an action is referred shall have the power, upon consent of the parties, to

(A) Conduct arbitration hearings;

(B) Administer oaths and affirmations; and

(C) Make awards.

(ii) The Fed. R. Civ. P. and the Fed. R. Bankr. P. apply to subpoenas for the attendance of witnesses and the production of documents at a voluntary arbitration hearing.

(e) Arbitration Award and Judgment.

(i) Filing and Effect of Arbitration Award. An arbitration award made by an arbitrator, along with proof of service of such award on the other party by the prevailing party, must be filed with the Clerk promptly after the arbitration hearing is concluded. The Clerk must place under seal the contents of any arbitration award made hereunder and the contents will not be known to any Judge who might be assigned to the matter until the Court has entered a final judgment in the action or the action has otherwise terminated.

(ii) Entering Judgment of Arbitration Award. Arbitration awards will be entered as the judgment of the Court after the time has expired for requesting a determination de novo, with no such request having been filed. The judgment so entered will be subject to the same provisions of law and will have the same force and effect as a judgment of the Court, except that the judgment will not be subject to review in any other court by appeal or otherwise.

(f) Determination De Novo of Arbitration Awards.

(i) Time for Filing Demand. Within 30 days after the filing of an arbitration award under Local Rule 9019-4(e) with the Clerk, any party may file a written demand for a determination de novo with the Court.

(ii) Action Restored to Court Docket. Upon a demand for determination de novo, the action will be restored to the docket of the Court and treated for all purposes as if it had not been referred to arbitration.

(iii) Exclusion of Evidence of Arbitration. The Court will not admit at the determination de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award or any other matter concerning the conduct of the arbitration proceeding, unless

(A) The evidence would otherwise be admissible in the Court under the Federal Rules of Evidence; or

(B) The parties have otherwise stipulated.

(g) This Local Rule shall not apply to arbitration under 9 U.S.C. § 3, if applicable.

**Rule 9019-5 Mediation.**

(a) Types of Matters Subject to Mediation. The Court may assign to mediation any dispute arising in an adversary proceeding, contested matter or otherwise in a bankruptcy case. Except as may be otherwise ordered by the Court, all adversary proceedings filed in a business case will be referred to mandatory mediation, except an adversary proceeding in which (i) the U.S. Trustee is the plaintiff; (ii) one or both parties are pro se; or (iii) the plaintiff is seeking a preliminary injunction or temporary restraining order. Parties may also stipulate to mediation, subject to Court approval.

(b) Effects of Mediation on Pending Matters. The assignment of a matter to mediation does not relieve the parties to that matter from complying with any other Court orders or applicable provisions of the Code, the Fed. R. Bankr. P. or these Local Rules. Unless otherwise ordered by the Court, the assignment to mediation does not delay or stay discovery, pretrial hearing dates or trial schedules.

(c) The Mediation Process.

(i) Cost of Mediation. Unless otherwise ordered by the Court, or agreed by the parties, (1) in an adversary proceeding that includes a claim to avoid and recover any alleged avoidable transfer pursuant to 11 U.S.C. §§ 544, 547, 548 and/or 550, the bankruptcy estate (or if there is no bankruptcy estate, the plaintiff in the adversary proceeding) must pay the fees and costs of the mediator and (2) in all other matters, the fees and costs of the mediator must be shared equally by the parties.

(ii) Time and Place of Mediation Conference. After consulting with all counsel and pro se parties, the mediator must schedule a time and place for the mediation conference that is acceptable to the parties and the mediator. Failing agreement of the parties on the date and location for the mediation conference, the mediator must establish the time and place of the mediation conference on no less than 21 days' written notice to all counsel and pro se parties.

(iii) Submission Materials. Unless otherwise instructed by the mediator, not less than 7 days before the mediation conference, each party must submit directly to the mediator and serve on all counsel and pro se parties such materials (the "Submission") in form and content as the mediator directs. Any instruction by the mediator regarding Submissions must be made at least 21 days in advance of a scheduled mediation conference. Prior to the mediation conference, the mediator may talk with the participants to determine what materials would be helpful. The Submission must not be filed with the Court and the Court will not have access to the Submission.

(iv) Attendance at Mediation Conference.

(A) Persons Required to Attend. Except as otherwise provided herein or excused by the Mediator upon a showing of hardship, which, for purposes of this subsection means serious or disabling illness to a party or party representative; death of an immediate family member of a party or party

representative; act of God; state or national emergency; or other circumstances of similar unforeseeable nature, the following persons must attend the mediation conference personally:

(1) Each party that is a natural person;

(2) If the party is not a natural person, including a governmental entity, a representative who is not the party's attorney of record and who has full authority to negotiate and settle the matter on behalf of the party;

(3) If the party is a governmental entity that requires settlement approval by an elected official or legislative body, a representative who has authority to recommend a settlement to the elected official or legislative body;

(4) The attorney who has primary responsibility for each party's case, including Delaware counsel if engaged at the time of mediation regardless of whether Delaware counsel has primary responsibility for a party, unless Delaware counsel requests to be and is excused from attendance by the mediator in advance of the mediation conference; and

(5) Other interested parties, such as insurers or indemnitors or one or more of their representatives, whose presence is necessary for a full resolution of the matter assigned to mediation.

(B) Failure to Attend. Willful failure to attend any mediation conference, and any other material violation of this Local Rule, must be reported to the Court by the mediator and may result in the imposition of sanctions by the Court. Any such report of the mediator must comply with the confidentiality requirement of Local Rule 9019-5(d).

(v) Mediation Conference Procedures. The mediator may establish procedures for the mediation conference.

(vi) Settlement Prior to Mediation Conference. In the event the parties reach a settlement in principle after the matter has been assigned to mediation but prior to the mediation conference, the plaintiff must advise the mediator in writing within one (1) business day of the settlement in principle.

(d) Confidentiality of Mediation Proceedings. Confidentiality is necessary to the mediation process, and mediations are confidential under these Local Rules and to the fullest extent permissible under otherwise applicable law. The provisions of this Local Rule 9019-5(d) apply to all mediations occurring in cases, contested matters and adversary proceedings pending before the Court, whether such mediation is ordered or referred by the Court or voluntarily undertaken by the parties provided that such mediation is approved by the

Court. Without limiting the foregoing, except as may be otherwise ordered by the Court, the following provisions apply to any mediation under these rules:

(i) F.R.E. 408. To the fullest extent applicable, Rule 408 of the Federal Rules of Evidence (and any applicable federal or state statute, rule, common law or judicial precedent relating to the protection of settlement communications) applies to the mediation conference and any communications with the mediator related thereto. In addition to the limitations of admissibility of evidence under Federal Rule of Evidence 408, no person may rely on or introduce as evidence in connection with any arbitral, judicial or other proceeding, including any hearing held by this Court in connection with the referred matter, whether oral or written, (i) views expressed or suggestions made by a party with respect to a possible settlement of the dispute, including whether another party had or had not indicated a willingness to accept a proposal for settlement, (ii) proposals made or views expressed by the mediator, or (iii) admissions made by a party in the course of the mediation.

(ii) Protection of Information Disclosed to the Mediator or During Mediation. Subject to subparagraph (iv) herein, the mediator and the participants in mediation are prohibited from divulging, outside of the mediation, any oral or written information disclosed by the parties or witnesses to or in the presence of the mediator, or between the parties during any mediation conference.

(iii) Confidential Submissions to the Mediator. Subject to subparagraph (iv) herein, any submission of information or documents to the mediator, including any Submission (as defined in Local Rule 9019-5(c)(iii)), prepared by or on behalf of any participant in mediation and intended to be confidential are not subject to disclosure, regardless of whether such Submission is shared with other participants in the mediation during a mediation conference.

(iv) Information Otherwise Discoverable. Information, facts or documents otherwise discoverable or admissible in evidence do not become exempt from discovery or inadmissible in evidence merely by being disclosed or otherwise used in the mediation conference or in any Submission to the mediator.

(v) Discovery from the Mediator. The mediator may not be compelled to disclose to the Court or to any person outside the mediation any records, reports, summaries, notes, communications, Submissions, recommendations made under subpart (e) of this Local Rule, or other documents received or made by or to the mediator while serving in such capacity. The mediator may not testify, be subpoenaed or compelled to testify regarding the mediation in connection with any arbitral, judicial or other proceeding. The mediator may not be a necessary party in any proceedings relating to the mediation. Nothing contained in this paragraph shall prevent the mediator from reporting the status, but not the substance, of the mediation effort to the Court in writing, from filing a Certificate of Completion as required by Local Rule 9019-5(f), or from otherwise complying with the obligations set forth in this Local Rule.

(vi) Protection of Confidential Information. Nothing in this subpart of Local Rule 9019¬5(d) is intended to or shall modify any rights or obligations any entity has in connection with confidential information or information potentially subject to protection under section 107 of the Code.

(vii) Preservation of Privileges. Notwithstanding Rule 502 of the Federal Rules of Evidence, the disclosure by a party of privileged information to the mediator does not waive or otherwise adversely affect the privileged nature of the information.

(e) Recommendations by Mediator. The mediator is not required to prepare written comments or recommendations to the parties. Mediators may present a written settlement recommendation memorandum to attorneys or pro se litigants, but not to the Court.

(f) Post-Mediation Procedures.

(i) Filings by the Parties. If a settlement is reached at a mediation, the plaintiff must file a Notice of Settlement or, where required, a motion and proposed order seeking Court approval of the settlement within 28 days after such settlement is reached. Within 60 days after the filing or the Notice of Settlement or the entry of an order approving the settlement, the parties must file a Stipulation of Dismissal dismissing the action on such terms as the parties may agree. If the plaintiff fails to timely file the Stipulation of Dismissal, the Clerk's Office will close the case.

(ii) Mediator's Certificate of Completion. No later than 14 days after the conclusion of the mediation conference or receipt of notice from the parties that the matter has settled prior to the mediation conference, unless the Court orders otherwise, the mediator must file with the Court a certificate in the form provided by the Court ("Certificate of Completion") showing compliance or noncompliance with the mediation conference requirements of this Local Rule and whether or not a settlement has been reached. Regardless of the outcome of the mediation conference, the mediator must not provide the Court with any details of the substance of the conference.

(g) Withdrawal from Mediation. Any matter assigned to mediation under this Local Rule may be withdrawn from mediation by the Court at any time.

(h) Termination of Mediation. Upon the filing of a mediator's Certificate of Completion under Local Rule 9019-5(f)(ii) or the entry of an order withdrawing a matter from mediation under Local Rule 9019-5(g), the mediation will be deemed terminated and the mediator excused and relieved from further responsibilities in the matter without further order of the Court. If the mediation conference does not result in a resolution of all of the disputes in the assigned matter, the matter will proceed to trial or hearing under the Court's scheduling orders.

(i) Modification of ADR Procedure. Any party seeking to deviate from, or propose procedures or obligations in addition to, the Local Rules governing ADR must file a motion with the Court for requested relief.

(j) Alternative Procedures for Certain Avoidance Proceedings. This subsection applies to any adversary proceeding that only includes a claim to avoid and/or recover an alleged avoidable transfer pursuant to 11 U.S.C. §§ 544, 547, 548 and/or 550 (collectively, "Avoidance Claims") from one or more defendants where the amount in controversy from any one defendant is equal to or less than $75,000. In any such proceeding, the defendant is entitled to request prompt mediation. On or within 28 days after the date that the Defendant's response is due under the Summons, the Defendant may opt-in to the procedures provided under this subsection by filing with the Court on the docket of the adversary proceeding and serving on the Plaintiff, a certificate in the form of Local Form 118 ("Certificate"). The time period to file the Certificate is not extended by the parties' agreement to extend the Defendant's response deadline under the Summons. If the Defendant files the Certificate under this Local Rule, the parties may agree to extend the Defendant's response deadline to 14 days after the date the mediation is concluded by stipulation filed with the Court. Plaintiff must pay the fees and costs of the mediator. The mediator must be appointed subject to Local Rule 9019-2(e). Within 7 days after the filing of the Certificate, the parties shall file a stipulation of appointment of a mediator in the form as provided under Local Form 119, if not the court will assign a mediator. The parties must participate in mediation in an effort to consensually resolve their disputes prior to further litigation. All claims under the avoidance proceeding must be mediated unless otherwise agreed by the parties. This Local Rule shall not apply to a proceeding in which the operative complaint includes claims in addition to Avoidance Claims.

**Rule 9019-6 Other Alternative Dispute Resolution Procedures.**

The parties may employ any other method of alternative dispute resolution.

**Rule 9019-7 Notice of Court Annexed Alternative Dispute Resolution Program.**

The plaintiff, at the time of service of the complaint and summons under Local Rule 7004-1, must give notice of dispute resolution alternatives substantially in compliance with Local Form 110B. A certificate of service must be filed within 7 days of service of the notice.

**Rule 9022-1 Service of Judgment or Order.**

Immediately upon the entry of a judgment or order, the Clerk will serve a notice of the entry of the judgment or order on Delaware counsel for the movant, via electronic means, as consented to by the movant. Registered CM/ECF users are deemed to have consented to service of the notice of the entry of orders or judgments via electronic means. If counsel for the movant is not a registered CM/ECF user, the Clerk will serve a copy of the judgment or order on Delaware counsel for the movant via first class mail. Counsel for the movant must serve a copy of the judgment or order on all parties that contested the relief requested in the order and on other parties as the Court may direct and file a certificate of service to that effect within 48 hours. For any pro se movant or sua sponte order, the Clerk's Office will serve a copy of the judgment or order via first class mail on all parties affected thereby and file a certificate of service to that effect, unless otherwise directed by the Court.

**Rule 9027-1 Statements in Notice of Removal or Related Filings Regarding Consent to Entry of Order or Judgment in Core Proceeding.**

(a) Reference is made to the requirement of Fed. R. Bankr. P. 9027(a)(1) that a notice of removal must contain a statement that upon removal of the claim or cause of action the party filing the notice does or does not consent to entry of final orders or judgments by the Court. If no such statement is included, unless otherwise ordered by the Court, the party filing the notice of removal shall have waived the right to contest the authority of the Court to enter final orders or judgments.

(b) Reference is made to the requirement of Fed. R. Bankr. P. 9027(e) that any party who has filed a pleading in connection with the removed claim or cause of action, other than the party filing the notice of removal, must file a statement that the party does or does not consent to entry of final orders or judgments by the Court. If no such statement is included, unless otherwise ordered by the Court, the filing party shall have waived the right to contest the authority of the Court to enter final orders or judgments.

**Rule 9029-2 <u>Modalities and Guidelines for Communication and Cooperation Between Courts in Cross-Border Insolvency Matters</u>.**

The modalities and guidelines set forth at Part X of these Local Rules may apply in any case involving cross-border proceedings relating to insolvency or adjustment of debt opened in a foreign court. In order for the guidelines (the "Guidelines") (whether in whole or in part and with or without modification) to be applicable in a particular case, the Court shall approve a protocol or enter an order, following an application by the parties or sua sponte by the Court.

**Rule 9029-3 Hearing Agenda and Binders.**

In all chapter 7 asset cases, chapter 11 cases and chapter 15 cases, the counsel for the debtor, the statutory trustee, the foreign representative or the post-confirmation estate representative, as applicable, must file an agenda for each scheduled hearing in the case, in substantial conformity to Local Form 111 and meeting the requirements set forth in subsections (a)-(d). Counsel for the debtor is responsible for submitting to the Court the agenda along with copies of all documents relevant to matters scheduled to be considered by the Court at such hearing in accordance with subsection (e). Absent compelling circumstances, only those items listed on an agenda and the relevant documents timely delivered to the Court will be considered.

(a) General Requirements of Agenda.

(i) Delaware counsel must file the agenda for a First Day Hearing immediately after obtaining the date and time from the presiding Judge. Otherwise, Delaware counsel must file the agenda in the bankruptcy case and adversary proceeding, if applicable, on or before 12:00 p.m. prevailing Eastern Time 2 business days before the date of the hearing. Failure to file the agenda timely may subject counsel to a fine.

(ii) Resolved or continued matters must be listed before unresolved uncontested and contested matters. Unless otherwise authorized by the Court, a matter may only be listed as continued if the movant and all parties with outstanding objections to the matter consent to the continuance. Unresolved matters (and documents within each matter) must be listed in the order of docketing with corresponding docket numbers.

(iii) If a hearing has been cancelled or rescheduled, the agenda should note the cancellation or rescheduling conspicuously. Counsel cannot cancel or reschedule a hearing without consent of the movant and all parties with outstanding objections, and the permission of the Judge's courtroom deputy.

(iv) Copies of the agenda must be served upon Delaware counsel who have entered an appearance in the case, as well as all other counsel with a direct interest in any matter on the agenda, substantially contemporaneous with the Court filing.

(b) Motions and Applications Listed on an Agenda.

(i) General Information. For each motion, the agenda must provide the title, docket number and date filed. Supporting papers must be similarly listed.

(ii) Objection Information. For each motion, the agenda shall provide the objection deadline and any objections filed, and provide the docket number and the date filed, if available.

(iii) Status Information. For each motion, the agenda must provide whether the matter is going forward, whether a continuance is requested (and any opposition to the continuance, if known), whether any or all objections have been resolved and any other pertinent status information, including whether the presentation of live witnesses is expected. If the status of a matter listed on the agenda as going forward

changes (e.g., settled or continued), counsel is required to inform the Judge's chambers immediately and file an amended agenda in accordance with subsection (d).

(c) Adversary Proceedings. When an adversary proceeding is scheduled, the agenda must indicate the adversary proceeding number in addition to the information required by Local Rule 9029-3(b).

(d) Amended Agenda. When an amended agenda is necessary, the amended agenda must list matters that are listed in the original agenda, with added matters being listed last and all changes being made in bold print.

(e) Delivery of Agenda and Hearing Materials to Court.

(i) The agenda and any amended agenda, along with copies of all documents relevant to matters scheduled to be considered by the Court at such hearing, must be delivered to the presiding Judge's chambers in accordance with chambers procedures substantially contemporaneous with filing except as otherwise required for Fee Application Binders and Claims Binders.

(ii) For Judges requiring a hearing binder, the binder must contain the agenda and copies of all substantive documents necessary for the hearing (e.g., motions and responses). Certificates or affidavits of service should not be included in the hearing binder unless adequacy of service is an issue to be considered by the Court. The binder should not contain documents related to continued or resolved matters. Resolved matters subject to CNOs and CoCs must be submitted in a separate "CNO/CoC Binder".

(iii) Hearings on Fee Applications. A "Fee Application Binder" must be delivered to the Judge no later than 12:00 p.m. prevailing Eastern Time 2 weeks before the fee hearing date. All fee applications to be heard at the hearing must be in one separate hearing binder containing an index. The binder may be updated to provide for later-filed objections and/or responses.

(iv) Claims Binders. Local Rule 3007-1(d)(vi) governs claims binders required in connection with certain omnibus claims objections.

(f) For additional requirements regarding the form and contents of agendas and binders, please refer to the "Quick Reference Guide to Agendas and Hearing Binders" located on the Court's website.

**Rule 9033-1 Transmittal to the District Court of Proposed Findings of Fact and Conclusions of Law.**

The Clerk will transmit to the District Court the proposed findings of fact and conclusions of law filed pursuant to Fed. R. Bankr. P. 9033 upon the expiration of time for filing objections and any response thereto.

**Rule 9036-1 Electronic Transmission of Court Notices; Service on Registered CM/ECF Users; Use of Technology in the Courtroom.**

(a) Court Notices. To eliminate redundant paper notices, all registered electronic filing participants will receive notices required to be sent by the Clerk via electronic transmission only. No notices from the Clerk's Office will be sent in paper format to registered CM/ECF users, with the exception of the Notice of Meeting of Creditors, which will be sent in both paper and electronic format. The electronic transmission of notices by the Clerk will be deemed complete upon transmission. See also Local Rule 5005-4.

(b) Service through the Court's Electronic Filing System. Service will be made on registered CM/ECF users through the CM/ECF system and may be made on any person by other electronic means consented to in writing in accordance with Fed. R. Bankr. P. 9036. Any service completed pursuant to the foregoing will be considered to be in compliance with the means of effectuating service under the Federal Rules of Bankruptcy Procedure and these Local Rules. This Local Rule does not apply to any pleading or other paper required to be served in accordance with Fed. R. Bankr. P. 7004 or as provided in Local Rule 5005-4(c)(iii). In chapter 11 and chapter 15 cases, when service is completed through the CM/ECF system or by other electronic means that the person consented to in writing, a courtesy copy of the document also will be provided by email, other electronic form as provided under Local Rule 5005-4(c), or by hard copy via hand delivery, first class or other mail or delivery, to: (i) counsel for the debtor or the foreign representative (as applicable), counsel for the U.S. Trustee, counsel for any committee appointed pursuant to section 1102 of the Bankruptcy Code, and all parties whose rights are affected by the filing (but excluding parties only receiving service because such party filed a request for service of notices under Fed. R. Bankr. P. 2002(i)), and, if the filing party is the debtor, foreign representative or any committee appointed pursuant to section 1102 of the Code, then the courtesy copy also will be delivered to all parties who file a request for service of notices under Fed. R. Bankr. P. 2002(i); and (ii) any other party as the Court may direct. Consistent with Local Rule 2002-1(c), lists of parties entitled to service may be obtained from the claims agent or debtor, as applicable. Any courtesy copy delivered in accordance with this Local Rule is supplemental to service effectuated through the CM/ECF system or other electronic means permitted by this Local Rule 9036-1(b).

(c) Use of Technology in the Courtroom. Unless otherwise authorized by the Court, parties intending to use technology in the Courtroom must give the Court notice by the time the agenda is due under Local Rule 9029-3. At that time, notice should also be sent via email to debml_Courtroom_Technology@deb.uscourts.gov, and Operations personnel will respond to the notice promptly.

**Rule 9037-1 Redaction of Personal Data Identifiers.**

(a) Responsibility for Redaction. The responsibility for redacting personal data identifiers (as defined in Fed. R. Bankr. P. 9037) rests solely with counsel, parties in interest and nonparties. The Clerk, or claims agent if one has been appointed, will not review each document for compliance with this Local Rule. In the event the Clerk or the appointed claims agent discovers that personal identifier data or information concerning a minor individual has been included in a pleading, the Clerk or appointed claims agent is authorized, in its sole discretion, to restrict public access (except as to the filer, the case trustee, the U.S. Trustee and the claims agent) to the document in issue and inform the filer of the requirement to file a motion to redact.

(b) Method of Redaction. The filer of the document containing personal data identifiers may file the document in redacted form without the need to file a motion to seal or redact. Social Security Numbers may also be redacted in their entirety, unless otherwise required by rule, order, or an official form. The filer is authorized to share the original non-redacted image containing personal data identifiers with the case trustee, the U.S. Trustee, and the claims agent as applicable and as necessary on a confidential basis. The redacted personal data identifiers must remain redacted and confidential unless otherwise ordered by the Court. Unless otherwise ordered by the Court, unredacted copies of such filings must be retained by the attorney or pro se party who filed them until the later of the closing of the main bankruptcy case or the entry of a final, non-appealable order regarding any pending adversary proceeding, contested matter or pending appeal to which such filing relates.

## PART X. MODALITIES OF COURT-TO-COURT COMMUNICATION

Scope and Definitions

(a) These Modalities apply to direct communications (written or oral) between courts in specific cases of cross-border proceedings relating to insolvency or adjustment of debt opened in more than one jurisdiction ("Parallel Proceedings"). Nothing in this document precludes indirect means of communication between courts, such as through the parties or by exchange of transcripts, etc. This document is subject to any applicable law.

(b) These Modalities govern only the mechanics of communication between courts in Parallel Proceedings. For the principles of communication (e.g., that court-to-court communications should not interfere with or derogate from the jurisdiction or the exercise of jurisdiction by a court in any proceedings, etc.), reference may be made to the Guidelines for Communication and Cooperation between Courts in Cross- Border Insolvency Matters (the "Guidelines") issued by the Judicial Insolvency Network in October 2016, adopted in the Local Rules in 2017 as APPENDIX A hereto.

(c) These Modalities contemplate contact being initiated by an "Initiating Judge" (defined below). The parties before such Judge may request him or her to initiate such contact, or the Initiating Judge may seek it on his or her own initiative.

(d) In this document:

(i) "Initiating Judge" refers to the Judge initiating communication in the first instance;

(ii) "Receiving Judge" refers to the Judge receiving communication in the first instance;

(iii) "Facilitator" refers to the person(s) designated by the court where the Initiating Judge sits or the court where the Receiving Judge sits (as the case may be) to initiate or receive communications on behalf of the Initiating Judge or the Receiving Judge in relation to Parallel Proceedings.

Designation of Facilitator

(e) Each court may designate one or more Judges or administrative officials as the Facilitator. It is recommended that, where the Facilitator is not a Judge, a Judge be designated to supervise the initial steps in the communication process. The Facilitator appointed by the Court is the Clerk.

(f) Courts should prominently publish the identities and contact details of their Facilitators, such as on their websites.

(g) Courts should prominently list the language(s) in which initial communications may be made and the technology available to facilitate communication between or among courts (e.g., telephonic and/or video conference capabilities, any secure channel email capacity,

etc.). The Court identifies English as the language in which initial communications may be made.

Initiating Communication

(h) To initiate communication in the first instance, the Initiating Judge may require the parties over whom he or she exercises jurisdiction to obtain the identity and contact details of the Facilitator of the other court in the Parallel Proceedings, unless the information is already known to the Initiating Judge.

(i) The first contact with the Receiving Judge should be in writing, including by email, from the Facilitator of the Initiating Judge's court to the Facilitator of the Receiving Judge's court, and contain the following:

(i) the name and contact details of the Facilitator of the Initiating Judge's court;

(ii) the name and title of the Initiating Judge as well as contact details of the Initiating Judge in the event that the Receiving Judge wishes to contact the Initiating Judge directly and such contact is acceptable to the Initiating Judge;

(iii) the reference number and title of the case filed before the Initiating Judge and the reference number and title (if known; otherwise, some other identifier) of the case filed before the Receiving Judge in the Parallel Proceedings;

(iv) the nature of the case (with due regard to confidentiality concerns);

(v) whether the parties before the Initiating Judge have consented to the communication taking place (if there is any order of court, direction or protocol for court-to-court communication for the case approved by the Initiating Judge, this information should also be provided);

(vi) if appropriate, the proposed date and time for the communication requested (with due regard to time differences); and

(vii) the specific issue(s) on which communication is sought by the Initiating Judge.

Arrangements for Communication

(j) The Facilitator of the Initiating Judge's court and the Facilitator of the Receiving Judge's court may communicate fully with each other to establish appropriate arrangements for the communication without the necessity for participation of counsel or the parties unless otherwise ordered by one of the courts.

(k) The time, method and language of communication should be to the satisfaction of the Initiating Judge and the Receiving Judge, with due regard given to the need for efficient management of the Parallel Proceedings.

(l) Where translation or interpretation services are required, appropriate arrangements shall be made, as agreed by the courts. Where written communication is provided through translation, the communication in its original form should also be provided.

(m) Where it is necessary for confidential information to be communicated, a secure means of communication should be employed where possible.

Communication Between Initiating Judge and Receiving Judge

(n) After the arrangements for communication have been made, discussion of the specific issue(s) on which communication was sought by the Initiating Judge and subsequent communications in relation thereto should, as far as possible, be carried out between the Initiating Judge and the Receiving Judge in accordance with any protocol or order for communication and cooperation in the Parallel Proceedings (see Guideline 2 in APPENDIX A).

(o) If the Receiving Judge wishes to bypass the use of a Facilitator, and the Initiating Judge has indicated that he or she is amenable, the Judges may communicate with each other about the arrangements for the communication without the necessity for the participation of counsel or the parties.

(p) Nothing in this document should limit the discretion of the Initiating Judge to contact the Receiving Judge directly in exceptional circumstances.

Limitation on Effect of Communication

(q) With respect to communication contemplated under this Part X, a court is entitled at all times to exercise its independent jurisdiction and authority with respect to matters presented to it and the conduct of the parties appearing before it.

(r) Participation by a court in cross-border communication does not imply:

(i) a waiver or compromise by the court of any powers, responsibilities or authority;

(ii) a substantive determination of any matter before the court;

(iii) a waiver by any of the parties of any of their substantive or procedural rights;

(iv) submission to the jurisdiction of other courts participating in the communication; or

(v) any limitation, extension or enlargement of the jurisdiction of the participating courts.

## APPENDIX A

GUIDELINES FOR COMMUNICATION AND COOPERATION BETWEEN COURTS IN CROSS-BORDER INSOLVENCY MATTERS

INTRODUCTION

(a) The overarching objective of these Guidelines is to improve in the interests of all stakeholders the efficiency and effectiveness of cross-border proceedings relating to insolvency or adjustment of debt opened in more than one jurisdiction ("Parallel Proceedings") by enhancing coordination and cooperation among courts under whose supervision such proceedings are being conducted. These Guidelines represent best practice for dealing with Parallel Proceedings.

(b) In all Parallel Proceedings, these Guidelines should be considered at the earliest practicable opportunity.

(c) In particular, these Guidelines aim to promote:

(i) the efficient and timely coordination and administration of Parallel Proceedings;

(ii) the administration of Parallel Proceedings with a view to ensuring relevant stakeholders' interests are respected;

(iii) the identification, preservation, and maximization of the value of the debtor's assets, including the debtor's business;

(iv) the management of the debtor's estate in ways that are proportionate to the amount of money involved, the nature of the case, the complexity of the issues, the number of creditors and the number of jurisdictions involved in Parallel Proceedings;

(v) the sharing of information in order to reduce costs; and

(vi) the avoidance or minimization of litigation, costs and inconvenience to the parties[1] in Parallel Proceedings.

(d) These Guidelines should be implemented in each jurisdiction in such manner as the jurisdiction deems fit.[2]

(e) These Guidelines are not intended to be exhaustive and in each case consideration ought to be given to the special requirements in that case.

(f) Courts should consider in all cases involving Parallel Proceedings whether and how to implement these Guidelines. Courts should encourage and where necessary direct, if they have the power to do so, the parties to make the necessary applications to the court to

[1] The term "parties" when used in these Guidelines shall be interpreted broadly.

[2] Possible modalities for the implementation of these Guidelines include practice directions and commercial guides.

facilitate such implementation by a protocol or order derived from these Guidelines and encourage them to act so as to promote the objectives and aims of these Guidelines wherever possible.

## ADOPTION AND INTERPRETATION

Guideline 1: In furtherance of paragraph F above, the courts should encourage administrators in Parallel Proceedings to cooperate in all aspects of the case, including the necessity of notifying the courts at the earliest practicable opportunity of issues present and potential that may (a) affect those proceedings and (b) benefit from communication and coordination between the courts. For the purpose of these Guidelines, "administrator" includes a liquidator, trustee, judicial manager, administrator in administration proceedings, debtor-in- possession in a reorganization or scheme of arrangement, or any fiduciary of the estate or person appointed by the court.

Guideline 2: Where a court intends to apply these Guidelines (whether in whole or in part and with or without modification) in particular Parallel Proceedings, it will need to do so by a protocol or an order,[3] following an application by the parties or pursuant to a direction of the court if the court has the power to do so.

Guideline 3: Such protocol or order should promote the efficient and timely administration of Parallel Proceedings. It should address the coordination of requests for court approvals of related decisions and actions when required and communication with creditors and other parties. To the extent possible, it should also provide for timesaving procedures to avoid unnecessary and costly court hearings and other proceedings.

Guideline 4: These Guidelines when implemented are not intended to:

(i) interfere with or derogate from the jurisdiction or the exercise of jurisdiction by a court in any proceedings including its authority or supervision over an administrator in those proceedings;

(ii) interfere with or derogate from the rules or ethical principles by which an administrator is bound according to any applicable law and professional rules;

(iii) prevent a court from refusing to take an action that would be manifestly contrary to the public policy of the jurisdiction; or

(iv) confer or change jurisdiction, alter substantive rights, interfere with any function or duty arising out of any applicable law, or encroach upon any applicable law.

Guideline 5: For the avoidance of doubt, a protocol or order under these Guidelines is procedural in nature. It should not constitute a limitation on or waiver by the court of any powers, responsibilities, or authority or a substantive determination of any matter in controversy before the

[3] In the normal case, the parties will agree on a protocol derived from these Guidelines and obtain the approval of each court in which the protocol is to apply.

court or before the other court or a waiver by any of the parties of any of their substantive rights and claims.

Guideline 6: In the interpretation of these Guidelines or any protocol or order under these Guidelines, due regard shall be given to their international origin and to the need to promote good faith and uniformity in their application.

## COMMUNICATION BETWEEN COURTS

Guideline 7: A court may receive communications from a foreign court and may respond directly to them. Such communications may occur for the purpose of the orderly making of submissions and rendering of decisions by the courts, and to coordinate and resolve any procedural, administrative or preliminary matters relating to any joint hearing where Annex A is applicable. Such communications may take place through the following methods or such other method as may be agreed by the two courts in a specific case:

(i) Sending or transmitting copies of formal orders, judgments, opinions, reasons for decision, endorsements, transcripts of proceedings or other documents directly to the other court and providing advance notice to counsel for affected parties in such manner as the court considers appropriate.

(ii) Directing counsel to transmit or deliver copies of documents, pleadings, affidavits, briefs or other documents that are filed or to be filed with the court to the other court in such fashion as may be appropriate and providing advance notice to counsel for affected parties in such manner as the court considers appropriate.

(iii) Participating in two-way communications with the other court, in which case Guideline 8 should be considered.

Guideline 8: In the event of communications between courts, other than on procedural matters, unless otherwise directed by any court involved in the communications whether on an ex parte basis or otherwise, or permitted by a protocol, the following shall apply:

(i) In the normal case, parties may be present.

(ii) If the parties are entitled to be present, advance notice of the communications shall be given to all parties in accordance with the rules of procedure applicable in each of the courts to be involved in the communications and the communications between the courts shall be recorded and may be transcribed. A written transcript may be prepared from a recording of the communications that, with the approval of each court involved in the communications, may be treated as the official transcript of the communications.

(iii) Copies of any recording of the communications, of any transcript of the communications prepared pursuant to any direction of any court involved in the communications, and of any official transcript prepared from a recording may be filed as part of the record in the proceedings and made available to the parties and

subject to such directions as to confidentiality as any court may consider appropriate.

(iv) The time and place for communications between the courts shall be as directed by the courts. Personnel other than Judges in each court may communicate with each other to establish appropriate arrangements for the communications without the presence of the parties.

Guideline 9: A court may direct that notice of its proceedings be given to parties in proceedings in another jurisdiction. All notices, applications, motions, and other materials served for purposes of the proceedings before the court may be ordered to be provided to such other parties by making such materials available electronically in a publicly accessible system or by facsimile transmission, certified or registered mail or delivery by courier, or in such other manner as may be directed by the court in accordance with the procedures applicable in the court.

## APPEARANCE IN COURT

Guideline 10: A court may authorize a party, or an appropriate person, to appear before and be heard by a foreign court, subject to approval of the foreign court to such appearance.

Guideline 11: If permitted by its law and otherwise appropriate, a court may authorize a party to a foreign proceeding, or an appropriate person, to appear and be heard on a specific matter by it without thereby becoming subject to its jurisdiction for any purpose other than the specific matter on which the party is appearing.

## CONSEQUENTIAL PROVISIONS

Guideline 12: A court shall, except on proper objection on valid grounds and then only to the extent of such objection, recognize and accept as authentic the provisions of statutes, statutory or administrative regulations, and rules of court of general application applicable to the proceedings in other jurisdictions without further proof. For the avoidance of doubt, such recognition and acceptance does not constitute recognition or acceptance of their legal effect or implications.

Guideline 13: A court shall, except upon proper objection on valid grounds and then only to the extent of such objection, accept that orders made in the proceedings in other jurisdictions were duly and properly made or entered on their respective dates and accept that such orders require no further proof for purposes of the proceedings before it, subject to its law and all such proper reservations as in the opinion of the court are appropriate regarding proceedings by way of appeal or review that are actually pending in respect of any such orders. Notice of any amendments, modifications, extensions, or appellate decisions with respect to such orders shall be made to the other court(s) involved in Parallel Proceedings, as soon as it is practicable to do so.

Guideline 14: A protocol or order made by a court under these Guidelines is subject to such amendments, modifications, and extensions as may be considered appropriate by the court, and to reflect the changes and developments from time to time in any Parallel Proceedings. Notice of such amendments, modifications, or extensions shall be made to the other court(s) involved in Parallel Proceedings, as soon as it is practicable to do so.

## ANNEX A (JOINT HEARINGS)

Annex A to these Guidelines relates to guidelines on the conduct of joint hearings. Annex A shall be applicable to, and shall form a part of these Guidelines, with respect to courts that may signify their assent to Annex A from time to time. Parties are encouraged to address the matters set out in Annex A in a protocol or order.

## ANNEX A: JOINT HEARINGS

A court may conduct a joint hearing with another court. In connection with any such joint hearing, the following shall apply, or where relevant, be considered for inclusion in a protocol or order:

(i) The implementation of this Annex shall not divest nor diminish any court's respective independent jurisdiction over the subject matter of proceedings. By implementing this Annex, neither a court nor any party shall be deemed to have approved or engaged in any infringement on the sovereignty of the other jurisdiction.

(ii) Each court shall have sole and exclusive jurisdiction and power over the conduct of its own proceedings and the hearing and determination of matters arising in its proceedings.

(iii) Each court should be able simultaneously to hear the proceedings in the other court. Consideration should be given as to how to provide the best audio-visual access possible.

(iv) Consideration should be given to coordination of the process and format for submissions and evidence filed or to be filed in each court.

(v) A court may make an order permitting foreign counsel or any party in another jurisdiction to appear and be heard by it. If such an order is made, consideration needs to be given as to whether foreign counsel or any party would be submitting to the jurisdiction of the relevant court and/or its professional regulations.

(vi) A court should be entitled to communicate with the other court in advance of a joint hearing, with or without counsel being present, to establish the procedures for the orderly making of submissions and rendering of decisions by the courts, and to coordinate and resolve any procedural, administrative or preliminary matters relating to the joint hearing.

(vii) A court, subsequent to the joint hearing, should be entitled to communicate with the other court, with or without counsel present, for the purpose of determining outstanding issues. Consideration should be given as to whether the issues include procedural and/or substantive matters. Consideration should also be given as to whether some or all of such communications should be recorded and preserved.