



voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”). By order of the Bankruptcy Court, the cases are being jointly administered for procedural purposes under Case No. 17-10184.

## **2. APPROVAL OF DISCLOSURE STATEMENT**

On January 24, 2019, the Bankruptcy Court entered an Order (the “Disclosure Statement Approval Order”) approving the Disclosure Statement, dated January 24, 2019 (as may be amended, modified, or supplemented from time to time, the “Disclosure Statement”) filed by the Debtors, for use in soliciting acceptances and rejections of the *Second Amended Joint Plan of Liquidation for Toisa Limited and Certain of its Affiliates*, dated January 24, 2019 (as may be amended, modified, or supplemented from time to time, the “Plan”), from holders of impaired claims and interests who are (or may be) entitled to receive distributions under the Plan.<sup>2</sup> Pursuant to the Disclosure Statement Approval Order, the Bankruptcy Court also approved (i) certain key dates relating to confirmation of the Plan, (ii) procedures for solicitation of votes to accept or reject the Plan, (iii) forms of ballots and notices to be distributed in connection with solicitation, (iv) procedures for tabulation of votes to accept or reject the Plan, and (v) procedures for notice of a confirmation hearing and filing objections to confirmation of the Plan.

## **3. RECORD DATE FOR VOTING PURPOSES**

Only creditors who hold Claims on **January 17, 2019** (the “Voting Record Date”) are entitled to vote on the Plan. All votes to accept or reject the Plan must be actually received by the Voting Agent by no later than **March 4, 2019 at 4:00 p.m. (prevailing Eastern time)** (the “Voting Deadline”). Any failure to follow the voting instructions included with your ballot may disqualify your ballot and your vote.

## **4. ENTITLEMENT TO VOTE ON THE PLAN**

Holders of Claims in the following Classes are entitled to vote to accept or reject the Plan: Classes 2, 3, 4, 5, 6, 7, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 29 and 30.

Holders of Claims and Interests in the following Classes are not entitled to vote on the Plan: Classes 1, 8, 9, 10, 11, 12, 27, 28, 31, 32, and 33.

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Plan.

## 5. CONFIRMATION HEARING

A hearing to consider confirmation of the Plan (the "Confirmation Hearing") will be held before the Honorable Shelley C. Chapman, United States Bankruptcy Judge for the Southern District of New York, in the United States Bankruptcy Court, One Bowling Green, Room 623, New York, New York 10004, on **March 14, 2019 at 11:00 a.m. (prevailing Eastern time)**, or as soon thereafter as counsel may be heard. The Confirmation Hearing may be adjourned from time to time without further notice to creditors, equity holders, or parties in interest other than by an announcement in the Bankruptcy Court of such adjournment on the date scheduled for the Confirmation Hearing or as indicated in any notice of adjournment filed by the Debtors with the Bankruptcy Court, and the Plan may be further modified, if necessary, prior to, during, or as a result of the Confirmation Hearing, without further notice to parties in interest.

## 6. INJUNCTIONS, RELEASES AND EXCULPATION

The Plan contains certain injunction, release, and exculpation provisions, including releases by Holders of Claims and Interests, that are subject to approval by the Bankruptcy Court and may be found at Article X of the Plan and Article IV of the Disclosure Statement. **THUS, YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MAY BE AFFECTED THEREUNDER.**

## 7. RELEASES BY HOLDERS OF CLAIMS AND INTERESTS

Section 10.4(b) of Article X of the Plan provides for the following release by Holders of Claims and Interests:

(a) If you vote to reject the Plan you may opt out of the Releases in Section 10.4(b) of the Plan, which provide, among other things:

**Except as otherwise provided in the Plan or the Confirmation Order, as of the Effective Date, for good and valuable consideration, the adequacy of which will be thereby confirmed, including the service of, and contributions by, the Released Parties to facilitate and implement the Plan, including all of the transactions contemplated hereunder and as an integral component of the Plan, each Releasing Party, to the fullest extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, shall expressly, conclusively, absolutely, unconditionally, irrevocably, generally, individually and collectively, forever release, acquit and discharge the Debtors, Post-Effective Toisa, the Estates, the Released Parties, and the Management Company Released Parties<sup>3</sup>**

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<sup>3</sup> As set forth in further detail in Section IV(O)(4) of the Disclosure Statement, the inclusion of Management Company Released Parties in the release provisions in Section 10.4 of the Plan is still the  
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from any and all Claims (except for Claims of the Debtors against Management Company Released Parties that are expressly preserved by a stipulation or other agreement in effect as of Confirmation of the Plan), Interests, obligations, rights, demands, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative Claims asserted or assertable on behalf of a Debtor, any Claim or Causes of Action asserted or assertable on behalf of any Holder of any Claim against or Interest in the Debtors and any Claims or Causes of Action asserted or assertable on behalf of any other entity, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, in law, equity, contract, tort or otherwise, by statute or otherwise, that such Person or Persons (whether individually or collectively), ever had, now has or hereafter can, shall, or may have, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Debtors' restructuring or liquidation efforts, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan or the Plan Supplement, the business or contractual arrangements between any Debtor, Estate or non-Debtor Affiliate, Post-Effective Toisa and any Released Party, the reconciliation of Claims and Interests before or during the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, the Disclosure Statement, the Plan Supplement, or related agreements, instruments, or other documents, or any other act or omission, transaction, agreement, event or other occurrence including or pertaining to the Debtors and taking place on or before the Effective Date; *provided, however*, that nothing in Section 10.4(b) of the Plan shall be construed to release any party or entity from gross negligence, intentional fraud, willful misconduct, or criminal conduct, as determined by a Final Order of a court of competent jurisdiction; *provided further, however*, that Section 10.4(b) of the Plan shall not release the Debtors, Post-Effective Toisa, the Estates, or the Released Parties from any Cause of Action held by a governmental entity existing as of the Effective Date based on (i) the Internal Revenue Code or other domestic state, city, or municipal tax code, (ii) the environmental laws of the United States or any domestic state, city, or municipality, (iii) any criminal laws of the United States or any domestic state, city, or municipality, (iv) the Securities and Exchange Act of 1934 (as now in effect or hereafter amended), the Securities Act, or other securities laws of the United States or any domestic state, city, or municipality, (v) the Employee Retirement Income Security Act of 1974, as amended, or (vi) the laws and regulations

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subject of ongoing negotiations by the Debtors, the Management Company Released Parties, the Informal Committee, and the Secured Lenders thereon, and has not yet been agreed. The inclusion of the Management Company Released Parties in the release provisions in Section 10.4 of the Plan is contingent on an agreement being reached by such parties. In the event the parties cannot reach an agreement, the Debtors, the Informal Committee, the Secured Lenders, the Creditors' Committee, and the Management Company Released Parties reserve all rights.

of the Bureau of Customs and Border Protection of the United States Department of Homeland Security.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the third party release in Section 10.4(b) of the Plan, which includes by reference each of the related provisions and definitions contained in the Plan, and, further, shall constitute the Bankruptcy Court's finding that this third party release is: (1) in exchange for the good and valuable consideration and substantial contributions provided by the Released Parties; (2) a good-faith settlement and compromise of the claims released by the third party release; (3) in the best interests of the Debtors and all Holders of Claims and Interests; (4) fair, equitable, and reasonable; (5) given and made after due notice and opportunity for hearing; and (6) a bar to any of the releasing parties asserting any claim released pursuant to the third party release.

#### 8. OBJECTIONS TO CONFIRMATION

Any responses or objections to confirmation of the Plan must (a) be in writing; (b) comply with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, Chambers' procedures and other case management rules and orders of this Bankruptcy Court; (c) state the name and address of the responding or objecting party and the nature and amount of the claim against or interest in the estates or property of the Debtors; (d) state with particularity the legal and factual basis for such response or objection; (e) be filed with the Clerk of the United States Bankruptcy Court for the Southern District of New York, together with proof of service thereon; and (f) be served by personal service or overnight delivery, so as to be ACTUALLY RECEIVED no later than **March 4, 2019 at 4:00 p.m. (prevailing Eastern time)** by:

- (i) the Debtors, c/o AlixPartners, 909 Third Avenue, New York, NY 10022, Attn: Jonathan Mitchell;
- (ii) counsel to the Debtors, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, NY 10036, Attn: Albert Togut, Frank A. Oswald, Brian F. Moore and Kyle J. Ortiz;
- (iii) the Office of the United States Trustee, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, NY 10014, Attn: Paul K. Schwartzberg;
- (iv) Morgan, Lewis & Bockius LLP, counsel for the Official Committee of Unsecured Creditors, 101 Park Ave., New York, New York 10178, Attn: Crag A. Wolfe and Jason Alderson;

- (v) Cadwalader, Wickersham & Taft LLP, counsel to the Informal Committee of Secured Lenders, 200 Liberty Street, New York, New York 10281, Attn: Gregory M. Petrick and Michele C. Maman; and
- (vi) all entities that requested notice in these chapter 11 cases.

**ONLY THOSE RESPONSES OR OBJECTIONS THAT ARE TIMELY FILED AND RECEIVED WILL BE CONSIDERED BY THE BANKRUPTCY COURT. OBJECTIONS NOT TIMELY FILED AND SERVED IN THE MANNER SET FORTH ABOVE WILL NOT BE CONSIDERED AND WILL BE DEEMED OVERRULED.**

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**9. ADDITIONAL INFORMATION**

Copies of the Disclosure Statement and the Plan may be obtained from (i) the office of the Clerk of the Bankruptcy Court (the “Clerk’s Office”) during normal business hours; (ii) the Bankruptcy Court’s electronic case filing system at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov) (a PACER login and password are required to access documents on the Bankruptcy Court’s website and can be obtained through the PACER Service Center at [www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)); or (iii) the Debtors’ solicitation agent, Kurtzman Carson Consultants, LLC (the “Voting Agent”), (a) at the Debtors’ restructuring website at <http://www.kccllc.net/toisa>, (b) upon request by mail to the addresses set forth below or (c) upon request by telephone at (888) 830-4662 ((310) 751-2646 if calling outside the United States or Canada) or by e-mail at [ToisaInfo@kccllc.com](mailto:ToisaInfo@kccllc.com). **PLEASE NOTE: neither the staff of the Clerk’s Office nor the Voting Agent can give legal advice.**

IF BY FIRST-CLASS MAIL:	IF BY HAND DELIVERY OR OVERNIGHT COURIER:
<p style="text-align: center;">Toisa Limited Ballot Processing Center c/o Kurtzman Carson Consultants, LLC 2335 Alaska Avenue El Segundo, CA 90245</p>	<p style="text-align: center;">Toisa Limited Ballot Processing Center c/o Kurtzman Carson Consultants, LLC 2335 Alaska Avenue El Segundo, CA 90245</p>

Dated: New York, New York  
January 25, 2019

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*Counsel to the Debtors and Debtors in Possession*  
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