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CUKER INTERACTIVE, LLC

11 **UNITED STATES BANKRUPTCY COURT**  
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 In re  
14 CUKER INTERACTIVE, LLC,  
15  
16 Debtor in Possession.

Case No. 18-07363-LA11

**CUKER INTERACTIVE, LLC'S  
THIRD AMENDED CHAPTER 11  
PLAN OF REORGANIZATION,  
DATED AUGUST 6, 2020**

Hearing on Disclosure Statement

Date: September 17, 2020  
Time: 2:00 p.m.  
Dept: Two (2)

Honorable Louise DeCarl Adler

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I.

**INTRODUCTION**

Cuker Interactive, LLC respectfully proposes its Third Amended Plan<sup>1</sup> of Reorganization (the “Plan”) dated August 6, 2020, pursuant to Sections 1123 and 1129 of Bankruptcy Code.

**THE DOCUMENT YOU ARE READING IS THE PLAN.**

The purpose of this Plan is to provide creditors and interest holders of the Debtor the method by which the Debtor plans to reorganize and emerge from bankruptcy. If the Court confirms the Plan, it will be binding on the Debtor, but it leaves unaltered the legal, equitable, and contractual rights to which every claim or interest entitles the holder of such a claim or interest, including as such rights are affected or provided by the provisions of the Bankruptcy Code and Bankruptcy Rules.

This Plan contemplates a reorganization of the Debtor’s affairs to establish a well-managed and well-financed Cuker Interactive, LLC which has generated significant income for the benefit of creditors.

Holders of both unclassified Administrative claims (taxing authorities comprising the California Franchise Tax Board and the Internal Revenue Service) and all Allowed General Unsecured Claims will receive 100% of their Allowed Claims under the Plan on the later to occur of (i) the Effective Date (as defined by the Plan) or (ii) the date on which a creditor’s claim is determined by the Bankruptcy Code and Bankruptcy Rules, specifically including Section 502 of the Code and Bankruptcy Rule 3007, to be an Allowed Claim (as defined by the Plan). This will be accomplished by the Debtor’s use of its post-petition cash operating profits and, if necessary, by in the infusion of additional cash by Cuker’s insiders as loans made to the Debtor.

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<sup>1</sup> Capitalized terms used herein are defined in Section III below.

1 The Effective Date of this Plan will be the first Business Day which is at  
2 least twenty-one (21) days following the date of the entry of the Confirmation  
3 Order, assuming there has been no order staying the effectiveness of the  
4 Confirmation Order. Notwithstanding this, the Debtor may at its sole discretion  
5 waive the twenty-one (21) day requirement and ‘go effective’ at any time after  
6 confirmation of this Plan, upon two (2) Business Days’ notice to those creditors or  
7 other parties in interest that have objected to confirmation.

8 The Debtor believes this Plan will successfully reorganize the Debtor and  
9 that confirmation of the Plan is in the best interests of the Debtor, its Creditors, and  
10 other interest holders. Accordingly, the Debtor strongly believes its Plan should be  
11 confirmed.

12 **II.**

13 **DATE OF PLAN CONFIRMATION HEARING**

14 Pursuant to Section 1128 of the Bankruptcy Code, a Confirmation Hearing  
15 will be held on \_\_\_\_\_, 2020 at \_\_\_ Pacific Time, in Courtroom Two (2) located at  
16 325 West F Street, San Diego, CA 92101-6991. (If that date is blank, the Debtor  
17 will send you a separate notice of the specific dates of the confirmation hearing and  
18 related deadlines.) The Court may adjourn the Confirmation Hearing from time to  
19 time without further notice except for the announcement of the adjournment date  
20 made at the Confirmation Hearing or at any subsequent adjourned Confirmation  
21 Hearing.

22 Any objection to confirmation of the Plan must be made in writing and  
23 specify in detail the name of the objector and all grounds for the objection. Any  
24 such objection must be filed with the Court and served so that it is received by the  
25 Office of the United States Trustee, and the Debtor’s counsel at the addresses listed  
26 in the upper left-hand corner of the first page of this Plan on or before October \_\_,  
27  
28

1 2020.<sup>2</sup> (If that date is blank, the Debtor will send you a separate notice of the  
2 specific dates of the confirmation hearing and related deadlines.) Objections to  
3 confirmation of the Plan are governed by Bankruptcy Rule 9014.

4 Any party desiring further information about the Plan should contact counsel  
5 of record for Cuker using the contact information set forth in the upper left-hand  
6 corner of the first page of this Plan.

7 **III.**

8 **DEFINED TERMS**

9 The following terms (which appear in the Plan as capitalized terms) when  
10 used in the Plan have the meanings set forth below:

11 **"Administrative Claim"** means a Claim against the Debtor for  
12 administrative costs or expenses that are allowable under Bankruptcy Code Section  
13 503(b). These costs or expenses may include, without limitation: (a) actual costs or  
14 expenses that were incurred after the Petition Date and that were necessary to  
15 preserve the Debtor's Estate and operate the Debtor's business (such as employee  
16 wages); (b) Professional Fee Claims; (c) Administrative Tax Claims; (d) Ordinary  
17 Course Administrative Claims; (e) 503(b)(9) Claims; or (f) Non-Ordinary Course  
18 Administrative Claims (such as fees or charges assessed against the Debtor's Estate  
19 under 28 U.S.C. Section 1930 or Rejected Lease Administrative Claims).

20 **"Allowed"** refers to a Claim filed against the Debtor, other than an Allowed  
21 Administrative Claim, to the extent that:

22 (a) either: (1) a proof of Claim was timely Filed; or (2) a proof of Claim is  
23 deemed timely Filed either under Bankruptcy Rule 3003(b)(1) or by a Final Order;  
24 and

25 (b) either: (1) the Claim is not a Disputed Claim; or (2) the Claim, if  
26 objected to, is allowed by a Final Order.

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2 If you were served only by mail with the Notice of Motion to confirm the Plan, you may have three (3) additional days within which to file and  
28 serve any objection. See Bankruptcy Rule 9006(f).

1 Moreover, any portion of a Claim that is satisfied or released during the  
2 Reorganization before the Effective Date is not an Allowed Claim.

3 **"Appeal"** shall refer to the motion for new trial, motion for judgment  
4 notwithstanding the verdict or any other post-trial motion or any other appellate  
5 action currently pending or hereinafter filed that is related to the Judgment.

6 **"Bankruptcy Code"** means Title 11 of the United States Code, 11 U.S.C. §§  
7 101 et seq.

8 **"Bankruptcy Rule(s)"** means the Federal Rules of Bankruptcy Procedure.

9 **"Business Day"** means a day that is not a Saturday, Sunday, or legal  
10 holiday.

11 **"Calendar Quarter Date"** means the first date of a three-month period on  
12 an annual calendar, that is either the first day of January, April, July, or October.

13 **"Case"** means the voluntary bankruptcy case pending in the Southern  
14 District of California Bankruptcy Court – *In re Cuker Interactive, LLC*, Case No.  
15 18-07363- LA11.

16 **"Claim"** means a claim as the term "claim" is defined in Bankruptcy Code  
17 Section 101(5).

18 **"Claims Objection Deadline"** means the deadline for the Debtor to object  
19 to Claims or Interests, which is the Effective Date of the Plan.

20 **"Class"** means a group of Claims or Interests as classified under Section IV.

21 **"Collateral Exhaustion Date"** means the date on which the amount in the  
22 Wal-Mart Judgment Account is exhausted by the accrual of interest of the Secured  
23 Creditors having liens in the funds in the Wal-Mart Judgment Account, applied pro-  
24 rata at such creditors' respective asserted rate of interest. The Debtor believes that  
25 the lien or liens of all such Secured Creditors are of equal priority and will, unless  
26 the Court orders otherwise, distribute the funds from the Wal-Mart Judgment  
27 Account on that basis.

1           **"Confirmation Date"** means the date on which the Court enters the  
2 Confirmation Order on its docket.

3           **"Confirmation Hearing"** means the hearing, as it may be continued from  
4 time to time, where the Court considers confirmation of the Plan.

5           **"Confirmation Order"** means the Court order confirming the Plan under  
6 Bankruptcy Code Section 1129.

7           **"Court"** means the United States Bankruptcy Court for the Southern District  
8 of California or any other court that exercises jurisdiction over the Debtor's  
9 Reorganization Case.

10           **"Cuker"** means Cuker Interactive, LLC.

11           **"Debtor"** means Cuker as debtor and debtor-in-possession in its Chapter 11  
12 case.

13           **"Debtor's Contingency Counsel"** means Prata & Daley, LLP and Larson  
14 O'Brien LLP.

15           **"Default"** means the failure of the Reorganized Debtor to make any  
16 payments required under this Plan.

17           **"Disbursing Agent"** means the individual or entity tasked with making  
18 distributions to creditors as called for in this Plan. Reorganized Cuker shall serve as  
19 the Disbursing Agent of funds due to be paid under the Plan on and after the  
20 Effective Date.

21           **"Disputed Claim"** means a Claim:

22           (a) As to which a proof of Claim was filed or is deemed filed under  
23 Bankruptcy Rule 3003(b)(1); and

24           (b) As to which any party in interest entitled to do so, including the  
25 Debtor, has filed an objection and as to which that objection has not been overruled  
26 or denied by a Final Order or withdrawn with prejudice by the objecting party.

27           Notwithstanding the above, to the extent that the Reorganized Debtor  
28 disputes a Claim but does not dispute some portion of the Claim, the undisputed



1 portion of the Claim shall be treated as an Allowed Claim and only the disputed  
2 portion shall be treated as a Disputed Claim.

3 **"Effective Date"** means the date the Plan becomes effective which is either  
4 (1) first Business Day which is at least twenty-one (21) days following the date of  
5 the entry of the Confirmation Order, assuming there has been no order staying the  
6 effectiveness of the Confirmation Order or (2) such earlier date chosen by the  
7 Debtor, and upon at least two Business Days' notice to any party that objected to  
8 confirmation, in the event that the requirements set forth herein are waived by the  
9 Debtor.

10 **"Estate"** means the estate created in the Debtor's Reorganization Case under  
11 Bankruptcy Code Section 541.

12 **"Final Order"** means an order or judgment of the Court or another court of  
13 competent jurisdiction entered on such court's docket:

- 14 (a) That has not been reversed, rescinded, stayed, modified, or amended;  
15 (b) That is in full force and effect and is not subject to any stay of  
16 enforcement.

17 **"General Unsecured Claim"** means a Claim that is not an Administrative  
18 Claim, a Priority Tax Claim, a Priority Unsecured Claim, or a Secured Claim.

19 **"Henry Judgment"** means any judgment entered against the Debtor in the  
20 case of The Henry Law Firm v. Cuker Interactive, LLC, et., al., pending in the  
21 United States District Court for the Western District of Arkansas as case No. 5:18-  
22 cv-05066-TLB.

23 **"Insider"** shall have the meaning ascribed to it in Section 101(31) of the  
24 Bankruptcy Code and shall also include any party deemed to be a non-statutory  
25 insider by order of the Bankruptcy Court, and hereunder shall include the following  
26 individuals: Aaron Cuker, Adel Atalla and Patricia Atalla.

27 **"Interest(s)"** means the interest—as the term "interest" is defined in Section  
28 101(17) of the Bankruptcy Code—of any Person who holds an equity security in a

1 Debtor.

2 **"Person"** means any individual, corporation, general partnership, limited  
3 partnership, limited liability company, association, joint-stock company, joint  
4 venture, estate, trust, government, political subdivision, governmental unit (as  
5 defined in the Bankruptcy Code), or entity.

6 **"Petition Date"** means December 13, 2018 which is the date on which  
7 Cuker commenced its Case.

8 **"Plan"** means Cuker Interactive, LLC's *Third Amended Chapter 11 Plan of*  
9 *Reorganization Dated August 6, 2020*, including any modifications or amendments  
10 thereto.

11 **"Plan Segregated Accounts"** means one or more separate and segregated  
12 accounts maintained by Cuker at US Bank for the purpose of funding and holding  
13 sums to be paid to creditors.

14 **"Post-Petition Legal Interest"** means interest at the legal rate applicable to  
15 Federal judgments and applicable under Section 726(a)(5) of the Bankruptcy Code,  
16 which is the rate in effect as of the Debtor's Petition Date, 2.69% per year.

17 **"Priority Non-Tax Claim"** means an Allowed Claim entitled to priority  
18 under Bankruptcy Code Section 507(a)(3), 507(a)(4), or 507(a)(6).

19 **"Priority Tax Claim"** means an Allowed Claim entitled to priority against  
20 the Estate under Bankruptcy Code Section 507(a)(8).

21 **"Professional Fee Claim"** means:

22 (a) A Claim under Bankruptcy Code Section 327, 328, 330, 331,  
23 363, 503, or 1103 for compensation for professional services rendered or expenses  
24 incurred on behalf of the Estate; or

25 (b) A Claim either (i) under Bankruptcy Code Section 503(b)(4) for  
26 compensation for professional services rendered or (ii) under Bankruptcy Code  
27 Section 503(b)(3)(D) for expenses incurred in making a substantial contribution to  
28 the Estate.

1           **"Professional Fee Application Deadline"** means the date that is sixty (60)  
2 days after the Effective Date, except that the Debtor's Contingency Fee Counsel  
3 shall file their respective applications for allowance of fees and reimbursement of  
4 expenses not later than sixty (60) days following the conclusion of the respective  
5 contingency matter for which they were retained.

6           **"PWSP/Cuker Adversary Proceeding"** means that certain adversary  
7 proceeding now pending in the Bankruptcy Court as Adversary Proceeding Case  
8 No. 20-90075.

9           **"PWSP/Cuker Arbitration"** means that certain arbitration pending before  
10 the American Arbitration Association as its File No. 01-18-0001-5005 (or in such  
11 other forum as Cuker and PWSP mutually decide) and consisting of PWSP's claims  
12 for fees against Cuker and Cuker's counterclaims against PWSP.

13           **"Reorganization Case"** means the Debtor's voluntary bankruptcy case  
14 pending in the Court as *In re Cuker Interactive, LLC*, Case No. 18-07363-LA11.

15           **"Reorganized Cuker"** means Cuker on and after the Effective Date.

16           **"Reorganization Counsel"** means counsel for Cuker, Solomon Ward  
17 Seidenwurm & Smith LLP, Attn: Michael D. Breslauer, and The Broken-Bench  
18 Law Firm, Attn: Robert R. Barnes.

19           **"Reorganized Debtor"** means the Debtor on and after the Effective Date.

20           **"Schedule of Assumed Agreements"** means the schedule of executory  
21 contracts and unexpired leases that the Reorganized Debtor will assume under and  
22 in accordance with the Plan, as such schedule may be amended or modified prior to  
23 the Confirmation Hearing. The Schedule of Assumed Agreements is attached hereto  
24 as Exhibit 1.

25           **"Schedules"** means the Schedules of Assets and Liabilities and Statement of  
26 Financial Affairs, as they may be amended from time to time, that the Debtor filed  
27 in compliance with Bankruptcy Code Section 521(1).  
28

1 **"Secured Claim"** means a Claim that is secured by a valid, unavoids, and  
2 unavoidable lien against or security interest in property in which the Estate has an  
3 interest or that is subject to setoff under Bankruptcy Code Section 553. A Claim is a  
4 Secured Claim only to the extent of the value of the claimholder's interest in that  
5 property or to the extent of the amount subject to setoff, as applicable, as  
6 determined under Bankruptcy Code Section 506(a).

7 **"Statutory Interest Rate"** means the applicable rate of interest on tax  
8 claims as determined under applicable non-bankruptcy law, as made applicable to  
9 this Reorganization Case pursuant to Bankruptcy Code Section 511.

10 **"Unsecured Claim"** means a Claim that is not an Administrative Claim, a  
11 Priority Tax Claim, a Priority Claim, or a Secured Claim.

12 **"Wal-Mart Judgment"** means the Amended Judgment entered in Cuker's  
13 favor and against Wal-Mart by the United States District Court for the Western  
14 District of Arkansas as Case No.14-cv-05262-TLB as Docket No. 525.

15 **"Wal-Mart Judgment Account"** means account No. xxxx-xxxx-6994 at US  
16 Bank which is the receptacle of all proceeds from the Wal-Mart Judgment paid by  
17 Wal-Mart to Cuker in satisfaction of the money damages portion of the Wal-Mart  
18 Judgment. The Wal-Mart Judgment Account is by stipulation and Order under the  
19 jurisdiction of the Bankruptcy Court and subject to further court order.

20 **"Wal-Mart Injunction Litigation"** means the action pending in the United  
21 States District Court for the Western District of Arkansas known as *Wal-Mart v.*  
22 *Cuker*, Case No. 14-cv-05262-TLB.

23 **IV.**

24 **CLASSIFICATION AND TREATMENT OF CLAIMS UNDER THE PLAN**

25 **A. Classification and Treatment of Claims**

26 The Plan separately categorizes classes of Claims asserted against Cuker. As  
27 required by the Bankruptcy Code, claims and interests of the Debtor are classified  
28 in separate and distinct classes according to their right to priority and other relative

1 rights in a way that comports with 11 U.S.C. Section 1112.

2 The Plan does not alter the legal, equitable, and contractual rights to which  
 3 any claim or interest entitles the holder of such claim or interest. If the Plan alters  
 4 such rights, it cannot be confirmed. The Plan will be, and hereby is, changed to  
 5 ensure that it does not alter such rights. This Plan may not be confirmed if it would  
 6 impair such rights; if it seems to impair right rights, it is pro tanto amended to avoid  
 7 such impairment.

8

Class/Status	Description of Class/Status	Voting Status
Unclassified	Priority Non-Tax Claims	Unimpaired. Not entitled to vote.
Unclassified	Priority tax Claims owed to the Internal Revenue Service	Unimpaired. Not entitled to vote.
Unclassified	Priority Tax Claims owed to the California Franchise Tax Board	Unimpaired. Not entitled to vote.
Class 1	Priority Non-tax claims	Unimpaired. Not entitled to vote.
Class 2	Secured Claim of the Wolfe Legal Group, PC	Unimpaired. Not entitled to vote.
Class 3A	Secured Claim of the Henry Law Firm	Unimpaired. Not entitled to vote.
Class 3B	Secured Claim of Pillsbury Winthrop Shaw Pittman, LLP	Unimpaired. Not entitled to vote.
Class 3C	Secured Claim of Shults & Adams, LLP	Unimpaired. Not entitled to vote.
Class 3D	Secured Claim of the Hashem Law Firm	Settled and not participating.
Class 4	General Unsecured Claims	Unimpaired. Not entitled to vote.
Class 4A	General Unsecured Claim of	Unimpaired. Not entitled to vote.

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1		Husch Blackwell	
2	Class 4B	General Unsecured Claim of	Unimpaired. Not entitled to vote.
3		ACAR Leasing LTD d/b/a GM	
4		Financial Leasing	
5	Class 5	Secured and Unsecured claims	Unimpaired. Not entitled to vote
6		of Insiders	
7	Class 6	Equity interests of Cuker	Unimpaired. Not entitled to vote.
8		Design, Inc.	

10 **1. Treatment of Unclassified Claims**

11  
 12 Certain types of claims are not placed into voting classes. Instead, they are  
 13 unclassified. They are not considered Impaired and they do not vote on the Plan  
 14 because they are automatically entitled to the specific treatment provided for them  
 15 in the Bankruptcy Code. As such, the Plan has not placed the following claims in a  
 16 class:

17 **(a) Administrative Expenses**

18 Administrative expenses are claims for costs or expenses of administering the  
 19 case that are allowed under 11 U.S.C. Section 507(a)(2). Subject to the bar date  
 20 provisions herein and additional requirements for Professionals and certain other  
 21 entities set forth below, the Reorganized Debtor shall pay to each holder of an  
 22 Allowed Administrative Claim, on account of its Allowed Administrative Claim  
 23 and in full satisfaction thereof, cash equal to the allowed amount of such  
 24 Administrative Claim on the Effective Date or as soon as practicable thereafter,  
 25 unless the holder agrees or shall have agreed to other treatment of such Claim.  
 26 Holders of Administrative Claims based on liabilities incurred post-petition in the  
 27 ordinary course of business, including ordinary course professionals, shall not be  
 28 required to file any request for payment of such Claims. Such Administrative

1 Claims shall be assumed and paid pursuant to the terms and conditions of the  
 2 particular transaction giving rise to such Administrative Claim, without any further  
 3 action by the holders of such Claims.

4 The Debtor has no unpaid obligations arising in the ordinary course of its  
 5 business, except such sums coming due in the ordinary course of business within 30  
 6 days following invoice or according to terms. The following chart lists all of  
 7 Cuker’s known Section 507(a)(2) Administrative Claims and their treatment under  
 8 the Plan:

<u>Name</u>	<u>Amount Currently Owed</u>	<u>Amount Previously Paid</u>	<u>Treatment</u>
Solomon Ward Seidenwurm & Smith, LLP, General Bankruptcy Counsel for Cuker	\$117,000 (est.)	\$178,038 in fees and \$1,516.25 in costs <sup>3</sup>	Paid in full on the later of the Effective Date or the date of entry of an order approving the claimant’s final fee award unless claimant agrees to a different treatment.  Final claim amount pending order approving final fee application.
The Broken-Bench Law Firm	\$22,000.00	\$0.00	Paid in full on the later of the Effective Date or the date of entry of an order approving the claimant’s final fee award unless claimant agrees to a

3 Solomon Ward Seidenwurm & Smith LLP has received a pre-petition retainer and post-petition payments amount for the Debtor as disclosed in the Firm’s three interim fee applications.

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			different treatment.  Final claim amount pending order approving final fee application.
Robins Kaplan, LLP, Special Appellate Counsel for Cuker.	\$0.00	\$255,000.00 <sup>4</sup>	Previously paid in full prior to the Effective Date.
Squar Milner, Accountants and Advisors for Cuker	\$25,000.00 (est)	\$0.00 <sup>5</sup>	Paid in full on the later of the Effective Date or the date of entry of an order approving the claimant's final fee award unless claimant agrees to a different treatment.  Final claim amount pending order approving final fee application.
Prata & Daley, LLP	\$0.00	\$0.00	Debtor's contingency counsel; fees payable upon final fee application following conclusion of the PWSP/Cuker Arbitration, the Henry Claim

<sup>4</sup> During the Bankruptcy Case, Robins Kaplan has received \$100,000 with Bankruptcy Court approval from the Debtor in connection with their application to be employed and \$155,000 directly from Wal-Mart as allowed and arising from an award rendered by the United States Court of Appeals for the Eighth Circuit.

<sup>5</sup> Squar Milner has not received any pre-petition retainer or post-petition payments from the Debtor.



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			Objection and the Wal-Mart Injunction Litigation.
Larson O'Brien, LLP	\$0.00	\$0.00	Debtor's contingency counsel; fees payable upon final fee application following conclusion of the Wal-Mart Injunction Litigation.
Clerk's Office Fees	Unknown, but estimated to be less than \$1,000	n/a	Paid in full on the Effective Date.
Office of the U.S. Trustee Fees	Unknown, but estimated to be less than \$5,000	n/a	Paid in full on the Effective Date
<b>TOTAL</b>	<b>\$164,000.00 (est)</b>		

The Court must rule on all fees and costs of estate professionals listed in this chart before such fees will be allowed. For each estate professional, the professional in question must file and serve a properly noticed final fee application and the Court must rule on the application. Such final applications shall be filed no later than the Professional Fee Application Deadline. Only the amount of fees allowed by the Court for such professional will be required to be paid under the Plan. The Administrative Claim amounts set forth above simply represent the Debtor's best estimate as to the amount of allowed Administrative Claims. The actual allowed amount of Administrative Claims may be higher or lower.

**(b) Unclassified - Priority Tax Claims**

Priority Tax Claims include certain unsecured income, employment and other taxes described by 11 U.S.C. Section 507(a)(8). The Bankruptcy Code requires that each holder of Section 507(a)(8) priority tax claim receive the present value of such claim in regular installment payments in cash (i) of a total value, as of the Effective

1 Date of the Plan, equal to the allowed amount of such claim; (ii) over a period  
 2 ending not later than five (5) years after the Petition Date; and (iii) in a manner not  
 3 less favorable than the most favored non priority unsecured claim provided for  
 4 under the Plan. Allowed Priority Tax Claims will be paid by Reorganized Cuker in  
 5 cash in full on the Effective Date, with Post-Petition Legal Interest, until the date of  
 6 payment.

7 The following chart lists all of Cuker’s Section 507(a)(8) priority tax claims  
 8 and their treatment under the Plan:<sup>6</sup> The chart is based on the filed and scheduled  
 9 claims in these cases.

<u>Description</u>	<u>Amount Owed</u>	<u>Treatment</u>
Internal Revenue Service	\$361,408.40 (per amended Claim No. 3-3 and inclusive of Creditor’s General Unsecured Claim of \$92,646.27), Plus Post-Petition Legal Interest at 2.69% of \$16,726.97 as of September 1, 2020 (\$26.64/day).	Paid in full in cash on the Effective Date.
California Franchise Tax Board	\$3,830.62 (per Claim No. 4 and inclusive of Creditors general Unsecured Claim of \$2,214.84, Plus Post-Petition Legal Interest at 2.69% of \$177.29 as of September 1, 2020 (\$0.28/day).	Paid in full in cash on the Effective Date.
<b>TOTAL</b>	<b>\$382,143.28</b>	

24 **2. Treatment of Classified Claims and Interests**

25 *An overriding term regarding unimpairment.* This Plan cannot be confirmed

27 <sup>6</sup> The chart is for informational purposes only and is not an admission as to the validity of any  
 28 particular claim.

1 if the Bankruptcy Court determines that the Plan impairs a Class of Creditors. The  
2 Plan is intended to leave unaltered the legal, equitable, and contractual rights held  
3 by the Creditors. The Debtor believes that these rights, not to be altered by the Plan,  
4 are altered, and may be altered, not by the Plan but by applicable law, such as the  
5 Bankruptcy Code, including for example, Sections 502 and 506 of the Code. If the  
6 Bankruptcy Court determines that *the Plan* in fact impairs a Class, the Debtor will  
7 amend the Plan to remove the offending, “impairing” alteration of rights. (The  
8 Debtor also reserves the right to withdraw the Plan or to propose a plan that does  
9 impair a Class.)

10 (a) **Class 1 – Priority Non-Tax Claims, If Any**

11 Certain priority claims that are referred to in Bankruptcy Code Sections  
12 507(a)(3), (4), (5), (6), and (7) are required to be placed in a class or classes. These  
13 types of claims are entitled to priority treatment as follows: each holder of such a  
14 Class 1 Claim shall receive cash equal to the allowed amount of such Priority Non-  
15 Tax Claim from Reorganized Cuker on the Effective Date, unless the holder agrees  
16 or shall have agreed to other treatment with respect to such Claim.

17 Creditors in Class 1 are not impaired and not entitled to vote on the Plan.

18 Cuker does not believe there are any creditors in Class 1.

19 (b) **Class 2 – Secured Claim of Wolfe Legal Group**

20 Class 2 consists of the Secured Claim of Wolfe Legal Group (“WLG”)  
21 related to WLG’s prior legal representation of the Debtor in the amount of  
22 \$75,366.96, secured by funds in WLG’s possession of \$61,765.45, leaving a  
23 unsecured deficiency of \$13,601.51 (the “WLG Deficiency”) as reflected in the  
24 WLG’s amended proof of claim (the “WLG Claim”). This Plan leaves unaltered as  
25 of the Effective Date WLG’s legal, equitable, and contractual rights which WLG  
26 holds, specifically including as such rights are affected by the provisions of the  
27 Bankruptcy Code or Rules.  
28

1 The Plan does not affect the Debtor's right to object to the WLG Claim and  
2 will reserve funds in the WLG Segregated Account in the sum of \$23,484.05  
3 which, combined with the funds in the WLG trust Account, \$61,765.45 is sufficient  
4 to fully pay the WLG claim upon Allowance in the sum of (i) \$75,366.96 PLUS (ii)  
5 Post-Petition Legal Interest on the WLG Claim (estimated to be \$3,488.19) PLUS  
6 (iii) interest at WLG's contract rate, 21.6% per annum after the Effective Date  
7 (estimated at \$6,394.35 for six (6) months pending resolution of such objection).  
8 Within three (3) Business Days following the date on which the WLG claim  
9 becomes an Allowed Claim, WLG may apply funds in its retainer account (stated as  
10 \$61,765.45 in the WLG Claim) to partially satisfy the WLG claim and will receive  
11 the amount necessary from the WLG Segregated Account, and such additional sum  
12 as is necessary to pay the WLG Allowed Claim in full.

13 Class 2 is Unimpaired and not entitled to vote on the Plan.

14 (c) **Claims secured by the Wal-Mart Judgment Account**

15 Class 3 consists of three distinct claims asserted by three distinct creditors.  
16 Each claim purports to be secured by a lien on or security interest in the Wal-Mart  
17 Judgment Account. As far as the Debtor knows, no creditor in Class 3 is entitled to  
18 assert a lien on or security interest in the Wal-Mart Judgment Account that is senior  
19 to the lien or security interest asserted by any other creditor in Class 3. As a result,  
20 the Plan assumes (but does not determine and is not conditioned upon a  
21 determination) that each creditor in Class 3 shares a lien or security interest of equal  
22 priority with that of the other two creditors. The Debtor proposes to distribute the  
23 funds in the Wal-Mart Judgment Account on the basis of this *pari passu* equal  
24 priority. If the Court finds, upon motion of a Class 3 creditor, that any particular is  
25 entitled to a different priority (and if such priority dispute has not otherwise been  
26 dealt with under an earlier stipulation and order), the Debtor will provide  
27 unimpaired treatment under this Plan in accordance with the Court's determination.  
28

1                    **(d)    Class 3A – Secured Claim of The Henry Law Firm**

2                    Class 3A consists of the Secured Claim of the Henry Law Firm (“HLF”) as  
3                    evidenced by HLG’s proof of Claim No. 12 (the “Henry Claim”). This Plan leaves  
4                    unaltered HLG’s legal, equitable, and contractual rights which HLG holds,  
5                    specifically including as such rights are affected by the provisions of the  
6                    Bankruptcy Code or Rules.

7                    Payment of the Henry Claim is the subject of a separate stipulation. If that  
8                    stipulation is approved by the Court, the Henry Claim will be paid in accordance  
9                    with that separate stipulation (and order), the Henry Claim will be deemed satisfied  
10                   and withdrawn, and this Plan will not further deal with the Henry Claim.

11                   Class 3A is Unimpaired and not entitled to vote on the Plan.

12                   **(e)    Class 3B – Secured Claim of Pillsbury Winthrop Shaw**  
13                   **Pittman**

14                   Class 3B consists of the Secured Claim of Pillsbury Winthrop Shaw Pittman  
15                   (“PWSP”) filed as claim No. 13 (the “PWSP Claim”). This Plan leaves unaltered  
16                   PWSP’s legal, equitable, and contractual rights which PWSP holds, specifically  
17                   including as such rights are affected by the provisions of the Bankruptcy Code or  
18                   Rules.

19                   The Plan does not affect the existing ability of the Bankruptcy Court to enter  
20                   orders with respect to the Wal-Mart Judgment Account or PSWP’s lien, if any, with  
21                   respect thereto, and PWSP shall retain its lien in the Wal-Mart Judgment and its  
22                   proceeds in the Wal-Mart Judgment Account to be shared, if necessary, pro-rata  
23                   with the holders of Classes 3A and 3C. The date of distribution to PWSP from the  
24                   Debtor shall be the later of (i) the Effective Date and (ii) the date when the PWSP  
25                   Claim becomes an Allowed Claim following the resolution of the PWSP Claim  
26                   Objection (the “PWSP Payment Date”). On the PWSP Payment Date, PWSP shall  
27                   be paid from the Wal-Mart Judgment Account its pro-rata proceeds in the amount  
28                   of (i) the PWSP Claim PLUS (ii) interest on the principal balance of the PWSP

1 Claim at PWSP's asserted rate of 10% from the Petition Date through the Collateral  
2 Exhaustion Date, PLUS (iii) Post-Petition Legal Interest through the Effective Date  
3 on PWSP's Deficiency Claim; PLUS (iv) interest at PWSP's principal balance at  
4 the asserted rate of 10% from the Effective Date until the PWSP Claim Objection is  
5 determined. If Cuker is successful in challenging the secured status of PWSP  
6 (whether in the PWSP/Cuker Adversary Proceeding or in the arbitration), then a  
7 sum equal to the PWSP Claim shall be transferred from the Wal-Mart Judgment  
8 Account to the Plan Segregated Account. The Debtor will place in the Plan  
9 Segregated Account a sum equal to Post-Petition Legal Interest through the  
10 Effective Date on PWSP's Deficiency Claim and interest at PWSP's asserted rate  
11 of 10% on the PWSP Claim calculated based on the Debtor's estimate of 9 months  
12 until the PWSP Claim Objection is determined.

13 Class 3B is unimpaired and not entitled to vote on the Plan.

14 **(f) Class 3C – Secured Claim of Shults & Adams**

15 Class 3C consists of the Secured Claim of the Shults & Adams, LLP ("SA")  
16 filed as Claim No. 10 (the "SA Claim"). This Plan leaves unaltered as of the  
17 Effective Date SA's legal, equitable and contractual rights which SA holds,  
18 specifically including as such rights are affected by the provisions of the  
19 Bankruptcy Code or Rules.

20 Payment of the SA Claim is the subject of a separate stipulation. If that  
21 stipulation is approved by the Court, the SA Claim will be paid in accordance with  
22 that separate stipulation (and order), the SA Claim will be deemed satisfied and  
23 withdrawn, and this Plan will not further deal with the SA Claim.

24 The Plan does not affect the existing ability of the Bankruptcy Court to enter  
25 orders with respect to the Wal-Mart Judgment Account or SA's lien, if any, with  
26 respect thereto, and SA shall retain its lien in the Wal-Mart Judgment and its  
27 proceeds in the Wal-Mart Judgment Account to be shared, if necessary, pro-rata  
28 with the holders of Classes 3A and 3B.

1 Class 3C is unimpaired and not entitled to vote on the Plan.

2 (g) **Class 3D – Secured Claim of The Hashem Law Firm**

3 Class 3D consists of the Secured Claim of the Hashem Law Firm  
4 (“Hashem”). The Debtor listed Hashem’s claims as “disputed” and Hashem filed no  
5 claim in the Debtor’s case.

6 Hashem has no claim against the Debtor, or the estate, and Hashem and the  
7 Debtor have settled and mutually released one another from all known and  
8 unknown claims. Accordingly, Class 3D has no further secured or unsecured claim  
9 against the Debtor and does not participate in the Plan.

10 Class 3D is not entitled to vote on the Plan.

11 (h) **Class 4 Allowed General Unsecured Claims**

12 Class 4 consists of all Allowed Unsecured Claims, except for the HB Claim  
13 and the ACAR Leasing Claim, treated, respectively, as Classes 4A and 4B, herein.  
14 This Plan leaves unaltered as of the Effective Date all Class 4 Creditors’ legal,  
15 equitable and contractual rights which Creditors hold, specifically including as such  
16 rights are affected by the provisions of the Bankruptcy Code or Rules.

17 On account of the Allowed Class 4 Claims, holders of Class 4 Claims shall  
18 be paid in full, including Post-Petition Legal Interest, on the later to occur of (i) the  
19 Effective Date or (ii) the date such Creditor’s Claim is deemed to be an Allowed  
20 Claim. If an objection is filed to any Class 4 Claim the Debtor shall place in the  
21 Plan Segregated Account an amount equal to (a) such Class 4 Creditor’s claim,  
22 PLUS (b) Post-Petition Legal Interest on such Claim, PLUS (c) an amount equal to  
23 interest on the creditor’s principal balance such claim at the applicable non-  
24 bankruptcy law rate until such claim objection is determined.

25 Class 4 is unimpaired and not entitled to vote on the Plan.

26 (i) **Class 4A - Allowed General Unsecured Claim of Husch**  
27 **Blackwell**

28 Class 4A consists of the Allowed unsecured claim of Husch Blackwell

1 (“HB”) filed as claim No. 7 (the “HB Claim”) as treated and settled hereunder. The  
2 Plan leaves unaltered all legal, equitable and contractual rights to which each holder  
3 of Class 4A Claim is entitled, specifically including as such rights are affected by  
4 the provisions of the Bankruptcy Code or Rules.

5 The Debtor and HB have agreed, subject to Court approval under Bankruptcy  
6 rule 9019 and the condition described below, to the allowance of the HB Claim in  
7 the amount of \$45,506.88. The condition to the reduction of the HB Claim to that  
8 amount is that the amount be paid (without interest) under a confirmed plan on or  
9 before January 31, 2021. The Debtor will separately file and serve a notice of  
10 intended action to obtain the required Court approval.

11 Class 4A is unimpaired and not entitled to vote on the Plan.

12 (j) **Class 4B - Allowed General Unsecured Claim of ACAR**  
13 **Leasing LTD dba GM Financial Leasing**

14 Class 4B consists of the Allowed unsecured claim of ACAR Leasing LTD,  
15 dba GM Financial Leasing (“ACAR”) filed an amended claim No. 2-1 (the “ACAR  
16 Claim”) as treated and settled hereunder. The Plan leaves unaltered all legal,  
17 equitable and contractual rights to which each holder of Class 4B Claim is entitled,  
18 specifically including as such rights are affected by the provisions of the  
19 Bankruptcy Code or Rules.

20 The ACAR Claim reflects prospective unpaid lease payments (as of the date  
21 of filing the ACAR Claim) for a 2018 Chevrolet Tahoe motor vehicle by Cuker and  
22 Aaron Cuker pursuant to governed by that certain Lease Agreement dated as of  
23 March 15, 2018 (the “Lease Agreement”, as attached to the ACAR Claim). No past  
24 due or cure sums are owed under the Lease Agreement and the Plan shall operate  
25 pursuant to Bankruptcy Code Section 365 to assume the Lease Agreement  
26 concurrently with the Confirmation Order. The Debtor or Aaron Cuker shall  
27 continue to make regular monthly payments as called for and pursuant to the terms  
28 of the Lease Agreement until the end of the Lease term, in March 2021.



1 Class 4B is unimpaired and not entitled to vote on the Plan.

2 (k) **Class 5 – Secured and Unsecured Claims of Insiders**

3 Class 5 consists of the secured and unsecured claims of Insiders. These  
4 claims consist of unsecured Claim No 14 filed by Adel Atalla and Secured claims  
5 Nos. 9 and 15 filed by Aaron Cuker and Patricia Atalla, respectively. The Plan  
6 leaves unaltered all legal, equitable and contractual rights to which each holder of a  
7 Class 5 Claim is entitled, specifically including as such rights are affected by the  
8 provisions of the Bankruptcy Code or Rules. The holders of Class 6 claims shall  
9 retain any and all pre-petition liens and contracts held against the Debtor and  
10 property of the Debtor’s estate. Each Class 5 Claimant has by separate contract  
11 agreed to forbear from collection acts or receipt of any money or property from the  
12 Debtor or the Debtor’s estate on account of such claims (but each may continue to  
13 receive salary and benefits paid in the ordinary course of Cuker’s business) until all  
14 other claims and classes of claims have been paid in full under this Plan.

15 Confirmation of this Plan does not in any way alter any right that the Debtor,  
16 the Insiders, or any other party in interest may have to object to any claim  
17 (including any claim held or asserted by an Insider), to seek subordination or  
18 equivalent relief under Section 510 of the Bankruptcy Code or otherwise, or to  
19 avoid or otherwise challenge any claim, security interest, or lien under the  
20 “avoidance powers” statutes of the Bankruptcy Code, Sections 544–550 of the  
21 Bankruptcy Code, or otherwise. Neither does the Plan grant any such right that the  
22 Debtor, the Insider, or any other party in interest does not otherwise have without  
23 regard to the Plan.

24 Class 5 is unimpaired and not entitled to vote on the Plan.

25 (l) **Class 6 – Membership Interest of Cuker Design, Inc.**

26 Class 6 consists of the 100% membership interest in the Debtor held by  
27 Cuker Design, Inc, a California corporation. The Plan leaves unaltered all legal,  
28 equitable and contractual rights to which each holder of Class 6 Claim is entitled,

1 except as such rights are affected solely by the provisions of the Bankruptcy Code.  
2 The holder of Class 6 interests shall retain any and all membership interests in the  
3 Debtor.

4 Class 6 is unimpaired and not entitled to vote on the Plan.

5 **B. Overriding Treatment Regarding Interest**

6 Notwithstanding anything else in this Plan:

7 1. Every unpaid Claim bears interest from and after the Effective Date  
8 until the Claim is paid at a minimum interest rate equal to the interest rate that is  
9 required under applicable nonbankruptcy law or under the agreement between such  
10 Creditor and the Debtor. If neither nonbankruptcy law nor an agreement between  
11 such Creditor and the Debtor provides for interest, then the Claim shall bear interest  
12 at the daily rate equivalent to the Post-Petition Legal Rate.

13 2. Every Secured Claim bears interest at the rate specified under Section  
14 506(b) until the collateral securing such Secured Claim has been exhausted.

15 3. At no time will any Claim bear interest less than the daily interest  
16 equivalent to the Post-Petition Legal Rate.

17 4. If the Court determines that for any period, an interest higher than the  
18 Post-Petition Legal Rate is required to leave the holder of a claim “unimpaired,”  
19 then the Plan shall provide that interest rate necessary to leave such claim  
20 unimpaired.

21 **V.**

22 **MEANS OF EFFECTUATING THE PLAN AND OTHER PROVISIONS**

23 **A. Funding of Reorganized Cuker**

24 Reorganized Cuker will be funded from (i) cash on hand as of the Effective  
25 Date, (ii) revenue generated from the operations of Cuker’s business and, (iii) a  
26 cash loan made by Aaron Cuker in a sufficient amount to fund all the Debtor’s  
27 Effective Date obligations under this Plan. This amount shall include all sums owed  
28 to any creditor holding a disputed claim, to be held in a separate segregated account

1 pending the allowance of such Disputed Claim (the “Plan Segregated Account”).

2 By separate Agreements, made in contemplation of confirmation of this Plan  
3 but neither affected nor effected by this Plan, the Insiders have agreed to forbear  
4 from collection or receipt of any money or property on account of their claims  
5 (exclusive of salary and benefits paid in the ordinary course of business) until all  
6 Allowed Claims have been fully paid. The specific terms and conditions of such  
7 Forbearance Agreement, not directly a part of this Plan, are set forth in Exhibits to  
8 the Disclosure Statement that accompanies this Plan.

9 **B. Composition of Reorganized Cuker and Post-Confirmation Management**

10 The Debtor will become the Reorganized Debtor on the Effective Date. The  
11 Reorganized Debtor shall be responsible for managing its assets and financial  
12 affairs.

13 The Debtor’s current management consisting of Adel Atalla (President),  
14 Aaron Cuker (Chief Executive Officer) and Lori O’Brien (Chief Financial Officer)  
15 will continue in these capacities after the Effective Date. In addition to Adel Atalla  
16 and Aaron Cuker, The Debtor will continue to employ Insiders Patricia Atalla,  
17 Osama Atalla, and Lydia Cuker post-confirmation. The post Effective Date  
18 compensation of all Insiders will initially be equal to amounts authorized by the  
19 Court during the pendency of the Bankruptcy Case but following the Effective Date  
20 will no longer be subject to approval by the Bankruptcy Court.

21 **C. Disbursing Agent**

22 Reorganized Cuker shall serve as the Disbursing Agent for all obligations of  
23 Reorganized Cuker under this Plan.

24 **D. Objection to Claims**

25 The Plan does not affect the ability of the Debtor or the Reorganized Debtor,  
26 as the case may be, or any other party in interest to review all Claims filed or  
27 deemed filed and object to or seek subordination of any Claim filed or scheduled in  
28 this Case. The Claims Objection Deadline [as to Cuker] shall be on or before the

1 Effective Date, and any claim objection by Cuker must be filed within that deadline  
2 unless a motion to extend the Claims Objection Deadline is filed prior to the  
3 expiration of such deadline and an order is ultimately entered extending such  
4 deadline. The Court shall retain jurisdiction over the Case to resolve such  
5 objections to claims following the confirmation of the Plan. Nothing contained in  
6 this Plan shall constitute a waiver or release by the Debtor or the Reorganized  
7 Debtor of any rights of setoff or recoupment, or of any defense a creditor may have  
8 with respect to any claim.

9 **E. Estimation of Claims**

10 The Debtor or the Reorganized Debtor may, at any time, request that the  
11 Court estimate any contingent, unliquidated or disputed Claim pursuant to 11  
12 U.S.C. Section 502(c) regardless of whether the Debtor or the Reorganized Debtor  
13 previously objected to such claim or whether the Court has ruled on any such  
14 objection, and the Court will retain jurisdiction to estimate any claim at any time  
15 during litigation concerning any objection to any claim, including during the  
16 pendency of any appeal relating to any such objection. In the event that the Court  
17 estimates any contingent, unliquidated, or disputed claim, that estimated amount  
18 will constitute either the allowed amount of such claim or a maximum limitation on  
19 such claim, as determined by the Court. If the estimated amount constitutes a  
20 maximum limitation on such claim, the Debtor or the Reorganized Debtor may  
21 elect to pursue any supplemental proceedings to object to any ultimate payment on  
22 such claim.

23 **F. Distributions to be Made Pursuant to the Plan**

24 Distributions to be made to holders of Allowed Claims shall be made as set  
25 forth in Section IV above. Distributions to be made under the Plan shall be made by  
26 check drawn on a domestic bank or by wire transfer, at the sole election of  
27 Reorganized Cuker.  
28

1 Except as otherwise agreed upon by Reorganized Cuker in writing,  
2 distributions to be made to holders of Allowed Claims pursuant to this Plan may be  
3 delivered by regular mail, postage prepaid, to the address shown in the Debtor's  
4 Schedules, as they may from time to time be amended in accordance with Rule  
5 1009 of the Federal Rules of Bankruptcy Procedure, or if a different address is  
6 stated in a proof of claim duly filed with the Court, to such address. Nothing  
7 contained in the Plan shall require the Reorganized Debtor to attempt to locate any  
8 holder of an Allowed Claim.

9 Checks issued by the Reorganized Debtor to pay Allowed Claims shall be  
10 null and void if not negotiated within sixty (60) days after the date of issuance  
11 thereof (the "**Claiming Period**"). Requests for reissuance of any check shall be  
12 made to the Reorganized Debtor by the holder of the Allowed Claim to whom such  
13 check originally was issued, within sixty (60) days after the original date of  
14 issuance. Any unclaimed funds remaining with the Debtor following full  
15 performance of the Plan shall revert in the reorganized Debtor free and clear of any  
16 Claim or interest

17 **G. Fractional Dollars, De Minimis Distributions**

18 Notwithstanding anything contained herein to the contrary, payments of  
19 fractions of dollars will not be made. Whenever any payment of a fraction of a  
20 dollar under the Plan would otherwise be called for, the actual payment made will  
21 reflect a rounding of such fraction to the nearest dollar (up or down) with half  
22 dollars being rounded down.

23 **VI.**

24 **EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

25 **A. Executory Contracts Being Assumed**

26 Attached as Exhibit 1 to this Plan is a schedule of non-previously assumed  
27 pre-petition executory contracts and unexpired leases which the Debtor intends to  
28 assume and the cure amounts with respect to each assumed lease/contract. Such

1 assumption is undertaken pursuant Bankruptcy Code §§365(a) and 1123(b)(2). The  
2 stated cure amounts are subject to all defenses and disputes the Debtor or the  
3 Reorganized Debtor may have with respect to the underlying executory contracts or  
4 unexpired leases, which the Debtor or the Reorganized Debtor may assert in the  
5 ordinary course. Unless the counterparty to any such executory contract or  
6 unexpired lease to be assumed files and serves on Reorganization Counsel an  
7 objection to the cure amount specified on Exhibit 1 hereto on or before the last date  
8 established by the Court to file and serve objections to confirmation of the Plan,  
9 such cure amount shall be forever binding on such non-debtor party to said  
10 executory contract or unexpired lease.

11 To the extent a dispute arises as to an assumption and/or the cure amount,  
12 such a dispute shall not delay confirmation of this Plan or the Effective Date. The  
13 Debtor or Reorganized Debtor, as applicable, must reserve cash in an amount  
14 sufficient to pay the full amount reasonably asserted as the required cure payment  
15 by the affected counterparty to such contract or lease or such lesser amount as may  
16 be estimated by the Bankruptcy Court or otherwise agreed to by such counterparty  
17 and the Debtor or the Reorganized Debtor.

18 **B. Executory Contracts Being Rejected**

19 All pre-petition Executory Contracts and Unexpired Leases that exist  
20 between Cuker and any Person shall be deemed rejected as of the Effective Date,  
21 except for any Executory Contract or Unexpired Lease (i) that has been assumed,  
22 assumed and assigned or rejected pursuant to an order authorizing but not directing  
23 Cuker to assume, assume and assign, or reject such Executory Contract or  
24 Unexpired Lease of the Bankruptcy Court entered prior to the Effective Date or (ii)  
25 assumed under this Plan. Any claims arising from the rejection of an Executory  
26 Contract or Unexpired Lease (“Rejection Clause”) shall be classified as Class 4  
27 under this Plan. The entry of the Confirmation Order by the Court shall constitute  
28 approval of such rejection pursuant to 11 U.S.C. Section 365(a) and 1123(b)(2).

1 Any Claim for damages arising from the rejection of an executory contract or  
2 unexpired lease must be filed and served on Reorganization Counsel within  
3 fourteen (14) days after the Confirmation Order is entered or be (i) forever barred  
4 and unenforceable against the Debtor, the Estate, and its property, and (ii) barred  
5 from receiving any distribution under the Plan. All Allowed Claims arising from  
6 the rejection of executory contracts or unexpired leases shall be treated as Class 4  
7 General Unsecured Claims.

8 **The Debtor knows of no pre-petition executory contracts under this Plan**  
9 **being rejected by the Plan.**

10 **The bar date for filing a proof of claim based on a claim arising from the**  
11 **rejection of an unexpired lease or executory contract which is rejected on the**  
12 **Effective Date will be fourteen (14) calendar days after the Effective Date.** Any  
13 Claim based on the rejection of an unexpired lease or executory contract will be  
14 barred if a proof of claim is not timely filed unless the Court orders otherwise. To  
15 the extent any claims are filed based on rejection of executory contracts or  
16 unexpired leases, such claims shall be treated as Class 4 Claim, as appropriate.

17 **VII.**

18 **EFFECT OF CONFIRMATION OF THE PLAN**

19 **A. No Discharge**

20 On the Effective Date, the Debtor and the Reorganized Debtor shall receive  
21 no discharge pursuant to the Plan or the Bankruptcy Code. As of the Effective Date,  
22 every creditor will retain all of such creditor's legal, equitable and contractual rights  
23 to which each holder of such Claim is entitled, specifically including as such rights  
24 are affected by the provisions of the Bankruptcy Code or Rules, and the Debtor  
25 shall no longer receive the benefit of the Automatic Stay or any other injunctive  
26 relief with respect to such creditors or such claims.

27 **B. Limitation of Liability**

28 The Plan may not be relied on for any purpose other than to determine

1 whether to object to confirmation of the Plan, and nothing contained herein shall  
2 constitute an admission of fact or liability by any party, or be admissible in any  
3 proceeding involving the Debtor or any other party, or be deemed conclusive advise  
4 on tax or other legal effects of the Plan on holders of claims against or interests in  
5 the Debtor.

6 To the maximum extent permitted by law, the Debtor, the Reorganized  
7 Debtor, the Disbursing Agent, and their current and future officers, directors,  
8 principals, agents, and professionals shall not incur and shall not have any liability  
9 to any entity for any action taken or omission made in connection with the  
10 formulation, dissemination, confirmation, approval or consummation of the Plan,  
11 or any other document, instrument or agreement relating thereto, or in connection  
12 with the effectiveness or performance of the Plan, or any distributions of cash or  
13 other property to the Plan. Notwithstanding the foregoing, nothing in this paragraph  
14 shall discharge claims of non-debtor third parties or release the Debtor's attorneys  
15 in a way that would contradict the California Rules of Professional Responsibility.

16 The information contained herein has been prepared by the Debtor in good  
17 faith and was based upon unaudited information available to the Debtor as of the  
18 date hereof. Although the Debtor has used reasonable efforts to ensure that  
19 information is accurate, the information contained herein is unaudited.

20 **C. Revesting of Property in the Reorganized Debtor**

21 Except as explicitly set forth herein, the Confirmation of the Plan revests, as  
22 of the Effective Date, all property and causes of action of the Estate in the  
23 Reorganized Debtor. In addition, on the Effective Date, as noted herein, all of the  
24 Claims against and/or Interests in third parties that constitute property of each  
25 Estate shall be revested in the Reorganized Debtor. Following the Effective Date,  
26 the Reorganized Debtor shall have absolute authority to prosecute, waive, adjust, or  
27 settle any claims without the need for approval by the Court. Following the  
28 Effective Date, the Reorganized Debtor shall have the authority to employ and



1 compensate such professionals as it deems necessary to prosecute or defend such  
2 claims asserted without the need for Court approval. Nothing in this paragraph  
3 affects or impairs the rights of the creditors in classes 3A, 3B and 3C with respect  
4 to the Wal-Mart Judgment Account, as set out in that certain Order On Debtor's  
5 Motion to Approve Stipulation Regarding Initial disposition of Wal-Mart Litigation  
6 Proceeds (entered by the Bankruptcy Court on March 4, 2020 as Docket No. 247),  
7 set out or reserved elsewhere in this Plan, or in accordance with further order of the  
8 Bankruptcy Court.

9 **D. Preservation of Claims and Rights Not Otherwise Expressly Settled,**  
10 **Released, Assigned, or Waived**

11 **1. Retention of Claims and Defenses**

12 Unless otherwise expressly set forth in this Plan or the Confirmation Order,  
13 pursuant to Section 1123(b)(3)(B), all retained claims and defenses of any kind or  
14 nature whatsoever against third parties, including Insiders, arising before the  
15 Effective Date and belonging to the Debtor or Estate shall become property of the  
16 Reorganized Debtor on the Effective Date. Notwithstanding any otherwise  
17 applicable principle of law or equity, including, without limitation, any principles  
18 of judicial estoppel, res judicata, collateral estoppel, issue preclusion, or any similar  
19 doctrine, the failure to list, disclose, describe, identify, analyze or refer to any such  
20 retained claims and defenses in the Plan, or any other document filed with the  
21 Bankruptcy Court will in no manner waive, eliminate, modify, release, or alter the  
22 right of the Reorganized Debtor to commence, prosecute, defend against, settle, and  
23 realize upon any retained claims and defenses that the Debtor or the Estate has or  
24 may have as of the Effective Date. Retained claims and defenses shall include,  
25 without limitation:

- 26 • All claims and defenses pursuant to applicable non-bankruptcy law  
27 and Sections 502, 506, 524 and 553 of the Bankruptcy Code against any Creditor  
28 regarding the amount of such holder's Allowed Claim (whether prepetition or

1 post-petition), to enforce the discharge of any Secured Creditors' Claims;

2 • All claims and defenses pursuant to applicable non-bankruptcy law  
3 and Sections 502, 506, 510, 524, 542 and 553 of the Bankruptcy Code including,  
4 without limitation, claims and defenses based on any Creditors' assertion of  
5 unreasonable professionals' fees, costs, charges and penalties (whether disguised  
6 as interest, or otherwise);

7 • All avoidance causes of action and objections to Claims under  
8 Sections 105, 502, 506, 510, 542 through 551 and 553 of the Bankruptcy Code  
9 that belong to the Debtor or to the Estate;

10 • All claims and defenses related to the recovery of professionals' fees  
11 and expenses by the Debtor from Creditors;

12 • All counterclaims and defenses in the American Arbitration  
13 Association case known as *Pillsbury Winthrop Shaw Pittman, LLP v. Cuker*  
14 *Interactive, LLC*, Case No. 01-18-0001-5005, or in such other tribunal that such  
15 claims and counterclaims are adjudicated;

16 • All appeals from judgment, counterclaims, and defenses in (i) *Henry*  
17 *Law Firm v. Cuker Interactive, LLC* pending in the United States District Court  
18 for the Western District of Arkansas as Case No. 5:18-cv-05066-TLB;

19 • All claims for recovery of further damages and/or continued  
20 injunctive relief against Wal-Mart in the Wal-Mart Injunction Litigation; and,

21 • All objections to the claims filed by SA, WLG, Torrey Partners and  
22 Modus.

23 From and after the Effective Date, the Reorganized Debtor is authorized to  
24 assert the retained claims and defenses including, but not limited to, for purposes of  
25 objection to the allowance of any Claim. Nothing contained in the Plan or the  
26 Confirmation Order shall be deemed to be a waiver or the relinquishment of any of  
27 the Debtor's rights with respect to the retained Claims and defenses and the  
28 Reorganized Debtor shall be entitled to assert fully all retained rights and defenses.

1           **2. Unknown Retained Claims and Defenses / No Preclusion**

2           Unless otherwise expressly set forth in the Plan or the Confirmation Order,  
3 the reservation of rights and the retained claims and defenses set forth above shall  
4 include, without limitation, any retained claims and defenses of which the Debtor  
5 may presently be unaware, or which may arise or exist by reason of additional facts  
6 or circumstances unknown to the Debtor at this time or facts or circumstances that  
7 may change or be different from those the Debtor now believe to exist including,  
8 without limitation, claims based on theories of construction defect, breach of  
9 warranty, negligence, indemnification and contribution. Therefore, no preclusion  
10 doctrine, including, without limitation, the doctrines of res judicata, collateral  
11 estoppel, waiver, estoppel (judicial, equitable or otherwise), or laches will apply to  
12 the Reorganized Debtor with respect to the retained claims and defenses upon or  
13 after the Confirmation of the Plan based on this Plan, or the Confirmation Order.

14           **E. Corporate/Limited Liability Company Actions**

15           On the Effective Date, all actions contemplated by the Plan shall be deemed  
16 authorized and approved in all respects (subject to the provisions of this Plan) by  
17 virtue of the entry of the Confirmation Order, in accordance with the Bankruptcy  
18 Code and applicable state law and without any requirement of further action by  
19 Cuker, Reorganized Cuker, their members, officers or its ultimate owners. All  
20 matters provided for under the Plan involving the limited liability company  
21 structure of Cuker and/or Reorganized Cuker and any action required by in  
22 connection with the Plan shall be deemed to have occurred and shall be in effect  
23 pursuant to the Bankruptcy Code, without any requirement of further action by  
24 Cuker, Reorganized Cuker, a member, officer of Cuker or Reorganized Cuker. On  
25 the Effective Date, Reorganized Cuker is authorized and directed to implement the  
26 provisions by the Plan and any other agreements, documents and instruments  
27 contemplated by the Plan.  
28

1 **F. Modification of Plan**

2 The Debtor may modify the Plan at any time before confirmation. However,  
3 If the Plan, as amended, impairs any class of claims, the Court may require a  
4 disclosure statement and/or voting on the Plan, unless the modification is non-  
5 material or relates only to the extension of the Effective Date, which modification  
6 shall not require a disclosure statement and/or voting of the Plan.

7 The Reorganized Debtor may also seek to modify the Plan at any time after  
8 confirmation of the Plan only if (1) the Plan has not been substantially  
9 consummated and (2) the Court authorizes the proposed modifications after notice  
10 and a hearing.

11 The Plan, as modified, shall become the Plan only as the Court directs  
12 pursuant to the provisions of 11 U.S.C. Section 1127(f).

13 **G. Changes in Rates Subject to Regulatory Commission Approval**

14 The Debtor is not subject to governmental regulatory commission approval  
15 of its rates.

16 **H. Retention of Jurisdiction**

17 After confirmation of the Plan and occurrence of the Effective Date, in  
18 addition to jurisdiction which exists in any other court, the Court will retain such  
19 jurisdiction as is legally permissible including for the following purposes:

20 a. To resolve any and all disputes regarding the operation and  
21 interpretation of the Plan and the Confirmation Order;

22 b. To determine the allowability, classification, or priority of claims and  
23 interests upon objection by the Debtor, Reorganized Debtor, or by other parties in  
24 interest withstanding to bring such objection or proceeding;

25 c. To determine the extent, validity and priority of any lien asserted  
26 against property of the Debtor, Reorganized Debtor, or property of the Estate;

27 d. To construe and take any action to enforce the Plan, the Confirmation  
28 Order, and any other order of the Court, issue such orders as may be necessary for

1 the implementation, execution, performance, and consummation of the Plan, the  
2 Confirmation Order, and all matters referred to in the Plan, the Confirmation Order,  
3 and to determine all matters that may be pending before the Court in these Cases on  
4 or before the Effective Date with respect to any person or entity related thereto;

5 e. To determine (to the extent necessary) any and all applications for  
6 allowance of compensation and reimbursement of expenses of Professionals for the  
7 period on or before the Effective Date;

8 f. To determine any request for payment of administrative  
9 expenses;

10 g. To determine motions for the rejection, assumption, or assignment of  
11 executory contracts or unexpired leases filed before the Effective Date and the  
12 allowance of any claims resulting therefrom;

13 h. To determine all applications, motions, adversary proceedings,  
14 contested matters, and any other litigated matters instituted during the pendency of  
15 these Cases whether before, on, or after the Effective Date;

16 i. To determine such other matters and for such other purposes as may be  
17 provided in the Confirmation Order;

18 j. To modify the Plan under 11 U.S.C. Section 1127 in order to remedy  
19 any apparent defect or omission in the Plan or to reconcile any inconsistency in the  
20 Plan so as to carry out its intent and purpose;

21 k. Except as otherwise provided in the Plan, the Confirmation Order, to  
22 issue injunctions to take such other actions or make such other orders as may be  
23 necessary or appropriate to restrain interference with the Plan or the Confirmation  
24 Order, or the execution or implementation by any person or entity of the Plan or the  
25 Confirmation Order;

26 l. To issue such orders in aid of consummation of the Plan or the  
27 Confirmation Order, notwithstanding any otherwise applicable non-bankruptcy law,  
28 with respect to any person or entity, to the fullest extent authorized by the

1 Bankruptcy Code or Bankruptcy Rules; and  
2 m. To enter a final decree closing this Case.

3 **VIII.**

4 **MISCELLANEOUS PROVISIONS**

5 **A. Post-Confirmation Status Report**

6 Within 180 days of the entry of the Confirmation Order, Reorganized Cuker  
7 shall file a status report with the Court explaining what progress has been made  
8 toward consummation of the confirmed Plan. The status report shall be served on  
9 the United States Trustee and those parties who have requested special notice.  
10 Further status reports shall be filed by Reorganized Cuker every 180 days and  
11 served on the same parties until such time as a final decree is entered.

12 **B. Post-Confirmation Conversion/Dismissal**

13 Any creditor or other party in interest may move to convert or dismiss the  
14 Case under 11 U.S.C. Section 1112(b) after the Plan is confirmed if there is a  
15 Default in performing the Plan, provided that this provision does not purport to  
16 limit the rights of any creditor to pursue enforcement of the Plan in any appropriate  
17 judicial forum. If the Court orders the Case converted to a Chapter 7 after the Plan  
18 is confirmed, then all property that had been property of the Chapter 11 Estate, and  
19 that has not been disbursed pursuant to the Plan, will revert in the Chapter7 estate.

20 The order confirming the Plan may also be revoked under very limited  
21 circumstances. The Court may revoke the Confirmation Order if it was procured by  
22 fraud and if a party in interest brings an adversary proceeding to revoke  
23 confirmation within 180 days after the entry of the Confirmation Order.

24 **C. Post-Confirmation U.S. Trustee Fees**

25 All fees incurred after the Effective Date pursuant to 28 U.S.C. Section  
26 1930(a)(6) shall be paid by the Reorganized Debtor until entry of a final decree or  
27 entry of order of dismissal or conversion to Chapter 7.  
28

1 **D. Payment Dates**

2 Whenever any distribution to be made under this Plan becomes due on a day  
3 other than a Business Day, such distribution shall instead be made on the next  
4 Business Day.

5 **E. Other Documents and Actions**

6 The Debtor, the Reorganized Debtor may execute such other documents and  
7 take such actions as may be necessary or appropriate to effectuate the transactions  
8 contemplated under this Plan.

9 **F. This Plan Controls**

10 In the event of any conflict between the provisions of this Plan and any other  
11 document this Plan shall control. However, in the event of any conflict between the  
12 provisions of this Plan and the Confirmation Order, the Confirmation Order shall  
13 control.

14 **G. Successors and Assigns**

15 The rights, benefits, and obligations of any entity named or referred to in this  
16 Plan shall be binding on, and shall inure to the benefit of, the heirs, executors,  
17 administrators, successors, and assigns of such entity.

18 **H. Final Decree**

19 Once the Estate has been sufficiently administered to satisfy Rule 3022 of the  
20 Federal Rules of Bankruptcy Procedure, the Reorganized Debtor or another party as  
21 the Court shall designate in the Confirmation Order, shall file a motion with the  
22 Court to obtain a final decree to close the Case.

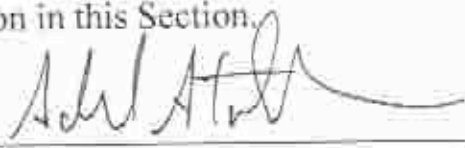
23 **IX.**

24 **RULES OF INTERPRETATION**

25 For purposes of this Plan, unless otherwise provided elsewhere herein, (i)  
26 whenever from the context it is appropriate, each term, whether stated in the  
27 singular or the plural, shall include both the singular and the plural; (ii) each  
28 pronoun stated in the masculine, feminine or neuter shall include the masculine,

1 feminine and neuter; (iii) any reference in this Plan to an existing document,  
2 Exhibit or schedule filed or to be filed means such document or schedule as it may  
3 have been or may be amended, modified or supplemented pursuant to this Plan; (iv)  
4 any reference to an entity as a holder of a Claim includes that entity's successors  
5 and assigns; (v) except as otherwise stated herein, all references in this Plan to  
6 Sections, Articles and Exhibits are references to Sections, Articles and Exhibits of  
7 or to this Plan; (vi) the words "herein," "hereunder" and "hereto" refer to this Plan  
8 in its entirety rather than to a particular portion of this Plan; (vii) unless otherwise  
9 provided in this Plan, any reference in this Plan to a contract, instrument, release,  
10 indenture, agreement, or other document being in a particular form or on particular  
11 terms and conditions means that such document shall be substantially and  
12 materially in such form or substantially and materially on such terms and  
13 conditions; and (viii) the rules of construction set forth in Section 102 of the  
14 Bankruptcy Code shall apply to the extent such rules are not inconsistent with the  
15 express terms of this Plan or any other provision in this Section.

16  
17 Dated: August 6, 2020

  
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Adel Atalla, President



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**EXHIBIT 1**

***SCHEDULE OF EXECUTORY CONTRACTS TO BE ASSUMED***

Name	Description	Cure Amount
1. ACAR Leasing	Vehicle Lease (Copy Attached)	\$0.00

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**EXHIBIT 2**

***SCHEDULE OF EXECUTORY CONTRACTS TO BE REJECTED***

NONE