

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM448815

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	RELEASE OF SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Square 1 Bank		07/31/2017	Corporation: NORTH CAROLINA
RECEIVING PARTY DATA			
Name:	FirstRain, Inc.		
Street Address:	401 Congress Avenue		
Internal Address:	Suite 2650		
City:	Austin		
State/Country:	TEXAS		
Postal Code:	78701		
Entity Type:	Corporation: DELAWARE		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	2925662	FIRSTRAIN	
CORRESPONDENCE DATA			
Fax Number:	5122874866		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	512-656-7960		
Email:	brian.spross@jonesspross.com		
Correspondent Name:	Brian Spross		
Address Line 1:	1605 Lakecliff Hills Lane		
Address Line 2:	Suite 100		
Address Line 4:	Austin, TEXAS 78732		
NAME OF SUBMITTER:	Brian Spross		
SIGNATURE:	/brian spross/		
DATE SIGNED:	10/27/2017		
Total Attachments: 136			
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Please see the following sections (highlighted in yellow) for conveyance language:

1. Paragraph 19 (entitled “Transfers by Debtor”) of *Order (1) Confirming Amended Plan of Reorganization of FirstRain, Inc. Dated July 24, 2017 and (2) Approving the Disclosure Statement on a Final Basis*. This paragraph is found on page 23 of the PDF.
2. Section 10.2 (entitled “Vesting of Property of Debtor in Reorganized Debtor”) of *Amended Plan of Reorganization of FirstRain, Inc. Dated July 24, 2017*. This section is found on page 60 of the PDF.
3. Section 4, first paragraph entitled “Discharge” of *Notice of (I) Entry of Order Confirming, and Occurrence of Effective Date of, Amended Chapter 11 Plan of Debtor; and (II) Certain Releases and Injunction Thereunder*. This section is found on page 2 of the PDF.

Additionally, please see the following section (highlighted in yellow) for the effective date:

4. Section 2 (entitled “Occurrence of the Effective Date; Distribution Trustee; Vesting of Assets”) of *Notice of (I) Entry of Order Confirming, and Occurrence of Effective Date of, Amended Chapter 11 Plan of Debtor; and (II) Certain Releases and Injunction Thereunder*. This section is found on page 1 of the PDF.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	:	Chapter 11
	:	
FIRSTRAIN, INC.,	:	Case No. 17-11249 (LSS)
	:	
Debtor. ¹	:	
	:	
	:	Re: Dkt Nos. 12, 13, 14, 69, 81, 137
	:	

**ORDER (1) CONFIRMING AMENDED PLAN OF REORGANIZATION OF
FIRSTRAIN, INC. DATED JULY 24, 2017 AND (2) APPROVING THE
DISCLOSURE STATEMENT ON A FINAL BASIS**

The above-captioned debtor and debtor in possession (the “Debtor”) having filed (i) the *Amended Plan of Reorganization of FirstRain, Inc., Dated July 24, 2017* [Docket No. 153] and (ii) the *Notice of Filing of Plan Supplement to the Amended Plan of Reorganization of FirstRain, Inc.* [Docket No. 137] (the “Plan Supplement”) (collectively with all exhibits and any other modifications, amendments, or supplements thereto, the “Plan”),² and (iii) the *Disclosure Statement for the Plan of Reorganization of FirstRain, Inc.* [Docket No. 69-1] (collectively, with all exhibits and any other modifications, amendments, or supplements thereto, the “Disclosure Statement”); the Court having entered, on June 21, 2017, the *Order (I) Conditionally Approving the Disclosure Statement; (II) Scheduling a Plan Confirmation Hearing; (III) Approving Procedures and Deadlines Concerning Executory Contracts and Unexpired Leases; (IV) Approving Solicitation Packages and Procedures; and (V) Approving the Form of Ballot* [Docket No. 81] (the “Disclosure Statement Order”), establishing, among other things, certain solicitation and voting tabulation procedures associated with the Plan; true and correct copies of the Plan

¹The last four digits of the Debtor’s federal tax identification number are 6970. The Debtor’s principal place of business is located at 1500 Fashion Island, Boulevard Suite 200, San Mateo, CA.

² Capitalized terms used but not defined herein have the meanings given to them in the Plan.

E. Eligibility for Relief. The Debtor is a proper debtor under section 109 of the Bankruptcy Code and the Debtor is a proper proponent of the Plan under section 1121(a) of the Bankruptcy Code.

F. Disclosure Statement Order. On June 21, 2017, the Court entered the Disclosure Statement Order, confirming the Disclosure Statement on a conditional basis.

G. Notice, Transmittal, and Mailing of Solicitation Materials. As evidenced by the JND Service Affidavit, due, adequate, and sufficient notice of the Disclosure Statement, the Plan, and the Combined Hearing, together with all deadlines for objecting to and voting to accept or reject the Plan, have been provided as required by the Disclosure Statement Order. No other or further notice is necessary or shall be required.

H. Solicitation. Votes for acceptance and rejection of the Plan were solicited in good faith and in compliance with sections 1125 and 1126 of the Bankruptcy Code, Bankruptcy Rules 3017 and 3018, the Disclosure Statement Order, all applicable provisions of the Bankruptcy Code, and all other applicable rules, laws, and regulations.

I. Disclosure Statement. The Disclosure Statement provides holders of Claims entitled to vote on the Plan with adequate information to make an informed decision as to whether to vote to accept or reject the Plan in accordance with section 1125 of the Bankruptcy Code. The Disclosure Statement also provides holders of Claims, holders of Equity Interests, and other entities with sufficient notice of the injunction, exculpation, and release provisions contained in Article XI of the Plan, in satisfaction of the requirements of Bankruptcy Rule 3016(c).

J. Vote Certification. All procedures used to tabulate the Ballots were fair and conducted in accordance with the Disclosure Statement Order, the Bankruptcy Code, the

Bankruptcy Rules, the Local Rules, and all other applicable rules, laws, and regulations. As evidenced by the Vote Certification, Creditors in Classes 2, 4, and 5 voted unanimously to accept the Plan. No creditors held claims in Class 3.

K. Plan Supplement. On July 14, 2017, the Debtor filed the Plan Supplement, which included the (i) form of Amended and Restated Bylaws, (ii) form of Amended and Restated Certificate of Incorporation (together, the “Charter Documents”), (iii) Distribution Trust Agreement, and (iv) disclosures pursuant to section 1129(a)(5) of the Bankruptcy Code. All information and documents included in the Plan Supplement and the amendments thereto are integral to, part of, and incorporated by reference into the Plan. The Plan Supplement complies with the terms of the Plan, and the filing and notice of such documents provided due, adequate, and sufficient notice in accordance with the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and no other or further notice is necessary or shall be required. Consistent with the terms of the Plan, the Debtor reserves its right to alter, amend, update, or modify the Plan Supplement before the Effective Date.

L. Modifications to the Plan. Subsequent to June 23, 2017, the deadline to distribute the Solicitation Packages in compliance with the Disclosure Statement Order, the Debtor made certain modifications to the Plan. All modifications to the Plan since the entry of the Disclosure Statement Order are consistent with the provisions of the Bankruptcy Code, including sections 1122, 1123, 1125, and 1127 of the Bankruptcy Code, including any modifications disclosed on the record at the Combined Hearing. Except as provided for by law, contract, or previous order of the Bankruptcy Court, none of the modifications to the Plan made since the commencement of solicitation materially and adversely affects the treatment of any holder of a Claim or Equity Interest under the Plan. Accordingly, pursuant to section 1127(a) of

the Bankruptcy Code, none of the modifications require additional disclosure under section 1125 of the Bankruptcy Code or re-solicitation of votes under section 1126 of the Bankruptcy Code.

M. The filing of the Plan as modified and the disclosure of the Plan modifications on the record at or before the Combined Hearing constitute due, adequate, and sufficient notice of any and all of such modifications.

N. In accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all holders of a Claim who voted to accept the Plan or who are conclusively presumed to have accepted the Plan are deemed to have accepted the Plan as modified. No holder of a Claim shall be permitted to change its vote as a consequence of the Plan modifications, unless otherwise agreed to by the holder of the Claim and the Debtor. All modifications to the Plan made after the solicitation of the Plan are hereby approved, in accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019. The Plan as modified shall constitute the Plan submitted for confirmation.

O. Bankruptcy Rule 3016. The Plan is dated and identifies its proponent in accordance with Bankruptcy Rule 3016(a). The filing of the Disclosure Statement on the docket of the Chapter 11 Case satisfied Bankruptcy Rule 3016(b).

Compliance with Section 1129 of the Bankruptcy Code

P. Burden of Proof. The Debtor has met its burden of proving the elements of sections 1129(a) and (b) of the Bankruptcy Code by a preponderance of the evidence, which is the applicable standard.

Q. The Plan Complies With Section 1129(a) of the Bankruptcy Code. The evidentiary record at the Combined Hearing, the Declarations, the contents of the Plan and the Disclosure Statement, the JND Service Affidavit, the Confirmation Memorandum, and the

7. The Charter Documents, included in the Plan Supplement, conform to section 1123(a)(6) of the Bankruptcy Code's prohibition on the issuance of non-voting equity securities.
8. Pursuant to section 6.2 of the Plan and in accordance with section 1123(a)(7) of the Bankruptcy Code, the members of the board of directors of the Debtor existing immediately before the Effective Date shall be deemed terminated and/or removed and the Plan Sponsor may nominate and elect new members of the board of directors. The members of the board of directors and officers of Reorganized Debtor will be selected in accordance with the Charter Documents, provided that certain directors and officers have been selected and identified as set forth in the Plan Supplement.
9. Section 1123(a)(8) of the Bankruptcy Code is not applicable in this Chapter 11 Case because the Debtor is not an "individual."
10. Consistent with section 1123(b)(1) of the Bankruptcy Code, Article V of the Plan impairs or leaves unimpaired, as the case may be, each Class of Claims and Equity Interests.
11. Consistent with section 1123(b)(2) of the Bankruptcy Code, Article VIII of the Plan provides for the assumption or rejection of all of the executory contracts or unexpired leases of the Debtor that have not already been assumed or rejected in this Chapter 11 Case.
12. Consistent with section 1123(b)(3) of the Bankruptcy Code, (a) section 6.6 of the Plan provides for the pursuit of certain claim objections by the Distribution Trustee; (b) section 6.7 of the Plan also provides for the retention of Claims by the Reorganized Debtor; and (c) Article XI of the Plan provides for the comprehensive settlement of claims and controversies relating to the rights that holders of Claims or Equity Interests may have with respect to any Allowed Claims or Equity Interests or any distributions made pursuant to the Plan on account of such Allowed Claims or Equity Interests.
13. Section 1123(b)(4) of the Bankruptcy Code is not applicable because the Plan implements a reorganization of the company.
14. Consistent with section 1123(b)(5) of the Bankruptcy Code, Article V of the Plan permissibly modifies the rights of holders of unsecured claims.
15. Consistent with section 1123(b)(6) of the Bankruptcy Code, the Plan includes additional appropriate provisions that are not inconsistent with applicable provisions of the Bankruptcy Code,

including, without limitation, (a) Article V, governing distributions on account of Allowed Claims; (b) Article VII, establishing procedures for resolving Disputed Claims; (c) Articles VI and XI, providing for the preservation of certain causes of action, the comprehensive settlement of claims and controversies and related releases and injunctions against certain actions; and (d) Article XII, providing for the retention of jurisdiction by the Court over certain matters after the Effective Date.

16. Section 1123(c) of the Bankruptcy Code is not applicable in this Chapter 11 Case because the Debtor is not an “individual.”
17. In accordance with section 1123(d) of the Bankruptcy Code, Article VIII of the Plan provides for the payment of all Cure Amounts associated with the assumption of an executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code.

S. Section 1129(a)(2). The Debtor has complied with all applicable provisions of the Bankruptcy Code with respect to the Plan and the solicitation of acceptances or rejections thereof. In particular, the Plan complies with the requirements of sections 1125 and 1126 of the Bankruptcy Code as follows:

1. In compliance with the Disclosure Statement Order, on or before June 23, 2017 (the “Solicitation Commencement Date”), the Debtor, through JND, caused copies of the following materials to be transmitted to the known holders of Claims in Classes that were entitled to vote to accept or reject the Plan (Claims in Classes 2, 3, 4, and 5) (collectively, the “Voting Parties”):
 - the Disclosure Statement;
 - the Plan;
 - the Disclosure Statement Order;
 - the notice of the Combined Hearing (the “Combined Hearing Notice”);
 - an appropriate form of ballot and a pre-addressed postage prepaid return envelope (collectively with the materials described in the preceding bullets, the “Solicitation Package”).
2. As evidenced by the JND Service Affidavit, the Debtor, through JND, caused to have published in the national edition of USA

Today on June 27, 2017, the Combined Hearing Notice (the "Publication Notice").

3. In compliance with the Disclosure Statement Order, no later than the Solicitation Commencement Date, the Debtor, through JND, caused copies of the Combined Hearing Notice to be served on (i) all Holders of Claims whether in Voting Classes or Non-Voting Classes, including Holders of Disputed Claims, (ii) all counterparties to executory contracts and leases; and (iii) all persons or entities listed on the Debtor's creditor mailing matrix.
4. In compliance with the Disclosure Statement Order, on the Solicitation Commencement Date, the Debtor, through JND, caused (i) the Combined Hearing Notice to be served on all members of non-voting classes, and (ii) the *Notice of Non-Voting Status* (the "Non-Voting Notice") to be served on all members of non-voting classes.
5. In addition, in compliance with the Disclosure Statement Order, copies of the Disclosure Statement Order, the Plan, and the Disclosure Statement have been available upon request from the Debtor's counsel and, free of charge, at [http://www.jndla.com/cases/firstrain](http://www.jndla.com/cases/firststrain) (the "Case Website") and the foregoing was set forth in the Combined Hearing Notice.
6. On July 14, 2017, the Debtor filed the Plan Supplement and, through JND, made the Plan Supplement available on the Case Website and served it on all parties that received a Solicitation Package.
7. The Combined Hearing Notice provided due and proper notice of the Combined Hearing and all relevant dates, deadlines, procedures, and other information relating to the Plan and/or the solicitation of votes thereon, including, without limitation, the deadline to file objections to and vote on the Plan, the time, date, and place of the Combined Hearing and the provisions in the Plan concerning certain of the third party releases provided for in the Plan.
8. Based on the foregoing, all persons entitled to receive notice of the Disclosure Statement, the Plan, and the Combined Hearing have received proper, timely, and adequate notice in accordance with the Disclosure Statement Order, the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, and have had an opportunity to appear and be heard with respect thereto. As such, the Debtor is in compliance with section 1128 of the Bankruptcy Code and Bankruptcy Rules 2002(b) and 3017(d)-(f). No other or further notice is required.

9. Further, also based on the foregoing, the Debtor solicited votes with respect to the Plan in good faith “and in a manner consistent with the Bankruptcy Code, the Bankruptcy Rules, and the Disclosure Statement Order.
10. Based upon the procedures approved in the Disclosure Statement Order, JND has made a determination of the validity of, and tabulation with respect to, all acceptances and rejections of the Plan by holders of Claims entitled to vote on the Plan, including the amount and number of accepting and rejecting Claims in Classes 2, 4 and 5 under the Plan.
11. Voting Declaration sets forth the tabulation of votes and demonstrates that such tabulation was conducted in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Solicitation Procedures Order.

T. Section 1129(a)(3). The Plan has been proposed by the Debtor in good faith and in the belief that the proposed reorganization and establishment of the Distribution Trust will maximize value for the Debtor’s creditors. The Plan accomplishes the goals promoted by section 1129(a)(3) of the Bankruptcy Code by enabling the Debtor to reorganize as a going concern and enabling the Distribution Trustee to make distributions to creditors on a fair and equitable basis, in accordance with the priorities established by the Bankruptcy Code. As set forth in the Lee Declaration, the Plan is the direct result of extensive good faith, arm’s length negotiations between the Debtor, and the Plan Sponsor and thereby reflects significant benefit to the Debtor’s estate. The Plan has been proposed with the legitimate and honest purpose of implementing a reorganization of the Debtor and maximizing the value of the Estate to achieve the best interests of the Debtor’s creditors. In so finding, the Court has considered the totality of the circumstances in this Chapter 11 Case. The unanimous support for the Plan by holders of Claims in Class 2, 4 and 5 further demonstrates that the Plan was proposed in good faith. Finally, as described in greater detail below, the Plan’s indemnification, exculpation, release, and injunction provisions are warranted, necessary, and appropriate, and are supported by sufficient

consent and consideration under the circumstances of the Chapter 11 Case as a whole and are consistent with sections 105, 1123(b)(6), and 1129 of the Bankruptcy Code and applicable law in this Circuit.

U. Section 1129(a)(4). No payment for services or costs and expenses in connection with this Chapter 11 Case, or in connection with the Plan and incident to the Chapter 11 Case, has been or will be made by the Debtor other than payments that have been authorized by an order of the Court, including without limitation by the confirmation of the Plan by this Confirmation Order. Pursuant to section 4.1(c)(ii) of the Plan, such Professionals' applications for allowance of final compensation and reimbursement of expenses must be filed and served no later than forty-five (45) days after the effective date of the Plan.

V. Section 1129(a)(5). The identity and affiliations of the individuals that will serve as directors and officers of the Reorganized Debtor have been disclosed in the Plan Supplement, in satisfaction of section 1129(a)(5)(A)(i) of the Bankruptcy Code. Further, in accordance with section 1129(a)(5)(A)(ii) of the Bankruptcy Code, the appointment of the directors and officers to such offices is consistent with the interests of creditors and with public policy inasmuch as no objection to their appointment was received.

W. Moreover, the identity of the Distribution Trustee was disclosed in the Plan Supplement, in satisfaction of section 1129(a)(5)(A)(i) of the Bankruptcy Code. Further, in accordance with section 1129(a)(5)(A)(ii) of the Bankruptcy Code, the appointment of the Distribution Trustee is consistent with the interests of creditors and with public policy inasmuch as no objection to the proposed Distribution Trustee was received. Further, in accordance with section 1129(a)(5)(B), the Debtor has disclosed the identity of all insiders that will be employed or retained by the reorganized debtor, and the nature of any compensation for such insider.

X. Section 1129(a)(6). The Plan does not provide for any changes in rates that require regulatory approval of any governmental agency. As such, section 1129(a)(6) of the Bankruptcy Code is inapplicable in this Chapter 11 Case.

Y. Section 1129(a)(7). Each holder of an impaired Claim or Equity Interest that has not accepted or is deemed not to have accepted the Plan will, on account of such Claim or Equity Interest, receive or retain property under the Plan having a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain if the Debtor was liquidated under chapter 7 of the Bankruptcy Code on the Effective Date. *See* Disclosure Statement at Art. VII.C & Exhibit B (Liquidation Analysis). The Debtor has demonstrated that the Plan is in the best interests of its creditors.

Z. Section 1129(a)(8). Four (4) of the six (6) Classes under the Plan have either voted to accept the Plan, or are unimpaired under the Plan. *See* Plan at Article III; Voting Declaration. No holders of Claims in Class 3 exist, and holders of Interests in Class 6 are deemed to reject. Nevertheless, with respect to Class 6, the Plan is confirmable because it satisfies section 1129(b)(1) of the Bankruptcy Code with respect to such non-accepting Class of Equity Interests.

AA. Section 1129(a)(9). The Plan provides treatment for Allowed Administrative Claims and Allowed Priority Tax Claims that is consistent with the requirements of section 1129(a)(9) of the Bankruptcy Code. Unless otherwise agreed to, the holder of each Allowed Administrative Claim and Allowed Priority Tax Claim will receive full payment in Cash on account of such Claim within the prompt timeframe specified in the Plan with respect to such Claims. *See* Plan at Article IV.

HH. Section 1129(c). The Plan is the only plan of reorganization that has been filed in the Chapter 11 Case and it is the only plan that has been found to satisfy the requirements of subsections (a) and (b) of section 1129 of the Bankruptcy Code. Accordingly, the requirements of section 1129(c) of the Bankruptcy Code have been satisfied.

II. Section 1129(d). No party in interest, including but not limited to any governmental unit, has requested that the Court deny confirmation of the Plan on grounds that the principal purpose of the Plan is “the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933,” and the principal purpose of the Plan is not such avoidance. Accordingly, the Plan satisfies the requirements of section 1129(d) of the Bankruptcy Code.

JJ. Section 1129(e). Because the Debtor is not a “small business debtor” under section 101(51D) of the Bankruptcy Code, section 1129(e) of the Bankruptcy Code is not applicable to the Chapter 11 Case.

Means for Implementation of the Plan

KK. Implementation. The various means for implementation of the Plan, as set forth in Article VI and other provisions of the Plan (collectively, the “Implementation Activities”), have been designed and proposed in good faith. The Implementation Activities are adequate and will promote the maximization of the value of the ultimate recoveries under the Plan in a fair and equitable manner in accordance with the priorities established by the Bankruptcy Code. The Implementation Activities are not intended to hinder, delay, or defraud any entity to which the Debtor is indebted on the Effective Date. Pursuant to section 10.2 of the Plan, all remaining assets in the Estate – other than Distribution Trust Assets – will vest in the Reorganized Debtor as of the Effective Date. Pursuant to section 6.4(f) of the Plan, all property

of the Debtor constituting the Distribution Trust Assets shall be conveyed and transferred by the Debtor to the Distribution Trust and administered by the Distribution Trustee.

LL. Securities Exempt from Registration. The undertakings and obligations of the Debtor pursuant to the Plan, including its undertakings and/or obligations to make distributions of securities including (i) the issuance of the New Equity to ESW, in its capacity as the DIP Lender and in its capacity as the Plan Sponsor, and (ii) the issuance of issuance of Beneficial Interests in the Distribution Trust, shall in each case be exempt, pursuant to section 1145 of the Bankruptcy Code, from Section 5 of the Securities Act of 1933 and from any and all federal, state, or local laws requiring the registration of the offer, sale or other distribution of such securities by the Debtor.

MM. Executory Contracts and Unexpired Leases. Pursuant to sections 365 and 1123(b)(2) of the Bankruptcy Code, upon the occurrence of the Effective Date, Article VIII of the Plan provides for the assumption of certain agreements specified on the Schedule of Assumed Contracts and Unexpired Leases [Docket No. 138], subject to the terms of the Plan, and for the rejection of all remaining executory contracts and unexpired leases of the Debtor. The determinations regarding the assumption or the rejection of executory contracts and unexpired leases are based on the Plan Sponsor's anticipated business plan and will aid in the implementation of the Plan, and are in the best interests of the Debtor, its Estate, and the holders of Claims and other parties in interest in the Chapter 11 Case. The Debtor has filed and adequately served the Schedule of Assumed Contracts and Unexpired Leases identifying the executory contracts and unexpired leases to be assumed pursuant to section 8.1 of the Plan. Section 8.2 of the Plan provides for the rejection of all other executory contracts and unexpired leases.

NN. No other party objected to the rejection of any executory contracts or unexpired leases pursuant to section 8.2 of the Plan.

OO. Injunctions, Releases, and Discharge. The Court has jurisdiction under sections 1334(a) and (b) of title 28 of the United States Code and sections 105, 524, and 1141 of the Bankruptcy Code to approve the provisions with respect to the releases, exculpation, and discharge/injunction set forth in Article XI of the Plan. The releases set forth in Article XI of the Plan represent a valid exercise of the Debtor's business judgment and accordingly are appropriate under section 1123(b)(3)(A) of the Bankruptcy Code. The releases set forth in section 11.5 of the Plan are binding on all holders of Claims and Equity Interests, provided that the releases set forth in section 11.5 of the Plan as to the Protected Parties are deemed consented to by Creditors who (i) are unimpaired under the Plan, (ii) were entitled to vote on the Plan and did not submit a ballot, and (iii) voted to accept the Plan but did not opt-out of the releases, as permitted by the ballots. Equity Interest holders who were deemed to reject the Plan and Creditors who submitted ballots that voted to reject that Plan or who elected to opt out of such releases are deemed to have opted out of the releases set forth in section 11.5 of the Plan as to the Protected Parties. The exculpation provisions set forth in sections 11.3 of the Plan are appropriately tailored to protect the exculpated parties from inappropriate litigation and does not relieve any party of liability for gross negligence or willful misconduct. The released parties pursuant to section 11.4 have contributed substantial value to the Debtor and the formulation of the Plan. Such released parties' efforts in negotiating and ultimately formulating the Plan enabled the Debtor to file the Plan. The discharge and injunction set forth in sections 11.1 and 11.2 of the Plan are important to the overall objectives of the Plan to finally resolve all claims against the Debtor in the Chapter 11 Case. Based upon the record of the Chapter 11 Case and the

evidence admitted at or prior to the Combined Hearing, this Court finds that the releases, discharges, injunctions, and exculpations set forth in Article XI of the Plan are consistent with the Bankruptcy Code and applicable law.

PP. Other Findings. To permit the Distribution Trustee to commence his duties as quickly as practicable, to promote prompt distributions under the Plan and Distribution Trust Agreement for the benefit of creditors and because a significant number of Implementation Activities are capable of being undertaken in short order, good cause exists to support the waiver of the stay imposed by Bankruptcy Rule 3020(e).

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, AS FOLLOWS:

1. Disclosure Statement. The Disclosure Statement, including all amendments, supplements, and exhibits, is **APPROVED**, on a final basis, as containing adequate information within the meaning of section 1125 of the Bankruptcy Code.

2. Confirmation. All requirements for confirmation of the Plan have been satisfied. The Plan including, not without limitation, exhibits to the Plan, the Plan Supplement, and any other documents filed in connection with the Plan and/or executed or to be executed in connection with the transactions contemplated by the Plan, and all amendments and modifications thereof is **CONFIRMED** in its entirety pursuant to section 1129 of the Bankruptcy Code. A copy of the Plan in the form confirmed is attached hereto as **Exhibit A**.

3. Objections. All Objections that have not been withdrawn or resolved prior to the entry of this Confirmation Order, including any with respect to the Plan and the Disclosure Statement, are overruled in all respects for the reasons set forth in the record of the Combined Hearing, which record is incorporated herein, and all withdrawn objections, if any, are deemed withdrawn with prejudice.

4. Omission of Reference to Particular Plan Provisions. The failure to specifically describe or include any particular provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Plan be approved and confirmed in its entirety.

5. Implementation. The Debtor, the Plan Sponsor, the Reorganized Debtor, and the Distribution Trustee, are authorized and directed to take all actions necessary, appropriate, or desirable to enter into, implement, and consummate the contracts, instruments, releases, agreements, or other documents created or executed in connection with the Plan Documents. Without further order or authorization of this Court, the Debtor, the Plan Sponsor, the Reorganized Debtor, the Distribution Trustee, and their successors are authorized and empowered to make all modifications to all Plan Documents that are consistent with the Plan. Execution versions of the Plan Documents, where applicable, shall constitute legal, valid, binding, and authorized obligations of the respective parties thereto, enforceable in accordance with their terms.

6. Effective Date. The Effective Date of the Plan shall occur on the date determined by the Debtor, after reasonable consultation with the Plan Sponsor, when the conditions set forth in section 13.2 of the Plan have been satisfied or, if applicable, waived in accordance with the Plan.

7. Modifications or Alterations to Plan. To the extent the Plan has been modified, supplemented, or altered subsequent to solicitation, such modifications, supplements, and alterations constitute clarifications or technical changes, and do not materially adversely affect or change the treatment of any Claims or Equity Interests. Accordingly, pursuant to Bankruptcy Rule 3019, such modifications or alterations, if any, do not require additional

disclosure under section 1125 of the Bankruptcy Code or re-solicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that holders of Claims or Equity Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan.

8. Binding Effect of Plan. Subject to the occurrence of the Effective Date, the provisions of the Plan and this Confirmation Order shall be binding upon: (a) the Reorganized Debtor; (b) the Distribution Trust and the Distribution Trustee; (c) all Professionals and Ordinary Course Professionals; (d) any and all non-Debtor parties to judicial or administrative proceedings in which the Debtor or the Debtor is a party; (e) any and all holders of Claims or Equity Interests (irrespective of (i) whether such Claims or Equity Interests are impaired under the Plan, (ii) whether the holders of such Claims or Equity Interests accepted, rejected, or are deemed to have accepted or rejected the Plan or (iii) whether such Claims or Equity Interests have been asserted in a filed proof of claim, proof of interest, request for administrative expense payment or other pleading or filing); (f) any and all non-Debtor parties to executory contracts or unexpired leases with the Debtor or the Debtor; (g) any party that had received or may be deemed to have received notice of the Plan and the Combined Hearing; and (h) the respective heirs, executors, administrators, trustees, affiliates, officers, directors, agents, representatives, attorneys, beneficiaries, guardians, successors or assigns, if any, of any of the foregoing. All settlements, compromises, discharges, releases, waivers, exculpations, and injunctions set forth in the Plan shall be, and hereby are, effective and binding on all Persons who may have had standing to assert any settled, released, discharged, exculpated, or enjoined causes of action.

9. Distributions. On and after the Effective Date, the Distributions on account of Allowed Claims and the resolution and treatment of Disputed Claims pursuant to

Article VII of the Plan are authorized to occur and, without limitation on the other provisions of the Plan and this Confirmation Order concerning the powers, duties, and authority of the Distribution Trustee, the Distribution Trustee shall be authorized to effectuate such Distributions, resolution, and treatment.

10. Executory Contracts and Unexpired Leases. The executory contract and unexpired lease provisions of Article VIII of the Plan, including without limitation the deemed rejection of executory contracts and unexpired leases pursuant to section 8.2 of the Plan, are specifically approved in all respects, are incorporated herein in their entirety, and are so ordered.

11. This Confirmation Order shall constitute an order of the Court, pursuant to section 365 of the Bankruptcy Code, as of and conditioned on the occurrence of the Effective Date, approving (a) the assumption of the executory contracts and unexpired leases specified in the Schedule of Assumed Contracts and Unexpired Leases and (b) the rejection of all remaining executory contracts and unexpired leases of the Debtor. For the avoidance of doubt, the Debtor, subject to the agreement of the Plan Sponsor and the relevant counterparty, shall have the right to assume all executory contracts entered into by the Debtor postpetition prior to the Effective Date.

12. The rejection of any executory contract or unexpired lease pursuant to the Plan or otherwise shall not constitute a termination of pre-existing obligations owed to the Debtor under such executory contract or unexpired lease by any counterparty thereto. The Debtor or the Distribution Trustee, as applicable, expressly reserves and does not waive any right to receive, or any continuing obligation of a counterparty to provide, warranties, indemnifications, and/or contributions under or in connection with such executory contract or unexpired lease. The terms of any confidentiality agreement or covenant not to compete contained therein shall survive and remain in full force and effect for the term thereof in

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accordance with any applicable law. Any such rights shall vest in the Reorganized Debtor as of the Effective Date.

13. Notwithstanding any other provision herein, the San Mateo Lease and the San Mateo Sub-Lease shall be deemed rejected as of the August 31, 2017.

14. Bar Date for Rejection Claims. Claims arising out of the rejection of an executory contract or unexpired lease pursuant to section 8.2 of the Plan must be filed with the Court on or before thirty (30) days after the Effective Date (the "Rejection Damages Bar Date"). Unless otherwise ordered by the Court, any such Claims not timely filed shall be forever barred.

15. Vesting of Assets. Unless a cause of action against any entity is expressly waived, relinquished, released, or compromised in the Plan, all causes of action (including, without limitation, all Avoidance Actions, all Estate Actions, and all causes of action in all other litigation presently pending in other forums) are hereby preserved for the benefit of the Debtor and the Reorganized Debtor for adjudication, as applicable, by the Reorganized Debtor in accordance with the Plan.

16. Such preserved claims and causes of action include, without limitation, causes of set forth in the Plan Supplement and any causes of action not specifically identified or described in the Disclosure Statement or Plan Supplement, of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at the time of entry of this Confirmation Order or facts or circumstances that may change or be different from those that the Debtor now believe to exist. No preclusion doctrine, including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable, or otherwise) or *laches* shall apply to such causes of action upon or after the entry of this Confirmation Order or the Effective Date based on

the Disclosure Statement, the Plan, the Plan Supplement, or this Confirmation Order, except where such causes of action have been released in the Plan.

17. Exemption from Transfer Taxes. The issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer the Plan or this Confirmation Order, may not be taxed under any law imposing a stamp tax or similar tax.

18. Notice of entry of this Confirmation Order (a) shall have the effect of an order of the Court, (b) shall constitute sufficient notice of the entry of this Confirmation Order to such filing and recording officers and (c) shall be a recordable instrument notwithstanding any contrary provision of applicable nonbankruptcy law. This Court retains jurisdiction to enforce the foregoing direction by contempt proceedings or otherwise.

19. Transfers by Debtor. All transfers of property of the Debtor's estate shall be free and clear of all Liens, charges, Claims, encumbrances, and other interests, except as expressly provided in the Plan or this Confirmation Order.

20. Securities Exempt from Registration. To the maximum extent provided by section 1145 of the Bankruptcy Code and/or applicable non-bankruptcy law, (i) the issuance under the Plan of (i) the New Equity and (ii) the issuance of Beneficial Interests in the Distribution Trust, shall in each case be exempt from registration under the Securities Act of 1933, as amended, and all rules and regulations promulgated thereunder and any state or local law requiring registration prior to the offering, issuance, distribution, or sale of securities. The issuance of (x) the New Equity to the DIP Lender and the Plan Sponsor, and (y) the Beneficial Interests is or was in exchange for Claims against the Debtor within the meaning of section 1145(a)(1) of the Bankruptcy Code. Pursuant to section 1145(c) of the Bankruptcy Code, the resale of any equity and any other securities issuable pursuant to the Plan shall be exempt from

registration under the Securities Act of 1933, as amended, and all rules and regulations promulgated thereunder and any state or local law requiring registration prior to the offering, issuance, distribution, or sale of securities, except for any restrictions set forth in section 1145(b) of the Bankruptcy Code and any restriction contained in the Plan Documents.

21. Extinguishment of Claims and Equity Interests. Except as provided in the Plan, the rights afforded in and the payments and distributions to be made under the Plan shall terminate all Equity Interests and discharge all existing debts and Claims of any kind, nature or description whatsoever against or in the Debtor or any of their assets or properties to the fullest extent permitted by section 1141 of the Bankruptcy Code. Except as provided in the Plan, upon the Effective Date, all existing Claims against and Equity Interests in the Debtor shall be, and shall be deemed to be, discharged and terminated, and all holders of such Claims and Equity Interests shall be precluded and enjoined from asserting against the Reorganized Debtor, the Estate, the Distribution Trust or their respective successors or assignees, or any of their respective assets or properties any other or further Claim or Equity Interest based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not such holder has filed a proof of claim or proof of interest and whether or not the facts or legal bases therefor were known or existed prior to the Effective Date.

22. Indemnification Obligations. Any obligation of the Debtor to indemnify, contribute, reimburse, or limit the liability of any Person, including any current or former officer or director of the Debtor, or any agent, professional, financial advisor, or underwriter of any securities issued by the Debtor, relating to any acts or omissions occurring before the Effective Date, whether arising pursuant to charter, bylaws, contract, applicable state law or otherwise, shall be canceled and discharged as of the Effective Date and, to the extent such obligation is

contained an Executory Contract, rejected, pursuant to the Plan as of the Effective Date, provided, however, that nothing herein shall affect or impair the right of (i) any such officer or director to liquidate and assert against the Estate and seek recovery therefrom on account of any timely filed claim concerning any obligation of the Debtor to indemnify, contribute, reimburse or limit the liability of any such officer or director or (ii) the Debtor, the Prepetition Lender or the Distribution Trustee to object, dispute or otherwise contest any such claims.

23. Discharge. To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, upon the Effective Date, the Debtor and its estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims, causes of action and Equity Interests of any kind or nature whatsoever, whether known or unknown, including any interest accrued on such Claims from and after the Petition Date, liabilities of, Liens on, obligations of, rights against, and Equity Interests in the Debtor or any of its assets or properties, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code. The discharge contained in Section 11.1 of the Plan is approved and authorized in all respects.

24. Injunction. The discharge and releases set forth in Section 11.1 of the Plan shall also operate as an injunction permanently prohibiting and enjoining the commencement or continuation of any action or the employment of process with respect to, or any act to collect, recover from, or offset (except for offsets exercised prior to the Petition Date) any Claim or Interest or cause of action, whether known or unknown that is discharged and released in Section

11.1 of the Plan. All Persons shall be precluded and forever barred from asserting against the Debtor, its estate or the Reorganized Debtor, their successors or assigns, or their assets, properties, or interests in property any other or further Claims or Interests, or causes of action, or any other right to legal or equitable relief regardless of whether such right can be reduced to a right to payment, based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not the facts of or legal bases therefor were known or existed prior to the Effective Date.

25. As of the Effective Date there shall be an injunction permanently prohibiting and enjoining the commencement or continuation of any action or the employment of process with respect to, or any act to collect, recover from, or offset (except for offsets exercised prior to the Petition Date) any Claim or Interest or cause of action, whether known or unknown against the Debtor, the Reorganized Debtor, and the Protected Parties that are released under Section 11.5 of the Plan. Except as otherwise expressly provided in the Plan, all Persons shall be precluded and forever barred from asserting against the Debtor, the Reorganized Debtor, and the Protected Parties, their successors or assigns, or their assets, properties, or interests in property any Claims or Interests, or causes of action, or right to legal or equitable relief released under Section 11.5 of the Plan, regardless of whether such right can be reduced to a right to payment, based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not the facts of or legal bases therefor were known or existed prior to the Effective Date. The injunctions contained in Section 11.2 of the Plan are approved and authorized in all respects.

26. Terms of Existing Injunctions or Stays. All injunctions or stays arising under or entered during the Chapter 11 Case under section 105 or 362 of the Bankruptcy Code,

or otherwise, that are in existence on the Confirmation Date shall remain in full force and effect until the Effective Date, *provided, however*, that no such injunction or stay shall preclude enforcement of parties' rights under the Plan and the related documents.

27. Exculpation. The Exculpated Parties, which include the Debtor and its professionals, will neither have nor incur any liability to any entity for any claims or causes of action arising before, on or after the Petition Date and prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the consummation of the Plan, the Disclosure Statement, or any other contract, instrument, release or other agreement or document created or entered into in connection with the Plan or any other postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtor, the approval of the Disclosure Statement or Confirmation or consummation of the Plan; provided, however, that the foregoing provisions will have no effect on the liability of any entity that results from any such act or omission that is determined in a Final Order of the Bankruptcy Court or other court of competent jurisdiction to have constituted gross negligence or willful misconduct; provided, further, that the Debtor will be entitled to rely upon the advice of counsel concerning their duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The exculpations contained in Section 11.3 of the Plan are approved and authorized in all respects.

28. Releases. Effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy of which is hereby acknowledged and confirmed, the Debtor will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full waiver and release to the Released

Parties and their respective related parties (and each such Released Party and their respective related parties so released shall be deemed forever released, and waived by the Debtor Releasing Parties) and their respective properties from any and all released claims that the Debtor and their respective related parties would have been legally entitled to assert in their own right, on behalf of one another, or on behalf of another party against the Released Parties or their respective related parties; provided, however, that the foregoing provisions of this release shall not operate to waive or release (i) the rights of the Debtor to enforce the Plan and the contracts, instruments, releases and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to final order of the Bankruptcy Court; and/or (ii) any claims or defenses against third party.

29. This Confirmation Order permanently enjoins the commencement or prosecution by any person or entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities released pursuant to the release contained in Section 11.4 of the Plan.

30. To the extent allowed by applicable law, on, and as of, the Effective Date and for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Debtor, the Reorganized Debtor and the Protected Parties shall be forever released from any and all claims, obligations, actions, suits, rights, debts, accounts, causes of action, remedies, avoidance actions, agreements, promises, damages, judgments, demands, defenses, or claims in respect of equitable subordination, and liabilities throughout the world under any law or court ruling through the Effective Date (including all claims based on or arising out of facts or circumstances that existed as of or prior to the Plan in the Chapter 11 Case, including claims based on negligence or strict liability, and further including any derivative claims asserted on

behalf of the Debtor, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, that the Debtor, its Estate, or the Reorganized Debtor would have been legally entitled by applicable law to assert in its own right, whether individually or collectively); provided however that with respect to the Protected Parties, the foregoing release is granted only by the (a) Creditors who are Unimpaired, (b) Creditors who voted to accept the Plan and did not check the opt-out box on the ballot, and (c) creditors who were sent a solicitation package but did not vote and did not return a ballot with the opt-out box checked, have or may have against any of the Protected Parties in any way related to the Chapter 11 Case or the Debtor (or its predecessors); provided further, however that the release provided in this section in favor of the Protected Parties shall not apply to any Creditor in category (c) above if the solicitation package was returned to the Debtor as undelivered, and that such Creditor did not otherwise file a ballot; provided further, however, that with respect to the Protected Parties, the release provided in section 11.5 of the Plan shall not extend to any claims by any Governmental Unit with respect to criminal liability under applicable law, willful misconduct or bad faith under applicable law, or *ultra vires* acts under applicable law. No compliance with or reliance on the applicable law or the orders of the Bankruptcy Court shall be deemed or permitted to be judged, declared, or ruled to be in any way wrongful, in bad faith, *ultra vires*, inequitable or otherwise subject to any sanction or punishment, all of which are preempted, superseded and negated by the Plan to the maximum extent permitted by applicable law.

31. The releases contained in Sections 11.4 and 11.5 of the Plan are approved and authorized in all respects.

32. Limitation of Liability. The Debtor, the Reorganized Debtor and the Protected Parties shall have all of the benefits and protections afforded under section 1125(e) of the Bankruptcy Code and applicable law.

33. No Successor Liability. Pursuant to section 1141 of the Bankruptcy Code and Article XI of the Plan, the property of the Debtor's estate shall vest in the Reorganized Debtor, free and clear of all claims and interests of creditors and equity holders of the Debtor. Moreover, pursuant to section 1141(d) of the Bankruptcy Code, the effect of confirmation of the Plan shall be to discharge the Debtor from any debt that arose before the Effective Date, and any debt of a kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

34. The issuance of New Equity or transfer of assets through the Plan shall not result in the Reorganized Debtor (a) having any liability or responsibility for any Claim against or Equity Interest in the Debtor, the Debtor's estate, or Insider of the Debtor, or (b) having any liability or responsibility to the Debtor or the Debtor, each except as expressly set forth in the Plan. Without limiting the effect or scope of the foregoing, and to the fullest extent permitted by applicable laws, the issuance of the New Equity or transfer of assets contemplated in the Plan shall not subject the Reorganized Debtor, its respective properties or assets or respective affiliates, successors, or assigns to any liability for Claims against the Debtor's interests in such assets by reason of such issuance of New Equity or transfer of assets under any applicable laws, including, without limitation, any successor liability.

35. For the avoidance of doubt, ESW, in its capacity as either the Plan Sponsor or the DIP Lender, and the Reorganized Debtor shall assume no obligations, liabilities or fiduciary duties with respect to the 401(k) Plan in any respect whatsoever.

36. General Administrative Claim Bar Date Provisions. Unless previously filed or as otherwise governed by a bar date order or in another order of the Court or pursuant to the Plan with respect to Ordinary Course Liabilities, requests for payment of Administrative Claims must be filed with the Court and served on the parties identified in section 13.12 of the Plan by the Administrative Claim Bar Date, which shall be the first Business Day that is thirty (30) days after the Combined Hearing (*i.e.*, August 25, 2017). All payments are subject to funding the Segregated Account for (i) unpaid fees and expenses of Estate professionals under the Approved Budget and (ii) Ordinary Course Liabilities, including any fees and expenses owed under the DIP Facility, under the Approved Budget, as defined in and established pursuant to the Distribution Trust Agreement. Holders of Administrative Claims that are required to file and serve a request for payment of such Administrative Claims and that do not file and serve such a request by the Administrative Claim Bar Date shall be forever barred from asserting such Administrative Claims against the Debtor, the Estate, the Distribution Trust, or their respective property. Objections to any requests for payment of Administrative Claims must be asserted by the Claim Objection Deadline.

37. Professional Compensation. Each Professional shall file an application for allowance of final compensation and reimbursement of expenses in the Chapter 11 Case, for the period through the Effective Date, no later than forty-five (45) days after the Effective Date. Objections to applications of professionals for compensation or reimbursement of expenses must be filed and served on the Reorganized Debtor, the U.S. Trustee, and the professionals to whose application the objections are addressed no later than twenty-one (21) days after the date the application is filed, or the Bankruptcy Court may enter an order authorizing the fees without a hearing. Any professional fees and reimbursements or expenses incurred by the Reorganized

Debtor subsequent to the Effective Date may be paid without application to the Bankruptcy Court.

38. 28 U.S.C. § 1930 Fees. All fees due and payable pursuant to section 1930 of title 28 of the U.S. Code ("Quarterly Fees") prior to the Effective Date shall be paid by the Debtor on the Effective Date. After the Effective Date, the Debtor and the Distribution Trust shall be jointly and severally liable for any and all Quarterly Fees when they are due and payable after the Effective Date. The Debtor shall file all Quarterly Reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Distribution Trust shall file with the Bankruptcy Court Quarterly Reports in a form reasonably acceptable to the U.S. Trustee. The Debtor and the Distribution Trust shall remain jointly and severally obligated to pay Quarterly Fees to the Office of the U.S. Trustee until the earliest of the Debtor's case being closed, dismissed or converted to a case under chapter 7 of the Bankruptcy Code.

39. Approval of Distribution Trust. The establishment of the Distribution Trust in accordance with the terms of the Plan and the Distribution Trust Agreement (Exhibit A to the Plan Supplement), is hereby authorized and approved in accordance with their respective terms. Notwithstanding any other provision of this Confirmation Order, the Plan, the Plan Supplement or the Distribution Trust Agreement (as each may have been or may be amended) to the contrary, effective immediately upon entry of this Order (and prior to the Effective Date): (i) the Distribution Trust is deemed created and is authorized to open bank accounts in the name of the Distribution Trust using the Distribution Trustee's tax identification number and receive estate funds; (ii) the Debtor is authorized to transfer to the Distribution Trust all budgeted amounts funded under the DIP Note and the DIP Order (including any previously agreed to

permitted variances) that have not been paid to third parties. Provided, however, notwithstanding the foregoing, funds to cover checks and wires that have not cleared need to remain with the Debtor, and the Reorganized Debtor will honor those checks (provided, amounts sufficient to cover checks and wires are held back and payments were authorized under the DIP Note and Order). Provided, further that the Debtor shall make good faith efforts to disclose in writing all checks and wires that are in process but that have not cleared as of the Effective Date, and ESW reserves all rights in the event a check or wire was for the payment of an obligation not properly payable under the DIP Note or DIP Order. The parties will work in good faith and in a commercially reasonable manner to true-up all amounts, with the understanding that amounts funded under the DIP Note and DIP Order should be transferred to the Distribution Trust and the Reorganized Debtor should not be liable for liabilities accruing prior to the Effective Date. All banks and other financial institutions are entitled to conclusively rely on this Order for purposes of allowing the Distribution Trust to open bank accounts and receive estate funds. Notwithstanding any other provision of this Order, the Plan or the Plan Supplement to the contrary, a) the Plan Sponsor shall remit the Consideration directly to the Distribution Trust on the Effective Date, and b) Pacific Western Bank (the "Prepetition Lender") shall continue to be governed in accordance with the Cash Management Order entered in this Case.

40. Appointment of Distribution Trustee. Craig R. Jalbert is hereby appointed to serve as the Distribution Trustee on the terms set forth in this Confirmation Order, the Plan, and the Distribution Trust Agreement.

41. Authorization, Duties, and Powers of Distribution Trustee. The Distribution Trustee is hereby authorized to take any and all actions necessary or appropriate in furtherance of, and to implement, effectuate and consummate the Plan, this Confirmation Order,

and the Implementation Activities contemplated thereby and hereby, including, without limitation, all of the Implementation Activities, procedures and undertakings specified in Article VII of the Plan and, further without limitation of the foregoing, all of the specified rights, duties, powers, options, and elections of the Distribution Trustee set forth in the Distribution Trust Agreement. Moreover, the Distribution Trustee is authorized and directed to serve as the plan administrator of the Debtor's 401(k) plan, to cause all appropriate or necessary documents related thereto to be prepared or filed timely, and to pay, from the Distribution Trust Operating Reserve, all costs and expenses he or she deems necessary or advisable in connection with the Debtor's 401(k) plan.

42. Distribution Trustee Bond. The Distribution Trustee shall not be required to post a bond or other security in connection with its obligations under this Distribution Trust Agreement.

43. Compensation of Distribution Trustee. The compensation of the Distribution Trustee and the work of his counsel in support of the Distribution Trustee, as well as reimbursement of the Distribution Trustee's actual, reasonable, and necessary expenses incurred in connection with the performance of the Distribution Trustee's duties, pursuant to the terms set forth in the Distribution Trust Agreement, shall be paid from the Distribution Trust Operating Reserve without further order of the Court, subject to the terms and conditions of the Distribution Trust Agreement.

44. The compensation of the initial Distribution Trustee shall be calculated on an hourly basis as set forth in the Distribution Trust Agreement. Any final report shall provide sufficient detail to reflect the compensation earned by the Distribution Trustee.

45. Directive in Furtherance of Plan. Each federal, state, commonwealth, local, foreign, or other governmental agency is hereby authorized to accept any and all documents, mortgages and instruments necessary or appropriate to effectuate, implement, or consummate the transactions contemplated by the Plan and this Confirmation Order.

46. Binding Effect of Prior Orders and Agreements. To the maximum extent permitted pursuant to section 1141 of the Bankruptcy Code, effective as of the Confirmation Date, but subject to the occurrence of the Effective Date and subject to the terms of the Plan and this Confirmation Order, all prior orders entered in the Chapter 11 Case, all documents and agreements executed by the Debtor, and all motions or requests for relief by the Debtor shall be binding upon and shall inure to the benefit of the Reorganized Debtor and the Distribution Trustee.

47. Final Order. The fourteen (14) day stay of this Confirmation Order imposed by Bankruptcy Rule 3020(e) is hereby waived in accordance with Bankruptcy Rule 3020(e). This Confirmation Order is a final order, and the period in which an appeal must be filed shall commence immediately upon the entry hereof.

48. Omitted.

49. Notice of Confirmation and Effective Date. Promptly following the occurrence of the Effective Date, pursuant to Bankruptcy Rules 2002(f)(7) and 3020(c)(2), the Distribution Trustee is directed to serve a notice of the entry of this Confirmation Order, the establishment hereunder of bar dates for certain Claims (including the Administrative Bar Date and the Rejection Damages Bar Date) and the occurrence of the Effective Date, substantially in the form of **Exhibit B** attached hereto and incorporated herein by reference (the "Confirmation and Effective Date Notice"), on all parties that received the Combined Hearing Notice. The

Distribution Trustee is also directed to make copies of the Confirmation and Effective Date Notice available on the Case Website.

50. Insurance. Nothing in the Disclosure Statement, the Plan, or the Confirmation Order (i) alters the rights and obligations of the Debtor, and the Debtor's insurers (and third party claims administrators) under applicable insurance policies (and the agreements related thereto), (ii) modifies the coverage provided thereunder or the terms and conditions thereof (iii) diminishes or impairs the enforceability of any insurance policies, or any claims thereunder, covering former officers and/or directors of the Debtor. Any such rights and obligations shall be determined under the applicable insurance policies, any related agreement of the parties and applicable law.

51. Plan and Confirmation Order Govern. In the event of an inconsistency between the Plan, on the one hand, and any other agreement, instrument, or document intended to implement the provisions of the Plan, on the other, the provisions of the Plan shall govern (unless otherwise expressly provided for in such agreement, instrument, or document); *provided, further*, that, for the avoidance of doubt, in the event of any inconsistency between the Plan and the terms of this Confirmation Order, the terms of this Confirmation Order shall govern.

52. Jurisdiction. The assets and affairs of the Debtor shall remain subject to the jurisdiction of this Court until the Effective Date. Notwithstanding the entry of this Confirmation Order, from and after the Effective Date, the Court shall retain such jurisdiction over the Chapter 11 Case to the fullest extent that is legally permissible.

Dated: July 27, 2017

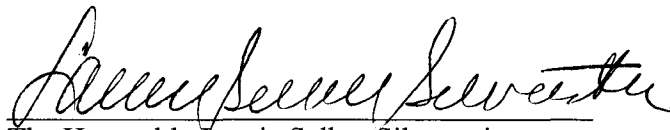

The Honorable Laurie Selber Silverstein
United States Bankruptcy Judge

EXHIBIT A

Plan of Reorganization

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FIRSTRAIN, INC.,

Debtor.

§
§
§
§
§
§

Case No. 17-11249 (LSS)

Chapter 11

**AMENDED PLAN OF REORGANIZATION OF FIRSTRAIN, INC.
DATED JULY 24, 2017**

THE ROSNER LAW GROUP LLC

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EXHIBITS TO THE PLAN

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FirstRain, Inc., the debtor and debtor-in-possession in the above-referenced Chapter 11 Case proposes this Plan of Reorganization of the Debtor dated June 5, 2017. Reference is made to the Disclosure Statement Pursuant to 11 U.S.C. § 1125 in Support of the Plan of Reorganization of the Debtor dated June 5, 2017 for a discussion of the Debtor's history, business, property and results of operations, and for a summary of the Plan and certain related matters.

All are encouraged to read the Plan and the Disclosure Statement in their entirety before voting to accept or reject the Plan. No materials, other than the Disclosure Statement and any exhibits and schedules attached thereto or referenced therein, have been approved by the Proponents for use in soliciting acceptances or rejections of the Plan.

For avoidance of doubt, the Plan applies and preserves the maximum global jurisdiction possible under applicable U.S. law, including, without limitation, over the assets of the Debtor wherever located. The Plan is also consistent with and implements the decisions of the Bankruptcy Court that are described in the Disclosure Statement.

ARTICLE I SUMMARY OF THE PLAN

An overview of the Plan is set forth in the Disclosure Statement. Generally, the Plan provides for (1) the reorganization of the Debtor by retiring, cancelling, extinguishing and/or discharging the Debtor's prepetition Equity Interests and issuing New Equity in the Reorganized Debtor to ESW Capital, LLC, in its capacity as the Plan Sponsor and to ESW Capital, LLC, in its capacity as the DIP Lender, to the extent that it exercises the Subscription Option, and (2) the distribution of Cash to holders of Allowed Claims in accordance with the priority scheme established by the Bankruptcy Code or as agreed to by the Pre-Petition Lender.

The reorganization of the Debtor and its estate described herein will be implemented via (1) issuance of a portion of New Equity in the Reorganized Debtor to ESW or an affiliate, as the Plan Sponsor, in exchange for the Plan Consideration; (2) receipt of a portion of the New Equity of the Reorganized Debtor by ESW, as the DIP Lender, pursuant to the Subscription Option; and (3) distribution of the Consideration to the holders of Allowed Claims.

ARTICLE II DEFINITIONS, RULES OF INTERPRETATION, AND CONSTRUCTION OF TERMS

2.1 All capitalized terms not defined elsewhere in the Plan shall have the meanings assigned to them in the Glossary of Defined Terms attached as Exhibit A to the Plan. Any capitalized term used in the Plan that is not defined herein has the meaning ascribed to that term in the Bankruptcy Code and/or Bankruptcy Rules.

2.2 For purposes of the Plan, any reference in the Plan to an existing document or exhibit filed or to be filed means that document or exhibit as it may have been or may be amended, supplemented, or otherwise modified.

2.3 The words “herein,” “hereof” and “hereunder” and other words of similar import refer to the Plan as a whole and not to any particular section, subsection or clause contained in the Plan, unless the context requires otherwise. Whenever from the context it appears appropriate, each term stated in either the singular or the plural includes the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender include the masculine, feminine and the neuter. The section headings contained in the Plan are for reference purposes only and shall not affect in any way the meaning or interpretation of the Plan.

2.4 Captions and headings to articles, sections and exhibits are inserted for convenience of reference only and are not intended to be part of or to affect the interpretation of the Plan.

2.5 The rules of construction set forth in section 102 of the Bankruptcy Code shall apply.

2.6 In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

ARTICLE III DESIGNATION OF CLAIMS AND EQUITY INTERESTS

3.1 Summary

Pursuant to section 1122 of the Bankruptcy Code, a Claim or Equity Interest is placed in a particular Class for purposes of voting on the Plan and receiving Distributions under the Plan only to the extent (i) the Claim or Equity Interest qualifies within the description of that Class; (ii) the Claim or Equity Interest is an Allowed Claim or Allowed Equity Interest in that Class, and is classified in another Class or Classes to the extent that any remainder of the Claim or Equity Interest qualifies within the description of such other Class or Classes; and (iii) the Claim or Equity Interest has not been paid, released, or otherwise compromised before the Effective Date. A Claim or Equity Interest which is not an Allowed Claim or Allowed Equity Interest, including a Disputed Claim, is not in any Class, and, notwithstanding anything to the contrary contained in the Plan, no Distribution shall be made on account of any Claim or Equity Interest which is not an Allowed Claim or Allowed Equity Interest. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Professional Compensation Claims, and Priority Tax Claims are not classified under the Plan and are excluded from the following Classes.

3.2 Identification of Classes

The following is a designation of the classes of Claims and Equity Interests under the Plan.

- Class 1: Priority Unsecured Non-Tax Claims
- Class 2: Pre-Petition Lender Secured Claim
- Class 3: Other Secured Claims
- Class 4: General Unsecured Claims

Class 5: Intercompany Claims

Class 6: Equity Interests

3.3 Unimpaired Classes

Class 1 is unimpaired under the Plan. Under section 1126(f) of the Bankruptcy Code, holders of Claims in Class 1 are conclusively presumed to have accepted the Plan and are therefore not entitled to vote to accept or reject the Plan.

3.4 Impaired Classes/Entitled to Vote

Class 2, 3, 4, and 5 are impaired under the Plan. Holders of Allowed Claims in Class 2, Class 3, Class 4 and Class 5 are entitled to vote to accept or reject the Plan.

3.5 Impaired Classes/Deemed to Reject

Class 6 is impaired under the Plan and is deemed to reject the Plan. Therefore, holders of Equity Interests in Class 6 are not entitled to vote to accept or reject the Plan.

3.6 Elimination of Classes for Voting Purposes

Any Class of Claims or Equity Interests that is not occupied as of the date of the commencement of the Confirmation Hearing by an Allowed Claim, an Allowed Equity Interest, or a Claim or Equity Interest temporarily allowed under Rule 3018 of the Bankruptcy Rules shall be deemed deleted from the Plan for purposes of voting on acceptance or rejection of the Plan by such Class under section 1129(a)(8) of the Bankruptcy Code.

3.7 Controversy Concerning Classification, Impairment or Voting Rights

In the event a controversy or dispute should arise involving issues related to the classification, impairment or voting rights of any Creditor or Interest Holder under the Plan, whether before or after the Confirmation Date, the Bankruptcy Court may, after notice and a hearing, determine such controversy. Without limiting the foregoing, the Bankruptcy Court may estimate for voting purposes (i) the amount of any contingent or unliquidated Claim the fixing or liquidation of, as the case may be, would unduly delay the administration of the Chapter 11 Case and (ii) any right to payment arising from an equitable remedy for breach of performance.

ARTICLE IV TREATMENT OF UNCLASSIFIED CLAIMS

4.1 Administrative Claims

(a) General: Except with regards to the Ordinary Course Liabilities (the treatment of which is described in Section 4.3 (below)), subject to the bar date provisions herein, unless otherwise agreed to by the parties, each holder of an Allowed Administrative Claim shall receive, from the Consideration, Cash equal to the unpaid portion of such Allowed Administrative Claim within ten (10) days after the later of (a) the Effective Date, (b) the

Allowance Date, or (c) such other date as is mutually agreed upon by the Debtor, the Plan Sponsor and the holder of such Claim.

(b) Payment of Statutory Fees: All fees payable pursuant to 28 U.S.C. § 1930 shall be paid in Cash through the DIP Financing, up to the amount set forth in the Approved Budget, and otherwise with the Consideration equal to the amount of such Administrative Claim when due or no later than the Effective Date. Post-petition U.S. Trustee fees and post-confirmation reports shall be paid and filed as required by 28 U.S.C. § 1930 until the Chapter 11 Case is closed, converted or dismissed, and failure to do either timely is a material default pursuant to section 1112 of the Bankruptcy Code. After confirmation, the Distribution Trustee will file with the court and serve on the U.S. Trustee quarterly financial reports in a format prescribed by the U.S. Trustee, and the Distribution Trustee will pay post-confirmation quarterly fees to the U.S. Trustee until a final decree is entered or the case is converted or dismissed as provided in 28 U.S.C. § 1930(a)(6).

(c) Bar Date for Administrative Claims:

(i) General Provisions: Except as otherwise provided in this Article IV, requests for payment of Administrative Claims must be included within an application (setting forth the amount of, and basis for, such Administrative Claims, together with documentary evidence) and Filed and served on respective counsel for the Debtor and Plan Sponsor no later than thirty (30) days after the Confirmation Hearing or by such earlier deadline governing a particular Administrative Claim contained in an order of the Bankruptcy Court entered before the Effective Date. Holders of Administrative Claims (including, without limitation, professionals requesting compensation or reimbursement of expenses and the holders of any Claims for federal, state or local taxes) that are required to File a request for payment of such Claims and that do not File such requests by the applicable bar date specified in either section 4.1(c)(i), (ii) or (iii) hereof shall be forever barred from asserting such Claims against the Debtor or any of its property, absent order of the Court to the contrary.

(ii) Professionals: All professionals or other entities requesting compensation or reimbursement of expenses pursuant to sections 327, 328, 330, 331, 503(b) and 1103 of the Bankruptcy Code for services rendered before the Effective Date (including, without limitation, any compensation or commission requested by any professional or any other entity for making a substantial contribution in the Chapter 11 Case) shall File and serve on the Reorganized Debtor, the Distribution Trust, the U.S. Trustee and the Post-Confirmation Service List an application for final allowance of compensation and reimbursement of expenses no later than forty-five (45) days after the Effective Date. Objections to applications of professionals for compensation or reimbursement of expenses must be filed and served on the Reorganized Debtor, the Distribution Trust, the U.S. Trustee and the Post-Confirmation Service List and the professionals to whose application the objections are addressed no later than twenty-one (21) days after the date the application is filed, or the Bankruptcy Court may enter an order authorizing the fees without a hearing.

Any professional fees and reimbursements or expenses incurred by the Reorganized Debtor subsequent to the Effective Date may be paid by the Reorganized Debtor without

application to the Bankruptcy Court. Any professional fees and reimbursements or expenses incurred by the Distribution Trustee subsequent to the Effective Date may be paid by the Distribution Trustee without application to the Bankruptcy Court.

(iii) **Tax Claims:** All requests for payment of Administrative Claims and other Claims by a Governmental Unit for taxes (and for interest and/or penalties related to such taxes) for any tax year or period, which accrued or was assessed within the period from and including the Petition Date through and including the Effective Date (“Post-Petition Tax Claims”) and for which no bar date has otherwise been previously established, must be Filed on or before the later of (i) forty-five (45) days following the Effective Date; and (ii) ninety (90) days following the filing with the applicable Governmental Unit of the tax return for such taxes for such tax year or period. Any holder of any Post-Petition Tax Claim that is required to File a request for payment of such taxes and does not File such a Claim by the applicable bar date shall be forever barred from asserting any such Post-Petition Tax Claim against the Debtor or its property, whether any such Post-Petition Tax Claim is deemed to arise prior to, on, or subsequent to the Effective Date. To the extent that the holder of a Post-Petition Tax Claim holds a lien to secure its Claim under applicable state law, the holder of such Claim shall retain its lien until its Allowed Post-Petition Tax Claim has been paid in full.

4.2 Allowed Priority Tax Claims

Each Holder of an Allowed Priority Tax Claim against Debtor shall receive, from the Consideration, in full satisfaction, settlement, release and discharge of, and in exchange for, such Allowed Priority Tax Claim (i) Cash equal to the amount of such Allowed Priority Tax Claim, (ii) payment in full through the fifth anniversary of the Petition Date, plus interest, or (iii) such other less favorable treatment to the Holders of an Allowed Priority Tax Claim as to which the Debtor, or the Debtor, the Plan Sponsor, and the Holder of such Allowed Priority Tax Claims shall have agreed upon in writing.

4.3 Ordinary Course Liabilities

(a) All Ordinary Course Liabilities are deemed to be Allowed Claims to the extent set forth in the Approved Budget. Except as set forth below in Section 4.3(b), holders of Administrative Claims on account of Ordinary Course Liabilities are not required to file or serve any request for payment of the Ordinary Course Liability. The Debtor shall continue to pay each Ordinary Course Liability accrued prior to the Effective Date, pursuant to the payment terms and conditions of the particular transaction giving rise to the Ordinary Course Liability, and the Approved Budget. To the extent that a holder of an Administrative Claim, on account of Ordinary Course Liability which accrued prior to the Effective Date, did not submit an invoice for the Ordinary Course Liability to the Debtor prior to the Effective Date, the holder must submit the invoice to the Distribution Trustee in the ordinary course of business pursuant to the terms and conditions of the particular transaction giving rise to the Ordinary Course Liability. The Distribution Trustee shall remit payment on the Ordinary Course Liability within fifteen (15) days of receipt of the invoice. The Reorganized Debtor shall continue to pay each Ordinary Course Liability accrued after the Effective Date, pursuant to the payment terms and conditions of the particular transaction giving rise to the Ordinary Course Liability.

(b) **Allowed DIP Lender Claim:** The DIP Lender Claim is Allowed in full. Pursuant to the Subscription Option, the DIP Lender shall have the option, on account of being the holder of the Allowed DIP Lender Claim, to exchange a total of up to 100% in satisfaction of such amount of the Allowed DIP Lender Claim for up to a total of 60% of the New Equity, at a rate of 1% of its Allowed DIP Lender Claim for .6% of the New Equity. Further, the DIP Lender, on account of being the holder of the Allowed DIP Lender Claim, shall receive from the Consideration, payment in Cash of the remaining amount of the Allowed DIP Lender Claim after the DIP Lender has exercised the Subscription Option to receive its share of the New Equity.¹ On the Effective Date, all liens and interests granted in exchange for or in connection with the DIP Note and/or under the DIP Order shall be deemed discharged, cancelled, and released and shall be of no further force and effect.

(c) Any fees or expenses of ESW Capital, LLC that are not otherwise paid out of the DIP Financing pursuant to the DIP Order shall be deemed Allowed and payable as an Ordinary Course Liability pursuant to Section 1129(a)(4) of the Bankruptcy Code.

**ARTICLE V
CLASSIFICATION AND TREATMENT
OF CLASSIFIED CLAIMS AND EQUITY INTERESTS**

5.1 Treatment of Allowed Priority Unsecured Non-Tax Claims (Class 1)

Each holder of an Allowed Priority Unsecured Non-Tax Claim against the Debtor shall receive, from the Consideration, on the Effective Date, on account of and in full and complete settlement, release and discharge of, and in exchange for, such Allowed Priority Unsecured Non-Tax Claim, either cash equal to the full unpaid amount of such Allowed Priority Unsecured Non-Tax Claim, or such other treatment as the Debtor, the Plan Sponsor and the holder of such Allowed Priority Unsecured Non-Tax Claim shall have agreed.

5.2 Treatment of Allowed Pre-Petition Lender Secured Claim (Class 2)

On the Effective Date, the holder of the Allowed Pre-Petition Lender Secured Claim shall receive, on account of and in full and complete settlement, release and discharge of, and in exchange for, the Allowed Pre-Petition Lender Secured Claim the Secured Lender Recovery up to the full amount of the Allowed Pre-Petition Lender Secured Claim; *provided that* the Distribution on the Effective Date on the Allowed Pre-Petition Lender Secured Claim shall only occur after accounting for funding of the Distribution Reserve, in an amount required under the Plan; *provided further*, as Distributions are made and claims are reconciled with respect to claims accounted for in the Distribution Reserve, the Pre-Petition Lender shall be entitled to payments from the funds remaining in the Distribution Reserve that were previously earmarked for Claims that have been otherwise addressed.

¹ The Plan Sponsor reserves the right to modify the Subscription Option, provided that (i) no such modification shall adversely impact the Plan treatment of other creditors and (ii) such modification is approved by the Post-Petition Lender.

5.3 Treatment of Allowed Other Secured Claims (Class 3)

Each holder of an Allowed Secured Claim, except the Pre-Petition Lender, shall receive, at the election of the Plan Sponsor, on account of and in full and complete settlement, release and discharge of, and in exchange for, its Allowed Secured Claims, (i) cash from the Consideration, prior to any payment to the Allowed Pre-Petition Lender Secured Claim, or the Allowed General Unsecured Claims, in an amount sufficient to satisfy its claim, net of default interest, (ii) reinstatement pursuant to section 1124 of the Bankruptcy Code, (iii) receipt of the collateral securing such claim and any interest required to be paid pursuant to section 506(b) of the Bankruptcy Code, (iv) such other treatment as the Plan Sponsor and the applicable holder of the Allowed Secured Claim may agree, and/or (v) such other recovery necessary to satisfy section 1129 of the Bankruptcy Code.

5.4 Treatment of Allowed General Unsecured Claims (Class 4)

On or about the Effective Date, each holder of an Allowed General Unsecured Claim shall receive, on account of and in full and complete settlement, release and discharge of, and in exchange for its Allowed General Unsecured Claim, payment in full from the Guaranteed Unsecured Recovery.

5.5 Treatment of Allowed Intercompany Claims (Class 5)

Each holder of an Allowed Intercompany Claim shall receive, on account of and in full and complete settlement, release and discharge of, and in exchange for its Allowed Intercompany Claim, its Pro Rata Share of the Consideration remaining after payment in full of all Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Priority Unsecured Non-Tax Claims, Allowed Pre-Petition Lender Secured Claim, Allowed Other Secured Claim, and Allowed General Unsecured Claims.

5.6 Treatment of Allowed Equity Interests (Class 6)

No Distributions will be made to holders of Allowed Equity Interests. On the Effective Date, all Allowed Equity Interests shall be deemed automatically cancelled, released, and extinguished without further action by the Debtor or the Reorganized Debtor, and the obligation of the Debtor and the Reorganized Debtor thereunder shall be discharged.

**ARTICLE VI
MEANS FOR IMPLEMENTATION OF THE PLAN**

6.1 Continued Corporate Existence

Except as otherwise provided in the Plan, the Reorganized Debtor will continue to exist after the Effective Date as a corporate entity, with all of the powers of a corporation under applicable law in the jurisdiction in which the Debtor is incorporated and pursuant to its Charter Documents in effect before the Effective Date, as such documents are amended by or pursuant to the Plan.

Upon the Effective Date, and without any further action by the shareholders, directors, or officers of the Reorganized Debtor, the Reorganized Debtor's Charter Documents shall be deemed amended (a) to the extent necessary, to incorporate the provisions of the Plan, and (b) to prohibit the issuance by the Reorganized Debtor of nonvoting securities to the extent required under section 1123(a)(6) of the Bankruptcy Code, subject to further amendment of such Charter Documents as permitted by applicable law, and to the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan and require no further action or approval other than any requisite filings required under applicable state, provincial or federal law. The Charter Documents shall be filed with the Plan Supplement.

6.2 Management and Board of Directors and Discharge of Debtor

The Plan Sponsor may nominate and elect new members for the board of directors of the Reorganized Debtor in accordance with the Reorganized Debtor's Charter Documents. The identity of such new members shall be disclosed in the Plan Supplement prior to the Plan Supplement Deadline. Upon the Effective Date, the current members of the Debtor's board of directors shall no longer serve in such capacity and shall be discharged of all duties in connection therewith.

6.3 Arrangements with the Distribution Trustee

By the Plan Supplement Deadline, the Debtor shall file with the Bankruptcy Court a disclosure identifying the Distribution Trustee under the Distribution Trust. At the Confirmation Hearing, the Bankruptcy Court shall ratify such Distribution Trustee. All compensation for the Distribution Trustee shall be paid from the Distribution Trust Assets in accordance with the Distribution Trust Agreement. The approved person shall serve as the Distribution Trustee on execution of the Distribution Trust Agreement at the Closing.

6.4 The Closing

The Closing of the transactions required and contemplated under the Plan shall take place on the Effective Date at the offices of Haynes and Boone, LLP, 30 Rockefeller Plaza, 26th Floor, New York, New York 10112, or at such other place identified in a notice provided to those parties listed in Section 13.12 of the Plan. The Proponents may reschedule the Closing by making an announcement at the originally scheduled Closing of the new date for the Closing. A notice of the rescheduled Closing shall be filed with the Bankruptcy Court and served on the parties identified in Section 13.12 of the Plan within two (2) days after the originally scheduled Closing. All documents to be executed and delivered by any party as provided in this Article VI and all actions to be taken by any party to implement the Plan as provided herein shall be in form and substance satisfactory to the Debtor and Plan Sponsor. The following actions shall occur at or before the Closing (unless otherwise specified), and shall be effective on the Effective Date:

(a) Execution of Documents and Corporate Action. The Debtor shall deliver all documents and perform all actions reasonably contemplated with respect to implementation of the Plan. The Debtor, or its designee, is authorized (i) to execute on behalf of the Debtor, in a

representative capacity and not individually, any documents or instruments after the Confirmation Date or at the Closing that may be necessary to consummate the Plan and (ii) to undertake any other action on behalf of the Debtor to consummate the Plan. Each of the matters provided for under the Plan involving the corporate structure of the Debtor or corporate action to be taken by or required of the Debtor will, as of the Effective Date, be deemed to have occurred and be effective as provided herein, and shall be authorized, approved, and (to the extent taken before the Effective Date) ratified in all respects without any requirement of further action by stockholders, creditors, or directors of the Debtor. On the Effective Date, all matters provided for in the Plan involving the corporate structure of the Reorganized Debtor, and all corporate actions required by the Debtor, the Debtor, and the Reorganized Debtor in connection with the Plan, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Debtor or the Reorganized Debtor. For purposes of effectuating the Plan, none of the transactions contemplated in the Plan shall constitute a change of control under any agreement, contract, or document of the Debtors.

(b) Cancellation of Equity Interests. On the Effective Date, all existing Equity Interests of Debtor shall be retired, cancelled, extinguished and/or discharged in accordance with the terms of the Plan. Except as otherwise provided in the Plan or the Plan Supplement, on the Effective Date: (1) the obligations of the Debtor under any certificate, share, note, bond, indenture, purchase right, option, warrant, or other instrument or document, directly or indirectly, evidencing or creating any indebtedness or obligation of or ownership interest in the Debtor giving rise to any Claim or Equity Interest shall be cancelled as to the Debtor and the Reorganized Debtor shall not have any continuing obligations thereunder and (2) the obligations of the Debtor pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificate or articles of incorporation or similar documents governing the shares, certificates, notes, bonds, purchase rights, options, warrants or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtor shall be released and discharged. On the Effective Date, 1,000 shares of New Equity of the Reorganized Debtor shall be issued.

(c) Issuance of New Equity. The New Equity shall be free and clear of all Liens, Claims, Interests, and encumbrances of any kind, except as otherwise provided in the Plan. All the shares of the New Equity issued pursuant to the Plan shall be duly authorized, validly issued, fully paid, and non-assignable. On the Effective Date, none of the New Equity will be listed on a national securities exchange. Reorganized Debtor may take all necessary actions, if applicable, after the Effective Date to suspend any requirement to (i) be a reporting company under the Securities Exchange Act, and (ii) file reports with the Securities and Exchange Commission or any other entity or party. Furthermore, the Reorganized Debtor shall not be required to file monthly operating reports, or any other type of report, with the Court after the Effective Date.

(d) Funding of the Consideration. On the Effective Date, the Plan Sponsor shall contribute to the Debtor an amount of Cash equal to the Consideration in consideration of the Plan Sponsor's purchase of the New Equity. The Consideration is not subject to any financing contingency. The Consideration shall be used to fund Distributions under the Plan. To the extent any amount of Allowed DIP Lender Claim remains after the DIP Lender exercises the

Subscription Option, the remainder of its Allowed DIP Lender Claim shall be repaid in Cash from be Consideration on the Effective Date.

(e) Execution and Ratification of the Distribution Trust Agreement. On the Effective Date, the Distribution Trust Agreement shall be executed by all parties thereto. The Distribution Trust Agreement shall be provided in the Plan Supplement. Each holder of a Claim shall be deemed to have ratified and become bound by the terms and conditions of the Distribution Trust Agreement.

(f) Transfer of Distribution Trust Assets. All property of the Debtor constituting the Distribution Trust Assets shall be conveyed and transferred by the Debtor to the Distribution Trust, free and clear of all Liens, Claims, Equity Interests, and encumbrances.

6.5 Tax Treatment of the Distribution Trust

The Distribution Trust established under the Plan is established for the purpose of distributions to Administrative Claims, Priority Tax Claims, Priority Unsecured Non-Tax Claims, Pre-Petition Lender Secured Claim, Other Secured Claims, General Unsecured Claims, and Intercompany Claims by liquidating the Distribution Trust Assets transferred to the Distribution Trust and performing related and incidental functions referenced in the Distribution Trust Agreement, and the Distribution Trust shall have no objective of continuing or engaging in any trade or business except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the trust. The purpose of the Distribution Trust is to provide a mechanism for the liquidation of the Distribution Trust Assets, and to distribute the Consideration and the proceeds of the liquidation, net of all claims, expenses, charges, liabilities, and obligations of the Distribution Trust, to the Beneficiaries in accordance with the terms of the Plan. No business activities will be conducted by the Distribution Trust other than those associated with or related to the liquidation of the Distribution Trust Assets. It is intended that the Distribution Trust be classified for federal income tax purposes as a "liquidating trust" within the meaning of the Treasury Regulations Section 301.7701-4(d). All parties and Beneficiaries shall treat the transfers in trust described herein as transfers to the Beneficiaries for all purposes of the Internal Revenue Code of 1986, as amended (including Sections 61(a)(12), 483, 1001, 1012, and 1274 thereof). All the parties and Beneficiaries shall treat the transfers in trust as if all the transferred assets, including all the Distribution Trust Assets, had been first transferred to the Beneficiaries and then transferred by the Beneficiaries to the Distribution Trust. The Beneficiaries shall be treated for all purposes of the Internal Revenue Code of 1986, as amended, as the grantors of the Distribution Trust and the owners of the Distribution Trust. The Distribution Trustee shall file returns for the Distribution Trust as a grantor trust pursuant to Treasury Regulations Section 1.671-4(a) or (b). All parties, including the Beneficiaries and the Distribution Trustee, shall value the Distribution Trust Assets consistently, and such valuations shall be used for all federal income tax purposes. Beneficiaries may wish to consult with a tax professional regarding the tax consequences of holding a Beneficial Interest in or receiving a Distribution from the Distribution Trust.

6.6 Preservation of Rights of Action

Unless any Claims against a Person are expressly waived, relinquished, exculpated, released, compromised, transferred or settled in the Plan or by a Final Order, in accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtor shall retain and may enforce all rights to commence and pursue any and all retained causes of action, whether arising before or after the Petition Date, and the Reorganized Debtor's rights to commence, prosecute or settle such causes of action shall be preserved notwithstanding the occurrence of the Effective Date. For the avoidance of doubt, the Reorganized Debtor shall retain and shall have the exclusive right to enforce any and all claims, rights and causes of action arising from or related to its (a) Intellectual Property and (b) accounts receivable and cash (including, without limitation, claims for turnover of cash of the Debtor being held in escrow or on deposit by third parties).

ARTICLE VII PROVISIONS GOVERNING RESOLUTION OF CLAIMS AND DISTRIBUTIONS OF PROPERTY UNDER THE PLAN

7.1 Right to Object to Claims

Notwithstanding anything to the contrary herein, subject to the terms and conditions set forth in the Distribution Trust Agreement, and notwithstanding any requirements that may be imposed pursuant to Bankruptcy Rule 9019, except insofar as a Claim is Allowed under the Plan on and after the Effective Date, the Distribution Trustee shall have the authority, but not the obligation, to: (1) file, withdraw or litigate to judgment objections to and requests for estimation of Claims; (2) settle or compromise any Disputed Claim without any further notice to or action, order or approval by the Bankruptcy Court; and (3) administer and adjust the Claims register to reflect any such settlements or compromises without any further notice to or action, order or approval by the Bankruptcy Court; *provided, however*, that until such time as the Pre-Petition Lender has received the full amount of the Allowed Pre-Petition Lender Secured Claim, the Distribution Trustee shall consult with the Pre-Petition Lender in performing the duties set forth in this section and may not, without the written consent of the Pre-Petition Lender or order of the Bankruptcy Court, settle or resolve any Disputed Claim, or Claim not scheduled by the Debtor, for an amount more than \$5,000 in excess of that shown by the Debtor on its schedules. The Distribution Trustee shall succeed to any pending objections to Claims filed by the Debtor prior to the Effective Date, and shall have and retain any and all rights and defenses the Debtor had immediately prior to the Effective Date with respect to any Disputed Claim. The Reorganized Debtor shall provide commercially reasonable assistance and cooperation to the Distribution Trustee, at the Distribution Trustee's cost, in connection with the Distribution Trustee's prosecution of objections to Claims, including, without limitation, reasonable access to the books and records of the Debtor or the Reorganized Debtor (as the case may be) and other information reasonably requested by the Distribution Trustee to enable the Distribution Trustee to perform its obligations under the Distribution Trust Agreement.

7.2 Deadline for Objecting to Claims

Objections to Claims must be filed with the Bankruptcy Court, and a copy of the objection must be served on the subject Creditor before the expiration of the Claim Objection Deadline (unless such period is further extended by subsequent orders of the Bankruptcy Court); otherwise such Claims shall be deemed Allowed in accordance with section 502 of the Bankruptcy Code. The objection shall notify the Creditor of the deadline for responding to such objection.

7.3 Deadline for Responding to Claim Objections

No later than seven (7) days prior to a hearing scheduled with respect to the Objection to a Claim, or such other date as is indicated on such objection or the accompanying notice thereof, the Creditor whose Claim was objected to must file a written response to the objection with the Bankruptcy Court and serve a copy on the Distribution Trustee. Failure to file a written response within the applicable deadline may cause the Bankruptcy Court to enter a default judgment against the non-responding Creditor or granting the relief requested in the claim objection.

7.4 Right to Request Estimation of Claims

Pursuant to section 502(c) of the Bankruptcy Code, the Debtor, the Reorganized Debtor, and the Distribution Trustee may request estimation or liquidation of any Disputed Claim that is contingent or unliquidated or any Disputed Claim arising from a right to an equitable remedy or breach of performance.

7.5 Distribution Procedures Regarding Allowed Claims

(a) In General

The Distribution Trustee shall make all Distributions required to be made under the Plan, including Distributions from the Distribution Trust.

(b) Distributions on Allowed Claims Only

Distributions from Available Cash shall be made only to the holders of Allowed Claims. Until and if a Disputed Claim becomes an Allowed Claim, the holder of that Disputed Claim shall not receive a Distribution from Available Cash. For the avoidance of doubt, no Distributions shall be made to holders of Allowed Equity Interests.

(c) Place and Manner of Payments of Distributions

Except as otherwise specified in the Plan, Distributions from Available Cash shall be made by mailing such Distribution to the Creditor at the address listed in any proof of claim or interest filed by the Creditor or at such other address as such Creditor shall have specified for payment purposes in a written notice received by the Distribution Trustee at least twenty (20) days before a Distribution Date. If a Creditor has not filed a proof of claim or sent the

Distribution Trustee a written notice of payment address, then the Distribution(s) for such Creditor will be mailed to the address identified in the Schedules of Assets and Liabilities. The Distribution Trustee shall distribute any Cash by wire, check, or such other method as it deems appropriate under the circumstances. Before receiving any Distributions, all Creditors, at the request of the Distribution Trustee, must provide written notification of their respective Federal Tax Identification Numbers or Social Security Numbers to the Distribution Trustee; otherwise, the Distribution Trustee may suspend Distributions to any Creditors who have not provided their Federal Tax Identification Numbers or Social Security Numbers.

(d) Undeliverable Distributions

If a Distribution made from Available Cash to any Creditor is returned as undeliverable, the Distribution Trustee shall use reasonable efforts to determine the then current address for such Creditor. If the Distribution Trustee cannot determine, or is not notified of, a then current address for such Creditor or Interest Holder within six months after the Effective Date, the Distribution reserved for such Creditor shall be deemed an unclaimed Distribution, and Section 7.5(e) of the Plan shall be applicable thereto.

(e) Unclaimed Distributions

If the current address for a Creditor entitled to a Distribution from Available Cash under the Plan has not been determined within six months after the Effective Date or such Creditor has otherwise not been located or submitted a valid Federal Tax Identification Number or Social Security Number to the Distribution Trustee, then such Creditor shall forfeit the Distribution on the Claim.

(f) Withholding

The Distribution Trustee may, but shall not be required to, at any time withhold from a Distribution from Available Cash to any Person (except the Internal Revenue Service) amounts sufficient to pay any tax or other charge that has been or may be imposed on such Person with respect to the amount distributable or to be distributed under the income tax laws of the United States or of any state or political subdivision or entity by reason of any Distribution provided for in the Plan, whenever such withholding is determined by the Distribution Trustee (in its sole discretion) to be required by any law, regulation, rule, ruling, directive, or other governmental requirement. The Distribution Trustee, in the exercise of its sole discretion and judgment, may enter into agreements with taxing or other authorities for the payment of such amounts that may be withheld in accordance with the provisions of this section.

(g) Dissolution

- (i) The Distribution Trustee and Distribution Trust shall be discharged or dissolved, as the case may be, at such time as all of the Distribution Trust Assets have been distributed pursuant to the Plan and the Distribution Trust Agreement; provided, however, that in no event shall the Distribution Trust be dissolved later than three (3) years from the creation

of the Distribution Trust unless the Bankruptcy Court, upon motion within the six-month period prior to the third (3rd) anniversary (or within the six-month period prior to the end of an extension period), determines that a fixed period extension (not to exceed three (3) years, together with any prior extensions, without a favorable private letter ruling from the Internal Revenue Service or an opinion of counsel satisfactory to the Distribution Trustee that any further extension would not adversely affect the status of the trust as a liquidating trust for United States federal income tax purposes) is necessary to facilitate or complete the liquidation of the Distribution Trust Assets.

- (ii) If at any time the Distribution Trustee determines, in reliance upon such professionals as a Distribution Trustee may retain, that the expense of administering the Distribution Trust so as to make a final distribution to Distribution Trust Beneficiaries is likely to exceed the value of the assets remaining in the Distribution Trust, the Distribution Trustee may (i) reserve any amount necessary to dissolve the Distribution Trust, (ii) donate any balance to a charitable organization (A) described in section 501(c)(3) of the Internal Revenue Code, (B) exempt from United States federal income tax under section 501(a) of the Internal Revenue Code, (C) not a "private foundation," as defined in section 509(a) of the Internal Revenue Code, and (D) that is unrelated to the Debtor, the Distribution Trust, and any insider of the Distribution Trustee, and (iii) dissolve the Distribution Trust.

7.6 Procedures Regarding Distributions from the Distribution Trust

Procedures regarding Distributions from the Distribution Trust shall be governed by the Distribution Trust Agreement.

ARTICLE VIII EXECUTORY CONTRACTS

8.1 Assumption of Executory Contracts

On the Effective Date, and subject to Section 8.6 hereof, all Executory Contracts identified on the Schedule of Assumed Contracts and Unexpired Leases, to be attached as Exhibit B, shall be deemed assumed by the Reorganized Debtor. The Plan Sponsor may amend the Schedule of Assumed Contracts and Unexpired Leases through the Effective Date. Entry of the Confirmation Order shall constitute approval of the assumption of such Executory Contracts under sections 365 and 1123 of the Bankruptcy Code.

8.2 Rejection of Executory Contracts

All Executory Contracts not identified on the Schedule of Assumed Contracts and Unexpired Leases (or assumed by the Debtor previously) shall be deemed rejected on the

Effective Date. Entry of the Confirmation Order shall constitute approval of such rejections under sections 365 and 1123 of the Bankruptcy Code. Notwithstanding the rejection of an Executory Contract, the terms of any confidentiality agreement or covenant not to compete contained therein shall survive and remain in full force and effect for the term thereof.

The Debtor will reject on or prior to the Effective Date, and the Reorganized Debtor will not assume, the FirstRain India Contract.

The Debtor will reject prior to the Effective Date, and the Reorganized Debtor will not assume, any employment, severance, bonus, incentive, commission, compensation or similar agreement or plan (or any agreement outside the ordinary course of business) with any employees, officers or directors. To the extent the 401(k) Plan has not yet been formally rejected and/or terminated prior to the Effective Date, such 401(k) Plan is being rejected by the Reorganized Debtor, and the Debtor shall take all steps necessary prior to the Effective Date to effectuate termination of the 401(k) Plan. The Debtor will reject prior to the Effective Date, and the Reorganized Debtor will not assume, the Employee Handbook, if any.

On the Effective Date, any and all equity based incentive plans or stock ownership plans of the Debtor, including all agreements related thereto, entered into before the Effective Date, or other plans, agreements or documents giving rise to Equity Interests, including the contingent cash components of any such plans, agreements, or documents, shall be immediately terminated without any action of the Debtor, the Debtor, the Reorganized Debtor or the Plan Sponsor. To the extent such plans, agreements or documents are considered to be Executory Contracts, such plans, agreements or documents shall be deemed to be, and shall be treated as though they are, Executory Contracts that are rejected pursuant to section 365 of the Bankruptcy Code under the Plan. From and after the Effective Date, all warrants, stock options and other equity awards outstanding or issued at such time, whether included in a warrant, plan, contract, agreement or otherwise, will have no value, shall be cancelled and extinguished and thus will not entitle any holder thereof to purchase or otherwise acquire any equity interests in the Reorganized Debtor.

8.3 Procedures Related to Assumption of Executory Contracts

(a) Establishment of Cure Claim Amounts

The Cure Amounts associated with the assumption of the Executory Contracts pursuant to Section 8.1 hereof are specified in the Schedule of Assumed Contracts and Unexpired Leases. The Debtor shall serve counterparties to the Executory Contracts with a Notice of (I) Possible Assumption of Contracts and Leases, (II) Fixing of Cure Amounts, and (III) Deadline to Object Thereto (the "Cure Notice").

Any Objection to Cure Notice including (i) an objection to the applicable Cure Amount (a "Cure Objection") and (ii) an objection to the adequate assurance of future performance (a "Adequate Assurance Objection") to be provided by the Plan Sponsor on behalf of the Reorganized Debtor must be in writing, filed with the Court, and served upon (a) the Debtor, (b) counsel to the Debtor, (c) counsel to the Plan Sponsor, and (d) the U.S. Trustee, by no later than July 21, 2017 (the "Objection Deadline"). The objection must set forth the specific default

alleged under the applicable Assumed Contract or Unexpired Lease and claim a specific monetary amount that differs from the applicable Cure Amount, if any, and/or further information required of the Reorganized Debtor with respect to adequate assurance of future performance.

If no Objection to the Cure Amount is received by the Objection Deadline to an Assumed Contract or Unexpired Lease, then the assumption of such Assumed Contract or Unexpired Lease shall be authorized pursuant to section 365 of the Bankruptcy Code and the applicable Cure Amount, if any, shall be binding upon the non-Debtor counterparty to such Assumed Contract or Unexpired Lease for all purposes and shall constitute a final determination of the cure amount required to be paid to such Assumed Contract or Unexpired Lease counterparty in connection with the assumption of such Assumed Contract or Unexpired Lease, and the non-Debtor counterparty to such Assumed Contract or Unexpired Lease shall be deemed to have waived its right to object to, contest, condition, or otherwise restrict the assumption of such Assumed Contract or Unexpired Lease (including, without limitation, from asserting any additional cure or other amounts with respect to the Assumed Contract or Unexpired Lease arising prior to such assumption). Furthermore, upon the assumption of such Assumed Contract or Unexpired Lease, the Reorganized Debtor shall enjoy all of the Debtor's rights and benefits thereunder without the necessity of obtaining any party's written consent to the Debtor's assumption of such rights and benefits.

(b) Objection to Disputed Cure Amounts

The Plan Sponsor shall have the right to examine any Objection to Cure Amount filed by any party, and shall have the right to object to and contest the Disputed Cure Amount asserted therein.

If an objection to a Disputed Cure Amount has not been resolved by the Bankruptcy Court or agreement of the parties by the Effective Date, the Executory Contract related to such Disputed Cure Amount shall be deemed assumed by the Reorganized Debtor effective on the Effective Date; provided, however, the Reorganized Debtor may revoke an assumption of any such Executory Contract within ten (10) days after entry of an order by the Bankruptcy Court adjudicating the objection to the Disputed Cure Amount related to the Executory Contract by filing a notice of such revocation with the Bankruptcy Court and serving a copy on the party(ies) whose Executory Contract is rejected. Any Executory Contract identified in a revocation notice shall be deemed rejected retroactively to the Effective Date.

(c) Payment of Cure Amounts

Within ten (10) Business Days after the Effective Date, the Plan Sponsor shall pay all Cure Amounts related to Executory Contracts listed on the Cure Notice, other than Disputed Cure Amounts.

Subject to Section 8.3(b) hereof, the Plan Sponsor shall pay all Cure Amounts that are subject to an objection on the later of (i) within ten (10) Business Days after the Effective Date

or (ii) within ten (10) Business Days after entry of an order by the Bankruptcy Court resolving the objection or approving an agreement between the parties concerning the Cure Amount.

(d) No Admission of Liability

Neither the inclusion nor exclusion of any Executory Contract by the Debtor and the Plan Sponsor on the Cure Notice, nor anything contained in the Plan, shall constitute an admission by the Debtor or the Plan Sponsor that any such contract or unexpired lease is in fact an Executory Contract or that the Debtor has any liability thereunder.

(e) Reservation of Rights

Nothing in the Plan shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, causes of action, or other rights of the Debtor under any executory or non-executory contract or any unexpired or expired lease, nor shall any provision of the Plan increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor under any such contract or lease.

8.4 Rejection Claim Bar Date

Each Claim resulting from the rejection of an Executory Contract, pursuant to Section 8.2 hereof, shall be filed with the Bankruptcy Court no later than the Rejection Claim Bar Date; provided, however, any party whose Executory Contract is rejected pursuant to a revocation notice, pursuant to Section 8.3(b) hereof, may file a rejection damage Claim arising out of such rejection within thirty (30) days after the filing of the revocation notice with the Bankruptcy Court. Any Claim resulting from the rejection of an Executory Contract not filed by the applicable deadline shall be discharged and forever barred, and shall not be entitled to any Distributions under the Plan. The Distribution Trustee shall have the right to object to any rejection damage Claim.

8.5 Indemnification Obligations

Any obligation of the Debtor to indemnify, reimburse, or limit the liability of any Person, including any officer or director of the Debtor, or any agent, professional, financial advisor, or underwriter of any securities issued by the Debtor, relating to any acts or omissions occurring before the Effective Date, whether arising pursuant to charter, bylaws, contract or applicable state law, shall be deemed to be, and (a) shall be treated as, a General Unsecured Claim and/or Executory Contract and shall be deemed to be rejected, canceled, and discharged pursuant to the Plan as of the Effective Date and (b) any and all Claims resulting from such obligations are disallowed under section 502(e) of the Bankruptcy Code or other applicable grounds, including section 502(d) or violations of sections 327, 362, 363 or other requirements of the Bankruptcy Code, or if any court of applicable jurisdiction rules to the contrary, such Claim shall be estimated pursuant to section 502(c) of the Bankruptcy Code in the amount of \$0 or such other amount as the Bankruptcy Court shall determine.

**ARTICLE IX
EFFECT OF REJECTION BY ONE OR MORE CLASSES**

9.1 Impaired Classes Entitled to Vote

Each impaired Class shall be entitled to vote separately to accept or reject the Plan. A holder of a Disputed Claim which has not been temporarily allowed for purposes of voting on the Plan may vote only such Disputed Claim in an amount equal to the portion, if any, of such Claim shown as fixed, liquidated, and undisputed in the Debtor's Schedules of Assets and Liabilities.

9.2 Acceptance by Class

A Class of Claims or shall have accepted the Plan if the Plan is accepted by at least two thirds (2/3) in amount and more than one half (1/2) in number of the Allowed Claims of such Class that have voted to accept or reject the Plan.

9.3 Reservation of Cramdown Rights

In the event that any impaired Class shall fail to accept the Plan in accordance with section 1129(a) of the Bankruptcy Code, the Proponents reserve the right to request that the Bankruptcy Court confirm the Plan in accordance with the provisions of the section 1129(b) of the Bankruptcy Code.

**ARTICLE X
EFFECT OF CONFIRMATION**

10.1 Legally Binding Effect

The provisions of the Plan shall bind all Creditors and Interest Holders, whether or not they accept the Plan and wherever located. On and after the Effective Date, all holders of Claims and Equity Interests shall be precluded and enjoined from asserting any Claim or Equity Interest against the Debtor or its assets or properties (and for the avoidance of doubt, against the Reorganized Debtor or its assets or properties) based on any transaction or other activity of any kind that occurred prior to the Confirmation Date except as permitted under the Plan.

10.2 Vesting of Property of Debtor in Reorganized Debtor

On the Effective Date, except as otherwise expressly provided in the Plan or Confirmation Order, all Estate Property (including, without limitation, the Debtor's equity interest in FirstRain India), other than the Distribution Trust Assets, shall vest in the Reorganized Debtor free and clear of all Liens, Claims, Equity Interests, and encumbrances of any kind, except as otherwise provided in the Plan.

On the Effective Date, except as otherwise provided in the Plan, the Reorganized Debtor may operate its business and may use, acquire, or dispose of property, without supervision of approval by the Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

**ARTICLE XI
INJUNCTIONS, RELEASES, AND DISCHARGE**

11.1 Discharge of the Debtor

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by the Plan or the Confirmation Order, all distributions under the Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and causes of action, whether known or unknown, including any interest accrued on such Claims from and after the Petition Date, against, liabilities of, Liens on, obligations of, rights against, and Equity Interests in the Debtor or any of its assets or properties, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by the Plan or the Confirmation Order, upon the Effective Date, the Debtor and its estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code. The Confirmation Order shall be a judicial determination of the discharge of all Claims against and Equity Interests in the Debtor, subject to the occurrence of the Effective Date.

11.2 Discharge Injunction

Except as otherwise expressly provided in the Plan, the discharge and releases set forth in Section 11.1 hereof shall also operate as an injunction permanently prohibiting and enjoining the commencement or continuation of any action or the employment of process with respect to, or any act to collect, recover from, or offset (a) any Claim discharged and released in Section 11.1 hereof, or (b) any cause of action, whether known or unknown, based on the same subject matter as any Claim discharged and released in Section 11.1 hereof. Except as otherwise expressly provided in the Plan, all Persons shall be precluded and forever barred from asserting against the Debtor, the Reorganized Debtor and the Protected Parties, their successors or assigns, or their assets, properties, or interests in property any other or further Claims, or any other right to legal or equitable relief regardless of whether such right can be reduced to a right to payment, based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not the facts of or legal bases therefor were known or existed prior to the Effective Date.

11.3 Exculpation and Limitation of Liability

The Exculpated Parties will neither have nor incur any liability to any entity for any claims or causes of action arising before, on or after the Petition Date and prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to formulating, negotiating, preparing, disseminating, implementing, administering,

confirming or effecting the consummation of the Plan, the Disclosure Statement, or any other contract, instrument, release or other agreement or document created or entered into in connection with the Plan or any other prepetition or post-petition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtor, the approval of the Disclosure Statement or confirmation or consummation of the Plan; provided, however, that the foregoing provisions will have no effect on the liability of any entity that results from any such act or omission that is determined in a Final Order of the Bankruptcy Court or other court of competent jurisdiction to have constituted gross negligence or willful misconduct; provided, further, that the Debtor will be entitled to rely upon the advice of counsel concerning their duties pursuant to, or in connection with, the above referenced documents, actions or inactions.

11.4 Releases by the Debtor

Notwithstanding anything to the contrary in the Plan or the Confirmation Order, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy of which is hereby acknowledged and confirmed, the Debtor will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to the Released Parties and their respective related parties (and each such Released Party and their respective related parties so released shall be deemed forever released, discharged, and waived by the Debtor) and their respective properties from any and all released claims that the Debtor and their respective related parties would have been legally entitled to assert in their own right, on behalf of one another, or on behalf of another party against the Released Parties or their respective related parties; provided, however, that the foregoing provisions of this release shall not operate to waive or release (i) the rights of the Debtor to enforce the Plan and the contracts, instruments, releases and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to final order of the Bankruptcy Court; and/or (ii) any claims or defenses against third party.

The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any person and the Confirmation Order will permanently enjoin the commencement or prosecution by any person or entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities released pursuant to this release.

11.5 Releases by Third Parties

To the extent allowed by applicable law, on, and as of, the Effective Date and for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Debtor, the Reorganized Debtor and the Protected Parties shall be forever released and discharged from any and all claims, obligations, actions, suits, rights, debts, accounts, causes of action, remedies, avoidance actions, agreements, promises, damages, judgments, demands, defenses, or claims in respect of equitable subordination, and liabilities

throughout the world under any law or court ruling through the Effective Date (including all claims based on or arising out of facts or circumstances that existed as of or prior to the Plan in the Chapter 11 Case, including claims based on negligence or strict liability, and further including any derivative claims asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, that the Debtor, its Estate, or the Reorganized Debtor would have been legally entitled by applicable law to assert in its own right, whether individually or collectively) which the Debtor, its Estate, the Reorganized Debtor, Creditors or other persons receiving or who are entitled to receive Distributions under the Plan may have against any of them in any way related to the Chapter 11 Case or the Debtor (or its predecessors); provided, however, the releases provided for in this paragraph shall not extend to any claims by any Governmental Unit with respect to criminal liability under applicable law, willful misconduct or bad faith under applicable law, or *ultra vires* acts under applicable law. No compliance with or reliance on the applicable law or the orders of the Bankruptcy Court shall be deemed or permitted to be judged, declared, or ruled to be in any way wrongful, in bad faith, *ultra vires*, inequitable or otherwise subject to any sanction or punishment, all of which are preempted, superseded and negated by the Plan to the maximum extent permitted by applicable law.

Creditors voting to accept the Plan and those creditors entitled to vote on the Plan, but who abstain from voting to accept or reject the Plan, will be bound by the grant of releases, injunctions, exculpation, exoneration and other limitations of liability in favor of the Protected Parties in the Plan. Notwithstanding the foregoing, if a Creditor elects not to grant the releases contained in this Section 11.5 in favor of the Protected Parties, then the Creditor must opt-out in the Ballot regardless of whether Creditor votes to accept or to reject the Plan or chooses to abstain from voting to accept or reject the Plan. Election to withhold consent is at the Creditor's option.

For the avoidance of doubt, nothing in this Article XI shall prevent the enforcement of the terms of the Plan.

ARTICLE XII RETENTION OF JURISDICTION

12.1 Bankruptcy Court Jurisdiction

Notwithstanding the entry of the Confirmation Order or the occurrence of the Effective Date, the Bankruptcy Court shall retain and have such jurisdiction over the Chapter 11 Case to the maximum extent as is legally permissible, including, without limitation, for the following purposes:

(a) To allow, disallow, determine, liquidate, classify or establish the priority or secured or unsecured status of or estimate any Right of Action, Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the allowance or priority of Claims or Equity Interests;

(b) To ensure that Distributions to holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;

(c) To determine any and all applications or motions pending before the Bankruptcy Court on the Effective Date of the Plan, including without limitation any motions for the rejection, assumption or assumption and assignment of any Executory Contract;

(d) To consider and approve any modification of the Plan, remedy any defect or omission, or reconcile any inconsistency in the Plan, or any order of the Bankruptcy Court, including the Confirmation Order;

(e) To determine all controversies, suits and disputes that may arise in connection with the interpretation, enforcement or consummation of the Plan or any Plan Documents or any entity's obligations in connection with the Plan or any Plan Documents, or to defend any of the rights, benefits, Estate Property transferred, created, or otherwise provided or confirmed by the Plan or the Confirmation Order or to recover damages or other relief for violations thereof;

(f) To consider and act on the compromise and settlement of any claim or cause of action by or against the Debtor, the Estate, the Reorganized Debtor or the Distribution Trustee;

(g) To decide or resolve any and all applications, motions, adversary proceedings, contested or litigated matters, and any other matters, or grant or deny any applications involving the Debtor, the Debtor or the Estate that may be pending on the Effective Date or that may be brought by the Debtor, the Reorganized Debtor, or the Distribution Trustee (as applicable), or any other related proceedings by the Reorganized Debtor, and to enter and enforce any default judgment on any of the foregoing;

(h) To decide or resolve any and all applications filed by the Debtor for compensation;

(i) To issue orders in aid of execution and implementation of the Plan or any Plan Documents to the extent authorized by section 1142 of the Bankruptcy Code or provided by the terms of the Plan;

(j) To decide issues concerning the federal or state tax liability of the Debtor which may arise in connection with the confirmation or consummation of the Plan or any Plan Documents;

(k) To interpret and enforce any orders entered by the Bankruptcy Court in the Chapter 11 Case; and

(l) To enter an order closing this Chapter 11 Case when all matters contemplating the use of such retained jurisdiction have been resolved and satisfied.

12.2 Limitation on Jurisdiction

In no event shall the provisions of the Plan be deemed to confer in the Bankruptcy Court jurisdiction greater than that established by the provisions of 28 U.S.C. §§ 157 and 1334, as well as the applicable circumstances that continue jurisdiction for defense and enforcement of the Plan and Plan Documents. For the avoidance of doubt, however, such jurisdiction shall be deemed, by the entry of the Confirmation Order, to:

(a) Permit entry of a final judgment by the Bankruptcy Court in any core proceeding referenced in 28 U.S.C. § 157(b) and to hear and resolve such proceedings in accordance with 28 U.S.C. § 157(c) and any and all related proceedings, including, without limitation, (i) all proceedings concerning disputes with, or Rights of Action or Claims against, any Person that the Debtor, the Estate, the Distribution Trust or the Reorganized Debtor or any of their successors or assigns, may have, and (ii) any and all Rights of Action or other Claims against any Person for harm to or with respect to (x) any Estate Property, including any infringement of Intellectual Property or conversion of Estate Property, or (y) any Estate Property liened or transferred by the Debtor to any other Person;

(b) Include jurisdiction over the recovery of any Estate Property (or property transferred by the Debtor with Bankruptcy Court approval) from any Person wrongly asserting ownership, possession or control of the same, whether pursuant to sections 542, 543, 549, 550 of the Bankruptcy Code or otherwise, as well as to punish any violation of the automatic stay under section 362 of the Bankruptcy Code or any other legal rights of the Debtor or the Estate under or related to the Bankruptcy Code; and

(c) Permit the taking of any default judgment against any Person who has submitted himself or herself to the jurisdiction of the Bankruptcy Court.

ARTICLE XIII MISCELLANEOUS PROVISIONS

13.1 Conditions to Confirmation

The Confirmation Order will not be effective unless (a) the Confirmation Order shall be in form and substance acceptable to the Plan Sponsor, in its reasonable discretion, and shall provide for the Plan Sponsor and the DIP Lender to acquire the New Equity subject to the Subscription Option, free and clear of all Liens, Claims, Equity Interests and encumbrances of any kind, except as otherwise provided in the Plan, and (b) the final version of the Plan, Plan Supplement, and any other documents, or schedules thereto, shall have been filed in form and substance acceptable to the Plan Sponsor in its reasonable discretion.

13.2 Conditions to Effectiveness

The Plan will not be effective unless (a) the conditions to confirmation above have been either satisfied, or waived, by the Plan Sponsor, (b) the Confirmation Order has been entered by the Bankruptcy Court, and no stay or injunction is in effect with respect thereto, (c) Plan Sponsor

and the DIP Lender shall acquire the New Equity subject to the Subscription Option, free and clear of all Liens, Claims, Equity Interests and encumbrances of any kind, except as otherwise provided in the Plan, and (d) the Debtor has not caused, or as to insiders, permitted to occur, (i) a Material Adverse Change with respect to the Debtor's Intellectual Property or (ii) an "ownership change" as such term is used in section 382 of title 26 of the United States Code.

13.3 Exemption from Transfer Taxes

The Plan and the Confirmation Order provide for (a) the issuance, transfer or exchange of notes, debt instruments and equity securities under or in connection with the Plan; (b) the creation, assignment, recordation or perfection of any lien, pledge, other security interest or other instruments of transfer; (c) the making or assignment of any lease; (d) the creation, execution and delivery of any agreements or other documents creating or evidencing the formation of the Reorganized Debtor or the issuance or ownership of any interest in the Reorganized Debtor; or (e) the making or delivery of any deed or other instrument of transfer under the Plan in connection with the vesting of the Estate's assets in the Reorganized Debtor or the Distribution Trust pursuant to or in connection with the Plan, including, without limitation, merger agreements, stock purchase agreement, agreements of consolidation, restructuring, disposition, liquidation or dissolution, and transfers of tangible property. Pursuant to section 1146 of the Bankruptcy Code and the Plan, any such act described or contemplated herein will not be subject to any stamp tax, transfer tax, filing or recording tax, or other similar tax.

13.4 Securities Exemption

Any rights issued under, pursuant to or in effecting the Plan, including, without limitation, the New Equity in the Reorganized Debtor, and the offering and issuance thereof by any party, including without limitation the Proponents or the Estate, shall be exempt from Section 5 of the Securities Act of 1933, if applicable, and from any state or federal securities laws requiring registration for offer or sale of a security or registration or licensing of an issuer of, underwriter of, or broker or dealer in, a security, and shall otherwise enjoy all exemptions available for Distributions of securities under a plan of reorganization in accordance with all applicable law, including without limitation section 1145 of the Bankruptcy Code. If the issuance of the New Equity does not qualify for an exemption under section 1145 of the Bankruptcy Code, the New Equity shall be issued in a manner, which qualifies for any other available exemption from registration, whether as a private placement under Rule 506 of the Securities Act, Section 4(2) of the Securities Act, and/or the safe harbor provisions promulgated thereunder.

13.5 Defects, Omissions and Amendments of the Plan

The Debtor may, with the approval of the Bankruptcy Court and without notice to holders of Claims and Equity Interests, insofar as it does not materially and adversely affect holders of Claims and Equity Interests, correct any defect, omission, or inconsistency in the Plan in such a manner and to such extent necessary or desirable to expedite the execution of the Plan. The Debtor may propose amendments or alterations to the Plan before the Confirmation Hearing as provided in section 1127 of the Bankruptcy Code if, in the opinion of the Bankruptcy Court, the

modification does not materially and adversely affect the interests of holders of Claims and Equity Interests, so long as the Plan, as modified, complies with sections 1122 and 1123 of the Bankruptcy Code and the Debtor has complied with section 1125 of the Bankruptcy Code. The Debtor may propose amendments or alterations to the Plan after the Confirmation Date but prior to substantial consummation, in a manner that, in the opinion of the Bankruptcy Court, does not materially and adversely affect holders of Claims and Equity Interests, so long as the Plan, as modified, complies with sections 1122 and 1123 of the Bankruptcy Code, the Debtor has complied with section 1125 of the Bankruptcy Code, and after notice and a hearing, the Bankruptcy Court confirms such Plan, as modified, under section 1129 of the Bankruptcy Code.

13.6 Withdrawal of Plan

The Debtor reserves the right to withdraw the Plan at any time prior to the Confirmation Date. If the Debtor withdraws the Plan prior to the Confirmation Date, or if the Confirmation Date does not occur by July 26, 2017, unless otherwise extended by mutual agreement of the Debtor and the Plan Sponsor or the Effective Date does not occur by July 31, 2017, unless otherwise extended by mutual agreement of the Debtor and the Plan Sponsor, then the Plan shall be deemed null and void. In such event, nothing contained herein shall be deemed to constitute an admission, waiver or release of any claims by or against the Debtor or any other person, or to prejudice in any manner the rights of the Debtor, the Debtor's Estate, or any person in any further proceedings involving the Debtor.

13.7 Due Authorization By Holders of Claims and Equity Interests

Each and every holder of a Claim or Equity Interest who elects to participate in the Distributions provided for herein warrants that such holder is authorized to accept in consideration of its Claim or Equity Interest against the Debtor the Distributions provided for in the Plan, and that there are no outstanding commitments, agreements, or understandings, express or implied, that may or can in any way defeat or modify the rights conveyed or obligations undertaken by such holder under the Plan.

13.8 Filing of Additional Documentation

By the Plan Supplement Deadline, the Debtor may file with the Bankruptcy Court such Plan Supplement, agreements and other documents as may be reasonably necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan or any Plan Document, which shall also constitute "Plan Documents."

13.9 Governing Law

Except to the extent the Bankruptcy Code or the Bankruptcy Rules are applicable, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with the laws of the State of Delaware, without giving effect to the principles of conflicts of law thereof.

13.10 Successors and Assigns

The rights, benefits and obligations of any entity named or referred to in the Plan or any Plan Document shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such entity.

13.11 Transfer of Claims and Equity Interests

Any transfer of a Claim shall be in accordance with Bankruptcy Rule 3001(e) and the terms of this Section 13.11. Notice of any such transfer shall be forwarded to the Debtor by registered or certified mail, as set forth in Section 13.12 hereof. Both the transferee and transferor shall execute any notice, and the signatures of the parties shall be acknowledged before a notary public. The notice must clearly describe the interest in the Claim to be transferred. No transfer of a partial interest shall be allowed. All transfers must be of one hundred percent (100%) of the transferor's interest in the Claim.

Any transfer of an Equity Interest shall be in accordance with the Equity Trading Order, and no transfer of Equity Interests shall be allowed after the Voting Record Date.

13.12 Notices

Any notice required to be given under the Plan or any Plan Document shall be in writing. Any notice that is allowed or required hereunder except for a notice of change of address shall be considered complete on the earlier of (a) three (3) days following the date the notice is sent by United States mail, postage prepaid, or by overnight courier service, or in the case of mailing to a non-United States address, air mail, postage prepaid, or personally delivered; (b) the date the notice is actually received by the Persons on the Post-Confirmation Service List by facsimile or computer transmission; or (c) three (3) days following the date the notice is sent to those Persons on the Post-Confirmation Service List as it is adopted by the Bankruptcy Court at the hearing on confirmation of the Plan, as such list may be amended from time-to-time by written notice from the Persons on the Post-Confirmation Service List.

(a) If to the Debtor, at:

Eugene Tighe
Chief Financial Officer
FirstRain, Inc.
1500 Fashion Island Blvd. Ste. 200
San Mateo, CA 94404
etighe@firstrain.com

and

Frederick B. Rosner
The Rosner Law Group LLC
824 Market Street, Suite 810

Wilmington, DE 19801
Phone: (302) 777-1111
rosner@teamrosner.com

(b) If to the Plan Sponsor, at:

ESW Capital, LLC
c/o Haynes and Boone, LLP
1221 McKinney Street, Suite 2100
Houston, Texas 77010
Attention: Charles A. Beckham, Jr.
Email: charles.beckham@haynesboone.com
Fax: 713-236-5638

and

30 Rockefeller Plaza, 26th Floor
New York, NY 10112
Attention: Trevor R. Hoffmann
Email: trevor.hoffmann@haynesboone.com
Fax: 212-884-9558

(c) If to the DIP Lender, at:

ESW Capital, LLC
c/o Haynes and Boone, LLP
1221 McKinney Street, Suite 2100
Houston, Texas 77010
Attention: Charles A. Beckham, Jr.
Email: charles.beckham@haynesboone.com
Fax: 713-236-5638

and

30 Rockefeller Plaza, 26th Floor
New York, NY 10112
Attention: Trevor R. Hoffmann
Email: trevor.hoffmann@haynesboone.com
Fax: 212-884-9558

- (d) If to the U.S. Trustee, at:
844 King Street
Suite 2207
Lockbox 35
Wilmington, Delaware 19801
Attn: Jane Leamy
Email: jane.m.leamy@usdoj.gov

- (e) If to the Distribution Trust, at

and

- (f) If to any Creditor or Interest Holder in his capacity as such, at his address or facsimile number as listed on the Post-Confirmation Service List.

13.13 U.S. Trustee Fees

The Debtor will pay pre-confirmation fees owed to the U.S. Trustee on or before the Effective Date of the Plan. After the Effective Date, the Distribution Trustee will file with the court and serve on the U.S. Trustee quarterly financial reports in a format prescribed by the U.S. Trustee, and the Distribution Trustee will pay post-Effective Date quarterly fees to the U.S. Trustee until a final decree is entered or the case is converted or dismissed as provided in 28 U.S.C. § 1930(a)(6).

13.14 Implementation

The Debtor, the Reorganized Debtor, the Plan Sponsor, and the Distribution Trustee shall be authorized to perform all reasonable, necessary and authorized acts to consummate the terms and conditions of the Plan and the Plan Documents, without further order from the Bankruptcy Court.

13.15 No Admissions

Notwithstanding anything herein to the contrary, nothing contained in the Plan shall be deemed an admission by the Debtor, the Debtor, or the Estate with respect to any matter set forth herein, including, without limitation, liability on any Claim or Equity Interest or the propriety of the classification of any Claim or Equity Interest.

ARTICLE XIV SUBSTANTIAL CONSUMMATION

14.1 Substantial Consummation

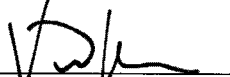
The Plan shall be deemed substantially consummated on the Effective Date.

14.2 Final Decree

On full consummation and performance of the Plan and Plan Documents, the Distribution Trustee may request the Bankruptcy Court to enter a final decree closing the Chapter 11 Case and such other orders that may be necessary and appropriate.

Dated: July 24, 2017

FIRSTRAIN INC.



Name: Vivie Lee

Title: Chief Executive Officer

EXHIBIT A
Glossary of Defined Terms

“401(k) Plan” means the FirstRain, Inc. 401(k) Savings and Investment Plan.

“Administrative Claim” means any cost or expense of administration of the Chapter 11 Case incurred on or before the Effective Date entitled to priority under section 507(a)(1) and allowed under section 503(b) of the Bankruptcy Code, including without limitation, any actual and necessary expenses of preserving the Debtor’s estate, including wages, salaries or commissions for services rendered after the commencement of the Chapter 11 Case, certain taxes, fines and penalties, any actual and necessary post-petition expenses of operating the business of the Debtor, certain post-petition indebtedness or obligations incurred by or assessed against the Debtor in connection with the conduct of its business, or for the acquisition or lease of property, or for providing of services to the Debtor, including all allowances of compensation or reimbursement of expenses to the extent allowed by the Bankruptcy Court under the Bankruptcy Code, and any fees or charges assessed against the Debtor’s Estate under Chapter 123, Title 28, United States Code. With respect to quarterly U.S. Trustee fees, the Debtor shall pay any accrued such fees on the Effective Date. The Distribution Trustee shall timely pay all post-confirmation quarterly fees as they accrue until the date of the closing of the Chapter 11 Case. Professional Compensation Claims shall only be Allowed for duly employed Professionals in the Chapter 11 Case in accordance with applicable law. For the avoidance of doubt, the Allowed DIP Lender Claim shall be deemed to be an Administrative Claim for all purposes hereunder.

“Administrative Claim Bar Date” means the first Business Day that is ten (10) days after the Confirmation Hearing.

“Administrative Claimant” means any Person entitled to payment of an Administrative Claim.

“Administrative Tax Claim” means an Administrative Claim of a Governmental Unit.

“Allowance Date” means the date that a Claim or Equity Interest becomes an Allowed Claim or Allowed Equity Interest.

“Allowed” means, (1) with respect to any Claim, a Claim allowable under 11 U.S.C. § 502 (a) for which a proof of claim was filed on or before, as applicable, the General Bar Date, the Governmental Unit Bar Date, the Administrative Claim Bar Date or the Rejection Claim Bar Date, and as to which no objection or other challenge to the allowance thereof has been timely Filed, or if an objection or challenge has been timely Filed, such Claim is allowed by a Final Order; or (b) for which a proof of claim is not filed and that has been listed in the Schedules of Assets and Liabilities and is not listed as disputed, contingent, or unliquidated; or (c) that is deemed allowed by the terms of the Plan; or (2) with respect to any Equity Interest, such Equity Interest is reflected as outstanding in the stock transfer ledger or similar register or record of the Debtor on the Petition Date. For purposes of determining the amount of an Allowed Claim (other than a Claim specifically Allowed under the Plan), there shall be deducted therefrom an

amount equal to the amount of any Claim that the Debtor may hold against the Creditor under 11 U.S.C. § 553. Notwithstanding anything to the contrary in the Plan, the Debtor may, in its discretion, treat a Claim as an Allowed Claim to the extent it is allowed by an Order that is not a Final Order.

“Approved Budget” means the Budget agreed to by the Debtor and the DIP Lender and attached as Exhibit A to the DIP Note (as may be amended or otherwise modified from time to time pursuant to the terms of the DIP Financing Order).

“Available Cash” means all of the Cash held by the Distribution Trust including Cash deposited or held in the Distribution Reserve on account of disputed or undetermined Administrative Claims, Priority Tax Claims, Priority Unsecured Non-Tax Claims, General Unsecured Claims, and Intercompany Claims to the extent that those Claims are disallowed in whole or in part after the Effective Date, less the Distribution Reserve.

“Ballot” means the form of ballot which the Debtor will transmit to Creditors who are, or may be, entitled to vote on the Plan.

“Bankruptcy Code” means the Bankruptcy Reform Act of 1978, as amended, Title 11, United States Code, as applicable to this Chapter 11 Case.

“Bankruptcy Court” means the United States Bankruptcy Court for the District of Delaware, together with the District Court as to matters as to which the reference is withdrawn under 11 U.S.C. § 157(d).

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure.

“Beneficial Interest” means an interest that entitles the holder thereof to a Distribution in accordance with the Distribution Trust Agreement.

“Beneficiary” means the holder of a Beneficial Interest, whether individually or as agent on behalf of other entities.

“Business Day” means any day other than a Saturday, Sunday, or a “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

“Cash” means Cash, wire transfer, certified check, cash equivalents and other readily marketable securities or instruments, including, without limitation, readily marketable direct obligations of the United States of America, certificates of deposit issues by banks, and commercial paper of any Person, including interest accrued or earned thereon.

“Chapter 11 Case” means *In re FirstRain, Inc.*, Case No. 17-11249 in the United States Bankruptcy Court for the District of Delaware Debtor under Chapter 11 of the Bankruptcy Code.

“Charter Documents” means the articles of certificate of incorporation and the bylaws of the Debtor or Reorganized Debtor, as applicable, and any amendments to the foregoing.

“Claim” has the meaning assigned to such term by section 101(5) of the Bankruptcy Code.

“Claim Objection Deadline” means the first Business Day that is 180 days after the Effective Date, as may be extended by order of the Bankruptcy Court.

“Class” means one of the classes of Claims or Equity Interests defined in Article III of the Plan.

“Clerk” means the Clerk of the Bankruptcy Court.

“Closing” means the closing of the transactions contemplated under Article VI of the Plan.

“Confirmation Date” means the date upon which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

“Confirmation Hearing” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

“Confirmation Order” means the Order of the Bankruptcy Court approving and confirming the Plan in accordance with the provisions of Chapter 11 of the Bankruptcy Code.

“Consideration” means \$7,500,000, plus the Redesignation Consideration (if any), less the amount that the DIP Lender exercises under the Subscription Option. The Consideration shall be payable by the Plan Sponsor on the Effective Date.

“Creditor” means any person that holds a Claim against the Debtor that arose on or before the Effective Date, or a Claim against the Debtor of any kind specified in sections 502(f), 502(g), 502(h) or 502(i) of the Bankruptcy Code.

“Cure Amount” means the amount of Cash required to cure defaults necessary to assume an Executory Contract under 11 U.S.C. § 365(b) as determined by the Bankruptcy Court or pursuant to any agreement among the Reorganized Debtor and the other party(ies) to the Executory Contract and as listed in the Schedule of Assumed Contracts and Unexpired Leases

“Cure Amount Objection Bar Date” means July 21, 2017, at 4:00 p.m. (ET).

“Debtor” means FirstRain, Inc. a Delaware corporation and a debtor in the Chapter 11 Case.

“DIP Financing” means the post-petition financing provided by the DIP Lender pursuant to the DIP Order

“DIP Order” means the interim financing order (Doc. No. 34), and the final financing order (Doc. No. 79).

“DIP Lender” means ESW Capital, LLC, in its capacity as post-petition lender under the DIP Note.

“DIP Lender Claim” means the Administrative Claim of the DIP Lender under the DIP Note. The DIP Lender Claim is Allowed in full.

“DIP Note” means the Senior Secured Super-Priority DIP Financing Note, dated as of June 6, 2017, by and between the Debtor and the DIP Lender and approved under the DIP Order, as amended, supplemented or otherwise modified.

“Disallowed Claim” means a Claim, or any portion thereof, that (a) has been disallowed by either a Final Order or pursuant to a settlement, or (b)(i) is listed in the Schedules of Assets and Liabilities at zero or as contingent, disputed or unliquidated, including by amendment hereby of such Schedules of Assets and Liabilities, and (ii) as to which a bar date has been established but no proof of claim has been filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code, any Final Order, or applicable law, or which is not deemed allowed by the terms of the Plan.

“Disclosure Statement” means the Disclosure Statement for the Amended Plan of Reorganization of FirstRain, Inc. dated June 19, 2017, filed by the Debtor with the Bankruptcy Court, as may be amended or supplemented.

“Disclosure Statement Approval Date” means the date the Order Approving Disclosure Statement is entered on the docket of the Chapter 11 Case.

“Disputed Claim” means a Claim as to which a proof of claim or interest has been Filed or deemed Filed under applicable law, as to which an objection has been and which objection, if timely Filed, has not been withdrawn on or before any date fixed for Filing such objections by the Plan or Order of the Bankruptcy Court and has not been overruled or denied by a Final Order. Prior to the time that an objection has been or may be timely Filed, for the purposes of the Plan, a Claim shall be considered a Disputed Claim to the extent that: (i) the Claim has been scheduled in the Schedules of Assets and Liabilities as contingent, disputed or unliquidated or in the amount of \$0.

“Disputed Cure Amount” means, with respect to an Executory Contract for which a Proof of Cure Claim is filed, the amount that the counterparty to such Executory Contract asserts is necessary to assume such Executory Contract under 11 U.S.C. § 365(b).

“Distribution” means, except as otherwise provided in the Plan, the property required by the Plan to be distributed to the holders of Allowed Claims.

“Distribution Date” means any date that a Distribution is made under the Plan or the Distribution Trust Agreement.

“Distribution Record Date” means the Confirmation Date.

“Distribution Reserve” means a reserve established to hold, in one or more segregated accounts to be established by the Debtor, Cash equal to the aggregate of (a) Cash that would have been distributed on the Distribution Date on account of Disputed or undetermined (i) Administrative Claims had they been Allowed Claims, provided that with respect to Administrative Claims for which applications for compensation of professionals or other persons retained or to be compensated pursuant to sections 327, 328, 330, 331 and 503(b) of the Bankruptcy Code are or will be pending but are then undetermined, the amount of Cash deposited shall be the amount sought by such persons or the maximum amount such persons indicate that they intend to apply for, in each case less any monies already received by such professional or person, but in no event more than the amount to be paid to such professional or person pursuant to the Budget, and provided that with respect to Administrative Claims for which applications for compensation of the Debtor are or will be pending but are then undetermined, the amount of Cash deposited shall be the amount sought by such persons or the maximum amount such persons indicate that they intend to apply for, in each case less any monies already received by such person, but in no event more than the amount to be paid to such person pursuant to the Budget, (ii) Priority Unsecured Non-Tax Claims, (iii) Other Secured Claims, and (iv) General Unsecured Claims, plus (b) accrued interest on all Cash in the Distribution Reserve, plus (c) Cash in the amount of all taxes previously incurred by the Debtor (and not paid or otherwise provided for under the Plan); plus (d) Cash in the amount of all estimated costs and expenses of effectuating the actions and duties of the Distribution Trustee, including under Articles VI and XIII of the Plan, in an amount not to exceed [\$].

“Distribution Trust” means the trust established under the Plan and the Distribution Trust Agreement.

“Distribution Trust Account” means the segregated interest bearing account established by the Distribution Trust into which shall be deposited (a) the Distribution Trust Fund, and (b) the proceeds of the liquidation of all other Distribution Trust Assets.

“Distribution Trust Agreement” means the trust agreement that establishes the Distribution Trust and governs the powers, duties, and responsibilities of the Distribution Trustee. The Distribution Trust Agreement shall be part of the Plan Supplement.

“Distribution Trust Assets” means the Distribution Trust Fund.

“Distribution Trust Available Cash” means the cash on deposit in the Distribution Trust Account at any time, less the Distribution Trust Operating Reserve.

“Distribution Trust Fund” means the Consideration less any amounts paid by the Debtor on the Effective Date.

“Distribution Trust Operating Expenses” means the reasonable costs and expenses, including professional fees, of the Distribution Trustee in administering the Distribution Trust.

“Distribution Trust Operating Reserve” means such reserve of Cash determined from time to time by the Distribution Trustee pursuant to the Distribution Trust Agreement to be reasonably necessary to pay Distribution Trust Operating Expenses, including (a) the unpaid liabilities, debts, or obligations of the Distribution Trust; (b) the fees and expenses of the Distribution Trustee; (c) all fees and expenses of professionals retained by the Distribution Trust; and (d) any and all other costs associated with the liquidation or preservation of the Distribution Trust Assets.

“Distribution Trustee” means the Person appointed to administer the Distribution Trust with such rights, duties, and obligations as set forth in the Distribution Trust Agreement.

“District Court” means the United States District Court for the District of Delaware.

“Effective Date” means the first Business Day following the Confirmation Date on which (a) the Confirmation Order is not stayed, (b) all conditions to the effectiveness of the Plan have been satisfied or waived as provided in the Plan, and (c) the Reorganized Debtor has Filed a notice of the Effective Date.

“Equity Interest” means any interest in the Debtor represented by ownership of common or preferred stock, including, to the extent provided by applicable law, any purchase right, warrant, stock option or other equity or debt security (convertible or otherwise) evidencing or creating any right or obligation to acquire or issue any of the foregoing.

“Equity Trading Order” means the Final Order Establishing Notification and Hearing Procedures for Trading in Equity Securities (Doc. No. 118).

“Estate” means the estate created upon the filing of the Chapter 11 Case pursuant to section 541 of the Bankruptcy Code, together with all rights, claims and interests appertaining thereto.

“Estate Property” means all right, title, and interest in and to any and all property of every kind or nature owned by the Debtor or its Estate on the Effective Date as defined by 11 U.S.C. § 541.

“Exculpated Parties” (each one, an “Exculpated Party”) means the Debtor and the directors, officers, agents, attorneys, accountants, consultants, equity holders, financial advisors, investment bankers, professionals, experts, and employees of the Debtor, in their respective capacities as such. Any affiliate or other party related to any Exculpated Party shall also be a Exculpated Party to the extent that such affiliate or related party is alleged or charged to be directly or indirectly liable on any derivative, vicarious liability, alter ego or other theory for imposing liability on an affiliate or related party for the conduct or liability of the Exculpated Party.

“Executory Contracts” means executory contracts and unexpired leases as such terms are used in 11 U.S.C. § 365, including all operating leases, capital leases, and contracts to which the Debtor is a party or beneficiary on the Confirmation Date.

“File or Filed” means a request for relief encompassed within a pleading or other document is Filed when and on such date as such pleading or other document is entered on the docket of the Bankruptcy Court in this Chapter 11 Case. A proof of claim is Filed when and on such date as such proof of claim is entered on the claims register in this Chapter 11 Case.

“Final Order” means an order or judgment which has not been reversed, stayed, modified, or amended and as to which the time for appeal has expired and no stay has been obtained.

“FirstRain India” means, FirstRain Software Centre Private Limited, the Debtor’s subsidiary organized under the laws of India.

“FirstRain India Contract” means that certain Services Agreement, dated April 1, 2009, by and between the Debtor and FirstRain India.

“General Bar Date” means the deadline for filing proofs of claim established by the Bankruptcy Court as July 17, 2017 at 4:00 p.m. prevailing Eastern time.

“General Unsecured Claim” means an unsecured Claim other than an Administrative Claim, a Priority Unsecured Non-Tax Claim, a Priority Tax Claim, or an Intercompany Claim.

“Governmental Unit” means United States; State; Commonwealth; District; Territory; municipality; department, agency, or instrumentality of the United States (but not a U.S. trustee while serving as a trustee in a case under title 11 of the United States Code), a State, a Commonwealth, a District, a Territory, or a municipality; or other domestic government.

“Guaranteed Unsecured Recovery” means Cash from the Consideration, after payment in full of Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Priority Unsecured Non-Tax Claims, and Other Secured Claims, in the amount of up to one-hundred percent (100%) of Allowed General Unsecured Claims which will be available for distribution to holders of the Allowed General Unsecured Claims on account of their Allowed General Unsecured Claims.

“Insider” has the meaning set forth in section 101(31) of the Bankruptcy Code.

“Intercompany Claim” means a Claim held by, asserted by, or assertable by any former or present affiliate of the Debtor, other than an Administrative Claim, a Priority Unsecured Non-Tax Claim, or a Priority Tax Claim.

“Interest Holder” means any record or beneficial holder or owner of an Equity Interest.

“Intellectual Property” means intellectual property, including, without limitation, the following: (i) all patents and patent applications, domestic or foreign, all licenses relating to any of the foregoing and all income and royalties with respect to any licenses, all rights to sue for past, present or future infringement thereof, all rights arising therefrom and pertaining thereto and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof; (ii) all copyrights and applications for copyright, domestic or foreign, together with the underlying works of authorship (including titles), whether or not the underlying works of authorship have been published and whether said copyrights are statutory or arise under the common law, and all other rights and works of authorship, all computer programs, computer databases, computer program flow diagrams, source codes, object codes and all tangible property embodying or incorporating any copyrights, all licenses relating to any of the foregoing and all income and royalties with respect to any licenses, and all other rights, claims and demands in any way relating to any such copyrights or works, including royalties and rights to sue for past, present or future infringement, and all rights of renewal and extension of copyright; (iii) all state (including common law), federal and foreign trademarks, service marks and trade names, and applications for registration of such trademarks, service marks and trade names, all licenses relating to any of the foregoing and all income and royalties with respect to any licenses, whether registered or unregistered and wherever registered, all rights to sue for past, present or future infringement or unconsented use thereof, all rights arising therefrom and pertaining thereto and all reissues, extensions and renewals thereof; (iv) all trade secrets, trade dress, trade styles, logos, other source of business identifiers, mask-works, mask-work registrations, mask-work applications, software, confidential and proprietary information, customer lists, license rights, advertising materials, operating manuals, methods, processes, know-how, algorithms, formulae, databases, quality control procedures, product, service and technical specifications, operating, production and quality control manuals, sales literature, drawings, specifications, blue prints, descriptions, inventions, name plates, catalogs, internet websites, and internet domain names and associated URL addresses; (v) the entire goodwill of or associated with the businesses now or hereafter conducted by the Debtor connected with and symbolized by any of the aforementioned properties and assets; and (vi) all accounts, payment intangibles, commercial tort claims and other rights to payment, all other proprietary rights or other intellectual or other similar property, and all other general intangibles associated with or arising out of any of the aforementioned properties and assets and not otherwise described above, and all proceeds of any IP.

“Lien” means a charge against or interest in property to secure payment of a debt or performance of an obligation which has not been avoided or invalidated under any provision of the Bankruptcy Code or other applicable law.

“Material Adverse Change” means any material adverse change or the occurrence of any fact or circumstance which materially and adversely affects the rights, remedies or benefits of, or conferred by, the transactions contemplated by the Restructuring Support Agreement, authorized by the Bankruptcy Court by Order (Doc. No. 80), including, without limitation, strike, lockout, war, terrorism, act of God, fire or other casualty, unusually adverse weather conditions, inability to obtain labor or materials or governmental restriction or other act or thing, provided, however, for the avoidance of doubt, no Material Adverse Change shall be deemed to have occurred as a result of: (i) the filing of the Chapter 11 Case; (ii) the actions required to be taken by the Debtor to conform to and comply with the Restructuring Support Agreement, the documents entered into

in connection with the DIP Financing, the Budget, or the Plan; and (iii) any actions the Debtor takes at the request of or with the consent of the Plan Sponsor.

“New Equity” means the all of the equity interest in the Reorganized Debtor, issued on the Effective Date, to the Plan Sponsor, and to the DIP Lender under and subject to the Subscription Option, in the total amount of 1,000 shares, free and clear of all Liens, Claims and encumbrances of any kind, except as provided in the Plan.

“Objection to Cure Amount” means the document filed in the Bankruptcy Court by a counterparty to an Executory Contract required in the event that such counterparty disputes the Cure Amount identified in the Schedule of Assumed Contracts and Unexpired Leases.

“Ordinary Course Creditor(s)” means a Creditor with an Ordinary Course Liability.

“Ordinary Course Liability” means an Administrative Claim (other than a Professional Compensation Claim or an Administrative Tax Claim), including Allowed DIP Lender Claims, based on liabilities incurred in the ordinary course of the Debtor’s business operations solely to the extent provided for in the Approved Budget.

“Other Secured Claim” means a claim secured by the Debtor’s assets, except for the Allowed DIP Lender Claim or the Pre-Petition Lender Claim.

“Person” means an individual, a corporation, a partnership, an association, a joint stock company, a joint venture, an estate, a trust, an unincorporated association or organization, a governmental unit or any agency or subdivision thereof or any other entity, and the Protected Parties.

“Petition Date” means June 5, 2017, the date on which the Debtor filed its voluntary Chapter 11 petition commencing the Chapter 11 Case.

“Plan” means this Plan of Reorganization of the Debtor, as it may be amended or modified.

“Plan Documents” means, collectively, those material documents executed or to be executed in order to consummate the transactions contemplated under the Plan, which will be filed with the Bankruptcy Court on or before the Plan Supplement Deadline, including the Distribution Trust Agreement and any other documents that make up the Plan Supplement.

“Plan Sponsor” means ESW Capital, LLC or an affiliate, in such capacity.

“Plan Supplement” means, collectively, any such documents as are referenced as such in this Plan to be Filed hereafter to supplement or clarify aspects of the Plan.

“Plan Supplement Deadline” means July 14, 2017.

“Post-Confirmation Service List” means the list of those parties who have notified the Reorganized Debtor in writing, at or following the Confirmation Hearing, of their desire to receive electronic notice of all pleadings filed by the Reorganized Debtor and have provided the e-mail address to which such notices shall be sent.

“Pre-Petition Lender” means Pacific Western Bank, successor-by-merger to Square 1 Bank.

“Pre-Petition Lender Secured Claim” means the Pre-Petition Lender’s Allowed Secured Claim in the amount of, as of the Petition Date, \$5,542,292.50, which includes exposure under issued but undrawn letters of credit and the maximum availability under credit cards, plus attorney’s fees.

“Priority Unsecured Non-Tax Claim” means any Claim (other than an Administrative Claim, Priority Tax Claim or an Intercompany Claim) to the extent entitled to priority in payment under section 507(a) of the Bankruptcy Code.

“Priority Tax Claim” means any Claim held by a Governmental Unit entitled to priority in payment under section 507(a)(8) of the Bankruptcy Code.

“Pro Rata Share” means as to a particular holder of a particular Claim, the ratio that the amount of such Claim held by such Claimholder bears to the aggregate amount of all Claims in the particular Class or category. Such ratio shall be calculated as if all Claims in the particular Class or category asserted against Debtor are Allowed Claims as of the Effective Date, unless specifically provided otherwise in the Plan.

“Professional” means a professional employed in the Chapter 11 Case pursuant to Final Order under sections 327, 328, 363, or 1103 of the Bankruptcy Code; provided that for the purposes of any bar dates, duties or other requirements imposed by the Plan (as distinguished from benefits or rights provided by or pursuant to the Plan), any professional not so employed in the Chapter 11 Case, but asserting any right or claim like a Professional on account of any service for or engagement by any foreign representative or foreign proceeding, shall have to comply with such same bar dates, duties and requirements as a Professional as one condition precedent to seeking any standing in the Chapter 11 Case, any Allowance of any Claim or any other right under the Plan like a Professional, with the Reorganized Debtor and other parties in interest reserving all other challenges and defenses thereto.

“Professional Compensation Claim” means a Claim for compensation or reimbursement of expenses of a Professional retained in the Chapter 11 Case, and requested in accordance with the provisions of 11 U.S.C. §§ 326, 327, 328, 330, 331, 503(b) and 1103; provided that for the purposes of any Claim asserted by any professional not so employed in the Chapter 11 Case, but asserting any Claim like a Professional on account of any service for or engagement by any foreign representative or foreign proceeding, the holder of such Claim shall have to comply with the same bar dates, duties and requirements as the holder of a Professional Compensation Claim as one condition precedent to seeking any standing or treatment as such, with the Reorganized Debtor and other parties in interest reserving all other challenges and defenses thereto.

“Protected Parties” (each one, a “Protected Party”) means (a) the Reorganized Debtor; (b) the Plan Sponsor and its affiliates; (c) the DIP Lender; and (d) directors, officers, agents, attorneys, accountants, consultants, equity holders, financial advisors, investment bankers, professionals, experts, and employees of any of the foregoing, in their respective capacities as such. Any affiliate or other party related to any Protected Party shall also be a Protected Party to the extent that such affiliate or related party is alleged or charged to be directly or indirectly liable on any derivative, vicarious liability, alter ego or other theory for imposing liability on an affiliate or related party for the conduct or liability of the Protected Party.

“Qualified Ordinary Course Creditor” means of the Ordinary Course Creditors, the DIP Lender.

“Redesignation” means the Plan Sponsor’s removal of a known Executory Contract from the assumption list attached hereto as Schedule 1, after the Petition Date.

“Redesignation Consideration” means the cash consideration to be provided by the Plan Sponsor equal to the reduction of distribution to the Pre-Petition Lender on account of its Allowed Pre-Petition Lender Secured Claim under the Plan due to rejection damages resulting from the Redesignation. For the avoidance of doubt, the Plan Sponsor shall not increase the Consideration if the distribution of the Pre-Petition Lender does not change due to the Redesignation. Further, for the avoidance of doubt, the Plan Sponsor shall not increase the Consideration as a result of the rejection of any executory contract or unexpired lease not identified on Schedule 1 as of the Petition Date, notwithstanding whether the rejection of such executory contract or unexpired lease results in a rejection damages claim.

“Rejection Claim Bar Date” means either (as applicable) (i) in respect to Executory Contracts rejected pursuant to a revocation notice filed pursuant to Section 8.3(b) of the Plan, the date that is thirty (30) days after the filing of such revocation notice, or (ii) as to all other Executory Contracts, the date that is thirty (30) days after the Effective Date.

“Released Parties” (each one, a “Released Party”) means (a) the Debtor; (b) the Reorganized Debtor; (c) the Plan Sponsor and its affiliates; (d) the DIP Lender; and (e) directors, officers, agents, attorneys, accountants, consultants, equity holders, financial advisors, investment bankers, professionals, experts, and employees of any of the foregoing, in their respective capacities as such. Any affiliate or other party related to any Released Party shall also be a Released Party to the extent that such affiliate or related party is alleged or charged to be directly or indirectly liable on any derivative, vicarious liability, alter ego or other theory for imposing liability on an affiliate or related party for the conduct or liability of the Released Party.

“Reorganized Debtor” means the Debtor as it exists after the Effective Date.

“Rights of Action” means any and all claims, debts, demands, rights, defenses, actions, causes of action, suits, contracts, agreements, obligations, accounts, defenses, offsets, powers, privileges, licenses and franchises of any kind or character whatsoever, known or unknown,

suspected or unsuspected, whether arising before, on, or after the Petition Date, in contract or in tort, at law or in equity, or under any other theory of law, of the Debtor or its Estate.

“Schedule of Assumed Contracts and Unexpired Leases” means the schedule identifying the Executory Contracts and Unexpired Leases to be assumed by the Reorganized Debtor under the Plan. The Schedule of Assumed Contracts and Unexpired Leases is attached as Exhibit B to the Plan.

“Schedules of Assets and Liabilities” means the Debtor’s Schedules of Assets and Liabilities, as may be amended or supplemented, and filed with the Bankruptcy Court in accordance with section 521(a)(1) of the Bankruptcy Code, including as amended by the Plan or any Plan Supplement.

“Secured Lender Recovery” means the Consideration remaining after payment in full of the Allowed Other Secured Claims, Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Priority Unsecured Non-Tax Claims, and Guaranteed Unsecured Recovery.

“Subscription Option” means the ability of the Qualified Ordinary Course Creditor to, at its option, exchange a total of up to 100% of its Allowed DIP Lender Claim for up to a total of 60% of the shares of New Equity at a rate of 1% of its Allowed DIP Lender Claim for .6% of New Equity. The Plan Sponsor reserves the right to modify the Subscription Option, provided that (i) no such modification shall adversely impact the Plan treatment of other creditors and (ii) such modification is approved by the DIP Lender.

“Treasury Regulations” means the regulations promulgated under the Internal Revenue Code by the Department of the Treasury of the United States.

“U.S. Trustee” means the Office of the United States Trustee for Region 3.

“Voting Record Date” means June 23, 2017.

EXHIBIT B

Form of Confirmation and Effective Date Notice

{00020935. }

TRADEMARK
REEL: 006252 FRAME: 0935

3. Resolution of Disputed Claims.

Except as otherwise provided in Article VII of the Plan, unless otherwise ordered by the Bankruptcy Court after notice and a hearing, and subject to section 502(a) of the Bankruptcy Code, the Distribution Trustee on behalf of the Distribution Trust has the right to make, file, prosecute, settle, compromise, withdraw, or resolve objections to Claims. Further, the Distribution Trustee may settle, resolve, release, or compromise any Claims and objections to Claims on behalf of the Distribution Trust without need for notice or order of the Bankruptcy Court.

4. Releases; Exculpation; Injunction.

Discharge. To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, all distributions under the Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and causes of action, whether known or unknown, including any interest accrued on such Claims from and after the Petition Date, against, liabilities of, Liens on, obligations of, rights against, and Equity Interests in the Debtor or any of its assets or properties, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests. The Debtor and its estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

Injunction. The discharge and releases set forth in Section 11.1 of the Plan shall also operate as an injunction permanently prohibiting and enjoining the commencement or continuation of any action or the employment of process with respect to, or any act to collect, recover from, or offset (a) any Claim discharged and released in Section 11.1 of the Plan, or (b) any cause of action, whether known or unknown, based on the same subject matter as any Claim discharged and released in Section 11.1 of the Plan. Except as otherwise expressly provided in the Plan, all Persons shall be precluded and forever barred from asserting against the Debtor, the Reorganized Debtor and the Protected Parties, their successors or assigns, or their assets, properties, or interests in property any other or further Claims, or any other right to legal or equitable relief regardless of whether such right can be reduced to a right to payment, based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not the facts of or legal bases therefor were known or existed prior to the Effective Date.

As of the Effective Date there shall be an injunction permanently prohibiting and enjoining the commencement or continuation of any action or the employment of process with respect to, or any act to collect, recover from, or offset (except for offsets exercised prior to the Petition Date) any Claim or Interest or cause of action, whether known or unknown against the Debtor, the Reorganized Debtor, or the Protected Parties that are released under Section 11.5 of the Plan. Except as otherwise expressly provided in the Plan, all Persons shall be precluded and forever barred from asserting against the Debtor, the Reorganized Debtor, or Protected Parties, their successors or assigns, or their assets, properties, or interests in property any Claims or

Interests, or causes of action, or right to legal or equitable relief released under Section 11.5 of the Plan, regardless of whether such right can be reduced to a right to payment, based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not the facts of or legal bases therefor were known or existed prior to the Effective Date;

Terms of Existing Injunctions or Stays. All injunctions or stays arising under or entered during the Chapter 11 Case under section 105 or 362 of the Bankruptcy Code, or otherwise, that are in existence on the Confirmation Date shall remain in full force and effect until the Effective Date, *provided, however*, that no such injunction or stay shall preclude enforcement of parties' rights under the Plan and the related documents.

Exculpation. The Debtor and its respective professionals will neither have nor incur any liability to any entity for any claims or causes of action arising before, on or after the Petition Date and prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the consummation of the Plan, the Disclosure Statement, or any other contract, instrument, release or other agreement or document created or entered into in connection with the Plan or any other postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtor, the approval of the Disclosure Statement or Confirmation or consummation of the Plan; provided, however, that the foregoing provisions will have no effect on the liability of any entity that results from any such act or omission that is determined in a Final Order of the Bankruptcy Court or other court of competent jurisdiction to have constituted gross negligence or willful misconduct; provided, further, that the Debtor will be entitled to rely upon the advice of counsel concerning its duties pursuant to, or in connection with, the above referenced documents, actions or inaction.

Releases by the Debtor. Effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy of which is hereby acknowledged and confirmed, the Debtor will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to the Released Parties and their respective related parties (and each such Released Party and their respective related parties so released shall be deemed forever released, discharged, and waived by the Debtor) and their respective properties from any and all released claims that the Debtor and their respective related parties would have been legally entitled to assert in their own right, on behalf of one another, or on behalf of another party against the Released Parties or their respective related parties; provided, however, that the foregoing provisions of this release shall not operate to waive or release (i) the rights of the Debtor to enforce the Plan and the contracts, instruments, releases and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to final order of the Bankruptcy Court; and/or (ii) any claims or defenses against third party.

The Confirmation Order permanently enjoins the commencement or prosecution by any person or entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities released pursuant to the release contained in Section 11.4 of the Plan

Releases by the Holders of Claims. To the extent allowed by applicable law, on, and as of, the Effective Date and for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Debtor, the Reorganized Debtor and the Protected Parties shall be forever released and discharged from any and all claims, obligations, actions, suits, rights, debts, accounts, causes of action, remedies, avoidance actions, agreements, promises, damages, judgments, demands, defenses, or claims in respect of equitable subordination, and liabilities throughout the world under any law or court ruling through the Effective Date (including all claims based on or arising out of facts or circumstances that existed as of or prior to the Plan in the Chapter 11 Case, including claims based on negligence or strict liability, and further including any derivative claims asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, that the Debtor, its Estate, or the Reorganized Debtor would have been legally entitled by applicable law to assert in its own right, whether individually or collectively) which the Debtor, its Estate, the Reorganized Debtor, Creditors or other persons receiving or who are entitled to receive Distributions under the Plan may have against any of them in any way related to the Chapter 11 Case or the Debtor (or its predecessors); provided, however, the releases provided for in this paragraph shall not extend to any claims by any Governmental Unit with respect to criminal liability under applicable law, willful misconduct or bad faith under applicable law, or *ultra vires* acts under applicable law. No compliance with or reliance on the applicable law or the orders of the Bankruptcy Court shall be deemed or permitted to be judged, declared, or ruled to be in any way wrongful, in bad faith, *ultra vires*, inequitable or otherwise subject to any sanction or punishment, all of which are preempted, superseded and negated by the Plan to the maximum extent permitted by applicable law.

Limitation of Liability. The Debtor, the Reorganized Debtor and the Protected Parties shall have all of the benefits and protections afforded under section 1125(e) of the Bankruptcy Code and applicable law.

5. Rejection of Executory Contracts and Unexpired Leases Not Assumed.

Except as otherwise provided (i) in the Plan; (ii) Schedule of Assumed Contracts and Unexpired Leases [Docket No. 138]; (iii) in any contract, instrument, release, or other agreement or document entered into in connection with the Plan; or (iv) in a Final Order of the Bankruptcy Court, as of the Effective Date, pursuant to section 365 of the Bankruptcy Code, the Debtor rejected each executory contract and unexpired lease not previously assumed, assumed and assigned, or rejected during the Chapter 11 Case. For the avoidance of doubt, executory contracts and unexpired leases listed on Exhibit B to the Plan were assumed as of the Effective Date, pursuant to section 365 of the Bankruptcy Code and the terms of the Confirmation Order. For the avoidance of doubt, the Debtor, subject to the agreement of the Plan Sponsor, shall have the right to assume all executory contracts entered into by the Debtor postpetition prior to the Effective Date.

Notwithstanding any other provision herein, the San Mateo Lease and the San Mateo Sub-Lease shall be deemed rejected as of the August 31, 2017.

6. Bar Dates.

a. Administrative Bar Date. Unless previously filed or as otherwise governed by a bar date order or in another order of the Court or as set forth in the Plan with respect to Ordinary Course Liabilities, requests for payment of Administrative Claims must be filed with the Court and served on the parties identified in section 13.12 of the Plan no later than 30 days after the Effective Date (the "Administrative Claim Bar Date"). Holders of Administrative Claims that are required to file and serve a request for payment of such Administrative Claims and that do not file and serve such a request by the Administrative Claim Bar Date shall be forever barred from asserting such Administrative Claims against the Debtor, the Estate, or its property. Objections to any requests for payment of Administrative Claims must be asserted by the Claim Objection Deadline. Notwithstanding the foregoing, a governmental unit shall not be required to file and serve a request for payment of an Administrative Claim with respect to any administrative expense of the type described in section 503(b)(1)(B) or section 503(b)(1)(C) of the Bankruptcy Code as a condition to such amounts being an allowed administrative expense. Notice of the Administrative Claim Bar Date was previously provided to parties in interest, and nothing in this Notice is intended to extend the Administrative Claim Bar Date or recommence the occurrence of the Administrative Claim Bar Date.

b. Professional Compensation. Each Professional shall file an application for allowance of final compensation and reimbursement of expenses in the Chapter 11 Case, for the period through the Effective Date, no later than September __, 2017, which is forty-five (45) days after the Effective Date. Objections to applications of professionals for compensation or reimbursement of expenses must be filed and served on the Reorganized Debtor, the U.S. Trustee, and the professionals to whose application the objections are addressed no later than twenty-one (21) days after the date the application is filed, or the Bankruptcy Court may enter an order authorizing the fees without a hearing. Any professional fees and reimbursements or expenses incurred by the Reorganized Debtor subsequent to the Effective Date may be paid without application to the Bankruptcy Court.

c. Rejection Damages Bar Date. Claims arising out of the rejection of an executory contract or unexpired lease pursuant to section 8.2 of the Plan must be filed with the Court no later than 30 days after the Effective Date, and served as set forth below in Section 9. Any such Claims not timely filed shall be forever barred from asserting such Claims against the Debtor, the Reorganized Debtor, the Estate, the Distribution Trust, or their respective property.

7. Retention of Jurisdiction by Bankruptcy Court.

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court retained jurisdiction over the Chapter 11 Case after the Effective Date to the fullest extent legally permissible, including, without limitation, with respect to all matters specified in Article XII of the Plan.

8. Notice Parties' Service Addresses.

For purposes of serving requests for payment of Administrative Claims, applications for allowance of Fee Claims, and any other papers required to be served on the notice parties set forth in the Plan, such service should be made, as applicable, on:

(a) Debtor

Eugene Tighe
Chief Financial Officer
FirstRain, Inc.
1500 Fashion Island Blvd. Ste. 200
San Mateo, CA 94404
etighe@firstrain.com

and

Frederick B. Rosner
The Rosner Law Group LLC
824 Market Street, Suite 810
Wilmington, DE 19801
Phone: (302) 777-1111
rosner@teamrosner.com

(b) Reorganized Debtor

ESW Capital, LLC
c/o Haynes and Boone, LLP
1221 McKinney Street, Suite 2100
Houston, Texas 77010
Attention: Charles A. Beckham, Jr.
Email: charles.beckham@haynesboone.com
Fax: 713-236-5638

and

30 Rockefeller Plaza, 26th Floor
New York, NY 10112
Attention: Trevor R. Hoffmann
Email: trevor.hoffmann@haynesboone.com
Fax: 212-884-9558

(c) U.S. Trustee

844 King Street
Suite 2207
Lockbox 35
Wilmington, Delaware 19801
Attn: Jane Leamy
Email: jane.m.leafy@usdoj.gov

(d) Distribution Trust

Craig R. Jalbert
Verdolino & Lowey, P.C.
124 Washington Street, Suite 101
Foxboro, MA 02035
Email: cjalbert@vlpc.com

9. Filing Claims with Claims Agent.

Proofs of Claim arising from the rejection of executory contracts or unexpired leases should be filed with the Court approved claims and noticing agent JND Holding Co. (“JND”). Proofs of Claim may be filed electronically via the Claims Agent’s website: <http://www.jndla.com/cases/firstrain>. Further instructions regarding electronic filing can be found on the Claims Agent’s website. If you wish to file a Proof of Claim via submission of a hard copy, the hard copy must be delivered so as to be received by JND on or before the applicable Bar Date at the following address:

**FirstRain, Inc. Claims Processing
c/o JND Corporate Restructuring
8269 East 23rd Avenue, Suite 275
Denver, Colorado 80238**

All proofs of claim arising from the rejection of executory contracts or unexpired leases must be filed by later of (a) the General Bar Date, (b) 30 days after entry of any order authorizing the rejection of an executory contract or unexpired lease, including any order confirming the Plan, or (c) the date set forth in an order authorizing rejection of an executory contract or unexpired lease. Proofs of Claim submitted by facsimile or e-mail shall not be accepted.

10. Copies of Confirmation Order.

Copies of the Plan and the Confirmation Order may be obtained for free at <http://www.jndla.com/cases/firstrain> or upon request from counsel to the Distribution Trustee.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
FIRSTRAIN, INC.,	:	Case No. 17-11249 (LSS)
	:	
Debtor. ¹	:	
	:	

SCHEDULES OF ASSETS AND LIABILITIES FOR FIRSTRRAIN, INC.

¹ The last four digits of the Debtor's federal tax identification number are 6970. The Debtor's principal place of business is located at 1500 Fashion Island Boulevard, Suite 200, San Mateo, CA.

prepared by the Debtor. Except where otherwise noted, the information provided herein is as of the Petition Date. Moreover, to the extent that the Debtor shows more assets than liabilities, this is not an admission that such Debtor was solvent as of the Petition Date or at any time prior to the Petition Date.

The Schedules and Statements have been signed by Vivie Lee, who serves as the Chief Executive Officer of the Debtor. In reviewing and signing the Schedules and Statements, Ms. Lee has necessarily relied upon the efforts, statements, and representations of various personnel employed by the Debtor. Ms. Lee has not (and could not have) personally verified the accuracy of each such statement and representation, including statements and representations concerning amounts owed to creditors, classification of such amounts, and their addresses.

Reservation of Rights and Claims Designation

Nothing contained in the Schedules and Statements shall constitute a waiver of rights with respect to the Chapter 11 Case, including, but not limited to, issues involving recharacterization, equitable subordination and/or causes of action arising under the provisions of chapter 5 of the Bankruptcy Code and other relevant non-bankruptcy laws to recover assets or avoid transfers. The Debtor and its estate reserves the right to (a) dispute, or to assert offsets or defenses against, any filed claim or any claim listed or reflected in the Schedules and Statements as to nature, amount, liability, priority, classification, or otherwise and (b) subsequently designate any scheduled claim as disputed, contingent or unliquidated. Any failure to designate a claim on the Debtor's Schedules as "disputed," "contingent," or "unliquidated" does not constitute an admission by the Debtor that such amount is not "disputed," "contingent," or "unliquidated."

Amendment

Reasonable efforts have been made to prepare and file complete and accurate Schedules and Statements; however, inadvertent errors or omissions may exist. The preparation of the Schedules and Statements required the Debtor to make reasonable estimates and assumptions with respect to the reported amounts of assets and liabilities, the amount of contingent assets and contingent liabilities on the date of the Schedules and Statements, and the reported amounts of revenues and expenses during the applicable reporting periods. Actual results could differ from those estimates. The Debtor reserves all rights to amend and/or supplement the Schedules and Statements as it deems necessary and/or appropriate.

Current Market Value - Net Book Value

In certain instances, current market valuations for individual items of property and other assets are neither maintained by, nor readily available to, the Debtor. Accordingly, unless otherwise indicated, the Schedules and Statements reflect net book values. Market values may vary, at some times materially, from net book value.

Foreign Currency

Unless otherwise indicated, all amounts are reflected in U.S. dollars.

Unknown Amounts

The description of an amount as “unknown” is not intended to reflect upon the materiality of such amount.

Insiders

Solely for purposes of the Schedules and Statements, the Debtor defines “insiders” pursuant to section 101(31) of the Bankruptcy Code as (a) directors, (b) officers, (c) relatives of directors or officers of the Debtor, and (d) persons in control. Except as otherwise disclosed, payments to insiders listed in (a) through (d) above are set forth on Statement 3c. Persons listed as “insiders” have been included for informational purposes only and are not intended to be nor should be construed as a legal characterization of such party as an insider and does not act as an admission of any fact, claim, right, or defense, and all such rights, claims, and defenses are hereby expressly reserved. Further, the Debtor does not take any position with respect to (a) such person’s influence over the control of the Debtor, (b) the management responsibilities or functions of such individual, (c) the decision-making or corporate authority of such individual, or (d) whether such individual could successfully argue that he or she is not an “insider” under applicable law, including, without limitation, the federal securities laws, or with respect to any theories of liability or for any other purpose.

Intellectual Property Rights

The Debtor has made its best effort to identify and list all intellectual property. Exclusion of certain intellectual property shall not be construed as an admission that such intellectual property rights have been abandoned, terminated, assigned, expired by their terms, or otherwise transferred pursuant to a sale, acquisition, or other transaction. Conversely, inclusion of certain intellectual property shall not be construed to be an admission that such intellectual property rights have not been abandoned, terminated, assigned, expired by their terms, or otherwise transferred pursuant to a sale, acquisition, or other transaction. Accordingly, the Debtor reserves all of its rights with respect to the legal status of any and all such intellectual property rights.

Summary of Significant Reporting Policies

Totals. All totals that are included in the Schedules and Statements represent totals of all known amounts. To the extent there are unknown or undetermined amounts, the actual total may be different than the listed total.

Paid Claims. The Debtor is authorized (but not directed) to pay certain outstanding prepetition claims pursuant to various orders entered by the Bankruptcy Court. Accordingly, certain outstanding liabilities may have been reduced by postpetition payments made on account of prepetition liabilities. To the extent the Debtor pays any of the claims listed in the Schedules and Statements pursuant to any orders entered by the Bankruptcy Court, the Debtor reserves all of its rights to amend or supplement the Schedules and Statements or take other action as is necessary or appropriate to avoid over-payment of or duplicate payments for any such liabilities.

Liens. Property and equipment listed in the Schedules and Statements are presented without consideration of any liens that may attach (or have attached) to such property and equipment.

Specific Disclosures with Respect to Debtor's Schedules

1. **Schedule A/B, Part 1.** Additional detail regarding the Debtor's bank accounts is provided in the *Debtor's Motion for Interim and Final Orders Pursuant to 11 U.S.C. §§ 105(a), 345(b), 363, 1107 and 1108 Authorizing: (A) Continued Maintenance of Existing Bank Accounts, (B) Continued Use of Existing Business Forms and (C) Waiver of Section 345(b) Deposit and Investment Requirements and Certain United States Trustee Guidelines* [D.I. 6].

2. **Schedule A/B, Part 11.** In the ordinary course of its business, the Debtor may have accrued, or may subsequently accrue, certain rights to counterclaims, crossclaims, setoffs, refunds with its customers, suppliers, service providers and other trade creditors, or potential warranty claims against its suppliers. Additionally, the Debtor may be a party to pending litigation in which the Debtor has asserted, or may assert, claims as a plaintiff or counterclaims and/or crossclaims as a defendant. Because such claims are unknown to the Debtor and not quantifiable as of the Petition Date, they are not listed on Schedule A/B, Part 11.

3. **Schedule D.** Except as otherwise agreed pursuant to a stipulation or order entered by the Bankruptcy Court, the Debtor reserves its right to dispute or challenge the validity, perfection, or immunity from avoidance of any lien purported to be granted or perfected by any creditor listed on Schedule D. Moreover, although the Debtor has scheduled claims of certain creditors as secured claims, the Debtor reserves all of its rights to dispute or challenge the secured nature of any such creditor's claim or the characterization of the structure of any such transaction or any document or instrument related to such creditor's claim. The descriptions provided in Schedule D are intended solely to be a summary and not an admission of liability. The Debtor made reasonable, good faith efforts to include all known liens on Schedule D but may have inadvertently omitted an existing lien. Furthermore, the valuations of collateral set forth in Schedule D are based on appraisals commissioned by the Debtor prior to the Petition Date and therefore may not accurately reflect the current value of the collateral. Accordingly, the Debtor reserves the right to amend, modify, challenge or contest any valuation of the collateral set forth in Schedule D.

4. **Schedule E/F, Part 1.** The Bankruptcy Court has approved the payment of certain unsecured claims against the Debtor including, without limitation, certain claims of employees for wages, salaries, severance, variable commissions, and benefits. The Debtor has not included any priority claims that have been satisfied, or will be satisfied, as a result of these first day orders. The listing of any claim on Schedule E/F, Part 1 does not constitute an admission by the Debtor that such claim is entitled to priority under section 507 of the Bankruptcy Code. The Debtor reserves the right to dispute the priority status of any claim on any basis. While reasonable efforts have been made, determination of the date upon which any claim in Schedule E/F, Part 1 was incurred or arose would be unduly burdensome and cost prohibitive, and therefore, the Debtor do not list a date for each claim listed on Schedule E.

5. **Schedule E/F, Part 2.** The balances identified in Schedule E/F, Part 2 are derived from the Debtor's books and records. The Debtor made a reasonable attempt to set forth its unsecured obligations, although the actual amount of claims against the Debtor may vary from those liabilities represented on Schedule E/F, Part 2. The listed liabilities may not reflect the correct amount of any unsecured creditor's allowed claims or the correct amount of all unsecured claims. Pursuant to certain Bankruptcy Court orders, the Debtor has been granted authority to pay, in its discretion, certain outstanding prepetition claims. The Debtor's Schedule E/F, Part 2 may reflect the Debtor's payment of certain claims pursuant to these orders, and, to the extent an unsecured claim has been paid or may be paid, it is possible such claim is not included on Schedule F.

6. **Schedule G.** While every effort has been made to ensure the accuracy of Schedule G, inadvertent errors or omissions may have occurred. Listing a contract or agreement on Schedule G does not constitute an admission that such contract or agreement is an executory contract or unexpired lease or that such contract or agreement was in effect on the Petition Date or is valid or enforceable. The Debtor hereby reserves all of its rights to dispute the validity, status, or enforceability of any contracts, agreements, or leases set forth in Schedule G and to amend or supplement Schedule G as necessary. The omission of a contract or agreement from Schedule G does not constitute an admission that such omitted contract or agreement is not an executory contract or unexpired lease. The Debtor's rights under the Bankruptcy Code with respect to any such omitted contracts or agreements are not impaired by any omission. Accordingly, the Debtor reserves all of its rights with respect to the obligor of any and all such contracts or agreements.

Fill in this information to identify the case:

Debtor name FirstRain, Inc.

United States Bankruptcy Court for the: District of Delaware

Case number (if known): 17-11249 (LSS)

Check if this is an amended filing

Official Form 206Sum

Summary of Assets and Liabilities for Non-Individuals

12/15

Fill in this information to identify the case:

Debtor name FirstRain, Inc.

United States Bankruptcy Court for the: District of Delaware

Case number (if known): 17-11249 (LSS)

Check if this is an amended filing

Official Form 206A/B

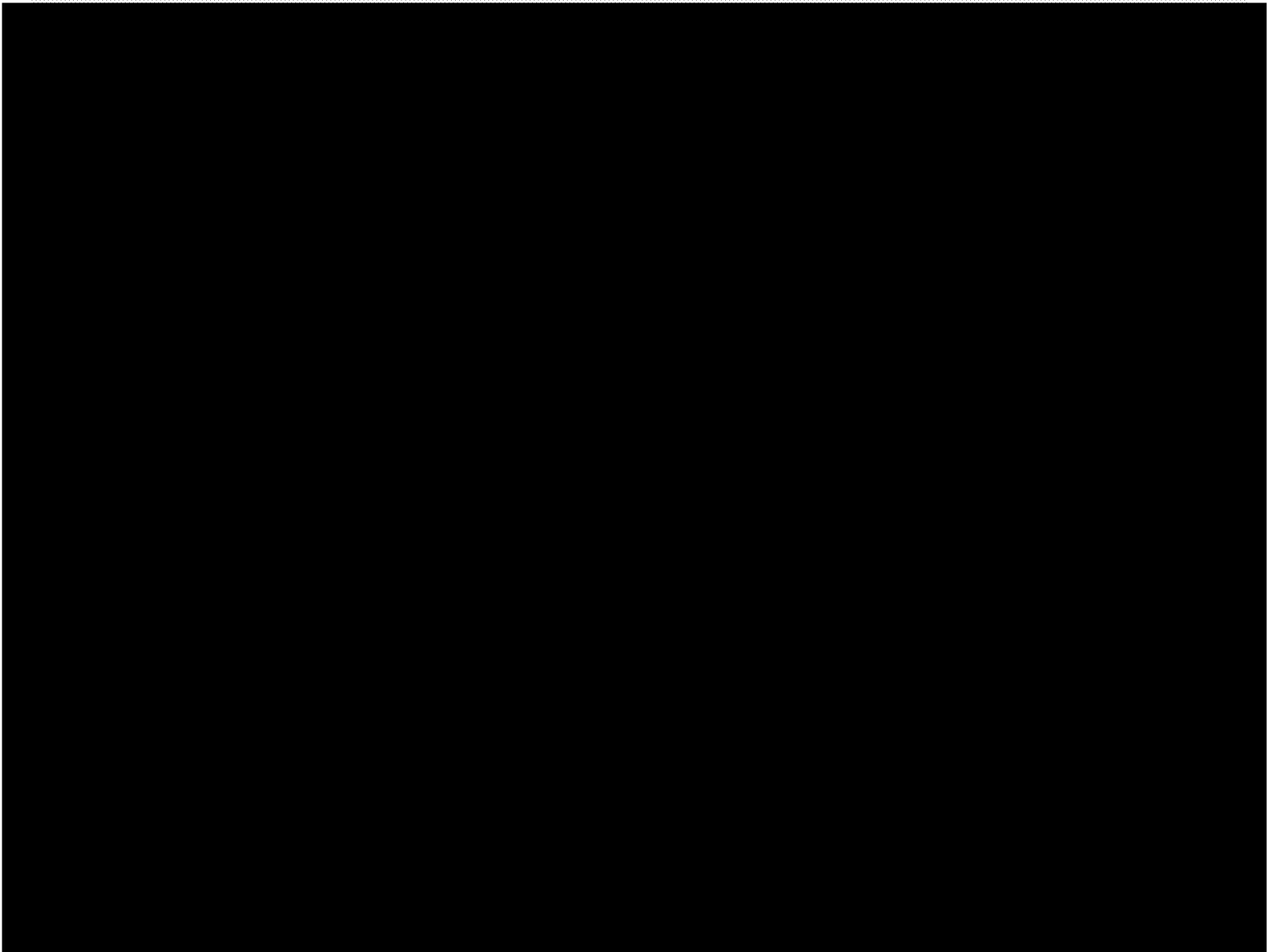
Schedule A/B: Assets — Real and Personal Property

12/15

Disclose all property, real and personal, which the debtor owns or in which the debtor has any other legal, equitable, or future interest. Include all property in which the debtor holds rights and powers exercisable for the debtor's own benefit. Also include assets and properties which have no book value, such as fully depreciated assets or assets that were not capitalized. In Schedule A/B, list any executory contracts or unexpired leases. Also list them on *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G).

Be as complete and accurate as possible. If more space is needed, attach a separate sheet to this form. At the top of any pages added, write the debtor's name and case number (if known). Also identify the form and line number to which the additional information applies. If an additional sheet is attached, include the amounts from the attachment in the total for the pertinent part.

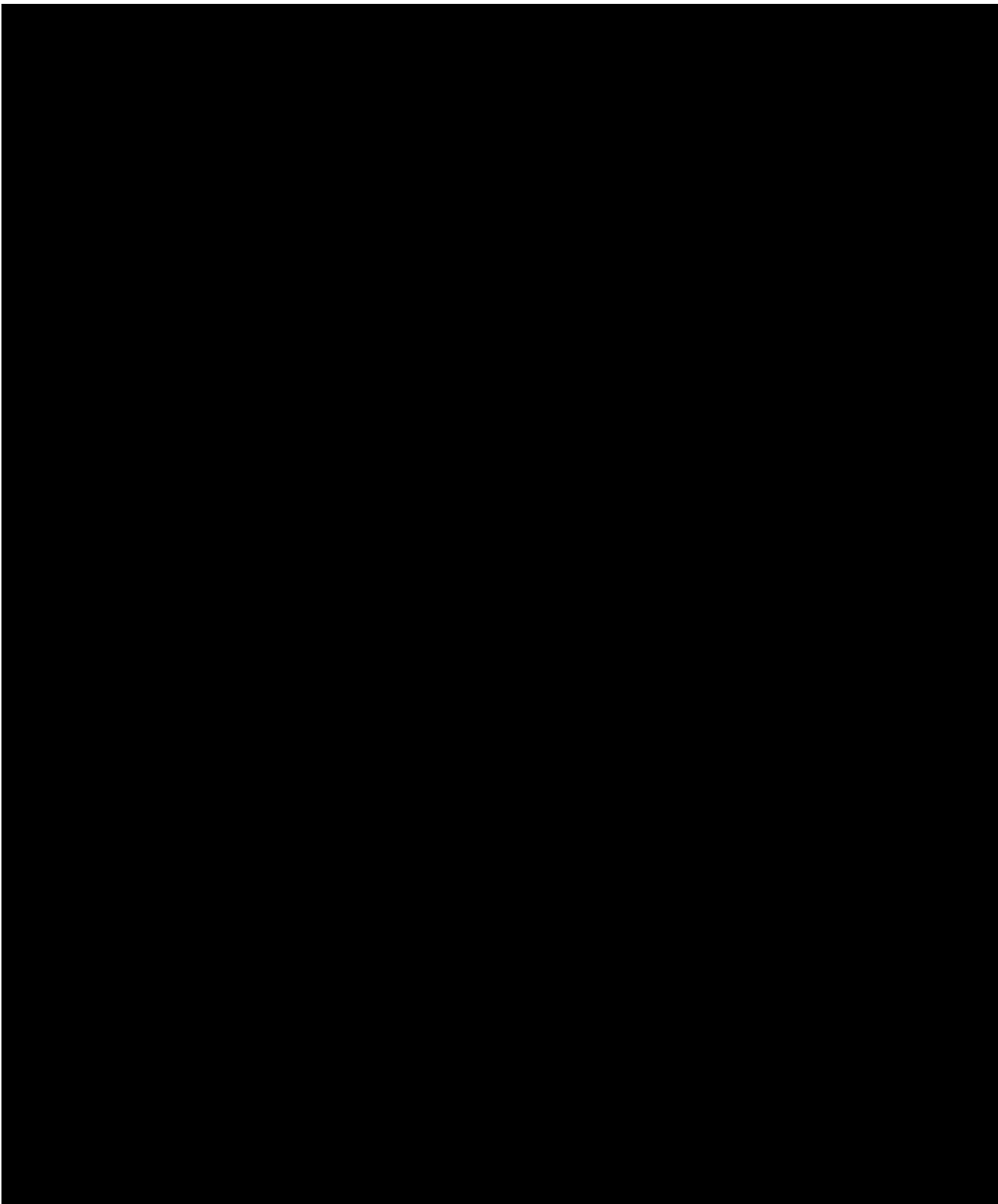
For Part 1 through Part 11, list each asset under the appropriate category or attach separate supporting schedules, such as a fixed asset schedule or depreciation schedule, that gives the details for each asset in a particular category. List each asset only once. In valuing the debtor's interest, do not deduct the value of secured claims. See the instructions to understand the terms used in this form.



Debtor

FirstRain, Inc.
Name

Case number (if known) 17-11249 (LSS)

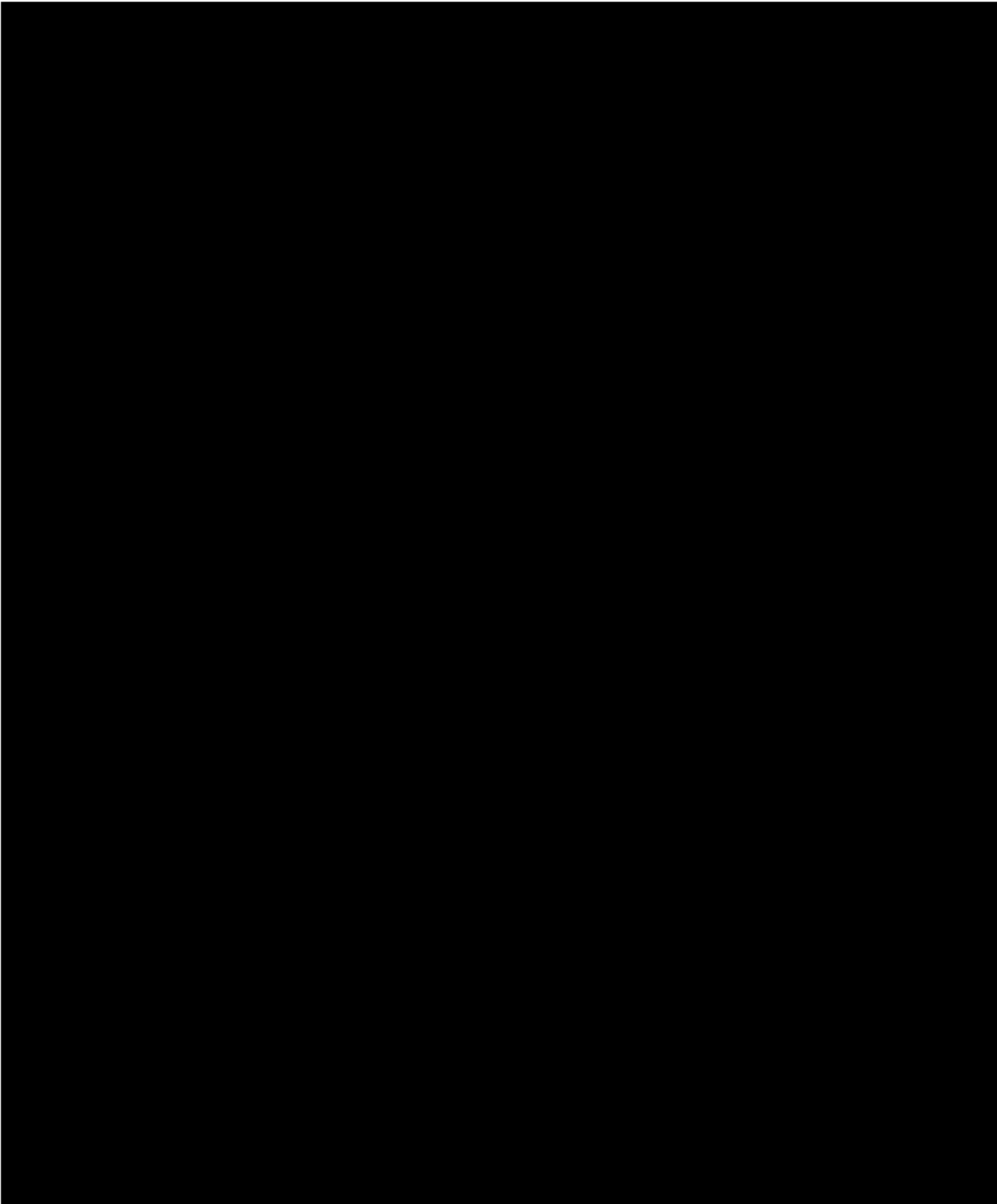


Debtor

FirstRain, Inc.

Case number (if known) 17-11249 (LSS)

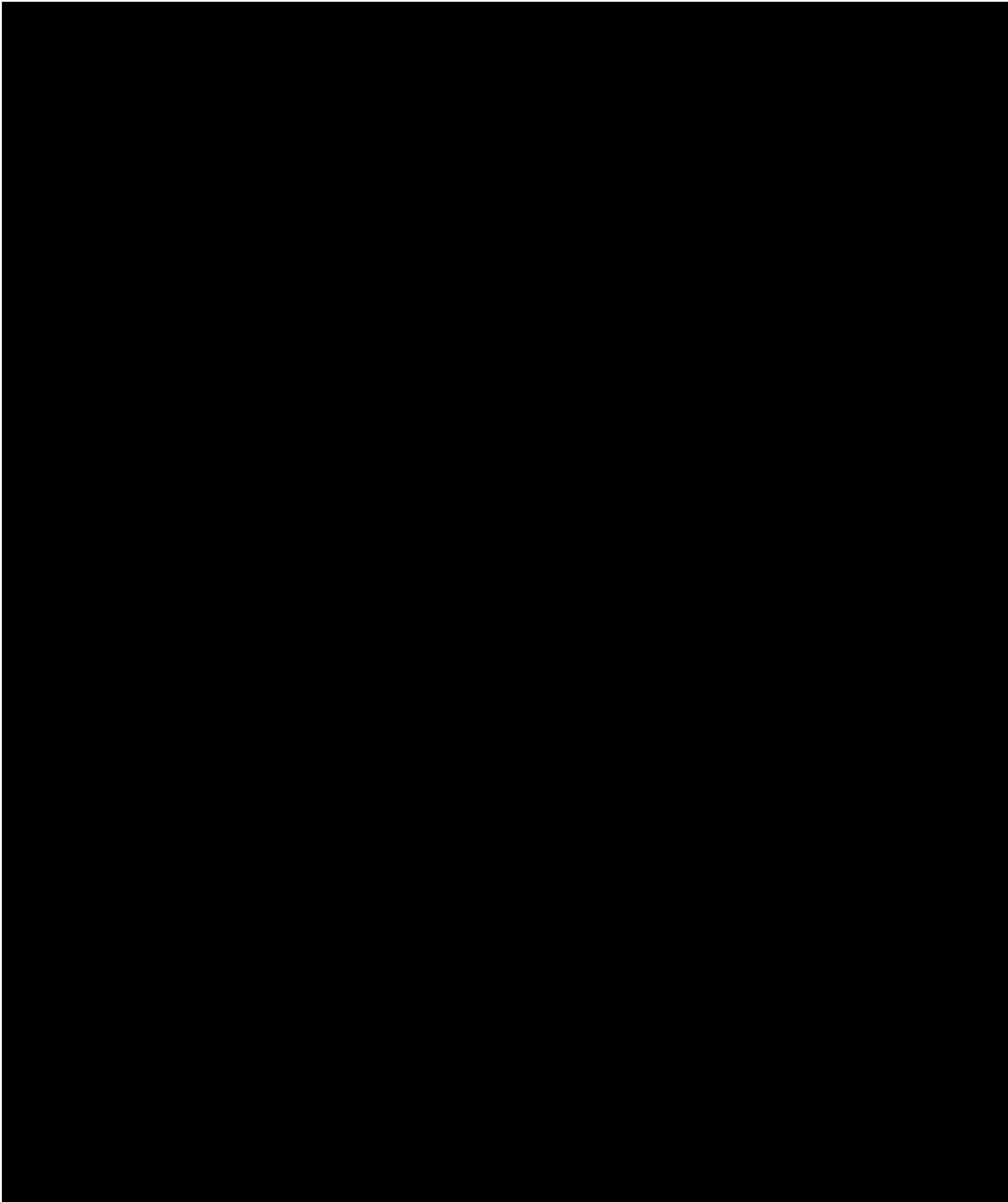
Name

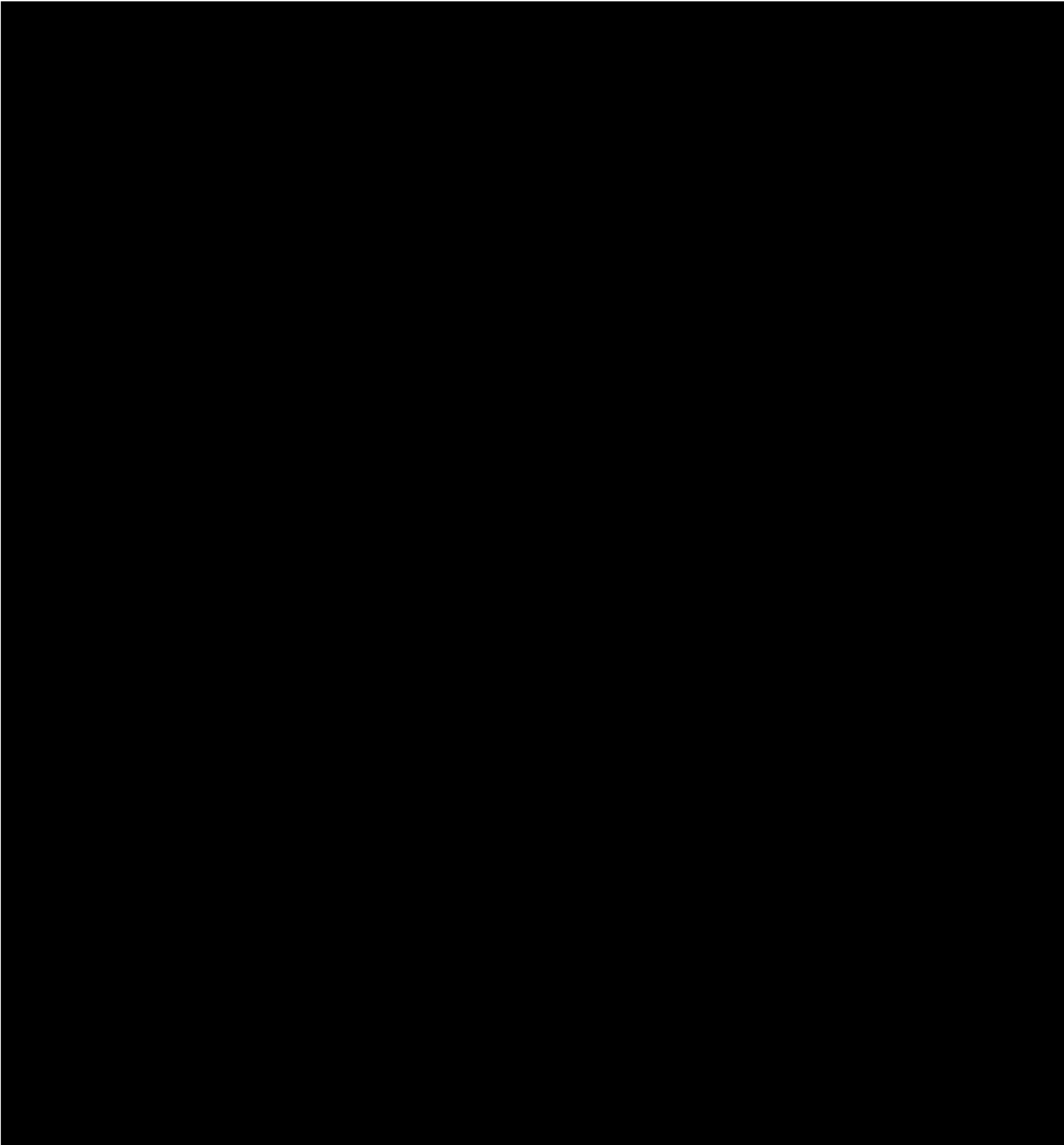


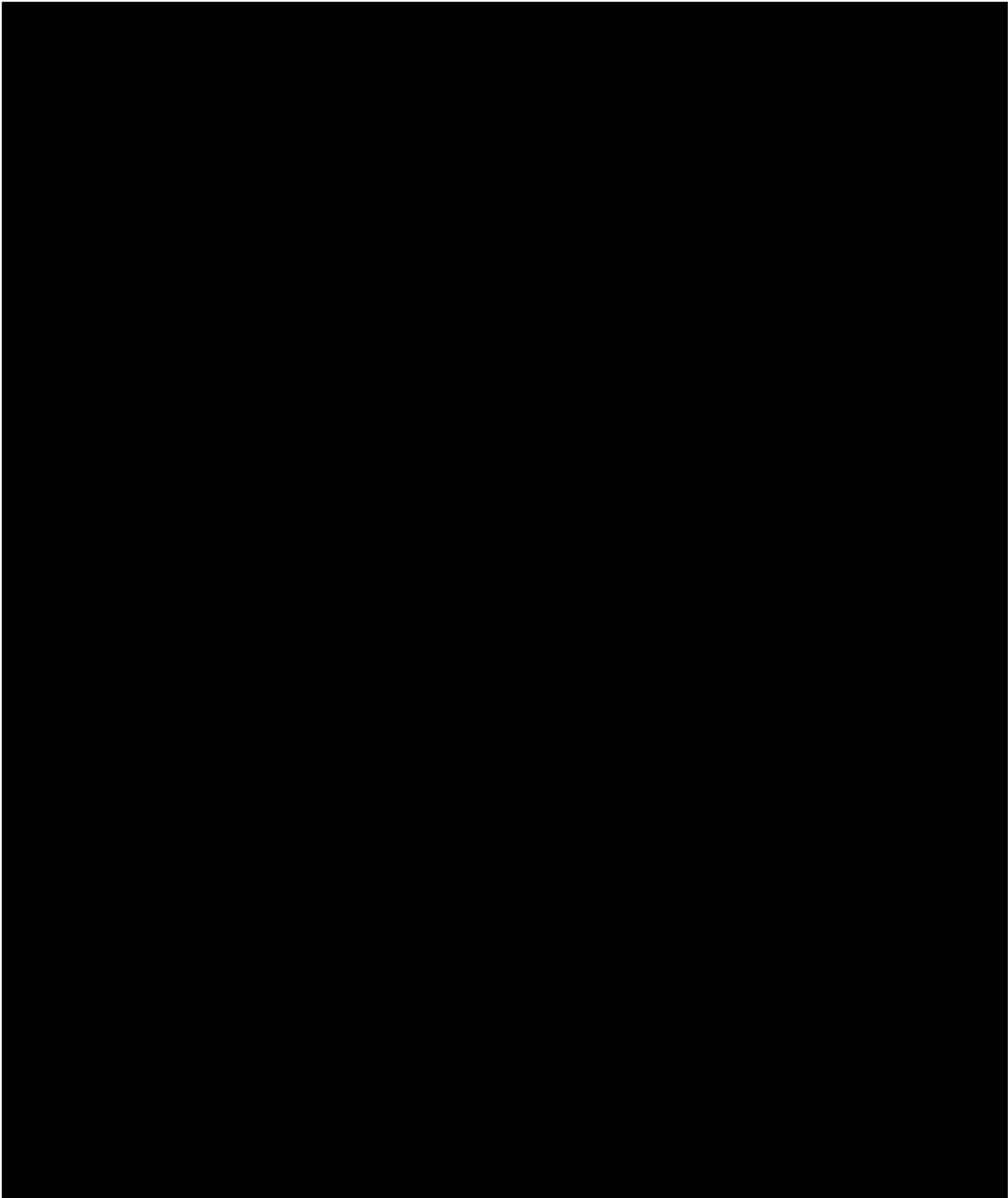
Debtor

FirstRain, Inc.
Name

Case number (if known) 17-11249 (LSS)





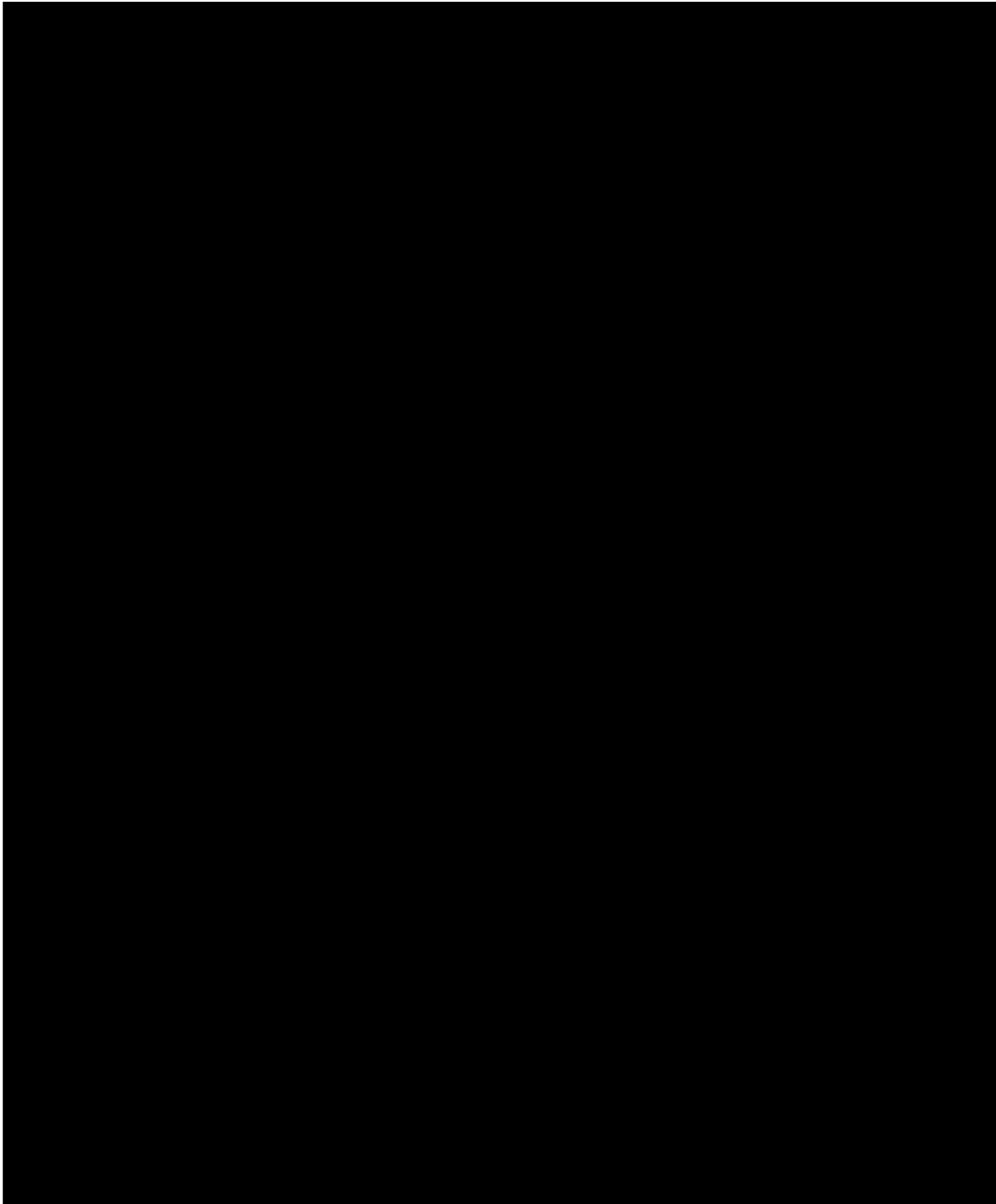


Debtor

FirstRain, Inc.

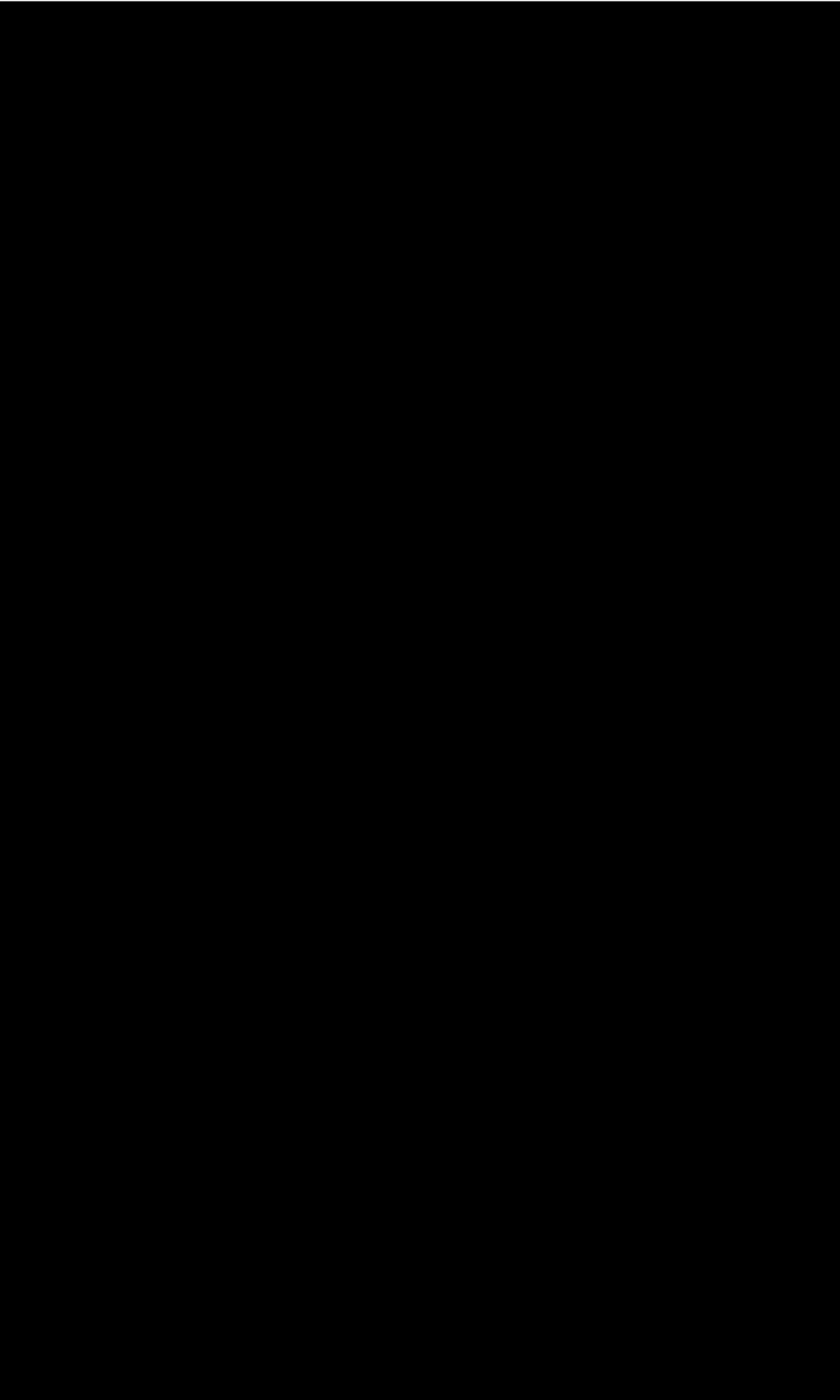
Case number (if known) 17-11249 (LSS)

Name





8 Prepayments, including prepayments on executory contracts, leases, insurance, taxes, and rent



Patent No.	Type	Issue Date	Score	Inventor	Description	Class. Code	Issue Date	Current Status
60.1	NON-PROVISIONAL	10/22/2011	09/035.732	WILSON, SONSHI, GOODRICH & ROSATI	METHOD AND APPARATUS FOR SEARCHING NETWORK RESOURCES	SEARCHING (AND RETURNING IN RESPONSE TO A QUERY) SUBSETS OF DOCUMENTS THAT HAVE BEEN EXTRACTED AND STORED IN A DATABASE, DETERMINING EDIT SEQUENCES (INSERTIONS, DELETIONS, SUBSTITUTIONS, REPHRASINGS, ETC.) BETWEEN FIRST AND SECOND MARKUP LANGUAGE DOCUMENTS	ISSUED U.S. PATENT 8,015,284 (07-05-2015)	UNKNOWN
60.2	NON-PROVISIONAL	11/11/2012	10/117.783	WILSON, SONSHI, GOODRICH & ROSATI	METHOD AND APPARATUS FOR EXTRACTING RELEVANT DATA	SEARCHING DOCUMENTS TO RESPOND TO USER QUERY	ISSUED U.S. PATENT 7,103,235 (04-05-2009)	UNKNOWN
60.3	NON-PROVISIONAL	02/24/2012	10/179.475	WILSON, SONSHI, GOODRICH & ROSATI	CRAWLING DOCUMENTS TO RESPOND TO USER QUERY	SEARCHING AND RETURNING IN RESPONSE TO A QUERY SUBPORTIONS OF DOCUMENTS	ISSUED U.S. PATENT 7,880,073 (07-14-2010)	UNKNOWN
60.4	NON-PROVISIONAL	11/29/2015	11/118.014	WILSON, SONSHI, GOODRICH & ROSATI	METHOD AND APPARATUS FOR SEARCHING NETWORK RESOURCES	EXTRACTING A CLIP FROM A WEB PAGE	ISSUED U.S. PATENT 7,415,488 (04-14-2009)	UNKNOWN
60.5	NON-PROVISIONAL	02/19/2016	11/827.289	WILSON, SONSHI, GOODRICH & ROSATI	METHOD AND APPARATUS FOR EXTRACTING CONTENT QUALITY APPARATUS, SYSTEMS, AND METHODS	SCORING A DOCUMENT ACCORDING TO VARIOUS METRICS, INCLUDING INCREMENTAL CONTENT	ISSUED U.S. PATENT 7,894,192 (04-28-2011)	UNKNOWN
60.6	NON-PROVISIONAL	10/25/2017	11/091.141	ABEIL	CLASSIFICATION OF DOCUMENTS	USING MODELS (E.G., NEURAL NETWORK) TO DETERMINE RELEVANCE OF DOCUMENTS TO A PARTICULAR TOPIC	ISSUED U.S. PATENT 7,716,222 (05-11-2010)	UNKNOWN
60.7	NON-PROVISIONAL	11/27/2010	12/772.185	ABEIL	EVENT DETECTION	DETECTION OF WEB EVENT FOR A TOPIC USING EVENT SCORE; NORMALIZATION OF EVENT SCORES ACROSS A GROUP OF TOPICS FOR COMPARISON	ISSUED U.S. PATENT 8,095,540 (03-12-2014)	UNKNOWN
60.8	NON-PROVISIONAL	10/27/2010	12/070.889	ABEIL	EVENT DETECTION	IDENTIFICATION OF REPRESENTATIVE DOCUMENT(S) FOR AN EVENT; IDENTIFICATION OF LINK TO REPRESENTATIVE DOCUMENT BY CHECKING LINK REGULARLY	ISSUED U.S. PATENT 8,489,780 (04-11-2013)	UNKNOWN
60.9	NON-PROVISIONAL	02/27/2010	12/070.881	ABEIL	EVENT TRACKING	IDENTIFICATION OF REPRESENTATIVE DOCUMENT(S) FOR AN EVENT; IDENTIFICATION OF LINK TO REPRESENTATIVE DOCUMENT BY CHECKING LINK REGULARLY	ISSUED U.S. PATENT 8,489,780 (04-11-2013)	UNKNOWN
60.10	NON-PROVISIONAL	10/14/2011	12/272.287	ABEIL	METHOD AND SYSTEM FOR IDENTIFYING SENTENCES OF RECURRING SEARCHES	INTUITIVE COMPARISON AND SELECTION, IDENTIFYING BITTLES IN DOCUMENTS	ISSUED U.S. PATENT 8,792,642 (07-14-2014)	UNKNOWN
60.11	NON-PROVISIONAL	02/19/2012	13/258.884	ABEIL	SPATIALLY USER INTERFACE FOR HISTORICAL SEARCHES	MONITOR WIZARD UI	ISSUED U.S. PATENT 8,391,813 (02-10-2013)	UNKNOWN
60.12	NON-PROVISIONAL	02/25/2016	13/538.895	ABEIL	HISTORICAL SEARCHES	MONITOR WIZARD UI	ISSUED U.S. PATENT 8,292,505 (03-22-2016)	UNKNOWN
60.13	TRADEMARK	02/25/2016	13/537.895	ABEIL	RESTRAIN	REGISTERED TX 02-2016		UNKNOWN
						TOTAL		UNKNOWN

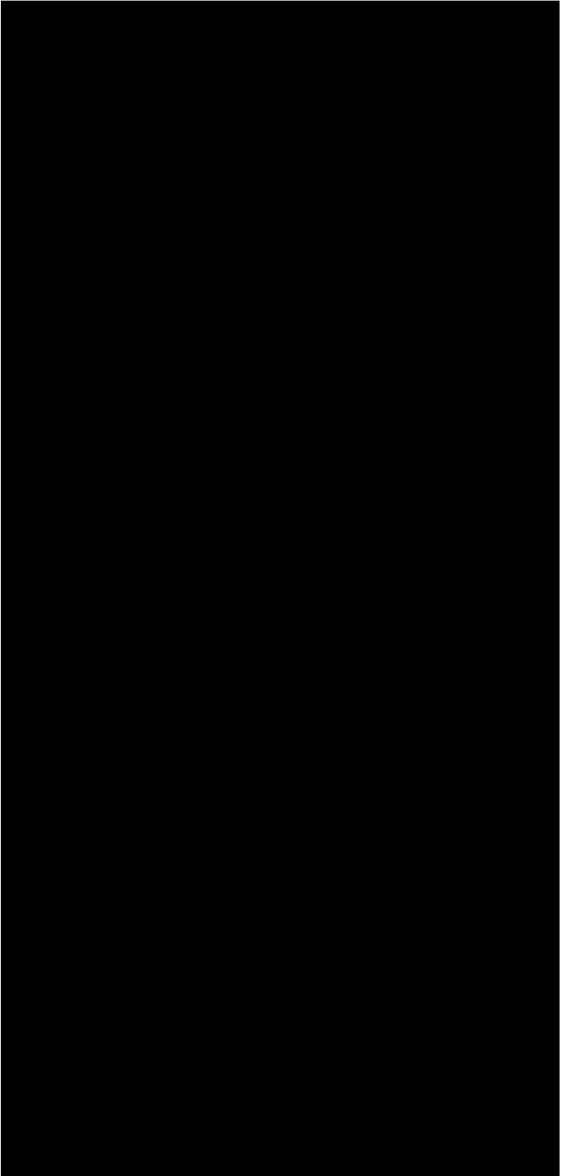
61. Internet domain names and websites

Line Number	Internet domain names and websites	Current value of debtor's interest (\$)
61.1	FIRSTRAIN.NET	UNKNOWN
61.2	FIRST-RAIN.COM	UNKNOWN
61.3	FIRST-RAIN.NET	UNKNOWN
61.3	FIRSTRAININC.COM	UNKNOWN
61.4	FIRSTRAININC.NET	UNKNOWN
61.4	FIRSTRAIN.COM	UNKNOWN
61.5	FIRSTTWEETS.CO	UNKNOWN
61.6	FIRSTTWEETS.COM	UNKNOWN
61.5	FIRSTTWEETS.NET	UNKNOWN
61.7	FIRSTTWEETS.ORG	UNKNOWN
61.8	FIRSTTWEETS.INFO	UNKNOWN
61.6	FIRSTTWEETS.BIZ	UNKNOWN
61.9	FIRSTTWEETS.MOBI	UNKNOWN
61.10	FIRSTTWEETS.TV	UNKNOWN
61.7	FIRSTRAINDOCS.COM	UNKNOWN
61.11	ERSTATIC.COM	UNKNOWN
61.12	PERSONALBUSINESSANALYTICS.COM	UNKNOWN
61.18	PERSONALIZEBUSINESSANALYTICS.COM	UNKNOWN
61.13	FIRSTRAIN.IT	UNKNOWN
61.14	FIRST-RAIN.NET	UNKNOWN
TOTAL:		UNKNOWN

64. Other intangibles, or intellectual property

Line Number	Docket No.	Application No.	Filing Date	Title	Status	Notes	Current value of debtor's interest (\$)
64.1	FRST.P0001	12/772.168	4/30/2010	MODELS FOR CLASSIFYING DOCUMENTS	ISSUE FEE DUE 7/18	SAME FAMILY AS P5. WILL NEED TO DECIDE WHETHER TO FILE CONTINUATION.	UNKNOWN
64.2	FRST.P0004	12/802.202	5/29/2010	ITERATIVE FACT-EXTRACTION	NON-FINAL OA MAILED 2/15/17	NEXT DUE DATE 6/15/17 - LAST DAY TO FILE IS 8/15/17	UNKNOWN
64.3	FRST.P0009	12/870.694	8/27/2010	GRAPHICAL USER INTERFACE FOR PRESENTATION OF EVENTS	WON APPEAL - NON-FINAL OA MAILED 4/17/17	SAME FAMILY AS P7/P8	UNKNOWN
64.4	FRST.P0012	12/773.808	5/4/2010	CONTENT QUALITY APPARATUS, SYSTEMS, AND METHODS	ABANDONED		UNKNOWN
64.5	FRST.P0013	11/844.796	8/24/2007	CONTENT IDENTIFICATION AND CLASSIFICATION APPARATUS, SYSTEMS, AND METHODS	ABANDONED		UNKNOWN
64.6	FRST.P0014	11/844.825	8/24/2007	CONTENT CLASSIFICATION AND EXTRACTION APPARATUS, SYSTEMS, AND METHODS	ABANDONED		UNKNOWN
64.7	FRST.P0016	12/831.237	7/6/2010	BUSINESS LINES	APPEAL FILED - LAST DAY TO FILE BRIEF IS 8/23/17 WITH 5-MONTH EXTENSION	SAME FAMILY AS P17	UNKNOWN
64.8	FRST.P0017	12/831.242	7/6/2010	IDENTIFYING COMPETITORS OF COMPANIES	ABANDONED		UNKNOWN
64.9	FRST.P0018C	14/311.179	6/20/2014	METHOD AND SYSTEM FOR IDENTIFYING ENTITIES	NON-FINAL OA MAILED 2/7/17. NEXT DUE DATE IS 7/7/17 WITH 2-MONTH EXTENSION		UNKNOWN
64.10	FRST.P0020C	15/018.817	2/8/2016	GRAPHICAL UI FOR RECURRING SEARCHES	PENDING - NO OA YET		UNKNOWN
64.11	FRST.P0024	13/754.856	1/30/2013	AFFINITY SCORING	ABANDONED		UNKNOWN
TOTAL:							UNKNOWN

72. Tax refunds and unused net operating losses (NOLs)



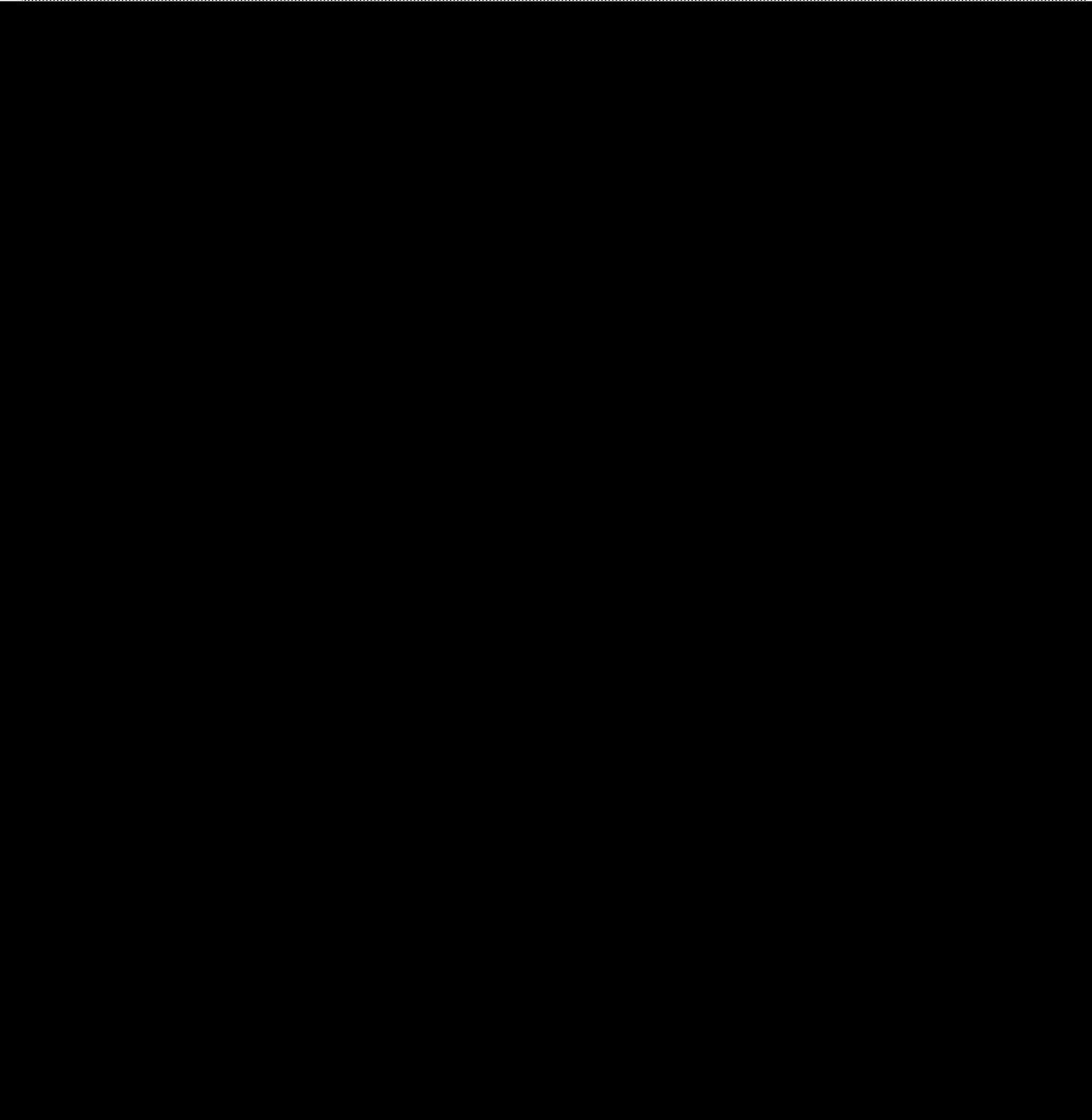
Fill in this information to identify the case:

Debtor name FirstRain, Inc.

United States Bankruptcy Court for the: District of Delaware

Case number (if known): 17-11249 (LSS)

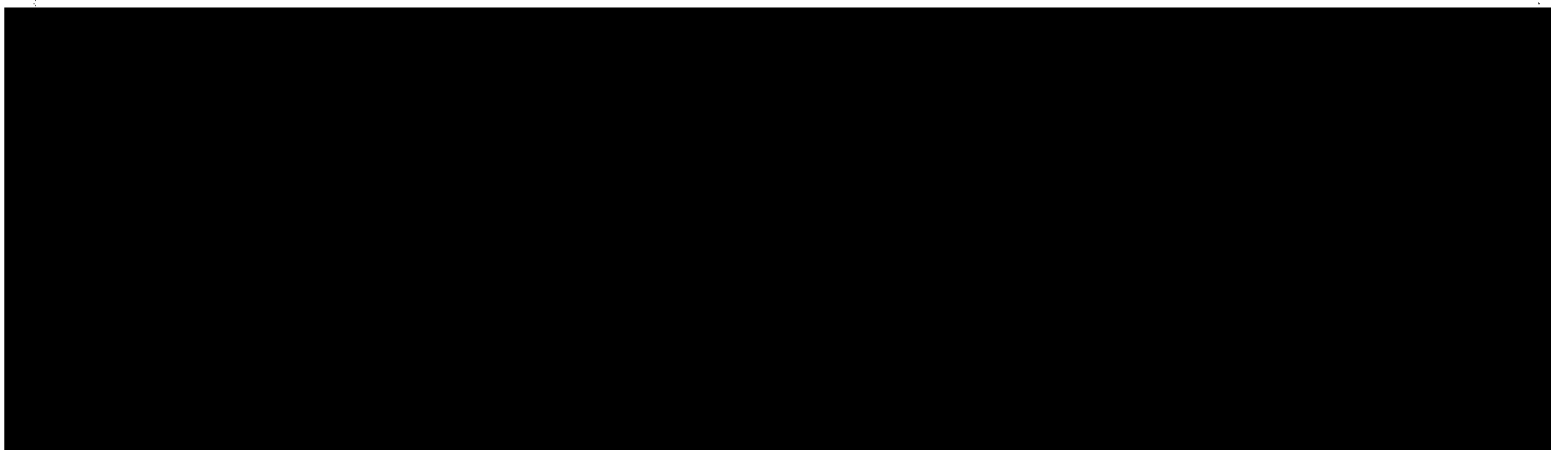
Check if this is an amended filing



Debtor FirstRain, Inc.
Name

Case number (if known) 17-11249 (LSS)

Part 2: List Others to Be Notified for a Debt Already Listed in Part 1



Line 2. _____

Line 2. _____

Line 2. _____

Line 2. _____

Line 2. _____

Line 2. _____

Line 2. _____

Line 2. _____

Line 2. _____

Line 2. _____

Line 2. _____

Fill in this information to identify the case:

Debtor FirstRain, Inc.
United States Bankruptcy Court for the: District of Delaware
Case number 17-11249 (LSS)
(if known)

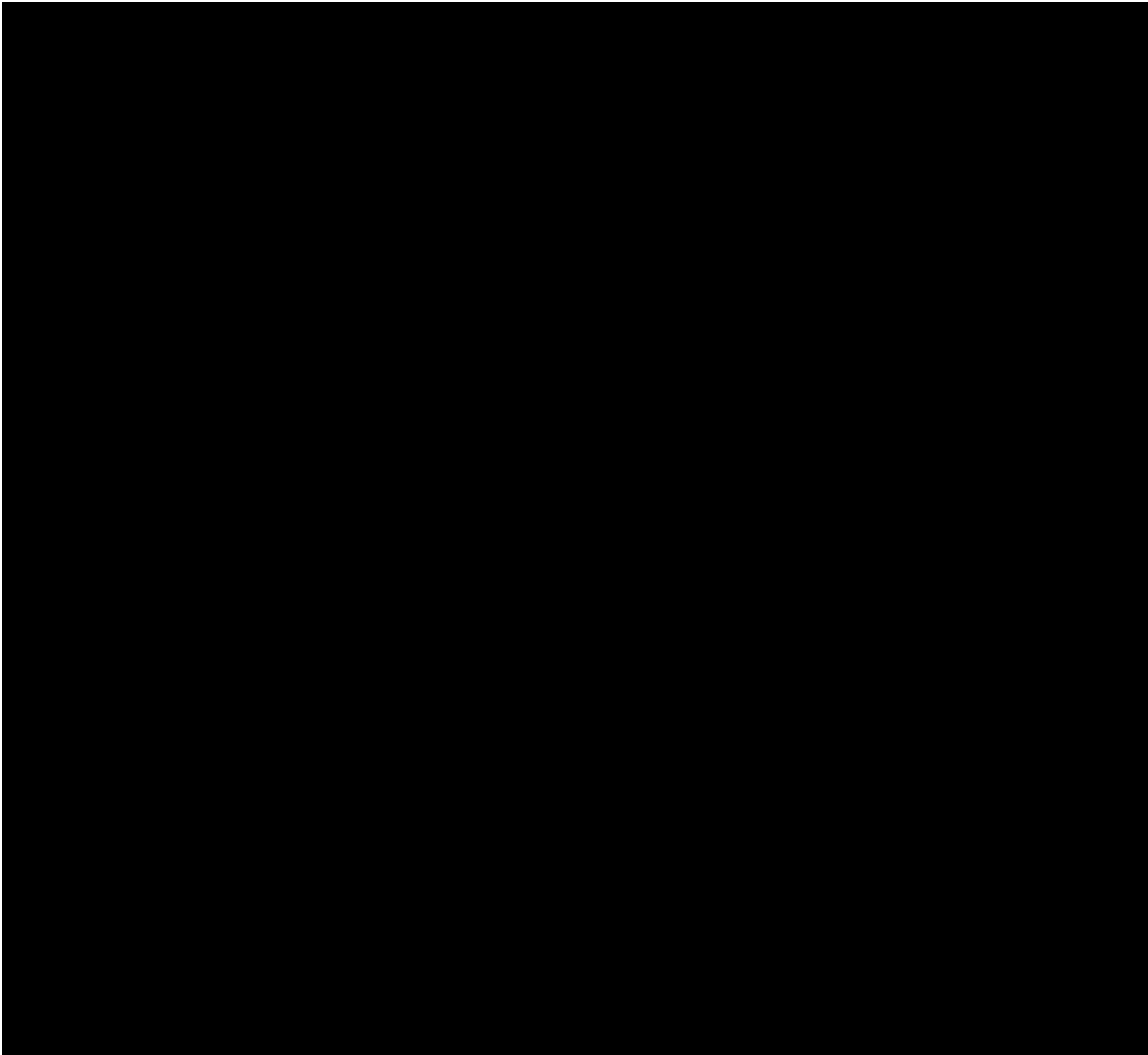
Check if this is an amended filing

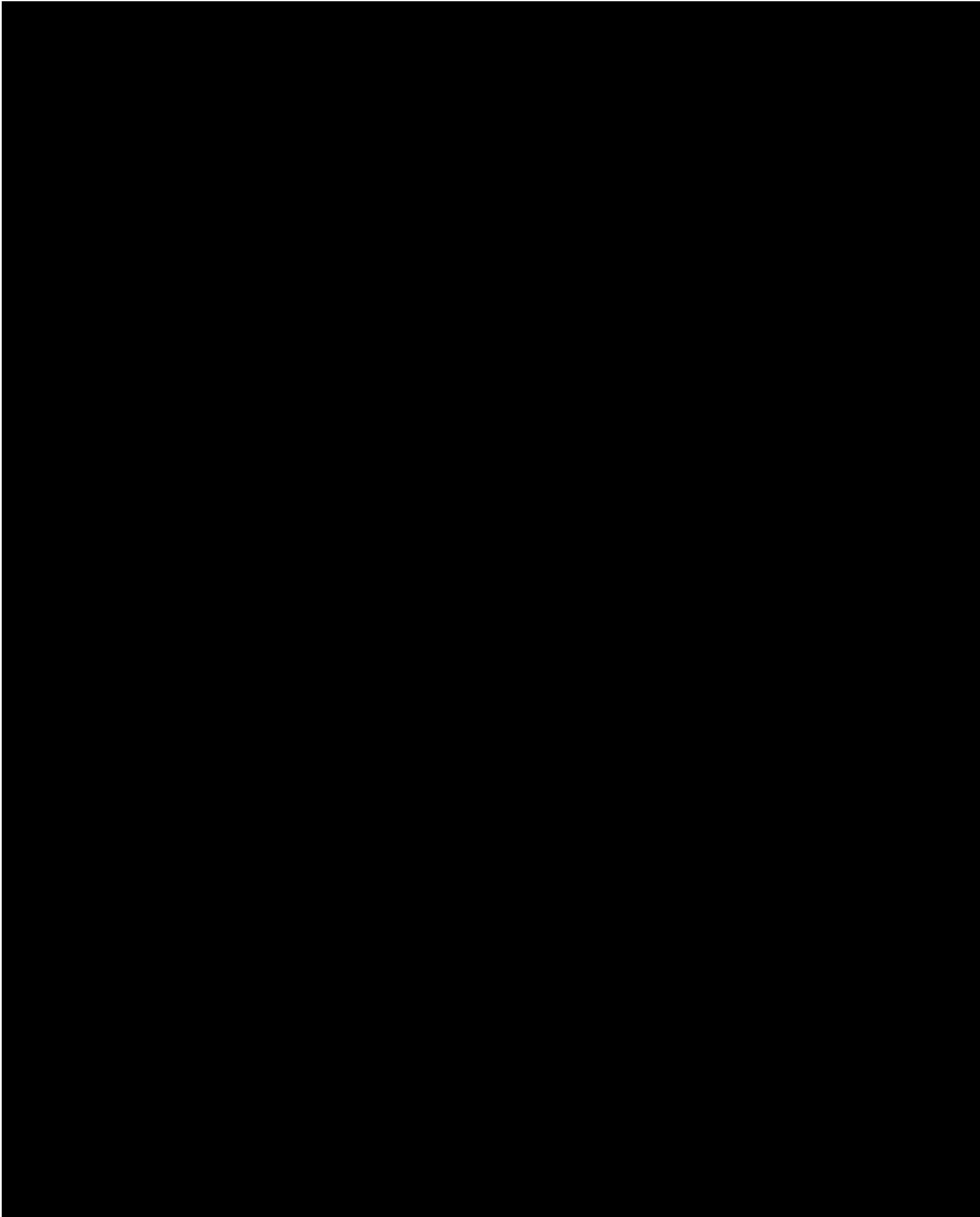
Official Form 206E/F

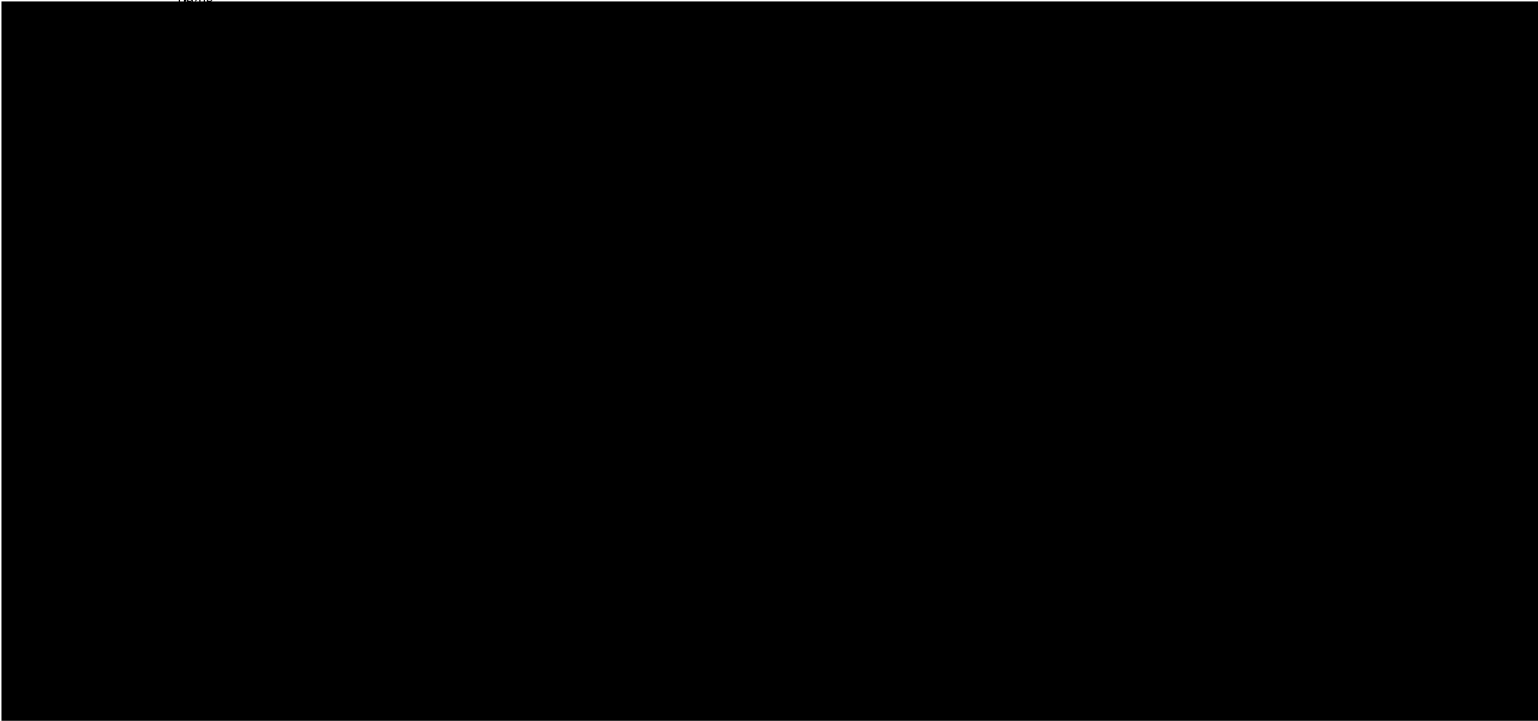
Schedule E/F: Creditors Who Have Unsecured Claims

12/15

Be as complete and accurate as possible. Use Part 1 for creditors with PRIORITY unsecured claims and Part 2 for creditors with NONPRIORITY unsecured claims. List the other party to any executory contracts or unexpired leases that could result in a claim. Also list executory contracts on *Schedule A/B: Assets - Real and Personal Property* (Official Form 206A/B) and on *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G). Number the entries in Parts 1 and 2 in the boxes on the left. If more space is needed for Part 1 or Part 2, fill out and attach the Additional Page of that Part included in this form.







3. List all creditors with non-priority unsecured claims



Fill in this information to identify the case:

Debtor name FirstRain, Inc.

United States Bankruptcy Court for the: District of Delaware

Case number (if known) 17-11249 (LSS) Chapter Chapter 11

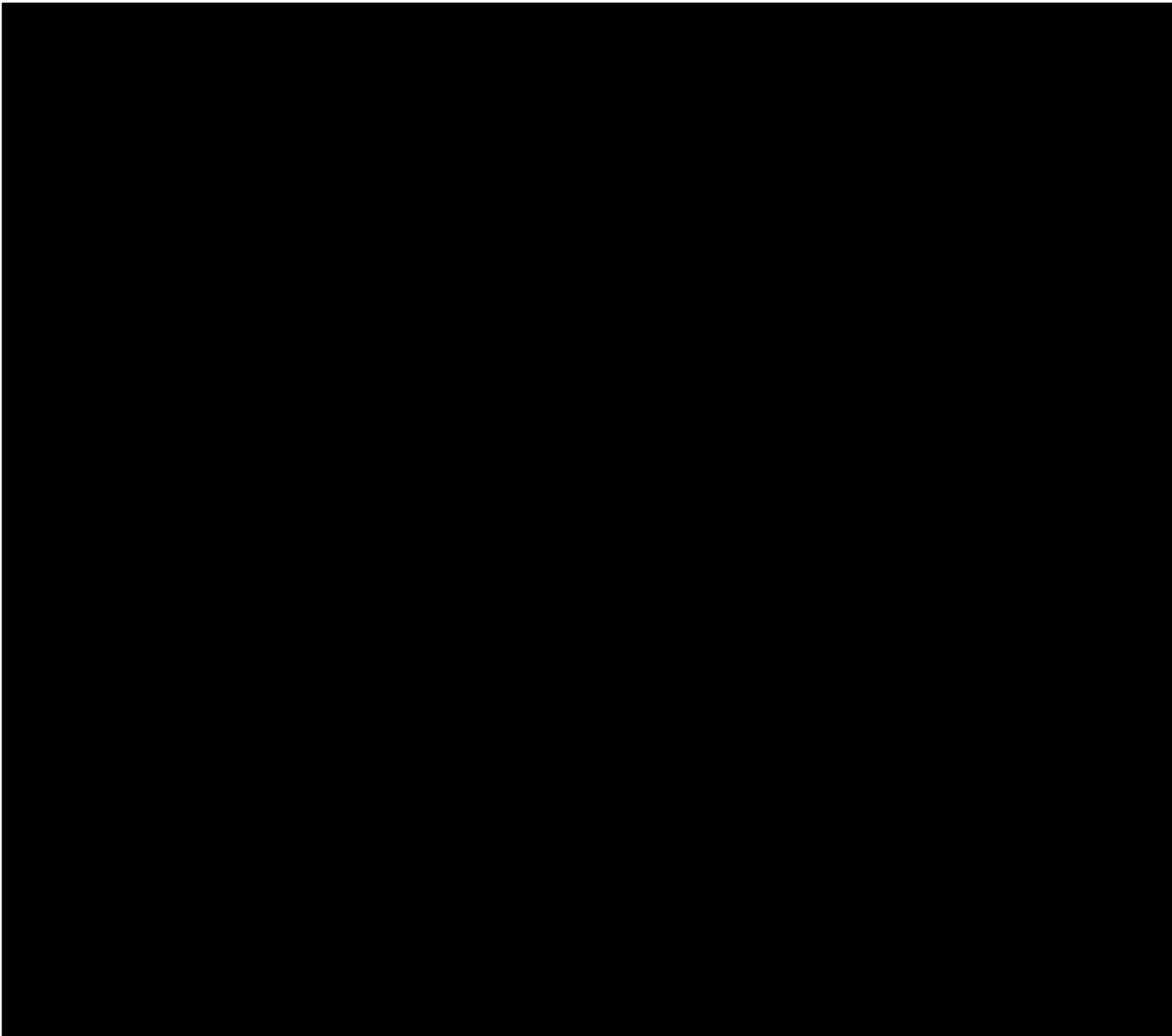
Check if this is an amended filing

Official Form 206G

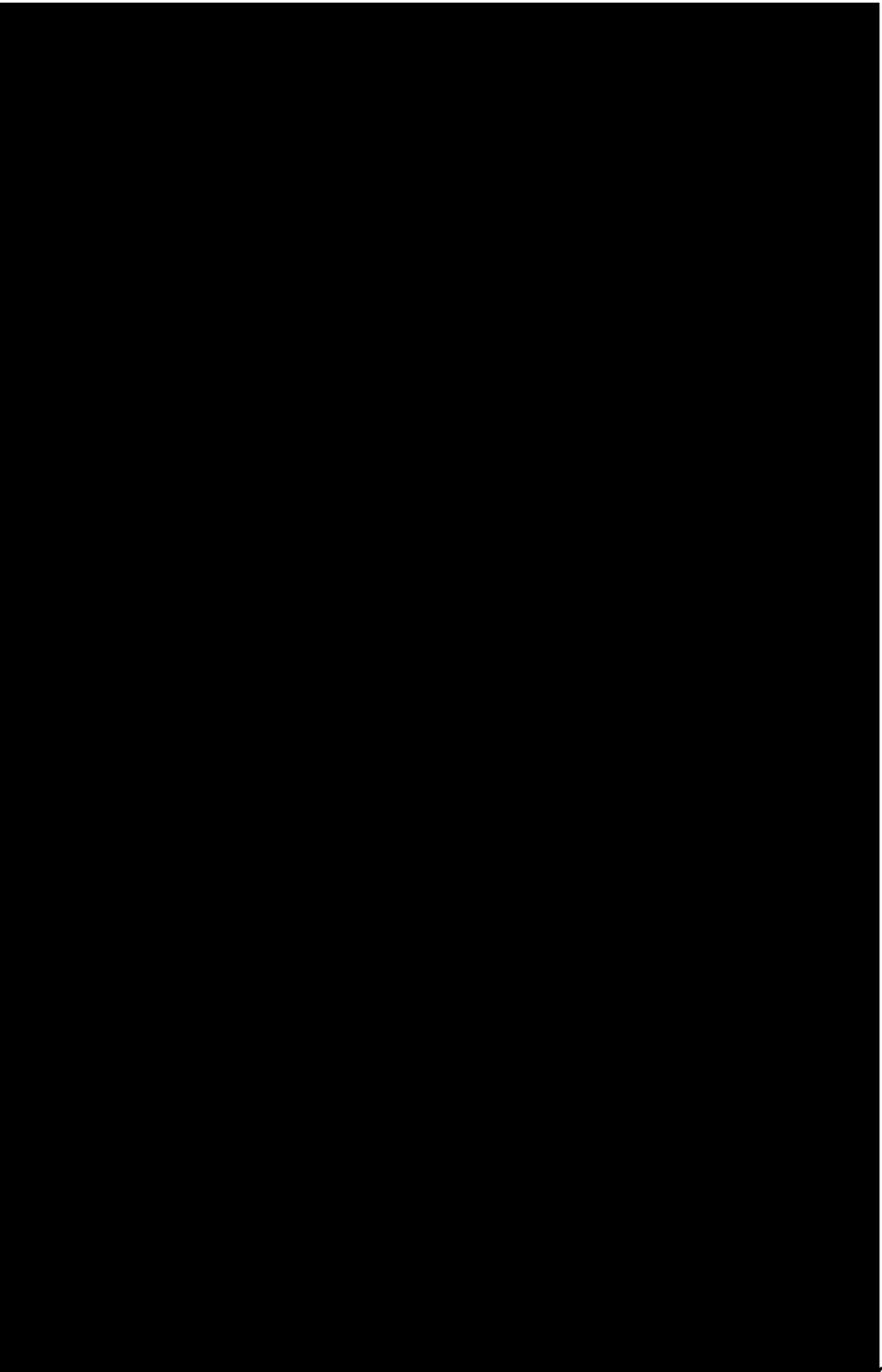
Schedule G: Executory Contracts and Unexpired Leases

12/15

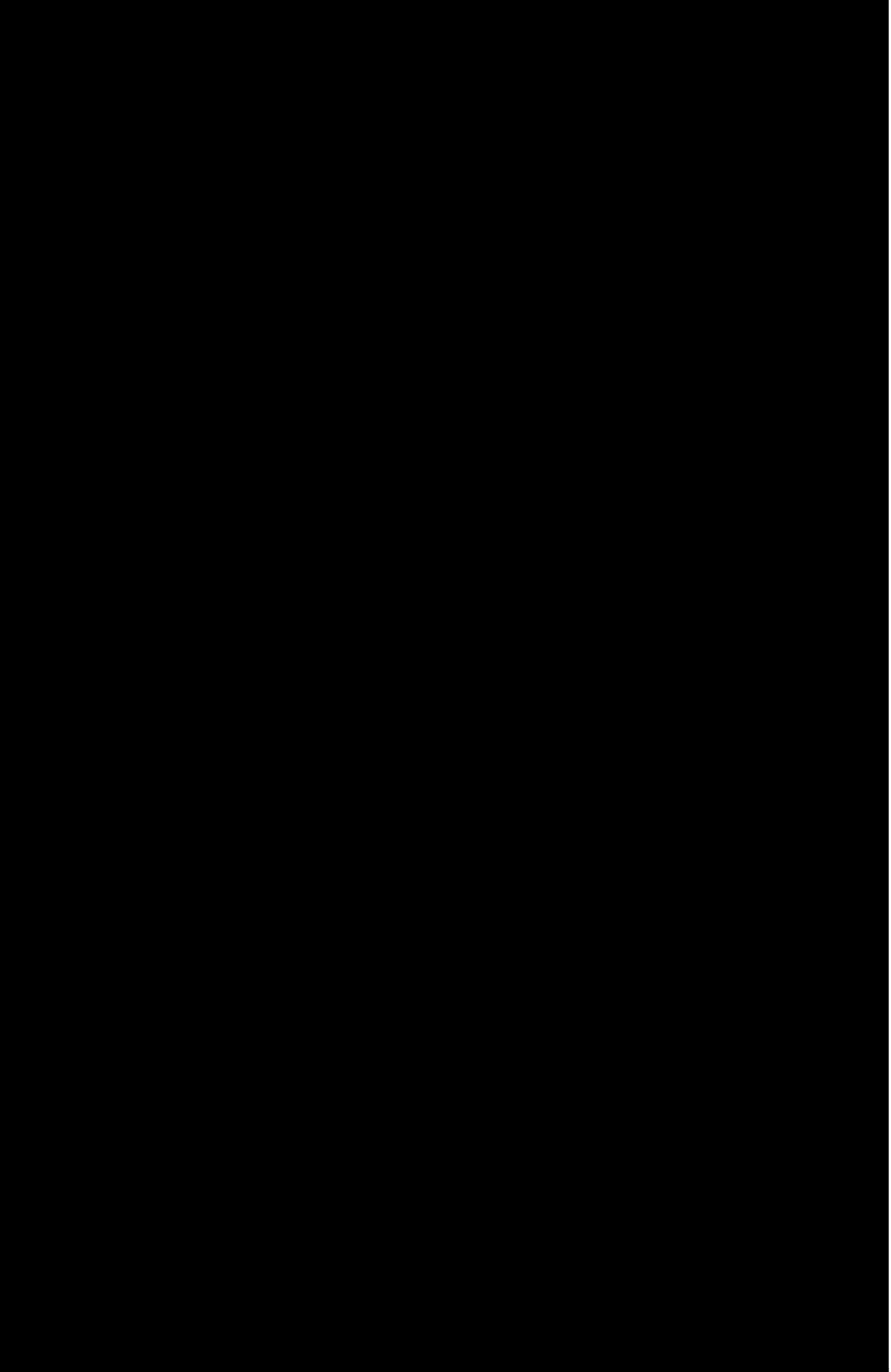
Be as complete and accurate as possible. If more space is needed, copy and attach the additional page, numbering the entries consecutively.



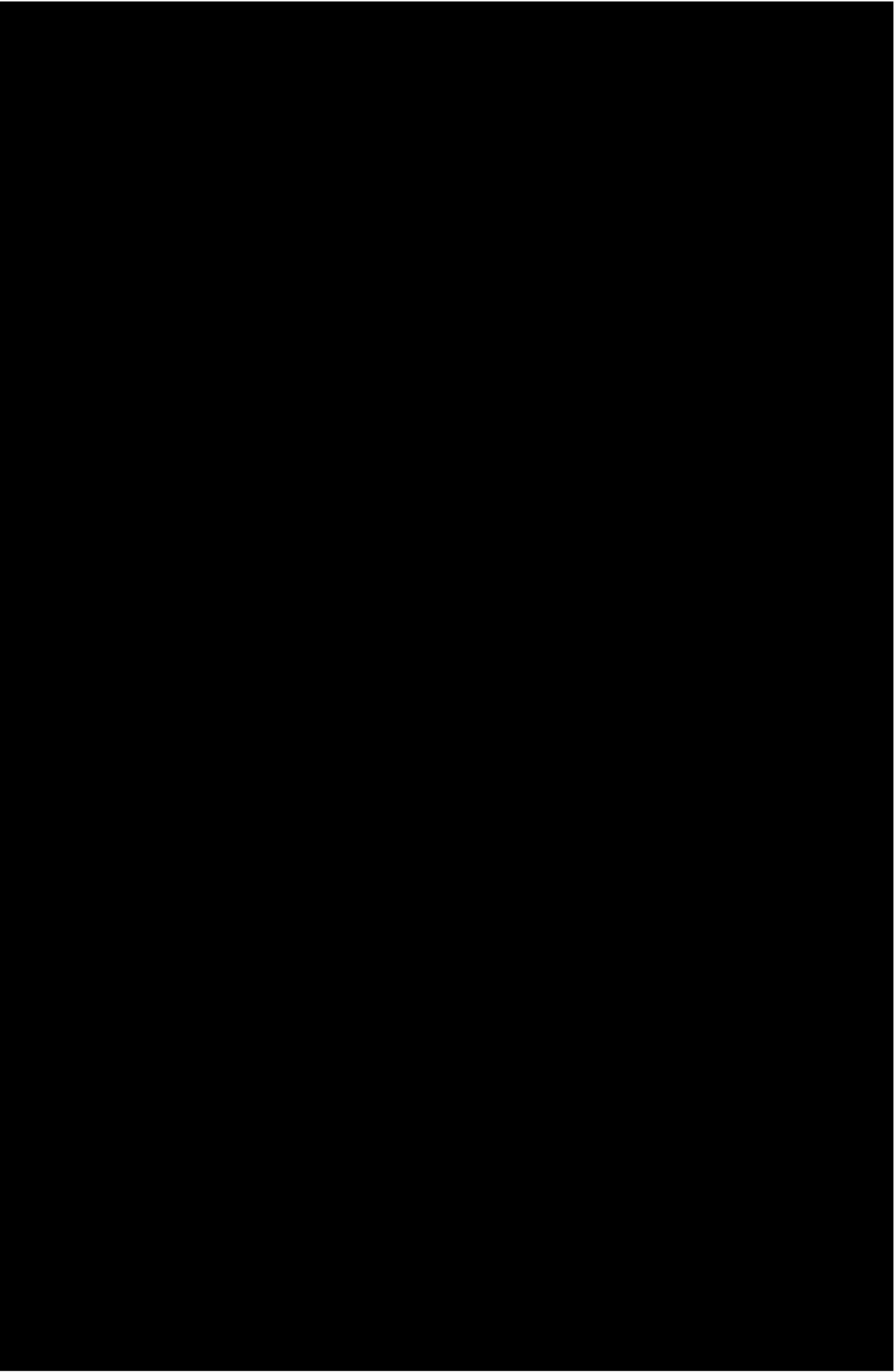
2. List all contracts and unexpired leases



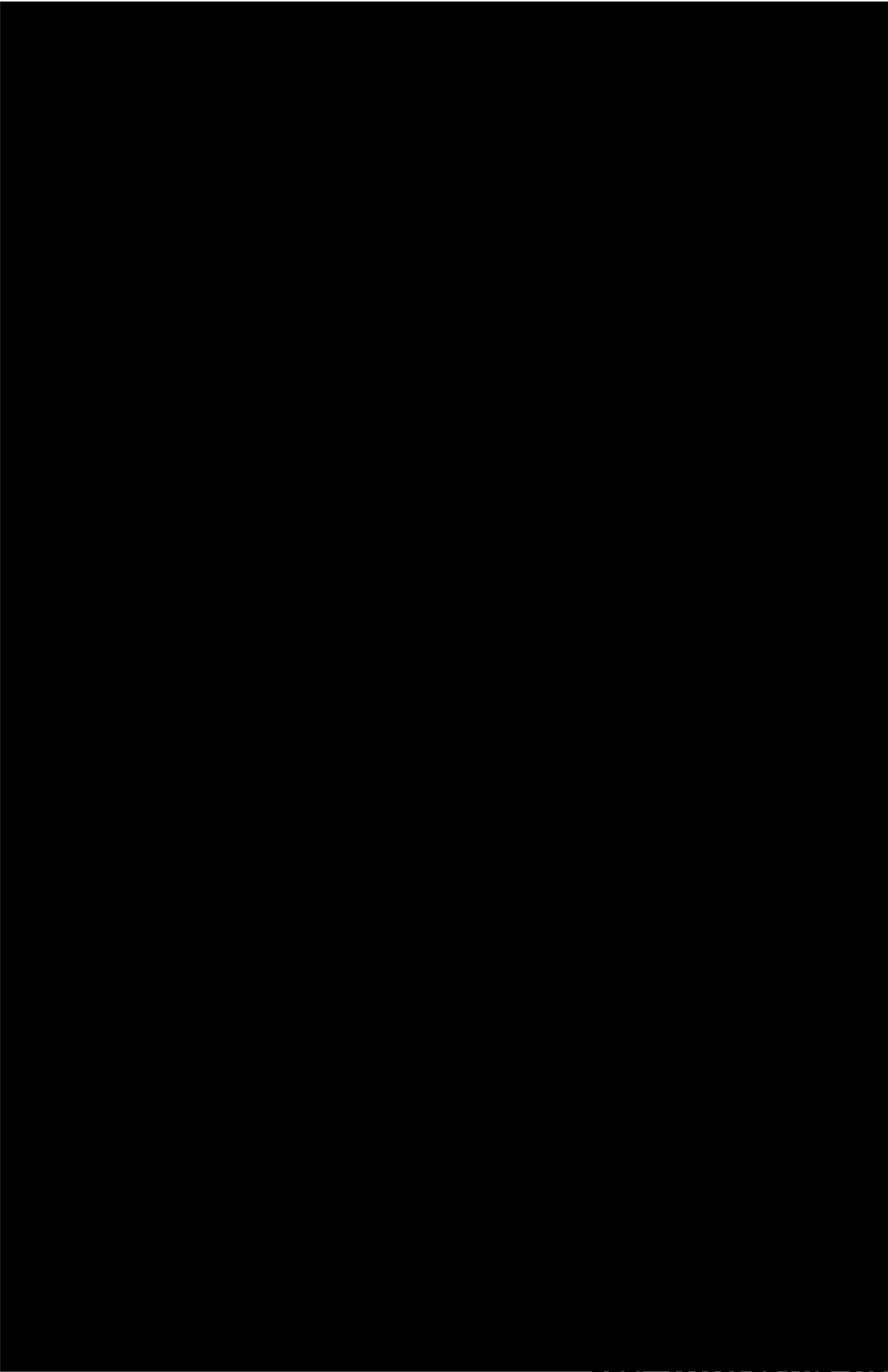
2. List all contracts and unexpired leases



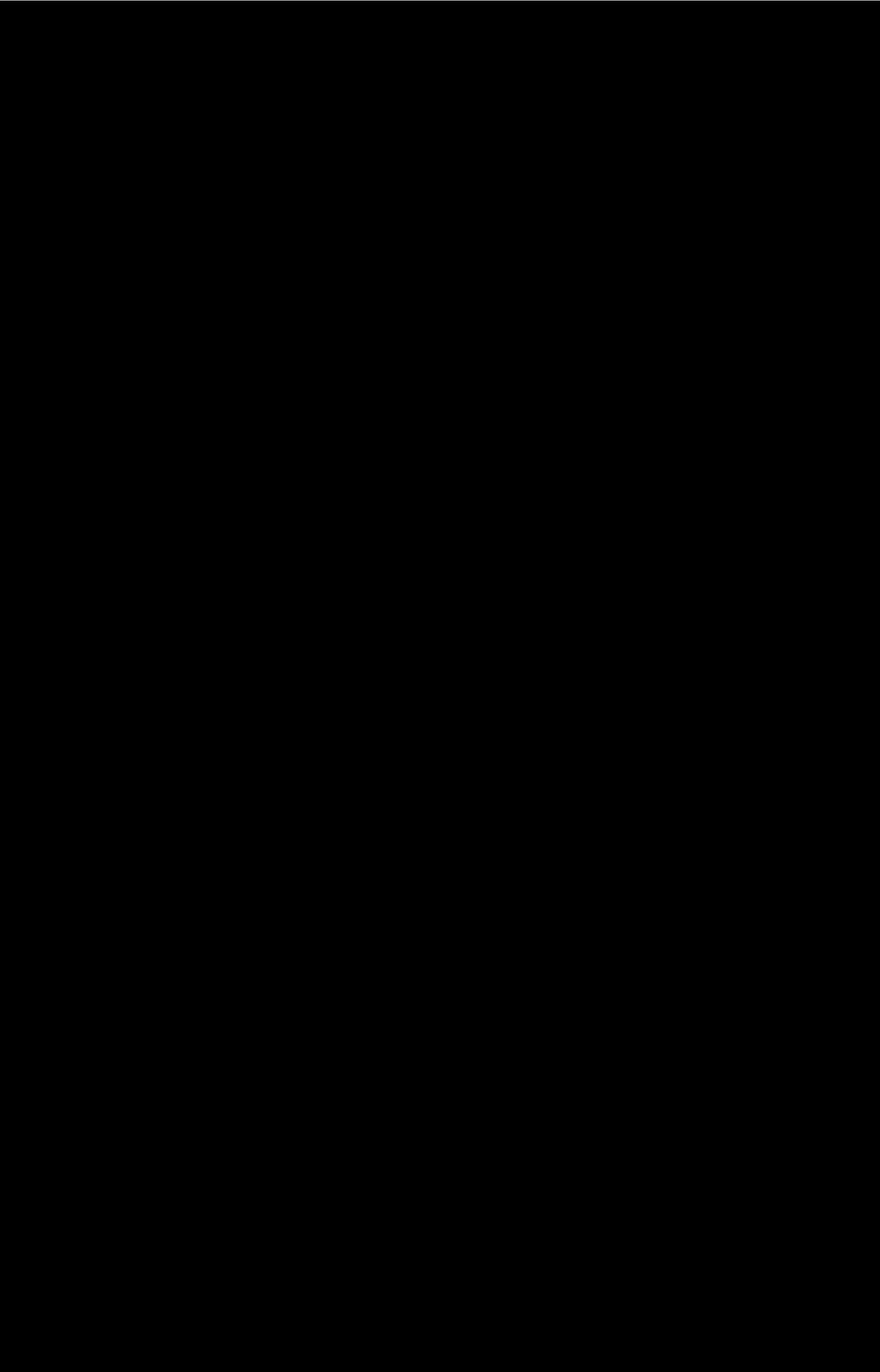
2. List all contracts and unexpired leases



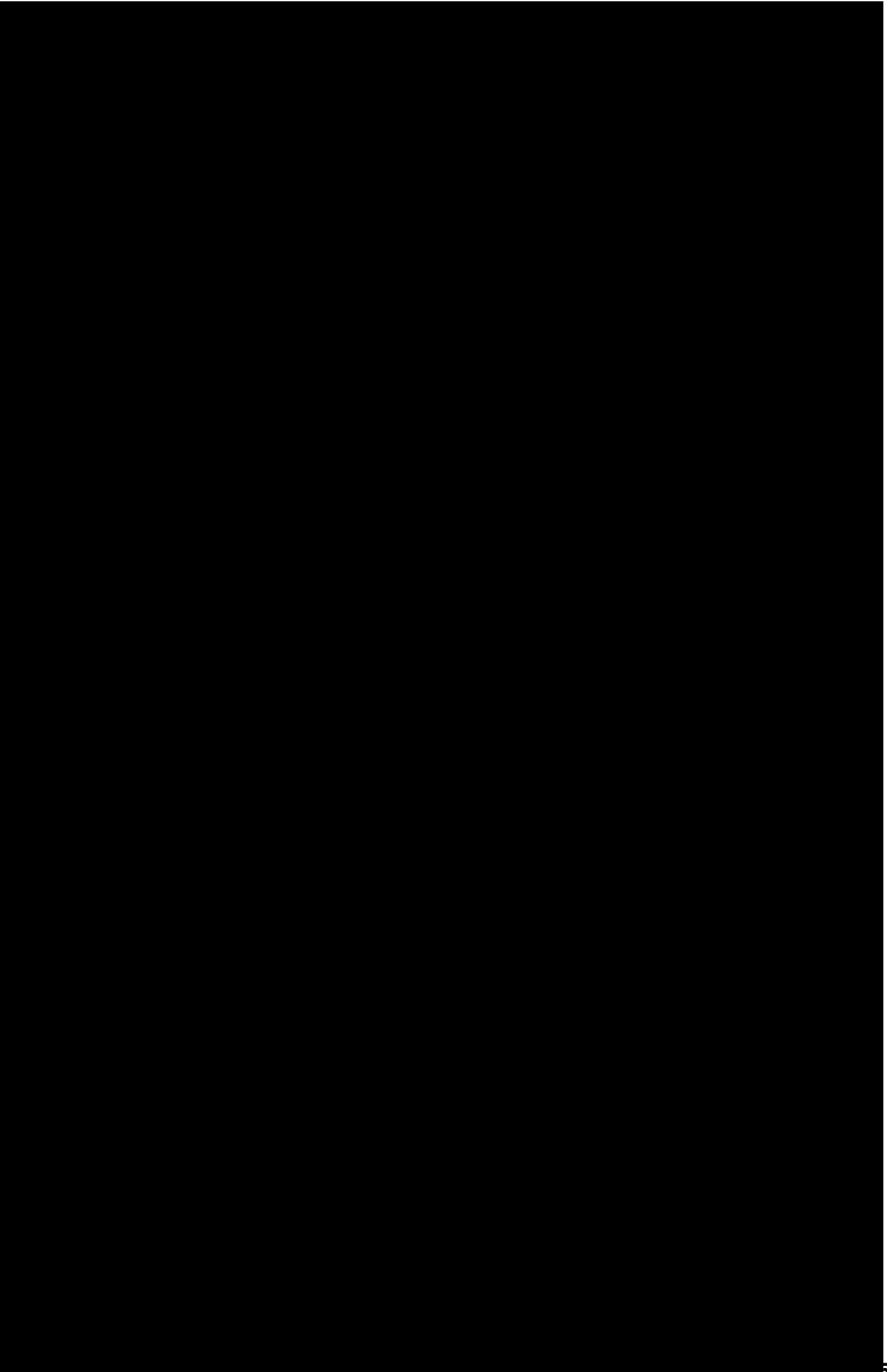
2. List all contracts and unexpired leases



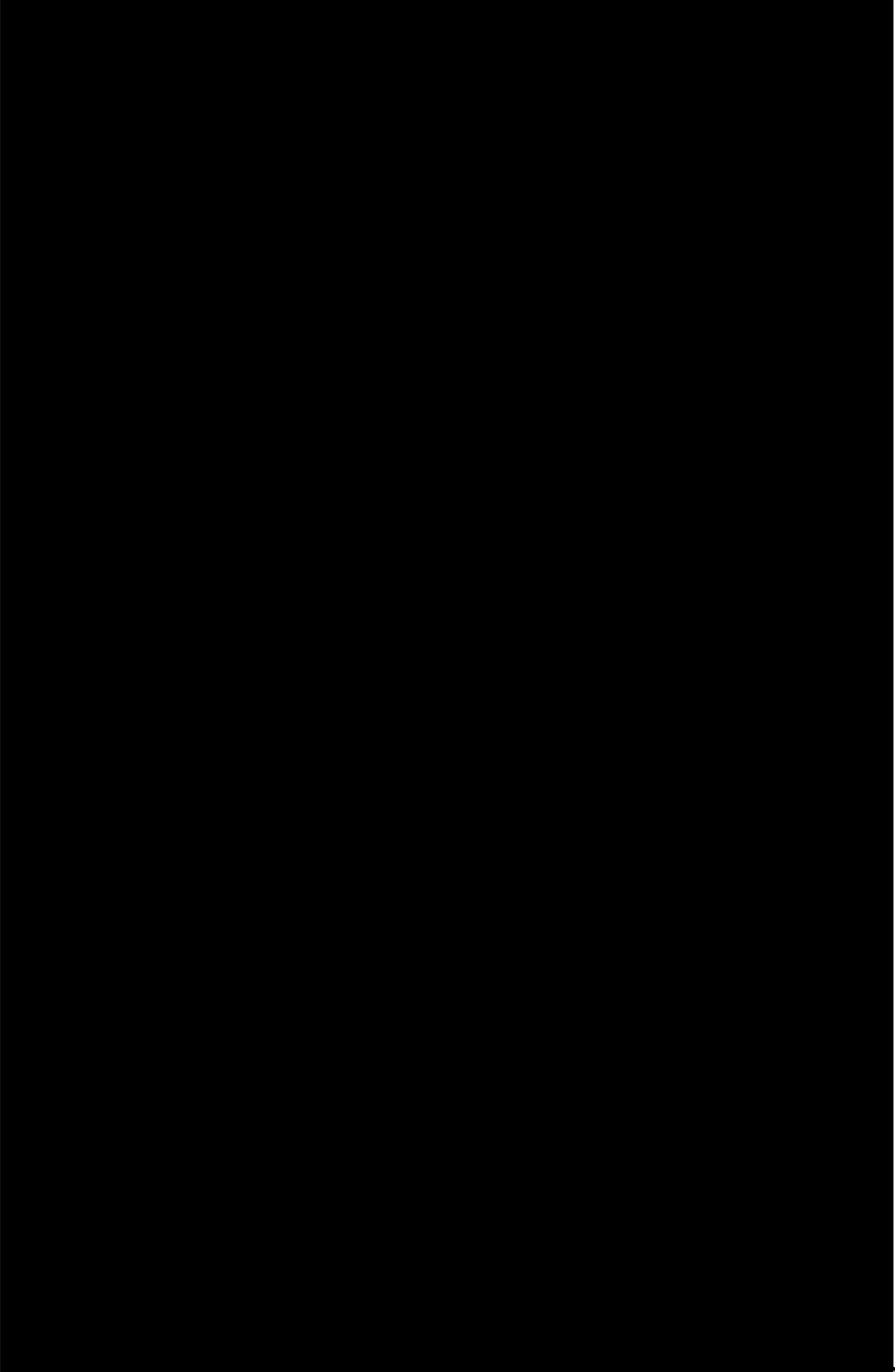
2. List all contracts and unexpired leases



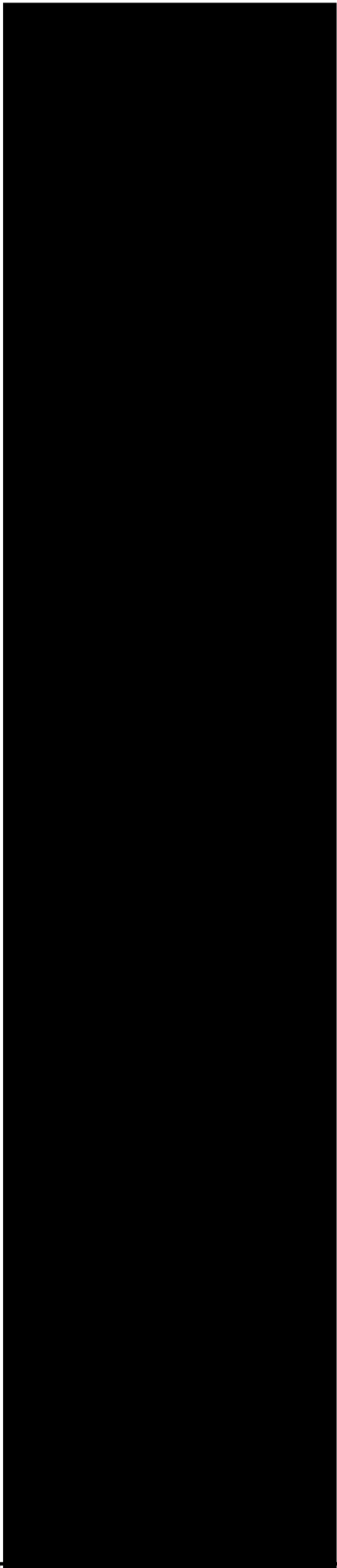
2. List all contracts and unexpired leases



2. List all contracts and unexpired leases



2. List all contracts and unexpired leases



Fill in this information to identify the case:

Debtor name FirstRain, Inc.

United States Bankruptcy Court for the: District of Delaware

Case number (if known): 17-11249 (LSS)

Check if this is an amended filing

Official Form 206H

Schedule H: Codebtors

12/15



2.2	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
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2.3	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
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2.4	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
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2.5	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
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2.6	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
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Fill in this information to identify the case and this filing:

Debtor Name FirstRain, Inc.
United States Bankruptcy Court for the: District of Delaware
Case number (if known): 17-11249 (LSS)

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors

12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

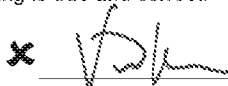
I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- Schedule A/B: Assets—Real and Personal Property (Official Form 206A/B)
- Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- Schedule H: Codebtors (Official Form 206H)
- Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- Amended Schedule _____
- Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- Other document that requires a declaration _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 6/20/2017
MM / DD / YYYY

x 

Signature of individual signing on behalf of debtor

Vivie Lee
Printed name

Chief Executive Officer
Position or relationship to debtor

Declaration Under Penalty of Perjury for Non-Individual Debtors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
FIRSTRAIN, INC.,	:	Case No. 17-11249 (LSS)
	:	
Debtor. ¹	:	
	:	
	:	Re: Dkt Nos. 12, 13, 14, 81, 137 & 165
	:	

**NOTICE OF (I) ENTRY OF ORDER CONFIRMING, AND OCCURRENCE OF
EFFECTIVE DATE OF, AMENDED CHAPTER 11 PLAN OF DEBTOR; AND
(II) CERTAIN RELEASES AND INJUNCTION THEREUNDER**

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. Confirmation of the Plan.

On July 27, 2017, the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) entered an order [Docket No. 165] (the “Confirmation Order”) confirming the *Amended Plan of Reorganization of the FirstRain, Inc., Dated July 24, 2017* [Docket No. 165-1] (collectively with all exhibits and supplements and any modifications or other amendments thereto, the “Plan”) in the chapter 11 case of the above-captioned debtor (the “Debtor”). Capitalized terms used but not defined in this Notice have the meanings given to them in the Plan and the Confirmation Order.

2. Occurrence of the Effective Date; Distribution Trustee; Vesting of Assets.

Pursuant to section 13.2 of the Plan, the Plan became effective on July 31, 2017 (the “Effective Date”). As of the Effective Date, among other things, (a) the Debtor continues in existence as the Reorganized Debtor; (b) the Distribution Trustee was appointed with the power to exercise the rights, power, and authority of the Distribution Trust under applicable provisions of the Plan, Distribution Trust Agreement, and bankruptcy and non-bankruptcy law; and (c) except as otherwise provided in the Plan, all property of the Estate and the Debtor (other than the Distribution Trust Assets) became the property of, and vested in, the Reorganized Debtor free and clear of all Claims, Liens, charges, other encumbrances, and interests. Except as otherwise provided in the Plan and Distribution Trust Agreement, all distributions to be made to creditors under the Plan shall be made by the Distribution Trustee (or his designated agent).

¹The last four digits of the Debtor's federal tax identification number are 6970. The Debtor's principal place of business is located at 1500 Fashion Island, Boulevard Suite 200, San Mateo, CA.

3. Resolution of Disputed Claims.

Except as otherwise provided in Article VII of the Plan, unless otherwise ordered by the Bankruptcy Court after notice and a hearing, and subject to section 502(a) of the Bankruptcy Code, the Distribution Trustee on behalf of the Distribution Trust has the right to make, file, prosecute, settle, compromise, withdraw, or resolve objections to Claims. Further, the Distribution Trustee may settle, resolve, release, or compromise any Claims and objections to Claims on behalf of the Distribution Trust without need for notice or order of the Bankruptcy Court.

4. Releases; Exculpation; Injunction.

Discharge. To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, all distributions under the Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and causes of action, whether known or unknown, including any interest accrued on such Claims from and after the Petition Date, against, liabilities of, Liens on, obligations of, rights against, and Equity Interests in the Debtor or any of its assets or properties, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests. The Debtor and its estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

Injunction. The discharge and releases set forth in Section 11.1 of the Plan shall also operate as an injunction permanently prohibiting and enjoining the commencement or continuation of any action or the employment of process with respect to, or any act to collect, recover from, or offset (except for offsets exercised prior to the Petition Date) any Claim or Interest or cause of action, whether known or unknown that is discharged and released in Section 11.1 of the Plan. All Persons shall be precluded and forever barred from asserting against the Debtor, its estate or the Reorganized Debtor, their successors or assigns, or their assets, properties, or interests in property any other or further Claims or Interests, or causes of action, or any other right to legal or equitable relief regardless of whether such right can be reduced to a right to payment, based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not the facts of or legal bases therefor were known or existed prior to the Effective Date.

As of the Effective Date there shall be an injunction permanently prohibiting and enjoining the commencement or continuation of any action or the employment of process with respect to, or any act to collect, recover from, or offset (except for offsets exercised prior to the Petition Date) any Claim or Interest or cause of action, whether known or unknown against the Debtor, the Reorganized Debtor, and the Protected Parties that are released under Section 11.5 of the Plan. Except as otherwise expressly provided in the Plan, all Persons shall be precluded and forever barred from asserting against the Debtor, the Reorganized Debtor, and the Protected Parties, their successors or assigns, or their assets, properties, or interests in property any Claims or Interests, or causes of action, or right to legal or equitable relief released under Section 11.5

of the Plan, regardless of whether such right can be reduced to a right to payment, based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not the facts of or legal bases therefor were known or existed prior to the Effective Date.

Terms of Existing Injunctions or Stays. All injunctions or stays arising under or entered during the Chapter 11 Case under section 105 or 362 of the Bankruptcy Code, or otherwise, that are in existence on the Confirmation Date shall remain in full force and effect until the Effective Date, *provided, however*, that no such injunction or stay shall preclude enforcement of parties' rights under the Plan and the related documents.

Exculpation. The Exculpated Parties, which include the Debtor and its professionals, will neither have nor incur any liability to any entity for any claims or causes of action arising before, on or after the Petition Date and prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the consummation of the Plan, the Disclosure Statement, or any other contract, instrument, release or other agreement or document created or entered into in connection with the Plan or any other postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtor, the approval of the Disclosure Statement or Confirmation or consummation of the Plan; provided, however, that the foregoing provisions will have no effect on the liability of any entity that results from any such act or omission that is determined in a Final Order of the Bankruptcy Court or other court of competent jurisdiction to have constituted gross negligence or willful misconduct; provided, further, that the Debtor will be entitled to rely upon the advice of counsel concerning its duties pursuant to, or in connection with, the above referenced documents, actions or inactions.

Releases by the Debtor. Effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy of which is hereby acknowledged and confirmed, the Debtor will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full waiver and release to the Released Parties and their respective related parties (and each such Released Party and their respective related parties so released shall be deemed forever released and waived by the Debtor) and their respective properties from any and all released claims that the Debtor and their respective related parties would have been legally entitled to assert in their own right, on behalf of one another, or on behalf of another party against the Released Parties or their respective related parties; provided, however, that the foregoing provisions of this release shall not operate to waive or release (i) the rights of the Debtor to enforce the Plan and the contracts, instruments, releases and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to final order of the Bankruptcy Court; and/or (ii) any claims or defenses against third party.

The Confirmation Order permanently enjoins the commencement or prosecution by any person or entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities released pursuant to the release contained in Section 11.4 of the Plan.

Releases by the Holders of Claims. To the extent allowed by applicable law, on, and as of, the Effective Date and for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Debtor, the Reorganized Debtor and the Protected Parties shall be forever released from any and all claims, obligations, actions, suits, rights, debts, accounts, causes of action, remedies, avoidance actions, agreements, promises, damages, judgments, demands, defenses, or claims in respect of equitable subordination, and liabilities throughout the world under any law or court ruling through the Effective Date (including all claims based on or arising out of facts or circumstances that existed as of or prior to the Plan in the Chapter 11 Case, including claims based on negligence or strict liability, and further including any derivative claims asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, that the Debtor, its Estate, or the Reorganized Debtor would have been legally entitled by applicable law to assert in its own right, whether individually or collectively); provided however that with respect to the Protected Parties, the foregoing release is granted only by the (a) Creditors who are Unimpaired, (b) Creditors who voted to accept the Plan and did not check the opt-out box on the ballot, and (c) creditors who were sent a solicitation package but did not vote and did not return a ballot with the opt-out box checked, have or may have against any of the Protected Parties in any way related to the Chapter 11 Case or the Debtor (or its predecessors); provided further, however that the release provided in this section in favor of the Protected Parties shall not apply to any Creditor in category (c) above if the solicitation package was returned to the Debtor as undelivered, and that such Creditor did not otherwise file a ballot; provided further, however, that with respect to the Protected Parties, the release provided in section 11.5 of the Plan shall not extend to any claims by any Governmental Unit with respect to criminal liability under applicable law, willful misconduct or bad faith under applicable law, or *ultra vires* acts under applicable law. No compliance with or reliance on the applicable law or the orders of the Bankruptcy Court shall be deemed or permitted to be judged, declared, or ruled to be in any way wrongful, in bad faith, *ultra vires*, inequitable or otherwise subject to any sanction or punishment, all of which are preempted, superseded and negated by the Plan to the maximum extent permitted by applicable law.

Limitation of Liability. The Debtor, the Reorganized Debtor and the Protected Parties shall have all of the benefits and protections afforded under section 1125(e) of the Bankruptcy Code and applicable law.

5. Rejection of Executory Contracts and Unexpired Leases Not Assumed.

Except as otherwise provided (i) in the Plan; (ii) Schedule of Assumed Contracts and Unexpired Leases [Docket No. 138]; (iii) in any contract, instrument, release, or other agreement or document entered into in connection with the Plan; or (iv) in a Final Order of the Bankruptcy Court, as of the Effective Date, pursuant to section 365 of the Bankruptcy Code, the Debtor rejected each executory contract and unexpired lease not previously assumed, assumed and assigned, or rejected during the Chapter 11 Case. For the avoidance of doubt, executory contracts and unexpired leases listed on Exhibit B to the Plan were assumed as of the Effective Date, pursuant to section 365 of the Bankruptcy Code and the terms of the Confirmation Order. For the avoidance of doubt, the Debtor, subject to the agreement of the Plan Sponsor, shall have the right to assume all executory contracts entered into by the Debtor postpetition prior to the Effective Date.

Notwithstanding any other provision herein, the San Mateo Lease and the San Mateo Sub-Lease shall be deemed rejected as of the August 31, 2017.

6. Bar Dates.

a. Administrative Bar Date. Unless previously filed or as otherwise governed by a bar date order or in another order of the Court or as set forth in the Plan with respect to Ordinary Course Liabilities, requests for payment of Administrative Claims must be filed with the Court and served on the parties identified in section 13.12 of the Plan no later than 30 days after the Effective Date (the "Administrative Claim Bar Date"). Holders of Administrative Claims that are required to file and serve a request for payment of such Administrative Claims and that do not file and serve such a request by the Administrative Claim Bar Date shall be forever barred from asserting such Administrative Claims against the Debtor, the Estate, or its property. Objections to any requests for payment of Administrative Claims must be asserted by the Claim Objection Deadline. Notwithstanding the foregoing, a governmental unit shall not be required to file and serve a request for payment of an Administrative Claim with respect to any administrative expense of the type described in section 503(b)(1)(B) or section 503(b)(1)(C) of the Bankruptcy Code as a condition to such amounts being an allowed administrative expense. Notice of the Administrative Claim Bar Date was previously provided to parties in interest, and nothing in this Notice is intended to extend the Administrative Claim Bar Date or recommence the occurrence of the Administrative Claim Bar Date.

b. Professional Compensation. Each Professional shall file an application for allowance of final compensation and reimbursement of expenses in the Chapter 11 Case, for the period through the Effective Date, no later than September 14, 2017, which is forty-five (45) days after the Effective Date. Objections to applications of professionals for compensation or reimbursement of expenses must be filed and served on the Reorganized Debtor, the U.S. Trustee, and the professionals to whose application the objections are addressed no later than twenty-one (21) days after the date the application is filed, or the Bankruptcy Court may enter an order authorizing the fees without a hearing. Any professional fees and reimbursements or expenses incurred by the Reorganized Debtor subsequent to the Effective Date may be paid without application to the Bankruptcy Court.

c. Rejection Damages Bar Date. Claims arising out of the rejection of an executory contract or unexpired lease pursuant to section 8.2 of the Plan must be filed with the Court no later than 30 days after the Effective Date (or with respect to counterparties to the San Mateo Lease and the San Mateo Sub-lease, 30 days after August 31, 2017), and served as set forth below in Section 9. Unless otherwise ordered by the Court, any such Claims not timely filed shall be forever barred from asserting such Claims against the Debtor, the Reorganized Debtor, the Estate, the Distribution Trust, or their respective property.

7. Retention of Jurisdiction by Bankruptcy Court.

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court retained jurisdiction over the Chapter 11 Case after the Effective

Date to the fullest extent legally permissible, including, without limitation, with respect to all matters specified in Article XII of the Plan.

8. Notice Parties' Service Addresses.

For purposes of serving requests for payment of Administrative Claims, applications for allowance of Fee Claims, and any other papers required to be served on the notice parties set forth in the Plan, such service should be made, as applicable, on:

(a) Debtor

Eugene Tighe
Chief Financial Officer
FirstRain, Inc.
1500 Fashion Island Blvd. Ste. 200
San Mateo, CA 94404
etighe@firstrain.com

and

Frederick B. Rosner
The Rosner Law Group LLC
824 Market Street, Suite 810
Wilmington, DE 19801
Phone: (302) 777-1111
rosner@teamrosner.com

(b) Reorganized Debtor

ESW Capital, LLC
c/o Haynes and Boone, LLP
1221 McKinney Street, Suite 2100
Houston, Texas 77010
Attention: Charles A. Beckham, Jr.
Email: charles.beckham@haynesboone.com
Fax: 713-236-5638

and

30 Rockefeller Plaza, 26th Floor
New York, NY 10112
Attention: Trevor R. Hoffmann
Email: trevor.hoffmann@haynesboone.com
Fax: 212-884-9558

(c) U.S. Trustee

844 King Street
Suite 2207
Lockbox 35
Wilmington, Delaware 19801
Attn: Jane Leamy
Email: jane.m.leafy@usdoj.gov

(d) Distribution Trust

Craig R. Jalbert
Verdolino & Lowey, P.C.
124 Washington Street, Suite 101
Foxboro, MA 02035
Email: cjalbert@vlpc.com

9. Filing Claims with Claims Agent.

Proofs of Claim arising from the rejection of executory contracts or unexpired leases should be filed with the Court approved claims and noticing agent JND Holding Co. (“JND”). Proofs of Claim may be filed electronically via the Claims Agent’s website: <http://www.jndla.com/cases/firstrain>. Further instructions regarding electronic filing can be found on the Claims Agent’s website. If you wish to file a Proof of Claim via submission of a hard copy, the hard copy must be delivered so as to be received by JND on or before the applicable Bar Date at the following address:

**FirstRain, Inc. Claims Processing
c/o JND Corporate Restructuring
8269 East 23rd Avenue, Suite 275
Denver, Colorado 80238**

All proofs of claim arising from the rejection of executory contracts or unexpired leases must be filed by later of (a) the General Bar Date, (b) 30 days after entry of any order authorizing the rejection of an executory contract or unexpired lease, including any order confirming the Plan, or (c) the date set forth in an order authorizing rejection of an executory contract or unexpired lease. Proofs of Claim submitted by facsimile or e-mail shall not be accepted.

10. Copies of Confirmation Order.

Copies of the Plan and the Confirmation Order may be obtained for free at <http://www.jndla.com/cases/firstrain> or upon request from counsel to the Distribution Trustee.