

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

<p>In re:</p> <p>LOCKWOOD HOLDINGS, INC., <i>et al.</i>,¹</p> <p style="padding-left: 40px;">Debtors.</p>	§ § § § § § § § § §	<p>Chapter 11</p> <p>Case No. 18-30197 (DRJ)</p> <p>Jointly Administered</p>
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COMPROMISE JOINT CHAPTER 11 PLAN

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Dated: December 21, 2018

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: Lockwood Holdings, Inc. (9726); LH Aviation, LLC (6984); Piping Components, Inc. (0197); Lockwood International, Inc. (8597); LMG Manufacturing, Inc. (9468); Lockwood Enterprises, Inc. (6504); and 7807 Eagle Lane, LLC (7382).

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Lockwood Holdings, Inc., LH Aviation, LLC, Piping Components, Inc., Lockwood International, Inc., LMG Manufacturing, Inc., Lockwood Enterprises, Inc., and 7807 Eagle Lane, LLC, the Official Committee of Unsecured Creditors and the Prepetition Lenders, hereby propose the following Compromise Joint Chapter 11 Plan pursuant to section 1121(a) of the Bankruptcy Code.

ARTICLE I

DEFINITIONS AND INTERPRETATION

1.1 *Definitions.*

For the purpose of this Plan, the following terms shall have the respective meanings set forth below:

7807 means 7807 Eagle Lane, LLC.

Administrative Expense Claim means any right to payment constituting a cost or expense of administration of the Chapter 11 Cases that is Allowed pursuant to sections 503(b) or 507 of the Bankruptcy Code, including, without limitation, (a) any fees or charges assessed against the Debtors' Estates under 28 U.S.C. § 1930, (b) Fee Claims, and (c) other Administrative Expense Claims as may be ordered and Allowed by the Bankruptcy Court.

Allowed means, with reference to any Claim or Equity Interest, any Claim or Equity Interest (i) for which a proof of claim or proof of interest has been filed and as to which no objection has been interposed on or before the Objection Deadline or such other applicable period of limitation fixed by this Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, (ii) which appears in the Debtors' Schedules and is not listed as contingent, liquidated or disputed, (iii) which is allowed by Final Order of the Bankruptcy Court, or (iv) which is expressly allowed under this Plan.

Avoidable Assets is defined in section 11.8.

Ballot means the ballot provided to holders of Claims to indicate their votes to accept or reject the Plan.

Bankruptcy Code means title 11 of the United States Code, as amended from time to time.

Bankruptcy Court means the United States Bankruptcy Court for the Southern District of Texas, Houston Division, or any other court of the United States having jurisdiction over the Chapter 11 Cases.

Bankruptcy Rules means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, as amended and in effect from time to time.

Bar Date means the last date to file proofs of claim against the Debtors, which was or will be (i) June 4, 2018 for all creditors except Governmental Units, (ii) August 6, 2018 for Governmental Units and (iii) January 31, 2019 for those certain creditors included as part of the Bankruptcy Court's December 20, 2018 *Order Establishing Deadline for Filing Proofs of Claim* [Docket No. 818].

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

Cash means legal tender of the United States of America.

Causes of Action is defined in section 11.6 hereof.

Chapter 11 Cases means the above-captioned jointly administered chapter 11 bankruptcy cases of the Debtors.

Claim means a claim against a Debtor within the meaning of section 101(5) of the Bankruptcy Code.

Class means any group of Claims or Equity Interests classified by this Plan pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code.

Class A Interests is defined in section 6.2(g) hereof.

Class B Interests is defined in section 6.2(g) hereof.

Collateral means any property or interest in property of the Estates of the Debtors subject to a Lien, charge, or other encumbrance to secure the payment or performance of a Claim, which Lien, charge or other encumbrance is not subject to avoidance or otherwise invalid under the Bankruptcy Code or applicable state or federal law.

Committee means the Official Committee of Unsecured Creditors appointed in the Chapter 11 Cases by the Office of the United States Trustee, as the same may be reconstituted from time to time.

Committee Litigation means Adversary No. 18-3094 pending before the Bankruptcy Court.

Compensation Order means that certain *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Estate Professionals* [Docket No. 326].

Confirmation Date means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket.

Confirmation Hearing means the hearing conducted by the Bankruptcy Court pursuant to sections 1128(a) and 1129 of the Bankruptcy Code to consider confirmation of the Plan, as such hearing may be adjourned or continued from time to time.

Confirmation Order means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

Creditor Trust means that certain trust that will come into existence on the Effective Date of the Plan, which trust shall be formed pursuant to, and governed by, the provisions of the Plan and the Creditor Trust Agreement.

Creditor Trust Agreement means the agreement governing the Creditor Trust dated as of the Effective Date, substantially in the form included in the Plan Supplement.

Creditor Trust Assets means (i) all Causes of Action owned by the Debtors or their respective Estates, except as the same may be dismissed, settled or released pursuant to the Plan; (ii) the net proceeds from the sale of the Houston Oaks Property; (iii) the net proceeds from the sale of a certain aircraft hangar owned by 7807, less \$30,885.18 which shall be paid to the Prepetition Lenders; (iv) all proceeds of any of the Debtors' insurance policies, including but not limited to proceeds relating to employee theft or misconduct, or claims against the Debtors' prepetition directors and officers; (v) the equity interests the Debtors' non-U.S., non-Debtor subsidiaries; (vi) accounts receivable from the Debtors' Canadian operations, regardless of whether such receivables have previously been converted to cash; (vii) any portion of the Prepetition Lenders' Contribution remaining after payment of Allowed Administrative Expense Claims; and (viii) any other property of the Estates not otherwise distributed pursuant to the terms of this Plan.

Creditor Trust Interests means the Class A Interests and the Class B Interests, together.

Creditor Trustee means the trustee of the Creditor Trust, who shall be chosen by the mutual agreement of the Debtors, the Committee and the Prepetition Lenders, and who shall be named in the Plan Supplement.

CRO means Mark Shapiro, the duly appointed chief restructuring officer in the Chapter 11 Cases.

Debtor means any one of the Debtors, as the context may require.

Debtors means LHI, LHA, PCI, LII, LMG, LEI and 7807, collectively, in their capacities as debtors and debtors in possession under sections 1107 and 1108 of the Bankruptcy Code.

DIP Credit Agreement means that certain superpriority Secured Debtor in Possession Credit Agreement dated as of April 23, 2018 by and among LEI, LII, LHI, 7807, LMG and PCI, the lenders referenced therein and Wells Fargo Bank, National Association as Administrative Agent.

DIP Facility Claims means the Claims of the Postpetition Lenders under and pursuant to the DIP Credit Agreement and the DIP Financing Order.

DIP Financing Order means that certain *Agreed Final Order (i) Authorizing the Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection To Prepetition Secured Parties, (III) Modifying The Automatic Stay, (IV) Scheduling A Final Hearing, and (V) Granting Related Relief* [Docket No. 359].

Disallowed Claim or Equity Interest means any Claim or Equity Interest, or portion thereof that is not an Allowed Claim, an Allowed Equity Interest, or a Disputed Claim or Disputed Equity Interest.

Disbursing Agent means the party responsible for making distributions under this Plan who shall be (i) (a) the Creditor Trustee for distributions to holders of Allowed General Unsecured Claims, the Prepetition Lenders Deficiency Claim and Allowed Equity Interests and (b) the Debtors for distributions to holders of the Prepetition Lenders Secured Claim, and Allowed Administrative Expense Claims until the time (if ever) that the Prepetition Lenders' Contribution is exhausted and, thereafter, the Creditor Trustee or (ii) such other party or parties who may be designated by the Bankruptcy Court upon motion.

Disclosure Statement means that certain disclosure statement relating to the Plan, including all exhibits and schedules thereto, as the same may be amended, supplemented, or otherwise modified from time to time, as approved by the Bankruptcy Court pursuant to sections 1125 and 1126 of the Bankruptcy Code.

Disputed Claim means, with respect to a Claim, such Claim (a) to the extent neither Allowed nor disallowed under the Plan or a Final Order nor deemed Allowed under section 502, 503 or 1111 of the Bankruptcy Code, or (b) with respect to which the Debtors or any party in interest have interposed a timely objection (as a contested matter, adversary proceeding, or otherwise) or request for estimation prior to the Objection Deadline in accordance with the Plan or the Bankruptcy Rules, which objection or request for estimation has not been withdrawn or determined by a Final Order as of the Effective Date.

Disputed Equity Interest means, with respect to an Equity Interest, such Equity Interest (a) to the extent neither Allowed nor disallowed under the Plan or a Final Order nor deemed Allowed under section 502, 503 or 1111 of the Bankruptcy Code, or (b) for which a proof of interest for payment has been timely filed with the Bankruptcy Court or a written request for payment has been made, to the extent the Debtors or any party in interest has interposed a timely objection or request for estimation prior to the Objection Deadline in accordance with the Plan, or the Bankruptcy Rules, which objection or request for estimation has not been withdrawn or determined by a Final Order.

Distribution Date means the date, occurring on or as soon as practicable after the Effective Date, on which the Disbursing Agent first makes distributions to holders of Allowed Claims and Allowed Equity Interests as provided in the Plan.

Distribution Record Date means the record date for purposes of receiving distributions under the Plan on account of Allowed Claims and Allowed Equity Interests, which shall be the Confirmation Date.

Effective Date means the first Business Day on which all the conditions precedent to the effectiveness of the Plan specified in section 10.2 hereof shall have been satisfied or waived as provided in section 10.3 hereof; *provided, however*, that if a stay, injunction or similar prohibition of the Confirmation Order is in effect, the Effective Date shall be the first Business Day after such stay, injunction or similar prohibition is no longer in effect.

Equity Interest means any “equity security” of the Debtors, as that term is defined in section 101(16) of the Bankruptcy Code.

Estates means the estates of the Debtors as created under section 541 of the Bankruptcy Code.

Exculpated Parties means the Debtors, the CRO, GlassRatner Advisory & Capital Group, LLC, Gray Reed & McGraw LLP, McKool Smith P.C., Stout Risius Ross, LLC, the Prepetition Lenders, the Postpetition Lenders, and Winstead PC.

Fee Claim means any Claim by a Professional Person under sections 330, 331 or 503 of the Bankruptcy Code for allowance of compensation and/or reimbursement of expenses in the Chapter 11 Cases.

Final Order means an order or judgment of a court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court and has not been reversed, vacated or stayed and as to which (a) the time to appeal, petition for *certiorari*, or move for a stay, new trial, reargument, or rehearing has expired and as to which no appeal, petition for *certiorari* or other proceedings for a stay, new trial, reargument or rehearing shall then be pending or (b) if an appeal, writ of *certiorari*, stay, new trial, reargument or rehearing thereof has been sought, (i) such order or judgment shall have been affirmed by the highest court to which such order was appealed, *certiorari* shall have been denied or a stay, new trial, reargument or rehearing shall have been denied or resulted in no modification of such order and (ii) the time to take any further appeal, petition for *certiorari*, or move for a stay, new trial, reargument or rehearing shall have expired; *provided, however*, that no order or judgment shall fail to be a “Final Order” solely because of the possibility that a motion pursuant to section 502(j) or 1144 of the Bankruptcy Code or under Rule 60 of the Federal Rules of Civil Procedure, or Bankruptcy Rule 9024 has been or may be filed with respect to such order or judgment.

First Petition Date means January 18, 2018, the date on which LHI, LHA and PCI filed their voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

Galveston Litigation means Case No. 3:18-cv-0292 pending in the United States District Court for the Southern District of Texas, Galveston Division., or any other action with which the case may be consolidated or in any court to which the case may be transferred or remanded.

General Unsecured Claim means any Claim against a Debtor that is not an Administrative Expense Claim, a Priority Tax Claim, a Priority Non-Tax Claim, a Prepetition Lender Secured Claim, an Other Secured Claim, a Prepetition Lenders’ Deficiency Claim or an Equity Interest.

Governmental Unit has the meaning ascribed to such term in section 101(27) of the Bankruptcy Code.

Houston Oaks Property means that certain parcel of residential real estate that is the subject of a Bankruptcy Court order appearing at Docket No. 739 in the Chapter 11 Cases.

Insider means any Person who is an “insider” as such term is defined in section 101(31) of the Bankruptcy Code, or who may otherwise be determined to be an “insider” under section 101(31) of the Bankruptcy Code by a court of competent jurisdiction.

Intercompany Claim means a claim held by one Debtor against another Debtor.

Intercompany Settlement means the compromise and settlement of the enforceability, validity and priority of Intercompany Claims, and the settlement of all Claims that creditors may have with respect to the marshalling of assets and liabilities of the Debtors in determining relative entitlements to distributions under the Plan. Intercompany Claims will be waived and discharged, and each holder of an Intercompany Claim will be conclusively deemed to have accepted the Plan.

LEI means Lockwood Enterprises, Inc.

LHA means LH Aviation, LLC.

LHI means Lockwood Holdings, Inc.

Lien has the meaning set forth in section 101(37) of the Bankruptcy Code.

LII means Lockwood International, Inc.

LMG means LMG Manufacturing, Inc.

Local Rules means the Bankruptcy Local Rules of the United States Bankruptcy Court for the Southern District of Texas, as the same may be amended or modified from time to time.

Non-Insider means a Person who is not an Insider.

Objection Deadline means the later of (a) one hundred twenty (120) days after the Effective Date and (b) such later as may be ordered by the Bankruptcy Court prior to the expiration of such one hundred twenty (120) day period, upon motion.

Other Secured Claim means a Secured Claim that is not a Prepetition Lender Secured Claim.

PCI means Piping Components, Inc.

Petition Date means either the First Petition Date or the Second Petition Date, as the context may require.

Person means an individual, partnership, corporation, limited liability company, cooperative, trust, unincorporated organization, association, joint venture, government or agency or political subdivision thereof or any other form of legal entity.

Plan means this Compromise Joint Chapter 11 Plan, as the same may be amended, supplemented or otherwise modified from time to time, including any exhibits and schedules hereto.

Plan Supplement means the compilation of documents and forms of documents, schedules and exhibits to be filed in one or more parts or volumes, no later ten (10) Business Days prior to the Confirmation Hearing, as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof and in accordance with the Bankruptcy Code and the Bankruptcy Rules, containing, without limitation, the form of Creditor Trust Agreement, the identity of Creditor Trustee, and any other documents necessary for the execution and implementation of the Plan.

Postpetition Lenders means the lenders referenced in the DIP Credit Agreement.

Prepetition Lenders means Wells Fargo Bank, National Association and Trustmark National Bank, in their capacities as prepetition lenders to the Debtors.

Prepetition Lenders' Contribution means \$2.80 million in Cash to be contributed by the Prepetition Lenders to the Debtors' Estates on the Effective Date, for the payment of Administrative Expense Claims that are Allowed but unpaid between November 5, 2018 and the Effective Date, including the post-petition attorneys' fees and costs of the Prepetition Lenders and the Postpetition Lenders as set forth herein. The Prepetition Lenders' Contribution shall be made simultaneously with the payment of the Prepetition Lenders' Secured Claim pursuant to section 4.2 hereof. To the extent the Debtors satisfy any Allowed Administrative Expense Claim prior to the Effective Date of the Plan, the amount of the Prepetition Lenders' Contribution shall be reduced by the amount of such payments on a dollar-for-dollar basis. In the event the total amount of Allowed Administrative Expense Claims is less than the Prepetition Lenders' Contribution, the difference shall be transferred to and become part of the Creditor Trust Assets.

Prepetition Lenders' Deficiency Claim means the unsecured claim held by the Prepetition Lenders as a result of the operation of section 506(a)(1) of the Bankruptcy Code, which shall be an Allowed Claim as of the entry of the Confirmation Order.

Prepetition Lenders' Secured Claim means the Secured Claim held by the Prepetition Lenders arising pursuant to the Prepetition Loan Documents which, as of the First Petition Date, aggregated \$80,667,002.03, as set forth in the DIP Financing Order, and which shall be an Allowed Claim as of the entry of the Confirmation Order.

Prepetition Loan Documents means (i) that certain Credit Agreement dated September 30, 2015 among LII, LEI, LMG, and PCI as borrowers, the lenders referenced therein and Wells Fargo Bank, N.A. as agent, as the same may have been amended or modified from time to time, (ii) that certain Amended and Restated Credit Agreement dated February 6, 2015 among LHI and Wells Fargo Bank, N.A., as the same may have been amended or modified from time to time, and (iii) the documents ancillary to each of the foregoing.

Priority Non-Tax Claim means any Claim that is entitled to priority in payment pursuant to sections 507(a)(4), (5), (6) or (7) of the Bankruptcy Code and that is not an Administrative Expense Claim or a Priority Tax Claim.

Priority Tax Claim means any Claim of a governmental unit of the kind entitled to priority in payment as specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

Professional Person means any Person retained or to be compensated by the Debtors pursuant to sections 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code.

Pro Rata means the proportion that the amount of an Allowed Claim or Allowed Equity Interest in a particular Class bears to the aggregate amount of all Allowed Claims or Allowed Equity Interests in such Class.

Schedules means, collectively, Schedules A through J and the Statement of Financial Affairs, as filed by each Debtor in the Chapter 11 Cases, as the same may have been or may be amended from time to time.

Second Petition Date means January 24, 2018, the date on which LII, LEI, LMG and 7807 filed their voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

Secured Claim means a Claim, other than a Prepetition Lenders' Secured Claim, secured by a Lien that is valid, perfected and enforceable, and not avoidable, upon property in which a Debtor has an interest, to the extent of the value, as of the Effective Date, of such interest or Lien as determined by a Final Order of the Bankruptcy Court pursuant to section 506 of the Bankruptcy Code, or as otherwise agreed to in writing by the Debtor in question and the holder of such Claim.

Trust Claims Reserve is defined in section 6.2(n)(ii)(C) hereof.

Voting Deadline means January 25, 2019, the date set by the Bankruptcy Court by which Ballots for accepting or rejecting the Plan must be received.

1.2 Rules of Interpretation and Construction.

(a) **Interpretation.** Unless otherwise specified herein, all section, article, and exhibit references in the Plan are to the respective section in, article of, and exhibit to, the Plan, as the same may be amended, waived or modified from time to time. All headings in this Plan are for convenience of reference only and shall not limit or otherwise affect the provisions of the Plan.

(b) **Construction and Application of Bankruptcy Code Definitions.** Unless otherwise defined herein, words and terms defined in section 101 of the Bankruptcy Code shall have the same meanings when used in the Plan. Words or terms used but not defined herein shall have the meanings ascribed to such terms or words, if any, in the Bankruptcy Code. The rules of construction contained in section 102 of the Bankruptcy Code shall apply to the construction of the Plan.

(c) Other Terms. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Plan as a whole and not to any particular article, section, subsection, or clause contained in the Plan.

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

ARTICLE II

TREATMENT OF UNCLASSIFIED CLAIMS

2.1 *Administrative Expense Claims.*

All Administrative Expense Claims against the Debtors, other than Fee Claims, shall be treated as follows:

(a) Time for Filing. All holders of Administrative Expense Claims, other than Professional Persons holding Fee Claims, shall file with the Bankruptcy Court a request for payment of such Claims within thirty (30) days after the Effective Date. Any such request must be served on the Debtors, their counsel, and counsel to the Lenders, and must, at a minimum, set forth (i) the name of the holder of the Administrative Expense Claim; (ii) the amount of the Administrative Expense Claim; and (iii) the basis for the Administrative Expense Claim. A failure to file any such request in a timely fashion will result in the Administrative Expense Claim in question being discharged and its holder forever barred from asserting such Administrative Expense Claim against the Debtors or any other Person.

(b) DIP Facility Claims. In full and final satisfaction, settlement, release, and discharge of and in exchange for release of all DIP Facility Claims, on the Effective Date, the DIP Facility Claims shall be paid in full, in Cash. All amounts borrowed under the DIP Credit Agreement have been repaid, in full, with interest. As of the date hereof, the only amounts payable to the Postpetition Lenders are their attorneys’ fees and costs, as provided in the DIP Financing Order and the DIP Credit Agreement. Such fees and costs shall be payable from the Prepetition Lenders’ Contribution, on the Effective Date, in an amount not to exceed \$600,000 for the period from the Petition Dates through December 31, 2018, and with such attorneys’ fees and costs being capped at \$80,000 for the period November 1, 2018 through December 31, 2018. Any attorneys’ fees and costs incurred by the Postpetition Lenders after December 31, 2018 shall be paid first from the Prepetition Lenders’ Contribution. If the Prepetition Lenders’ Contribution is insufficient to pay the Postpetition Lenders’ post-December 31, 2018 attorneys’ fees and costs, then the unpaid remainder shall be paid by the Creditor Trust promptly following its formation, from the Creditor Trust Assets.² In furtherance of the above, \$600,000 of the Prepetition Lenders’

² Notwithstanding anything in the DIP Financing Order or the Compensation Order to the contrary, Winstead PC need not file any pleadings seeking allowance of its fees and costs incurred since the Petition Dates. All post-petition fees and costs for which Winstead PC seeks compensation and reimbursement in connection with services performed and costs advanced on behalf of the Prepetition Lenders and the Postpetition Lenders shall be recoverable and payable in compliance with and pursuant to paragraph 7 of the DIP Financing Order.

Contribution shall be set aside and earmarked for the payment of the Postpetition Lenders' attorneys' fees and costs.

(c) Allowance. An Administrative Expense Claim for which a request for payment has been properly filed shall become an Allowed Administrative Expense Claim unless an objection is filed by the date that is thirty (30) days after a request for payment of such Administrative Expense Claim is filed. If an objection is timely filed, the Administrative Expense Claim in question shall become an Allowed Administrative Expense Claim only to the extent so Allowed by Final Order of the Bankruptcy Court.

(d) Payment. Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to a different treatment of such Claim, each holder of an Allowed Administrative Expense Claim shall receive, on account of and in full satisfaction of such Claim, Cash in an amount equal to the Allowed amount of such Administrative Expense Claim on (or as soon as reasonably practicable after) the later of (A) the Effective Date or (B) ten (10) days after entry of an order by the Bankruptcy Court allowing such Administrative Expense Claim. Allowed Administrative Expense Claims, including Fee Claims as set forth more fully below, in an amount up to the Prepetition Lenders' Contribution, shall be paid by the Debtors. To the extent the total amount of Allowed Administrative Expense Claims and Allowed Fee Claims exceeds the Prepetition Lenders' Contribution, such excess amounts shall become an obligation of, and be paid by, the Creditor Trust promptly following its formation, from the Creditor Trust Assets.

2.2 Fee Claims.

Every Professional Person holding a Fee Claim that has not previously been the subject of a final fee application and accompanying Bankruptcy Court order approving the same shall file a final application for payment of fees and reimbursement of expenses no later than the date that is thirty (30) days after the Effective Date. Any such final fee application shall conform to and comply with all applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules. The last date to object to any final fee application shall be the twenty-first (21st) day after such fee application has been filed with the Bankruptcy Court. All final fee applications shall be set for hearing on the same day, as the Bankruptcy Court's calendar permits, after consultation with counsel to the Debtors. Allowed Fee Claims up to the aggregate amount of \$337,500.00 for the period November 1, 2018 through December 31, 2018, in addition to Allowed Fee Claims for the period after December 31, 2018, shall be paid in full in Cash by the Debtors from the Prepetition Lenders' Contribution on (or as soon as reasonably practicable after) the later of (A) the Effective Date or (B) ten (10) days after entry of an order by the Bankruptcy Court allowing such Fee Claim.³ To the extent the Prepetition Lenders' Contribution is insufficient to satisfy Allowed Fee Claims arising after December 31, 2018, then the remainder of such Allowed

³ There shall be a cap on Allowed Fee Claims for estate professionals to be paid from the Prepetition Lenders' Contribution, for the period November 1, 2018 through December 31, 2018, as follows: Gray Reed & McGraw, \$125,000.00; GlassRatner, \$62,500.00; McKool Smith, \$100,000.00; and Stout Risius Ross, \$50,000.00. Except for Allowed Fee Claims pertaining to the period from November 1, 2018 through December 31, 2018, Allowed Fee Claims in excess of those set forth herein shall be paid by the Creditor Trust promptly following its formation, from the Creditor Trust Assets.

Fee Claims shall be paid by the Creditor Trust promptly following its formation, from the Creditor Trust Assets.

2.3 *U.S. Trustee Fees.*

All fees payable under section 1930 of title 28 of the United States Code shall be paid on or before the Effective Date. All such fees that arise after the Effective Date but before the closing of the Chapter 11 Cases shall be paid by the Creditor Trust.

2.4 *Priority Tax Claims.*

Except to the extent that a holder of an Allowed Priority Tax Claim has agreed or agrees to a different treatment of such Claim, each holder of an Allowed Priority Tax Claim shall receive on (or as soon as reasonably practicable after) the Effective Date, at the Debtors' option: (i) Cash in an amount equal to the Allowed amount of such Claim, or (ii) regular installment payments of Cash (a) having a total value, as of the Effective Date, equal to the Allowed amount of the Claim, (b) over a period ending not later than five (5) years after the Petition Date and (c) in a manner not less favorable than the most favored nonpriority Allowed General Unsecured Claims provided for by the Plan (other than Cash payments made to a class of creditors under section 1122(b) of the Bankruptcy Code). To the extent interest is required to be paid on any Priority Tax Claim, the rate of such interest shall be the rate determined under applicable nonbankruptcy law, as set forth in section 511 of the Bankruptcy Code. To the extent the holder of an Allowed Priority Tax Claim has a Lien on a Debtor's property, such Lien shall remain in place until such Allowed Priority Tax Claim has been paid in full. On and after the Effective Date, all *ad valorem* property taxes (if any) will be paid as they become due, in the ordinary course.

ARTICLE III

CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

All Claims against, and Equity Interests in, the Debtors are classified for all purposes, including voting, confirmation, and distribution, as follows:

Class	Designation	Impairment	Entitled to Vote
Class 1	Priority Non-Tax Claims	No	No (deemed to accept)
Class 2	Prepetition Lenders' Secured Claims	Yes	Yes
Class 3	Other Secured Claims	No	No (deemed to accept)
Class 4	General Unsecured Claims	Yes	Yes
Class 5	Prepetition Lenders' Deficiency Claims	Yes	Yes
Class 6	Intercompany Claims	Yes	No (deemed to accept)
Class 7	Equity Interests	Yes	No (deemed to reject)

Administrative Expense Claims and Priority Tax Claims are not classified for purposes of voting or receiving distributions under the Plan, pursuant to section 1123(a)(1) of the Bankruptcy Code. Instead, all such Claims shall be treated separately as unclassified claims on the terms previously set forth in Article II of this Plan.

ARTICLE IV

TREATMENT OF CLAIMS AND EQUITY INTERESTS

4.1 *Class 1 – Priority Non-Tax Claims.*

Except to the extent that a holder of an Allowed Priority Non-Tax Claim against a Debtor agrees to a less favorable treatment, each such holder shall receive, in full satisfaction of such Claim, payment in full in Cash from the Debtors on (or as soon as reasonably practicable after) the later of (A) the Effective Date or (B) ten (10) days after such Priority Non-Tax Claim becomes Allowed.

4.2 *Class 2 – Prepetition Lenders' Secured Claims.*

On the Effective Date of the Plan, and/or prior to the Effective Date to the extent permitted by separate Bankruptcy Court order, in full and final satisfaction of the Prepetition Lenders' Secured Claims, the Prepetition Lenders shall receive (i) all Cash owned or held by the Debtors, wherever located, in all of the Debtors' bank accounts (including money, coins or notes held in foreign bank accounts in non-U.S. currency or tender), including the net proceeds realized and any funds held back from the various sales of the Debtors' assets from the Petition Date through the Effective Date (including holdbacks for Canadian taxes that are subsequently released), but not including the Creditor Trust Assets.

4.3 *Class 3 – Other Secured Claims.*

On the Effective Date (or as soon as reasonably practicable thereafter), except to the extent that a holder of an Allowed Other Secured Claim against a Debtor agrees to less favorable treatment, each holder of an Allowed Other Secured Claim shall, at the Debtors' option, receive one of the following treatments: (i) payment in full in Cash, from Cash that is not otherwise allocated to the Prepetition Lenders hereunder and that is not sourced from the Prepetition Lenders' Contribution; (ii) the Collateral securing such Allowed Secured Claim; or (iii) other treatment that renders such Allowed Other Secured Claim unimpaired in accordance with section 1124 of the Bankruptcy Code.

4.4 *Class 4 – General Unsecured Claims.*

Except to the extent that a holder of an Allowed General Unsecured Claim against a Debtor agrees to a different treatment, each holder of an Allowed General Unsecured Claim shall receive a Class B Interest in the Creditor Trust and thereafter receive Cash distributions from the Creditor Trust. Distributions to holders of Allowed General Unsecured Claims who receive a Class B Interest shall be on a Pro Rata basis with all other Class B Interest holders. Proceeds of the Creditor Trust shall be split 50/50 between the holders of Class A Interests and the holders of Class B Interests.

4.5 Class 5 – Prepetition Lenders’ Deficiency Claims

On account of the Prepetition Lenders’ Deficiency Claims, the Prepetition Lenders shall receive Class A Interests in the Creditor Trust. Proceeds of the Creditor Trust shall be split 50/50 between the holders of Class A Interests and the holders of Class B Interests.

4.6 Class 6 – Intercompany Claims

All Intercompany Claims against a Debtor in Class 6 shall be cancelled, released and discharged as part of the Intercompany Settlement. The holders of Intercompany Claims shall be relieved of their liabilities to the other Debtors in full and final satisfaction of such Claims and liabilities. Due to the Intercompany Settlement, holders of Intercompany Claims are conclusively deemed to have accepted the Plan.

4.7 Class 7 – Equity Interests

On the Effective Date, all Equity Interests in each Debtor shall be cancelled and of no further force or effect. Holders of Equity Interests shall neither retain nor receive any property under the Plan on account of such Equity Interests.

ARTICLE V

**IMPAIRMENT; ACCEPTANCE OR REJECTION OF THE PLAN;
EFFECT OF REJECTION BY ONE OR MORE CLASSES**

5.1 Classes Entitled to Vote.

The holders of Claims in Classes 1 and 3 are unimpaired, conclusively deemed to have accepted the Plan and are not entitled to vote to accept or reject the Plan. The holders of Intercompany Claims in Class 6 are impaired and conclusively deemed to have accepted the Plan as a result of the Intercompany Settlement. The holders of claims in Classes 2, 4, and 5 are impaired and entitled to vote to except or reject the Plan. The holders of Equity Interests in Class 7 will neither receive nor retain any proceeds under the Plan, and are conclusively deemed to reject the Plan.

5.2 Class Acceptance Requirement.

A Class of impaired Claims shall have accepted the Plan if the holders of at least two-thirds (2/3) in amount and more than one-half (1/2) in number of Claims in such Class who have voted on the Plan have voted to accept the Plan. A Class of impaired Equity Interests shall have accepted the Plan if at least two-thirds (2/3) in amount of Equity Interests in such Class who have voted on the Plan have voted to accept the Plan.

5.3 Cramdown.

To the extent that any Class is impaired under the Plan and such Class fails to accept the Plan in accordance with section 1126(c) or (d) of the Bankruptcy Code, the Debtors hereby

request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code.

5.4 *Elimination of Classes.*

Any Class that does not contain any Allowed Claims or any Claims temporarily Allowed for voting purposes under Bankruptcy Rule 3018, as of the date of the commencement of the Confirmation Hearing, shall be deemed not included in this Plan for purposes of (i) voting to accept or reject this Plan and (ii) determining whether such Class has accepted or rejected this Plan under section 1129(a)(8) of the Bankruptcy Code.

ARTICLE VI

MEANS OF IMPLEMENTATION

6.1 *Limited Substantive Consolidation.*

(a) The Plan provides for recoveries on account of Allowed Claims in Classes 4 and 5 from the Creditor Trust regardless of the Debtor entity against which such Allowed Claims are asserted. The Debtors shall not be consolidated for any other purpose. To the extent necessary, the Plan shall serve as a motion seeking, and entry of the Confirmation Order shall constitute, the approval, pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, effective as of the Effective Date, of the limited consolidation for voting and distribution on account of Allowed Claims in Classes 4 and 5 as provided in this section 6.1.

(b) For the avoidance of doubt, the limited consolidation described in this section shall not affect the legal and corporate structures of the Debtors. In addition, such consolidation shall not constitute a waiver of the mutuality requirement for setoff under section 553 of the Bankruptcy Code.

6.2 *The Creditor Trust.*

(a) Establishment of the Creditor Trust. The Creditor Trust shall be established for the benefit of the holders of Allowed General Unsecured Claims and the Prepetition Lenders' Deficiency Claims. This section 6.2 sets forth the general terms of the Creditor Trust and certain of the rights, duties, and obligations of the Creditor Trustee. In the event of any conflict between the terms of this section 6.2 and the terms of the Creditor Trust Agreement, the terms of the Creditor Trust Agreement shall govern.

(b) Execution of Creditor Trust Agreement. On the Effective Date, the Creditor Trust Agreement shall be executed, and all other necessary steps shall be taken to establish the Creditor Trust and the beneficial interests therein, which shall be for the benefit of the holders of Allowed General Unsecured Claims and the Prepetition Lenders' Deficiency Claims. The form of the Creditor Trust Agreement and related ancillary documents shall be mutually acceptable to the Prepetition Lenders and the Committee, subject only to Bankruptcy Court approval at the Confirmation Hearing.

(c) Purpose of the Creditor Trust. The Creditor Trust shall be established for the sole purpose of liquidating and distributing its assets to the holders of interests in the Creditor Trust, in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or to engage in the conduct of a trade or business. The Creditor Trust, through the Creditor Trustee, shall (i) collect and reduce the assets of the Creditor Trust to Cash, (ii) prosecute, settle and otherwise administer the Causes of Action as more fully set forth in sections 6.13 and 11.6 hereof, (iii) make distributions to the beneficiaries of the Creditors Trust in accordance with the Plan and Creditor Trust Agreement and (iv) take all such actions as are reasonably necessary to accomplish the purpose hereof, as more fully provided in the Creditor Trust Agreement.

(d) Creditor Trust Assets. The Creditor Trust shall consist of the Creditor Trust Assets. Any Cash or other property received from third parties from the prosecution, settlement, or compromise of any Cause of Action shall constitute Creditor Trust Assets for purposes of distributions under the Creditor Trust. On the Effective Date, the Creditor Trust Assets shall automatically vest in the Creditor Trust, free and clear of all Liens, Claims and encumbrances, except to the extent otherwise provided herein.

(e) Governance of the Creditor Trust. The Creditor Trust shall be governed by the Creditor Trustee in accordance with the Creditor Trust Agreement and consistent with the Plan.

(f) The Creditor Trustee. The Creditor Trustee shall be selected by the mutual agreement of the Debtors, the Committee and the Prepetition Lenders, subject only to Bankruptcy Court approval at the Confirmation Hearing. With respect to the Creditor Trust Assets, the Creditor Trustee shall be a representative of the estates pursuant to section 1123(a)(5)(B) and 1123(b)(3)(B) of the Bankruptcy Code. The Creditor Trustee may prosecute, settle and otherwise administer the Causes of Action on behalf of the Creditor Trust, without the need for Bankruptcy Court approval or any other notice or approval, except as set forth in the Creditor Trust Agreement, and shall also be responsible for objecting to Claims filed against the Debtors' Estates that purport to qualify as General Unsecured Claims under the terms of the Plan, including, without limitation, pursuant to section 502(d) of the Bankruptcy Code. The Creditor Trustee shall be exempt from giving any bond or other security in any jurisdiction.

(g) Classes of Creditor Trust Interests; Nontransferability. There shall be two (2) classes of beneficial interests in the Creditor Trust: Class A beneficial interests for the Prepetition Lenders (the "Class A Interests") and Class B beneficial interests for all other holders of Allowed General Unsecured Claims (the "Class B Interests"). The beneficial interests in the Creditor Trust shall not be transferable (except as otherwise provided in the Creditor Trust Agreement).

(h) Cash. Pending distribution, the Creditor Trustee may invest Creditor Trust Assets only in Cash and Government securities (as defined in section 2(a)(16) of the Investment Company Act of 1940, as amended); *provided, however*, that such investments are investments permitted to be made by a liquidating trust within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable Internal Revenue Service guidelines, rulings, or other controlling authorities.

(i) Costs and Expenses of the Creditor Trustee. The costs and expenses of the Creditor Trust, including the fees and expenses of the Creditor Trustee and his or her retained professionals, shall be paid only out of the Creditor Trust Assets.

(j) Compensation of the Trustee. The Creditor Trustee shall be entitled to reasonable compensation paid exclusively from the Creditor Trust Assets.

(k) Distribution of Creditor Trust Assets. The Creditor Trustee shall distribute Cash to the Creditor Trust beneficiaries in accordance with the Creditor Trust Agreement, beginning on the Effective Date or as soon thereafter as is practicable, from the liquidated Creditor Trust Assets on hand as follows: 50% to holders of Class A Interests and 50% to holders of Class B Interests. All holders of Class A Interests and Class B Interests shall then share such proceeds amongst themselves on a Pro Rata basis.

The Creditor Trustee shall not make any distributions to holders of Disputed Claims unless and until such Claims are Allowed. The Creditor Trustee shall ensure that sufficient funds are reserved, as determined by the Creditor Trustee in his or her sole discretion, to pay Disputed Claims upon Allowance. The Creditor Trustee shall be permitted to distribute amounts that (i) are reasonably necessary to meet contingent liabilities and to maintain the value of the Creditor Trust Assets, (ii) are necessary to pay reasonable expenses (including, but not limited to, any taxes imposed on the Creditor Trust or in respect of the Creditor Trust Assets), and (iii) are required to satisfy other liabilities incurred by the Creditor Trust in accordance with this Plan or the Creditor Trust Agreement.

(l) Creditor Trust Certificates. Beneficial interests in the Creditor Trust shall not be represented by certificates, receipts, or in any other form or manner, except as maintained on the books and records of the Creditor Trust by the Creditor Trustee, as set forth in the Creditor Trust Agreement.

(m) Retention of Professionals by the Creditor Trustee. The Creditor Trustee may retain and reasonably compensate counsel and other professionals out of the Creditor Trust Assets to assist in its duties as Creditor Trustee on such terms as the Creditor Trustee deems appropriate without Bankruptcy Court approval. The Creditor Trustee may retain any professional who represented parties in interest (including the Debtors or the Committee) in the Chapter 11 Cases.

(n) Federal Income Tax Treatment of the Creditor Trust.

i) *Creditor Trust Assets Treated as Owned by General Unsecured Creditors.* For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Creditor Trustee, and the holders of beneficial interests in the Creditor Trust) shall treat the transfer of the Creditor Trust Assets to the Creditor Trust for the benefit of the beneficiaries thereof, whether Allowed on or after the Effective Date, as (A) a transfer of the Creditor Trust Assets directly to the holders in satisfaction of General Unsecured Claims and Prepetition Lenders' Deficiency Claims (other than to the extent allocable to Disputed General Unsecured Claims), followed by (B) the transfer by such holders to the Creditor Trust of the Creditor Trust Assets in exchange for, beneficial interests in the Creditor Trust. Accordingly, the

holders of such General Unsecured Claims and Prepetition Lenders' Deficiency Claims, as applicable, shall be treated for federal income tax purposes as the grantors and owners of their respective shares of the Creditor Trust Assets.

ii) *Tax Reporting.*

A) The Creditor Trustee shall file income tax returns for the Creditor Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a) and in accordance with this section. The Creditor Trustee shall annually send to each record holder of a beneficial interest a separate statement setting forth the holder's share of items of income, gain, loss, deduction, or credit and will instruct all such holders to report such items on their federal income tax returns or to forward the appropriate information to the beneficial holders with instructions to report such items on their federal income tax returns. The Creditor Trust's taxable income, gain, loss, deduction, or credit will be allocated among the beneficial holders of the interests in the Creditor Trust in accordance with each holder's relative beneficial interests in the Creditor Trust.

B) As soon as possible after the Effective Date, but in no event later than ninety (90) days after the Effective Date, the Creditor Trustee shall make a good faith valuation of the Creditor Trust Assets. Such valuation shall be made available from time to time, to the extent relevant, and used consistently by all parties (including, without limitation the, Debtors, the Creditor Trustee, and the holders of beneficial interests in the Creditor Trust, as applicable) for all federal income tax purposes. The Creditor Trustee shall also file (or cause to be filed) any other statements, returns, or disclosures relating to the Creditor Trust that are required by any governmental unit.

C) Subject to definitive guidance from the Internal Revenue Service or a court of competent jurisdiction to the contrary (including the receipt by the Creditor Trustee of a private letter ruling if the Creditor Trustee so requests one, or the receipt of an adverse determination by the Internal Revenue Service upon audit if not contested by the Creditor Trustee), the Creditor Trustee shall (i) treat any Creditor Trust Assets allocable to, or retained on account of, Disputed General Unsecured Claims as held by one or more discrete trusts for federal income tax purposes (the "Trust Claims Reserve"), consisting of separate and independent shares to be established in respect of each Disputed General Unsecured Claim, in accordance with the trust provisions of the Tax Code (section 641 *et seq.*), (ii) treat as taxable income or loss of the Trust Claims Reserve, with respect to any given taxable year, the portion of the taxable income or loss of the Creditor Trust that would have been allocated to the Holders of Disputed General Unsecured Claims had such Claims been Allowed on the Effective Date (but only for the portion of the taxable year with respect to which such Claims are unresolved), (iii) treat as a Distribution from the Trust Claims Reserve any increased amounts distributed by the Creditor Trust as a result of any Disputed General Unsecured Claims resolved earlier in the taxable year, to the extent such Distributions relate to taxable income or loss of the Trust Claims Reserve determined in accordance with the provisions hereof, and (iv) to the extent permitted by applicable laws report consistent with the foregoing for state and local income tax purposes. All Creditor Trust beneficiaries shall report, for tax purposes, consistent with the foregoing.

D) The Creditor Trustee shall be responsible for payments, out of the Creditor Trust Assets, of any taxes imposed on the Creditor Trust or the Creditor Trust Assets, including the Trust Claims Reserve. In the event, and to the extent, any Cash retained on account of Disputed General Unsecured Claims in the Trust Claims Reserve is insufficient to pay the portion of any such taxes attributable to the taxable income arising from the assets allocable to, or retained on account of, Disputed General Unsecured Claims, such taxes shall be (i) reimbursed from any subsequent Cash amounts retained on account of Disputed General Unsecured Claims, or (ii) to the extent such Disputed General Unsecured Claims have subsequently been resolved, deducted from any amounts distributable by the Trustee as a result of the resolutions of such Disputed General Unsecured Claims.

E) The Creditor Trustee may request an expedited determination of taxes of the Creditor Trust, including the Trust Claims Reserve, under section 505(b) of the Bankruptcy Code for all returns filed for, or on behalf of, the Creditor Trust for all taxable periods through the dissolution of the Creditor Trust.

(o) Dissolution. The Creditor Trust and the Creditor Trustee shall be discharged or dissolved, as the case may be, no later than the fifth (5th) anniversary of the Effective Date; *provided, however*, that, on or prior to the date that is ninety (90) days prior to such termination, the Bankruptcy Court, upon motion by a party in interest, may extend the term of the Creditor Trust if it is necessary to the liquidation of the Creditor Trust Assets. Notwithstanding the foregoing, multiple extensions may be obtained so long as Bankruptcy Court approval is obtained not less than ninety (90) days prior to the expiration of each extended term; *provided, however*, that in no event shall the term of the Creditor Trust extend past the tenth (10th) anniversary of the Effective Date; *provided further* that neither the Creditor Trust Agreement nor the continued existence of the Creditor Trust shall prevent the Debtors from closing the Chapter 11 Cases pursuant to section 350 of the Bankruptcy Code and obtaining a final decree pursuant to Bankruptcy Rule 3022. The Creditor Trust may be terminated earlier than its scheduled termination if (i) the Bankruptcy Court has entered a Final Order closing all of or the last of the Chapter 11 Cases pursuant to section 350(a) of the Bankruptcy Code and (ii) the Creditor Trustee has administered all Creditor Trust Assets and performed all other duties required by the Plan, the Confirmation Order, the Creditor Trust Agreement and the Creditor Trust. The Creditor Trustee shall not unduly prolong the duration of the Creditor Trust and shall at all times endeavor to resolve, settle or otherwise dispose of all claims that constitute Creditor Trust Assets and to effect the Distribution of the Creditor Trust Assets in accordance with the terms hereof and terminate the Creditor Trust as soon as practicable. Prior to and upon termination of the Creditor Trust, the Creditor Trust Assets will be distributed to the beneficiaries of Creditor Trust, pursuant to the provisions set forth in the Trust Agreement.

If at any time the Creditor Trustee determines that the expense of administering the Creditor Trust is likely to exceed the value of the Creditor Trust Assets, the Creditor Trustee shall have the authority to (i) distribute to the beneficiaries of the Creditor Trust any Cash balance remaining in excess of necessary costs to pay outstanding expenses of the Creditor Trust, including any fees and expenses of the Creditor Trustee and his/her professionals, (ii) donate any Creditor Trust Assets remaining in the Creditor Trust to the Anthony H.N. Schnellling Endowment Fund maintained by the American Bankruptcy Institute, a non-religious charitable organization exempt

from federal income tax under section 501(c)(3) of the Tax Code that is unrelated to the Debtors and any insider of the Debtors and (iii) dissolve the Creditor Trust.

(p) Indemnification of Creditor Trustee. The Creditor Trustee or the individuals comprising the Creditor Trustee, as the case may be, and the Creditor Trustee's agents and professionals, shall not be liable for actions taken or omitted in its capacity as, or on behalf of, the Creditor Trustee, except those acts arising out of its or their own willful misconduct, gross negligence, bad faith, self-dealing, breach of fiduciary duty, or ultra vires acts, and each shall be entitled to indemnification and reimbursement for fees and expenses in defending any and all of its actions or inactions in its capacity as, or on behalf of, the Creditor Trustee, except for any actions or inactions involving willful misconduct, gross negligence, bad faith, self-dealing, breach of fiduciary duty, or ultra vires acts. Any indemnification claim of the Creditor Trustee shall be satisfied exclusively from the Creditor Trust Assets. The Creditor Trustee shall be entitled to rely, in good faith, on the advice of its retained professionals.

6.3 *General Settlement of Claims.*

As discussed in the Disclosure Statement and as otherwise provided herein, the Plan constitutes and evidences a compromise and settlement pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019. In consideration for the classification, distributions, releases, and other benefits provided under the Plan, upon the Effective Date, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims and controversies resolved pursuant to the Plan, including the Intercompany Settlement which shall be deemed effective on such date.

6.4 *Sources of Consideration for Plan Distributions.*

All distributions made by the Debtors pursuant to the Plan shall be obtained from the Prepetition Lenders' Contribution.

All distributions made by the Creditor Trustee to beneficiaries of the Creditor Trust shall be obtained only from the Creditor Trust Assets.

6.5 *Dissolution of Committee and Cessation of Fee and Expense Payments.*

The Committee shall be dissolved on the Effective Date. Neither the Debtors nor the Prepetition Lenders shall be responsible for paying any fees or expenses incurred by the Committee (or any other committee) after the Effective Date; *provided, however*, that the Committee shall nonetheless have post-Effective Date standing to object to Administrative Expense Claims and Fee Claims, and shall be entitled to file a Fee Claim for amounts related thereto, subject to the rights of any party in interest to object thereto.

6.6 *Issuance of Creditor Trust Interests.*

The issuance and distribution of physical Creditor Trust Interests (if any) pursuant to the terms of the Creditor Trust Agreement is authorized without the need for any further corporate action or without any further action by the holders of any claims. All of the Creditor Trust Interests issued pursuant to the Plan shall be duly authorized, validly issued, fully paid, and

non-assessable. On the Distribution Date, the Creditor Trustee shall issue the Creditor Trust Interests for distribution pursuant to the provisions hereof and the Creditor Trust Agreement. All Creditor Trust Interests to be issued shall be deemed issued as of the Effective Date regardless of the date on which they are actually distributed.

6.7 *Section 1145 Exemption.*

Section 1145 of the Bankruptcy Code shall be applicable to the issuance of the Creditor Trust Interests, if any. To the maximum extent permitted by section 1145 of the Bankruptcy Code and applicable non-bankruptcy law, if appropriate, the Creditor Trust Interests, issued pursuant to this Plan and their transfer will be exempt from registration under the Securities Act and all rules and regulations promulgated thereunder, and any and all applicable state and local laws, rules, and regulations.

6.8 *Restructuring Transactions.*

On or prior to the Effective Date, the Creditor Trust Agreement shall be executed, and on the Effective Date, the Debtors shall contribute the Creditor Trust Assets to the Creditor Trust free and clear of all Liens, Claims, charges, or other encumbrances.

6.9 *Cancellation of Existing Securities.*

On the Effective Date, except as otherwise provided for herein or any other document incorporated in the Plan, all Equity Interests and any other certificate, security, share, note, bond, indenture, purchase right, option, warrant, certificates of designations or other instrument or documents directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest in the Debtors giving rise to any Claim or Equity Interest, to the extent not already cancelled, shall be deemed cancelled and of no further force or effect, without the requirement for any further action on the part of the Bankruptcy Court or any other Person.

6.10 *Corporate Action.*

Upon the Effective Date, all actions contemplated under the Plan shall be deemed authorized and approved in all respects. All matters provided for in the Plan involving the corporate structure of the Debtors, and any corporate action required by or in connection with the Plan, shall be deemed to have occurred and shall be in effect, without any requirement of further action by any Equity Interest holders, directors or officers of the Debtors. The authorizations and approvals contemplated by this section shall be effective notwithstanding any requirements under non-bankruptcy law.

6.11 *Directors and Executive Officers.*

On the Effective Date, the term of each member of each Debtor's current board of directors shall automatically expire.

6.12 *Vesting of Assets.*

Except as otherwise provided in the Plan, on the Effective Date, the Creditor Trust Assets shall be automatically transferred to and vest in the Creditor Trust free and clear of all Liens, Claims, charges, or other encumbrances.

6.13 *Preservation of Rights of Action; Settlement of Litigation Claims.*

Except as otherwise provided herein or in the Confirmation Order, or in any contract, instrument, release, indenture, or other agreement entered into in connection with this Plan, in accordance with section 1123(b) of the Bankruptcy Code, and as set forth more fully in the Disclosure Statement, all Causes of Action shall be transferred to the Creditor Trust as provided by the Plan, and may be initiated, filed, enforced, abandoned, settled, compromised, released, withdrawn or litigated to judgment without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court, except as may otherwise be set forth in the Creditor Trust Agreement. The Creditor Trustee shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court. **No Entity may rely on the absence of a specific reference in the Plan, or the Disclosure Statement to any Cause of Action against it as any indication that the Debtors or the Creditor Trustee, as applicable, will not pursue any and all available Causes of Action against it. All rights to prosecute any and all Causes of Action against any Entity are expressly preserved, except as otherwise provided in the Plan.** Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Bankruptcy Court order, the Creditor Trust expressly reserves all Causes of Action, for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation.

6.14 *Dismissal of Litigation.*

On the Effective Date, the Committee shall dismiss with prejudice the Committee Litigation and the Debtors shall dismiss with prejudice any Estate Causes of Action asserted in the Galveston Litigation against the Prepetition Lenders and Wells Fargo Securities, LLC.

6.15 *Effectuating Documents; Further Transactions.*

On and after the Effective Date, the Debtors and the CRO are authorized to and may issue, execute, deliver, file, or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan in the name of and on behalf of the Debtors, without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Plan.

6.16 Exemption from Certain Transfer Taxes.

Pursuant to section 1146(a) of the Bankruptcy Code, the following will not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, sales or use tax, mortgage tax, real estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment: (a) the creation of any mortgage, deed of trust, lien or other security interest under or pursuant to this Plan; (b) the release or assignment of liens; (c) the transfer of any assets of the Debtors' Estates to the Creditor Trust; or (d) the making or delivery of any deed or other instrument of transfer under, in furtherance of, in connection with or pursuant to this Plan, including any restructuring, disposition, liquidation or dissolution, deeds, bills of sale or assignments executed in connection with any of the foregoing.

ARTICLE VII

DISTRIBUTIONS

7.1 Date of Distributions.

Unless otherwise provided in this Plan, any distributions and deliveries to be made under this Plan shall be made on the Effective Date or as soon as practicable thereafter. In the event that any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act shall be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

7.2 Sources of Cash for Plan Distributions.

Except as otherwise provided herein or in the Confirmation Order, all Cash required for the payments to be made under this Plan shall come from each Debtor's Cash on hand on the Effective Date, and all Cash subsequently received by the Debtors or the Creditor Trust, as applicable.

7.3 Disbursing Agent.

All distributions under the Plan shall be made by the Disbursing Agent. The Disbursing Agent shall not be required to post any bond, surety or other security for the performance of its duties hereunder unless otherwise ordered by the Bankruptcy Court. The Disbursing Agent shall be empowered to (a) effect all actions and execute all agreements, instruments and other documents necessary to perform its duties under the Plan, (b) make all distributions contemplated hereby, (c) employ professionals to represent it with respect to its responsibilities and (d) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

7.4 Record Date for Distributions.

At the close of business on the Distribution Record Date, the transfer ledgers or registers for Claims against and Equity Interests in the Debtors shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. Neither the Debtors nor the Disbursing Agent shall have any obligation to recognize any transfer of any of the foregoing occurring after the Distribution Record Date, and shall be entitled instead to recognize for all purposes hereunder, including to effect distributions hereunder, only those record holders stated on the transfer ledgers or registers maintained by the Debtors as of the close of business on the Distribution Record Date.

7.5 Recipients of Distributions.

All distributions to holders of Allowed Claims and Allowed Equity Interests under the Plan shall be made to the holder of the Claim or Equity Interest as of the Distribution Record Date. Changes as to the holder of a Claim or Equity Interest after the Distribution Record Date shall only be valid and recognized for distribution if notice of such change is filed with the Bankruptcy Court, in accordance with Bankruptcy Rule 3001 (if applicable) and served upon the Debtors and their counsel and, if applicable, the Creditor Trustee.

7.6 Delivery of Distributions; Unclaimed Property.

Subject to Bankruptcy Rule 9010, all distributions under the Plan shall be made at the address of each holder of an Allowed Claim or Allowed Equity Interest as set forth in the books and records of the Debtors, unless the applicable Debtor has been notified in writing of a change of address. If any distribution to the holder of an Allowed Claim or Allowed Equity Interest is returned as undeliverable, no further distributions to such holder shall be made unless and until the Debtors are notified of such holder's then-current address, at which time all missed distributions shall be made to such holder without interest; *provided, however*, that such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of one hundred twenty (120) days after the date of the distribution in question. After such 120th day, and notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary (i) all unclaimed property or interest in property in respect of the distribution in question shall revert to the respective Debtor from which it came if such Debtor is still in existence, otherwise the Creditor Trust, and thereafter be distributed Pro Rata to the holders of that Debtor's Allowed Claims and Allowed Equity Interests in accordance with the terms of this Plan, and (ii) the Claim or Equity Interest of any holder with respect to such unclaimed property or interest in property shall be discharged and forever barred.

If, at the time the Creditor Trust terminates there is unclaimed property remaining in the Creditor Trust, such property shall be donated to the Anthony H.N. Schnellling Endowment Fund maintained by the American Bankruptcy Institute, to assist in the provision of resources for research and education.

7.7 Means of Payment.

All distributions made pursuant to the Plan shall be in Cash.

7.8 *Setoffs and Recoupment.*

The Debtors, or the Creditor Trust, as applicable, may, but shall not be required to, setoff against or recoup from any Claim or Equity Interest any rights to payment that any of the Debtors may have against the holder of such Claim or Equity Interest. Neither the failure of the Debtors nor the Creditor Trust, as applicable, to setoff or recoup, nor the Allowance of any Claim or Equity Interest shall constitute a waiver or release by any of the Debtors or the Creditor Trust of any right to payment, or right of setoff or recoupment.

7.9 *Distributions After Effective Date.*

Distributions made pursuant to this Plan after the Effective Date to holders of Disputed Claims and Disputed Equity Interests that are not Allowed as of the Effective Date, shall be deemed to have been made on the Effective Date. After the initial distribution, the Disbursing Agent shall make additional interim distributions to holders of Allowed Claims and Allowed Equity Interests at such time as the Disbursing Agent may deem appropriate, in accordance with the terms of this Plan.

7.11 *Withholding and Reporting Requirements.*

In connection with this Plan and all instruments issued under this Plan, any party issuing any instrument or making any such distribution under this Plan shall comply with all applicable withholding and reporting requirements imposed by any federal, state or local taxing authority, and all distributions under the Plan shall be subject to any such withholding or reporting requirements. Notwithstanding the above, each holder of an Allowed Claim or Allowed Equity Interest that is entitled to receive a distribution under the Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any applicable tax obligations, including income, withholding and other tax obligations, on account of such distribution. Any party issuing any instrument or making any distribution under this Plan to any holder of any Allowed Claim or Allowed Equity Interest has the right, but not the obligation, to not issue such instrument or make a distribution until such holder has made arrangements satisfactory to such issuing or disbursing party for payment of any such tax obligations.

7.12 *No Postpetition Interest.*

Unless otherwise specifically provided for in this Plan or in the Confirmation Order, or required by applicable bankruptcy law, postpetition interest shall not accrue or be paid on any Claims or Equity Interests, and no holder of a Claim or Equity Interest shall be entitled to interest accruing on or after the Petition Date.

7.13 *Time Bar to Payments.*

Checks issued by the Disbursing Agent under this Plan shall be null and void if not negotiated within one hundred twenty (120) days after the date of issuance. Requests for reissuance of any check shall be made in writing directly to the Disbursing Agent by the person to whom such check was originally issued. Any request for re-issuance of a voided check must be made on or before the end of the 120-day period referenced in this section 7.13. After such 120-

day period, if no request for re-issuance of a voided check was timely made, such amounts shall constitute unclaimed property and be treated in accordance with section 7.6 of this Plan, and all Claims or Equity Interests in respect of such void checks shall be discharged and forever barred.

7.14 *De Minimis Distributions.*

Neither the Debtors nor the Creditor Trustee shall have any obligation to make a distribution that is less than Ten Dollars (\$10) in Cash. If an interim distribution to the holder of an Allowed Claim or Equity interest is less than \$10, such distribution shall be held for future distributions. If the final distribution to any holder of an Allowed Claim or Equity Interest is less than \$10, such amount shall become and constitute unclaimed property and be treated in accordance with section 7.6 of the Plan.

ARTICLE VIII

PROCEDURES FOR RESOLVING AND TREATING DISPUTED CLAIMS

8.1 *Objections to Claims.*

Except insofar as a Claim or Equity Interest is Allowed under the Plan or pursuant to Final Order of the Bankruptcy Court, the Creditor Trustee, the Debtors or any other party in interest with standing, shall be entitled to object to Claims and Equity Interests. Any objections to Claims and Equity Interests shall be served and filed by the Objection Deadline. Any Claim or Equity Interest as to which an objection is timely filed shall be a Disputed Claim or Disputed Equity Interest, respectively.

8.2 *No Distributions Pending Allowance.*

If a timely objection is made with respect to any Claim or Equity Interest, no payment or distribution under the Plan shall be made on account of such Claim or Equity Interest unless and until such Disputed Claim or Disputed Equity Interest becomes Allowed.

8.3 *Distributions After Allowance.*

To the extent that a Disputed Claim or Disputed Equity Interest ultimately becomes an Allowed Claim or Allowed Equity Interest, distributions (if any) shall be made to the holder of such Allowed Claim or Allowed Equity Interest, in accordance with the provisions of the Plan. As soon as reasonably practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim or Disputed Equity Interest becomes a Final Order, the Disbursing Agent shall provide to the holder of such Claim or Equity Interest the distribution (if any) to which such holder is entitled under this Plan as of the Effective Date, without any interest.

8.4 *Disallowance of Late Filed Claims.*

Unless otherwise provided in a Final Order of the Bankruptcy Court, any Claim for which a proof of claim is filed after the applicable Bar Date shall be deemed disallowed. The holder of a Claim that is disallowed pursuant to this section 8.4 shall not receive any distribution

on account of such Claim, and neither the Debtors nor the Distribution Agent shall need to take any affirmative action for such Claim to be deemed disallowed.

ARTICLE IX

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

9.1 *Rejection of Contracts and Leases.*

Except as otherwise provided herein, or in any contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan, as of the Effective Date, each Debtor shall be deemed to have rejected each executory contract and unexpired lease to which it is a party, unless such contract or lease (i) was previously assumed, assumed and assigned or rejected by the Debtors, (ii) previously expired or terminated pursuant to its own terms, (iii) is the subject of a motion to assume, assume and assign, or reject filed by the Debtors on or before the Confirmation Date. The Confirmation Order shall constitute an order of the Bankruptcy Court under sections 365 and 1123(b) of the Bankruptcy Code approving the contract and lease assumptions or rejections described above, as of the Effective Date. The rejections set forth in this section 9.1 shall include rejecting any obligations of the Debtors pursuant to their corporate charters, by-laws, limited liability company agreements, or other organizational documents and agreements to indemnify any officers or directors of the Debtors for any prepetition actions or failures to act.

9.2 *Inclusiveness.*

Unless otherwise specified, each executory contract and unexpired lease shall include any and all modifications, amendments, supplements, restatements or other agreements made directly or indirectly by any agreement, instrument or other document that in any manner affects such executory contract or unexpired lease.

9.3 *Claims Based on Rejection of Executory Contracts or Unexpired Leases.*

All Claims arising out of the rejection of executory contracts and unexpired leases (if any) must be served upon the applicable Debtor and its counsel within thirty (30) days after the earlier of (i) the date of entry of an order of the Bankruptcy Court approving such rejection or (ii) the Effective Date. Any Claims not filed within such time shall be forever barred from assertion against the Debtors, their Estates, their property and the Creditor Trust.

ARTICLE X

CONDITIONS PRECEDENT TO CONFIRMATION AND EFFECTIVENESS OF THE PLAN

10.1 *Conditions to Confirmation of Plan.*

Confirmation of the Plan shall not occur, and the Confirmation Order shall not be entered, until each of the following conditions precedent have been satisfied or waived:

(a) An order, finding that the Disclosure Statement contains adequate information pursuant to section 1125 of the Bankruptcy Code shall have been entered; and

(b) The Confirmation Order shall be in a form and substance reasonably satisfactory to the Debtors, the Committee and the Prepetition Lenders.

10.2 *Conditions to Effective Date of Plan.*

The Effective Date of the Plan shall not occur until each of the following conditions precedent have been satisfied or waived:

(a) The clerk of the Bankruptcy Court shall have entered the Confirmation Order in the Chapter 11 Cases and there shall not be a stay or injunction (or similar prohibition) in effect with respect thereto;

(b) The Debtors shall have received the Prepetition Lenders' Contribution; and

(c) All other actions and all agreements, instruments or other documents necessary to implement the terms and provisions of the Plan shall have been executed and delivered by the parties thereto, and, in each case, all conditions to their effectiveness shall have been satisfied or waived as provided therein.

Within five (5) Business Days of the Effective Date, the Debtors shall file a notice of the occurrence of the Effective Date and serve the same on all creditors and parties in interest.

10.3 *Waiver of Conditions Precedent.*

Any of the foregoing conditions (with the exception of the conditions set forth in sections 10.1(b) and 10.2(a)) may be waived by agreement of the Debtors, the Prepetition Lenders and the Committee without notice to or order of the Bankruptcy Court. The failure to satisfy or waive any condition may be asserted by the Debtors, the Prepetition Lenders and the Committee regardless of the circumstances giving rise to the failure of such condition to be satisfied (including any action or inaction by the Debtors, the Prepetition Lenders and the Committee). The failure of the Debtors, the Prepetition Lenders and the Committee to exercise any of the foregoing rights shall not be deemed a waiver of any other rights and each such right will be deemed an on-going right that may be asserted at any time.

10.4 *Effect of Failure of Conditions.*

If the foregoing conditions have not been satisfied or waived in the manner provided in sections 10.2 and 10.3 hereof, then (i) the Confirmation Order shall be of no further force or effect; (ii) no distributions under the Plan shall be made; (iii) the Debtors and all holders of Claims against and Equity Interests in the Debtors shall be restored to the *status quo ante* as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred; (iv) all of the Debtors' obligations with respect to Claims and Equity Interests shall remain unaffected by the Plan; (v) nothing contained in this Plan shall be deemed to constitute a waiver or release of any Claims by or against the Debtors or any other Person or to prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors; and (vi) this Plan shall be deemed withdrawn. Upon such occurrence, the Debtors shall file a written notification with the Bankruptcy Court and serve it on the parties appearing on the limited service list maintained in the Chapter 11 Cases.

10.5 *Reservation of Rights.*

The Plan shall have no force or effect unless and until the Effective Date occurs. Prior to the Effective Date, none of the filing of the Plan, any statement or provision contained in the Plan, or action taken by the Debtors with respect to the Plan shall be, or shall be deemed to be, an admission or waiver of any rights of any of the Debtors or any other party with respect to any Claims or Equity Interests or any other matter.

ARTICLE XI

EFFECT OF CONSUMMATION

11.1 *Revesting of Assets.*

Upon the Confirmation Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, the Creditor Trust Assets shall vest in the Creditor Trust, free and clear of all Claims, Liens, encumbrances, charges and other interests, except as otherwise provided in this Plan.

11.2 *Exculpation.*

Neither the Exculpated Parties, Wells Fargo Equipment Finance, Inc., nor any of their respective present or former members, managers, officers, directors, employees, equity holders, partners, affiliates, funds, advisors, attorneys or agents, or any of their predecessors, successors or assigns, shall have or incur any liability to any holder of a Claim or an Equity Interest, or any other party-in-interest, or any of their respective agents, employees, equity holders, partners, members, affiliates, funds, advisors, attorneys or agents, or any of their successors or assigns, for any act or omission in connection with, relating to, or arising out of the administration of the Chapter 11 Cases, the negotiation and pursuit of approval of the Disclosure Statement, the preparation of the Plan, the solicitation of acceptances of the Plan, the pursuit of confirmation of the Plan, the funding of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, and shall be deemed to have acted in good faith in

connection therewith and entitled to the protections of section 1125(e) of the Bankruptcy Code. Notwithstanding anything to the contrary contained in this Plan, this section 11.2 shall not exculpate any party from any liability based upon gross negligence or willful misconduct.

11.3 *Releases by the Debtors.*

On the Effective Date, the Debtors shall fully and forever release, acquit, discharge and dismiss any and all claims, obligations, suits, judgments, damages, rights, remedies, causes of action and liabilities of any nature, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, matured or unmatured, contingent or non-contingent, existing or hereafter arising, in law, equity or otherwise, including any claims or causes of action under Chapter 5 of the Bankruptcy Code or other applicable law which they have or may have against any of the Exculpated Parties, Wells Fargo Equipment Finance, Inc., Wells Fargo Securities, LLC, and each of their respective present or former members, managers, officers, directors, employees, partners, principals, predecessors, successors and assigns, affiliates, funds, advisors, attorneys, agents and representatives and their respective property.

Further, on the Effective Date, the Debtors shall be deemed to have released all Estate claims and Causes of Action accruing pursuant to 11 U.S.C. § 547(a) against Non-Insiders.

11.4 *Injunction and Stay.*

(a) Except as otherwise expressly provided in this Plan, all Persons or entities who have held, hold, or may hold Claims against or Equity Interests in any Debtor are permanently enjoined, from and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind on any such Claim or Equity Interest against the Estates, the Creditor Trust or other entity released, discharged or exculpated hereunder, (ii) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order against any Estate or the Creditor Trust with respect to any such Claim or Equity Interest, (iii) creating, perfecting or enforcing any encumbrance of any kind against any Estate, the Creditor Trust, or against the property or interests in property of any Estate or the Creditor Trust, as applicable with respect to any such Claim or Equity Interest, (iv) asserting any right of setoff, subrogation or recoupment of any kind against any obligation due from any Estate or the Creditor Trust, or against the property or interests in property of any Estate or the Creditor Trust with respect to any such Claim or Equity Interest, or (v) pursuing any Claim released under the Plan.

(b) Unless otherwise provided, all injunctions or stays arising under or entered during the Debtors' Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

11.5 *Preservation of Claims.*

Except as otherwise provided herein, as of the Confirmation Date, pursuant to sections 1123(b)(3)(B) of the Bankruptcy Code, any action, cause of action, liability, obligation, right, suit, debt, sum of money, damage, judgment, Claim, and demand whatsoever, whether known or unknown, at law, in equity, or otherwise, including causes of action under Chapter 5 of

the Bankruptcy Code, but not including any causes of action against the Exculpated Parties (collectively, "Causes of Action") owned by or otherwise accruing to the Debtors and their Estates shall constitute assets of, and shall immediately be transferred to and vest in, the Creditor Trust. Thereafter, the Creditor Trustee, as a representative of the Debtors and their respective Estates pursuant to section 1123(b)(3)(B) of the Bankruptcy Code, shall have sole and full authority to commence and prosecute Causes of Action for the benefit of the holders of Allowed General Unsecured Claims.

11.6 *Compromise of Controversies.*

In consideration for the distributions and other benefits provided under the Plan, the provisions of the Plan constitute a good faith compromise and settlement of all Claims and controversies resolved under the Plan, and the entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of such compromise and settlement under Bankruptcy Rule 9019.

11.7 *Guaranty Claims.*

Nothing in the Plan or in the Confirmation Order shall affect existing guarantees or any party's respective rights, claims, defenses or obligations thereunder, with all such rights, claims, defenses and obligations being fully preserved; *provided, however*, that as between the Prepetition Lenders and the Creditor Trust/Creditor Trustee, with respect to (i) the proceeds of sale from the Houston Oaks Property and (ii) the proceeds from the sale of equity in or assets owned by or in TIV Valves SRL or TIV Holdings s.a. that may be recovered from Michael Lockwood under Chapter 5 of the Bankruptcy Code (the "Avoidable Assets"), the Prepetition Lenders agree not to pursue collection on their guaranty against Mr. Lockwood with respect to such Avoidable Assets until such time as the Creditor Trust has commenced an action to recover such Avoidable Assets and a final judgment has been entered in such action.

ARTICLE XII

RETENTION OF JURISDICTION

The Bankruptcy Court shall have exclusive jurisdiction of all matters arising out of, or related to, the Debtors' Chapter 11 Cases and the Plan pursuant to, and for the purposes of, sections 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following purposes:

(a) To hear and determine pending applications for the assumption, assignment or rejection of executory contracts or unexpired leases and the allowance of Claims resulting therefrom;

(b) To determine any and all adversary proceedings, applications, and contested matters in the Chapter 11 Cases and grant or deny any application involving the Debtors that may be pending on the Effective Date or that are retained and preserved by the Debtors herein;

(c) To ensure that distributions to holders of Allowed Claims and Allowed Equity Interests are effected as provided in the Plan;

(d) To hear and determine any timely objections to Administrative Expense Claims or to proofs of Claim and Equity Interests, including any objections to the classification of any Claim or Equity Interest, and to allow or disallow any Disputed Claim or Disputed Equity Interest, in whole or in part;

(e) To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified, or vacated;

(f) To take any action and issue such orders as may be necessary to construe, enforce, implement execute and consummate the Plan or maintain the integrity of the Plan following consummation;

(g) To consider any amendments to or modifications of the Plan, or to cure any defect or omission, or to reconcile any inconsistency in any order of the Bankruptcy Court, including the Confirmation Order;

(h) To hear and determine all requests for payment of Fee Claims;

(i) To hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, the Confirmation Order, the documents that are ancillary to and aid in effectuating the Plan or any agreement, instrument, or other document governing or relating to any of the foregoing;

(j) To hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including the expedited determination of taxes under section 505(b) of the Bankruptcy Code);

(k) To hear any other matter not inconsistent with the Bankruptcy Code;

(l) To hear and determine all disputes involving the existence, scope, and nature of the exculpations and releases granted hereunder;

(m) To issue injunctions and effect any other actions that may be necessary or desirable to restrain interference by any entity with the consummation or implementation of the Plan; and

(n) To enter a final decree(s) closing the Chapter 11 Cases.

ARTICLE XIII

MISCELLANEOUS

13.1 *Payment of Statutory Fees.*

All fees payable under 28 U.S.C. § 1930 shall be paid on the Effective Date and thereafter, as appropriate.

13.2 *Filing of Additional Documents.*

The Debtors may file such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

13.3 *Schedules, Exhibits and Plan Supplement Incorporated.*

All exhibits and schedules to the Plan, and the documents contained in the Plan Supplement, are incorporated into and are a part of the Plan as if fully set forth herein.

13.4 *Amendment or Modification of the Plan.*

Subject to section 1127 of the Bankruptcy Code and, to the extent applicable, sections 1122, 1123, and 1125 of the Bankruptcy Code, alterations, amendments or modifications of the Plan may be proposed in writing by the Debtors at any time prior to or after the Confirmation Date. Holders of Claims and Equity Interests that have accepted the Plan shall be deemed to have accepted the Plan, as altered, amended, or modified; *provided, however*, that any holders of Claims and Equity Interests who were deemed to accept the Plan because such Claims and Equity Interests were unimpaired shall continue to be deemed to accept the Plan only if, after giving effect to such amendment or modification, such Claims and Equity Interests continue to be unimpaired.

13.5 *Inconsistency.*

In the event of any inconsistency among the Plan, the Disclosure Statement, and any exhibit or schedule to the Disclosure Statement, the provisions of the Plan shall govern. In the event of any inconsistency between the Plan and the Confirmation Order, the Confirmation Order shall govern.

13.6 *Exemption from Certain Transfer Taxes.*

Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of notes or equity securities under or in connection with the Plan, the creation of any mortgage, deed of trust or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, including any merger agreements or agreements of consolidation, deeds, bills of sale, or assignments executed in connection with any of the transactions contemplated under the Plan shall not be subject to any stamp, real estate transfer, mortgage recording or other similar tax. All sale transactions consummated by the Debtors and approved by the Bankruptcy Court on and after the Petition Date through and including the Effective Date, including the transfers effectuated under the Plan, the sale by the Debtors of owned property pursuant to section 363(b) of the Bankruptcy Code, and the assumption, assignment, and sale by the Debtors of unexpired leases of non-residential real property pursuant to section 365(a) of the Bankruptcy Code, shall be deemed to have been made under, in furtherance of, or in connection with the Plan, and thus, shall not be subject to any stamp, real estate transfer, mortgage recording, or other similar tax.

13.7 Expedited Tax Determination.

The Debtors, or the Creditor Trust as a successor to the Debtors, by and through the Creditor Trustee, may request an expedited determination of taxes under section 505(b) of the Bankruptcy Code for all returns filed for, or on behalf of, the Debtors for any and all taxable periods ending after the Petition Date through, and including, the Effective Date.

13.8 Binding Effect.

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code and subject to the occurrence of the Effective Date, on and after the Confirmation Date, the provisions of the Plan shall bind any holder of a Claim against, or Equity Interest in, the Debtors and such holder's respective successors and assigns, whether or not the Claim or Equity Interest of such holder is impaired under the Plan and whether or not such holder has accepted the Plan.

13.9 Severability.

If the Bankruptcy Court determines that any provision of this Plan is unenforceable either on its face or as applied to any Claim or Equity Interest, the Debtors may modify this Plan in accordance with section 13.4 hereof so that such provision shall not be applicable to the holder of any Claim or Equity Interest. Any determination of unenforceability shall not (i) limit or affect the enforceability and operative effect of any other provisions of this Plan; or (ii) require the re-solicitation of any acceptance or rejection of this Plan unless otherwise ordered by the Bankruptcy Court.

13.10 No Admissions.

If the Effective Date does not occur, the Plan shall be null and void in all respects, and nothing contained in the Plan shall (a) constitute a waiver or release of any claims by or against, or any interests in, any Debtor, (b) prejudice in any manner the rights of any Debtor or any other party in interest, or (c) constitute an admission of any sort by any Debtor or other party in interest.

13.11 No Payment of Attorneys' Fees.

Except for the fees of Professional Persons and the fees and costs of the Prepetition Lenders and the Postpetition Lenders, no attorneys' fees shall be paid by the Debtors with respect to any Claim or Equity Interest unless otherwise specified in this Plan or a Final Order of the Bankruptcy Court.

13.12 Notices.

All notices, requests, and demands to or upon the Debtors to be effective shall be in writing (including by facsimile transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

GLASSRATNER ADVISORY & CAPITAL GROUP, LLC

Attention: Mark Shapiro
Chief Restructuring Officer for *Lockwood Holdings, Inc., et al.*
3500 Maple Avenue, Suite 350
Dallas, TX 75219
Telephone: (469) 445-1002
Email: mshapiro@glassratner.com

with a copy to:

GRAY REED & MCGRAW LLP

Attention: Jason S. Brookner
1300 Post Oak Blvd., Suite 2000
Houston, Texas 77056
Telephone: (713) 986-7000
Facsimile: (713) 986-7100
Email: jbrookner@grayreed.com

13.13 Governing Law.

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent an exhibit to the Plan provides otherwise (in which case the governing law specified therein shall be applicable to such exhibit), the rights, duties and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Texas, without giving effect to the principles of conflict of laws that would require application of the laws of another jurisdiction.

Dated: December 21, 2018
Houston, Texas

LOCKWOOD HOLDINGS, INC.

By: /s/ Mark Shapiro

Mark Shapiro, Chief Restructuring Officer

LH AVIATION, LLC

By: /s/ Mark Shapiro

Mark Shapiro, Chief Restructuring Officer

PIPING COMPONENTS, INC.

By: /s/ Mark Shapiro

Mark Shapiro, Chief Restructuring Officer

LOCKWOOD INTERNATIONAL, INC.

By: /s/ Mark Shapiro
Mark Shapiro, Chief Restructuring Officer

LMG MANUFACTURING, INC.

By: /s/ Mark Shapiro
Mark Shapiro, Chief Restructuring Officer

LOCKWOOD ENTERPRISES, INC.

By: /s/ Mark Shapiro
Mark Shapiro, Chief Restructuring Officer

7807 EAGLE LANE, LLC

By: /s/ Mark Shapiro
Mark Shapiro, Chief Restructuring Officer

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