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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

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In re	:	Chapter 11
	:	
TECT AEROSPACE GROUP	:	Case No. 21-10670 (KBO)
HOLDINGS, INC., <i>et al.</i> ,	:	
	:	Jointly Administered
Debtors. <sup>1</sup>	:	
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**DISCLOSURE STATEMENT FOR  
JOINT CHAPTER 11 PLAN OF LIQUIDATION FOR  
TECT AEROSPACE GROUP HOLDINGS, INC. AND ITS AFFILIATED DEBTORS**

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Dated: December 21, 2021  
Wilmington, Delaware

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: TECT Aerospace Group Holdings, Inc. (9338); TECT Aerospace Kansas Holdings, LLC (4241); TECT Aerospace Holdings, LLC (9112); TECT Aerospace Wellington Inc. (4768); TECT Aerospace, LLC (8650); TECT Hypervelocity, Inc. (8103); and Sun Country Holdings, LLC (6079). The Debtors' mailing address is TECT Aerospace Group Holdings, Inc., c/o Riveron RTS, LLC, Attn: Shaun Martin, 265 Franklin Street, Suite 1004, Boston, MA 02110.



**DISCLOSURE STATEMENT DATED DECEMBER 21, 2021<sup>2</sup>**

**SOLICITATION OF VOTES WITH RESPECT TO THE JOINT CHAPTER 11 PLAN  
OF LIQUIDATION FOR TECT AEROSPACE GROUP HOLDINGS, INC. AND ITS  
AFFILIATED DEBTORS**

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All creditors are encouraged to read and carefully consider this Disclosure Statement, including the Plan, and the matters described under “Risk Factors” in Section XIII prior to submitting ballots in response to this solicitation. This Disclosure Statement is being delivered to you because you are the holder of, or have otherwise asserted, a Claim or Claims against TECT Aerospace Group Holdings, Inc. or its debtor affiliates (collectively, “TECT” or the “Debtors”).

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The Debtors believe that the Joint Chapter 11 Plan of Liquidation for TECT Aerospace Group Holdings, Inc. and Its Affiliated Debtors (the “Plan”) is in the best interests of creditors and other stakeholders. All claimants entitled to vote thereon are urged to vote in favor of the Plan. A summary of the voting instructions is set forth in Section I.F.2. More detailed instructions are included in the ballots distributed to the creditors entitled to vote on the Plan. To be counted, your ballot must be duly completed, executed and received by the Debtors’ voting agent by [\_\_\_], prevailing Eastern Time, on [\_\_\_], 2021 (the “Voting Deadline”), unless extended.

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The Creditors’ Committee has independently concluded that the Plan is in the best interest of creditors and urges creditors to vote in favor of the Plan, as set forth in the Creditors’ Committee’s letter in support of confirmation of the Plan attached hereto as Exhibit C.

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The Confirmation and the Effective Date of the proposed Plan are subject to material conditions precedent. *See* Section IX.A. There is no assurance that these conditions will be satisfied or waived.

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No person is authorized by any of the Debtors in connection with the Plan or the solicitation of acceptances of the Plan to give any information or to make any representation other than as contained in this Disclosure Statement and the exhibits attached hereto or incorporated by reference or referred to herein. If such information or representation is given or made, it may not be relied upon as having been authorized by any of the Debtors. The Debtors will make available

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<sup>2</sup> Capitalized terms used herein and not otherwise defined have the meanings given to them in the Joint Chapter 11 Plan of Liquidation for TECT Aerospace Group Holdings, Inc. and its Affiliated Debtors, dated December 21, 2021.

to creditors entitled to vote on the Plan such additional information as may be required by applicable law prior to the Voting Deadline.

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The summaries of the Plan and other documents contained in this Disclosure Statement are qualified by reference to the Plan itself, the exhibits thereto and documents described therein. In the event that any inconsistency or conflict exists between this Disclosure Statement and the Plan, the terms of the Plan will control.

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The information contained in this Disclosure Statement, including the information regarding the history, businesses and operations of the Debtors, the historical and projected financial information regarding the Debtors and the liquidation analyses relating to the Debtors, is included for purposes of soliciting acceptances of the Plan, but, as to contested matters and adversary proceedings, is not to be construed as admissions or stipulations, but rather as statements made in settlement negotiations.

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This Disclosure Statement contains forward-looking statements based primarily on the current expectations of the Debtors and projections about future events and financial trends affecting the financial condition of the Debtors. The words “believe,” “may,” “estimate,” “continue,” “anticipate,” “intend,” “expect” and similar expressions identify these forward-looking statements. These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those described below under the caption “Risk Factors” in Section XIII. In light of these risks and uncertainties, the forward-looking events and circumstances discussed in this Disclosure Statement may not occur, and actual results could differ materially from those anticipated in the forward-looking statements. The Debtors do not undertake any obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise.

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**This Disclosure Statement has not been approved or disapproved by the Securities and Exchange Commission (the “SEC”), any state securities commission, any securities exchange or association, nor has the SEC, any state securities commission, any securities exchange or association passed upon the accuracy or adequacy of the statements contained herein.**

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**TABLE OF EXHIBITS**

Exhibit A	Joint Chapter 11 Plan of Liquidation for TECT Aerospace Group Holdings, Inc. and its Affiliated Debtors
Exhibit B	Liquidation Analysis
Exhibit C	Letter from the Creditors' Committee in Support of the Plan
Exhibit D	Plan Settlement Term Sheet



## **I. OVERVIEW OF THE PLAN**

### **RECOMMENDATION BY THE DEBTORS AND THE CREDITORS' COMMITTEE**

It is the Debtors' opinion that confirmation and implementation of the Plan is in the best interests of the Debtors' Estates and creditors. Therefore, the Debtors recommend that all creditors whose votes are being solicited submit a ballot to accept the Plan.

The Creditors' Committee also supports confirmation of the Plan and recommends that all creditors entitled to vote submit a Ballot to accept the Plan.

#### **A. Introduction**

The following is a brief overview of certain material provisions of the Plan. This overview is qualified by reference to the provisions of the Plan, which is attached hereto as Exhibit A, and the exhibits thereto, as amended from time to time. In the event that any inconsistency or conflict exists between this Disclosure Statement and the Plan, the terms of the Plan will control.

The requirements for Confirmation, including the vote of creditors entitled to vote on the Plan and certain of the statutory findings that must be made by the Bankruptcy Court for a plan to be confirmed, are set forth in Section I.F. Confirmation of the Plan and the occurrence of the Effective Date are subject to certain conditions, which are summarized in Section IX.A. There is no assurance that these conditions will be satisfied or waived.

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the applicable requirements of section 1129 of the Bankruptcy Code are met. Among the requirements for confirmation of a chapter 11 plan are that the plan: (i) is accepted by the requisite holders of claims and interests in impaired classes under the plan; (ii) is in the "best interests" of each holder of a claim or interest in each impaired class under the plan; (iii) is feasible; and (iv) complies with the applicable provisions of the Bankruptcy Code. In this instance, only Holders of Claims in Classes 3, 4 and 5 are entitled to vote to accept or reject the Plan. Because Class 7 will receive no distributions under the Plan, that class is deemed to reject the Plan. Because Classes 1 and 2 are unimpaired, they are deemed to vote to accept the Plan. Because Class 6 consists of the plan proponents, those Holders are deemed to accept the Plan. See Section I.F for a discussion of the Bankruptcy Code's requirements for Plan Confirmation.

#### **B. The Plan**

The Debtors filed for chapter 11 bankruptcy protection on April 5, 2021. Through Bankruptcy Court orders approving the Asset Sales, the Debtors sold substantially all of their assets in the Chapter 11 Cases. The final phase of these Chapter 11 Cases is the confirmation and consummation of the Plan, pursuant to which the Debtors will establish two Trusts to distribute the remaining proceeds of the Asset Sales and monetize any remaining Estate assets.

A chapter 11 bankruptcy case permits a debtor to resolve its affairs and distribute the proceeds of its estate pursuant to a confirmed chapter 11 plan. To that end, the Debtors filed the Plan, the terms of which are more fully described herein, contemporaneously with the filing of this

Disclosure Statement. The Plan contemplates a liquidation of the Debtors and their Estates and is therefore referred to as a “plan of liquidation.” The primary objective of the Plan is to maximize the value of recoveries to Holders of Allowed Claims and to distribute all property of the Debtors’ Estates that is or becomes available for distribution in accordance with the Bankruptcy Code and Plan. The Debtors believe that the Plan accomplishes this objective and is in the best interests of their Estates, and therefore seek to confirm the Plan. The Plan classifies Holders of Claims and Interests according to the type and nature of the Holder’s Claim or Interest, as more fully described below.

The Plan designates the Classes of Claims against and Interests in the Debtors and specifies which Classes are (1) Impaired or Unimpaired by the Plan, (2) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code or (3) deemed to accept or reject the Plan. Claims against the Debtors and Interests in the Debtors are classified in seven separate Classes, as described herein.

The Debtors’ Estates will be consolidated for administrative purposes related to the Plan, including for purposes of (1) implementing the Plan, (2) voting, (3) assessing whether the standards for Confirmation have been met and (4) calculating and making Distributions under the Plan.

### **C. The Adequacy of This Disclosure Statement**

Before soliciting acceptances of a proposed chapter 11 plan, section 1125 of the Bankruptcy Code requires a plan proponent to prepare a written disclosure statement containing information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding acceptance of the plan. The Debtors submit this Disclosure Statement in accordance with those requirements. This Disclosure Statement includes, without limitation, information about:

- the Plan, including a summary, the procedures for voting on the Plan and projected recoveries thereunder (Section I hereof);
- the statutory requirements for confirming the Plan (Section I.F hereof);
- the Debtors’ organizational structure, business operations and financial obligations (Section II hereof);
- the events leading to the filing of the Debtors’ Chapter 11 Cases (Section II.D hereof);
- the major events during these Chapter 11 Cases, including significant pleadings filed in the Debtors’ Chapter 11 Cases and certain relief granted by the Bankruptcy Court (Section III hereof);
- certain risk factors that Holders of Claims should consider before voting to accept or reject the Plan (Section XIII hereof);

- the classification and treatment of Claims and Interests under the Plan, including identification of the Holders of Claims entitled to vote on the Plan (Section IV hereof);
- the means for implementation of the Plan, the provisions governing distributions to certain Holders of Claims pursuant to the Plan, the procedures for resolving Disputed Claims and other significant aspects of the Plan (Section V hereof);
- the releases contemplated by the Plan that are integral to the overall settlement of Claims pursuant to the Plan (Section X hereof); and
- certain United States federal income tax consequences of the Plan (Section XIV hereof).

#### **D. Summary of Classes and Treatment of Claims and Interests**

The classification of Claims and Interests, the estimated aggregate amount of Claims in each Class and the amount and nature of distributions to holders of Claims or Interests in each Class are summarized in the table below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims have not been classified. For a discussion of certain additional matters related to Administrative Claims and Priority Tax Claims, see Section III.A of the Plan.

Each amount designated in the table below as “Estimated Percentage Recovery” for each Class is the quotient of the estimated Cash or other assets of the Trusts to be distributed to holders of Allowed Claims in that Class, divided by the estimated aggregate amount of Allowed Claims in that Class. Each of the estimated Cash or other Trust Assets and the estimated aggregate amount of Allowed Claims has been made in ranges with both low and high estimates. In determining those amounts, the Debtors have assumed that the Plan is consummated as described herein.

These calculations do not include any value attributed to recoveries by the Liquidation Trust on the Retained Causes of Action. The Debtors have not commenced a review of potential Retained Causes of Action and, therefore, they are not in a position to provide an estimated value for recoveries thereon. The value of the Retained Causes of Action, however, could be material.

For a discussion of various factors that could materially affect the amount of the Trusts’ assets to be distributed pursuant to the Plan, see Section XIII.

CLASS	TREATMENT	STATUS/ ENTITLED TO VOTE?	ESTIMATED ALLOWED CLAIMS	ESTIMATED RECOVERY (%)
Class 1 Priority Claims	On the later of the Effective Date and the date on which the Priority Claim is Allowed, unless otherwise agreed by the Holder of an Allowed Class 1 Claim and the Liquidation Trustee, each Holder of an Allowed Class 1 Claim will receive Cash in an amount equal to such Allowed Priority Claim from the Liquidation Trust.	<b>Unimpaired</b>  Deemed to Accept the Plan  Not Entitled to Vote	\$[●]	100%
Class 2 Other Secured Claims	In full satisfaction of an Allowed Other Secured Claim, on the later of the Effective Date and the date on which the Other Secured Claim is Allowed, each Holder of an Allowed Other Secured Claim will receive, from the Liquidation Trust and at the sole and exclusive option of the Liquidation Trustee, (a) Cash equal to the amount of such Claim; (b) the collateral securing such Claim; (c) to the extent applicable, the same treatment as Priority Tax Claims receive under Article III.A.2 of the Plan, as permitted under section 1129(a)(9)(D) of the Bankruptcy Code; or (d) other satisfaction of the Allowed Other Secured Claim as may be agreed on by the Liquidation Trustee and the applicable Holder.	<b>Unimpaired</b>  Deemed to Accept the Plan  Not Entitled to Vote	\$[●]	100%

CLASS	TREATMENT	STATUS/ ENTITLED TO VOTE?	ESTIMATED ALLOWED CLAIMS	ESTIMATED RECOVERY (%)
Class 3 Prepetition Credit Agreement Claims and DIP Claims	Pursuant to the Plan and the DIP Order, Boeing will have Allowed Class 3 Claims in the aggregate amount of \$[●] as of the date of the Plan. <sup>3</sup> Boeing will receive, on account of its Class 3 Claims, its Pro Rata share of the LT Distributable Assets. For the avoidance of doubt, (i) pursuant to the Plan and the DIP Order Boeing's Class 3 Claims will not be subject to, among other things, challenge, objection, recharacterization, or subordination, and (ii) any Class 4 Claims held by Boeing will be entitled to the treatment provided to Allowed Class 4 Claims.	<b>Impaired</b>  Entitled to Vote	\$[●]	[●]%

<sup>3</sup> Pursuant to the DIP Order, Boeing's Class 3 Claims are reduced from time to time by payments from the Debtors and increased from time to time by additional advances. The Plan Supplement will disclose the updated Allowed amount of Boeing's Class 3 Claims as of the date of the Plan Supplement.

CLASS	TREATMENT	STATUS/ ENTITLED TO VOTE?	ESTIMATED ALLOWED CLAIMS	ESTIMATED RECOVERY (%)
Class 4 General Unsecured Claims	Each Holder of an Allowed Class 4 General Unsecured Claim will receive its Pro Rata share of the GUC Distributable Assets; <i>provided</i> that, pursuant to the Plan Settlement, any Class 4 Claims held by Boeing will not share in any Distributions in respect of the Initial GUC Cash Distribution. Solely in the event that there are sufficient GUC Distributable Assets to pay the full amount of all Allowed Class 4 and Class 5 Claims as of the Petition Date, the Holders of such Allowed Claims shall also be paid their Pro Rata share of the remaining GUC Distributable Assets in respect of interest accruing at the Federal Judgment Rate from the Petition Date to the date payment is made.	<b>Impaired</b> Entitled to Vote	\$[●]	[●]%
Class 5 Non-Released Party General Unsecured Claims	Each Holder of an Allowed Class 5 Claim will receive its Pro Rata share of the GUC Distributable Assets. Solely in the event that there are sufficient GUC Distributable Assets to pay the full amount of all Allowed Class 4 and Class 5 Claims as of the Petition Date, the Holders of such Allowed Claims shall also be paid their Pro Rata share of the remaining GUC Distributable Assets in respect of interest accruing at the Federal Judgment Rate from the Petition Date to the date payment is made.	<b>Impaired</b> Entitled to Vote	\$[●]	[●]%

CLASS	TREATMENT	STATUS/ ENTITLED TO VOTE?	ESTIMATED ALLOWED CLAIMS	ESTIMATED RECOVERY (%)
Class 6 Intercompany Claims	On the Effective Date, each Intercompany Claim will be eliminated and extinguished. Holders of Class 6 Claims will receive no distribution on account of those Claims.	<b>Impaired</b>  Deemed to accept the Plan  Not entitled to Vote	N/A	0%
Class 7 Debtor Interests	On the Effective Date, all (i) Interests in TECT Parent will be cancelled, and one equity interest in TECT Parent will be issued to the Liquidation Trust, and (ii) Interests held by a Debtor in a Subsidiary Debtor will be, at the option of the Debtors, reinstated or assigned to the Liquidation Trust.	<b>Impaired</b>  Deemed to reject the Plan  Not entitled to Vote	N/A	0%

The estimated aggregate amounts of Allowed Claims shown in the table above are based on the Debtors' review of their books and records and may be revised following the Debtors' analysis of the Claims Filed. Further, the amount of any Disputed Claim that ultimately is allowed by the Bankruptcy Court may be significantly more or less than the estimated Allowed amount of the Disputed Claim.

#### **E. Solicitation Package**

The package of materials (the "**Solicitation Package**") to be sent to Holders of Claims entitled to vote on the Plan will contain:

- a cover letter describing (1) the contents of the Solicitation Package; (2) information about how to obtain access, free of charge, to the Plan, this Disclosure Statement and the Disclosure Statement Order, together with the exhibits thereto, on the case administration website; and (3) information about how to obtain, free of charge, paper copies of any of the documents included in the Solicitation Package;
- a notice of the Confirmation Hearing;
- copies of the Plan and Disclosure Statement;
- a copy of the Bankruptcy Court's order approving this Disclosure Statement [D.I. [●]] (the "**Disclosure Statement Order**") (excluding the exhibits thereto);
- for Holders of Claims in the Voting Classes (*i.e.*, Holders of Claims in Classes 3, 4 and 5), an appropriate form of Ballot, instructions on how to complete the Ballot

and a pre-paid, preaddressed Ballot return envelope and such other materials as the Bankruptcy Court may direct;

- a letter from the Creditors' Committee in support of confirmation of the Plan; and
- any supplemental documents filed with the Bankruptcy Court and any documents that the Bankruptcy Court orders to be included in the Solicitation Package.

The Debtors will cause the Claims and Noticing Agent to complete the distribution of the Solicitation Packages to Holders of Claims in the Voting Classes within three Business Days after entry of the Disclosure Statement Order.

The Solicitation Package may also be obtained free of charge from Kurtzman Carson Consultants LLC, the Debtors' Bankruptcy Court-appointed claims and noticing agent (the "**Claims and Noticing Agent**") by: (1) visiting <http://www.kccllc.net/tectaerospace>; (2) emailing the Claims and Noticing Agent at [TECTAerospaceInfo@kccllc.com](mailto:TECTAerospaceInfo@kccllc.com); or (3) calling (877) 725-7523.

The Debtors will file the Plan Supplement with the Bankruptcy Court and make the applicable documents available for review on <http://www.kccllc.net/tectaerospace> no later than seven days before the Objection Deadline.

#### **F. Voting on and Confirmation of the Plan**

The Disclosure Statement Order, among other things, (1) approved this Disclosure Statement pursuant to section 1125 of the Bankruptcy Code and (2) established Plan voting tabulation procedures, which include certain vote tabulation rules that temporarily allow or disallow Claims for voting purposes (the "**Tabulation Rules**") pursuant to section 502 of the Bankruptcy Code and Bankruptcy Rule 3018.

##### **1. Certain Factors to be Considered Prior to Voting**

There are a variety of factors that all Holders of Claims entitled to vote on the Plan should consider prior to voting to accept or reject the Plan. These factors may impact recoveries under the Plan, including:

- the financial information contained in this Disclosure Statement has not been audited and is based on an analysis of data available at the time of the preparation of the Plan and this Disclosure Statement;
- although the Debtors believe that the Plan complies with all applicable provisions of the Bankruptcy Code, the Debtors can neither assure such compliance nor that the Bankruptcy Court will confirm the Plan; and
- any delays of either Confirmation or consummation could result in, among other things, increased Administrative Expense Claims or Professional Fee Claims.



## **2. Voting Procedures and Requirements**

Pursuant to the Bankruptcy Code, only classes of claims against or equity interests in a debtor that are “impaired” under the terms of a plan of liquidation or reorganization are entitled to vote to accept or reject a plan. A class is “impaired” if the legal, equitable or contractual rights attaching to the claims or interests of that class are modified, other than by curing defaults and reinstating maturity. Classes of Claims and Interests that are not impaired are not entitled to vote on the Plan and are conclusively presumed to have accepted the Plan. In addition, Classes of Claims and Interests that do not receive Distributions under the Plan are not entitled to vote on the Plan and are deemed to have rejected the Plan. The classification of Claims and Interests is summarized, together with an indication of whether each Class of Claims or Interests is impaired or unimpaired, in Section I.D.

**Voting on the Plan by each Holder of a Claim in Classes 3, 4 and 5 is important. Please carefully follow all of the instructions contained on the Ballot(s) provided to you. All Ballots must be completed and returned in accordance with the instructions provided.**

**To be counted, your ballot or ballots must be received by [ ]:00 p.m., prevailing Eastern time, on [ ], 2021 (the “Voting Deadline”) at the address set forth on the preaddressed envelope provided to you.**

**If you are entitled to vote and you did not receive a Ballot, received a damaged Ballot or lost your Ballot, please call or email the Debtors’ voting agent, Kurtzman Carson Consultants LLC (the “Voting Agent”), at (877) 725-7523 or [TECTAerospaceInfo@kccllc.com](mailto:TECTAerospaceInfo@kccllc.com). Also, this Disclosure Statement, the Plan and all of the related exhibits and schedules are available, without charge, to any party in interest at <http://www.kccllc.net/tectaerospace>.**

**Ballots cannot be transmitted orally, by email or by facsimile. Accordingly, you are urged to return your signed and completed Ballot, by hand delivery, overnight service, regular U.S. mail, or electronically via the Voting Agent’s e-Ballot portal (<http://www.kccllc.net/tectaerospace>) promptly, so that it is received by the Voting Agent before the Voting Deadline.**

## **3. Plan Objection Deadline**

The Objection Deadline is [ ], 2021, at [ ]:00 p.m. (prevailing Eastern Time). All objections to Confirmation of the Plan (the “**Confirmation Objections**”) must be in writing and must specify in detail the name and address of the objector, all grounds for the objection and the amount of the Claim or Interest held by the objector. Any Confirmation Objection must be filed with the Bankruptcy Court and served on the Debtors, the Creditors’ Committee, and certain other parties in interest in accordance with the Disclosure Statement Order on or before the Objection Deadline.

## **4. Confirmation Hearing**

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on Confirmation of the Plan. Section 1128(b) of the Bankruptcy Code provides

that any party in interest may object to Confirmation of the Plan. The Bankruptcy Court entered the Disclosure Statement Order which, among other things, scheduled a Confirmation Hearing.

The Confirmation Hearing will commence on [●], 2022, at [●] [a/p].m. (prevailing Eastern Time), before the Honorable Karen B. Owens, United States Bankruptcy Judge, at the United States Bankruptcy Court for the District of Delaware, 824 N Market St, Sixth Floor, Courtroom 3, Wilmington, Delaware 19801. The Confirmation Hearing may be conducted virtually, with access instructions filed on the Bankruptcy Court's docket in the Chapter 11 Cases. The Confirmation Hearing may be continued from time to time without further notice other than an adjournment announced in open court or a notice of adjournment filed with the Bankruptcy Court and served on the Entities who have filed Confirmation Objections, without further notice to other parties in interest. The Bankruptcy Court, in its discretion and before the Confirmation Hearing, may put in place additional procedures governing the Confirmation Hearing. The Plan may be modified in accordance with its terms, if necessary, before, during or as a result of the Confirmation Hearing, without further notice to parties in interest.

## **5. Confirmation**

To confirm the Plan, the Bankruptcy Code requires that the Bankruptcy Court make a series of findings concerning the Plan and the Debtors, including that:<sup>4</sup>

- the Plan has classified Claims and Interests in a permissible manner
- the Plan complies with the applicable provisions of the Bankruptcy Code
- the Debtors have complied with the applicable provisions of the Bankruptcy Code
- the Debtors, as proponents of the Plan, have proposed the Plan in good faith and not by any means forbidden by law
- the disclosure required by section 1125 of the Bankruptcy Code has been made
- the Plan has been accepted by the requisite votes, except to the extent that cramdown is available under section 1129(b) of the Bankruptcy Code, of creditors and equity interest holders
- the Plan is feasible
- all U.S.T. Fees due and owing have been paid or the Plan provides for the payment thereof on the Effective Date
- the Plan is in the "best interests" of all Holders of Claims or Interests in an impaired Class by providing to those Holders on account of their Claims or

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<sup>4</sup> The descriptions contained herein are only a summary of certain confirmation requirements; they are not exhaustive of all confirmation requirements and should not be construed as such.

Interests property of a value, as of the Effective Date, that is not less than the amount that each Holder would receive or retain in a chapter 7 liquidation, unless each Holder of a Claim or Interest in that Class has accepted the Plan

## **6. Acceptance**

A plan is accepted by an impaired class of claims if holders of at least two-thirds in dollar amount and a majority in number of claims of that class vote to accept the plan. Only those holders of claims who actually vote (and are entitled to vote) to accept or to reject a plan count in this tabulation.

## **7. Feasibility**

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of a plan not be likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor (unless liquidation or reorganization is proposed in the Plan). Because the Plan proposes a liquidation of all of the Debtors' assets, for purposes of this test the Debtors have analyzed the ability of the Trusts to meet their obligations under the Plan. Based on the Debtors' analysis, including the information contained in Exhibit B regarding recoveries available to Holders of Allowed Claims under the Plan, the Trusts will have sufficient assets to accomplish their tasks under the Plan. Therefore, the Debtors believe that their liquidation pursuant to the Plan will meet the feasibility requirements of the Bankruptcy Code.

## **8. Best Interests Test; Liquidation Analysis**

Notwithstanding acceptance of the Plan by each impaired Class, to confirm the Plan, the Bankruptcy Court must determine that the Plan is in the best interests of each Holder of a Claim or Interest in any impaired Class who has not voted to accept the Plan. Accordingly, if an impaired Class does not unanimously accept the Plan, the "best interests" test requires that the Bankruptcy Court find that the Plan provides to each member of that impaired Class a recovery on account of the Holder's Claim or Interest that has a value, as of the Effective Date, at least equal to the value of the distribution that the Holder would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code on the Effective Date.

Because the Plan proposes a liquidation of all the Debtors' assets, the Debtors have analyzed factors that will impact recoveries (the "**Recoveries**") available to creditors in each scenario. These factors include professionals fees and expenses, asset disposition expenses, applicable taxes, potential Claims arising during the pendency of the Plan or chapter 7 case and trustee fees and expenses.

The information contained in Exhibit B hereto provides a summary of the Recoveries under the Plan and in a chapter 7 liquidation.

In summary, the Debtors believe that a chapter 7 liquidation would result in diminution in the Recoveries to be realized by Holders of Allowed Claims, as compared to the proposed Distributions under the Plan. Consequently, the Debtors believe that the Plan will provide a greater ultimate return to Holders of Allowed Claims than would a chapter 7 liquidation of the Debtors.

## **9. Compliance with Applicable Provisions of the Bankruptcy Code**

Section 1129(a)(1) of the Bankruptcy Code requires that the Plan comply with the applicable provisions of the Bankruptcy Code. The Debtors have considered each of these issues in the development of the Plan and believe that the Plan complies with all provisions of the Bankruptcy Code.

## **10. Alternatives to Confirmation and Consummation of the Plan**

The Debtors have evaluated alternatives to the Plan, including alternative structures and terms of the Plan. While the Debtors have concluded that the Plan is the best alternative and will maximize recoveries by Holders of Allowed Claims, if the Plan is not confirmed, the Debtors, individually or collectively, or (subject to the Debtors' exclusive periods under the Bankruptcy Code to File and solicit acceptances of a plan or plans) any other party in interest in the Chapter 11 Cases could attempt to formulate and propose a different plan. Further, if no plan under chapter 11 of the Bankruptcy Code can be confirmed, the Chapter 11 Cases may be converted to chapter 7 cases. In a liquidation case under chapter 7 of the Bankruptcy Code, a trustee would be appointed to liquidate the remaining assets of each Debtor and distribute proceeds to creditors. The proceeds of the liquidation would be distributed to the respective creditors of the Debtors in accordance with the priorities established by the Bankruptcy Code. For further discussion of the potential impact on the Debtors of the conversion of the Chapter 11 Cases to chapter 7 liquidations, see Section I.F.8 of this Disclosure Statement. The Debtors believe that Confirmation and consummation of the Plan is preferable to the available alternatives.

## **G. Releases by the Debtors Set Forth in the Plan**

Section IX.B.1 of the Plan provides that each Released Party is deemed released by the Debtors and their Estates from any and all claims and Causes of Action. The Debtors believe that applicable law and the facts support those releases and that the Bankruptcy Court can and should approve them. However, approval or denial of the releases will not affect confirmation of the Plan to the extent that the Plan is otherwise confirmable by the Bankruptcy Court.

## **II. HISTORY OF THE DEBTORS**

### **A. The Debtors' Equity Ownership**

The Debtors are privately held companies owned by Glass Holdings, LLC ("Glass") and related Glass owned or Glass controlled entities. TECT Aerospace Group Holdings, Inc. is the sole member of TECT Aerospace Kansas Holdings, LLC and TECT Aerospace Holdings, LLC. TECT Aerospace Kansas Holdings, LLC is the 100% equity owner of TECT Aerospace Wellington Inc. and TECT Hypervelocity, Inc. TECT Aerospace Holdings, LLC is the sole member of TECT Aerospace, LLC and Sun Country Holdings, LLC. With the exception of TECT Aerospace Wellington Inc., a Kansas corporation, all of the Debtors are Delaware corporations or limited liability companies, as applicable.

## **B. Debtors' Prepetition Business Operations**

The Debtors manufactured high precision components and assemblies for the aerospace industry, specializing in complex structural and mechanical assemblies, and machined components for a variety of aerospace applications. The Debtors produced assemblies and parts used in flight controls, fuselage/interior structures, doors, wings, landing gear, and cockpits. As is commonplace throughout the aerospace industry, the Debtors' business functioned under a tiered supply chain structure whereby the Debtors manufactured and serviced specialized aerospace components that were in turn utilized and incorporated by customers into their platforms and planes. Established in 2004, the Debtors supplied many of the largest aerospace manufacturers in the world, including Boeing and numerous others, and their products were used by customers in the commercial, business, military, and general aviation markets.

As of the Petition Date, the Debtors operated manufacturing facilities in Everett, Washington, and Park City and Wellington, Kansas and their corporate headquarters was located in Wichita, Kansas. As of the Petition Date, the Debtors employed approximately 400 individuals between their various facilities.

The Debtors leased all of their real property and much of their manufacturing equipment from certain non-Debtor related entities pursuant to certain pre-petition agreements. Those related entities are privately owned by Glass or other affiliated companies under common control with the controlling member of Glass. Additionally, Stony Point Group Inc. ("**Stony Point**") and Office Support Services, LLC ("**OSS**"), provided support services to the Debtors. Specifically, Stony Point provided the Debtors with certain management services and OSS provided the Debtors essential back office services, including enterprise-level information technology, employee benefits management and other human resources functions, and traditional treasury and risk management.

## **C. The Debtors' Capital Structure**

As of the Petition Date, the Debtors had approximately (i) \$41.9 million of outstanding secured obligations under the Prepetition Credit Agreement, (ii) approximately \$1.25 million of obligations owing under loans related to certain of the Debtors' owned equipment, (iii) approximately \$19.7 million of outstanding unsecured amounts owing to Stony Point, OSS, and other non-Debtor affiliates for amounts related to rent, equipment lease payments, and support services, and (iv) approximately \$35 million of outstanding unsecured obligations to ordinary course trade creditors. For the avoidance of doubt, some of these Claims are or may be Disputed Claims, including their amount, nature, and/or validity. Accordingly, any references to amounts "owed" or "obligations" is entirely subject to the Debtors', Liquidation Trust's, and/or GUC Distribution Trust's rights to review and object to any Claims, either prior to or after the Effective Date in accordance with the Plan.

### **1. Prepetition Credit Agreement**

In 2017, TECT entered into that certain *Revolving Credit, Term Loan and Security Agreement*, dated as of June 27, 2017 (*i.e.*, the Prepetition Credit Agreement), by and among the Debtors (other than TECT Aerospace Group Holdings, Inc.) as borrowers and guarantors and PNC

Bank, National Association (“PNC”), as then-agent for the lenders party thereto (collectively, with the agent, the “**Lender Parties**”). Pursuant to the Prepetition Credit Agreement, the Debtors granted a security interest in and lien on substantially all assets of the Debtors, including receivables, inventory and certain equipment and fixtures, for the benefit of the Lender Parties. As of the Petition Date, the outstanding amount owed under the Prepetition Credit Agreement was approximately \$41.9 million.

In February 2021, PNC transferred the loans under the Prepetition Credit Agreement to Boeing and, by letter dated February 26, 2021, Boeing notified the Debtors that Boeing was the sole lender under the Prepetition Credit Agreement.

## 2. Equipment Loan Agreements with Chisholm

In July 2019, Debtor TECT Hypervelocity, Inc. (“**TECT Hypervelocity**”) entered into that certain *Commercial Loan and Security Agreement*, dated July 1, 2019 with Chisholm Trail State Bank (“**Chisholm**”), regarding certain owned manufacturing equipment. In September 2019, Debtor TECT Aerospace Wellington Inc. (“**TECT Wellington**”) entered into that certain *Commercial Loan and Security Agreement*, dated September 27, 2019, with Chisholm regarding certain other owned manufactured equipment. Debtor TECT Aerospace Kansas Holdings, LLC guaranteed TECT Wellington’s obligations under that loan agreement. As of the Petition Date, the outstanding amount owed under both of the loan agreements with Chisholm was approximately \$1.25 million in the aggregate.

## D. Events Leading to the Chapter 11 Cases

In addition to the allegations summarized in Section V.F.7, *infra*, two significant events over the past two years had dramatic effects on TECT’s business. First, in March 2019, the 737 MAX airplane was grounded by the FAA. In 2019, 35% of TECT’s total revenue was related to the production and sale of parts for the 737 MAX to both Boeing and Spirit AeroSystems (“**Spirit**”), a supplier to Boeing under the 737 MAX program. Boeing announced in April 2019 that it would be reducing production of the 737 MAX and, in December 2019, Boeing announced that it was suspending production entirely beginning in January 2020. Following this announcement, the Debtors negotiated with Boeing to continue to supply certain assemblies for the 737 MAX but at a significantly lower volume. Further, in December 2019, Spirit announced that it would also suspend its production of assemblies used in the production of the 737 MAX. While production of the 737 MAX resumed with respect to Spirit in May 2020, it was at a much lower volume. As a result, aerospace suppliers, such as TECT, were drastically affected by the production halt of the 737 MAX. Specifically, in 2020, TECT’s revenue related to the 737 MAX dropped approximately 83% compared to 2019 revenue.

Second, the unprecedented economic impact of COVID-19 on the aviation industry severely impaired the Debtors’ business operations. Travel restrictions had been put in place all across the world, causing a rapid decline in bookings and an increase in cancellations. As a result, many aircraft manufacturers significantly reduced production rates in the face of slowing demand. TECT, already distressed by the halt in 737 MAX production, was now confronted with reduced demand for its parts from its remaining customers.

These events were sudden and unanticipated by the aerospace industry. Prior to this, demand for new aircraft was growing, and the major commercial aircraft manufacturers, Boeing and Airbus, each had backlogs of orders covering many years of production. Manufacturers were forecasting increased rates of production, and suppliers such as TECT were making sizable capital investments in order to meet these increased production rates. Without warning and in only a few weeks, the outlook changed completely.

Beginning in March 2020, TECT, Boeing, the Debtors' non-Debtor affiliates, PNC and other important customers commenced discussions regarding strategic alternatives for addressing TECT's financial distress. The discussions continued through the fall and into December of 2020. In early December 2020, the Debtors' non-Debtor affiliates notified TECT of certain alleged defaults under their various agreements.

TECT continued to explore out of court restructuring options, including potential out-of-court sales. However, in late December 2020, Spirit notified TECT that it was terminating its supply agreement with TECT. As a result, those out-of-court restructuring options failed. On December 28, 2020, the Debtors' non-Debtor affiliate counterparties issued a second notice of default and indicated their intent to exercise their remedies under the applicable agreements.

After initial negotiations between the parties failed, TECT continued evaluating a number of alternative paths forward. On February 1, 2021, TECT entered into a forbearance agreement (the "**Forbearance Agreement**") with its non-Debtor affiliates pursuant to which the related parties agreed to forbear from discontinuing services provided under the agreements through February and agreed to forgo current payment for certain amounts owed under the agreements for the month of February. By agreement dated February 22, 2021, the parties agreed to extend the Forbearance Agreement through March 29, 2021 and agreed to forgo current payment for certain amounts owed for the month of March. On March 24, 2021, the parties agreed to further extend the Forbearance Agreement, without payment, through April 11, 2021.

As set forth above, Boeing acquired the PNC loan in February 2021. Although it appeared that an out-of-court restructuring was no longer an option, Boeing, recognizing its need to continue to receive parts for its airplanes and TECT's need for additional funding, continued to support the TECT business by providing funding under the Prepetition Credit Agreement. From the time it acquired the loan under the Prepetition Credit Agreement from PNC through the Petition Date, Boeing provided TECT with over \$13.2 million in net new funding.

## **E. The Prepetition Sale Process**

Prior to the Petition Date, TECT evaluated restructuring alternatives and continued its discussions with Boeing and other parties to explore such alternatives, including potential out of court options. TECT, having considered the alternatives, determined that a sale would maximize the value of TECT's assets.

Further, TECT, understanding Boeing's critical role as the most significant customer of TECT's Everett, Washington facility, agreed in late 2020 to allow Boeing to begin exploring discussions with potential purchasers for the Everett operations. TECT believed that any potential purchaser would only be interested in considering a transaction for the Everett assets if it was

confident that Boeing would continue to support the Everett operations as a customer. Boeing, the world's largest aerospace company, had the knowledge and experience with respect to other similarly suited aerospace part manufacturers and, as a result, Boeing began contacting potential third party acquirers to determine their interest in a sale of TECT's Everett business.

The Debtors also initiated their own sale process to find a potential buyer or buyers of their assets. In March 2021, the Debtors retained Imperial Capital, LLC ("**Imperial**") to provide investment banking services in connection with a potential sale. Imperial contacted over 75 potentially interested parties regarding a transaction for some or all of the Debtors' assets. Imperial also set up a confidential data room for diligence and loaded it with relevant information on the Debtors' assets, among other things.

As part of the ongoing sale process, a potential bidder for certain of TECT's Kansas assets included certain non-Debtor affiliates. Consequently, the boards of directors (collectively, the "**Board**") of TECT Aerospace Kansas Holdings, LLC and TECT Aerospace Holdings, LLC determined the need for independence in connection with that process. In January 2021, Shaun Martin of Winter Harbor, LLC ("**Winter Harbor**")<sup>5</sup> was appointed by the Board as the Chief Restructuring Officer. In addition, in March 2021, the Board (i) appointed an independent director to the Board and (ii) established a special independent committee of each Board comprised solely of the independent director (the "**Special Committee**") to review, evaluate, negotiate, approve and execute any transaction involving the Debtors, on the one hand, and one or more affiliates of the Debtors and any other related party, on the other hand. Jean King is the independent director and sole member of the Special Committee. On June 25, 2021, Jean King was added as an independent director to the boards of the other Debtor entities.

### III. EVENTS DURING CHAPTER 11 CASES

#### A. Commencement of the Chapter 11 Cases and the Debtors' Professionals

On April 5, 2021 (the "**Petition Date**"), each of the Debtors filed a petition for relief under chapter 11 of the Bankruptcy Code. The Chapter 11 Cases were assigned to the Honorable Karen B. Owens.

The Debtors retained, *nunc pro tunc* to the Petition Date, Richards, Layton & Finger, P.A. as their bankruptcy counsel [D.I. 143], Imperial as their investment banker [D.I. 142], Kurtzman Carson Consultants LLC ("**KCC**") as their claims and noticing agent and administrative advisor [D.I. 29, 132], and Winter Harbor to provide the Debtors with a chief restructuring officer, Shaun Martin [D.I. 141].

The Debtors have retained several ordinary course professionals ("**Ordinary Course Professionals**") pursuant to the procedures set forth in the *Order Authorizing Employment and Payment of Professionals Utilized in Ordinary Course of Business* [D.I. 133].

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<sup>5</sup> Winter Harbor subsequently merged into and became Conway MacKenzie, LLC, which then changed its name to Riveron RTS, LLC.



## **B. Appointment of the Creditors' Committee and its Professionals**

On April 20, 2021, the U.S. Trustee, pursuant to Section 1102 of the Bankruptcy Code, appointed an official committee of unsecured creditors (the “**Creditors' Committee**”) to represent the interests of general unsecured creditors in the Chapter 11 Cases. The Creditors' Committee is currently comprised of Niigata Machine Techno USA, Inc., All Metal Services Limited, WM F Hurst Co., LLC, and Mecadaq Tarnos.

On May 20, 2021, the Bankruptcy Court authorized the employment and retention of Kilpatrick Townsend & Stockton LLP [D.I. 184], Womble Bond Dickinson (US) LLP [D.I. 186], and Province, LLC [D.I. 185] to serve as Professionals to the Creditors' Committee.

## **C. Payment of Professionals**

The Professionals (other than Winter Harbor which is paid pursuant to the terms of Winter Harbor's retention order) have been paid interim amounts on account of services rendered and expenses incurred pursuant to the terms of the *Order (I) Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals and (II) Granting Related Relief* [D.I. 135]. On October 27, 2021, the Bankruptcy Court entered an order awarding Imperial final allowance of its compensation and reimbursement of expenses. *See* D.I. 592.

## **D. First Day Motions**

On the Petition Date, the Debtors filed a number of motions and other pleadings (the “**First Day Motions**”) to ensure an orderly transition into chapter 11, including the following:

- A motion for the joint administration of the Debtors' chapter 11 cases for procedural purposes [D.I. 2]
- A motion relating to the continued use of the Debtors' existing cash management system [D.I. 3]
- A motion to establish procedures for determining adequate assurance for the provision of utility services and to prohibit utility service providers from altering, refusing, or discontinuing service [D.I. 4]
- A motion for authority to pay certain prepetition employee-related obligations and certain related relief [D.I. 5]
- An application to retain KCC as the Debtors' claims and noticing agent [D.I. 6]
- A motion for authority to pay certain prepetition claims of critical vendors, foreign vendors and 503(b)(9) claimants and certain related relief [D.I. 7]
- A motion for authority to pay certain prepetition claims of shippers and other lien claimants and certain related relief [D.I. 8]

- A motion for authority to pay certain prepetition taxes and fees and certain related relief [D.I. 9]
- a motion for authority to maintain certain insurance policies and programs, to honor insurance obligations, to maintain the premium financing agreement and for certain related relief [D.I. 10]
- A motion for authority to continue the Debtors' shared services programs [D.I. 11]

The First Day Motions were granted with certain adjustments or modifications to accommodate the concerns of the Bankruptcy Court, the Creditors' Committee, and/or the U.S. Trustee [D.I. 128, 129, 130, 131, 134, 136, 137, 138].

#### **E. Authority to Obtain Post-Petition Financing and Use Cash Collateral**

Based on the Debtors' need for liquidity to administer the Chapter 11 Cases, on April 6, 2021, the Debtors filed a motion [D.I. 12] (the "**DIP Motion**") seeking authorization to obtain post-petition financing from Boeing and use Boeing's cash collateral on an interim and final basis. On May 13, 2021, the Court entered the DIP Order approving the relief requested in the DIP Motion, with certain modifications negotiated with the Creditors' Committee and the U.S. Trustee, and other modifications ordered by the Bankruptcy Court, on a final basis. The DIP Order approved, among other things, a maximum commitment of \$60,200,000.

Since the Petition Date, Boeing has continued to support the Debtors' operations and liquidity needs, including advancing over \$[●] (although the outstanding amount under the DIP Credit Agreement and DIP Order has never exceeded the maximum commitment of \$60,200,000). Among the support Boeing provided pursuant to the DIP Order and DIP Credit Agreement, in addition to funds required for the Debtors' continued operations post-petition, was over \$[●] in payment of pre-petition amounts owed to critical vendors, accrued and ongoing employee healthcare and payroll obligations, and other obligations of the Debtors. Further, Boeing agreed to allow the Debtors to reserve \$1,000,000 from the proceeds of the Asset Sales to support the winddown costs of the Estates and has committed to fund additional budgeted amounts pursuant to the DIP Order to fund the cost to administer the Chapter 11 Cases through the Effective Date.

#### **F. The Sale of the Debtors' Everett, WA Assets**

On May 7, 2021, the Debtors and Wipro Givon USA, Inc. ("**Wipro**") entered into a stalking horse asset purchase agreement (as amended, the "**Asset Purchase Agreement**"), and the Debtors filed a motion [D.I. 152] (the "**Everett Sale Motion**") seeking entry of two orders related to the Debtors' proposed sale of their Everett, Washington assets (the "**Everett Sale**"). The first (the "**Everett Bid Procedures Order**") sought approval of bidding procedures relating to the Everett Sale, including, among other things, designating Wipro as the stalking horse bidder, approval of a break-up fee and expense reimbursement, approval of auction procedures, and scheduling a hearing to approve the Everett Sale (the "**Everett Sale Hearing**"). The second (the "**Everett Sale Order**"), sought approval of the Everett Sale to Wipro or the highest or otherwise best bidder after an open bidding and auction process conducted pursuant to the Everett Bid Procedures Order.

On May 25, 2021, the Bankruptcy Court entered the Everett Bid Procedures Order. *See* D.I. 206. Thereafter, Imperial and the Debtors continued marketing the Everett assets consistent with the Everett Bid Procedures Order, including responding to indications of interest from third parties and providing diligence to interested parties. However, the Debtors received no bids prior to the bid deadline under the Everett Bid Procedures Order, other than the bid by Wipro through the Asset Purchase Agreement.

On June 24, 2021, the Bankruptcy Court conducted the Everett Sale Hearing and approved the Everett Sale to Wipro. *See* D.I. 313. The Everett Sale to Wipro closed on July 12, 2021. *See* D.I. 387.

#### **G. The Sale of the Debtors' Kansas Assets**

On May 21, 2021, the Debtors filed a motion [D.I. 192] (the “**Kansas Sale Motion**”) seeking entry of two orders related to the Debtors’ sale of the Kansas assets (the “**Kansas Sale**”). The first (the “**Kansas Bid Procedures Order**”) sought approval of bidding procedures relating to the Kansas Sale, including, among other things, approval of auction procedures and scheduling a hearing to approve the Kansas Sale (the “**Kansas Sale Hearing**”). The second (the “**Kansas Sale Order**”) sought approval of the Kansas Sale to the highest or otherwise best bidder after an open bidding and auction process conducted pursuant to the Kansas Bid Procedures Order.

On June 7, 2021, the Bankruptcy Court entered the Kansas Bid Procedures Order. *See* D.I. 256. Thereafter, Imperial and the Debtors continued marketing the Kansas assets consistent with the Kansas Bid Procedures Order, including responding to indications of interest from third parties and providing diligence to interested parties. The Debtors received two qualified bids prior to the bid deadline under the Kansas Bid Procedures Order. Consequently, the Debtors conducted an auction on June 30, 2021. *See* D.I. 329. At the conclusion of the auction, the Debtors, in consultation with the Creditors’ Committee, designated the bid from The Boeing Company and Central Kansas Aerospace Manufacturing, LLC, a Boeing affiliate (the “**Kansas Buyer**”), as the highest and best bid, and the bid from NWI Wellington, LLC, NWI Park City, LLC, and NWI Admin, LLC as the back-up bid. *See id.*

On July 13, 2021, the Bankruptcy Court conducted the Kansas Sale Hearing and approved the Kansas Sale to the Kansas Buyer. *See* D.I. 372. The Kansas Sale to the Kansas Buyer closed on August 6, 2021. *See* D.I. 418. Pursuant to the Kansas Sale, the Kansas Buyer has a designation rights period following the closing during which the Kansas Buyer can designate Executory Contracts and Unexpired Leases for assumption and assignment, or rejection. Since the closing of the Kansas Sale, the Kansas Buyer has worked with the Debtors to attempt to market certain assets of the Estates along with certain assets sold in the Kansas Sale, including some of the Executory Contracts and Unexpired Leases subject to the designation rights period. If those efforts are successful, the Debtors believe the Estates, as well as Boeing and the Kansas Buyer, will benefit from the sale of those assets.

#### **H. Schedules and Statements and Bar Dates**

On May 3 and 4, 2021, the Debtors filed their Schedules. The Debtors later amended certain parts of the Schedules.

On May 24, 2021, the Debtors filed a motion [D.I. 205] (the “**Bar Date Motion**”) to establish certain bar dates for filing Proofs of Claim against the Debtors. On June 4, 2021, the Bankruptcy Court entered an order granting the relief requested in the Bar Date Motion [D.I. 246] (the “**Bar Date Order**”). The Bar Date Order established July 23, 2021 at 5:00 p.m. (prevailing Eastern Time) as the General Bar Date and October 4, 2021 at 5:00 p.m. (prevailing Eastern Time) as the Governmental Bar Date.

The Debtors are in the process of reviewing proofs of Claim and expect to file several claims objections over the coming months. Consequently, the Debtors anticipate that the figures set forth above in Section I.D, which reflect estimates of Allowed Claims, may change significantly following the claims reconciliation process.

## **I. Plan Settlement**

For a significant portion of the Chapter 11 Cases, the Debtors, the Creditors’ Committee, and Boeing (*i.e.*, the Settling Parties) have discussed possible resolution of the Chapter 11 Cases. Prior to that resolution, the Settling Parties disputed several matters in the Chapter 11 Cases, including, among others, the DIP Motion, the Kansas Sale Motion, the winddown of the Estates, the motion filed by the Creditors’ Committee seeking to convert the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, the Creditors’ Committee’s potential challenge to the perfection of Boeing’s claimed security interest in certain collateral, and the amount of certain Professional Fee Claims. After lengthy, good faith negotiations, the Settling Parties reached agreement, which is memorialized in the Plan Settlement Term Sheet and the Plan, to resolve those disputes and provide a mechanism for the consensual resolution of the Chapter 11 Cases. The Plan Settlement is described in more detail in Section V.B.2, *infra*.

## **IV. TREATMENT OF CLAIMS AND INTERESTS**

### **A. Unclassified Claims**

#### **1. Administrative Claims**

##### **a. Bar Date for Administrative Claims**

Except with respect to Professional Fee Claims or otherwise as set forth in the Plan, the Confirmation Order or in the Bar Date Order, Holders of Administrative Claims arising between the Petition Date and the Effective Date must File Administrative Claims by no later than the Administrative Claims Bar Date and pursuant to the procedures specified in the Confirmation Order. Notwithstanding anything to the contrary in any request for allowance and/or payment of an Administrative Claim or other document, any objections to Administrative Claims may be Filed by no later than the Claims Objection Bar Date.

Holders of Administrative Claims that must File and serve a request for payment of such Administrative Claims and fail to File such a request by the applicable Bar Date or as otherwise set forth in the Plan, will be forever barred from asserting such Administrative Claims against the Debtors, the Liquidation Trust, the GUC Distribution Trust, or their respective property, and such Administrative Claims will be deemed discharged as of the Effective Date.

**b. Treatment of Administrative Claims in General**

Except as specified in Section III.A.1 of the Plan, and subject to the Bar Date provisions in the Plan, unless (1) otherwise agreed by the Holder of an Administrative Claim and the Debtors or the Liquidation Trustee, as applicable, or (2) an order of the Bankruptcy Court provides otherwise, each Holder of an Allowed Administrative Claim will receive, in full satisfaction of its Administrative Claim, Cash equal to the full unpaid amount of its Allowed Administrative Claim from the Liquidation Trust. At its option, the Liquidation Trustee will pay an Allowed Administrative Claim (i) in the ordinary course of business or (ii) on the latest to occur of (A) the Effective Date (or as soon as reasonably practicable thereafter), (B) the date the Administrative Claim becomes an Allowed Administrative Claim (or as soon as reasonably practicable thereafter) and (C) such other date as may be agreed on by the Liquidation Trustee and the Holder of the Administrative Claim.

**c. Statutory Fees**

On or prior to the Effective Date, the Debtors will pay all outstanding U.S.T. Fees that are due and payable. After the Effective Date, the Liquidation Trust will pay all U.S.T. Fees as they come due. The Liquidation Trust will remain obligated to pay U.S.T. Fees for each Debtor until that particular Debtor's case is closed. In the event that the Liquidation Trust does not have sufficient funds to pay the U.S.T. Fees in a particular quarter, Boeing shall be obligated to pay the U.S.T. Fees for each Debtor; *provided* that Boeing's Class 3 Claim will be increased by the amount of any such payments.

**d. Professional Compensation**

**i. Final Fee Applications and Payment of Professional Fee Claims.**

To the extent required by an order of the Bankruptcy Court, Professionals must file all final requests for payment of Professional Fee Claims incurred during the period from the Petition Date through the Effective Date no later than 45 days after the Effective Date. Once approved for payment by a Final Order, the Liquidation Trustee will pay Allowed Professional Fee Claims from amounts held in the Professional Fee Reserve Account.

**ii. Allocation and Estimation of Professional Fee Claims.** All Professionals will reasonably estimate their unpaid Professional Fee Claims as of the Effective Date, and must deliver their estimates to the Debtors no later than three days prior to the Effective Date.

**iii. Professional Fee Reserve Account.** When the Debtors or Liquidation Trustee have satisfied all Allowed Professional Fee Claims in full, the Debtors or Liquidation Trustee, as applicable, will distribute any remaining amount in the Professional Fee Reserve Account to the Liquidation Trust. For the avoidance of doubt, prior to the satisfaction of all Allowed Professional Fee Claims, the Professional Fee Reserve Account shall not constitute property of the Debtors' Estates or property of the Liquidation Trust, and the amounts therein shall be held for the benefit of the Professionals.

## 2. Priority Tax Claims

### a. Payment of Priority Tax Claims

Unless otherwise agreed by the Holder of a Priority Tax Claim and the Debtors or the Liquidation Trustee, each Holder of an Allowed Priority Tax Claim, at the option of the Debtors or Liquidation Trustee, will receive, in full satisfaction of its Allowed Priority Tax Claim either (a) Cash equal to the amount of such Allowed Priority Tax Claim paid from the Debtors or the Liquidation Trust, as applicable (i) on the Effective Date or (ii) if the Priority Tax Claim is not Allowed as of the Effective Date, no later than 30 days after the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim; or (b) Cash in the aggregate amount of such Allowed Priority Tax Claim payable in annual equal installments commencing on the later of (i) the Effective Date (or as soon as reasonably practicable thereafter) and (ii) the date such Priority Tax Claim becomes an Allowed Priority Tax Claim (or as soon as practicable thereafter) and ending no later than five years after the Petition Date. To the extent the Holder of an Allowed Priority Tax Claim is not paid in the ordinary course of business, payment of the Allowed Priority Tax Claim shall include interest through the date of payment at the applicable state statutory rate, as set forth in sections 506(b), 511, and 1129 of the Bankruptcy Code.

### b. Penalty Claims

Notwithstanding the provisions of Section III.A.2.a of the Plan, any Claim on account of any penalty arising with respect to or in connection with an Allowed Priority Tax Claim that does not compensate the Holder for actual pecuniary loss will be treated as a Class 4 Claim, and the Holder (other than as the Holder of a Class 4 Claim) may not assess or attempt to collect such penalty from the Debtors, the Liquidation Trust, the GUC Distribution Trust, the Estates or their respective property.

## B. Classified Claims

### 1. Class 1 Claims (Priority Claims)

- a. **Composition:** Class 1 consists of Priority Claims.
- b. **Treatment:** Class 1 is Unimpaired. On the later of the Effective Date and the date on which the Priority Claim is Allowed, unless otherwise agreed by the Holder of an Allowed Class 1 Claim and the Liquidation Trustee, each Holder of an Allowed Class 1 Claim will receive Cash in an amount equal to such Allowed Priority Claim from the Liquidation Trust.
- c. **Voting:** The Holders of Priority Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Priority Claims are not entitled to vote to accept or reject the Plan.

### 2. Class 2 Claims (Other Secured Claims)

- a. **Composition:** Class 2 consists of Other Secured Claims.

- b. **Treatment:** Class 2 is Unimpaired. In full satisfaction of an Allowed Other Secured Claim, on the later of the Effective Date and the date on which the Other Secured Claim is Allowed, each Holder of an Allowed Other Secured Claim will receive, from the Liquidation Trust and at the sole and exclusive option of the Liquidation Trustee, (a) Cash equal to the amount of such Claim; (b) the collateral securing such Claim; (c) to the extent applicable, the same treatment as Priority Tax Claims receive under Section III.A.2 of the Plan, as permitted under section 1129(a)(9)(D) of the Bankruptcy Code; or (d) other satisfaction of the Allowed Other Secured Claim as may be agreed on by the Liquidation Trustee and the applicable Holder.
- c. **Voting:** The Holders of Other Secured Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Other Secured Claims are not entitled to vote to accept or reject the Plan.

### 3. Class 3 Claims (Prepetition Credit Agreement Claims and DIP Claims)

- a. **Composition:** Class 3 consists of Prepetition Credit Agreement Claims and DIP Claims. Boeing is the sole Holder of Class 3 Claims.
- b. **Treatment:** Class 3 is Impaired. Pursuant to the Plan and the DIP Order, Boeing will have Allowed Class 3 Claims in the aggregate amount of \$[●] as of the date of the Plan.<sup>6</sup> Boeing will receive, on account of its Class 3 Claims, its Pro Rata share of the LT Distributable Assets. For the avoidance of doubt, (i) pursuant to the Plan and the DIP Order, Boeing's Class 3 Claims will not be subject to, among other things, challenge, objection, recharacterization, or subordination, and (ii) any Class 4 Claims held by Boeing will be entitled to the treatment provided to Allowed Class 4 Claims.
- c. **Voting:** Holders of Claims in Class 3 are entitled to vote to accept or reject the Plan.

### 4. Class 4 Claims (General Unsecured Claims)

- a. **Composition:** Class 4 consists of General Unsecured Claims, other than General Unsecured Claims held by the Non-Released Parties.
- b. **Treatment:** Class 4 is Impaired. Each Holder of an Allowed Class 4 General Unsecured Claim will receive its Pro Rata share of the GUC Distributable Assets; *provided* that, pursuant to the Plan Settlement, any Class 4 Claims held by Boeing will not share in any Distributions in respect of the Initial GUC Cash Distribution. Solely in the event that there are

<sup>6</sup> Pursuant to the DIP Order, Boeing's Class 3 Claims are reduced from time to time by payments from the Debtors and increased from time to time by additional advances. The Plan Supplement will disclose the updated Allowed amount of Boeing's Class 3 Claims as of the date of the Plan Supplement.

sufficient GUC Distributable Assets to pay the full amount of all Allowed Class 4 and Class 5 Claims as of the Petition Date, the Holders of such Allowed Claims shall also be paid their Pro Rata share of the remaining GUC Distributable Assets in respect of interest accruing at the Federal Judgment Rate from the Petition Date to the date payment is made.

- c. **Voting:** Holders of Claims in Class 4 are entitled to vote to accept or reject the Plan.

**5. Class 5 Interests (Non-Released Party General Unsecured Claims)**

- a. **Composition:** Class 5 consists of General Unsecured Claims held by the Non-Released Parties.
- b. **Treatment:** Class 5 is Impaired. Each Holder of an Allowed Class 5 Claim will receive its Pro Rata share of the GUC Distributable Assets. Solely in the event that there are sufficient GUC Distributable Assets to pay the full amount of all Allowed Class 4 and Class 5 Claims as of the Petition Date, the Holders of such Allowed Claims shall also be paid their Pro Rata share of the remaining GUC Distributable Assets in respect of interest accruing at the Federal Judgment Rate from the Petition Date to the date payment is made.
- c. **Voting:** Holders of Claims in Class 5 are entitled to vote to accept or reject the Plan.

**6. Class 6 Claims (Intercompany Claims)**

- a. **Composition:** Class 6 consists of Intercompany Claims.
- b. **Treatment:** Class 6 is Impaired. On the Effective Date, each Intercompany Claim will be eliminated and extinguished. Holders of Class 6 Claims will receive no distribution on account of those Claims.
- c. **Voting:** The Holders of Intercompany Claims are plan proponents and are conclusively presumed to accept the Plan. Therefore, Holders of Class 6 Claims are not entitled to vote to accept or reject the Plan.

**7. Class 7 Interests (Debtor Interests)**

- a. **Composition:** Class 7 consists of all Interests in the Debtors.
- b. **Treatment:** Class 7 is Impaired. On the Effective Date, all (i) Interests in TECT Parent will be cancelled, and one equity interest in TECT Parent will be issued to the Liquidation Trust, and (ii) Interests held by a Debtor in a Subsidiary Debtor will be, at the option of the Debtors, reinstated or assigned to the Liquidation Trust.



- c. **Voting:** The Holders of Class 7 Interests are conclusively deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Class 7 Interests are not entitled to vote to accept or reject the Plan.

**C. Reservation of Rights Regarding Claims**

Except as otherwise provided in the Plan or in other Final Orders of the Bankruptcy Court, nothing will affect the Debtors', the Liquidation Trustee's, or the GUC Distribution Trustee's respective rights and defenses, whether legal or equitable, with respect to any Claim, including, without limitation, all rights with respect to legal and equitable defenses to alleged rights of setoff or recoupment.

**D. Post-Petition Interest on Claims**

Except as required by applicable bankruptcy law or otherwise expressly provided in the Plan, post-petition interest will not accrue or be payable on account of any Claim.

**E. Insurance**

Notwithstanding anything to the contrary in the Plan, if any Claim is subject to coverage under an Insurance Policy, payments on account of such Claim will first be made from proceeds of such Insurance Policy in accordance with the terms thereof, with the balance of such Claim, if any, treated in accordance with the provisions of the Plan governing the Class applicable to such Claim.

**F. Class Without Voting Claim Holders**

If Holders of Claims in a particular Impaired Class of Claims are entitled to vote to accept or reject the Plan, but no Holders of Claims in such Impaired Class of Claims vote to accept or reject the Plan, then such Class of Claims will be deemed to have accepted the Plan.

**V. MEANS FOR IMPLEMENTATION OF THE PLAN**

**A. Joint Chapter 11 Plan**

The Plan is a joint chapter 11 plan for each of the Debtors, with the Plan for each Debtor being non-severable and mutually dependent on the Plan for each other Debtor.

**B. Plan Settlement**

**1. Generally and Approval**

As described in the Disclosure Statement, the Plan and the other documents entered into in connection with the Plan constitute a good faith compromise and settlement of controversies among the Settling Parties (the "**Plan Settlement**"). The Plan and the Distributions contemplated therein, including the allocation of proceeds of the Retained Causes of Action, are based on the Settling Parties' compromise of the controversies among them, which the Settling Parties believe

are fair and appropriate but only when viewed together with all other provisions contained in the Plan. The Plan, together with this Disclosure Statement, shall be deemed a motion to approve the Plan Settlement pursuant to Bankruptcy Rule 9019, and entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Plan Settlement under section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, as well as a finding by the Bankruptcy Court that the Plan Settlement is fair, equitable, reasonable, and in the best interests of the Debtors and their Estates. Each of the Plan, Disclosure Statement, Confirmation Order, Plan Supplement documents, and other documents necessary to implement the Plan shall be reasonably acceptable to the Settling Parties.

## **2. Terms of the Plan Settlement**

a. The Plan Settlement resolves controversies among the Settling Parties regarding, among other things, the Creditors' Committee's motion to convert the Chapter 11 Cases to chapter 7 of the Bankruptcy Code, the Creditors' Committee potential challenge to the DIP Lenders' and Prepetition Lenders' liens on certain collateral, the DIP Lenders' informal objections to certain Professional Fee Claims, the post-Effective Date administration of the Estates, the treatment of the DIP Claims and Prepetition Credit Agreement Claims, and the distribution of any recoveries on the Retained Causes of Action related to the Non-Released Parties.

b. The terms of the Plan Settlement are set forth in the Plan and the Plan Settlement Term Sheet. Certain relevant terms are summarized below. The following summary is qualified in its entirety by reference to the Plan and the Plan Settlement Term Sheet.

i. Pursuant to the Plan Settlement, the Creditors' Committee agreed to withdraw its motion to convert the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code. *See* D.I. 544 (notice of withdrawal). The Creditors' Committee's challenge period under the DIP Order with respect to certain Estate assets is extended through and including the Effective Date; *provided, however*, that the Creditors' Committee shall not commence a challenge unless the Plan, consistent with the terms of the Plan Settlement, is withdrawn or abandoned by the Settling Parties or such a Plan is not consummated.

ii. The Settling Parties resolved the DIP Lenders' informal objections to certain Professional Fee Claims as set forth in the Plan Settlement Term Sheet.

iii. The Settling Parties agreed on the structure and provisions regarding the Trusts that are set forth in Article IV of the Plan.

iv. The Settling Parties agreed on the limited consolidation of the Debtors for Plan purposes as set forth in Article IV.C of the Plan.

v. The Initial GUC Cash Distribution will be transferred to the GUC Distribution Trust on the Effective Date, which will be distributed to Allowed General Unsecured Claims other than General Unsecured Claims held by Boeing. In addition, on the Effective Date, the GUC Distribution Trust will be funded with the GUC Claims Determination Fund.

vi. All remaining initial Liquidation Trust Assets, after satisfaction of all Allowed Administrative Claims, Professional Fee Claims, Priority Tax Claims, Priority Claims, and Other Secured Claims, and establishment of the Disputed Claims Reserve and the Litigation Cost Reserve, will be distributed to the Liquidation Trust Beneficiaries.

vii. Any net Cash proceeds of the Liquidation Trust's prosecution or settlement of the Retained Causes of Action with respect to the Non-Released Parties will be allocated and distributed as follows (the "**Litigation Recovery Split**"):

- A. the first \$300,000 to the Liquidation Trust Beneficiaries in respect of the initial funding of the Litigation Cost Reserve;
- B. of the next \$4 million, 88% to the Liquidation Trust and 12% to the GUC Distribution Trust (the "GUC Litigation Recovery Participation");
- C. next, to the Liquidation Trust until all Class 3 Claims are satisfied; and
- D. any additional proceeds to the GUC Distribution Trust (together with the GUC Litigation Recovery Participation, the "**GUC Litigation Recovery**").

### **C. Consolidation of the Debtors for Plan Purposes**

The Debtors' Estates will be consolidated for administrative purposes related to the Plan, including for purposes of (1) implementing the Plan, (2) voting, (3) assessing whether the standards for Confirmation have been met, and (4) calculating and making Distributions under the Plan.

On the Effective Date (1) all of the Debtors' assets and liabilities will be merged; (2) all guarantees or responsibility of one Debtor of the obligations of any other Debtor will be eliminated, and all guarantees or responsibility executed by multiple Debtors of the obligations of any other Entity will be consolidated into a single obligation, so that any Claim against any Debtor and any guarantee or responsibility thereof executed by any other Debtor and any joint or several liability of any of the Debtors will be one obligation of the Debtors; (3) each and every Claim Filed or to be Filed in the Chapter 11 Case of any Debtor will be deemed Filed against, and will be a single obligation of, the Debtors (for the avoidance of doubt, Proofs of Claim Filed against more than one Debtor for the same Claim may be objected to as a non-substantive "duplicate" claim under Local Rule 3007-1(d)(i)); and (4) Intercompany Claims between Debtors will be eliminated and extinguished. This consolidation will not affect (a) the vesting of the Debtors' assets in the Liquidation Trust or the GUC Distribution Trust; (b) the right to distributions from any Insurance Policies or proceeds of the policies; (c) any Liens granted or arising at any time prior to the Effective Date or the priority of those Liens; (d) any Causes of Action, including the Retained Causes of Action, or defenses thereto, which in each case shall survive entry of the Confirmation Order as if there had been no consolidation of the Estates in any respect; or (e) the rights of the

Debtors, the Liquidation Trustee or the GUC Distribution Trustee to contest setoff or recoupment rights alleged by creditors on the grounds of lack of mutuality under section 553 of the Bankruptcy Code and other applicable law. The Plan shall not result in the merger or otherwise affect the separate legal existence of each Debtor.

The Plan serves as a motion seeking entry of an order consolidating the Debtors, as described in the Section IV.C of the Plan and to the limited extent set forth in Section IV.C of the Plan.

#### **D. Corporate Existence**

##### **1. Dissolution or Termination of the Debtors; Resignation of Employees, Officers and Directors**

On the Effective Date, the Debtors' members, directors, managers and officers and any remaining employees shall be deemed to have resigned and the Liquidation Trustee shall be appointed as the sole officer, director, and/or manager, as applicable, of each Debtor, without the need for any corporate action to effect such resignation or appointment. After the Effective Date, the Liquidation Trustee is authorized to dissolve or terminate the existence of any of the Debtors for all purposes under any applicable state or federal law, without the need to take any further action or file any plan of dissolution, notice or application with the Secretary of State of the State of Delaware or any other state or government authority, and without the need to pay any franchise or similar taxes in order to effectuate such dissolution. Additionally, on the Effective Date, the Non-Debtor Subsidiaries' members, directors, managers, and officers, as applicable shall be deemed to have resigned and the Liquidation Trustee shall be appointed as the sole officer, director, and/or manager, as applicable of each Non-Debtor Subsidiary, without the need for any corporate action to effect such resignation or appointment. The Debtors and/or Liquidation Trust are authorized to take all actions necessary or appropriate to effect such resignation or appointment.

##### **2. Sole Recourse**

Except as otherwise set forth in this Plan or Final Orders of the Bankruptcy Court (including the Confirmation Order), Holders of Allowed Claims against the Debtors will have recourse solely to the applicable Trust's assets for the payment of their Allowed Claims in accordance with the terms of this Plan and the applicable Trust Agreement. Except with respect to the GUC Litigation Recovery, any reasonable compensation owed to the GUC Distribution Trustee in its capacity as such, and up to \$25,000 of reasonable fees or expenses incurred by the GUC Distribution Trust, the GUC Distribution Trustee and/or a Third Party Disbursing Agent in connection with making Distributions to the Holders of Allowed Claims in Classes 4 and 5 on account of such Claims until Class 3 Claims are satisfied, the GUC Distribution Trust shall have no recourse against the Liquidation Trust or the Liquidation Trust Assets.

#### **E. Retained Causes of Action**

On the Effective Date, all Retained Causes of Action will be assigned from the Debtors to the Liquidation Trust. Any recoveries by the Liquidation Trustee on account of such Retained Causes of Action will be distributed pursuant to the terms of the Plan and the Liquidation Trust

Agreement. A non-exclusive list of the Retained Causes of Action will be Filed with the Plan Supplement. The Debtors' inclusion or failure to include any Retained Cause of Action in the Plan or the Plan Supplement will not be deemed an admission, denial or waiver of any Retained Cause of Action that the Debtors or Estates may hold against any Entity.

## **F. Liquidation Trust**

### **1. Formation of the Liquidation Trust**

a. On the Effective Date, the Liquidation Trust will be established pursuant to the Liquidation Trust Agreement for the purpose of (1) liquidating the Liquidation Trust Assets; (2) reviewing, objecting to, and resolving all Disputed Claims, including Disputed Class 5 Claims but excluding Disputed Class 4 Claims; (3) making distributions to Holders of Allowed Claims, other than Holders of Allowed General Unsecured Claims in accordance with the terms of the Plan; and (4) otherwise implementing the Plan. The Liquidation Trust will have a separate existence from the Debtors and the GUC Distribution Trust. On the Effective Date, the Liquidation Trust's prosecution of the Retained Causes of Action will be on behalf of and for the benefit of the Liquidation Trust Beneficiaries and the GUC Distribution Trust pursuant to the Litigation Recovery Split.

b. On the Effective Date, all Liquidation Trust Assets, including the Retained Causes of Action, will be transferred, assigned, or otherwise issued to and vest in the Liquidation Trust free and clear of all liens, charges, Claims, encumbrances and interests. On the Effective Date, standing to commence, prosecute and compromise all Retained Causes of Action will transfer to the Liquidation Trust.

c. Subject to, and to the extent set forth in, the Plan, the Confirmation Order, the Liquidation Trust Agreement or other agreement (or any other order of the Bankruptcy Court entered pursuant to, or in furtherance of, the Plan), the Liquidation Trust and the Liquidation Trustee will be empowered to take, the following actions, and any other actions, as the Liquidation Trustee determines to be necessary or appropriate to implement the Plan, without further order of the Bankruptcy Court, unless required in the Plan or in the Liquidation Trust Agreement:

i. adopt, execute, deliver or file all plans, agreements, certificates and other documents and instruments necessary or appropriate to implement the Plan;

ii. accept, preserve, receive, collect, manage, invest, supervise, prosecute, settle and protect the Retained Causes of Action and other Liquidation Trust Assets, including any proceeding under Bankruptcy Rule 2004 related thereto;

iii. liquidate, sell, settle, or otherwise dispose of the Retained Causes of Action and other Liquidation Trust Assets with approval of the Liquidation Trust Board and/or the Bankruptcy Court, as set forth in the Liquidation Trust Agreement;

iv. calculate and make distributions to Holders of Allowed Claims in accordance with the terms of the Plan;

v. exercise rights and fulfill obligations under the Plan;

vi. perform and implement all remaining obligations, if any, of the Debtors under the Asset Sales;

vii. review, reconcile, settle or object to Claims, other than Class 4 Claims, and resolve any objections;

viii. retain Third Party Disbursing Agents and professionals and other Entities;

ix. prepare and file appropriate tax returns and other reports on behalf of the Debtors and Liquidation Trust and pay taxes or other obligations owed by the Debtors and the Liquidation Trust;

x. take any actions as the Liquidation Trustee may reasonably determine are necessary or appropriate to effect the dissolution of the Debtors and the Non-Debtor Subsidiaries in accordance with applicable law;

xi. close or dismiss any or all of the Chapter 11 Cases; and

xii. dissolve the Liquidation Trust.

d. The Liquidation Trust has no objective to, and will not, engage in a trade or business and will conduct its activities consistent with the Plan and the Liquidation Trust Agreement.

e. The Debtors' and Creditors' Committee's Professionals will retain any and all documents and other information gathered, and relevant work product developed, during the Chapter 11 Cases and will retain such materials in compliance with their respective document retention practices in place as of the date of their retention. The Liquidation Trustee may request, at the expense of the Liquidation Trust, copies of any documents and other information gathered, and relevant work product developed, by the Debtors' or Creditors' Committee's Professionals during the Chapter 11 Cases in connection with its investigation of potential Retained Causes of Action; *provided* that the provision of any such documents and information will be without waiver of any evidentiary privileges, including, without limitation, the attorney-client privilege, work-product privilege or other privilege or immunity attaching to any such documents or information (whether written or oral). The Plan will be considered a motion pursuant to sections 105 and 363 of the Bankruptcy Code for such relief.

f. The Liquidation Trust and the Liquidation Trustee will each be a "representative" of the Estates under section 1123(b)(3)(B) of the Bankruptcy Code, and the Liquidation Trustee will be the trustee of the Liquidation Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), and, as such, the Liquidation Trustee succeeds to all of the rights, powers and obligations of a trustee in bankruptcy with respect to collecting, maintaining, administering and liquidating the Liquidation Trust Assets. Without limiting other such rights, powers, and obligations, on the Effective Date, the Debtors will transfer, and will be deemed to have irrevocably transferred, to the Liquidation Trust and will vest in the Liquidation Trust, the

Liquidation Trustee, and all of their professionals all of the Debtors' evidentiary privileges related to the Liquidation Trust Assets that they possess, including, without limitation, the attorney-client privilege, work product privilege and other privileges and immunities. The Debtors and their financial advisors and the Creditors' Committee and its financial advisors will provide to the Liquidation Trustee (or any professionals designated by the Liquidation Trustee) documents, other information, and work product relating to the Retained Causes of Action; *provided* that the provision of any such documents and information will be without waiver of any evidentiary privileges or immunity. Without limiting other such rights, powers, and obligations, on the Effective Date, the Creditors' Committee will transfer, and will be deemed to have irrevocably transferred, to the Liquidation Trust and will vest in the Liquidation Trust, the Liquidation Trustee, and all of their professionals all of the Creditors' Committee's work product privilege related to the Retained Causes of Action.

g. To the extent that any Liquidation Trust Assets are unable to be transferred to the Liquidation Trust because of a restriction on transferability under applicable non-bankruptcy law that is not superseded or preempted by section 1123 of the Bankruptcy Code or any other provision of the Bankruptcy Code, such Liquidation Trust Assets will be deemed to have been retained by the Debtors, as the case may be, and the Liquidation Trustee will be deemed to have been designated as a representative of the Debtors, pursuant to section 1123(b)(3)(B) of the Bankruptcy Code to enforce and pursue such Liquidation Trust Assets on behalf of the Debtors.

## **2. The Liquidation Trustee**

a. The Liquidation Trustee will be the exclusive trustee of the Liquidation Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate of each of the Debtors appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The powers, rights and responsibilities of the Liquidation Trustee will be specified in the Liquidation Trust Agreement and will include the authority and responsibility to take the actions contemplated by Article IV.F.1.c of the Plan. The Liquidation Trustee will distribute the Liquidation Trust Assets in accordance with the provisions of the Plan and the Liquidation Trust Agreement. Other rights and duties of the Liquidation Trustee and the beneficiaries of the Liquidation Trust will be as set forth in the Liquidation Trust Agreement.

b. The Liquidation Trust Agreement generally will provide for, among other things:

- i. the payment of reasonable compensation to the Liquidation Trustee;
- ii. the payment of other expenses of the Liquidation Trust, including expenses related to pursuing the Retained Causes of Action;
- iii. the retention of Third Party Disbursing Agents, counsel, accountants, financial advisors or other professionals, or other Entities, and the payment of their compensation;
- iv. the investment of Cash within certain limitations;

v. the preparation and filing of appropriate tax returns and other reports on behalf of the Debtors and the Liquidation Trust and the payment of taxes or other obligations owed by the Debtors and the Liquidation Trust; and

vi. the orderly liquidation of the Retained Causes of Action, which may include the litigation, settlement, abandonment or dismissal of any claims or rights, and the other Liquidation Trust Assets.

c. The Liquidation Trustee, in the exercise of the Liquidation Trustee's reasonable business judgment, will, in an expeditious, but orderly, manner, liquidate and convert to Cash the assets of the Liquidation Trust, make timely distributions, and not unduly prolong the duration of the Liquidation Trust. The liquidation of the Liquidation Trust Assets may be accomplished either through the prosecution, compromise and settlement, abandonment or dismissal of any or all claims, rights or Causes of Action, or otherwise, subject to the terms of the Liquidation Trust Agreement. Subject to the approval of the Liquidation Trust Board and/or the Bankruptcy Court, pursuant to the terms of the Liquidation Trust Agreement, the Liquidation Trustee will have the absolute right to take any and all action with respect to the Liquidation Trust Assets as the Liquidation Trustee determines is in the best interests of the beneficiaries of the Liquidation Trust, and consistent with the purposes of the Liquidation Trust; *provided, however*, that the Liquidation Trustee must seek the approval of the Liquidation Trust Board and, if applicable, the Bankruptcy Court for any settlement of a Claim or Retained Cause of Action involving any Non-Released Party, in accordance with Article IV.F.3 of the Plan and the terms of the Liquidation Trust Agreement. The Liquidation Trustee will have no liability for the outcome of its decision except for any damages caused by willful misconduct, gross negligence, or fraud. The Liquidation Trustee may incur any reasonable and necessary expenses in liquidating and converting the Liquidation Trust Assets to Cash and will be reimbursed in accordance with the provisions of the Liquidation Trust Agreement.

d. The Liquidation Trustee may retain, without further order of the Bankruptcy Court, professionals to assist it in carrying out its duties as limited above, including any professionals retained in these Chapter 11 Cases, and the Liquidation Trust may pay the reasonable costs and expenses of any professionals retained by the Liquidation Trustee in the ordinary course without further order of the Bankruptcy Court.

### **3. Liquidation Trust Board**

a. On the Effective Date, the Liquidation Trust Board will be established and consist of three persons. Pursuant to the Plan Settlement, two of the initial Liquidation Trust Board members will be selected by Boeing and one will be selected by the Creditors' Committee. The Plan Supplement will identify the initial Liquidation Trust Board. Upon its formation, the duties of the Liquidation Trust Board will be limited to the following: (a) overseeing the Claims reconciliation and settlement process conducted by or on behalf of the Liquidation Trustee; (b) overseeing the distributions to the Holders of Class 3 Claims under the Plan; (c) selecting, in consultation with the Liquidation Trustee, professionals to prosecute the Retained Causes of Action involving the Non-Released Parties; (d) overseeing the liquidation, prosecution, settlement, and/or collection of the Retained Causes of Action; (e) overseeing the transfer of any recoveries on account of the GUC Litigation Recovery to the GUC Distribution Trust; (f) appearing before



and being heard by the Bankruptcy Court and other courts of competent jurisdiction in connection with the above limited duties; (g) overseeing the Liquidation Trustee; and (h) such other matters as may be agreed on between the Liquidation Trustee and the Liquidation Trust Board or specified in the Plan or the Liquidation Trust Agreement. Any decision made by the Liquidation Trust Board will be made by majority vote; *provided* that, if there is not a unanimous vote to approve any settlement of a Claim or Retained Cause of Action involving any Non-Released Party, the Liquidation Trustee must seek the Bankruptcy Court's approval of that settlement.

b. For so long as the Claims reconciliation process will continue, the Liquidation Trustee will make regular reports to the Liquidation Trust Board pursuant to the Liquidation Trust Agreement, or as and when the Liquidation Trustee and the Liquidation Trust Board may reasonably agree on.

c. The members of the Liquidation Trust Board will not be compensated, but the Liquidation Trust may pay the reasonable costs and expenses of the members of the Liquidation Trust Board in the ordinary course without further order of the Bankruptcy Court; *provided, however*, that the Liquidation Trust Board's reimbursable costs and expenses shall not include any attorneys' fees.

#### **4. Liquidation Trust Expenses**

The Liquidation Trust Expenses will be paid solely from Liquidation Trust Assets in accordance with the Plan and the Liquidation Trust Agreement, or otherwise pursuant to the terms of the Liquidation Trust Agreement. On or about the Effective Date, the Liquidation Trustee will establish the Litigation Cost Reserve, which shall be used solely for expenses incurred in connection with the prosecution of the Retained Causes of Action related to Non-Released Parties.

#### **5. Indemnification**

The Liquidation Trust Agreement may include reasonable and customary indemnification provisions.

#### **6. Tax Treatment**

The Liquidation Trust is intended to be treated, for U.S. federal income tax purposes, in part as a liquidating trust within the meaning of Treasury Regulation Section 301.7701-4(d), for the benefit of the Holders of Class 3 Claims entitled to distributions from the Liquidation Trust Assets, subject to any liabilities of the Debtors or the Liquidation Trust payable from the proceeds of such assets, and otherwise as one or more Disputed Claim Reserves treated as disputed ownership funds within the meaning of Treasury Regulation Section 1.468B-9(b)(1), as more specifically provided for under the Liquidation Trust Agreement. Accordingly, for all U.S. federal income tax purposes the transfer of Liquidation Trust Assets to the Liquidation Trust will be treated: (a) in part as the transfer of assets by the Debtors to the Holders of Class 3 Claims, subject to any liabilities of the Debtors or the Liquidation Trust payable from the proceeds of such assets, followed by the transfer of such assets (subject to such liabilities) by such Holders to the Liquidation Trust in exchange for the beneficial interests in the Liquidation Trust; and (b) in part as the transfer of assets by the Debtors to one or more Disputed Claim Reserves.

The Liquidation Trust shall be established for the primary purpose of liquidating and distributing the assets transferred to it, in accordance with Treasury Regulation Section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidation Trust. Accordingly, the Liquidation Trustee shall, in an expeditious but orderly manner, liquidate and convert to Cash the Liquidation Trust Assets, make timely distributions to the Liquidation Trust Beneficiaries and not unduly prolong its duration. The record holders of beneficial interests shall be recorded and set forth in a register maintained by the Liquidation Trustee expressly for such purpose.

The Liquidation Trust is intended to qualify as a “grantor trust” for U.S. federal income tax purposes with the Liquidation Trust Beneficiaries treated as the grantors and owners of the Liquidation Trust Assets for U.S. federal income tax purposes. The Liquidation Trustee will be required by the Liquidation Trust Agreement to file U.S. federal tax returns for the Liquidation Trust as a grantor trust with respect to any distributions from the Liquidation Trust Assets, subject to any liabilities of the Debtors or the Liquidation Trust payable from the proceeds of such assets, and as one or more disputed ownership funds with respect to all other funds or other property held by the Liquidation Trust pursuant to applicable Treasury Regulations, and any income of the Liquidation Trust will be treated as subject to tax on a current basis. The Liquidation Trustee shall be the administrator of such disputed ownership funds and shall be responsible for all tax reporting and withholding requirements. The Liquidation Trust Agreement will provide that the Liquidation Trustee will pay such taxes from the Liquidation Trust Assets. In addition, the Liquidation Trust Agreement will require consistent valuation by the Liquidation Trustee and the Liquidation Trust Beneficiaries, for all U.S. federal income tax purposes, of any property held by the Liquidation Trust. The Liquidation Trust Agreement will provide that termination of the trust will occur no later than five years after the Effective Date, unless the Bankruptcy Court approves an extension based on a finding that such an extension is necessary for the Liquidation Trust to complete its Claims resolution and liquidating purpose. The Liquidation Trust Agreement also will limit the investment powers of the Liquidation Trustee in accordance with IRS Rev. Proc. 94-45 and will require the Liquidation Trust to distribute at least annually to the Liquidation Trust Beneficiaries (as such may have been determined at such time) its net income (net of any payment of or provision for taxes), except for amounts retained as reasonably necessary to maintain the value of the Liquidation Trust Assets or to meet Claims and contingent liabilities (including Disputed Claims).

## **7. Retained Causes of Action<sup>7</sup>**

a. As discussed above, after the Effective Date all of the Debtors’ remaining assets will vest in the Liquidation Trust, other than the GUC Distribution Trust Assets. Among the Liquidation Trust Assets are Causes of Action the Estates may have against the Non-Released Parties, which parties include, among others, the Debtors’ non-Debtor Affiliates, including Glass Holdings, LLC and various Entities it owns and/or controls, and various officers and directors. Based on the preliminary investigation conducted during the Chapter 11 Cases by Boeing and the

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<sup>7</sup> This discussion of some Retained Causes of Action is qualified in its entirety by the Plan’s definition of the Retained Causes of Action, including the identification of Retained Causes of Action in the Plan Supplement. No party may rely on the absence of specific reference in this section to a particular Retained Cause of Action as any indication that the Liquidation Trust will not pursue any and all available Retained Causes of Action against them.

Creditors' Committee, Boeing and the Creditors' Committee assert that such Causes of Action may include, among other things:

- i. Claims that transfers of various assets by the Debtors to or for the benefit of the Non-Released Parties are avoidable transfers;
- ii. Claims related to the Debtors' pre-petition agreements with the Non-Released Parties, including that those agreements were at over-market prices;
- iii. Claims that the Debtors were undercapitalized;
- iv. Claims that the Non-Released Parties breached their fiduciary duties to the Debtors;
- v. Claims that the Non-Released Parties are liable for conspiracy and/or aiding and abetting the conduct underlying other Causes of Action;
- vi. Claims that some or all of the Non-Released Parties are alter egos of the Debtors and/or that the corporate veils between the Debtors and some or all of the Non-Released Parties may be pierced in accordance with applicable law; and
- vii. Objections to the Claims asserted by the Non-Released Parties against the Estates.

b. The Debtors are informed and believe that the Non-Released Parties disclaim any and all liability for the applicable Retained Causes of Action, and that the Non-Released Parties intend to defend vigorously any Retained Cause of Action and to prosecute their Claims against the Estates. Accordingly, litigation of the Retained Causes of Action is likely to be difficult, time-consuming, and expensive, and if the Non-Released Parties are successful in prosecuting their Claims, the recoveries of Holders of Allowed Claims in Class 4 could be significantly diluted.

c. As is described above and in the Plan, net recoveries (after litigation expenses, including legal fees and reimbursement to Boeing or others for the Litigation Cost Reserve or other advances of any such expenses) on the Retained Causes of Action are shared between the Liquidation Trust and GUC Distribution Trust according to the Litigation Recovery Split.

d. For the avoidance of doubt, the Retained Causes of Action do not include Causes of Action (i) sold pursuant to the Asset Sales, or (ii) released pursuant to the Plan.

## **G. GUC Distribution Trust**

### **1. Formation of the GUC Distribution Trust**

a. On the Effective Date, the GUC Distribution Trust will be established pursuant to the GUC Distribution Trust Agreement for the purpose of (1) reconciling all Disputed Class 4 Claims, and (2) making distributions to Holders of Allowed Class 4 Claims and Allowed

Class 5 Claims, in accordance with the terms of the Plan. The GUC Distribution Trust will have a separate existence from the Debtors and the Liquidation Trust.

b. On the Effective Date, the Initial GUC Cash Distribution and the GUC Claims Determination Fund will be transferred to and vest in the GUC Distribution Trust free and clear of all liens, charges, Claims, encumbrances and interests. To the extent any portion of the GUC Claims Determination Fund is not used to satisfy GUC Distribution Trust Expenses, it will become GUC Distributable Assets.

c. Subject to, and to the extent set forth in, the Plan, the Confirmation Order, the GUC Distribution Trust Agreement or other agreement (or any other order of the Bankruptcy Court entered pursuant to, or in furtherance of, the Plan), the GUC Distribution Trust and the GUC Distribution Trustee will be empowered to take, the following actions, and any other actions, as the GUC Distribution Trustee determines to be necessary or appropriate to implement the Plan, all without further order of the Bankruptcy Court:

- i. calculate and make distributions to Holders of Allowed General Unsecured Claims in accordance with the terms of the Plan;
- ii. exercise rights and fulfill obligations under the Plan;
- iii. review, reconcile, settle or object to Class 4 Claims, and resolve any objections;
- iv. retain Third Party Disbursing Agents and professionals and other Entities;
- v. prepare and file appropriate tax returns and other reports on behalf of the GUC Distribution Trust and pay taxes or other obligations owed by the GUC Distribution Trust; and
- vi. dissolve the GUC Distribution Trust.

d. The GUC Distribution Trust has no objective to, and will not, engage in a trade or business and will conduct its activities consistent with the Plan and the GUC Distribution Trust Agreement.

e. The GUC Distribution Trust and the GUC Distribution Trustee will each be a “representative” of the Estates under section 1123(b)(3)(B) of the Bankruptcy Code, and the GUC Distribution Trustee will be the trustee of the GUC Distribution Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), and, as such, the GUC Distribution Trustee succeeds to all of the rights, powers and obligations of a trustee in bankruptcy with respect to collecting, maintaining, administering and liquidating the GUC Distribution Trust Assets.

## **2. GUC Distribution Trustee**

a. The GUC Distribution Trustee will be the exclusive trustee of the GUC Distribution Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well

as the representative of the Estate of each of the Debtors appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The powers, rights and responsibilities of the GUC Distribution Trustee will be specified in the GUC Distribution Trust Agreement and will include the authority and responsibility to take the actions contemplated by Article IV.G.1.c of the Plan. The GUC Distribution Trustee will distribute the GUC Distribution Trust Assets in accordance with the provisions of the Plan and the GUC Distribution Trust Agreement. Other rights and duties of the GUC Distribution Trustee and the beneficiaries of the GUC Distribution Trust will be as set forth in the GUC Distribution Trust Agreement. The GUC Distribution Trustee's reasonable compensation will be paid by the Liquidation Trust.

b. Further, the GUC Distribution Trust Agreement generally will provide for, among other things:

- i. the payment of the GUC Distribution Trust Expenses;
- ii. the retention of Third Party Disbursing Agents, counsel, accountants, financial advisors or other professionals, or other Entities; and the payment of their compensation; and
- iii. the causing of the tax returns and other reports to be prepared and filed on behalf of the GUC Distribution Trust, including the retention of professionals by the GUC Distribution Trust to prepare and file any tax and information returns required with respect to the GUC Distribution Trust, and the payment of taxes or other obligations owed by the GUC Distribution Trust.

c. The GUC Distribution Trustee, in the exercise of the GUC Distribution Trustee's reasonable business judgment, will, in an expeditious, but orderly, manner, make timely distributions and not unduly prolong the duration of the GUC Distribution Trust. The GUC Distribution Trustee will have the absolute right, in consultation with the GUC Distribution Trust Board, to take any and all action with respect to the GUC Distribution Trust Assets as the GUC Distribution Trustee determines is in the best interests of the beneficiaries of the GUC Distribution Trust, and consistent with the purposes of the GUC Distribution Trust Agreement, and will have no liability for the outcome of its decision except for any damages caused by willful misconduct or gross negligence. Specifically, the GUC Distribution Trustee and the professionals retained by the GUC Distribution Trust shall not be liable for any negligence or any error of judgment made in good faith with respect to any action taken or omitted to be taken in good faith. The GUC Distribution Trustee may incur any reasonable and necessary expenses and will be reimbursed in accordance with the provisions of the GUC Distribution Trust Agreement.

d. The GUC Distribution Trustee may retain, without further order of the Bankruptcy Court, professionals to assist it in carrying out its duties as limited above, including any Professionals retained in these Chapter 11 Cases, and the GUC Distribution Trust may pay the reasonable costs and expenses of any professionals retained by the GUC Distribution Trustee in the ordinary course without further order of the Bankruptcy Court. Consistent with the Plan Settlement, the GUC Distribution Trust will retain Womble Bond Dickinson (US) LLP to provide services related to the reconciliation of Disputed Class 4 Claims.

### **3. GUC Distribution Trust Board**

a. On the Effective Date, the GUC Distribution Trust Board will be established and consist of three persons. Pursuant to the Plan Settlement, two of the initial GUC Distribution Trust Board members will be selected by the Creditors' Committee and one will be selected by Boeing. The Plan Supplement will identify the initial GUC Distribution Trust Board. Upon its formation and subject to the duties set forth in the GUC Distribution Trust Agreement, the duties of the GUC Distribution Trust Board will be limited to the following: (a) overseeing the Claims reconciliation and settlement process conducted by or on behalf of the GUC Distribution Trustee; (b) overseeing the distributions to the Holders of Allowed Class 4 and Class 5 Claims under the Plan; (c) appearing before and being heard by the Bankruptcy Court and other courts of competent jurisdiction in connection with the above limited duties; (d) overseeing the GUC Distribution Trustee; and (e) such other matters as may be agreed on between the GUC Distribution Trustee and the GUC Distribution Trust Board or specified in the Plan or the GUC Distribution Trust Agreement. Any decision made by the GUC Distribution Trust Board will be made by majority vote.

b. For so long as the Class 4 Claims reconciliation process will continue, the GUC Distribution Trustee will make regular reports to the GUC Distribution Trust Board as and when the GUC Distribution Trustee and the GUC Distribution Trust Board may reasonably agree on.

c. The members of the GUC Distribution Trust Board will not be compensated, but the GUC Distribution Trust will pay the reasonable costs and expenses of the members of the GUC Distribution Trust Board in the ordinary course without further order of the Bankruptcy Court; *provided, however*, that the GUC Distribution Trust Board's reimbursable costs and expenses shall not include any attorneys' fees.

### **4. Information Sharing by the Liquidation Trustee**

The Liquidation Trustee and its professionals shall cooperate with the GUC Distribution Trustee in connection with the GUC Distribution Trustee's reconciliation and prosecution of objections to Class 4 Claims, including with respect to providing documents, evidence and information as reasonably requested by the GUC Distribution Trustee.

### **5. Expenses of the GUC Distribution Trust**

The GUC Distribution Trust will pay GUC Distribution Trust Expenses from GUC Distribution Trust Assets as set forth herein. For the avoidance of doubt, the GUC Distribution Trust Expenses do not include, and the GUC Distribution Trust shall not be required to pay, (i) reasonable compensation earned by the GUC Distribution Trustee in its capacity as such, and (ii) up to \$25,000 of reasonable fees or expenses incurred by the GUC Distribution Trust, the GUC Distribution Trustee, and/or a Third Party Disbursing Agent in connection with making Distributions to the Holders of Allowed General Unsecured Claims until Class 3 Claims are satisfied. In the event that the GUC Distribution Trust Expenses are greater than the GUC Distribution Trust Assets, the GUC Distribution Trustee shall have no recourse against the Debtors, the Liquidation Trust, or their respective assets.

## **6. Indemnification**

The GUC Distribution Trust Agreement may include reasonable and customary indemnification provisions.

## **7. Tax Treatment**

The GUC Distribution Trust is intended to be treated, for U.S. federal income tax purposes, in part as a liquidating trust within the meaning of Treasury Regulation Section 301.7701-4(d), for the benefit of the Holders of Allowed Class 4 and Class 5 Claims entitled to distributions from the GUC Distribution Trust Assets and otherwise as one or more Disputed Claim Reserves treated as disputed ownership funds within the meaning of Treasury Regulation Section 1.468B-9(b)(1), as more specifically provided for under the GUC Distribution Trust Agreement. Accordingly, for all U.S. federal income tax purposes the transfer of GUC Distribution Trust Assets to the GUC Distribution Trust will be treated: (a) in part as the transfer of assets by the Debtors to the Holders of Allowed Class 4 Claims and Class 5 Claims entitled to distributions from the GUC Distribution Trust Assets followed by the transfer of such assets by such Holders to the GUC Distribution Trust in exchange for the beneficial interests in the GUC Distribution Trust; and (b) in part as the transfer of assets by the Debtors to one or more Disputed Claim Reserves.

The GUC Distribution Trust shall be established for the primary purpose of liquidating and distributing the assets transferred to it, in accordance with Treasury Regulation Section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the GUC Distribution Trust. Accordingly, the GUC Distribution Trustee shall, in an expeditious but orderly manner, make timely distributions to the GUC Distribution Trust Beneficiaries and not unduly prolong its duration. The record holders of beneficial interests shall be recorded and set forth in a register maintained by the GUC Distribution Trustee expressly for such purpose.

The GUC Distribution Trust is intended to qualify as a “grantor trust” for U.S. federal income tax purposes with the GUC Distribution Trust Beneficiaries treated as the grantors and owners of the GUC Distribution Trust Assets for U.S. federal income tax purposes. The GUC Distribution Trustee will be required by the GUC Distribution Trust Agreement to file U.S. federal tax returns for the GUC Distribution Trust as a grantor trust with respect to any GUC Distribution Trust Assets and as one or more disputed ownership funds with respect to all other funds or other property held by the GUC Distribution Trust pursuant to applicable Treasury Regulations, and any income of the GUC Distribution Trust will be treated as subject to tax on a current basis. The GUC Distribution Trustee shall be the administrator of such disputed ownership funds and shall be responsible for all tax reporting and withholding requirements. The GUC Distribution Trust Agreement will provide that the GUC Distribution Trustee will pay such taxes from the GUC Distribution Trust Assets. In addition, the GUC Distribution Trust Agreement will require consistent valuation by the GUC Distribution Trustee and the GUC Distribution Trust Beneficiaries, for all U.S. federal income tax purposes, of any property held by the GUC Distribution Trust. The GUC Distribution Trust Agreement will provide that termination of the trust will occur no later than five years after the Effective Date, unless the Bankruptcy Court approves an extension based on a finding that such an extension is necessary for the GUC Distribution Trust to complete its Claims resolution and liquidating purpose. If the five year period

after the Effective Date has not expired, the GUC Distribution Trustee may seek such extension. The GUC Distribution Trust Agreement also will limit the investment powers of the GUC Distribution Trustee in accordance with IRS Revenue Procedure 94-45 and will require the GUC Distribution Trust to distribute at least annually to the GUC Distribution Trust Beneficiaries (as such may have been determined at such time) its net income (net of any payment of or provision for taxes), except for amounts retained as reasonably necessary to maintain the value of the GUC Distribution Trust Assets or to meet Claims and contingent liabilities (including Disputed Claims).

#### **H. No Revesting of Trust Assets**

No Liquidation Trust Asset or GUC Distribution Trust Asset will revest in any Debtor on or after the date such asset is transferred to the applicable Trust, but will vest upon such transfer in the applicable Trust to be administered by the applicable Trustee in accordance with the Plan and the applicable Trust Agreement.

#### **I. Exemption from Transfer Taxes**

Pursuant to section 1146(a) of the Bankruptcy Code, the transfer of any property under the Plan (including transfers to and from the Liquidation Trust and the GUC Distribution Trust), the making or delivery of any instrument of transfer pursuant to, in implementation of or as contemplated by, the Plan or the vesting, transfer or sale of any real or personal property of the Debtors pursuant to, in implementation of or as contemplated by, the Plan will not be taxed under any state or local law imposing a stamp tax, transfer tax or similar tax or fee. Consistent with the foregoing, each recorder of deeds or similar official for any county, city or governmental unit in which any instrument hereunder is to be recorded will, pursuant to the Confirmation Order, be ordered and directed to accept such instrument, without requiring the payment of any stamp tax, transfer tax or similar tax or fee.

#### **J. Preservation of Retained Causes of Action**

Unless a Retained Cause of Action against any Entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order (including the Confirmation Order and the DIP Order), the Debtors expressly reserve the Retained Causes of Action to be transferred to the Liquidation Trust pursuant to the Plan. No preclusion doctrine, including the doctrines of issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to the Retained Causes of Action upon, or after the entry of, the Confirmation Order or Effective Date based on the Plan or the Confirmation Order, except where a Retained Cause of Action has been released in the Plan or any Final Order (including the Confirmation Order and the Final DIP Order). In accordance with section 1123(b) of the Bankruptcy Code, the Liquidation Trust may enforce all rights to commence and pursue, as appropriate, any and all Retained Causes of Action, as applicable, and the Liquidation Trust's rights to commence, prosecute, or settle any Retained Causes of Action will be preserved notwithstanding entry of the Confirmation Order or the occurrence of the Effective Date. No Entity may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Retained Cause of Action against them as any indication that the Liquidation Trust will not pursue any and all available Retained Causes of Action against them. In accordance with section 1123(b)(3) of the Bankruptcy Code, any Retained Causes of Action that a Debtor may hold against any Entity will vest in the Liquidation Trust and



Liquidation Trustee. In addition, the Liquidation Trust reserves the right to pursue or adopt any claims alleged in any lawsuit in which the Debtors are a defendant or an interested party, against any Entity, including the plaintiffs or co-defendants in such lawsuits.

#### **K. Settlement of Claims and Controversies**

Pursuant to Bankruptcy Rule 9019, and in consideration for the Distributions and other benefits provided under the Plan, the provisions of the Plan will constitute a good faith compromise and settlement of all claims or controversies relating to the rights that a Holder of a Claim or Interest may have with respect to any Allowed Claim or Allowed Interest or any Distribution. The entry of the Confirmation Order will constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise or settlement of all such claims or controversies and the Bankruptcy Court's finding that such compromise or settlement is in the best interests of the Debtors, their Estates and Claim and Interest Holders, and is fair, equitable and reasonable. Notwithstanding any other provision in the Plan, the settlements are approved among the parties that have agreed to them (among any other party who has expressly entered into a written settlement), and the treatment of claims and interests is being afforded pursuant to Confirmation by satisfying the requirements of Section 1129.

#### **L. Release of Liens**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, on the Effective Date all Liens against the property of any Estate will be fully released and discharged.

### **VI. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

#### **A. Treatment of Executory Contracts and Unexpired Leases Generally**

The Plan serves as a motion seeking entry of an order Court approving the assumption and assignments or rejections described in Section V.A of the Plan, pursuant to section 365 of the Bankruptcy Code. Unless an Entity Files an objection with the Bankruptcy Court on or before the Objection Deadline, or such other date as may be fixed by the Bankruptcy Court, the Bankruptcy Court may enter an order (which may be the Confirmation Order) approving the assumption and assignments or rejections described in Section V.A of the Plan, pursuant to section 365 of the Bankruptcy Code. In the event any such objections are timely Filed, a hearing with respect thereto will occur at the Confirmation Hearing or continued to a further hearing; *provided* that the Debtors or Liquidation Trust, as applicable, may settle any objection without further notice or approval of the Bankruptcy Court.

On the Effective Date, except as otherwise provided in the Plan, each of the Debtors' Executory Contracts and Unexpired Leases not previously assumed or rejected pursuant to an order of the Bankruptcy Court will be deemed rejected as of the Effective Date in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, except for any Executory Contract or Unexpired Lease (1) identified on the Assumed Contracts Schedule as an Executory Contract or Unexpired Lease designated for assumption and assignment to the Liquidation Trust, (2) that is the subject of a separate motion or notice to assume or reject Filed

and pending as of the Effective Date, or (3) that previously expired or terminated pursuant to its own terms.

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into in connection with the Plan, on the Effective Date, pursuant to section 365 of the Bankruptcy Code, the applicable Debtor will assume each of the respective Executory Contracts and Unexpired Leases listed on the Assumed Contracts Schedule and assign them to the Liquidation Trust. Each Executory Contract and Unexpired Lease assumed under Section V.A of the Plan will include any modifications, amendments, supplements or restatements to such contract or lease.

To the maximum extent permitted by law, to the extent any provision (including, without limitation, any “change of control” provision) in any Executory Contract or Unexpired Lease assumed pursuant to the Plan restricts or prevents, or purports to restrict or prevent, or is breached or deemed breached by, the assumption and assignment of that Executory Contract or Unexpired Lease, then that provision will be deemed modified such that the assumption and assignment contemplated by the Plan will not entitle the counterparty thereto to terminate the Executory Contract or Unexpired Lease or to exercise any other default-related rights with respect thereto.

#### **B. Bar Date for Rejection Damages Claims**

Any Proofs of Claim based on the rejection, solely pursuant to the provisions of the Plan and not pursuant to any separate notice or motion, of any Executory Contracts or Unexpired Leases must be Filed by no later than thirty days after service of the notice of the Effective Date. Any such rejection Claim will be forever barred and will not be enforceable against the Debtors or the Trusts unless a Proof of Claim is timely Filed pursuant to the procedures specified in the Confirmation Order. The Trusts reserve the right to object to, settle, compromise or otherwise resolve any Proof of Claim Filed on account of a rejected Executory Contract or Unexpired Lease.

#### **C. Amendment of the Assumed Contracts Schedule**

The Debtors, at any time prior to the Effective Date, reserve the right to amend the Assumed Contracts Schedule by (a) deleting any Executory Contract or Unexpired Lease listed therein, thus providing for its rejection pursuant hereto on the Effective Date; or (b) adding any Executory Contract or Unexpired Lease to the Assumed Contracts Schedule, thus providing for such Executory Contract or Unexpired Lease’s assumption and assignment to the Liquidation Trust pursuant to Section V.A of the Plan on the Effective Date. In the event that the Debtors amend the Assumed Contracts Schedule the Debtors will file and serve a Revised Assumption List Notice on the non-Debtor counterparties identified therein, including the proposed Cure Claim (if applicable). Objections to the treatment of any Executory Contract or Unexpired Lease as described in a revised Assumed Contracts Schedule must be Filed within fourteen days from the date of service of the revised Assumed Contracts Schedule. If no objection is Filed, the Confirmation Order shall serve as an order approving the assumption and assignment, or rejection, of the relevant contracts. Nothing in the Plan is an admission by the Debtors that any agreement is an Executory Contract or Unexpired Lease or that the Debtors have any liability thereunder. For the avoidance of doubt, at any time prior to the Effective Date, the Debtors may, by separate

motion, seek to assume and assign to any party any Executory Contract or Unexpired Lease, including any previously identified on the Assumed Contracts Schedule.

#### **D. Payments Related to the Assumption of Executory Contracts and Unexpired Leases**

Any Cure Claims associated with each Executory Contract and Unexpired Lease to be assumed or assumed and assigned pursuant to the Plan, to the extent those Cure Claims constitute monetary defaults, will be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code (1) by payment of the Cure Claim in Cash from the Liquidation Trust; or (2) on such other terms as are agreed to by the parties to such Executory Contract and Unexpired Lease. Pursuant to section 365(b)(2)(D) of the Bankruptcy Code, no Cure Claim will be allowed for a penalty rate or other form of default rate of interest. If there is a dispute regarding (i) the amount of any Cure Claim; (ii) the ability of the Liquidation Trust to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed; or (iii) any other matter pertaining to assumption of such contract or lease, the payment of any Cure Claim required by section 365(b)(1) of the Bankruptcy Code will be made following either (a) the entry of a Final Order resolving the dispute and approving the assumption, or (b) the agreed resolution of the dispute between the Liquidation Trust and the non-Debtor counterparty after the Effective Date.

#### **E. Insurance Policies and Agreements**

All rights of the Debtors under the Insurance Policies will automatically become vested in the Liquidation Trust as of the Effective Date without necessity for further approvals or orders. For the avoidance of doubt, to the extent that any of the rights of the Debtors in one or more of the Insurance Policies are disputed in a court proceeding, or otherwise by any insurance company that issued one or more of the Insurance Policies, all rights of the Debtors under the Insurance Policies will mean any such rights as are finally determined by the court having jurisdiction over such dispute or by the terms of any settlement thereof.

To the extent that any Insurance Policies are deemed Executory Contracts, then, unless the Insurance Policies have been rejected pursuant to an order of the Bankruptcy Court (including the Confirmation Order), and notwithstanding anything to the contrary in the Plan, the Plan will constitute a motion to assume and assign to the Liquidation Trust, permit to “ride through” or ratify such Insurance Policies. Subject to the occurrence of the Effective Date, the entry of the Confirmation Order will constitute both approval of such assumption and assignment pursuant to section 365 of the Bankruptcy Code and a finding by the Bankruptcy Court that such assumption and assignment is in the best interests of the Estates. Unless otherwise determined by the Bankruptcy Court pursuant to a Final Order or agreed upon by the parties prior to the Effective Date, no payments will be required to cure any defaults existing as of the Confirmation Date with respect to any Insurance Policy assumed and assigned to the Liquidation Trust pursuant to this section. Nothing in the Plan will impair the rights of the Debtors, the Liquidation Trust, or any Non-Released Party with respect to (or affect the coverage under) any Insurance Policy that provides liability coverage for officers, directors and other fiduciaries of the Debtors or the Debtors and their Affiliates, including any Non-Released Party.

## **VII. PROVISIONS GOVERNING DISTRIBUTIONS**

### **A. Distributions for Claims Allowed as of the Effective Date**

Except as otherwise provided in the Plan, Distributions to be made on the Effective Date to Holders of Claims that are Allowed Claims as of the Effective Date will be deemed made on the Effective Date if such Distributions are made on the Effective Date or as promptly thereafter as practicable. Distributions on account of Disputed Claims that become Allowed Claims after the Effective Date will be deemed to have been made on the Effective Date. Any Claim that is disallowed by order of the Bankruptcy Court prior to the Effective Date will be deemed expunged (to the extent not already expunged) as of the Effective Date without the necessity for further Bankruptcy Court approval and the Holder of any such disallowed Claim will not be entitled to any Distribution under the Plan.

### **B. Delivery of Distributions; Undeliverable or Unclaimed Distributions; Uneconomic Distributions**

#### **1. Delivery of Distributions to Holders of Allowed Claims**

The Trustees (in their capacity as Disbursing Agent, or such Third Party Disbursing Agents as the applicable Trustee may retain in its sole discretion) will make all distributions of Cash required under the Plan to Holders of Allowed Claims. Each Third Party Disbursing Agent will serve without bond, and any Third Party Disbursing Agent may retain or contract with other entities to assist in or make the distributions required by the Plan.

Distributions to Holders of Allowed Claims will be made by a Disbursing Agent (i) at the addresses set forth on the respective proofs of Claim, requests for payment of Administrative Claim or similar document Filed by Holders of such Claims; (ii) at the addresses set forth in any written certification of address change delivered to the Disbursing Agent (including pursuant to a letter of transmittal delivered to a Disbursing Agent) after the date of Filing of any related Proof of Claim, requests for payment of Administrative Claim or similar document; or (iii) at the addresses reflected in the applicable Debtor's Schedules if no Proof of Claim has been Filed and the Disbursing Agent has not received a written notice of a change of address.

#### **2. Undeliverable Distributions Held by Disbursing Agents**

##### **a. Holding and Investment of Undeliverable Distributions**

Subject to Section VI.B.2.c of the Plan, if any Distribution to a Holder of an Allowed Claim is returned to a Disbursing Agent as undeliverable, no further Distributions will be made to such Holder unless and until the applicable Disbursing Agent is notified by written certification of such Holder's current address and such undeliverable Distributions will remain in the possession of the applicable Disbursing Agent pursuant to Section VI.B.2.a of the Plan for the benefit of such claimants until such time as a Distribution becomes deliverable.

**b. After Distributions Become Deliverable**

The applicable Disbursing Agent will make all Distributions that become deliverable to Holders of Allowed Claims as soon as reasonably practicable after such Distributions become deliverable; *provided, however*, that the applicable Trustee or Third Party Disbursing Agent, as applicable, may, subject to the terms of the applicable Trust Agreement, make Distributions to the Holders of Allowed Claims at such times and at such intervals as the Trustee determines is appropriate for purposes of administrative convenience. Each such Distribution will include, to the extent applicable, a Pro Rata share of the Cash Investment Yield from the investment of any undeliverable Cash from the date that such Distribution would have first been due had it then been deliverable to the date that such Distribution becomes deliverable.

**c. Failure to Claim Undeliverable Distributions**

Any Holder of an Allowed Claim that does not assert a claim pursuant to the Plan for an undeliverable Distribution to be made by a Disbursing Agent within 180 days after the later of (i) the Effective Date and (ii) the last date on which a Distribution was deliverable to such Holder will have its claim for such undeliverable Distribution deemed satisfied, waived and released and will be forever barred from asserting any such claim against the Debtors, the Liquidation Trust, the GUC Distribution Trust and their respective property. After that date, the unclaimed Distribution(s) shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and all such unclaimed property shall revert (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary) to the applicable Trust automatically and without need for a further order of the Bankruptcy Court. In such cases, the unclaimed Distributions will be maintained for redistribution to other Holders entitled to Distributions under the Plan. Nothing contained in the Plan will require any Debtor or any Disbursing Agent to attempt to locate any Holder of an Allowed Claim.

**3. Uneconomic Distributions**

In the event a Disbursing Agent, with the consent of the applicable Trust's board, determines that the amount to be distributed in any final Distribution is such that the expense of making that final Distribution would approach or exceed the benefit to the applicable Trust's beneficiaries from such Distribution, the Disbursing Agent in its discretion may instead transfer such amount to one or more tax exempt nonprofit organizations active in the provision of human services in the Wichita, Kansas and/or Puget Sound, Washington areas.

**C. Compensation and Reimbursement for Services Related to Distributions**

**1. Compensation and Reimbursement**

Each Third Party Disbursing Agent providing services related to distributions pursuant to the Plan will receive from the applicable Trust, without further Bankruptcy Court approval, reasonable compensation for such services and reimbursement of reasonable out-of-pocket expenses incurred (including taxes) in connection with such services.

## **2. Investment of Cash Related to Distributions**

To assist in making distributions under the Plan, Cash may be held in the name of one or more Third Party Disbursing Agents for the benefit of Holders of Allowed Claims under the Plan. The Third Party Disbursing Agents will invest the Cash as directed by the applicable Trustee in accordance with the Debtors' investment and deposit guidelines; *provided, however*, that should the applicable Trustee determine, in his or her sole discretion, that the administrative costs associated with such investment will exceed the return on such investment, he or she may direct the Third Party Disbursing Agent to not invest such Cash. Distributions of Cash from accounts held by Third Party Disbursing Agents will include a Pro Rata share of the Cash Investment Yield, if any, from such investment of Cash.

### **D. Distribution Record Date**

#### **1. No Recognition of Transfers after the Distribution Record Date**

A Disbursing Agent will have no obligation to recognize the transfer of, or the sale of any participation in, any Claim that occurs after the close of business on the Distribution Record Date and will be entitled for all purposes in the Plan to recognize and make Distributions only to those Holders of Allowed Claims that are Holders of record of such Claims, or participants therein, as of the close of business on the Distribution Record Date. Notwithstanding the foregoing, a Disbursing Agent may in its sole discretion acknowledge such a transfer or sale, conditioned on the receipt of such consents and other documentation as the Disbursing Agent may in its discretion determine is appropriate.

#### **2. Treatment of Certain Transfers**

Except as otherwise provided in a Final Order of the Bankruptcy Court, the transferees of Claims that are transferred pursuant to Bankruptcy Rule 3001 on or prior to the Distribution Record Date will be treated as the Holders of such Claims for all purposes, notwithstanding that any period provided by Bankruptcy Rule 3001 for objecting to such transfer has not expired by the Distribution Record Date.

### **E. Means of Cash Payments**

Except as otherwise specified in Section VI.E of the Plan, Cash payments made pursuant to the Plan to Holders of Claims will be in U.S. currency by checks drawn on a domestic bank selected by the applicable Trustee, or, at the option of the applicable Trustee, by wire transfer from a domestic bank; *provided, however*, that Cash payments to foreign Holders of Allowed Claims may be made, at the option of the applicable Trustee, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction.

## **F. Timing and Calculation of Amounts to Be Distributed**

### **1. Allowed Claims**

Each Holder of an Allowed Claim will receive the full amount of the Distributions that the Plan provides for Allowed Claims in the applicable Class pursuant to the terms and conditions of the Plan and the applicable Trust Agreement.

### **2. De Minimis Distributions**

No Disbursing Agent will distribute Cash to the Holder of an Allowed Claim in an impaired Class if the amount of Cash to be distributed on account of such Claim is less than \$100 in the aggregate. Any Holder of an Allowed Claim in an impaired Class on account of which the amount of Cash to be distributed is less than \$100 in the aggregate will be forever barred from asserting its Claim for such distribution against the applicable Trust or its property. Any Cash not distributed pursuant to Section VI.F.2 of the Plan will be the property of the applicable Trust, and any such Cash held by a Third Party Disbursing Agent will be transferred or returned to the applicable Trust. Any fractional amounts of cash will be rounded down to the nearest cent (i.e., \$0.01).

### **3. Compliance with Tax Requirements**

#### **a. Withholding and Reporting**

In connection with the Plan, each Disbursing Agent shall comply with all tax withholding and reporting requirements imposed on them by any governmental unit, including but not limited to U.S. federal backup withholding, and all Distributions shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, each Disbursing Agent shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the Distribution to generate sufficient funds to pay applicable withholding taxes, withholding Distributions pending receipt of information necessary to facilitate such Distributions or establishing any other mechanisms such Disbursing Agent believes are reasonable and appropriate. Such Disbursing Agent shall have the right to allocate all Distributions in compliance with applicable wage garnishments, alimony, child support and other spousal awards, liens and encumbrances.

Each Disbursing Agent shall be authorized to require each Holder of a Claim to provide it with an executed IRS Form W-9, IRS Form W-8 or other appropriate tax form or documentation as a condition precedent to being sent a Distribution. The applicable Disbursing Agent shall provide advance written notice of such requirement to each Holder of a Claim affected thereby. The notice shall provide each Holder of a Claim with a specified time period after the date of mailing of such notice to provide an executed IRS Form W-9, IRS Form W-8 or other tax form or documentation to such Disbursing Agent. If a Holder of an Allowed Claim does not provide such Disbursing Agent with an executed IRS Form W-9, IRS Form W-8 or other tax form or documentation within the time period specified in such notice, or such later time period agreed to by such Disbursing Agent in writing in its discretion, then such Disbursing Agent, in its sole discretion, may (i) make a Distribution net of any applicable withholding or (ii) determine that such Holder shall be deemed to have forfeited the right to receive any Distribution, in which case, any such Distribution shall revert to the applicable Trust for Distribution on account of other

Allowed Claims pursuant to the Plan and the Claim of the Holder originally entitled to such Distribution shall be waived and forever barred without further order of the Bankruptcy Court.

**b. Obligations of Distribution Recipients**

Notwithstanding any other provision of the Plan, each Entity receiving a Distribution pursuant to the Plan will have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed on it by any governmental unit on account of such Distribution, including income, withholding and other tax obligations.

**G. Setoffs**

Except with respect to claims of a Debtor released pursuant to the Plan or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, the applicable Trustee or a Third Party Disbursing Agent, as instructed by the applicable Trustee pursuant to section 558 of the Bankruptcy Code or applicable non-bankruptcy law, may set off against any Allowed Claim and the distributions to be made pursuant to the Plan on account of such Claim (before any distribution is made on account of such Claim) the Retained Causes of Action of any nature against the Holder of such Allowed Claim; *provided, however*, that neither the failure to effect a setoff nor the allowance of any Claim hereunder will constitute a waiver or release by the applicable Debtor of any Retained Causes of Action that the Debtors may possess against such a Claim Holder.

**H. Allocation of Payments**

Except as required by applicable bankruptcy law or otherwise expressly provided herein, interest shall not accrue on any Holder's Claim entitled to a Distribution from a Trust's assets in respect of the period from the Petition Date to the date a final Distribution is made on such Claim. To the extent that any Allowed Claim entitled to a Distribution from a Trust's assets consists of indebtedness and other amounts (such as accrued but unpaid interest thereon), such Distributions shall be allocated first to the principal amount of the Claim (as determined for U.S. federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claim, to such other amounts.

**VIII. PROCEDURES FOR RESOLVING DISPUTED CLAIMS**

**A. Prosecution of Objections to Claims**

**1. Objections to Claims**

All objections to Claims must be Filed by no later than the Claims Objection Bar Date, as the same may be extended by an order of the Bankruptcy Court.

**2. Authority to Prosecute Objections**

After the Effective Date, only the Liquidation Trustee on behalf of the Liquidation Trust and the GUC Distribution Trustee on behalf of the GUC Distribution Trust will have the authority to File, settle, compromise, withdraw or litigate to judgment objections to Claims, including



pursuant to any alternative dispute resolution or similar procedures approved by the Bankruptcy Court. After the Effective Date, the Liquidation Trustee may settle or compromise any Disputed Claim (other than a Disputed Class 4 Claim) without approval of the Bankruptcy Court, except as may be required by the Liquidation Trust Agreement. After the Effective Date, the GUC Distribution Trustee may settle or compromise any Disputed Class 4 Claim without approval of the Bankruptcy Court in accordance with the GUC Distribution Trust Agreement.

## **B. Treatment of Disputed Claims**

### **1. No Payments on Account of Disputed Claims**

Notwithstanding any other provisions of the Plan, no payments or Distributions will be made on account of a Disputed Claim until such Claim becomes an Allowed Claim.

### **2. Establishment of Disputed Claims Reserves**

Within sixty days after the Effective Date, or as soon thereafter as is reasonably practicable, the Liquidation Trustee will establish a Disputed Claims Reserve for any Disputed Administrative Claims, Priority Tax Claims, Priority Claims, and Other Secured Claims, which reserve will be administered by the Liquidation Trustee. Within sixty days after the Effective Date, the GUC Distribution Trustee will establish a Disputed Claims Reserve for Distributions on account of any Disputed General Unsecured Claims. The Liquidation Trustee will reserve, in Cash from the Liquidation Trust's Assets, on account of the full asserted amount (or such lesser amount as may be determined or estimated by the Bankruptcy Court after notice and a hearing) with respect to each applicable Disputed Claim. The GUC Distribution Trustee will reserve from any Distribution the amount each Disputed General Unsecured Claim would be entitled to receive as a Distribution based on the full asserted amount of the Claim (or such lesser amount as may be determined or estimated by the Bankruptcy Court after notice and a hearing). For the avoidance of doubt, the Trustees may administer the Disputed Claims Reserves by book entry.

### **3. Maintenance of Disputed Claims Reserves**

The Cash placed in any Disputed Claim Reserve will be deposited in an interest-bearing account. The property in any Disputed Claims Reserve will be held in trust for the benefit of the Holders of the Disputed Claims ultimately determined to be Allowed Claims. The Disputed Claims Reserves may be closed by the applicable Trustee when all of the applicable Disputed Claims have been resolved in accordance with the terms of this Plan. Upon closure of any Disputed Claims Reserve, all Cash (including any related Cash Investment Yield) and other property held in the Disputed Claims Reserve will be distributed Pro Rata to the applicable Trust's beneficiaries.

### **4. Recourse**

Other than Holders of Disputed Class 4 Claims or Class 5 Claims, each Holder of a Disputed Claim that ultimately becomes an Allowed Claim will have recourse only to the Disputed Claims Reserve for the satisfaction of such Allowed Claim and not any assets previously distributed on account of any Allowed Claim. Each Holder of a Disputed Class 4 Claim or Class 5 Claim that ultimately becomes an Allowed Claim will have recourse only to the Disputed Claims

Reserve maintained by the GUC Distribution Trust and future GUC Distributable Assets, and not any assets previously distributed on account of any Allowed Claim.

## **5. Estimation**

Nothing in the Plan shall preclude or limit in any way the right of the Debtors or either Trustee to request the Bankruptcy Court to estimate, for any purpose, any Disputed Claim. Such estimation shall be conducted pursuant to section 502(c) of the Bankruptcy Code, it being understood that a significant delay in making Distributions on account of Allowed Claims pursuant to the Plan shall constitute undue delay in the administration of the Chapter 11 Cases.

## **C. Distributions on Account of Disputed Claims Once Allowed**

The applicable Disbursing Agent will make all Distributions on account of a Disputed Claim that becomes an Allowed Claim in accordance with the provisions of the Plan, including the provisions of the Plan governing the applicable Class, and the applicable Trust Agreement.

## **IX. CONDITIONS PRECEDENT TO THE EFFECTIVE DATE**

### **A. Conditions to the Effective Date**

The Effective Date will not occur and the Plan will not be consummated unless and until each of the following conditions has been satisfied or duly waived pursuant to Section VIII.B of the Plan:

1. The Bankruptcy Court will have entered the Confirmation Order.
2. The Liquidation Trust Agreement will have been executed and the Liquidation Trust will have been established.
3. The GUC Distribution Trust Agreement will have been executed and the GUC Distribution Trust will have been established.
4. The Liquidation Trustee and the GUC Distribution Trustee will have been appointed and have accepted their respective appointment.
5. All other documents and agreements necessary to implement this Plan on the Effective Date will have been executed and delivered to the required parties and, to the extent required, filed with the applicable Governmental Unit in accordance with applicable laws.
6. The Professional Fee Reserve Account will have been funded as set forth herein.
7. The Liquidation Trust Assets will have been transferred to the Liquidation Trust.
8. The GUC Claims Determination Fund and Initial GUC Cash Distribution will have been transferred to the GUC Distribution Trust.
9. All statutory fees and obligations then due and payable to the U.S. Trustee will have been paid in full.

**B. Waiver of Conditions to the Effective Date**

The conditions to the Effective Date set forth in Section VIII.A of the Plan may be waived in whole or part in writing (email being sufficient) by the Debtors, subject to the consent of the other Settling Parties, at any time without an order of the Bankruptcy Court. The other Settling Parties shall not unreasonably withhold their consent to a waiver.

**C. Effect of Vacatur of the Confirmation Order**

If the Confirmation Order is vacated (1) the Plan will be null and void in all respects, including with respect to the release of Claims and Distributions for Allowed Claims; and (2) nothing contained in the Plan will (a) constitute a waiver or release of any Claims by or against, or any Interest in, the Debtors or (b) prejudice in any manner the rights, including any claims or defenses, of the Parties or any other party in interest.

**D. Votes Solicited in Good Faith**

Upon entry of the Confirmation Order, (1) the Debtors will be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code and (2) pursuant to section 1125(e) of the Bankruptcy Code, the Debtors and each of their respective Affiliates, agents, Representatives, members, principals, shareholders, officers, directors, employees, advisors and attorneys will be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale and purchase of securities offered and sold under the Plan and any previous plan, and, therefore, neither any of such parties or individuals will have any liability for the violation of any applicable law, rule or regulation governing the solicitation of votes on the Plan or the offer, issuance, sale or purchase of any securities offered and sold under the Plan and any previous plan.

**X. EXCULPATION, RELEASES, AND INJUNCTION****A. Exculpation**

**Except as otherwise specifically provided in the Plan, no Exculpated Party shall have or incur any liability with respect to, and each Exculpated Party is released and exculpated from, any cause of action for any claim related to any act or omission in connection with, relating to, or arising out of, post-petition conduct within the Chapter 11 Cases, the Disclosure Statement, the Plan, the Asset Sales or any Dissolution Transaction, contract, instrument, release or other agreement or document created or entered into in connection with the Disclosure Statement or the Plan, the Asset Sales, post-petition conduct within the Chapter 11 Cases, the pursuit of Confirmation, the administration and implementation of the Plan, or the distribution of property under the Plan or any other related agreement, except for claims related to any act or omission that is determined in a Final Order to have constituted actual fraud or gross negligence; *provided, however*, that in all respects the Exculpated Parties shall be entitled to reasonably rely on the advice of counsel with respect to their duties and responsibilities pursuant to the Plan.**

## **B. Releases**

### **1. Releases by the Debtors**

**On and after the Effective Date, each Released Party is deemed released by the Debtors and their Estates from any and all claims and Causes of Action, including any Retained Causes of Action and derivative claims that could be asserted on behalf of the Debtors, that the Debtors or their Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in, a Debtor or other Entity, based on, or relating to, or in any manner arising from, in whole or in part, Debtors, the Debtors' in- or out of court restructuring efforts, intercompany transactions between or among a Debtor and another Debtor, the Chapter 11 Cases, the formulation, preparation, dissemination, negotiation, or filing of the Disclosure Statement, the Plan, or any Dissolution Transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the Disclosure Statement, the Plan, the Asset Sales, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the administration and implementation of the Plan, or the distribution of property under the Plan or any other related agreement, or on any other related act or omission, transaction, agreement, event, or other occurrence taking place on, or before, the Effective Date.**

Notwithstanding anything to the contrary in the foregoing paragraph, the releases set forth in Section IX.B.1 of the Plan (i) do not release any post-Effective Date obligations of any party or Entity under the Plan, any Dissolution Transaction, or any document, instrument, or agreement executed to implement the Plan; and (ii) do not affect the rights of Holders of Allowed Claims or Interests to receive Distributions under the Plan.

Entry of the Confirmation Order will constitute the Bankruptcy Court's approval of the releases in the Plan, which includes by reference each of the related provisions and definitions contained in the Plan.

### **2. Releases by Holders of Claims and Interests**

**As of the Effective Date, except as otherwise provided in the Plan, each Releasing Party is deemed to have released each Released Party from any and all claims and causes of action, whether known or unknown, including any derivative claims asserted on behalf of the Debtors, that such Entity would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Debtors' in- or out of court restructuring efforts, intercompany transactions between or among a Debtor and another Debtor, the Chapter 11 Cases, the formulation, preparation, dissemination, negotiation, or filing of the Disclosure Statement, the Plan, or any Dissolution Transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the Disclosure Statement, the Plan, the Asset Sales, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the administration and implementation of the Plan, or the distribution of property under the Plan or any other related agreement, or on any other related act or omission, transaction, agreement, event, or other occurrence taking place on, or before, the Effective Date.**

Notwithstanding anything to the contrary in the foregoing paragraph, the releases set forth in Section IX.B.2 of the Plan (i) do not release any post-Effective Date obligations of any party or Entity under the Plan, any Dissolution Transaction, or any document, instrument, or agreement executed to implement the Plan; and (ii) do not affect the rights of Holders of Allowed Claims or Interests to receive Distributions under the Plan.

Entry of the Confirmation Order will constitute the Bankruptcy Court's approval of the releases in the Plan, which includes by reference each of the related provisions and definitions contained in the Plan.

### **C. Injunction**

**Except as provided in the Plan or the Confirmation Order and other than with respect to a right of recoupment or a setoff, as of the Effective Date, all Entities that have held, currently hold or may hold a Claim or other debt or liability subject to the Plan or an Interest or other right of an equity security Holder that is terminated pursuant to the terms of the Plan or cause of action of a non-Debtor that is released under the Plan will be permanently enjoined from taking any of the following actions in respect of any such Claims, debts, liabilities, Interests or rights: (1) commencing or continuing in any manner or means any action or other proceeding against the Debtors, the Liquidation Trust, the Liquidation Trustee, the Liquidation Trust Board, the Exculpated Parties (to the extent of the exculpation provided pursuant to the Plan with respect to the Exculpated Parties), the GUC Distribution Trust, the GUC Distribution Trustee, the Released Parties, or their respective assets, whether directly, derivatively or otherwise, other than to enforce any right pursuant to the Plan (or any order resolving the Dispute) to a Distribution; (2) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Debtors, the Liquidation Trust, the Liquidation Trustee, the Liquidation Trust Board, the Exculpated Parties (to the extent of the exculpation provided pursuant to the Plan with respect to the Exculpated Parties), the GUC Distribution Trust, the GUC Distribution Trustee, the Released Parties, or their respective assets other than as permitted pursuant to (1) above; (3) creating, perfecting or enforcing any Lien or encumbrance of any kind against the Debtors, the Liquidation Trust, the Exculpated Parties (to the extent of the exculpation provided pursuant to the Plan with respect to the Exculpated Parties), the GUC Distribution Trust, the GUC Distribution Trustee, or their respective property; (4) asserting a right of subrogation of any kind against any debt, liability or obligation due to the Debtors, the Liquidation Trust, the Liquidation Trustee, the Liquidation Trust Board, the Exculpated Parties (to the extent of the exculpation provided pursuant to the Plan with respect to the Exculpated Parties), the GUC Distribution Trust, the GUC Distribution Trustee, or the Released Parties; and (5) commencing or continuing any action, in any manner, in any place that does not comply with or is inconsistent with the provisions of the Plan. Such injunction will extend to the successors, if any, of the Debtors, the Liquidation Trust, the Liquidation Trustee, the Liquidation Trust Board, the Exculpated Parties (to the extent of the exculpation provided pursuant to the Plan with respect to the Exculpated Parties), the GUC Distribution Trust, the GUC Distribution Trustee, and the Released Parties and to their respective properties and interests in property. Anyone injured by any willful violation of this injunction will be entitled to recover actual damages, including costs and attorneys' fees and, in appropriate circumstances, may recover punitive damages from the willful violator.**

**D. Term of Injunctions or Stays**

Unless otherwise provided, all injunctions or stays provided for in the Chapter 11 Cases pursuant to sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, will remain in full force and effect until the Effective Date.

**XI. RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court will retain such jurisdiction over the Chapter 11 Cases after the Effective Date as is legally permissible, including jurisdiction to:

1. allow, disallow, determine, liquidate, classify, reclassify, estimate or establish the priority, secured or unsecured status (or proper Plan classification) of any Claim or Interest, including the resolution of any request for an Administrative Claim and the resolution of any objections to the allowance, priority or classification of Claims or Interests;
2. grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan for periods ending on or before the Effective Date;
3. resolve any matters related to the assumption, assumption and assignment or rejection of any Executory Contract or Unexpired Lease to which any Debtor is a party or with respect to which any Debtor may be liable and to hear, determine and, if necessary, liquidate any Claims arising therefrom;
4. resolve any matters related to the assumption, assumption and assignment or rejection of any Executory Contract or Unexpired Lease to which any Debtor is a party or with respect to which any Debtor may be liable and to hear, determine and, if necessary, liquidate any Claims arising therefrom;
5. enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases and other agreements or documents entered into or delivered in connection with the Plan or the Confirmation Order, including the Liquidation Trust Agreement and the GUC Distribution Trust Agreement;
6. resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation or enforcement of the Plan or any contract, instrument, release or other agreement or document that is entered into or delivered pursuant to the Plan, including the Liquidation Trust Agreement, the GUC Distribution Trust Agreement or any Entity's rights arising from or obligations incurred in connection with the Plan or such documents;
7. modify the Plan before or after the Effective Date pursuant to section 1127 of the Bankruptcy Code;
8. issue injunctions, enforce the injunctions and exculpations contained in the Plan and the Confirmation Order, enter and implement other orders or take such other actions as may

be necessary or appropriate to restrain interference by any Entity with consummation, implementation or enforcement of the Plan or the Confirmation Order;

9. enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason or in any respect modified, stayed, reversed, revoked or vacated or distributions pursuant to the Plan are enjoined or stayed;

10. determine any other matters that may arise in connection with or relate to the Plan, the Confirmation Order or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan or the Confirmation Order;

11. recover any property of the Estates, wherever located;

12. hear and determine matters related to the Retained Causes of Action, including any motions under Bankruptcy Rule 2004 related thereto;

13. determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code, including any Disputed Claims for taxes; and

14. enter one or more final decrees closing the Debtors' Chapter 11 Cases.

The foregoing is not intended to (a) expand the Bankruptcy Court's jurisdiction beyond that allowed by applicable law, (b) impair the rights of an Entity to invoke the jurisdiction of a court, commission, or tribunal or (c) impair the rights of an Entity to seek the withdrawal of the reference in accordance with 28 U.S.C. § 157(d).

## **XII. MISCELLANEOUS PROVISIONS**

### **A. Dissolution of the Creditors' Committee**

On the Effective Date, the Creditors' Committee will dissolve and the members thereof will be released and discharged from all duties and obligations arising from or related to the Chapter 11 Cases; *provided, however*, that, after the Effective Date, the Creditors' Committee will continue to exist solely with respect to (i) any applications for Professional Fee Claims or expense reimbursements for members of the Creditors' Committee, including preparing same, objecting to same, defending same and attending any hearing with respect to same; (ii) any motions or other actions seeking enforcement or implementation of the provisions of the Plan or Confirmation Order; and (iii) any appeal pending as of the Effective Date or filed thereafter, the outcome of which could reasonably be expected to affect in any material way the treatment of the Holders of General Unsecured Claims, including, but not limited to, any cases, controversies, suits or disputes arising in connection with the consummation, interpretation, implementation or enforcement of the Plan or the Confirmation Order. Following the Effective Date, the Creditors' Committee's Professionals shall be entitled to reasonable compensation for services rendered in connection with the matters identified in clauses (i) – (iii), provided such amounts are available under the approved budget pursuant to the DIP Order, as recharacterized pursuant to the Plan Settlement. Any such payments made in connection therewith shall be made without any further notice to or action, order, or approval of the Bankruptcy Court. The Creditors' Committee may also reconstitute

informally if there is a need to appoint replacement members of the Liquidation Trust Board or GUC Distribution Trust Board.

**B. Modification of the Plan**

Subject to the restrictions on modifications set forth in section 1127 of the Bankruptcy Code, the Debtors or the Liquidation Trustee, as applicable, reserve the right, subject to the prior consent of each other Settling Party, to alter, amend or modify the Plan at any time before its substantial consummation.

**C. Revocation of the Plan**

The Debtors reserve the right to revoke or withdraw the Plan as to any (or all) of the Debtors prior to the Effective Date. If the Plan is revoked or withdrawn as to any (or all) of the Debtors, then the Plan will be null and void in all respects solely with respect to such Debtors, and nothing contained in the Plan will (1) prejudice in any manner the rights of any Debtor or any other party in interest; (2) constitute a waiver or release of any claims by or against, or any interests in, any of the Debtors or any other Entity; or (3) constitute an admission of any sort by any Debtor or any other Entity. The revocation or withdrawal of the Plan with respect to one or more Debtors will not require the re-solicitation of the Plan with respect to the remaining Debtors.

**D. Inconsistency**

In the event of any inconsistency among the Plan, the Disclosure Statement, or any exhibit or schedule to the Disclosure Statement, the provisions of the Plan will govern. In the event of any inconsistency among the Plan and any document or agreement Filed in connection with the Plan, including documents in the Plan Supplement, such document or agreement will control. In the event of any inconsistency among the Plan or any document or agreement Filed in connection with the Plan and the Confirmation Order, the Confirmation Order will control.

**E. Exhibits and Schedules**

All exhibits and schedules to the Plan, including the Plan Supplement, are incorporated into and constitute a part of the Plan as if set forth in the Plan.

**F. Severability**

If prior to the entry of the Confirmation Order, any term or provision of the Plan is determined by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court may, at the request of the Debtors, alter and interpret such term or provision to the extent necessary to render it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision will then be applicable as so altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remaining terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.



**G. Successors and Assigns**

Except as expressly provided otherwise in the Plan, the rights, benefits and obligations of any person named or referred to in the Plan or the Confirmation Order will be binding on, and will inure to the benefit of, any heir, executor, administrator, successor or assign, Affiliate, Representative, beneficiary or guardian, if any, of each person.

**H. Closing of Chapter 11 Cases**

On or after the Effective Date, the Liquidation Trustee will be authorized, subject to compliance with Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court at any time to submit a motion seeking the closure of any of the Chapter 11 Cases without prejudice to the rights of any party in interest to seek to reopen such Chapter 11 Cases, and all motions, contested matters, adversary proceedings, and other matters with respect to such Chapter 11 Cases will be administered in the remaining Chapter 11 Case(s), without prejudice to the rights of any party in interest.

**I. Service of Documents**

Any pleading, notice or other document required by the Plan or Confirmation Order to be served on or delivered to the Debtors, the Liquidation Trustee, the Creditors' Committee, the GUC Distribution Trustee, or the Settling Parties must be sent to:

**1. The Debtors**

TECT Aerospace Group Holdings, Inc., *et al.*  
c/o Shaun Martin  
Riveron RTS, LLC  
265 Franklin Street, Suite 1004  
Boston, MA 02110  
Email: smartin@riveron.com

With a copy to:

Paul N. Heath  
Zachary I. Shapiro  
Richards, Layton & Finger, P.A.  
One Rodney Square  
920 North King Street  
Wilmington, DE 19801  
Email: heath@rlf.com  
shapiro@rlf.com

**2. The Liquidation Trustee: the address set forth in the Liquidation Trust Agreement**

**3. The Creditors' Committee**

c/o Matthew P. Ward  
Morgan L. Patterson  
Womble Bond Dickinson (US) LLP  
1313 North Market Street, Suite 1200  
Wilmington, DE 19801  
Email: matthew.ward@wbd-us.com  
morgan.patterson@wbd-us.com

-and-

c/o David M. Posner  
Gianfranco Finizio  
Kilpatrick Townsend & Stockton LLP  
The Grace Building  
1114 Avenue of the Americas  
New York, NY 10036  
Email: dposner@kilpatricktownsend.com  
gfinizio@kilpatricktownsend.com

**4. The GUC Distribution Trustee: the address set forth in the GUC Distribution Trust Agreement**

**5. Boeing**

The Boeing Company  
Office of the General Counsel  
Attn: Jennifer E. Sweeny  
7755 E. Marginal Way S., M/C 11-509  
Seattle, WA 98108  
Email: Jennifer.e.sweeny@boeing.com

-and-

c/o Alan D. Smith  
Amir Gamliel  
Perkins Coie LLP  
1201 Third Avenue  
Seattle, WA 98101  
Email: adsmith@perkinscoie.com  
agamliel@perkinscoie.com

**XIII. RISK FACTORS**

Prior to voting on the Plan, Holders of Claims in Classes 3, 4 and 5 as well as entities in non-voting Classes, should consider carefully the risk factors described below, as well as all of the information contained in this Disclosure Statement, including the Exhibits hereto. These risk factors should not, however, be regarded as constituting the only risks involved in connection with the Plan and its implementation. *See* Section XIV for a discussion of tax law considerations.

**A. Plan Confirmation and Classification**

There is no guarantee that the Plan will be confirmed. If the Plan, or a substantially similar plan, is not confirmed, the terms and timing of any plan of liquidation ultimately confirmed in the Chapter 11 Cases and the treatment of Claims and Interest will be unknown. In addition, if the Plan is not confirmed, a significant risk exists that the Chapter 11 Cases may be converted to cases under chapter 7. In that event, the Debtors believe that creditor recoveries would be substantially diminished.

In addition, there is no guarantee that the Bankruptcy Court will agree with the classification of Claims and Interests as proposed by the Plan. Section 1122 of the Bankruptcy Code provides that a chapter 11 plan may place a claim or an equity interest in a particular class only if that claim or interest is substantially similar to the other claims or interests in that class. As is described herein, the Debtors believe that the Plan's classification of Claims and Interests complies with the requirements under the Bankruptcy Code. Nevertheless, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

**B. The Effective Date May Not Occur**

The Plan provides that there are conditions precedent to the occurrence of the Effective Date. There is no guarantee as to the timing of the Effective Date. Additionally, if the conditions precedent to the Effective Date are not satisfied or waived, the Bankruptcy Court may vacate the Confirmation Order. In that event, the Plan would be deemed null and void and the Debtors or any other party may propose or solicit votes on an alternative plan of liquidation that may not be as favorable to parties in interest as the Plan.

**C. Allowance of Claims**

This Disclosure Statement has been prepared based on preliminary information concerning filed Claims and the Debtors' books and records. The actual amount of Allowed Claims may differ from the Debtors' current estimates.

**D. Risk Factors That May Affect Recoveries Available to Holders of Allowed Claims Under the Plan****1. The Amount of Allowed Claims May Adversely Affect the Recovery of Some Holders of Allowed Claims**

The Distributions available to Holders of Allowed Claims in Classes 3, 4, and 5 under the Plan can be affected by a variety of contingencies, including, without limitation, the amount of Allowed Administrative Claims, Priority Tax Claims, Class 1 Claims, and Class 2 Claims, thereby reducing the amount of distributions available for other Holders of Allowed Claims. Additionally, Distributions available to Holders of Allowed Claims in Classes 4 and 5 can be affected by the aggregate amount of Allowed Claims in Classes 4 and 5. The Debtors cannot determine with any certainty at this time the number or amount of such Claims that will ultimately be Allowed. Thus, the projected recoveries for Holders of Allowed Claims in Classes 3, 4, and 5 disclosed in this Disclosure Statement are highly speculative.

## **2. Any Valuation of Any Assets to be Distributed Under the Plan is Speculative**

Any valuation of any of the assets to be distributed under the Plan is necessarily speculative, including but not limited to the potential recoveries, if any, in respect of the Retained Causes of Action. See Article V.E *supra*, for a description of some of the Retained Causes of Action. Accordingly, the ultimate value, if any, of these assets could materially affect, among other things, recoveries to the Holders of Allowed Claims in Classes 3, 4, and 5.

## **3. The Debtors Cannot Guarantee the Timing of Distributions**

The timing of actual Distributions to Holders of Allowed Claims may be affected by many factors that cannot be predicted. Therefore, the Debtors cannot guarantee the timing of any recovery on an Allowed Claim.

## **4. Certain Tax Implications of the Debtors' Bankruptcies**

Holders of Allowed Claims should carefully review Section XIV of this Disclosure Statement, "Certain U.S. Federal Income Tax Consequences of Consummation of the Plan," for a description of certain tax implications of the Plan and the Debtors' Chapter 11 Cases.

## **5. Trusts' Expenses**

The ultimate amount of Cash available to satisfy the amount of Allowed Claims in Classes 3, 4, and 5 depends, in part, on the manner in which the Trustees operate their respective Trusts and the expenses each Trustee incurs. Such expenses may include, without limitation, the ordinary course and other expenses of administering the Liquidation Trust, including the costs to liquidate the Liquidation Trust Assets, investigate and prosecute the Retained Causes of Action, prosecute objections to Claims, and make Distributions. The expenses of each Trustee will be given priority over Distributions to holders of Claims in Classes 3, 4, and 5. As a result, if the Trustee incurs professional or other expenses in excess of current expectations, the amount of distributable assets remaining to satisfy Allowed Claims in Classes 3, 4, and 5 will decrease.

## **E. Risk Factors Relating to Securities Laws**

Section 1145(a)(1) of the Bankruptcy Code exempts the offer and sale of securities under a plan from registration under the Securities Act and state securities laws if three principal requirements are satisfied: (1) the securities must be offered and sold under a plan and must be securities of the debtor, an affiliate participating in a joint plan with the debtor or a successor to the debtor under the plan; (2) the recipients of the securities must hold a pre-petition or administrative expense claim against the debtor or an interest in the debtor; and (3) the securities must be issued entirely in exchange for the recipient's claim against or interest in the debtor, or principally in such exchange and partly for cash or property. To the extent that the rights to Distributions from the Trust are deemed to constitute securities issued in accordance with the Plan, the Debtors believe that those interests satisfy the requirements of section 1145(a)(1) of the Bankruptcy Code and, therefore, those interests are exempt from registration under the Securities Act and applicable state securities laws.

## **1. Non-Transferability**

Holders of Claims in Classes 3, 4, and 5 also should be aware that their rights to Distribution from the applicable Trust are not transferable. Therefore, there will not be any trading market for those rights, nor will those the rights be listed on any public exchange or other market. The lack of liquidity of the rights to Distributions from each Trust may have a negative impact on their value.

## **2. Uncertainty of Value**

In addition to the prohibition on the transfer of rights to distributions from each Trust as discussed above, the value of such rights will depend on various significant risks and uncertainties, including, without limitation, (a) the success of the Liquidation Trust in securing judgments and settlements on a favorable basis with respect to the Retained Causes of Action; (b) the effect of substantial delays in liquidating claims and other contingent assets and liabilities; and (c) the effects of any changes in tax and other government rules and regulations applicable to each Trust. All of these risks are beyond the control of the Trusts. The amount of any recovery realized by either Trust and its respective beneficiaries will vary depending upon the extent to which these risks materialize. In addition, the resolution of the Retained Causes of Action by the Liquidation Trust may require a substantial amount of time to be resolved and liquidated. The associated delays could reduce the value of any recovery.

## **F. Disclosure Statement Disclaimer**

### **1. The Financial Information Contained in This Disclosure Statement Has Not Been Audited**

In preparing this Disclosure Statement, the Debtors and their advisors relied on financial data derived from the Debtors' books and records that was available at the time of such preparation. Although the Debtors have used their reasonable business judgment to ensure the accuracy of the financial information, and any conclusions or estimates drawn from that financial information, provided in this Disclosure Statement, and although the Debtors believe that the financial information herein fairly reflects the financial condition of the Debtors, the Debtors are unable to warrant that the financial information contained herein, or any conclusions or estimates drawn therefrom, is without inaccuracies.

### **2. Information Contained in This Disclosure Statement Is For Soliciting Votes**

The information contained in this Disclosure Statement is for the purpose of soliciting acceptances of the Plan and may not be relied upon for any other purpose.

### **3. This Disclosure Statement Was Not Reviewed or Approved by the SEC**

This Disclosure Statement was not filed with the SEC under the Securities Act or applicable state securities laws. Neither the SEC nor any state regulatory authority has passed upon the accuracy or adequacy of this Disclosure Statement or the exhibits or the statements contained in this Disclosure Statement.

**4. This Disclosure Statement May Contain Forward Looking Statements**

This Disclosure Statement may contain “forward looking statements” within the meaning of the “safe harbor” provisions of the Private Securities Litigation Reform Act of 1995, as amended. Statements containing words such as “may,” “believe,” “anticipate,” “expect,” “intend,” “plan,” “project,” “projections,” “business outlook,” “estimate,” or similar expressions constitute forward-looking statements and may include, without limitations, information regarding the Debtors’ expectations with respect to future events. These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those risks described in this Article.

**5. No Legal or Tax Advice Is Provided to You by This Disclosure Statement**

*This Disclosure Statement is not legal advice to you.* The contents of this Disclosure Statement should not be construed as legal, business or tax advice. Each Holder of a Claim or an Interest should consult his or her own legal counsel, accountant or other applicable advisor with regard to any legal, tax and other matters concerning his, her or its Claim or Interest. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to Confirmation of the Plan.

**6. No Admissions Made**

The information and statements contained in this Disclosure Statement will neither (a) constitute an admission of any fact or liability by any entity (including, without limitation, the Debtors) nor (b) be deemed evidence of the tax or other legal effects of the Plan on the Debtors, Holders of Allowed Claims or Interests, or any other parties in interest.

**7. Failure to Identify Potential Objections**

No reliance should be placed on the fact that a particular Retained Cause of Action or potential objection to a particular Claim or Interest is, or is not, identified in this Disclosure Statement. Each Trustee may, pursuant to the Plan, object to applicable Claims or Interests after the Effective Date of the Plan irrespective of whether this Disclosure Statement identifies a particular Retained Cause of Action or objection to a Claim.

**8. No Waiver of Right to Object or Right to Recover Transfers and Assets**

The vote by a Holder of a Claim or Interest for or against the Plan does not constitute a waiver or release of any claims, causes of action or rights of the Debtors (or any entity, as the case may be) to object to that Holder’s Claim or Interest, or recover any preferential, fraudulent or other voidable transfer of assets, regardless of whether any claims or causes of action of the Debtors or their Estates are specifically or generally identified in this Disclosure Statement.

**9. Information Was Provided by the Debtors and Was Relied Upon by the Debtors’ Advisors**

The Debtors’ advisors have relied upon information provided by the Debtors in connection with the preparation of this Disclosure Statement. Although the Debtors’ advisors have performed

certain limited due diligence in connection with the preparation of this Disclosure Statement, they have not independently verified the information contained in this Disclosure Statement.

#### **10. Potential Exists for Inaccuracies, and the Debtors Have No Duty to Update**

The statements contained in this Disclosure Statement are made by the Debtors as of the date of this Disclosure Statement, unless otherwise specified in this Disclosure Statement, and the delivery of this Disclosure Statement after the date of this Disclosure Statement does not imply that there has not been a change in the information set forth in this Disclosure Statement since that date. While the Debtors have used their reasonable business judgment to ensure the accuracy of all of the information provided in this Disclosure Statement and in the Plan, the Debtors nonetheless cannot, and do not, confirm the current accuracy of all statements appearing in this Disclosure Statement. Further, although the Debtors may subsequently update the information in this Disclosure Statement, the Debtors have no affirmative duty to do so unless ordered to do so by the Bankruptcy Court.

#### **11. No Representations Outside This Disclosure Statement are Authorized**

No representations concerning or relating to the Debtors, these Chapter 11 Cases or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this Disclosure Statement. Any representations or inducements made to secure your acceptance or rejection of the Plan that are other than as contained in, or included with, this Disclosure Statement should not be relied upon by you in arriving at your decision. You should promptly report unauthorized representations or inducements to counsel to the Debtors and the U.S. Trustee.

### **XIV. CERTAIN FEDERAL INCOME TAX CONSEQUENCES**

The following discussion summarizes certain U.S. federal income tax consequences of the implementation of the Plan to certain Holders of Allowed Claims that are U.S. Holders (as defined below). The following summary is based on the Internal Revenue Code of 1986 (as amended, the “IRC”), Treasury Regulations promulgated thereunder, judicial decisions, administrative rules and pronouncements as in effect on the date hereof. Changes in such rules or new interpretations thereof may have retroactive effect and could significantly affect the U.S. federal income tax consequences described below. This summary addresses certain U.S. federal income tax consequences only to Holders of Claims that are entitled to vote (*i.e.*, Holders of Claims in Classes 3, 4, and 5) and it does not address the U.S. federal income tax consequences to the Debtors, to Holders of Interests, or to Holders of Claims that are not entitled to vote on the Plan. The U.S. federal income tax consequences of the Plan are complex and are subject to significant uncertainties.

This discussion does not address all aspects of U.S. federal income taxation that may be relevant to a particular Holder of an Allowed Claim in light of such Holder’s particular facts and circumstances (such as the effects of Section 451(b) of the IRC conforming the timing of certain income accruals to financial statements). In addition, this summary addresses only U.S. federal income taxes. Thus, the following discussion does not address foreign, state, or local tax consequences, or any estate, gift, or other non-income tax consequences, of the Plan, nor does it

purport to address the U.S. federal income tax consequences of the Plan to Holders of Allowed Claims that are subject to special treatment under the IRC (such as Persons who are related to the Debtors within the meaning of the IRC, Holders liable for the alternative minimum tax, Holders whose functional currency is not the U.S. dollar, Holders that received their Claims as compensation, broker dealers, banks, mutual funds, insurance companies, financial institutions, small business investment companies, regulated investment companies, tax exempt organizations, governmental entities, pass-through entities such as partnerships or S corporations and investors therein, and Holders of Claims who are themselves in bankruptcy). Accordingly, this summary should not be relied upon for purposes of determining the specific tax consequences of the Plan with respect to a particular Holder of a Claim.

If a partnership (including any entity or arrangement treated as a partnership for U.S. federal income tax purposes) holds an Allowed Claim, the tax treatment of a partner or other investor in such partnership will generally depend upon the status of the partner or investor and the activities of the partnership. If you are a partner or other investor in a partnership holding an Allowed Claim, you should consult your tax advisors.

For purposes of this discussion, a “U.S. Holder” is a Holder that is: (A) an individual citizen or resident of the United States for U.S. federal income tax purposes; (B) a corporation (or other entity treated as a corporation for U.S. federal income tax purposes) created or organized under the laws of the United States, any state thereof or the District of Columbia; (C) an estate the income of which is subject to U.S. federal income taxation regardless of the source of such income; or (D) a trust (1) if a court within the United States is able to exercise primary jurisdiction over the trust’s administration and one or more United States persons have authority to control all substantial decisions of the trust or (2) that has a valid election in effect under applicable Treasury Regulations to be treated as a United States person (as defined in the IRC).

The following discussion assumes that the Plan will be implemented as described herein and does not address the tax consequences if the Plan is not carried out. Furthermore, this discussion assumes that Holders of Allowed Claims only hold Claims in a single Class. This discussion further assumes that the various debt and other arrangements to which the Debtors are a party will be respected for U.S. federal income tax purposes in accordance with their form. In addition, a substantial amount of time may elapse between the confirmation date and the receipt of a final distribution under the Plan. Events subsequent to the date of this Disclosure Statement, such as additional tax legislation, court decisions or administrative changes, could affect the U.S. federal income tax consequences of the Plan and the transactions contemplated thereunder.

This summary of the U.S. federal income tax consequences of the Plan is not binding on the IRS, and no ruling will be sought or has been sought from the IRS with respect to any of the tax aspects of the Plan, no opinion of counsel has been obtained or will be obtained by the Debtors with respect thereto, and no tax opinion is given by this Disclosure Statement. The U.S. federal income tax consequences of certain aspects of the Plan may therefore be uncertain due to the lack of applicable legal authority and may be subject to administrative or judicial interpretations that differ from the discussion below.

The following discussion is not exhaustive and the U.S. federal income tax consequences to each Holders of an Allowed Claim will differ and will depend on factors specific to each such



Holder, including (A) whether the Holder's Allowed Claim (or portion thereof) constitutes a claim for principal or interest; (B) the origin of the Holder's Allowed Claim; (C) whether the Holder reports income using the accrual or cash basis method; (D) whether the Holder receives distributions under the Plan in more than one taxable year; (E) whether the Holder has previously included in income any accrued but unpaid interest with respect to the Allowed Claim; and (F) whether the Holder has previously taken a bad debt deduction or otherwise recognized a loss with respect to the Allowed Claim. The discussion is not a substitute for careful tax planning and professional tax advice based upon the individual circumstances of each Holder of an Allowed Claim. Accordingly, each Holder of an Allowed Claim is strongly urged to consult with its own tax advisor regarding the U.S. federal, state, local, and foreign income and other tax consequences of the Plan.

#### **A. U.S. Federal Income Tax Consequences to Holders of Allowed Claims**

##### **1. U.S. Federal Income Tax Consequences to U.S. Holders of Allowed Claims in Class 3, 4, or 5**

In accordance with the Plan, Holders of Allowed Claims in Classes 3, 4, and 5 will be entitled to receive Distributions from one of the Trusts. On the Effective Date, the Debtors (a) will generally transfer and assign the Liquidation Trust Assets to the Liquidation Trust, which will be established for the purpose of, among other things, making distributions to Holders of Allowed Claims, other than Holders of Allowed General Unsecured Claims in accordance with the terms of the Plan, and (b) will generally transfer and assign the GUC Distribution Trust Assets to the GUC Distribution Trust, which will be established for the purpose of, among other things, making distributions to Holders of Allowed Class 4 and Class 5 Claims, in accordance with the terms of the Plan. The Trusts are intended to be treated for U.S. federal income tax purposes as liquidating trusts described in Treasury Regulation Section 301.7701-4(d) and, to the extent applicable, as one or more Disputed Claims Reserves treated as disputed ownership funds described in Treasury Regulation Section 1.468B-9. The remainder of this discussion assumes that this treatment is correct. It is possible that the IRS could require an alternative characterization of the Trusts, which could result in different (and possibly adverse) tax consequences to the Trusts or to the Holders of Allowed Claims in Classes 3, 4, and 5.

Except to the extent of the Disputed Claims Reserves, the Trusts are not expected to be treated as taxable entities for U.S. federal income tax purposes. Accordingly, except to the extent distributions are made to Holders of Allowed Claims in Class 3, 4, or 5 as of the Effective Date (as described below), (a) the Debtors will be deemed to have distributed to (i) the Holders of Allowed Class 3 Claims an undivided interest in their Pro Rata shares of the Liquidation Trust Assets, subject to any liabilities of the Debtors or the Liquidation Trust payable from the proceeds of such assets and (ii) the Holders of Allowed Class 4 and Class 5 Claims an undivided interest in their Pro Rata shares of the GUC Distribution Trust Assets and (b) such Holders will be deemed to have contributed such assets (subject to such liabilities) to the respective Trust in exchange for beneficial interests in such Trust.

Subject to the discussion below in the last paragraph of this Section XIV.A.1 regarding distributions made as of the Effective Date, each U.S. Holder of Allowed Class 3, Class 4, and Class 5 Claims (each such Holder is referred to in this discussion as a “**Beneficial Owner**”) will

recognize gain or loss upon receipt of such Pro Rata share equal to the difference between the “amount realized” by such Beneficial Owner and such Beneficial Owner’s adjusted tax basis in his, her or its Claim. The amount realized is equal to the fair market value of such Beneficial Owner’s Pro Rata share of the respective Trust’s assets (subject to any applicable liabilities), less the amount (if any) allocable to accrued but unpaid interest, as discussed below under the heading “—Accrued Interest.” Any such gain or loss realized by a Beneficial Owner generally should constitute capital gain or loss to such Beneficial Owner, unless such Claim is not a capital asset in the hands of such Beneficial Owner. If an Allowed Class 3, Class 4, or Class 5 Claim, as applicable, is a capital asset and it has been held for more than one year, the Beneficial Owner will realize long-term capital gain or loss. The deductibility of capital losses is subject to limitations. The tax basis of the respective Trust’s assets deemed received in the exchange will equal the amount realized (as described above) by the Beneficial Owner and the holding period for such assets will begin on the day following the exchange. For the avoidance of doubt, U.S. Holders of Allowed Class 3, Class 4, and Class 5 Claims are not intended to be treated for U.S. federal income tax purposes as receiving Trust assets that are contributed to any Disputed Claims Reserves until such time as distributions are made from such Disputed Claims Reserves, in which case (and at which time) U.S. Holders of such Allowed Claims are intended to be treated as receiving the Distributions actually received from the Disputed Claims Reserves, if any.

For U.S. federal income tax purposes, it is intended that each Beneficial Owner be treated as an owner of the respective Trust, and therefore their pro rata share of the respective Trust’s assets, and thus, will be subject to tax on such Beneficial Owner’s Pro Rata share of taxable income or gain, if any, of the respective Trust, regardless of whether the corresponding Cash proceeds are distributed to each Beneficial Owner. Accordingly, each Beneficial Owner will be required to include in its annual taxable income, and pay tax to the extent due on, its allocable share of each item of income, gain, loss, deduction, or credit recognized by the respective Trust, including interest or dividend income earned on bank accounts and other investments, and the respective Trustee will allocate such items to the Beneficial Owners using any reasonable allocation method. If the respective Trust sells or otherwise disposes of a Trust’s asset in a transaction in which gain or loss is recognized, each Beneficial Owner that is entitled to a distribution from such Trust’s asset, or the proceeds thereof, will be required to include in income gain or loss equal to the difference between (a) the Beneficial Owner’s Pro Rata share of the Cash or property received in exchange for the respective Trust’s asset sold or otherwise disposed of and (b) the Beneficial Owner’s adjusted basis in its Pro Rata share of the respective Trust’s asset. The character and amount of any gain or loss will be determined by reference to the character of the asset sold or otherwise disposed of. Each Beneficial Owner will be required to report any income or gain recognized on the sale or other disposition of a respective Trust’s asset whether or not the respective Trust distributes the sale proceeds currently and may, as a result, incur a tax liability before the Beneficial Owner receives a distribution from the respective Trust.

Notwithstanding the foregoing, Distributions made as of the Effective Date to U.S. Holders of Allowed Class 3, Class 4, and Class 5 Claims are intended to be treated for U.S. federal income tax purposes as made directly from the Debtors to Holders of such Allowed Claims. Generally, where a U.S. Holder receives only Cash in respect of an Allowed Claim, such a Holder would recognize taxable gain or loss in an amount equal to the difference between the amount of the Cash received and such Holder’s adjusted tax basis in its Allowed Claim. Any gain or loss recognized would be capital or ordinary, depending on the status of the Allowed Claim in the U.S. Holder’s

hands. Generally, any gain or loss recognized by a U.S. Holder of an Allowed Claim would be a long-term capital gain or loss if the Allowed Claim is a capital asset in the hands of such Holder and such Holder has held such Allowed Claim for more than one year, unless such Holder had previously claimed a bad debt deduction or such Holder had accrued market discount with respect to such Allowed Claim. See the discussions below under the headings “—Bad Debt or Worthless Securities Deduction” and “—Market Discount.” The deductibility of capital losses is subject to limitations. To the extent any portion of a U.S. Holder’s recovery is allocable to interest on such Holder’s Allowed Claim that was not previously included in such Holder’s income, such portion would be treated as interest income to such Holder. See the discussion below under the heading “—Accrued Interest.”

## **2. Accrued Interest**

A U.S. Holder of an Allowed Claim generally will recognize ordinary income to the extent that such Holder receives Cash or property that is allocable to accrued but unpaid interest that such Holder has not yet included in its income. If an Allowed Claim includes interest, and if the U.S. Holder receives less than the amount of the Allowed Claim pursuant to the Plan, the U.S. Holder must allocate the Plan consideration between principal and interest. The Plan provides that all distributions to a U.S. Holder of an Allowed Claim will apply first to the principal amount of such Claim until such principal amount is paid in full and then to any interest accrued on such Claim prior to the Petition Date, and the remaining portion of such distributions, if any, shall apply to any interest accrued on such Claim after the Petition Date. There is no assurance, however, that the IRS will respect this treatment and will not determine that all or a portion of amounts distributed to such U.S. Holder, and attributable to principal under the Plan, is properly allocable to interest. U.S. Holders of Allowed Claims are urged to consult their own tax advisors in this regard. If the Plan consideration allocable to interest with respect to an Allowed Claim is less than the amount that the U.S. Holder has previously included as interest income, the previously included but unpaid interest may be deducted, generally as a loss.

## **3. Post-Effective Date Cash Distributions**

Because certain U.S. Holders of Allowed Claims may receive Cash distributions after the Effective Date, the imputed interest provisions of the IRC may apply and cause a portion of the subsequent distributions to be treated as interest. Additionally, because U.S. Holders may receive distributions with respect to an Allowed Claim in a taxable year or years following the year of the initial distribution, any loss and a portion of any gain realized by the U.S. Holder may be deferred. All U.S. Holders of Allowed Claims are urged to consult their tax advisors regarding the possible application of (or ability to elect out of) the “installment method” of reporting with respect to their Claims.

## **4. Market Discount**

If a U.S. Holder of an Allowed Claim purchased the Claim for an amount that is less than its stated redemption price at maturity, the amount of the difference may be treated as “market discount” for U.S. federal income tax purposes, unless the difference is less than a specified *de minimis* amount. Under the market discount rules, the U.S. Holder is required to treat any gain on the sale, exchange, retirement or other disposition of the Allowed Claim as ordinary income to the

extent of the market discount that the U.S. Holder has not previously included in income and which is treated as having accrued on the Allowed Claim at the time of its payment or disposition.

## **5. Bad Debt or Worthless Securities Deduction**

A U.S. Holder who receives in respect of an Allowed Claim an amount less than the U.S. Holder's tax basis in the Claim may be entitled in the year of receipt (or in an earlier or later year) to a bad debt deduction in some amount under IRC Section 166(a) or a worthless securities deduction under IRC Section 165(g). The rules governing the character, timing and amount of bad debt and worthless securities deductions place considerable emphasis on the facts and circumstances of the U.S. Holder, the obligor and the instrument with respect to which a deduction is claimed. U.S. Holders of Allowed Claims, therefore, are urged to consult their tax advisors with respect to their ability to take such a deduction.

## **6. Medicare Surtax**

Subject to certain limitations and exceptions, U.S. Holders who are individuals, estates or trusts may be required to pay a 3.8% Medicare surtax on all or part of that U.S. Holder's "net investment income," which includes, among other items, dividends on stock and interest (including original issue discount) on debt, and capital gains from the sale or other taxable disposition of stock or debt. U.S. Holders should consult their own tax advisors regarding the effect, if any, of this surtax on their receipt of distributions pursuant to the Plan.

## **B. Backup Withholding and Information Reporting**

Generally, information reporting requirements will apply to all payments or distributions under the Plan and by the Trusts, unless you are an exempt recipient. Additionally, a U.S. Holder may be subject to backup withholding at applicable rates, unless the U.S. Holder (1) is a person exempt from backup withholding and, when required, demonstrates this or (2) provides a correct taxpayer identification number ("TIN") on IRS Form W-9 (or a suitable substitute form) and timely provides the other information, makes the representations required by such form and complies with the other requirements of the backup withholding rules. A U.S. Holder may become subject to backup withholding if, among other things, the U.S. Holder (1) fails to properly report interest and dividends for U.S. federal income tax purposes or (2) in certain circumstances, fails to certify, under penalty of perjury, that it has furnished a correct TIN. A U.S. Holder that does not timely provide a correct TIN also may be subject to penalties imposed by the IRS. Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against your U.S. federal income tax liability provided the required information is properly furnished to the IRS.

## **C. Importance of Obtaining Professional Tax Assistance**

**The foregoing is intended to be only a summary of certain U.S. federal income tax consequences of the Plan and is not a substitute for careful tax planning with a tax professional. The U.S. federal, state, local, and foreign income and other tax consequences of the Plan are complex and in some cases uncertain. Such consequences may also vary based on the individual circumstances of each Holder of an Allowed Claim. Accordingly, each Holder of an Allowed Claim is strongly urged to consult with his, her, or its own tax advisor**

**regarding the U.S. federal, state, local, and foreign income and other tax consequences of the Plan.**

#### **XV. ADDITIONAL INFORMATION**

Any statements in this Disclosure Statement concerning the provisions of any document are not necessarily complete, and in each instance reference is made to such document for the full text thereof. Certain documents described or referred to in this Disclosure Statement have not been attached as exhibits because of the impracticability of furnishing copies of these documents to all recipients of this Disclosure Statement. The Debtors will file all exhibits to the Plan with the Bankruptcy Court and make them available for review on <http://www.kccllc.net/tectaerospace> no later than seven days before the deadline to object to Confirmation.

#### **XVI. RECOMMENDATION AND CONCLUSION**

For all of the reasons set forth in this Disclosure Statement, the Debtors believe that the Confirmation and consummation of the Plan is preferable to all other alternatives. Consequently, the Debtors urge all holders of Claims in Classes 3, 4 and 5, the only Classes entitled to vote on the Plan, to vote to accept the Plan and to evidence their acceptance by duly completing and returning their ballots so that they will be received on or before the Voting Deadline.

In addition, the Debtors are authorized by the Creditors' Committee to state that the Creditors' Committee also supports the Plan and urges all Holders of Claims to vote to accept the Plan. Enclosed with the Solicitation Package is a letter from the Creditors' Committee to that effect.

Dated: December 21, 2021

Respectfully submitted,

By: \_\_\_\_\_

Name: Shaun Martin

Title: Chief Restructuring Officer

**Exhibit A**

**Plan**

**(filed separately)**

**Exhibit B**

**Liquidation Analysis**

**(to come)**



**Exhibit C**

**Creditors' Committee Letter in Support of the Plan**

**The Official Committee of Unsecured  
Creditors of TECT Aerospace Group Holdings, Inc., et al.**

**Kilpatrick Townsend & Stockton LLP**  
The Grace Building, 1114 Ave. of the Americas  
New York, NY, 10036

**Womble Bond Dickinson (US) LLP**  
1313 North Market Street, Suite 1200  
Wilmington, DE 19801

January [•], 2022

**To All Unsecured Creditors of TECT Aerospace Group Holdings, Inc., et al.:<sup>1</sup>**

The Official Committee of Unsecured Creditors (the “Committee”) of TECT Aerospace Group Holdings, Inc., et al. (collectively, the “Debtors”) submits this letter to all unsecured creditors in connection with the solicitation of your vote on the *Joint Chapter 11 Plan of Liquidation for TECT Aerospace Group Holdings, Inc. and its Affiliated Debtors*, filed on December 21, 2021 (the “Plan”)<sup>2</sup>. The Plan incorporates and implements a settlement (the “Settlement”) that, among other things: (i) compromises and settles anticipated litigation and numerous other issues and disputes by and among the Debtors, the Committee, and The Boeing Company (“Boeing”); (ii) establishes a liquidation trust to pursue certain estate causes of action for the benefit of Boeing and holders of allowed unsecured claims; (iii) establishes a general unsecured creditor trust to distribute certain cash settlement proceeds to holders of allowed unsecured claims; and (iv) represents the best alternative for unsecured creditors in completing these chapter 11 cases.

**FOR THE REASONS SET FORTH HEREIN, THE COMMITTEE RECOMMENDS YOU VOTE TO ACCEPT THE PLAN. IF APPROVED, THE PLAN GRANTS RELEASES OF CLAIMS THAT THE DEBTORS MAY HAVE AGAINST CERTAIN THIRD-PARTIES. THE PLAN ALSO GRANTS RELEASES OF CLAIMS YOU MAY HAVE AGAINST THIRD-PARTIES.**

**NOTWITHSTANDING THE RECOMMENDATION SET FORTH HEREIN, EACH CREDITOR MUST MAKE ITS OWN INDEPENDENT DETERMINATION AS TO WHETHER THE PLAN IS ACCEPTABLE TO THAT CREDITOR AND SHOULD CONSULT ITS OWN LEGAL AND/OR FINANCIAL ADVISOR(S). THE BRIEF SUMMARY THAT FOLLOWS IS DESIGNED TO HIGHLIGHT CERTAIN PLAN PROVISIONS AND IS QUALIFIED IN ITS ENTIRETY BY THE PLAN AND DISCLOSURE STATEMENT (AS DEFINED BELOW).**

On April 5, 2021, the Debtors filed voluntary petitions for relief under chapter 11 of Title 11, United States Code (the “Bankruptcy Code”). On April 20, 2021, the Office of the United States Trustee for Region 3 appointed a statutory committee of unsecured creditors pursuant to

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<sup>1</sup> The Debtors in these chapter 11 cases are: TECT Aerospace Group Holdings, Inc., TCT Aerospace Kansas Holdings, LLC, TECT Aerospace Holdings, LLC, TECT Aerospace Wellington Inc., TECT Aerospace, LLC, TECT Hypervelocity, Inc., and Sun Country Holdings, LLC.

<sup>2</sup> Capitalized terms used herein and not otherwise defined have the meanings given to them in the Plan.

section 1102(a)(1) of the Bankruptcy Code. The Committee retained the following professionals: (i) Kilpatrick Townsend & Stockton LLP as its lead counsel; (ii) Womble Bond Dickinson (US) LLP as its Delaware counsel; and (iii) Province, LLC as its financial advisor. The members of the Committee and its professionals have devoted a considerable amount of their own time working on these cases to protect the rights of all unsecured creditors.

On December 21, 2021, the Debtors filed the Plan [Docket No. •] and *Disclosure Statement for Joint Chapter 11 Plan of Liquidation for TECT Aerospace Group Holdings, Inc. and its Affiliated Debtors* (the “Disclosure Statement”) [Docket No. •]. The Disclosure Statement describes and explains the terms of the Plan and the Settlement. This letter is qualified in its entirety by the terms of the Plan and Disclosure Statement.

Prior to the filing of the Plan, the Committee conducted an investigation into potential claims and causes of action against Boeing and engaged in extensive negotiations with the Debtors and Boeing, regarding the treatment of unsecured creditors and other issues contained in the Plan. These negotiations resulted in the Settlement by and among the Committee, the Debtors, and Boeing. The Settlement is embodied in the Plan and described further in the Disclosure Statement.

A hearing was held on January [•], 2022 to consider approval of the Disclosure Statement. Thereafter, the Court entered an order, among other things, approving the adequacy of the Disclosure Statement on an interim basis and establishing procedures for the solicitation and tabulation of votes on the Plan.

As set forth in greater detail in the Plan and the Disclosure Statement, the Settlement provides for, among other things:

(a) **Liquidation Trust<sup>3</sup>:** All assets of the Debtors’ Estates as of the Effective Date other than the GUC Distribution Trust Assets<sup>4</sup>, including avoidance actions and other causes of action (the “Retained Causes of Action”) against the Debtors’ current and former non-Debtor affiliates and the Debtors’ current and former directors, managers, officers, control persons, and other related parties (as more fully defined in the Plan, the “Non-Released Parties”), will be transferred to the Liquidation Trust (the “Liquidation Trust Assets”). The Liquidation Trust shall, among other things, (i) accept, preserve, receive, collect, manage, invest, supervise, prosecute, settle and protect the Retained Causes of Action and other Liquidation Trust Assets, (ii) liquidate, sell, settle, or otherwise dispose of the Retained Causes of Action and other Liquidation Trust Assets with approval of the Liquidation Trust Board and/or the Bankruptcy Court, and (iii) review, reconcile, settle or object to Claims, other than Class 4 Claims, and resolve any objection. The Liquidation Trust shall be initially funded with \$300,000 (the “Litigation Cost Reserve”) for expenses incurred in connection with prosecution of potential causes of action against the Non-Released Parties. Any net Cash proceeds of the Liquidation

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<sup>3</sup> The Plan and Disclosure Statement should be referenced for additional details regarding the Liquidation Trust and GUC Distribution Trust.

<sup>4</sup> The GUC Distribution Trust Assets means the Initial GUC Cash Distribution, the GUC Claims Determination Fund, and the GUC Litigation Recovery.

Trust's prosecution or settlement of the Retained Causes of Action with respect to the Non-Released Parties will be allocated and distributed as follows (the "Litigation Recovery Split"): (A) the first \$300,000 to the Liquidation Trust Beneficiaries in respect of the initial funding of the Litigation Cost Reserve; (B) of the next \$4 million, 88% to the Liquidation Trust and 12% to the GUC Distribution Trust (the "GUC Litigation Recovery Participation"); (C) next, to the Liquidation Trust until all Class 3 Claims are satisfied; and (D) any additional proceeds to the GUC Distribution Trust (together with the GUC Litigation Recovery Participation, the "GUC Litigation Recovery"). Three members will be appointed to the Liquidation Trust Board: two selected by Boeing and one selected by the Committee. The initial Liquidation Trustee will be Shaun Martin.

(b) **GUC Distribution Trust.** On the Effective Date of the Plan, \$350,000 (the "Initial GUC Cash Distribution") will be transferred to the GUC Distribution Trust, which will be distributed to Allowed General Unsecured Claims other than General Unsecured Claims held by Boeing. The GUC Distribution Trust will also receive the unused portion of a \$200,000 budget for reconciliation of Claims transferred to the GUC Distribution Trust on the Effective Date. For the avoidance of doubt, the unsecured creditor distributions described in this subclause (b) are in addition to the GUC Litigation Recovery described in subclause (a). Three members will be appointed to the GUC Distribution Trust Board: two selected by the Committee and one selected by Boeing. The initial GUC Distribution Trustee will be Shaun Martin.

In summary, the Plan effectuates the wind down of the Debtors and on terms that, based upon the information provided to the Committee, the Committee believes are favorable to unsecured creditors and represent the best achievable outcome for unsecured creditors under the present circumstances. **Accordingly, the Committee supports the Plan.**

For purposes of voting on the Plan, the Debtors provided you with a ballot which should be completed by you for either accepting or rejecting the Plan. The ballot should be mailed in accordance with the procedures set forth on the ballot and in the Disclosure Statement.

This letter provides only a brief description of the provisions of the Plan that impact unsecured creditors. As such, all unsecured creditors are urged to carefully review the Plan and Disclosure Statement and consult with their legal and financial advisors accordingly. This communication does not constitute, and shall not be construed as, a recommendation or solicitation by any individual member of the Committee.

If you have any questions regarding the foregoing, please contact counsel to the Committee, David M. Posner at [dposner@kilpatricktownsend.com](mailto:dposner@kilpatricktownsend.com) or Gianfranco Finizio at [gfinizio@kilpatricktownsend.com](mailto:gfinizio@kilpatricktownsend.com).

THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS OF TECT AEROSPACE GROUP  
HOLDINGS, INC., *ET AL.*

**Exhibit D**

**Plan Settlement Term Sheet**

**TECT PLAN TERM SHEET**

<b>Proponents:</b>	Debtors; Committee; Boeing (collectively, the “ <i>Settling Parties</i> ”)
<b>Target Timing for Filing Plan Documents / Hearing Dates:</b>	Agreement on this Plan term sheet by October 11 between the Settling Parties  Plan and Disclosure Statement filed by October 29  Disclosure Statement Hearing early- to mid-December  Confirmation Hearing mid- to late -January
<b>Effective Date Deadline:</b>	January 31, 2022  For the avoidance of doubt, the foregoing Plan milestones shall supersede any Plan-related milestones in the Final DIP Order and DIP Agreement.
<b>Conversion Motion and Challenge Period:</b>	Within one business day after this term sheet is final, the Committee shall withdraw its conversion motion without prejudice. The Committee’s challenge period solely for the issues related to the specified equipment is extended through and including the Effective Date of a plan that is consistent with this Plan Term Sheet, provided, however, that the Committee shall not commence a challenge unless the Plan Term Sheet is abandoned by the Settling Parties or such a plan does not go effective.
<b>Overview:</b>	Liquidating plan, spilling over into two Liquidating Trusts.  Priority (including secured claims other than Boeing’s secured claims) and administrative claims (reflecting resolution with respect to professional fee overages as set forth below) paid in full at Effective Date (collectively, “ <i>Priority and Admin Claims</i> ”). Priority and Admin Claims to be funded out of already committed and/or funded, but not yet expended, funds available to the Debtors (collectively, the “ <i>Residual Estate Funds</i> ”).  Other typical provisions. Underlying trust and other documentation, along with other disclosures, to be included in Plan Supplement and reasonably acceptable to the Settling Parties and consistent with this Plan term sheet.  All Plan-related documents, including, but not limited to, the disclosure statement, disclosure statement approval motion, disclosure statement order, plan and confirmation order to be reasonably acceptable to Settling Parties and consistent with this Plan term sheet.

**Executory  
Contracts and  
Unexpired Leases:**

All executory contracts and unexpired leases not otherwise assumed (including pursuant to the Plan) or subject to pending assumption motions will be rejected as of Effective Date.

**Plan Releases and  
Exculpation:**

Customary broad exculpation for all activities taken in connection with the bankruptcy, including Committee members, their professionals and the Debtors' professionals, but not including the Non-Released Parties (as defined below).

Boeing and its advisors receive complete release of all claims, including challenged claims.

The Plan shall not provide releases of any kind in favor of (i) the Debtors' current and former non-Debtor affiliates, including, but not limited to, those who have asserted claims against the Debtors, Glass Holdings, LLC ("**Glass**"), and any related Glass-owned or Glass-controlled entities; (ii) Ken Glass; (iii) Bernard Stanek; (iv) any "insiders" of the Debtors (as defined in the Bankruptcy Code), other than Jean King and the Debtors' professionals who have been retained through approval of the Bankruptcy Court; and (v) the Debtors' current and former affiliates' current and former directors, managers, officers, control persons, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, assigns, subsidiaries, principals, members, employees, agents, managed accounts or funds, management companies, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals (the "**Non-Released Parties**"). For the avoidance of doubt, the Non-Released Parties shall not be exculpated pursuant to the Plan.

**Professional Fees**

Existing professional fee budget amounts for work performed or to be performed from October 1, 2021 through the Effective Date will be recharacterized on a professional-by-professional basis, consistent with current buildup budget, except that \$200,000 currently allocated to RLF in the budget buildup would be re-allocated to the professional-by-professional budgets for the professionals engaged by the Committee (in a proportion to be determined by such professionals).

Treatment of fee overrun compared to Initial DIP Budget:

1. The Committee's professionals will collectively reduce their fees through September 30, 2021 (the "**Settlement Period**") by \$170,000<sup>1</sup> and agree that the Committee's professional fees for the period through the Settlement Period shall total no more than \$2,198,240 (the "**UCC Cap**"). Boeing will fund the professional fee overages incurred through the Settlement Period (as

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<sup>1</sup> The Committee's professionals admit no wrongdoing or improper or unreasonable billings.

compared to the initial DIP Budget) such that the aggregate amount of professional fees to be funded by Boeing through the DIP for work performed from the Petition Date through the Settlement Period totals \$9,424,306 (the “**Settlement Period Cap**”), of which the Committee’s professionals fees shall total no more than the UCC Cap. The Committee’s professional fees will be allowed and paid in full up to the amount of the UCC Cap and reduce the Settlement Period Cap dollar for dollar. For the avoidance of doubt, under no circumstance shall the Committee’s professionals take any further fee reductions at the request of Boeing for the Settlement Period beyond the \$170,000 reduction set forth herein.

2. With respect to professional fees accruing in respect of work performed on or after October 1, 2021, Boeing will fund the budgeted amounts of professional fees, as recharacterized above or as otherwise agreed by Boeing, through the DIP.
3. With the above writedowns (including, as necessary, the submission of any fee orders to bring the aggregate amount of fees sought to be paid in respect of work conducted during the Settlement Period to an amount that does not exceed the Settlement Period Cap), existing fee applications of Committee professionals will not be subject to objection from Boeing on any grounds (including on account of overages of UCC investigation budget), and all professionals would agree, absent Boeing’s consent, not to seek payments in excess of the budgeted amounts in any fee applications related to the Settlement Period that would cause the aggregate amount of professional fees sought by all professionals for the Settlement Period to exceed the Settlement Period Cap.

**Liquidating Trust  
One - Corpus:**

All assets of the estates, including avoidance actions and other causes of action against the Non-Released Parties, other than (a) the \$350,000 to be funded to Trust Two out of the Residual Estate Funds as of the Effective Date (the “**Trust Two Non-Boeing GUCs Cash Distribution**”), and (b) the unexpended portion of a \$200,000 budget for GUC claims determination (with a minimum of \$100,000) (the “**GUC Claims Determination Fund**”) from the Residual Estate Funds to the extent that claims reconciliation work is not completed as of the Effective Date, to be funded to Trust Two. For the avoidance of doubt, the Trust One Corpus shall include the Seed Funding (as defined below).

**Liquidating Trust  
One - Governance:**

Liquidation Trustee –Winter Harbor or its representative.

Three member Board of Governors.

Two nominated by Boeing, one by Committee.



Majority rules, subject to Court approval for settlement of claims against Non-Released Parties if any such settlement is not approved by unanimous Board of Governors vote.

Board of Governors not compensated, but entitled to reimbursement of out-of-pocket expenses (not attorneys' fees).

**Liquidating Trust  
One - Activities:**

Liquidate miscellaneous assets.

Likely not significant other than disposition of remaining inventory, receivables and distribution of Residual Estate Funds not otherwise accounted for in this term sheet.

Prosecute claims against Non-Released Parties and object to claims of Non-Released Parties.

Trust would need seed funding for anticipated out-of-pocket expenses in connection with litigation against Non-Released Parties. Seed funding of \$300,000 (the "***Seed Funding***") will be funded from the Residual Estate Funds and will be retained in the Trust for such purpose. The Board of Governors, in consultation with the Liquidating Trustee, will select contingency fee counsel.

Object to Priority and Admin Claims (to the extent such claims reconciliation work is not completed as of the Effective Date).

As a result of Everett and Kansas sale provisions, should not be any remaining avoiding powers claims other than those against affiliates.

May be claims against customers or others as a result of ordinary course receivables and similar claims.

Tax returns, corporate dissolutions, OUST reports, payment of UST fees, similar case closing tasks.

Distribute proceeds per waterfall set forth below.

**Liquidating Trust  
One - Payments:**

1. Pay expenses of trust administration, including litigation expenses.
2. Distribute to Boeing any Residual Estate Funds remaining after funding required into Trust Two and payment of all Priority and Admin Claims, in order to reduce Boeing's deficiency claim.
3. First \$300,000 in net recoveries from litigation shall be used to repay Boeing for the Seed Funding.

4. Of the next \$4.0 million in net recoveries from litigation pursued by Trust One, 12% would be distributed to the corpus of Trust Two (the “*GUCs Initial Recovery Participation*”), with the remaining 88% distributed to Boeing to reduce its deficiency claim. Boeing claim includes postpetition interest on its prepetition secured debt.

5. Next, 100% of all net recoveries from litigation pursued by Trust One after first \$4.3 million, distributed to Boeing on account of its deficiency claim until paid in full.

6. After payment in full of Boeing’s deficiency claim, remainder, if any, shall be paid to all GUCs (including Boeing).

**Liquidating Trust  
Two - Corpus:**

1. Trust Two Non-Boeing GUCs Cash Distribution.
2. GUCs Initial Recovery Participation, as and when payable pursuant to Trust One waterfall.
3. Unexpended portion of the GUC Claims Determination Fund, provided that at least \$100,000 will be funded into Trust Two.
4. Spillover distribution, if any, from Trust One after payments required under Trust One.

**Liquidating Trust  
Two - Governance:**

Liquidation Trustee – Winter Harbor or its representative. Any trustee fees for services relating to Trust Two will be invoiced to and paid by Trust One.

Three member Board of Governors.

Two designated by Committee, one by Boeing.

Majority rules.

Board of Governors not compensated, but entitled to reimbursement of out of pocket expenses (not attorneys’ fees)

**Liquidating Trust  
Two - Activities:**

Claims determination.

Most claims determinations can and should be made prior to confirmation by Winter Harbor and RLF, subject to Committee review.

Costs of claims determination (other than objections to claims of Non-Released Parties) will be funded from the \$200,000 set aside for that purpose, and available for use. That effort may

commence, and a portion of that amount may be expended, prior to the Effective Date. Remaining unexpended funds (with a minimum of \$100,000) are what become the GUC Claims Determination Fund, and shall be delivered to Liquidating Trust Two from the Residual Estate Funds on the Effective Date. Womble Bond Dickinson (US) LLP shall be retained by the Liquidating Trustee of Trust Two to reconcile the remaining, unreconciled non-priority unsecured claims. If there is any portion of the GUC Claims Determination Fund that is not expended for the purpose of reconciling claims it will be distributed to the beneficiaries of Trust Two as set forth herein.

Such claims determinations and objections do not include claims of Non-Released Parties and Priority and Admin Claims. Those will be accomplished by Liquidating Trust One.

Distributions to GUCs.

**Liquidating Trust  
Two - Payments:**

First \$350,000 goes to non-Boeing GUCs.

All else shared among all GUCs, including Boeing.

**Committee Status:**

Disbanded as of Effective Date, except with respect to (i) any applications for professional fee claims or expense reimbursements for members of the committee, including preparing same, objecting to same, defending same and attending any hearing with respect to same; (ii) any motions or other actions seeking enforcement or implementation of the provisions of the plan or confirmation order; and (iii) any appeal pending as of the effective date or filed thereafter, the outcome of which could reasonably be expected to affect in any material way the treatment of prepetition creditors, including, but not limited to, any cases, controversies, suits or disputes arising in connection with the consummation, interpretation, implementation or enforcement of the plan or the confirmation order. Following the effective date, the Committee's professionals shall be entitled to reasonable compensation for services rendered in connection with the matters identified in clauses (i) – (iii), provided such amounts are available under the Approved Budget as recharacterized herein.<sup>2</sup> Any such payments made in connection therewith shall be made without any further notice to or action, order, or approval of the Bankruptcy Court. The Committee may also reconstitute informally if there is a need to appoint replacement trust Governors.

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<sup>2</sup> To clarify—any payments to Committee professionals for post-Effective Date work would be limited to unexpended amounts under (x) the GUC Claims Determination Fund and (y) the Approved Budget in respect of professional fees.

**Substantive Consolidation:** Entities will not formally be merged, but will be substantively consolidated for purposes of the plan, including all assets and all claims.

**Classification:** Intercompany claims will be separately classified.

Non-priority claims of Non-Released Parties will be separately classified.

**Treatment of Other Classes:** Intercompany claims will receive nothing.

Claims of Non-Released Parties will be objected to by the Debtors (prior to confirmation) or by Trust One post-Effective Date. For the avoidance of doubt, Trust One will not be responsible for prosecuting claims objections separate and apart from any objections to Priority and Admin Claims and litigation commenced against the Non-Released Parties and no part of the GUC Claims Determination Fund shall be utilized (whether pre-confirmation or post-Effective Date) to object to or reconcile claims of Non-Released Parties. Claims of Non-Released Parties may require estimation proceeding. If any non-priority claims of Non-Released Parties are allowed, such claims to the extent allowed will be entitled to share in Non-Boeing GUCs and GUCs pots pursuant to Trust waterfalls.