

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

In re:	§	Chapter 11
	§	
ALLONHILL, LLC,	§	Case No. 14-10663 (KG)
	§	
	§	
Debtor	§	

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**DISCLOSURE STATEMENT IN SUPPORT OF PLAN OF  
REORGANIZATION OF ALLONHILL, LLC**

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IMPORTANT: THIS DISCLOSURE STATEMENT CONTAINS INFORMATION THAT MAY BEAR UPON YOUR DECISION TO ACCEPT OR REJECT THE DEBTOR’S PLAN OF REORGANIZATION DESCRIBED HEREIN. PLEASE READ THIS DOCUMENT WITH CARE.

THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT OR THE PLAN OF REORGANIZATION. ANY REPRESENTATION TO CONTRARY IS A CRIMINAL OFFENSE.

THE DEBTOR BELIEVES THAT, UNDER THE CIRCUMSTANCES, THE PLAN PROVIDES THE BEST POSSIBLE RECOVERY TO ALL CREDITORS. THE DEBTOR BELIEVES THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTEREST OF CREDITORS. THE DEBTOR RECOMMENDS THAT ALL CREDITORS ENTITLED TO VOTE ACCEPT THE PLAN.

THIS DISCLOSURE STATEMENT HAS NOT YET BEEN APPROVED BY THE BANKRUPTCY COURT FOR CIRCULATION TO ALL CREDITORS AND INTEREST HOLDERS OR FOR THE USE IN SOLICITATION OF VOTES

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## PRELIMINARY STATEMENT

The following preliminary statement is qualified in its entirety by the more detailed information appearing elsewhere in this Disclosure Statement of the Debtor in Support of the Plan of Reorganization of Allonhill, LLC (the “Debtor”) (the “Disclosure Statement”) in support of the Plan of Reorganization (the “Plan”), as proposed by the Debtor (the “Debtor”) in connection with the Debtor’s solicitation of acceptances or rejections of the Plan, a copy of which accompanies this Disclosure Statement as “Exhibit A”.

All defined terms contained in this preliminary statement, as well as elsewhere in this Disclosure Statement, shall, unless otherwise defined herein, have the meanings ascribed to such defined terms in the Glossary attached to the Disclosure Statement as Exhibit “B”

The United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) will hold a hearing on Confirmation of the Plan, at which time the Bankruptcy Court will consider objections to Confirmation, if any, commencing at [\_\_\_\_\_] on [\_\_\_\_\_] in Courtroom No. 1, United States Bankruptcy Court for the District of Delaware, 824 North Market Street, Sixth Floor, Wilmington, Delaware 19801 (the “Confirmation Hearing”). The Confirmation Hearing may be adjourned from time to time without notice other than the announcement of an adjourned date at the hearing. Objections to confirmation of the Plan must be in writing and served and filed as described below under Article X, Section H titled “Confirmation Hearing.” The Order issued by the Bankruptcy Court scheduling a hearing on confirmation of the Plan should similarly be reviewed to best understand the confirmation procedures outlined briefly herein.

The Plan is a plan of reorganization. The Debtor sold substantially all of its assets (the “Stewart Transaction”) to Stewart Lender Services, Inc. (“SLS”) pursuant to an Asset Purchase Agreement between the Debtor and Stewart, dated August 28, 2013, and amended as of September 30, 2013 (the “SLS APA”). The Stewart Transaction is described in Article II of this Disclosure Statement.

The Debtor’s operations currently consist of managing its rights under the SLS APA and winding down operations, including pursuing pending litigation to completion. Specifically, the Debtor is pursuing an appeal (the “Aurora Appeal”) in the Colorado Court of Appeals, of a substantial litigation award rendered by the Colorado District Court (the “Colorado Court”) on March 5, 2014 against the Debtor and in favor of Aurora Commercial Corporation, f/k/a Aurora Bank FSB (“Aurora”) in the amount of \$25,845,329.00, plus prejudgment interest (together, the “Aurora Judgment”). The circumstances of the Aurora Judgment and Aurora Appeal are discussed in detail in Article IV.B. of this Disclosure Statement, entitled “Aurora Litigation”.

As a result of the Aurora Appeal, the Debtor’s insurance carrier, XL Insurance Company (“XL”) has denied coverage for the Aurora Judgment under the terms of the policy issued by XL (the “XL Policy”), and has asserted a claim against the Debtor in the amount of \$2,904,977.13, plus additional amounts. A decision in favor of the Debtor on the Aurora Appeal may have the effect of decreasing the Aurora Judgment and triggering coverage under the XL Policy; and thus,

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materially affecting the value of distributions available to Creditors holding Allowed Claims. The Debtor makes no prediction, however, as to the likelihood of this, or any, future events.

The Plan contemplates reorganization of the Debtor as the Reorganized Debtor, the cancellation of existing Class A membership interests in the Debtor and reissuance of common interests by the Reorganized Debtor to the Debtor's Class A members. Class C membership interests in the Debtor will be cancelled and the holders thereof are entitled under the Plan to payment of the value of their interests in *pro rata* proportion, subject to the priorities set forth in the Plan; more specifically, after satisfaction in full of the Claims of Creditors of all prior Classes and subject to and in accordance with the Debtor's Operating Agreement.

The Reorganized Debtor will be vested on the Plan Effective Date with all of the Debtor's rights and assets (including standing to pursue litigation (defined as "Causes of Action", and including Litigation Rights and Avoidance Actions by the Plan)) and will pursue, for the benefit of Creditors, the liquidation of assets, collection of outstanding receivables and the Debtor's Causes of Action, including Avoidance Actions available under the Bankruptcy Code. As more fully described hereinafter, Causes of Action will be investigated and prosecuted by the Reorganized Debtor, as directed by the Estate Representative, with assistance and representation by its counsel, as approved by the Bankruptcy Court. Under the Plan, the Reorganized Debtor will distribute the proceeds of such rights and assets to Creditors holding Allowed Claims, to the extent of available funds, and in accordance with the priorities established under the Bankruptcy Code.

The collection of the Debtor's Estate Assets, Causes of Action and Property as provided for under the Plan is intended to provide Creditors and Interest Holders with maximum distributions from the liquidation of the Estate Assets, Causes of Action and other Property of the Debtor's Estate.

Detailed information regarding the treatment of each Class of Creditors and Holders of Equity Interests is set forth below under Article IV, titled "Plan of Reorganization."

**THE DEBTOR BELIEVES THAT, UNDER THE CIRCUMSTANCES, THE PLAN PROVIDES THE BEST POSSIBLE RECOVERY TO ALL CREDITORS. THE DEBTOR BELIEVES THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTEREST OF CREDITORS. THE DEBTOR RECOMMENDS THAT ALL CREDITORS ENTITLED TO VOTE ACCEPT THE PLAN.**

The Debtor believes that, with respect to each Class of Claims, the Distributions under the Plan are greater than the amounts which would be received if the Debtor were to be liquidated under Chapter 7 of the Bankruptcy Code.

The Debtor seeks the acceptance or rejection of the Plan by all Creditors holding Allowed Claims in Classes 3, 4, 5 and 6. A Ballot to be used for voting to accept or reject the Plan has been enclosed with copies of this Disclosure Statement to all members of Classes 3, 4, 5 and 6 and is attached hereto as Exhibit C.

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After carefully reviewing this Disclosure Statement and the Plan, please indicate your vote on the enclosed Ballot and return to the address set forth below on or before September \_\_, 2015, in the envelope provided.

TO BE COUNTED YOUR BALLOT MUST BE RECEIVED AT THE ADDRESS LISTED BELOW BY 4:00 P.M. EST ON [ ], 2015.

Allonhill Ballot Processing Center  
c/o Upshot Services LLC  
7808 Cherry Creek South Dr., Suite 112  
Denver, CO 80231

IF YOU HAVE ANY QUESTIONS WITH RESPECT TO FILLING OUT YOUR BALLOT, YOU MAY CONTACT ATTORNEYS FOR THE DEBTOR AT 212-918-3000 OR YOUR ATTORNEY. THE FOREGOING IS A PRELIMINARY STATEMENT. THIS DISCLOSURE STATEMENT AND THE EXHIBITS HERETO SHOULD BE READ IN THEIR ENTIRETY BY ALL CREDITORS BEFORE VOTING ON THE PLAN.

#### ARTICLE I

#### **INTRODUCTION**

The Plan is a reorganization plan under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"). The information contained in this Disclosure Statement, together with any attached exhibits and appendices, concerning the financial condition of the Debtor or the events leading up to the bankruptcy, are based upon the Debtor's books and records, knowledge of members of management, a careful review of various contracts and documents, bankruptcy schedules, statements of financial affairs, and upon other financial information known by the Debtor and its professionals in these Chapter 11 cases. None of this information has been subjected to an audit by independent certified accountants or auditors. The records maintained by the Debtor are dependent, in part, upon accounting performed by others. While the Debtor has attempted to incorporate accurate information in this Disclosure Statement and in the Plan, the Debtor makes no representations or warranties concerning the accuracy of the information provided.

The Debtor hereby submits this Disclosure Statement in respect to the Plan, pursuant to §1125 of the Bankruptcy Code in connection with the solicitation of acceptances or rejections of the Plan from holders of Claims against and Equity Interests in the Debtor. The purpose of this Disclosure Statement, including the exhibits attached hereto, is to provide adequate information to enable Creditors to make an informed judgment as to whether to vote to accept or reject the Plan. THE INFORMATION CONTAINED IN THE DISCLOSURE STATEMENT IS BASED SOLELY UPON THE OPINIONS AND CONCLUSIONS OF THE DEBTOR AND ITS PROFESSIONALS. VIRTUALLY ALL OF THE FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT AND EXHIBITS THERETO WERE PRODUCED FROM THE DEBTOR'S BOOKS AND RECORDS AS MAINTAINED BY

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MANAGEMENT AND FROM AUDITED FINANCIAL STATEMENTS TO THE EXTENT AVAILABLE.

**YOU SHOULD READ THIS DISCLOSURE STATEMENT IN ITS ENTIRETY BEFORE VOTING ON THE PLAN. THIS DISCLOSURE STATEMENT SUMMARIZES CERTAIN ASPECTS OF THE PLAN, BUT THE PLAN ITSELF WILL BE THE GOVERNING DOCUMENT. IF ANY INCONSISTENCY EXISTS BETWEEN THE PLAN AND THE DISCLOSURE STATEMENT, THE TERMS OF THE PLAN ARE CONTROLLING.**

Under the Bankruptcy Code, only the Classes of Claims that are “impaired,” Classes 3, 4, 5 and 6, as provided for in the Plan, may vote to accept or reject the Plan. The Plan sets forth which of the Classes the Debtor believe constitute impaired Classes that are entitled to vote wider the Plan.

ACCORDINGLY, A BALLOT FOR ACCEPTANCE OR REJECTION OF THE PLAN IS BEING PROVIDED ONLY TO MEMBERS OF CLASSES 3, 4, 5 AND 6.

After carefully reviewing the Plan, this Disclosure Statement and the exhibits attached hereto, please indicate your vote with respect to the Plan on the enclosed Ballot and return it in the envelope provided. PLEASE READ THE BALLOTING PACKAGE INSTRUCTIONS CAREFULLY AND VOTE EVERY BALLOT YOU RECEIVE. IF YOU ARE ENTITLED TO VOTE IN MORE THAN ONE CLASS. PLEASE BE CERTAIN TO DESIGNATE YOUR VOTE FOR EACH CLASS WHERE INDICATED ON THE BALLOTS.

NO REPRESENTATIONS CONCERNING EITHER THE DEBTOR OR THE PLAN ARE AUTHORIZED BY THE DEBTOR OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT AND OTHER SOLICITATION MATERIALS, IF ANY, APPROVED BY THE BANKRUPTCY COURT. ANY REPRESENTATION MADE TO SECURE THE VOTE OF THE HOLDER OF A CLAIM WHICH IS OTHER THAN AS CONTAINED HEREIN OR AS OTHERWISE APPROVED BY THE BANKRUPTCY COURT SHOULD NOT BE RELIED UPON IN ARRIVING AT A DECISION CONCERNING THE PLAN. ANY REPRESENTATIONS OR INDUCEMENTS MADE IN ORDER TO SECURE AN ACCEPTANCE TO THE PLAN THAT ARE NOT CONTAINED IN THIS DISCLOSURE STATEMENT SHOULD BE REPORTED TO THE OFFICE OF THE UNITED STATES TRUSTEE FOR APPROPRIATE ACTION.

For a summary description of the treatment of each Class of Claims and Equity Interests and the estimated value of Distributions to each Class of Claims and Equity Interests as provided in this Disclosure Statement, see Article IV, § B herein, titled “Classification of Claims and Equity Interests.”

A. Voting Instructions

1. Ballots

In voting for or against the Plan, please use only the ballot sent to you with this Disclosure Statement. IF YOU ARE VOTING IN MORE THAN ONE CLASS, YOU MAY DO

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SO ON THE ENCLOSED BALLOT. YOU DO NOT NEED TO SUBMIT MORE THAN ONE BALLOT.

2. Returning Ballots

IN ORDER TO BE COUNTED, BALLOTS MUST ACTUALLY BE RECEIVED BY THE BALLOTING AGENT, ALLONHILL BALLOT PROCESSING CENTER, C/O UPSHOT SERVICES LLC, 7808 CHERRY CREEK SOUTH DR., SUITE 112, DENVER, COLORADO 80231, ON OR BEFORE [\_\_\_\_\_] (EST). YOUR BALLOT WILL NOT BE COUNTED IF IT IS RECEIVED THEREAFTER.

B. Acceptance or Rejection of the Plan

As a Creditor of the Debtors, your vote on the Plan is important. For the Plan to be accepted and confirmed by the Bankruptcy Court without resort to the “cramdown” provisions of the Bankruptcy Code, votes representing at least two-thirds in amount and more than one-half in number of Claims voted in each impaired Class must vote for acceptance of the Plan.

If any Class votes to reject the Plan, the Debtor will seek to satisfy the requirements for confirmation under the “cramdown” provisions of the Bankruptcy Code. For a description of these requirements, see Article X, Section F, § E herein, titled “Confirmation Without Acceptance by All Impaired Classes.”

C. Brief Overview of Chapter 11

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code. Pursuant to Chapter 11, a debtor is authorized to reorganize its financial affairs for its own benefit and that of its creditors so as to effect an orderly liquidation of its assets and the distribution of the Cash proceeds therefrom to creditors.

The commencement of a Chapter 11 case creates an estate comprised of all the legal and equitable interests that a debtor has in property as of the date that the bankruptcy petition is filed. The Bankruptcy Code provides that a debtor may continue to manage its financial affairs and remain in possession of its property as a “debtor in possession” unless the Bankruptcy Court orders the appointment of a trustee. The Debtor in this case has remained in possession of its property as debtor in possession. No Trustee or Examiner has been appointed in these Chapter 11 cases.

The filing of a Chapter 11 petition also triggers the “automatic stay” provisions of the Bankruptcy Code. Section 362 of the Bankruptcy Code provides for a stay or an injunction against any attempt to collect a pre-petition debt, claim or obligation from a debtor or to otherwise interfere with its property or business. Unless a bankruptcy court orders otherwise, the automatic stay remains in full force and effect until a plan is confirmed.

The formulation of a plan is the primary purpose of a Chapter 11 case. A plan sets forth the means by which a debtor will satisfy creditors who hold claims against a debtor. Although it is typically referred to as a plan of reorganization, it may also provide for the orderly liquidation or transfer of the debtor’s assets.

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After a plan is filed, the holders of claims against or equity interests in a debtor are requested to vote to accept or reject the plan. Before soliciting acceptances of a proposed plan, section 1125 of the Bankruptcy Code requires that a debtor prepare a disclosure statement which contains adequate information about a debtor, its assets and its liabilities that will enable a hypothetical, reasonable investor to make an informed decision to either accept or reject the plan.

Chapter 11 does not require that each holder of a claim against or an equity interest in a debtor vote in favor of a plan for a bankruptcy court to confirm a plan. The Bankruptcy Code defines acceptance of a plan by a given class of creditors holding claims against a debtor as acceptance by at least two-thirds in amount and more than one-half of the number of the holders of allowed claims in that class actually voting. The Bankruptcy Code also defines acceptance of a plan by a class of equity interests as acceptance by holders of two-thirds of the number of interests actually voting. Holders of claims or interests who fail to vote will not be counted as having either accepted or rejected the plan.

Classes of claims or equity interests that are not “impaired” under the plan are conclusively presumed to have accepted the plan and, therefore, are not entitled to vote. Acceptances of the Plan in these Chapter 11 Cases are being solicited only from those entities holding Claims in an impaired class.

Even if all classes of claims accept a plan of reorganization or liquidation, a bankruptcy court may determine that a plan should not be confirmed if the plan does not meet the requirements of § 1129(a) of the Bankruptcy Code. Generally, Section 1129(a) requires, among other things, that a plan be in the “best interest” of creditors and that it be “feasible” before being confirmed. The “best interest” test generally requires that the value of any consideration to be distributed to holders of claims under a plan may not be less than what such holders would receive if the assets of the debtor were liquidated pursuant to Chapter 7 of the Bankruptcy Code. The Debtor submits that, in these Cases, the Plan satisfies the “best interest” test as a result of the orderly liquidation of the assets by the Trustee, rather than by a Chapter 7 trustee, who will not have the same ability, working knowledge or expertise as the Trustee selected under the Plan and who will invariably add an additional layer of administrative expenses against the Estate.

There are several primary aspects of the Plan that make it preferable to Creditors than a Chapter 7 proceeding. The first aspect involves the vesting in the Reorganized Debtor of the Debtor’s Causes of Action on the Effective Date. By assigning its Causes of Action (including but not limited to Litigation Rights and Avoidance Actions) to the Reorganized Debtor, the Plan ensures that control of Causes of Action by the Reorganized Debtor will maximize the recovery on the Causes of Action for the benefit of all Creditors and Interest Holders, while avoiding the costs that would be incurred if a Chapter 7 trustee were to succeed to the Causes of Action. Moreover, the Reorganized Debtor will have the benefit of the expertise, historical and industry knowledge and experience of the Debtor’s manager, who will continue as manager of the Reorganized Debtor, and will do so without salary. Were a Chapter 7 trustee to bring these causes of action, the recovery on Causes of Action would be more cumbersome and expensive, and thus more remote because a Chapter 7 trustee would not have the historical knowledge possessed by the Debtor’s Class A Members, which will be retained as the Reorganized Debtor’s management. In addition, the plan provides for a Contribution to be made to the Reorganized Debtor by the

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Debtor's Class A Members. This Contribution would not be available if the Debtor were liquidated under Chapter 7.

Additionally, Bankruptcy Code section 1129(a) of the Bankruptcy Code requires that a plan be "feasible." The "feasibility" test requires a bankruptcy court to determine whether or not there is a reasonable probability that a debtor will be able to perform all obligations set forth in a plan. The Debtor submits that, in the instant Cases, the "feasibility" requirement does not apply because the Plan provides for the liquidation of the Estate's Assets and the reorganization of the Debtor to facilitate full realization of the value of all Causes of Action. The Plan does ensure, however, that the payments that are required to be made on the Effective Date and on Subsequent Distribution Dates will in fact be made in accordance with the priority scheme articulated in the Bankruptcy Code.

A bankruptcy court may confirm a plan of reorganization even though fewer than all of the classes of impaired claims accept it. For a plan to be confirmed *via* such a "cramdown" despite the rejection of one or more classes of impaired claims, a proponent of the plan must show, among other things, that the plan does not discriminate unfairly against a non-accepting class and that the plan is "fair and equitable" with respect to each non-accepting class. A plan is "fair and equitable" if it provides that, absent new value, a holder of any claim or interest that is junior to the claims of a non-accepting class will not receive or retain, on account of such junior claim or interest, any property unless all senior classes are paid in full.

D. Overview of the Plan

THE DESCRIPTION OF THE PLAN SET FORTH BELOW IS A SUMMARY ONLY, AND IS QUALIFIED BY REFERENCE TO THE COMPLETE DOCUMENTS ATTACHED AS EXHIBITS HERETO. CREDITORS AND OTHER PARTIES IN INTEREST ARE URGED TO REVIEW THE PLAN ITSELF, WHICH IS INCLUDED AS EXHIBIT "A" TO THIS DISCLOSURE STATEMENT, AND THE MORE DETAILED DESCRIPTION OF THE PLAN CONTAINED IN ARTICLE IV OF THIS DISCLOSURE STATEMENT, ENTITLED "PLAN OF REORGANIZATION."

The funds necessary for execution of the Plan shall be provided by the liquidation of the remaining assets of the Debtor, as further described *infra*, including the successful prosecution of any Causes of Action, which shall be preserved by the Plan and held, investigated and prosecuted by the Reorganized Debtor, by the release of the SLS Escrow and by Contributions to be made by the Debtor's Principals.

The Plan provides for the payment in full, in Cash, on the Effective Date, of all Allowed Administrative Expense Claims, Allowed Secured Claims and Allowed Priority Tax Claims, if any, which are not classified under the Bankruptcy Code, in the amounts ultimately determined by the Bankruptcy Court unless the holders of such Claims agree to a different treatment. Hearings on the Applications for Administrative Claims, to the extent not previously heard by the Bankruptcy Court, shall be heard at the Confirmation Hearing or shortly thereafter, as provided by the Plan.

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The proposed Initial Distribution Date for Allowed General Unsecured Claims shall be the Effective Date or as soon thereafter as practical in accordance with the terms of the Plan or agreements negotiated with the holders of such Claims.

For a more complete discussion of the Plan and the mechanics for Distributions thereunder, see Article IV herein, titled “Plan of Reorganization.”

## ARTICLE II

### **THE DEBTOR’S HISTORY AND REASONS FOR FILING CHAPTER 11**

#### A. History of the Debtor

#### **I. Corporate Structure and Business Operations**

The Debtor is structured as a limited liability company whose membership interests consist of voting interests (“Class A Interests”) and non-voting interests (“Class C Interests”). Management of the company is vested solely in the manager (“Manager”), Margaret Sue Allon (“Ms. Allon”), who has been manager since the Debtor was founded on June 12, 2008. The Class A Interests are held by BHC Allonhill, LLC (“BHC”), a Delaware limited liability company, and Ms. Allon. Ms. Allon’s husband, Harvey B. Allon (“Mr. Allon”) serves as the manager of BHC. The Class C Interests were issued as profit sharing interests to the Debtor’s employees in bands for executive management and senior management with minor adjustments made based on capital contributions. The identity of the holder and the amount held (expressed as a percentage interest) of the Class A Interests and Class C Interests as of the Petition Date are:

#### Debtor’s Membership Interests

<b><u>Member</u></b>	<b><u>Class</u></b>	<b><u>Percentage</u></b>
Margaret Sue Allon	Class A	47.28054%
BHC Allonhill, LLC	Class A	41.58420%
David Kaplan	Class C	3.96134%
Diana Mead	Class C	2.43198%
Daniel Gallery	Class C	1.21599%
John Andriola	Class C	1.21599%
Michael Margolf	Class C	0.27092%
Abram Spohn	Class C	0.26147%
Lorie Helms	Class C	0.25764%
Carey Willson	Class C	0.25267%

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Nicholas Lazzara	Class C	0.24745%
Dawn Holdren	Class C	0.10845%
Margaret Kronmueller	Class C	0.10845%
Samuel Reid	Class C	0.10267%
David Schiffmayer	Class C	0.10122%
Eric Knab	Class C	0.10001%
Kimberly Schiffbauer	Class C	0.10001%
Brian Sherman	Class C	0.10001%
Joseph Sueper	Class C	0.10001%
John Wadle	Class C	0.10001%
Elizabeth Watson	Class C	0.0989%
	<b>TOTAL</b>	100%

Prior to December 31, 2013, the Debtor was a professional services firm based in Denver, Colorado, that previously provided loan due diligence and credit risk management services for institutions that invest in, sell, securitize or service mortgage loans. The Debtor's clients included a wide variety of financial service firms such as banks, investment banks, securitization trusts, institutional investors and government-sponsored entities. As of December 31, 2013, the Debtor ceased payroll and had and has no employees. The Debtor's administrative functions have been outsourced to Braddock Financial Corporation ("Braddock") pursuant to a Master Services Agreement dated September 1, 2013. Braddock is an investment adviser registered with the U.S. Securities and Exchange Commission that is controlled by Mr. Allon. Braddock and the Debtor share office space in Denver. Currently, the Debtor's business consists of managing its remaining assets, as well as managing its rights and complying with its remaining obligations under the SLS APA (defined in Article II below).

## **II. Sale of Assets to Stewart Lenders Services, Inc., Resulting Investigations and Potential Causes of Action**

On August 28, 2013, the Debtor entered into a transaction (the "Stewart Transaction") to convey certain assets ("Target Assets") to Stewart Lender Services, Inc. ("Stewart"), pursuant to an Asset Purchase Agreement between the Debtor and Stewart, dated August 28, 2013, and amended as of September 30, 2013 (the "SLS APA"). Stewart is a subsidiary of Houston-based Stewart Information Systems Corporation and a provider of mortgage servicing and origination support services. The SLS APA provides for the transfer to Stewart of certain assets, defined in the SLS APA as "Target Assets," and the assumption by Stewart of certain liabilities. The SLS APA excludes other assets and liabilities, in particular, liabilities relating to the Aurora Litigation discussed in Article III.B of this Disclosure Statement.

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Stewart has certain indemnification rights against the Debtor for damages incurred by Stewart as a result of “Aurora Losses” as defined by the SLS APA. These rights are supported by the SLS Escrow. Because the Plan effects a release of all claims that could result in Aurora Losses, entry of the Confirmation Order is deemed (and the Confirmation Order will so provide it to be) an “Aurora Resolution Event,” upon which the Confirmation Order will direct that the funds held in the SLS Escrow shall be released by the Escrow Agent to the Debtor. Upon the Effective Date, such funds will revert in the Reorganized Debtor.

The consideration to be provided by Stewart under the SLS APA consisted of \$15 million in cash paid on August 28, 2013, and a percentage of profits in excess of specified “hurdles” expected by the Debtor to be earned by Stewart over the next three succeeding years following the Closing Date (each such year being defined as either the “Year 1 Earnout Period”, “Year 2 Earnout Period” and “Year 3 Earnout Period”, as the case may be, and collectively, the “Earnout Period”), from Stewart’s operation of the Target Assets (the “Business”). More specifically, the SLS APA provides that in addition to the payment of \$15 million on the Closing Date, Stewart, as “Purchaser”, is required to pay to the Debtor for each Earnout Period a percentage of eligible revenue achieved by Stewart’s operation of the Business over certain hurdle amounts. For the Year 1 Earnout Period, this amount (the “Year 1 Hurdle Amount”) was \$17 million, and the percentage of revenue due to the Debtor was defined by the SLS APA as the amount of “Eligible Revenue” in excess of \$17 million, multiplied by certain percentages defined in relation to strategic revenue and normal revenue for the Year 1 Earnout Period. The calculation required by the SLS APA to determine the Year 2 Earnout and the Year 3 Earnout are similar, except that the hurdle amounts are defined so as to increase if the preceding year revenue for the Business was greater than the initial \$17 million Year 1 Hurdle Amount.

In November, 2014, Stewart notified the Debtor that the Business had not achieved the Year 1 Hurdle Amount, and therefore, that no Year 1 Earnout was due to the Debtor. The Debtor is investigating, including by seeking discovery under Federal Rule of Bankruptcy Procedure 2004 (“Rule 2004”), the reasons why the Business, as operated by Stewart, was measured by Stewart to have failed to achieve the Year 1 Hurdle Amount. If the Debtor’s investigation reveals that Stewart failed properly to operate the Business, or was negligent in its management of the Business, or breached terms of the SLS APA relating to the operation of the Business, the Debtor intends to pursue Causes of Action against Stewart for breach of contract and/or negligence. If the Debtor’s investigation reveals that Stewart intentionally operated or managed the Business in bad faith, or in a manner that deprived the Debtor of consideration due under, or breached, the SLS APA, the Debtor (including as Reorganized Debtor) intends to pursue appropriate Causes of Action, including any Avoidance Actions available under the Bankruptcy Code. The Debtor’s rights to the proceeds of any and all actions against Stewart will be contributed to the Trust.

The Debtor also believes it has valid rights to recover certain transfers from Stewart. Beginning in January, 2014, the Debtor made certain transfers (“Pre-petition Transfers”) to Stewart, totalling \$6,608,309.15. Until the time of these transfers, Stewart was an unsecured creditor with a general contract claim against the Debtor in the amount of the Pre-petition Transfers. The Debtor did not receive value from Stewart in exchange for the Pre-petition Transfers. The Debtor has sought informally, and the Reorganized Debtor will continue post-

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confirmation through discovery under Rule 2004, to investigate these transfers, and if the Reorganized Debtor concludes that these transfers are recoverable under the Bankruptcy Code, the Reorganized Debtor will seek to avoid and to recover these amounts pursuant to sections 544, 547, 548 and 550 of the Bankruptcy Code, and will cause the Proceeds of any such recovery to be distributed in accordance with the terms of the Plan.

### **III. Prepetition Capital Structure**

#### **A. Assets**

1. Following the Stewart Transaction, the Debtor's most significant assets are:
  - a. its rights under the SLS APA, which, as noted above, may be the subject of litigation that is to be preserved, contributed to and vested in the Reorganized Debtor;
  - b. rights to recover from Stewart under Section 550 of the Bankruptcy Code the value of transfers avoidable pursuant to Sections 544, 547 and 548 of the Bankruptcy Code which, as noted above, may be the subject of litigation, that is to be preserved, contributed to and vested in the Reorganized Debtor;
  - c. its insurance rights under:
    - (i) the XL Policy;
    - (ii) a professional liability policy of \$1 million; and
    - (iii) a cyber liability policy of \$1 million;
  - d. a checking account held at Wells Fargo Bank, a money market account held at Wells Fargo Bank, deposits in such accounts having an aggregated total of \$5,355,087.03 as listed on the Monthly Operating Report ("MOR") to be filed by the Debtor on August 20, 2015 for the month of July, 2015.
  - e. an investment in Braddock Structured Opportunities Fund Series A;
  - f. personal property in the form of computer and office equipment, with a value of \$22,489.68;
  - g. the SLS Escrow; and
  - h. contract rights against Aurora.

#### **B. Liabilities**

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The Debtor's liabilities consist of its obligations related to property leases, professional fees, trade debt, insurance, office equipment and software leases and, most significantly, a substantial litigation award in favor of Aurora Commercial Corporation, f/k/a Aurora Bank FSB ("Aurora") in the amount of \$25,845,329.00, plus prejudgment interest, and a claim by XL Insurance Company for reimbursement of fees and expenses advanced by XL in connection with the Aurora Litigation. The Aurora Litigation is discussed in detail in Article IV.B. of this Disclosure Statement.

C. Secured Debt

The Debtor has undisputed secured debt in the amount of \$4,281.14 in the form of certain equipment and software leases.

D. Unsecured Debt

2. The Debtor's scheduled, unsecured non-priority obligations total approximately \$34,553,051.16, consisting of the judgment of \$25,845,329 and pre-judgment interest awarded to Aurora, \$3,130,469.97 claimed by XL Insurance Company ("XL") for reimbursement of fees and expenses advanced in connection with the Aurora Litigation (as described in Article 11.B. hereof), and an additional amounts claimed by various trade creditors and governmental creditors. SLS has also filed a proof of claim asserting a right to recover \$675,474.75 based on cash collections from customers of the business operated by Stewart with the contracts and assets that were the subject of the Stewart Transaction.

**IV. Circumstances Precipitating Chapter 11 Filing**

A. Stewart Post-Closing Challenges

Following the Stewart Transaction, the Debtor remained as a counterparty to numerous contracts and leases (the "Residual Contracts and Leases"). Absent novation of the Residual Contracts and Leases, the Debtor could have been exposed to significant liabilities under the Residual Contracts and Leases. The Debtor's bankruptcy filing allowed it to manage its obligations under the Residual Contracts and Leases, in accordance with the Bankruptcy Code, so as to avoid defaults and potential damage to the Debtor's estate. In addition, pursuant to the Plan, the Debtor rejects any contracts and leases as to which it remains obligated and has not specifically assumed during the bankruptcy case or under the Plan.

B. Aurora Litigation

In the fall of 2010, in response to various complaints, federal banking agencies conducted an examination of the fourteen largest mortgage loan servicers in the country, which included Aurora. After that review, all of the mortgage servicers, including Aurora, entered into consent orders with their primary banking regulators requiring "independent reviews" of their foreclosure-related practices. On April 13, 2011, without admitting or denying any improper foreclosure activities had occurred, Aurora agreed to the issuance of Consent Order No.: NE-11-16 (the "Consent Order") by its then federal banking regulator, the Office of Thrift Supervision

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(OTS). The Office of the Comptroller of the Currency (“OCC”) subsequently administered the Consent Order. Among other things, the Consent Order required Aurora to retain (subject to the approval of the OCC) an independent consultant to conduct an independent foreclosure review (the “IFR”) of residential mortgage foreclosure proceedings that Aurora had initiated and conducted between January 1, 2009 and December 31, 2010.

After the Consent Order was issued, Aurora considered several candidates and ultimately selected the Debtor to conduct the IFR. On September 9, 2011, Aurora and the Debtor entered into an engagement letter agreement (the “Aurora Contract”). Pursuant to the Aurora Contract, the Debtor was to conduct the IFR required by the Consent Order. The Debtor performed the IFR from June 2011 until May 2012, at which time the OCC found that other work being done by the Debtor created an actual or potential conflict with the IFR and directed Aurora to terminate the Debtor, which Aurora did.

The Debtor subsequently filed a complaint against Aurora in the Colorado Court, seeking payment of more than \$22 million in unpaid fees under the Aurora Contract as of the date of termination in the case styled *Allonhill, LLC v. Aurora Bank, FSB* (Case No. 12CV6381) (the “Aurora Litigation”). Aurora sought to be excused from its obligations on two grounds: (i) an alleged failure of Allonhill to perform and (ii) fraudulent inducement. Aurora also counterclaimed for the return of \$24,000,000.00 previously paid to the Debtor under the Aurora Contract. The Aurora Litigation was tried in December 2013. In March of 2014, the Colorado Court found in favor of Aurora and against the Debtor on Aurora’s breach of contract and fraud counterclaims and awarded damages of \$25,845,329.00 to Aurora, along with statutory prejudgment interest (the “Aurora Judgment”).

The Debtor has appealed the Aurora Judgment and believes that reduction of the Aurora Judgment and/or reversal of the Colorado Court’s decisions are likely results of the appeal. In addition to the clear benefit of overturning the Aurora Judgment, the Debtor’s liability insurance carrier, XL, has asserted its rights under the terms of its policy with the Debtor to recover \$3.13 million for fees and expenses advanced in connection with the Aurora Litigation. Based on XL’s assertion of its potential recovery rights as a result of the Aurora Judgment, XL has been listed as a creditor holding a contingent, disputed claim in the amount of \$2,904,977.83 in the Debtor’s schedules. XL has also filed a proof of claim, alleging a right to recover costs and expenses advanced in connection with the Aurora Litigation and the appeal of the Aurora Judgment. XL’s right to recover its claim and the availability of the XL policy coverage depends in large part on the outcome of the appeal. In addition, success on the appeal may significantly reduce or eliminate Aurora’s claim, thus rendering the Estate solvent.

### ARTICLE III

#### **SIGNIFICANT EVENTS DURING CHAPTER II CASES**

##### A. Employment of Professionals

On March 24, 2014, the Debtor paid Hogan Lovells US LLP (“Hogan”) a \$250,000 retainer to initiate these Chapter 11 proceedings.

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On April 29, 2014, the Bankruptcy Court entered an Order granting the Committee's application to retain Hogan as counsel, and Bayard, P.A., as local counsel *Nunc Pro Tunc* to March 26, 2014. The Debtor also sought to retain professionals to provide legal and accounting services. On April 29, 2014, the Bankruptcy Court authorized the retention of (1) Williams & Connelly LLP as special litigation counsel, (2) Haddon, Morgan & Foreman as special appellate counsel, and (3) EKS&H as tax accountant and auditor, in each case, *nunc pro tunc* to March 26, 2014.

On April 29, 2014, the Debtor retained each of the professionals referenced in the foregoing paragraph.

B. Post-petition Operations

1. Appeal of Aurora Judgment.

On April 7, 2014, the Debtor filed its Motion for Relief from the Stay to Permit Appeal to Proceed, for the purpose of gaining relief under section 362 of the Bankruptcy Code in order to perfect its appeal of the Aurora judgment. The Bankruptcy Court's Order Granting Relief from Stay to Permit Appeal to Proceed was entered on April 15, 2014. The Debtor filed its Notice of Appeal on April 18, 2014, thus commencing its appeal (the "Appeal") of the judgment held by Aurora. At present, all briefing is completed in the Colorado Court of Appeals ("Court of Appeals"), and the case is at issue awaiting the scheduling of oral argument.

The Appeal has been a large focus of the Debtor's post-petition activities. Several events required action by the Debtor in addition to briefing and litigating the substance of the Appeal. On July 11, 2014, the Court of Appeals issued an Order staying the Appeal and raising the issue of whether the judgment issued by the trial court was final, because that judgment did not include the amount of pre-judgment interest awarded. On July 18, 2014, Aurora and the Debtor jointly moved the Court of Appeals to lift the stay imposed by its July 11 Order, on the grounds that the amount of pre-judgment interest was a matter of simple math and its calculation was a purely ministerial act. By Order dated August 28, 2014, the Court of Appeals partially lifted its stay in order to permit the parties 35 days within which to seek from the Bankruptcy Court relief from the automatic stay imposed by the Bankruptcy Code and upon such relief, to resolve the matter of pre-judgment interest before the trial court.

On September 19, 2014, the Debtor submitted for approval by the Bankruptcy Court a stipulation between the Debtor and Aurora to modify the stay for the purpose of allowing Aurora to seek an award of pre-judgment interest so that the Appeal could move forward, and on September 22, 2014, the Bankruptcy Court entered its Order Further Modifying the Automatic Stay. Based on Aurora's unopposed motion for an award of pre-judgment interest, on October 7, 2014, the Denver District Court entered an Order awarding pre-judgment interest. A certified copy of the District Court's Order of October 7 was provided to the court of appeals by the Debtor and by its Order dated October 22, 2014, the Court of Appeals accepted the submission of the lower court's order and set a briefing schedule for the Appeal.

During the time when the Appeal was stayed by the Court of Appeals pending an award of pre-judgment interest, it was discovered that the clerk of the District Court had inadvertently omitted from the record transmitted to the Court of Appeals all trial exhibits, depositions

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submitted and considered by the trial court and expert reports. The Debtor's appellate counsel thus filed the Appellant's [Debtor's] Stipulated Motion to Supplement the Record on Appeal, on November 12, 2014, and the Court of Appeals granted the motion on December 26, 2015. When the record was supplemented on January 26, 2015, the court of appeals issued a Notice of Filing of Supplemental Record, and extended the time for filing of the Debtor's opening brief on February 9, 2015. The Debtor's appellate counsel thereafter moved on February 9, 2015 for a short extension of time – 8 days – to finalize Allonhill's opening brief and to assure proper citation to the voluminous materials included in the supplemental record. The Debtor's opening brief was filed with the court of appeals on February 17, 2015. Aurora sought one extension of time beyond that allotted by Colorado rules in which to file its Answer Brief and filed its brief on April 21, 2015. The Debtor filed its Reply Brief on June 2, 2015. Briefing of the appeal is now complete.

2. Retention of Professionals.

Pursuant to various Orders entered by the Bankruptcy Court authorizing the Debtor to retain counsel, on April 29, 2015 the Debtor retained the law firms of Hogan Lovells US LLP, as counsel to the Debtor and debtor in possession, Bayard P.C., as local Delaware counsel to the Debtor and debtor in possession, Williams & Connelly LLC, as litigation counsel to the Debtor and debtor in possession, and Haddon Morgan and Foreman, as appellate counsel to the Debtor. In addition, pursuant to the Bankruptcy Court's Order, also dated April 29, 2015, the Debtor retained the accounting firm, EKS&H, as tax accountant and auditor.

3. Executory Contracts.

The Debtor evaluated its remaining executory contracts to determine those which were to be assumed, assigned or rejected. On June 10, 2014 the Debtor filed its Motion to Assume Lease or Executory Contract with Metropolitan Life Insurance Company. The Bankruptcy Court Order granting that Motion was entered on July 9, 2014. On October 22, 2014, the Debtor filed its Motion to Extend Time Period Within Which the Debtor May Assume or Reject Unexpired Leases of Non-Residential Real Property. Pursuant to the Order entered by the Bankruptcy Court on that motion, the Debtor assumed, and assigned to Stewart, a lease of office space located at 4700 S. Syracuse in Denver Colorado.

The Debtor has attempted to evaluate whether contracts that were to be assumed by Stewart pursuant to the terms of the SLS APA have, in fact, been assumed by Stewart. The Debtor has determined that certain contracts may not have been effectively assumed by Stewart. In regards to those contracts, the Debtor has identified on Exhibit G to this Disclosure Statement the contracts believed to remain executory, which should be assumed and assigned to Stewart. The Debtor has also identified on Exhibit G hereto contracts to which it remains a party and that are essential to the post-confirmation operations of the Reorganized Debtor, and which are to be assumed under the Plan and continued by the Reorganized Debtor.

The Debtor evaluated the SLS APA to determine whether that agreement is executory. Because the Debtor does not owe any material performance under the SLS APA, the Debtor has determined the SLS APA is not executory.

4. Plan Preparation.

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On July 21, 2014, the Debtor was granted an extension until July 24, 2015 of the time period within which to file a plan pursuant to Bankruptcy Code section 1121(d). On June 17, 2015, the Debtor filed a Motion to Further Extend the Exclusivity Period for Filing a Chapter 11 Plan and Disclosure Statement. On July 2, 2015, Aurora filed its objection to this motion. By stipulation dated July 17, 2015, Aurora and the Debtor agreed that the time period within which the Debtor may file a chapter 11 plan and solicit acceptances thereof would be extended by mutual agreement. On July 21, 2015, the Bankruptcy Court approved the parties' stipulation and entered its Order Further Extending the Period Within which the Debtor May File a Chapter 11 Plan and Solicit Acceptances Thereof. The Bankruptcy Court's July 21, 2015 Order extended the time allowed pursuant to Bankruptcy Code section 1121 within which the Debtor may file a chapter 11 plan to August 17, 2015, and extended the time within which the Debtor may solicit acceptances to such plan to October 5, 2015. The Order does not preclude the Debtor from seeking further extensions of these time periods, subject to the limitations of section 1121(d) of the Bankruptcy Code, nor does it limit Aurora's right to object to such requests.

5. Management and Evaluation of Assets, Including Rights under SLS APA

Subsequent to the petition date, the Debtor also evaluated the Estate assets, which largely consist of its contract rights against Stewart. The Debtor also evaluated Avoidance Actions against Stewart, as well as against other parties and interest holders.

In November, 2014, the Debtor was informed by Stewart that no Earnout was owed under the SLS APA for the First Year Earnout Period. The Debtor negotiated and entered into the Agreement to Bankruptcy Court Jurisdiction, dated February 12, 2015, by and between the Debtor and Stewart (the "SLS Jurisdiction Agreement"), that allows and requires both parties to bring claims related to the Earnout due under the SLS APA, as well as related to Stewart's proof of claim and claims that the Debtor may have against Stewart, in the bankruptcy case. The SLS Jurisdiction Agreement was approved by the Bankruptcy Court on March 26, 2015. During the period from December, 2014 through June, 2015 the Debtor and Stewart negotiated an attempted consensual exchange of information relating to the Earnout and potential avoidance actions.

Pursuant to the Plan, the Debtor will transfer all Causes of Action (including all rights and potential claims against Stewart still under investigation) to the Reorganized Debtor, and the Causes of Action will be vested in the Reorganized Debtor, along with the standing, right and authority to hold, to investigate and to prosecute the Causes of Action.

C. Financial Statements/Reporting

During the Chapter 11 Cases, the Debtor has complied with the reporting requirements imposed by the Bankruptcy Code and by the Office of the United States Trustee, including the filing of schedules, statements of financial affairs, and monthly operating reports. These schedules, statements and reports are available for inspection at the Clerk or the Bankruptcy Court.

ARTICLE IV

**PLAN OF REORGANIZATION**

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The Debtor submits that, under the Plan, holders of Allowed Claims against the Debtor will obtain recoveries from the Debtor's estate having a value in excess of what otherwise would be available if the Estate's assets were liquidated pursuant to Chapter 7 of the Bankruptcy Code.

THE FOLLOWING IS A SUMMARY OF THE MATTERS CONTEMPLATED TO OCCUR EITHER PURSUANT TO OR IN CONNECTION WITH CONSUMMATION OF THE PLAN. THIS SUMMARY HIGHLIGHTS THE SUBSTANTIVE PROVISIONS OF THE PLAN AND IS NOT, NOR IS IT INTENDED TO BE, A COMPLETE DESCRIPTION OF THE PLAN. STATEMENTS REGARDING ESTIMATED AMOUNTS OF CLAIMS OR PROJECTED DISTRIBUTIONS (OR THE VALUE OF SUCH) ARE ESTIMATES BY THE DEBTOR BASED ON CURRENT INFORMATION.

A. General

On the Effective Date, all of the Debtor's assets shall be transferred to and will become vested in the Reorganized Debtor. All Claims against the Debtor will be satisfied as set forth in the Plan.

The Plan appoints the Reorganized Debtor as Estate Representative for the purpose of standing to pursue and assert the Causes of Action. The Reorganized Debtor will be empowered and authorized, and will undertake post-confirmation, to investigate, prosecute, pursue, including through compromise or settlement, as deemed by the Reorganized Debtor to be in the best interests of Creditors, and conclude the Causes of Action, which will be preserved for the benefit of Creditors under the Plan.

The Reorganized Debtor's Manager will be Ms. Allon. Ms. Allon will not be paid a salary by the Reorganized Debtor. Her services as manager are expected significantly to contribute to and to enhance the Reorganized Debtor's ability to pursue Causes of Action post-confirmation. Given Ms. Allon's knowledge of the Debtor's operations, business and transactions, as well as the industry in which the Debtor and its transaction counterparties (including Stewart) operate, retention of Ms. Allon's service as Manager of the Debtor is believed to be key to the Reorganized Debtor's success in pursuing the Causes of Action.

B. Classification of Claims.

A Chapter 11 plan may specify that certain classes of claims or interests are unimpaired by the reorganization or liquidation effectuated by the plan. A class is deemed unimpaired if, among other things, the plan does not alter the legal, equitable, or contractual rights of the members of such class, or the holders of claims are to be paid in full in Cash with respect to the allowed amount of their claims upon the effective date of the plan (or thereafter with interest). Such classes are referred to as "unimpaired" and, because of such treatment, are deemed to accept the plan. Accordingly, the Bankruptcy Code does not require a plan proponent to solicit votes from holders of "unimpaired" claims.

1. In accordance with Bankruptcy Code section 1123(a)(1), Administrative Claims and Priority Tax Claims have not been classified by the Plan, and the respective treatment of such unclassified Claims is set forth in section 3.01 the Plan as follows:

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(a) Administrative Claims

Except to the extent that an Allowed Administrative Claim has been paid prior to the Initial Distribution Date, except as otherwise provided with respect to Professional Fee Claims, or unless otherwise agreed to by the Debtor and the Holder of an Allowed Administrative Claim, each Holder of an Allowed Administrative Claim shall be entitled to receive in full and complete settlement, release, and discharge of such Claim, payment in full in Cash of the unpaid portion of an Allowed Administrative Claim on the Distribution Date.

(b). Priority Tax Claims

Except to the extent that an Allowed Priority Tax Claim has been paid prior to the Initial Distribution Date or unless otherwise agreed to by the Debtor and the Holder of an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim shall be entitled to receive in full and complete settlement, release, and discharge of such Claim, payment in Cash of the unpaid portion of an Allowed Priority Tax Claim on the Distribution Date.

2. Article II of the Plan classifies the various Claims and Equity Interests in the Debtor in the Classes set forth below.

(a) Unclassified Claims, which are not entitled to vote on the Plan, as described in the next preceding paragraphs.

(b) Priority and Secured Claims, which are Unimpaired and not entitled to vote on the Plan.

The Plan creates the following Classes of Claims and Interests:

Class 1. Other Priority Claims

Class 2. Secured Claims

3. Article II of the Plan identifies the following Impaired Classes of Claims that are entitled to vote on the Plan

Class 3. General Unsecured Claims of Aurora and Pre-petition Contract Creditors

Class 4. General Unsecured Claims of SLS and XL (Creditors owing Contract Obligations to the Debtor)

Class 5. Old Class A Interests

Class 6 - Old Class C Interests

C. The Plan's Provisions for Treatment of Claims and Interests:

1) Unclassified Claims:

(a) Administrative Claims

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Except to the extent that an Allowed Administrative Claim has been paid prior to the Initial Distribution Date, and except as otherwise provided for herein (including Section 11.02 with respect to Professional Fee Claims) or unless otherwise agreed to by the Debtor and the Holder of an Allowed Administrative Claim, each Holder of an Allowed Administrative Claim shall be entitled to receive in full and complete settlement, release, and discharge of such Claim, payment in full in Cash of the unpaid portion of an Allowed Administrative Claim on the Distribution Date.

(b) Priority Tax Claims

Except to the extent that an Allowed Priority Tax Claim has been paid prior to the Initial Distribution Date or unless otherwise agreed to by the Debtor and the Holder of an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim shall be entitled to receive in full and complete settlement, release, and discharge of such Claim, payment in Cash of the unpaid portion of an Allowed Priority Tax Claim on the Distribution Date.

2) Classes of Claims and Interests:

Class 1: Other Priority Claims

Classification: Class 1 consists of Other Priority Claims against the Debtor.

Treatment: The legal, equitable and contractual rights of the Holders of Allowed Class 1 Claims will be unaltered by the Plan. Unless otherwise agreed to by the Holders of the Allowed Class 1 Claims and the Debtor, each Holder of an Allowed Class 1 Claim shall receive in full, final and complete satisfaction, settlement, release, and discharge of such Allowed Class 1 Claim, payment of the Allowed Class 1 Claim in full in Cash on the Distribution Date.

Voting: Class 1 is Unimpaired, and the Holders of Class 1 Claims will be conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims will not be entitled to vote to accept or reject the Plan.

Class 2: Secured Claims

Classification: Class 2 consists of Secured Claims against the Debtor.

Treatment: Each holder of an Allowed Class 2 Secured Claim shall receive, in the sole discretion of the Debtor or the Reorganized Debtor, one of the four following forms of treatment:

(a) an amount equal to the unpaid amount of such Allowed Claim in Cash commencing on the later of (i) the Effective Date, (ii) the date that is ten (10) Business Days after such Claim becomes an Allowed Class 2 Claim by a Final Order; or

(b) the Debtor shall abandon the Property that secures the Allowed Class 2 Claim to the Holder of such Claim on or as soon as practicable after the later of (i) the Effective Date and (ii) the date that is ten (10) Business Days after the date on which such Claim becomes an Allowed Class 2 Claim by a Final Order; or

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(c) such other as the Holder and the Debtor or the Reorganized Debtor shall have agreed upon in writing; or

(d) (i) such holder shall retain its Lien securing its Allowed Class 2 Secured Claim to the extent of the Allowed Amount of its Secured Claim; and (ii) on or as soon as practicable after the later of (x) the Effective Date and (y) the date that is ten (10) Business Days after such Claim becomes an Allowed Secured Claim by a Final Order:

(A) the Reorganized Debtor will cure any default other than a default of the kind specified in section 365(b)(2) of the Bankruptcy Code;

(B) the maturity of such Claim shall be Reinstated as the maturity existed before any default;

(C) the Holder of such Claim shall be compensated for any damages which occurred as the result of any reasonable reliance by the Holder on any provision that entitled the Holder to accelerate the maturing of such Claim; and

(D) the other legal, equitable and contractual rights to which such Claim entitles the Holder shall not otherwise be altered.

Voting: Class 2 is Unimpaired, and the Holders of Class 2 Claims will be conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 2 Claims will not be entitled to vote to accept or reject the Plan.

### Class 3: General Unsecured Claims of Aurora and Pre-petition Creditors

Classification: Class 3 consists of General Unsecured Claims against the Debtor arising from contracts terminated prior to the Petition Date, or deemed to have been terminated prior to the Petition Date as a result of such contract's rejection by the Debtor.

Treatment: Each Holder of an Allowed Class 3 Claim shall be paid a *pro rata* percentage of the Allowed amount of its Class 3 Claim, *provided* that, the Claims in Classes 3 and 4 shall share priority as General Unsecured Creditors, in Cash (i) on the Initial Distribution Date, from the Debtor's available assets, less (y) the Reserves set forth in Section 8.03 of the Plan, and (z) the amount of Cash on hand the Debtor is authorized to retain on the Effective Date, and (ii) on Subsequent Distribution Dates from the Debtor's available assets, less the Reserves set forth in Section 8.03 of the Plan, in full, final and complete satisfaction, settlement, release, and discharge of such Allowed Class 3 Claim. In the event that Excess Cash exists in sufficient amount to pay 100% of the Allowed amount of Class 3 Claims, each Holder thereof shall be paid simple interest on the Allowed amount of its Class 3 Claim at the post-judgment interest rate provided for in 28 U.S.C. § 1961 (on the Petition Date) on the unpaid principal amount of such Allowed Claim from the Petition Date to and including the Effective Date.

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*Pari Passu with Class 4:* Allowed Claims in Class 3 will be paid *pari passu* with the Allowed Claims in Class 4 on each Distribution Date from all Distributable Cash until the claims of each Creditor in Classes 3 and 4 are paid in full, simple interest on the Allowed amount of each such Claim at the post-judgment interest rate provided for in 28 U.S.C. § 1961 (on the Petition Date) on the unpaid principal amount of such Allowed Claim from the Petition Date to and including the Effective Date.

Voting: Class 3 is Impaired, and the Holder of Class 3 Interests will be entitled to vote to accept or reject the Plan.

Class 4: General Unsecured Claims of SLS and XL (Creditors owing present and future contract obligations to the Debtor)

Classification: Class 4 consists of General Unsecured Claims against the Debtor arising from contracts to which the Debtor is party and under which performance obligations remain due from the contract counterparty. This Class 4 includes the claims of SLS and XL.

The claims asserted by SLS and XL are separately classified from the claims of Aurora and other General Unsecured Creditors for several reasons. SLS's and XL's relationships to the Debtor and its assets differ from Aurora's relationship to the Debtor and its assets because SLS and XL are both parties to contracts under which their respective obligations are continuing, and can result in an increase in the estate's assets. On the other hand, the pre-petition contract to which Aurora and Allonhill were party was terminated in 2010 and no additional performance obligation is due from Aurora (although through the Aurora Litigation, Allonhill (and now the Debtor) does continue to seek an affirmative recovery for breach of contract). SLS's and XL's interests in the Plan, the Estate and the Debtor (or Reorganized Debtor, as the case may be) also differ from those of Aurora, because in SLS's case, a decrease in the Aurora Judgment as a result of the Aurora Appeal will alter the recovery that the Reorganized Debtor will be authorized to seek in Avoidance Actions against Stewart, and in certain circumstances (*e.g.* if the Aurora Judgment is completely reversed or decreased to the point that the Reorganized Debtor is solvent) may completely negate elements of the Avoidance Actions. In addition, Aurora is in a position, if the Debtor is not successful in the Aurora Litigation (including appeals), to benefit substantially from Causes of Action against Stewart, and *vice-versa* the value of Causes of Action against, and Claims of, Stewart may be substantially altered depending on the outcome of the Aurora Litigation. In XL's case, based on the Aurora Judgment, XL has a defense to coverage under the exclusions stated in the XL Policy. As a result, XL has asserted a claim for reimbursement in the bankruptcy case, and alleges that coverage for the Aurora Judgment does not exist. If the Aurora Judgment were to be reversed on legal grounds relevant to the policy exclusion, however, XL's claim would be subject to disallowance (and/or withdrawal by XL), and coverage should exist under the XL policy for the remaining amount of the Aurora Judgment after appeal and entry of a final order by the Colorado Court (or superior courts, as the case may be). Thus, SLS's and XL's interests in the Plan, as well as in the post-confirmation actions to be taken by the Reorganized Debtor, are opposed to Aurora's interests.

Treatment: Each Holder of an Allowed Class 4 Claim shall be paid a *pro rata* percentage of the Allowed amount of its Class 4 Claim, *provided* that the Claims in Class 3 and 4 shall share

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priority as General Unsecured Creditors in Cash (i) on the Initial Distribution Date, from the Debtor's available assets, less (y) the Reserves set forth in Section 8.03 of the Plan, and (z) the amount of Cash on hand the Debtor is authorized to retain on the Effective Date, , and (ii) on Subsequent Distribution Dates from the Debtor's available assets, less the Reserves set forth in Section 8.03 of the Plan, in full, final and complete satisfaction, settlement, release, and discharge of such Allowed Class 4 Claim. In the event that Excess Cash exists in sufficient amount to pay 100% of the Allowed amount of Class 4 Claims, each Holder thereof shall be paid simple interest on the Allowed amount of its Class 4 Claim at the post-judgment interest rate provided for in 28 U.S.C. § 1961 (on the Petition Date) on the unpaid principal amount of such Allowed Claim from the Petition Date to and including the Effective Date.

*Pari Passu with Class 4:* Allowed Claims in Class 4 will be paid *pari passu* with the Allowed Claims in Class 3 on each Distribution Date from all Distributable Cash until the claims of each Creditor in Classes 3 and 4 are paid in full, simple interest on the Allowed amount of each such Claim at the post-judgment interest rate provided for in 28 U.S.C. § 1961 (on the Petition Date) on the unpaid principal amount of such Allowed Claim from the Petition Date to and including the Effective Date.

Voting: Class 4 is Impaired, and the Holder of Class 4 Claims will be entitled to vote to accept or reject the Plan.

#### Class 5 - Old Class A Interests

Classification: Class 5 consists of the Old Class A Interests in the Debtor held by Debtor [Principals] as of the Petition Date.

Treatment: The Holders of the Allowed Class 5 Interests shall receive 100% of the New Common LLC Interests in the Reorganized Debtor.

Voting: Class 5 is Impaired, and the Holders of Class 5 Interests will be entitled to vote to accept or reject the Plan.

For avoidance of doubt, the Holders of Interests in Class 5 and Class 6 will retain against the Reorganized Debtor their rights under the Debtor's Operating Agreement to payment of their Interests, subject to prior payment in full of Allowed Claims of Classes 1, 2, 3, and 4.

#### Class 6 - Old Class C Interests

Classification: Class 6 consists of the Old Class C Interests in the Debtor held by former employees of the Debtor as of the Petition Date.

Treatment: The Holders of the Allowed Class 6 Interests shall receive a pro rata percentage of the Allowed amount of its Class 6 Interest, in accordance with the terms of the Debtor's Operating Agreement as if the Old Class C Interests were not cancelled by this Plan, subject to the prior payment in full of Claims in Classes 1 through 4, in Cash (i) on the Initial Distribution Date, from the Debtor's available assets, less (y) the Reserves set forth in Section 8.03 of the Plan, and (z) the amount of Cash on hand the Debtor is authorized to retain on the

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Effective Date, and (ii) on Subsequent Distribution Dates from the Debtor's available assets, less (y) the Reserves set forth in Section 8.03 of the Plan, in full, final and complete satisfaction, settlement, release, and discharge of such Allowed Class 6 Interest.

Voting: Class 6 is Impaired, and the Holder of Class 6 Interests will be entitled to vote to accept or reject the Plan.

For avoidance of doubt, the Holders of Interests in Class 5 and Class 6 will retain against the Reorganized Debtor their rights under the Debtor's Operating Agreement to payment of their Interests, subject to prior payment in full of Allowed Claims of Classes 1, 2, 3, and 4. The Holders of Class 6 Interests will be entitled to payment of their Interests only in the event that the Reorganized Debtor is able to pay all Claims of Classes 1, 2, 3 and 4 in accordance with the treatment afforded to those Classes under the Plan, and in the event such Claims of these prior Classes are paid in full, then the Holder of Class 6 Interests will be entitled to payment of their Interests in accordance with the terms of the Debtor's Operating Agreement as if the Interests of Old Class C Interests are not cancelled by the Plan.

D. Means for Execution of the Plan

The Plan contemplates the liquidation of all of the Estate Assets by the Reorganized Debtor for the benefit of, and on behalf of the Creditors and Interest Holders. The Plan provides that Causes of Action shall be preserved and vested in the Reorganized Debtor. The Plan appoints the Reorganized Debtor as Estate Representative for the purposes of assuming the Debtor's standing with respect to all Causes of Action, whether held by the Estate or as debtor in possession, and investigating and prosecuting Causes of Action in accordance with the Plan, for the benefit of the Debtor's Creditors and Interest Holders with Allowed Claims.

Except as might otherwise be provided by the Plan, on the Effective Date, title in and to all Estate Assets, Cash, Proceeds of Causes of Action and Property of the Debtor shall be transferred to and vest in the Reorganized Debtor, for the purpose of effectuating the Distributions provided for under the Plan free and clear of all Claims and Equity Interests pursuant to 1141(b) and (c) of the Bankruptcy Code. All Claims against the Debtor, or the Estate Assets, shall also be transferred to the Reorganized Debtor subject to the provisions of the Plan.

1. Revesting of the Debtor's Property, including Causes of Action, into the Reorganized Debtor.

On the Effective Date, except as might otherwise be provided in the Plan, or in the Confirmation Order, and pursuant to section 1123(b)(3) and section 1141(b) and (c) of the Bankruptcy Code, all of the property and assets of the Debtor and all Causes of Action and Litigation Rights, including the Avoidance Actions, the Aurora Litigation and the SLS Claims, shall automatically revest in the Reorganized Debtor, free and clear of all Claims, Liens and Interests. The Reorganized Debtor shall be the Estate Representative. The Reorganized Debtor (directly or through the Disbursing Agent) shall make all Distributions under the Plan. Thereafter, the Reorganized Debtor may operate its business and may use, acquire, and dispose of such property free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Court. As of the Effective Date, all such property of the Reorganized Debtor shall

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be free and clear of all Claims, Liens and Interests, except as specifically provided in the Plan or the Confirmation Order and the Reorganized Debtor shall receive the benefit of any and all discharges under the Plan.

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement entered into or delivered in connection with the Plan, in accordance with section 1123(b) of the Bankruptcy Code and to the fullest extent possible under applicable law, on the Effective Date, the Reorganized Debtor shall retain and may enforce, and shall have the sole right to enforce or prosecute, any claims, demands, rights, and Causes of Action that the Debtor may hold against any Entity, including, without limitation, all Litigation Rights, Avoidance Actions, the Aurora Litigation and the SLS Claims. The Reorganized Debtor or its successor may pursue such retained claims, demands, rights or Causes of Action or Litigation Rights, including, without limitation, Avoidance Actions, the Aurora Litigation or the SLS Claims, as appropriate, in accordance with the best interests of the Reorganized Debtor or its successor holding such claims, demands, rights, Causes of Action or Litigation Rights.

2. Analysis of Causes of Action

The Debtor contends that it has valid Claims exist against Stewart, which must be pursued by the Reorganized Debtor on behalf of the Creditors and Interest Holders. These are described in Article II of this Disclosure Statement. These and other Causes of Action are preserved by the Plan and shall be revested in the Reorganized Debtor upon the Effective Date.

In addition, the Debtor continues, through the Aurora Appeal, to seek to recover on its complaint against Aurora, which was originally filed in the Colorado Court, seeking payment of more than \$22 million in unpaid fees under the Aurora Contract.

As described in Article IV, section B, paragraph 3 above, the Plan also preserves and automatically reverts in the Reorganized Debtor all Causes of Action including, without limitation, all Litigation Rights, Avoidance Actions, the Aurora Litigation and the SLS Claims.

3. Contributions by the Debtor's Members.

Certain members of the Debtor, *i.e.*, Ms. Allon and BHC Allonhill LLC (as funded by Mr. Allon) will contribute a total of \$[150,000] to the Reorganized Debtor on or before the Effective Date. This contribution will be made in consideration of certain releases (the "Releases") to be granted to Ms. Allon and Mr. Allon under the Plan. In addition, Ms. Allon will continue to serve as manager of the Reorganized Debtor, without salary.

4. Release of the SLS Escrow.

The SLS Escrow was created pursuant to the SLS APA and related agreements between Stewart and the Debtor. The APA and these related agreements provide for the release of the SLS Escrow upon the occurrence of an Aurora Resolution Event (as defined in the SLS APA). The Plan provides that confirmation of the Plan including the releases by Holders of Allowed Claims and the entry of the Confirmation Order shall be deemed (and the Confirmation Order shall so provide) to be an Aurora Resolution Event. The Confirmation Order shall further direct

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the Escrow Agent to deliver the funds held in the SLS Escrow to the Debtor, and for the revesting of such funds in the Reorganized Debtor.

E. Management of the Reorganized Debtor

On, as of, or after the Effective Date, the Reorganized Debtor may enter into such transactions and may take such actions as may be necessary or appropriate, in accordance with any applicable state law, to effect a corporate or operational restructuring of its business, to otherwise simplify the overall corporate or operational structure of the Reorganized Debtor, to achieve corporate or operational efficiencies, or to otherwise improve financial results; provided that such transactions or actions are not otherwise inconsistent with the Plan, the Distributions to be made under the Plan, the New Governance Documents.

1. Effectuating Documents; Further Transactions

The manager, or the Chief Executive Officer, the Chief Financial Officer, or any other appropriate officer of the Reorganized Debtor shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. In addition, and without limitation of the foregoing, the Secretary or Assistant Secretary of the Reorganized Debtor shall be authorized to certify or attest to any of the foregoing actions.

2. Exemption from Certain Transfer Taxes

Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer from the Debtor to the Reorganized Debtor or any other Person or Entity pursuant to this Plan, the granting or recording of any Lien or mortgage on any property under the Exit Facility, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment. State or local governmental officials or agents are directed to forego the collection of any such tax or governmental assessment and to accept for Filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

3. Corporate Action

On the Effective Date, the adoption and/or filing of the New Governance Documents, as applicable, the appointment of managers and/or officers of the Reorganized Debtor, and all actions contemplated hereby shall be authorized and approved in all respects pursuant to the Plan. All matters provided for herein involving the corporate structure of the Debtor or Reorganized Debtor, and any corporate action required by the Debtor or Reorganized Debtor in connection with the Plan, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the directors, stockholders, members or managers of the Debtor or Reorganized Debtor, except that the Debtor shall take affirmative steps to file the documents necessary to implement the Restructuring Transactions set forth in Section 5.12 (b) of the Plan.

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On the Effective Date, and pursuant to Section 303 of the General Corporation Law of the State of Delaware, the appropriate officers or managers of the Reorganized Debtor are authorized and directed to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated by the Plan in the name of and on behalf of the Reorganized Debtor without the need for any required approvals, authorizations, or consents, except for any express consents required under the Plan.

4. Reorganized Debtor's Obligations under the Plan

From and after the Effective Date, the Reorganized Debtor shall exercise its reasonable discretion and business judgment to perform the corresponding obligations under the Plan of its predecessor or predecessor-in-interest. The Plan will be administered and actions will be taken in the name of the Debtor and the Reorganized Debtor. From and after the Effective Date, the Reorganized Debtor shall conduct, among other things, the following tasks:

- a) Administer the Plan and take all steps and execute all instruments and documents necessary to effectuate the terms of the Plan;
- b) Implement the governance provisions including without limitation the following, which shall be set forth in more detail in the New Governance Documents;
- c) Accept appointment as Estate Representative and in that capacity, pursue (including, as it determines through the exercise of its business judgment, investigating, conducting discovery, prosecuting, enforcing, objecting to, litigating, reconciling, settling, abandoning, and resolving) all of the rights, Claims, Causes of Action, defenses, and counterclaims retained by the Debtor or the Reorganized Debtor;
- d) Reconcile Claims and resolve Disputed Claims, and administer the Claims allowance and disallowance processes as set forth in the Plan, including objecting to, prosecuting, litigating, reconciling, settling, and resolving Claims and Disputed Claims in accordance with the Plan;
- e) Make decisions regarding the retention, engagement, payment, and replacement of professionals, employees and consultants;
- f) Administer the Distributions under the Plan, including (i) making Distributions in accordance with the terms of the Plan, and (ii) Filing with the Bankruptcy Court on each three (3) month anniversary of the Effective Date reports regarding the Distributions made and to be made to the Holders of Allowed Claims as required by the U.S. Trustee;
- g) Exercise such other powers as necessary or prudent to carry out the provisions of the Plan;
- h) File appropriate tax returns and make elections allowed under the relevant tax laws; and

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i) Take such other action as may be necessary or appropriate to effectuate the Plan.

The Reorganized Debtor shall also have the power and authority to perform the following acts: (a) secure its right title and interest in the assets revested in it by the Plan; (b) acquire possession of all such assets; (c) manage, operate and protect such assets pending their prosecution or sale and the conversion to Cash; (d) pay costs, expenses and fees deemed necessary to preserve such assets; (e) employ professionals, including attorneys, accountants, engineers, agents, brokers, tax specialist, appraisers and clerical and stenographic assistance that may be deemed necessary; (f) exercise Litigation Rights and prosecute and settle or compromise any Cause(s) of Action; (g) prepare and file tax returns and make elections allowed under tax laws; (h) sell or auction such assets for such purchase price and for Cash as deemed appropriate; (i) exchange such assets for other real or personal property; (j) convey title to the such assets; (k) authorize and make interim distributions to holders of Allowed Claims under the Plan; (l) invest proceeds from the sale of such assets in certain limited, conservative investments as specified under the Plan; (m) abandon assets deemed burdensome or of inconsequential value to the Creditors; (n) initiate objections to claims, or file causes of action which could be brought by a Trustee or debtor-in-possession under the Bankruptcy Code; (o) prepare and file with the Bankruptcy Court the Final Report and seek the entry of a Final Decree closing the Debtor's cases; and (p) pay U.S. Trustee fees or file any reports with the U.S. Trustee, without further Court order; *provided however*, that the Reorganized Debtor's power and authority shall not be limited to those acts enumerated herein and the Reorganized Debtor's Governing Documents shall control and define the scope of the Reorganized Debtor's powers, authority and purposes.

Notwithstanding the foregoing, the Reorganized Debtor shall not engage in any activity that constitutes the conduct of a trade or business except to the extent reasonably necessary to and consistent with, the purposes set forth in the Plan and Plan Supplement (which shall include Corporate Governance Documents for the Reorganized Debtor)..

The Reorganized Debtor shall keep an accounting of receipts and disbursements for the benefit of the Creditors, and shall file and serve on each of the Creditors at least every 180 days a summary of receipts and disbursements since the filing and service of the last summary. In addition, the Reorganized Debtor may retain professionals on a straight contingency fee basis or on an hourly basis on the condition such hourly rates are capped consistent with Section 6.6 of the Plan.

The United States Trustee is not responsible for the supervision or oversight of the Reorganized Debtor.

F. Payment of Claims and Equity Interests

The Plan classifies Claims and Equity Interests separately in accordance with the Bankruptcy Code and provides for different classes of Claims and Equity Interests.

Only holders of Allowed Claims are entitled to receive Distributions under the Plan. Allowed Claims are Claims that are not in dispute, are not contingent, are liquidated in amount, and are not subject to objection or estimation. Any Claim that is identified as disputed in the

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Plan, that is the subject of a pending objection or counterclaim or as to which there is a proceeding pending as of the Confirmation Date pursuant to § 510(c) of the Bankruptcy Code is defined in the Plan as a Disputed Claim. All Distributions or other transfers of Cash available to holders of Allowed Claims will be made in accordance with the various treatment provisions contained in the Plan for each Class of Claim holders. The treatment afforded to each Class of Claims varies by Class.

In accordance with the Plan or the Confirmation Order, the treatment of any Claim will be in full satisfaction, and release of and in exchange for such Claim, and in full satisfaction of the Equity Interests which are being extinguished under the Plan. Article II of the Plan provides for the classification of Claims and Equity Interests. Article III of the Plan provides for the treatment of Classes of Claims and Equity interests as classified under the Plan. The following discussion summarizes the proposed treatment of Class 1 Administrative Expense Claims. The classification scheme and treatment proposed by the Debtor for Claims and Equity Interests in Article V of the Plan and is qualified in its entirety by, and subject in all respects to, the terms of the Plan. A copy of the Plan is attached hereto as Exhibit A, and should be read carefully by you in considering whether to vote to accept or reject the Plan.

1. Payment of Administrative Expense and Professional Fee Claims

Allowed Administrative Claims and Professional Fee Claims shall be paid by the Debtor or the Trustee, as the case may be, in full, in Cash, unless otherwise ordered by the Bankruptcy Court, upon the later of the Effective Date or the Allowance Date, unless the holders of such allowed Administrative Claims and Professional Fee Claims agree to a different treatment.

(a) Description of Administrative Expense and Professional Fee Claims

Administrative Expense Claims represent those expenses that are allowed pursuant to § 503(b) of the Bankruptcy Code and are entitled to priority under § 507(a)(1) of the Bankruptcy Code. These include expenses for the actual and necessary costs of preserving the Debtor's estates.

A debtor is authorized by a bankruptcy court to retain attorneys, accountants and other professionals to assist the debtor during the course of a bankruptcy case. Section 330 of the Bankruptcy Code provides that a bankruptcy court may authorize a debtor to pay these professionals for the services performed by those professionals. Section 503(b)(1) of the Bankruptcy Code provides that claims for fees accruing for such services constitute administrative expense claims.

An administrative expense claim may also arise if: (i) a debtor defaults under the terms of any executory contract or unexpired lease assumed pursuant to a final order of a bankruptcy court under § 365 of the Bankruptcy Code or under the terms of a contract or lease entered into by a debtor after the petition date; or (ii) a debtor ultimately rejects an unexpired lease or executory contract that has not previously been assumed (provided the debtor receives a post-petition benefit under such contract).

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Section 1129(a)(9)(A) of the Code provides that all holders of allowed administrative expense claims must be paid in full, in Cash, on the effective date of a plan of reorganization unless the holder thereof agrees to a different treatment. The Debtor have estimated that the total amount of all known and unpaid Allowed Administrative Claims and Allowed Professional Fee Claims in the instant Case, after objections and/or voluntary reductions as of the Confirmation Date, will be approximately \$[\_\_\_\_\_].

The following estimated Administrative Claims and Professional Fee Claims are known to the Debtor:

1. the administrative claim of Hogan Lovells US LLP for its services as counsel to the Debtor-in-possession in this case which is estimated to be approximately \$[\_\_\_\_\_];
2. < the administrative claim of Bayard, PC, for its services as Delaware counsel to the Debtor-in-possession in this case which is estimated to be approximately \$[\_\_\_\_\_];
3. the administrative claim of Williams & Connelly LLP for its services as litigation counsel to the Debtor in these cases which is estimated to be approximately \$[\_\_\_\_\_];
4. the administrative claim of Haddon, Morgan and Foreman PC for its services as appellate counsel to the Debtor in these cases which is estimated to be approximately \$[\_\_\_\_\_];
5. the administrative claim of EKS&H for its services as financial services provider to the Debtor in these cases which is estimated to be approximately \$[\_\_\_\_\_];
6. miscellaneous Administrative Expense Claims for rent, storage, management services and similar expenses which are estimated to be below \$[\_\_\_\_\_];
7. the administrative claim for fees of the Office of the United States Trustee, to be paid by the Debtor on a quarterly basis and calculated based upon the disbursements made by the Debtor during such quarter.

The professionals and administrative claimants, with the exception of the Office of the United States Trustee, shall file applications before the Bankruptcy Court seeking approval of the total amount of their Professional Fee Claims on or prior to the Administrative Bar Date, which shall be five days before the Confirmation nearing, or such other date scheduled by the Court. Hearings on these applications should be conducted at or near the time of Confirmation.

The Debtor's estimate of \$[\_\_\_\_\_] for total Administrative Claims and Professional Fee Claims assumes the occurrence of the Confirmation Date prior to December 15, 2015 and is the Debtor's best good faith estimate of such Claims. The Debtor's estimate is subject to change based upon the passage of time. Numerous factors and contingencies may cause the actual amount of allowed Administrative Expense Claims to exceed or fall short of the Debtor's estimate. The estimated allowed Professional Fee Claims include professional fees that

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are either previously awarded and not paid as of the Confirmation Date, and those not yet awarded as of that date.

If the case is converted to Chapter 7, the Allowed Administrative Claims and the Allowed Professional Fee Claims incurred during the Chapter 11 process will be subordinated to the Administrative Claims incurred during the Chapter 7. There is also a possibility that the Chapter 11 Administrative Expense Claims will be reduced by the Court if the Plan is not confirmed and the cases are converted.

## ARTICLE V

### **MISCELLANEOUS PLAN PROVISIONS**

#### 1. Unexpired Leases and Executory Contracts

All Executory Contracts and Unexpired Leases not otherwise assumed, assumed and assigned, or rejected pursuant to a Final Order prior to the Effective Date shall be deemed rejected as of the Effective Date. Entry of the Confirmation Order shall constitute the approval, pursuant to § 365(a) of the Bankruptcy Code, of (i) the assumption or assumption and assignment of the Executory Contracts and Unexpired Leases identified on Schedule [ ] attached to this Disclosure Statement; and (ii) the rejection of the remaining Executory Contracts and Unexpired Leases.

Except as otherwise provided in the Plan, or in any contract, instrument, release, indenture, or other agreement or document entered into by the Debtor in connection with the Plan, as of the Effective Date, the Debtor shall be deemed to have rejected each prepetition written Executory Contract and Unexpired Lease to which it is a party unless such Executory Contract or Unexpired Lease (a) is expressly assumed or rejected pursuant to a Final Order prior to the Confirmation Date, (b) previously expired or terminated pursuant to its own terms, (c) is listed on the Schedule of Unexpired Executory Contracts and Unexpired Leases To Be Assumed filed with the Plan Supplement, (d) is the subject of any pending motion, including to assume, to assume on modified terms, to reject or to make any other disposition Filed by the Debtor on or before ten (10) days prior to the Confirmation Date

Notwithstanding anything to the contrary in the Plan, the Debtor and the Reorganized Debtor reserve the right to assert that any license, franchise and partially performed contract is a property right and not an Executory Contract. Specifically, although the SLS APA is listed on the Debtor's Schedules as an Executory Contract, the Debtor has determined, and the Reorganized Debtor will take the position that, the SLS APA is not executory, as no material performance remains due from the Debtor under the SLS APA.

In the event of a dispute as to whether a contract or lease between the Debtor and a Person that is not an Insider is executory or unexpired, the right of the Debtor or the Reorganized Debtor to move to assume or reject such contract or lease shall be extended until the date that is thirty (30) days after entry of a Final Order by the Bankruptcy Court determining that the contract or lease is executory or unexpired, provided such dispute is pending as of the Confirmation Date

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Contracts or leases entered into after the Petition Date will be performed by the Reorganized Debtor in the ordinary course of business. The Plan further provides that notwithstanding anything to the contrary in any contract, agreement or lease to which the Reorganized Debtor is a party, (a) the transactions contemplated by the Plan and (b) the consequences of the Plan's implementation shall not trigger any change of control or similar provisions and shall not be voided by any restraints against assignment in any contract, agreement or lease governed by the Plan.

Unless the Bankruptcy Court, the Bankruptcy Code, the Bankruptcy Rules or the local Bankruptcy Rules establish an earlier deadline with regard to the rejection of particular Executory Contracts, and Unexpired Leases any Claims arising out of the rejection of Executory Contracts and Unexpired Leases must be filed with the Bankruptcy Court and served upon the Debtor, and the U.S. Trustee no later than thirty (30) days after the Confirmation Order. Any Claims not filed within such time will be forever barred and will not receive any distributions under the Plan. All Claims arising from the rejection of an Executory Contract or Unexpired Lease shall be treated as Class 3 Claims under the Plan.

2. Distributions for Allowed Claims.

3. Except as otherwise provided in the Plan or as ordered by the Bankruptcy Court, all Distributions to Holders of Allowed Claims as of the applicable Distribution Date shall be made on or as soon as practicable after the applicable Distribution Date. Distributions on account of Claims that first become Allowed Claims after the applicable Distribution Date shall be made on such day as selected by the Reorganized Debtor, in its sole discretion.

The Reorganized Debtor shall have the right, in its sole and absolute discretion, to accelerate any Distribution Date occurring after the Effective Date if the facts and circumstances so warrant.

4. Interest on Claims.

Unless otherwise specifically provided for in the Plan or the Confirmation Order, postpetition interest shall not accrue or be paid on Claims or Interests, and no Holder of a Claim or Interest shall be entitled to interest accruing on or after the Petition Date on any Claim. Unless otherwise specifically provided for in the Plan or the Confirmation Order, interest shall not accrue or be paid upon any Claim in respect of the period from the Petition Date to the date a final Distribution is made thereon if and after such Claim becomes an Allowed Claim.

5. Designation; Distributions by Disbursing Agent.

The Reorganized Debtor or the Disbursing Agent on its behalf shall make all Distributions required to be made to Holders of Class 3, 4, and 5 Claims, on the respective Distribution Dates under the Plan and such other Distributions to other Holders of Claims or Interests in the Debtor as are required to be made or delegated to the Disbursing Agent by the Reorganized Debtor.

If the Disbursing Agent is an independent third party designated to serve in such capacity, such Disbursing Agent shall receive, without further approval from the Bankruptcy

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Court, reasonable compensation for distribution services rendered pursuant to the Plan and reimbursement of reasonable out of pocket expenses incurred in connection with such services from the Reorganized Debtor. No Disbursing Agent shall be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court.

6. Means of Cash Payment

The Plan provides that cash payments shall be made in U.S. funds, and shall be made, at the option, and in the sole discretion, of the Reorganized Debtor, by (i) checks drawn on or (ii) wire transfers from a domestic bank selected by the Reorganized Debtor. Cash payments to foreign Creditors may be made, at the option, and in the sole discretion, of the Reorganized Debtor, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction. Cash payments made pursuant to this Plan in the form of checks issued by the Reorganized Debtor shall be null and void if not cashed within 120 days of the date of the issuance thereof. Requests for reissuance of any check shall be made directly to the Reorganized Debtor.

For purposes of effectuating Distributions under the Plan, any Claim denominated in foreign currency shall be converted to U.S. Dollars pursuant to the applicable published exchange rate in effect on the Petition Date.

7. Fractional Distributions

The Plan does not permit cash payments of fractions of cents. Fractional cents shall be rounded to the nearest whole cent (with .5 cent or less to be rounded down).

8. *De Minimis* Distributions

Notwithstanding anything to the contrary contained in the Plan, the Disbursing Agent shall not be required to distribute, and shall not distribute, Cash or other property to the Holder of any Allowed Claim if the amount of Cash or other property to be distributed on account of such Claim is less than \$50. Any Holder of an Allowed Claim on account of which the amount of Cash or other property to be distributed is less than such amount shall have such Claim discharged and shall be forever barred from asserting such Claim against the Debtor, the Reorganized Debtor or their respective property. Any Cash or other property not distributed pursuant to this provision shall be the property of the Reorganized Debtor, free of any restrictions thereon.

9. Delivery of Distributions

Distributions to Holders of Allowed Claims shall be made by the Disbursing Agent (a) at the addresses set forth on the Proofs of Claim Filed by such Holders, (b) at the addresses reflected in the Schedules if no Proof of Claim has been Filed, or (c) at the addresses set forth in any written notices of address changes delivered to the Debtor, the Reorganized Debtor or the Disbursing Agent after the date of any related Proof of Claim or after the date of the Schedules if no Proof of Claim was Filed. If any Holder's Distribution is returned as undeliverable, a

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reasonable effort shall be made to determine the current address of such Holder, but no further Distributions to such Holder shall be made unless and until the Disbursing Agent is notified of such Holder's then current address, at which time all missed Distributions shall be made to such Holder without interest. Unless otherwise agreed between the Reorganized Debtor and the Disbursing Agent, amounts in respect of undeliverable Distributions made by the Disbursing Agent shall be returned to the Reorganized Debtor, and held in trust by the Reorganized Debtor, until such Distributions are claimed, at which time the applicable amounts shall be returned to the Disbursing Agent for distribution pursuant to the Plan. All claims for undeliverable Distributions must be made on or before the second (2<sup>nd</sup>) anniversary of the Initial Distribution Date, after which date all unclaimed property shall revert to the Reorganized Debtor free of any restrictions thereon and the claims of any Holder or successor to such Holder with respect to such property shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary. Nothing contained in the Plan shall require the Debtor, the Reorganized Debtor or any Disbursing Agent to attempt to locate any Holder of an Allowed Claim.

#### 10. Application of Distribution Record Date

At the close of business on the Distribution Record Date, the claims registers for all Claims shall be closed, and there shall be no further changes in the record Holders of such Claims. Except as provided herein, the Reorganized Debtor, the Disbursing Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize any transfer of Claims occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record Holders stated on the claims registers as of the close of business on the Distribution Record Date irrespective of the number of Distributions to be made under the Plan to such Persons or the date of such Distributions.

#### 11. Withholding, Payment and Reporting Requirements

In connection with the Plan and all Distributions under the Plan, the Disbursing Agent shall, to the extent applicable, comply with all tax withholding, payment, and reporting requirements imposed by any federal, state, provincial, local, or foreign taxing authority, and all Distributions under the Plan shall be subject to any such withholding, payment, and reporting requirements. The Disbursing Agent shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding, payment, and reporting requirements. Notwithstanding any other provision of the Plan, (a) each Holder of an Allowed Claim that is to receive a Distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding, and other tax obligations, on account of such Distribution, and including, in the case of any Holder of a Disputed General Unsecured Claim that has become an Allowed General Unsecured Claim, any tax obligation that would be imposed upon the Reorganized Debtor in connection with such Distribution, and (b) no Distribution shall be made to or on behalf of such Holder pursuant to the Plan unless and until such Holder has made arrangements satisfactory to the Disbursing Agent for the payment and satisfaction of such withholding tax obligations or such tax obligation that would be imposed upon the Reorganized Debtor in connection with such Distribution. Any property to be distributed pursuant to the Plan shall,

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pending the implementation of such arrangements, be treated as an undeliverable Distribution pursuant to Section 7.06 of the Plan.

12. Setoffs

The Reorganized Debtor may, but shall not be required to, set off against any Claim or any Allowed Claim, and the payments or other Distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever that the Debtor or the Reorganized Debtor may have against the Holder of such Claim; provided, however, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Reorganized Debtor of any such claim that the Debtor or the Reorganized Debtor may have against such Holder.

13. Pre-Payment

Except as otherwise provided in the Plan, any ancillary documents entered into in connection herewith, or the Confirmation Order, the Reorganized Debtor shall have the right to pre-pay, without penalty, all or any portion of an Allowed Claim entitled to payment in Cash at any time.

14. No Distribution in Excess of Allowed Amounts

Notwithstanding anything to the contrary herein, no Holder of an Allowed Claim shall receive in respect of such Claim any Distribution of a value as of the Effective Date in excess of the Allowed amount of such Claim (excluding payments on account of interest due and payable from and after the Petition Date pursuant to the Plan, if any).

15. Allocation of Distributions

All Distributions received under the Plan by Holders of Claims shall be deemed to be allocated first to the principal amount of such Claim as determined for United States federal income tax purposes and then to accrued interest, if any, with respect to such Claim.

ARTICLE VI

**PLAN PROCEDURES FOR RESOLVING DISPUTED, CONTINGENT, AND UNLIQUIDATED CLAIMS AND DISTRIBUTIONS WITH RESPECT THERETO**

1. The Plan includes the following procedures for prosecution of Objections to and Estimation of Claims.

All objections to Claims must be Filed and served on the Holders of such Claims by the Claims Objection Bar Date, as the same may be extended by the Bankruptcy Court upon motion by the Debtor, the Reorganized Debtor or any other party-in-interest. If a timely objection has not been Filed to a Proof of Claim or the Schedules have not been amended with respect to a Claim that (i) was Scheduled by the Debtor but (ii) was not Scheduled as contingent, unliquidated, and/or disputed, the Claim to which the Proof of Claim or Scheduled Claim relates

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will be treated as an Allowed Claim if such Claim has not been Allowed earlier. No payments or Distributions shall be made on account of a Claim until such Claim becomes an Allowed Claim. Notice of any motion for an order extending any Claims Objection Bar Date shall be required to be given only to those Persons or Entities that have requested notice in the Chapter 11 Case, or to such Persons as the Bankruptcy Court shall order.

The Debtor (prior to the Effective Date) or Reorganized Debtor may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the Bankruptcy Code, regardless of whether the Debtor or the Reorganized Debtor has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event the Bankruptcy Court so estimates any contingent or unliquidated Claim, that estimated amount shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court, as applicable. If the estimated amount constitutes a maximum limitation on such Claim, the Reorganized Debtor may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned Claims objection, estimation, and resolution procedures are cumulative and are not necessarily exclusive of one another. Claims may be estimated and thereafter resolved by any permitted mechanisms.

The Reorganized Debtor will have no obligation to review and/or respond to any Claim that is not filed by the applicable Bar Date unless: (i) the filer has obtained an order from the Bankruptcy Court authorizing it to File such Claim; or (ii) the Reorganized Debtor has consented to the Filing of such Claim in writing.

After the Effective Date, only the Reorganized Debtor shall have the authority to File objections to Claims and to settle, compromise, withdraw, or litigate to judgment objections to Claims, including, without limitation, Claims for reclamation under section 546(c) of the Bankruptcy Code. The Reorganized Debtor may settle or compromise any Disputed Claim without approval of the Bankruptcy Court.

2. The Plan provides the following treatment of Disputed Claims.

a) No Distribution Pending Allowance

No payments or Distributions will be made on account of a Disputed Claim or, if less than the entire Claim is a Disputed Claim, the portion of a Claim that is Disputed, until such Disputed Claim becomes an Allowed Claim.

b) Distributions on Accounts of Disputed Claims Once They are Allowed.

The Disbursing Agent shall, on the applicable Distribution Dates, make Distributions on account of any Disputed Claim that has become an Allowed Claim. Such Distributions shall be made pursuant to the provisions of the Plan governing the applicable Class. Such Distributions shall be based upon the Distributions that would have been made to the Holder of such Claim

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under the Plan if the Disputed Claim had been an Allowed Claim on the Effective Date in the amount ultimately Allowed.

3. The Plan requires that the Debtor and Reorganized Debtor shall, subject to and in accordance with the provisions of the Plan (a) establish one or more general accounts into which shall be deposited all funds not required to be deposited into any other account, reserve or escrow, (b) create, fund and withdraw funds from, as appropriate, the Administrative Claims Reserve, and the Professional Fee Reserve and (c) if practicable, invest any Cash that is withheld as the applicable claims reserve in an appropriate manner to ensure the safety of the investment..

a) Administrative Claims Reserve

On the Effective Date (or as soon thereafter as is practicable), the Debtor or Reorganized Debtor shall create and fund the Administrative Claims Reserve in the amount budgeted to be used by the Reorganized Debtor to pay Distributions on account of Allowed Administrative Claims, including Claims under section 503(b)(9) of the Bankruptcy Code and lease payments under section 365(d)(5) of the Bankruptcy Code. To the extent necessary to fund payments to Allowed Claims thereunder, the funds in the Administrative Claims Reserve shall be periodically replenished by the Reorganized Debtor in such amounts as may be determined by the Reorganized Debtor in its sole discretion. The Reorganized Debtor shall be obligated to pay all Allowed Administrative Claims designated to be paid from the proceeds of the Administrative Claims Reserve thereunder in excess of the amounts actually deposited in the Administrative Claims Reserve. In the event that any Cash remains in the Administrative Claims Reserve after payment of all Allowed Administrative Claims to be paid thereunder, such Cash shall be distributed to the Reorganized Debtor as provided in Section 7.06 hereof.

(b) Professional Fee Reserve

The Debtor or Reorganized Debtor shall create and fund the Professional Fee Reserve on the Effective Date (or as soon thereafter as is practicable) in the amount of the budgeted but unpaid Professional fees projected through the Effective Date, which amount shall be used to pay Allowed Professional Fee Claims held by any professionals working on behalf of the Debtor. The Reorganized Debtor shall be obligated to pay all Allowed Professional Fee Claims even if in excess of the amounts actually deposited in the Professional Fee Reserve. In the event that any Cash remains in the Professional Fee Reserve after payment of all Allowed Professional Fee Claims, such Cash will be distributed to the Reorganized Debtor as provided by Section 7.07 hereof.

(c) Disputed Claims Reserve

On the Effective Date and on each subsequent Distribution Date, the Debtor or Reorganized Debtor shall withhold on a Pro Rata basis from property that would otherwise be distributed to Classes of Claims entitled to Distributions under the Plan on such date, in a separate Disputed Claims Reserve, such amounts or property as may be necessary to equal one hundred percent (100%) of Distributions to which Holders of such Disputed Claims would be entitled under this Plan if such Disputed Claims were allowed in their Disputed Claim Amount. The Debtor or Reorganized Debtor may request, if necessary, estimation for any Disputed Claim

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that is contingent or unliquidated, or for which the Debtor or Reorganized Debtor determine to reserve less than the Face Amount. The Debtor or Reorganized Debtor shall withhold the applicable portion of the Disputed Claims Reserve with respect to such Claims based upon the estimated amount of each such Claim as estimated by the Bankruptcy Court. If the Debtor or Reorganized Debtor elect not to request such an estimation from the Bankruptcy Court with respect to a Disputed Claim that is contingent or unliquidated, the Debtor or Reorganized Debtor shall withhold the applicable Disputed Claims Amount based upon the good faith estimate of the amount of such Claim by the Debtor or the Reorganized Debtor after the Effective Date. If practicable, the Debtor or Reorganized Debtor will invest any Cash that is withheld as the applicable Disputed Claims Reserve in an appropriate manner to ensure the safety of the investment. Nothing in this Plan or the Disclosure Statement shall be deemed to entitle the Holder of a Disputed Claim to postpetition interest on such Claim, however, except as otherwise provided in the Plan.

(d) Reorganized Debtor Expense Reserve

The Debtor or Reorganized Debtor shall create and fund the Reorganized Debtor Expense Reserve on the Effective Date (or as soon thereafter as is practicable) in the amount of the projected Reorganized Debtor Expenses listed on Schedule [ ] to the Plan Supplement. Amounts held in the Reorganized Debtor Expense Reserve shall be used to pay Expense Claims held by any professionals working on behalf of the Debtor, as approved by the Bankruptcy Court on a quarterly basis, upon submission of appropriate fee applications, on notice to the U.S. Trustee and all parties having requested notices in the bankruptcy case. The Reorganized Debtor shall be entitled to apply to the Bankruptcy Court, within forty-five (45) days prior to a Subsequent Distribution Date, that additional amounts be added to the Reorganized Debtor Expense Reserve prior to distribution of amounts payable to Creditors and Interests under this Plan. In the event that any Cash remains in the Reorganized Debtor Expense Reserve after payment of all Allowed Professional Fee Claims, such Cash will be distributed to the Reorganized Debtor as provided by Section 7.07 hereof.

ARTICLE VII

**CONDITIONS PRECEDENT TO CONFIRMATION  
AND CONSUMMATION OF THE PLAN**

1. The Plan requires that the following conditions precedent to the occurrence of the Confirmation Date must be satisfied unless any such condition shall have been waived by the Debtor:

a) The Confirmation Order shall have been entered in form and substance satisfactory to the Debtor, and shall, among other things:

(i) provide that the Debtor and the Reorganized Debtor are authorized and directed to take all actions necessary or appropriate to enter into, implement, and consummate the Plan and all related contracts, instruments, releases, leases, indentures and other

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agreements or documents created in connection with the Plan or necessary to implement the Plan;

(ii) authorize the issuance of the New Common LLC Interests;

(iii) deem the releases in favor of SLS pursuant to Section 11.10 to be an Aurora Resolution Event, as defined by the SLS APA, and direct the Escrow Agent to release all funds held in the SLS Escrow to Debtor; and

(iv) direct the Debtor's Principals to make the Contribution.

The Bankruptcy Court finds that adequate information and sufficient notice of the Disclosure Statement, the Plan and the Confirmation Hearing, along with all deadlines for voting on or objecting to the Plan have been given to all relevant parties in accordance with the solicitation procedures governing such service and in substantial compliance with Bankruptcy Rules 2002(b), 3017, 9019, and 3020(b); and

The Plan and all Plan Supplement documents, including any exhibits, schedules, amendments, modifications or supplements thereto, shall be acceptable to the Debtor.

2. The Plan requires that the following conditions precedent to the occurrence of the Effective Date must be satisfied or waived by the Debtor on or prior to the Effective Date in accordance with Section 9.04 of the Plan:

a) Each of the exhibits to the Plan and any other necessary documents shall be fully executed and delivered to the Debtor, shall be in form and substance reasonably acceptable to the Debtor, and shall be fully enforceable in accordance with their terms;

b) The Contribution shall have been made by the Debtor's Principals;

c) The funds held in the SLS Escrow shall have been delivered to the Debtor.]

3. The Debtor or Reorganized Debtor shall file a notice of the occurrence of the Effective Date within five (5) business days thereafter.

4. The Plan allows that the conditions set forth in Section 9.02(a) may be waived in whole or in part by the Debtor without any notice to parties-in-interest or the Bankruptcy Court and without a hearing.

5. Consequences of Non-Occurrence of Effective Date: If the Confirmation Order is vacated, (a) the Plan shall be null and void in all respects; (b) any settlement of Claims or Interests in the Debtor provided for hereby shall be null and void without further order of the Bankruptcy Court; and (c) to the extent permitted under the Bankruptcy Code, the time within which the Debtor may assume and assign or reject all Executory Contracts and Unexpired Leases shall be extended for a period of one hundred twenty (120) days after the date the Confirmation Order is vacated.

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ARTICLE VIII

**RETENTION OF JURISDICTION**

The Plan provides for retention by the Bankruptcy Court of jurisdiction under sections 105(a) and 1142 of the Bankruptcy Code and any stipulations entered into by the Debtor with any Creditor, and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, and except as otherwise ordered by the Bankruptcy Court, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, this Chapter 11 Case and the Plan to the fullest extent permitted by law (provided, however, that notwithstanding the foregoing, with respect to all civil proceedings arising in or related to the Chapter 11 Case and the Plan, the Bankruptcy Court shall have original but not exclusive jurisdiction, in accordance with section 1334(b) of title 28 of the United States Code), including, among other things, jurisdiction to:

a) allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured, or unsecured status of any Claim or Interest not otherwise Allowed under the Plan (other than personal injury or wrongful death Claims, unless agreed by the Holder), including the resolution of any request for payment of any Administrative Claim and the resolution of any objections to the allowance or priority of Claims or Interests in the Debtor;

b) hear and determine all applications for compensation and reimbursement of expenses of Professionals under the Plan or under sections 327, 328, 330, 331, 503(b), 1103, and 1129(a)(4) of the Bankruptcy Code; provided, however, that from and after the Effective Date, the payment of the fees and expenses of the Professionals of the Reorganized Debtor shall be made in the ordinary course of business and shall not be subject to the approval of the Bankruptcy Court;

c) hear and determine all matters with respect to the assumption or rejection of any Executory Contract or Unexpired Lease to which the Debtor is a party or with respect to which the Debtor may be liable, including, if necessary, the nature or amount of any required Cure or the liquidation or allowance of any Claims arising therefrom;

d) effectuate performance of and payments under the provisions of the Plan and enforce remedies upon any default under the Plan;

e) hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters arising out of, under, or related to, the Chapter 11 Case (including under the SLS Jurisdiction Agreement), the Avoidance Actions, the Aurora Litigation, the Litigation Rights, Causes of Action or the Plan, including without limitation the enforcement of the injunction provisions contained in Section 11.12 of the Plan;

f) enter such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan, the Disclosure Statement or the Confirmation Order;

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g) hear and determine disputes arising in connection with the interpretation, implementation, consummation, or enforcement of the Plan, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;

h) consider any modifications of the Plan, cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

i) issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Person or Entity with the implementation, consummation, or enforcement of the Plan or the Confirmation Order;

j) enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified, or vacated;

k) hear and determine any matters arising in connection with or relating to the Plan, the Plan Supplement, the schedules to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, or other agreement or document created in connection with the Plan, the Plan Supplement, the schedules to the Plan, the Disclosure Statement, or the Confirmation Order;

l) enforce, interpret, and determine any disputes arising in connection with any stipulations, orders, judgments, injunctions, releases, exculpations, indemnifications, and rulings entered in connection with the Chapter 11 Case (whether or not the Chapter 11 Case has been closed);

m) except as otherwise limited herein, recover all assets of the Debtor and property of the Estate, wherever located;

n) hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

o) hear and determine all disputes involving the existence, nature, or scope of the Debtor's discharge;

p) hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, the provisions of the Bankruptcy Code; and

q) enter a final decree closing the Chapter 11 Case.

The Plan further provides that if the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to the Chapter 11 Case, including any matters set forth in Section 10.01 of the Plan, the jurisdiction retention provisions shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court having jurisdiction with respect to such matter.

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ARTICLE IX

**MISCELLANEOUS PROVISIONS**

1. Administrative Claims

All Administrative Expense Requests (other than as set forth in Sections 3.01(a), 11.02 or this Section 11.01 of the Plan) must be made by application Filed with the Bankruptcy Court and served on counsel for the Reorganized Debtor **no later than forty-five (45) days after the Effective Date** or their Administrative Claims shall be forever barred. In the event that the Reorganized Debtor objects to an Administrative Claim, the Bankruptcy Court shall determine the Allowed amount of such Administrative Claim. Notwithstanding the foregoing, (a) no application seeking payment of an Administrative Claim need be Filed with respect to an undisputed postpetition obligation which was paid or is payable by the Debtor in the ordinary course of business, including obligations to Insiders as set forth in the monthly budgets attached to the Debtor's monthly operating reports; provided, however, that in no event shall a postpetition obligation that is contingent or disputed and subject to liquidation through pending or prospective litigation, including, but not limited to, alleged obligations arising from personal injury, property damage, products liability, consumer complaints, employment law (excluding claims arising under workers' compensation law), secondary payor liability, or any other disputed legal or equitable claim based on tort, statute, contract, equity, or common law, be considered to be an obligation which is payable in the ordinary course of business; and (b) no application seeking payment of an Administrative Claim need be Filed with respect to Cure owing under an Executory Contract or Unexpired Lease if the amount of Cure is fixed or proposed to be fixed by order of the Bankruptcy Court pursuant to a motion to assume and fix the amount of Cure Filed by the Debtor and a timely objection asserting an increased amount of Cure Filed by the non-Debtor party to the subject contract or lease; provided further, however, that postpetition statutory tax claims shall not be subject to the Administrative Claims Bar Date.

With respect to Administrative Claims, the last day for Filing an objection to any Administrative Expense Claim will be the later of (a) 180 days after the Effective Date, (b) 90 days after the filing of such Administrative Claim or (c) such other date specified in the Plan or ordered by the Bankruptcy Court.

2. Professional Fee Claims

a) All final requests for payment of Professional Fee Claims pursuant to sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code must be made by application Filed with the Bankruptcy Court and served on the Reorganized Debtor, their counsel, and other necessary parties-in-interest **no later than sixty (60) days after the Effective Date**, unless otherwise ordered by the Bankruptcy Court. Objections to such applications must be Filed and served on the Reorganized Debtor, its counsel, and the requesting Professional or other Entity on or before the date that is thirty (30) days (or such longer period as may be allowed by order of the Bankruptcy Court) after the date on which the applicable application was served.

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The Reorganized Debtor may, without application to or approval by the Bankruptcy Court, retain professionals and pay reasonable professional fees and expenses in connection with services rendered to it after the Effective Date.

3. Payment of Statutory Fees

All fees payable pursuant to section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid on or before the Effective Date. All such fees that arise after the Effective Date shall be paid by the Reorganized Debtor. The obligation of each of the Reorganized Debtor to pay quarterly fees to the Office of the United States Trustee pursuant to section 1930 of title 28 of the United States Code shall continue until such time as the Debtor's case is closed.

4. Modifications and Amendments

The Debtor may by mutual agreement alter, amend, or modify the Plan or any exhibits thereto under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date. The Debtor shall provide parties-in-interest with notice of such amendments or modifications as may be required by the Bankruptcy Rules or order of the Bankruptcy Court. A Holder of a Claim or Interest that has accepted the Plan shall be deemed to have accepted the Plan, as altered, amended, modified, or clarified, if the proposed alteration, amendment, modification, or clarification does not materially and adversely change the treatment of the Claim or Interest of such Holder. In the event of any dispute as to whether such proposed alteration, amendment, modification, or clarification materially and adversely changes the treatment of the Claim or Interest of any such Holder, the Debtor shall bear the burden of demonstrating that such proposed alteration, amendment, modification, or clarification does not materially adversely change the treatment of the Claim or Interest of such Holder.

After the Confirmation Date and prior to substantial consummation (as defined in section 1101(2) of the Bankruptcy Code) of the Plan, the Debtor or Reorganized Debtor, as applicable, may, under section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or to reconcile any inconsistencies in the Plan, the Disclosure Statement approved with respect to the Plan, or the Confirmation Order, and such matters as may be necessary to carry out the purpose and effect of the Plan so long as such proceedings do not adversely affect the treatment of Holders of Claims or Interests in the Debtor under the Plan; provided, however, that, to the extent required, prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or an order of the Bankruptcy Court. A Holder of a Claim or Interest that has accepted the Plan shall be deemed to have accepted the Plan, as altered, amended, modified, or clarified, if the proposed alteration, amendment, modification, or clarification does not materially and adversely change the treatment of the Claim or Interest of such Holder. In the event of any dispute as to whether such proposed alteration, amendment, modification, or clarification materially and adversely changes the treatment of the Claim or Interest of any such Holder, the Debtor or Reorganized Debtor, as the case may be, shall bear the burden of demonstrating that such proposed alteration, amendment, modification, or clarification does not materially adversely change the treatment of the Claim or Interest of such Holder.

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5. Continuing Exclusivity and Solicitation Period

Subject to further order of the Bankruptcy Court, until the Effective Date, the Debtor shall, pursuant to section 1121 of the Bankruptcy Code, retain the exclusive right to amend the Plan and to solicit acceptances thereof, and any modifications or amendments thereto.

6. Severability of Plan Provisions

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtor, shall have the power to alter and interpret such term or provision to make 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 shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall 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.

7. Successors and Assigns and Binding Effect

The rights, benefits, and obligations of any Person or Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, personal representative, successor, or assign of such Person or Entity, including, but not limited to, the Reorganized Debtor and all other parties-in-interest in the Chapter 11 Case.

8. Compromises and Settlements

From and after the Effective Date, the Reorganized Debtor may compromise and settle various Claims against or Interests in the Debtor, Litigation Rights, and/or Avoidance Actions that they may have against other Persons or Entities without any further approval by the Bankruptcy Court.

Until the Effective Date, the Debtor expressly reserves the right to compromise and settle (subject to the approval of the Bankruptcy Court) Claims against or Interests in the Debtor, Avoidance Actions, Litigation Rights or other claims that it may have against other Persons or Entities.

9. Releases and Satisfaction of Subordination Rights

All Claims against the Debtor and all rights and claims between or among the Holders of Claims relating in any manner whatsoever to any claimed subordination rights shall be deemed satisfied by the Distributions under, described in, contemplated by, and/or implemented in Article III of the Plan. Distributions under, described in, contemplated by, and/or implemented by the Plan to the various Classes of Claims or Interests hereunder shall not be subject to levy, garnishment, attachment, or like legal process by any Holder of a Claim or Interest by reason of

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any claimed subordination rights or otherwise, so that each Holder of a Claim or Interest shall have and receive the benefit of the Distributions in the manner set forth in the Plan.

**10. THE PLAN PROVIDES BROAD RELEASES AND FOR THE DISCHARGE AND EXCULPATION OF VARIOUS PARTIES.**

**The Plan provides for the following Releases by Debtor:**

As of the Effective Date, for good and valuable consideration, the adequacy of which is confirmed by the Plan and the Confirmation Order, the Debtor, the Reorganized Debtor and any Person or Entity seeking to exercise the rights of the Debtor's estate, including, without limitation, any successor to the Debtor or any estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code, shall be deemed to forever release, waive, and discharge each of the Exculpated Parties from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action (including Avoidance Actions), and liabilities whatsoever in connection with or related to the Debtor, the conduct of the Debtor's business, the Chapter 11 Case, or the Plan (other than the rights of the Debtor, the Reorganized Debtor or a Creditor holding an Allowed Claim to enforce the obligations under the Confirmation Order and the Plan and the contracts, instruments, releases, indentures, and other agreements or documents assumed or delivered thereunder), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity, or otherwise, that are based in whole or part on any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtor, the conduct of the Debtor's business, the Reorganized Debtor, the Chapter 11 Case, the Disclosure Statement or the Plan, and that may be asserted by or on behalf of the Debtor, the Estate, or the Reorganized Debtor against any of the shareholders, directors, officers, employees or advisors of the Debtor, as of the Petition Date and through the Effective Date, excluding any claims arising from fraud, gross negligence, or willful misconduct; provided, however, that nothing in this Section 11.10(a):

(i) shall be deemed to prohibit the Reorganized Debtor from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any employee (including directors and officers) for alleged breach of confidentiality, or any other contractual obligations owed to the Debtor or the Reorganized Debtor, including non-compete and related agreements or obligations;

(ii) constitutes a waiver of any right of the Reorganized Debtor to: (x) enforce all rights and claims concerning any and all intellectual property (including, without limitation, trademarks, copyrights, patents, customer lists, trade secrets and confidential or proprietary business information), all of which rights are expressly reserved and not released and (y) assert any defense based on whether or not applicable standards have been met; or

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(iii) shall be deemed to prohibit any party from asserting or enforcing any direct contractual obligation against any Releasee, with all rights and defenses to such claims being reserved by the Releasees.

**THE FOREGOING RELEASE IN FAVOR OF ANY RELEASEE IS CONDITIONED UPON AND IN CONSIDERATION OF SUCH ENTITIES' WRITTEN AGREEMENT TO BE BOUND TO THE TERMS OF THIS PLAN, INCLUDING WITHOUT LIMITATION THEIR AGREEMENT TO COMPLY WITH THE PROVISIONS OF SECTION 5 AND 11.12 OF THE PLAN AND TO SUBJECT THEMSELVES TO THE JURISDICTION OF THE BANKRUPTCY COURT FOR PURPOSES OF ENFORCEMENT OF THE TERMS OF THIS PLAN, AS SET FORTH IN THE ACKNOWLEDGEMENT AGREEMENT TO BE DELIVERED AS PART OF THE PLAN SUPPLEMENT. For the avoidance of doubt, nothing herein constitutes or shall constitute a waiver, release, discharge or compromise by the Debtor, its Estate or the Reorganized Debtor with respect to the Aurora Litigation or the SLS Claims.**

In connection with its analysis of the bankruptcy case and preparation of the Plan, the Debtor has reviewed and analyzed transactions between the Debtor and the Exculpated Parties occurring prior to the Petition Date and to the time of the Effective Date. The Debtor has concluded that it has no Causes of Action, Avoidance Actions or Litigation Rights against the Exculpated Parties.

**The Plan Provides for the following Releases by Holders of Claims:**

**As of the Effective Date and to the extent permitted under Delaware law, Holders of Claims and Interests shall be deemed to have conclusively, absolutely, unconditionally, irrevocably and forever released and discharged the Debtor, Debtor Principals, the Reorganized Debtor, other Holders of Claims or Interests (except such other Holders of Claims owing obligations under policies of insurance issued to the Debtor or the Estate) and the directors, officers, employees or advisors of the Debtor as of the Petition Date and through the Effective Date (the "Releasees"), and from any and all Claims, Interests, Causes of Action or Avoidance Actions that such Entity would have been legally entitled to assert (whether individually or collectively or directly, indirectly or derivatively, at law, in equity or otherwise), based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Debtor's restructuring, the conduct of the Debtor's business, the Chapter 11 Case, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Releasee and the Debtor, the restructuring of Claims and Interests prior to or in the Chapter 11 Case, the negotiation, formulation or preparation of the Plan and Disclosure Statement, or related agreements, instruments, or other documents, upon any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date, other than Claims or liabilities arising out of fraud, willful misconduct or gross negligence AND other than the rights of the Debtor, the Reorganized Debtor or a Creditor holding an Allowed Claim to enforce the obligations under the Confirmation Order and the Plan and Litigation Rights and Causes of Action preserved by the Plan, the Confirmation Order and the Plan and the contracts, instruments, releases,**

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**indentures, and other agreements or documents delivered thereunder**; **provided, however,** that nothing in this Section 11.10(b) shall be deemed to prohibit any party from asserting or enforcing any direct contractual obligation against any Releasee, with all rights and defenses to such claims being reserved by the Releasees.

**THE FOREGOING RELEASE IN FAVOR OF ANY RELEASEE IS CONDITIONED UPON AND IN CONSIDERATION OF SUCH ENTITIES' WRITTEN AGREEMENT TO BE BOUND TO THE TERMS OF THIS PLAN, INCLUDING WITHOUT LIMITATION THEIR AGREEMENT TO COMPLY WITH THE PROVISIONS OF SECTIONS 5 AND 11.12 OF THIS PLAN AND TO SUBJECT THEMSELVES TO THE JURISDICTION OF THE BANKRUPTCY COURT FOR PURPOSES OF ENFORCEMENT OF THE TERMS OF THIS PLAN, AS SET FORTH IN THE ACKNOWLEDGEMENT AGREEMENT TO BE DELIVERED AS PART OF THE PLAN SUPPLEMENT. For the avoidance of doubt, nothing herein constitutes or shall constitute a waiver, release, discharge or compromise by Aurora of the Debtor or of rights against the Debtor with respect to the Aurora Litigation.**

11. Release of Liens

Except as otherwise provided in the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all mortgages, deeds, trusts, Liens, pledges, or other security interests against any property of the Estate shall be fully released and discharged, and all of the right, title, and interest of any Holder of such mortgages, deeds, trusts, Liens, pledges, or other security interests shall revert to the Reorganized Debtor.

12. Discharge of Claims

Pursuant to and to the fullest extent permitted by Bankruptcy Code section 1141(d), and except as otherwise provided in the Plan, the distributions, rights, and treatment that are provided in the Plan shall be in full and final satisfaction, settlement, release, and discharge, effective as of the Effective Date, of all Claims, Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from and after the Commencement Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Interests in the Debtor, the Reorganized Debtor, or their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims or Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in Bankruptcy Code sections 502(g), 502(h), or 502(i), in each case whether or not: (i) a Proof of Claim or Interest based upon such Claim, debt, right, or Interest is Filed or deemed Filed pursuant to Bankruptcy Code section 501; (ii) a Claim or Interest based upon such Claim, debt, right, or Interest is Allowed pursuant to Bankruptcy Code section 502; or (iii) the Holder of such a Claim or Interest has accepted the Plan. Any default by the Debtor or its Affiliates with respect to any Claim or Interest that existed immediately before or on account of the Filing of the Chapter 11 Case shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the discharge of all Claims and Interests subject to the Effective Date occurring. In accordance with section 1141(d)(3) of the Bankruptcy Code, Confirmation will not

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discharge Claims against and Interests in the Debtor; provided, however, that no Holder of a Claim against or Interest in the Debtor may, on account of such Claim or Interest, seek or receive any payment or other distribution from, or seek recourse against, the Debtor or their respective property or any assets previously distributed or to be distributed on account of any Allowed Claim except as provided herein.

13. Injunction

a) **Except as provided in the Plan or the Confirmation Order**, as of the Effective Date, all Persons that have held, currently hold, may hold, or allege that they hold, a Claim, Interest or other debt or liability that is discharged pursuant to Section 11.11 of the Plan, released pursuant to Section 11.10 of the Plan, or is subject to exculpation pursuant to Section 11.13 of the Plan are permanently enjoined from taking any of the following actions against the Debtor, the Reorganized Debtor, and their respective affiliates or their property on account of any such discharged Claims, debts, or liabilities or terminated Interests or rights: (i) commencing or continuing, in any manner or in any place, any action or other proceeding of any kind; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against the Debtor, the Reorganized Debtor or its property; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a right of setoff, recoupment or subrogation of any kind against any debt, liability, or obligation due to the Debtor or the Reorganized Debtor, unless such Holder has filed a motion requesting the right to perform such setoff, subrogation, or recoupment on or before the Confirmation Date, and notwithstanding an indication in a Proof of Claim or otherwise that such Holder asserts, has, or intends to preserve any right of setoff, subrogation, or recoupment pursuant to Bankruptcy Code section 553 or otherwise; or (v) commencing or continuing any action, in each such case in any manner, in any place, or against any Person that does not comply with or is inconsistent with the provisions of the Plan.

Without limiting the effect of the foregoing provisions of this Section 11.12 upon any Person, by accepting Distributions pursuant to the Plan, each Holder of an Allowed Claim or Interest receiving a Distribution pursuant to the Plan shall be deemed to have specifically consented to the injunctions set forth in this Section 11.12.

Nothing in this Section 11.12 shall impair (i) the rights of any Holder of a Disputed Claim to establish its Claim in response to an objection Filed by the Debtor or the Reorganized Debtor, (ii) the rights of any defendant in an Avoidance Action Filed by the Debtor to assert defenses in such action, (iii) the rights of any party to an Executory Contract or Unexpired Lease that has been assumed by the Debtor pursuant to an order of the Bankruptcy Court or the provisions of the Plan to enforce such assumed contract or lease; or (iv) the rights of Aurora against the Debtor with respect to the Aurora Litigation.

14. Exculpation and Limitations of Liability

a) On the Effective Date, the Exculpated Parties shall neither have, nor incur any liability to any Holder of a Claim or an Interest, the Debtor, the Reorganized Debtor, or any

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other party-in-interest, or any of their respective agents, employees, representatives, advisors, attorneys, or affiliates, or any of their successors or assigns, for any prepetition or postpetition act or omission in connection with, relating to, or arising out of, the Chapter 11 Case, the formulation, negotiation, or implementation of the Plan, the solicitation of acceptances of the Plan, the pursuit of Confirmation of the Plan, the Confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, and further including, without limitation, all documents ancillary thereto, all decisions, actions, inactions and alleged negligence or misconduct relating thereto, and all prepetition activities leading to the promulgation and confirmation of the Plan, except for acts or omissions that are the result of fraud, gross negligence, or willful misconduct; provided, however, that the foregoing is not intended to limit or otherwise impact any defense of qualified immunity that may be available under applicable law; provided further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her or its duties pursuant to, or in connection with, the Plan; provided still further, that the foregoing Exculpation shall not be deemed to, release, affect, or limit any of the rights and obligations of the Exculpated Parties from, or exculpate the Exculpated Parties with respect to, any of the Exculpated Parties' obligations or covenants arising pursuant to the Plan or the Confirmation Order.

Notwithstanding any other provision of the Plan, no Holder of a Claim or an Interest, the Debtor, the Reorganized Debtor, no other party-in-interest, none of their respective agents, employees, representatives, advisors, attorneys, or affiliates, and none of their respective successors or assigns shall have any right of action against any of the Exculpated Parties for any act or omission in connection with, relating to, or arising out of, the Chapter 11 Case, the formulation, negotiation, or implementation of the Plan, solicitation of acceptances of the Plan, the pursuit of Confirmation of the Plan, the Confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for acts or omissions which are the result of fraud, gross negligence, or willful misconduct.

#### 15. Term of Injunctions or Stays

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Case under sections 105 or 362 of the Bankruptcy Code or otherwise, and existing on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date.

#### 16. Revocation, Withdrawal or Non-Consummation

The Debtor reserves the right to revoke or withdraw the Plan at any time prior to the Confirmation Date and to File subsequent plans of reorganization. If the Debtor revoke or withdraw the Plan prior to the Confirmation Date, or if Confirmation or the Effective Date does not occur, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Class of Claims), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan shall be deemed null and void, and (c) nothing contained in the Plan, and no acts taken in preparation for

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consummation of the Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims against, or any Interests in, the Debtor, or any Avoidance Actions, Litigation Rights or other claims by or against the Debtor, or any Person or Entity, (ii) prejudice in any manner the rights of the Debtor, or any Person or Entity in any further proceedings involving the Debtor, or (iii) constitute an admission of any sort by the Debtor, or any other Person or Entity.

17. Plan Supplement

The Plan Supplement shall be filed with the Bankruptcy Court at least ten (10) days prior to the Confirmation Hearing or by such later date as may be established by order of the Bankruptcy Court, provided that all documents set forth in the Plan Supplement shall first have been approved by the Debtor. Upon such Filing, all documents set forth in the Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court during normal business hours. Holders of Claims or Interests may obtain a copy of any document set forth in the Plan Supplement upon written request to the Debtor in accordance with Section 11.22 of the Plan.

18. Notices

Any notice, request, or demand required or permitted to be made or provided under the Plan shall be (a) in writing, (b) served by (i) certified mail, return receipt requested, (ii) hand delivery, (iii) overnight delivery service, (iv) first class mail, or (v) facsimile transmission, and (c) deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

If to the Debtor:

Hogan Lovells US LLP  
Attn: Peter A. Ivanick  
Lynn W. Holbert  
875 Third Avenue  
New York, NY 10022  
Telephone: (212) 918-3000

- and -

Bayard, P.A.  
Attn: Neil B. Glassman  
Justin R. Alberto  
Evan T. Miller  
222 Delaware Avenue, Suite 900  
Wilmington, Delaware 19801  
Telephone: (302) 655-5000

If to the Reorganized Debtor:

Allonhill, LLC  
1200 17<sup>th</sup> Street

{BAY:02757045v1}

Suite 880  
Denver, Colorado 80202  
Telephone: (303) 303.308.6407

19. Computation of Time

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

20. Governing Law

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), the laws of (a) the State of Delaware shall govern the construction and implementation of the Plan and (except as may be provided otherwise in any such agreements, documents, or instruments) any agreements, documents, and instruments executed in connection with the Plan and (b) the laws of the state of incorporation of the Debtor shall govern corporate governance matters with respect to the Debtor; in each case without giving effect to the principles of conflicts of law thereof.

21. Exhibits

All exhibits are incorporated into and are a part of the Plan as if set forth in full herein, and, to the extent not annexed hereto, such exhibits shall be Filed with the Bankruptcy Court on or before the Exhibit Filing Date. After the Exhibit Filing Date, copies of exhibits can be obtained upon written request to Hogan Lovells US LLP, 875 Third Avenue, New York, NY 10022, Attn: Peter A. Ivanick, Esq. and Bayard, P.A., 222 Delaware Avenue, Suite 900, Wilmington, DE 19801, Attn: Neil B. Glassman, Esq., counsel to the Debtor or by downloading such exhibits from the Bankruptcy Court's website at <http://www.deb.uscourts.gov> (registration required) or the Claims Agent's website, <http://www.upshotservices.com/allonhill> or by calling the Claims Agent at (855) 812-6112. To the extent any exhibit is inconsistent with the terms of the Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit portion of the Plan shall control.

ARTICLE X

**VOTING ON AND CONFIRMATION OF THE PLAN**

In order to confirm the Plan, the Bankruptcy Code requires that the Bankruptcy Court make a series of determinations concerning the Plan. Specifically, the Bankruptcy Court must conclude that: (a) the Plan has classified Claims and Equity Interests in a permissible manner; (h) the Plan complies with all of the technical requirements of Chapter 11 of the Bankruptcy Code; (c) the Debtor has proposed the Plan in good faith; and (d) the Debtor's disclosures, as required by Chapter 11 of the Bankruptcy Code, have been adequate and include information concerning all payments made or promised by the Debtor in connection with the Plan. The Debtor submits that all of these conditions will have been met by the Confirmation Date.

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The Bankruptcy Code also requires that the Plan be accepted by the requisite votes of those entitled to vote on the Plan (except to the extent that “cramdown” is available under § 1129(b) of the Bankruptcy Code), that the Plan be feasible (that is, the confirmation of the Plan is not likely to be followed by the liquidation, or the need for further reorganization, of the Debtor), and that the Plan is in the “best interests” of all of the holders of Claims and Equity Interests (e.g. that that holders will receive at least as much under the Plan as they would receive in liquidation under Chapter 7 of the Bankruptcy Code). To confirm the Plan, the Court must find that all of these conditions are satisfied. Even if those entitled to vote accept the Plan by the requisite votes, the Bankruptcy Court must make independent findings as to the feasibility of the Plan and as to whether or not the Plan satisfies the “best interests” standard. Each of these statutory conditions to confirmation is discussed below:

The Bankruptcy Code contains provisions for confirmation of a plan even if the Plan is not accepted by all impaired classes, as long as at least one impaired class of claims has accepted it. Section 1129(b) of the Bankruptcy Code provides the standard for such a “cramdown.” If all of the applicable requirements of Section 1129(a) of the Bankruptcy Code, other than subparagraph (8) thereof are found to have been met with respect to the Plan, the Debtor may then elect to seek confirmation pursuant to Section 1129(b) of the Bankruptcy Code, which is considered the “cramdown” section of the Bankruptcy Code. For the purposes of seeking confirmation under the cramdown provision of the Bankruptcy Code, should that alternative means of confirmation be necessary, the Debtor reserves the right to modify the treatment given under the Plan to holders of Allowed Claims in one or more of the rejecting Classes. See Article VI, Section F below for an explanation of how the Plan can be confirmed using the cramdown provisions of 1129(b) of the Bankruptcy Code.

A. Best Interest Test

The Net Proceeds of the Debtor’s Assets will be distributed under the Plan in accordance with the priority scheme set forth in the Bankruptcy Code. Any Estate Assets not liquidated prior to confirmation of the Plan will be liquidated by the Reorganized Debtor. The Debtor, therefore, believes that the Plan will achieve a much better distribution for all Creditors than they would otherwise receive in a Chapter 7 and at a minimum, at least the same result if the cases were converted to Chapter 7. Under the Plan, however, the result can be achieved more affordably as it would not entail the duplication of administration costs which would result from the appointment of a Chapter 7 trustee and the appointment of additional professional persons who must learn the extensive facts and legal issues attendant to these proceedings. In addition, the inordinate delay attendant to the administration of assets in most Chapter 7 cases coupled with the extensive learning curve of new professionals, when compared to the current knowledge of the Debtor, the corporate history, business relationships and financial condition all weigh in favor of liquidating under the Plan.

In addition, as previously stated, the Debtor has commenced an investigation into the transfers made to Stewart prior to the Petition Date. The Debtor believes that viable breach of contract, fraudulent transfer and preferential transfer claims exist against Stewart. The Creditors, therefore, are receiving, at a minimum, the equivalent of what they would receive if liquidation was accomplished in a Chapter 7, but realistically more when the strength of the litigation claims against Stewart are factored into this analysis. It is the position of the Debtor, therefore, that

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Creditors would fare much better should the liquidation be achieved in Chapter 11 under the Plan, than in a Chapter 7 proceeding.

Finally, the Liquidation Analysis attached to the Disclosure Statement as Exhibit “F”, reflects the Liquidation Value of the Debtor’s Assets under a Chapter 7 scenario. The Liquidation Analysis presumes that the amount available for each impaired Class of Creditors is derived from the aggregate dollar amount generated from the monetization of the Estate’s Assets if the Chapter 11 cases were converted to Chapter 7 and the Estate Assets were subsequently liquidated by the Chapter 7 trustee (the “Liquidation Value”). The Liquidation Value would consist of net Cash proceeds from the disposition of the Estates’ Assets plus Cash held by the Debtor. Thereafter, the Liquidation Value would be reduced by the amount of secured claims, the costs and expenses of the Chapter 7 liquidation and the other administrative expense claims and professional fee claims of the Debtor’s Estates.

Once the percentage recovery in liquidation is determined for Secured Claims, Administrative Claims, Priority Unsecured Claims and General Unsecured Claims, the distributions available from the Liquidation Value of the Estate’s Assets are compared to the value of the Property offered to each Class under the Plan. This enables the Bankruptcy Court to determine whether the Plan satisfies the best interests test applicable to Creditors. Based upon the Liquidation Analysis attached hereto as Exhibit “[ ],” the Debtor believe that the Creditors are much better off in Chapter 11 receiving distributions under the Plan than they would be in a Chapter 7.

B. Financial Feasibility

Under the Plan, the Debtor will not continue to operate during the post-confirmation period insofar as all of the Debtor’s operating assets have been sold prior to confirmation of the Plan. Therefore, it is highly unlikely for confirmation of the Plan to be followed by a subsequent liquidation proceeding or a second Chapter 11 case. Nevertheless, the Debtor believes the Plan is feasible with respect to payments required to be made on the Effective Date insofar as there are sufficient funds and agreements in place to make distributions to Creditors entitled to same on the Effective Date. Specifically, there is ample Cash available to satisfy the trustee’s fees pursuant to 28 U.S.C. § 1930; satisfy all matured priority tax claims under 11 U.S.C. § 507(a)(8); and make distributions on Administrative Claims held by professionals. Hence, to the extent required, the Plan is feasible.

C. Classification of Claims and Equity Interests

The Bankruptcy Code requires that a plan place each creditor’s claim and each equity interest in a class with other claims and equity interests that are “substantially similar.” For the rationale for the classification of Claims and Equity Interests used in the Plan, see Article IV.B., captioned “Classification of Claims.” The Debtor believes that the Plan meets the classification requirements of the Bankruptcy Code articulated in 11 U.S.C. § 1122.

D. Voting

1. Impaired Classes and Equity Security Interests

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As a condition to confirmation, the Bankruptcy Code requires that each impaired class of claims or equity interests accepts the plan. A class is “Impaired” if the legal, equitable or contractual rights attaching to the claims or equity interests of that class are modified, other than by curing defaults and reinstating the maturity dates thereof or by payment in full. The Bankruptcy Code defines acceptance of an impaired class of claims as acceptance by holders of two-thirds in dollar amount and a majority in number of claims voting in that class. For that purpose, the Bankruptcy Code counts only ballots that are timely submitted from entities that are entitled to vote on a plan. Holders of Claims who fail to vote are not counted as either accepting or rejecting the plan.

2. Classes That Are Not Impaired

Classes of claims that are not “impaired” under a plan are deemed to have accepted the plan. There are only two unimpaired Classes under the Plan. Classes 1 and 2, which include the Allowed Secured Claims and the Tax Claims, respectively, are unimpaired.

3. Classes That Are Impaired Impaired Classes Entitled to Vote – Classes 3, 4, 5 and 6 are Classes of claims under the Plan that is are deemed impaired because the holders of such Claims will not be paid in full on the Effective Date. To the extent the holders of such Claims have Allowed Claims, even though impaired, they are entitled to vote to accept or reject the Plan. Claims in Classes 3, 4, 5 and 6 are impaired under the Plan and entitled to vote thereon.

E. Confirmation With Acceptance by All Impaired Classes

The Bankruptcy Court requires as a condition to confirmation that each class of claims that is impaired under the plan accept the plan, with the exception described in the following section. A class of claims has accepted the plan if the plan has been accepted by creditors that hold at least two thirds in dollar amount and more than one half in number of the allowed claims or such class who actually vote to accept or reject die plan. The determination or acceptance is made without regard to the votes of insiders.

A class that is not “impaired” under the plan is deemed to have accepted the plan and therefore solicitation of acceptances with respect to such class is not required. A class is “impaired” unless the: (1) legal, equitable and contractual rights to which the claim entitles the holder of such claim are not modified; or (2) with respect to a secured claim, the effect of any default is cured and the original terms of the obligations are reinstated.

F. Confirmation Without Acceptance by All Impaired Classes

The Bankruptcy Code contains provisions for confirmation of a plan even if it is not accepted by all impaired classes, as long as at least one impaired class has accepted it. The “cramdown” provisions of the Bankruptcy Code are set forth in Section 1129(b). The Plan provides for utilization of the cram-down provisions under certain circumstances. See Article XIX of the Plan captioned “Provision to Invoke Cramdown.”

A plan may be confirmed under Section 1129(b) if, in addition to satisfying the usual requirements of Section 1129(a) of the Bankruptcy Code, the plan: (i) “does not discriminate

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unfairly”; and (ii) is “fair and equitable” with respect to each class of claims or equity interests that is impaired under, and has not accepted, the plan. The terms “discriminate unfairly” and “fair and equitable” are terms of art under the Bankruptcy Code and the decisional law construing it.

The requirement that a plan not “discriminate unfairly” means that a dissenting class be treated equally with other classes of equal rank. The Debtor believes that the Plan does not “discriminate unfairly” and that no Classes are afforded treatment that is disproportionate to the treatment of other Classes of equal rank.

The “fair and equitable” standard, otherwise known as the “absolute priority rule,” requires that a dissenting class receive full compensation in respect of its allowed claims, before any junior class receives a distribution. The Debtor believes that the Plan is fair and equitable as it does not violate the absolute priority rule. Under the Plan, no junior Classes of Claims or Equity Interests are retaining such Equity Claims and Equity Interests and receiving Distributions thereon unless all senior Classes are either paid in full or have consented to such Distributions. Holders of Equity Interests are having their Interests extinguished under the Plan and are receiving no distributions, except if all prior Classes of Claims and Interests have been paid in full.

G. Alternatives to the Plan

The Debtor believes that the Plan provides Creditors with the greatest possible value that could be realized on their Claims. The primary alternative to confirmation of the Plan is liquidation of the Debtor under Chapter 7 of the Bankruptcy Code, in which event the Debtor believes that a Chapter 7 trustee may not achieve the same results for Creditors as those anticipated under the Plan. Moreover, a Chapter 7 trustee would add an additional layer of administrative expense that would diminish the ultimate distribution available to holders of General Unsecured Claims. For the foregoing reasons, the Debtor believes that the Distributions to each impaired Class under the Plan will be much greater than any distributions they could anticipate under a Chapter 7 liquidation.

H. Confirmation Hearing

The Bankruptcy Code requires that the Bankruptcy Court hold a hearing on the confirmation of the Plan after notice to Creditors. This enables the Bankruptcy Court to consider whether the foregoing requirements have been met. The Confirmation Hearing has been scheduled for July 7, 2005 at 2:00 p.m. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice, except for the announcement of an adjourned hearing date in Bankruptcy Court at the Confirmation Hearing.

Any objection to confirmation must be made in writing, filed with the Bankruptcy Court and served upon the following so as to be actually received on or before 4:00 p.m. on [ ], 2015 by the Clerk of the Bankruptcy Court and copies must be served on:

- (1) Peter A. Ivanick, Esq.  
Lynn W. Holbert, Esq.

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Hogan Lovells US LLP  
875 Third Avenue  
New York, NY 10022  
(212) 918-3000

(2)

Neil Glassman, Esq.  
Evan Miller, Esq.  
Bayard, PA  
222 Delaware Avenue  
Suite 900  
P.O. Box 25130  
Wilmington, DE 19899  
(302) 655-5000

(3)

Jane Leamy, Esq.  
Office of the United States Trustee  
844 N. King Street, #2207  
Wilmington, DE 19801  
(302) 573-6550

I. Voting Instructions

A Ballot to be used for voting to accept or reject the Plan will be enclosed with all copies of this Disclosure Statement mailed to persons entitled to vote upon approval of the Disclosure Statement. Each Creditor is entitled to vote, provided that: (a) its Claim has been scheduled by the Debtor and such Claim is not scheduled as disputed, contingent or unliquidated; (b) is not the subject of an objection; or (c) it is a timely filed proof of claim, unless its Claim is the subject of an objection or request for estimation or has been disallowed for voting purposes by the Bankruptcy Court.

Completed Ballots should be returned to:

Allonhill Ballot Processing Center  
c/o Upshot Services LLC  
7808 Cherry Creek South Dr., Suite 112  
Denver, CO 80231

**BALLOTS MUST BE RECEIVED ON OR BEFORE 4:00 P.M. ON [\_\_\_\_], 2015. ANY BALLOTS RECEIVED AFTER THAT TIME AND DATE WILL NOT BE COUNTED. ANY BALLOT WHICH IS EXECUTED BY THE HOLDER OF AN ALLOWED CLAIM BUT WHICH DOES NOT INDICATE AN ACCEPTANCE OR REJECTION OF THE PLAN SHALL BE DEEMED TO BE AN ACCEPTANCE. ANY BALLOT THAT DOES NOT SPECIFY AN AMOUNT OR CLASS SHALL BE DEEMED TO BE A VOTE IN THE AMOUNT AND CLASS WHICH THE DEBTOR DEEM APPROPRIATE.**

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ARTICLE XI

**MISCELLANEOUS DISCLOSURE**

A. Material Litigation

The Debtor's collective statements of financial affairs and schedules list all pending and threatened litigation of which the Debtor are aware. It is the position of the Debtor that there is no material risk of any adverse ruling in any pending or threatened litigation that would affect the Debtor's ability to consummate the Plan because the Plan is a "pot" plan with all Estate Assets, Litigation Rights, Causes of Action, Cash and Property of the Debtor to be distributed to Creditors in accordance with the priorities established by the Bankruptcy Code. Although an adverse ruling in any litigation would dilute the "pot," it would not eliminate the "pot" being distributed to Creditors. The consideration for the releases provided for the Debtor, the Reorganized Debtor and their professionals is the preparation of the Plan for the exclusive benefit of all secured, priority unsecured and general unsecured creditors who are owed in excess of \$30,000,000. The Plan significantly enhances the distributions to General Unsecured Creditors through: 1) the revesting of Litigation Rights and Causes of Action in the Reorganized Debtor and; 2) the Reorganized Debtor's undertaking to pursue and to prosecute Causes of Action on behalf of and for the benefit of the Creditors, which would not occur in a Chapter 7; and 3) the Contribution, which also would not be made in a Chapter 7.

Creditors would undoubtedly be left with less possibility of recovery in a Chapter 7 liquidation of the Debtor. Accordingly, the value created for this Class of Creditors under the Plan justifies the releases provided thereunder in favor of the Debtor, the Reorganized Debtor, the Debtor's Principals, Holders of Claims and their professionals.

B. Tax Ramifications of Plan

The Debtor anticipates that consummation of the Plan or the acts contemplated therein, may have tax implications for Creditors and, in particular, the Beneficiaries of the Trust. Each Creditor therefore is urged to consult a professional tax advisor or tax counsel in evaluating the tax ramifications of the Plan.

C. Special Risk Factors

Certain substantial risk factors are inherent in most plans of reorganization or liquidation in Chapter 11 cases if such plans are accepted, it is usually because they represent a greater return in dividends than in a Chapter 7 liquidation scenario.

ARTICLE XII

**CONCLUSION**

The Debtor believes that the Plan meets all of the requirements for confirmation under the Bankruptcy Code. The Debtor further believes the Plan is in the best interests of all Classes of Creditors and Equity Interest Holders. There is no existing alternative to the Plan that would

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afford better treatment to secured, priority unsecured, or general unsecured creditors than the treatment provided in the Plan. Creditors who wish to ensure that the Plan will be confirmed should exercise their right to vote in favor of the Plan and all Claimants are urged to do so.

Dated: August 17, 2015

Peter A. Ivanick  
Lynn W. Holbert  
Hogan Lovells US LLP  
875 Third Avenue  
New York, NY 10022  
Telephone: (212) 918-3000

/s/ Neil B. Glassman

Neil B. Glassman (No. 2087)  
Justin R. Alberto (No. 5126)  
Evan T. Miller (No. 5364)  
BAYARD, P.A.  
222 Delaware Avenue, Suite 900  
Wilmington, Delaware 19801  
Telephone: (302) 655-5000

*Counsel for the Debtor and Debtor-in-Possession*

Schedule [ ]

Contracts to be assumed and/or assigned

- 1) To be assumed and assigned to Stewart:

BankUnited  
Attn: Contract Management  
MC: CORPRO-535  
7815 NW 148<sup>th</sup> St.  
Miami Lakes, FL 33016

Braddock Financial Corporation  
Attn: Tom Plisko, CTO  
1200 17<sup>th</sup> Street  
Suite 880  
Denver, CO 80202

CenturyLink  
P.O. Box 29040  
Phoenix, AZ 85038-9040

DLJ Mortgage Capital, Inc.  
Attn: RMBS Structuring Group  
Eleven Madison Avenue  
4<sup>th</sup> Floor  
New York, NY 10010

Microsoft Licensing, GP  
995 Dalton Avenue  
Cincinnati, OH 45203

ProTeck Services Ltd.  
Attn.: Thomas O'Grady  
307 Waverley Oaks Road  
Suite 305  
Waltham, MA 02452

Tenrox, Inc.  
Attn.: Ara Israilian, COO  
600 Armand-Frappier  
Laval, QC H7V4B4  
CANADA

Toshiba Financial Services  
PO Box 660831  
Dallas, TX 75266-0831

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2) To be assumed and continued by Reorganized Debtor:

Braddock Financial Corporation  
Attn: Tom Plisko, CFO  
1200 17<sup>th</sup> Street  
Suite 880  
Denver, CO 80202

CNT Group, Inc.  
6750 E. Exposition Ave.  
Denver, CO 80224

Complete Discovery Source, Inc.  
Attn: Krista Connelly Mayor  
1050 Connecticut Avenue, NW  
Washington, DC 80036

Corporation Service Company  
2711 Centerville Road, Suite 400  
Wilmington, DE 19808

Davis and Ceriani, P.C.  
1350 Seventeenth Street  
Market Center, Suite 400  
Denver, CO 80202

Ehrhardt, Keefe, Steiner & Hottman, P.C.  
7979 E. Tufts Ave.  
Suite 400  
Denver, CO 80237

Ilusch Blackwell LLP  
Wells Fargo Center  
1700 Lincoln Street  
Suite 4700  
Denver, CO 80203

Williams & Connolly, LLP  
725 Twelfth St. N.W.  
Washington, DC 20005

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# **Exhibit A**

to

Disclosure Statement with Respect to the Chapter 11 Plan of  
Reorganization for Allonhill, LLC dated August 17, 2015

## **CHAPTER 11 PLAN OF REORGANIZATION FOR ALLONHILL, LLC**

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

In re:

ALLONHILL, LLC,

Debtor.

Chapter 11

Case No. 14-10663 (KG)

**CHAPTER 11 PLAN OF REORGANIZATION FOR ALLONHILL, LLC**

**THIS CHAPTER 11 PLAN IS BEING SUBMITTED FOR APPROVAL BY THE BANKRUPTCY COURT. THIS CHAPTER 11 PLAN HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT. ACCORDINGLY, THIS IS NOT A SOLICITATION OF AN ACCEPTANCE OR REJECTION OF THE CHAPTER 11 PLAN WITHIN THE MEANING OF SECTION 1125 OF THE BANKRUPTCY CODE, 11 U.S.C. § 1125. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT**

Peter A. Ivanick  
Lynn W. Holbert  
HOGAN LOVELLS US LLP  
875 Third Avenue  
New York, NY 10022  
Telephone: (212) 918-3000  
[chris.donoho@hoganlovells.com](mailto:chris.donoho@hoganlovells.com)  
[lynn.holbert@hoganlovells.com](mailto:lynn.holbert@hoganlovells.com)

Neil B. Glassman (No. 2087)  
Justin R. Alberto (No. 5126)  
Evan T. Miller (No. 5364)  
BAYARD, P.A.  
222 Delaware Avenue, Suite 900  
Wilmington, Delaware 19801  
Telephone: (302) 655-5000  
[nbglassman@bayardlaw.com](mailto:nbglassman@bayardlaw.com)  
[jalberto@bayardlaw.com](mailto:jalberto@bayardlaw.com)  
[emiller@bayardlaw.com](mailto:emiller@bayardlaw.com)

Counsel for the Debtor and Debtor-in-Possession

DATED: August 17, 2015

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## CHAPTER 11 PLAN OF REORGANIZATION FOR ALLONHILL, LLC

### INTRODUCTION<sup>1</sup>

Allonhill, LLC, as a debtor and debtor-in-possession (the “Debtor” or “Allonhill”), hereby proposes this Plan for the resolution of the outstanding Claims against and Interests in the Debtor. Reference is made to the Disclosure Statement for a discussion of (i) the Debtor’s history, businesses, properties, results of operations, and projections for future operations, (ii) a summary and analysis of this Plan, and (iii) certain related matters, including risk factors relating to the consummation of this Plan and Distributions to be made under this Plan.

**ALL HOLDERS OF CLAIMS AGAINST AND INTERESTS IN THE DEBTOR ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. SUBJECT TO CERTAIN RESTRICTIONS AND REQUIREMENTS SET FORTH IN SECTION 1127 OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3019, AND IN THE PLAN, THE PLAN PROPONENT RESERVES THE RIGHT TO ALTER, AMEND, MODIFY, REVOKE OR WITHDRAW THE PLAN, OR ANY PART THEREOF, PRIOR TO ITS SUBSTANTIAL CONSUMMATION.**

The Debtor is the proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code.

### ARTICLE I

#### **DEFINED TERMS AND RULES OF INTERPRETATION**

For purposes of the Plan, except as expressly provided or unless the context otherwise requires, (a) all capitalized terms used in the Plan and not otherwise defined in the Plan shall have the meanings ascribed to them in the Disclosure Statement (or any exhibit hereto or thereto), (b) any capitalized term used in the Plan that is not defined in the Plan, but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable, (c) whenever the context requires, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter, (d) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions, (e) any reference in the Plan to an existing document or exhibit means such document or exhibit as it may be amended, modified, or supplemented from time to time, (f) unless otherwise specified, all references in the Plan to sections, articles, schedules, and exhibits are references to sections, articles, schedules, and exhibits of or to the Plan, (g) the words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Plan in its entirety rather than to any particular paragraph, subparagraph, or clause contained in the Plan,

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<sup>1</sup> All capitalized terms used in the Plan and not otherwise defined in Article I of the Plan shall have the meanings ascribed to them in the Disclosure Statement (or any exhibit hereto).

(h) captions and headings to articles and sections are inserted for convenience of reference only and shall not limit or otherwise affect the provisions hereof or the interpretation of the Plan, and (i) the rules of construction set forth in section 102 of the Bankruptcy Code and in the Bankruptcy Rules shall apply.

**1.1 “Administrative Claim”** means a Claim for any costs or expenses of administration of the Estate under sections 503(b), 507(b) or 1114(e)(2) of the Bankruptcy Code, including, without limitation, for: (a) any actual and necessary costs and expenses incurred after the Petition Date of preserving the Estate and operating the businesses of the Debtor; (b) any payment to be made under the Plan to cure a default on an assumed Executory Contract or assumed Unexpired Lease; (c) any postpetition cost, indebtedness or contractual obligation duly and validly incurred or assumed by the Debtor in the ordinary course of its business; (d) any Allowed Claims that are entitled to be treated as Administrative Claims pursuant to a Final Order under section 546(c)(2)(A) of the Bankruptcy Code; (e) any Allowed Claims of Professionals in the Chapter 11 Case; and (f) any fees and charges assessed against the Estate under chapter 123 of title 28 of the United States Code, 28 U.S.C. §§ 1911-1930.

**1.2 “Administrative Claims Bar Date”** means the deadline for filing all requests for payment of Administrative Claims, which shall be forty-five days after the Effective Date, unless otherwise ordered by the Bankruptcy Court, except with respect to Professional Fee Claims, which shall be 60 days after the Effective Date.

**1.3 “Administrative Claims Reserve”** means the reserve of Cash established and maintained by the Debtor and Reorganized Debtor to pay Allowed Administrative Claims, including Claims under section 503(b)(9) of the Bankruptcy Code and all Claims for rent under section 503(b) of the Bankruptcy Code and lease payments under section 365(d)(5) of the Bankruptcy Code.

**1.4 “Administrative Expense Request”** means a request for the payment of an Administrative Claim.

**1.5 “Affiliate”** means “affiliate” as defined in section 101(2) of the Bankruptcy Code.

**1.6 “Allowed”** means with respect to any Claim (including any Administrative Claim) or portion thereof (to the extent such Claim is not Disputed or Disallowed) or any Interest (a) any Claim or Interest, proof of which: (i) was timely Filed with the Bankruptcy Court or its duly appointed claims agent, (ii) was deemed timely Filed pursuant to section 1111(a) of the Bankruptcy Code, (iii) by a Final Order was not required to be Filed; (b) any Claim or Interest that has been, or hereafter is, listed in the Schedules as liquidated in an amount other than zero or unknown and not Disputed or Contingent (or as to which the applicable Proof of Claim has been withdrawn or Disallowed); and (c) any Claim or Interest which has been allowed (whether in whole or in part) by a Final Order (but only to the extent so allowed), and, in (a), (b) and (c) above, as to which no objection to the allowance thereof, or action to subordinate, avoid, classify, reclassify, expunge, estimate or otherwise limit recovery with respect thereto,

has been Filed within the applicable period of limitation fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules or a Final Order; (d) any Claim or Interest allowed under or pursuant to the terms of the Plan; (e) any Claim arising from the recovery of property under sections 550 or 553 of the Bankruptcy Code which has been allowed in accordance with section 503(h) of the Bankruptcy Code; (f) a Claim relating to a rejected Executory Contract or Unexpired Lease that either (i) is not a Disputed Claim or (ii) has been allowed by a Final Order, in either case only if a Proof of Claim has been Filed by the applicable Bar Date or has otherwise been deemed timely Filed under applicable law; or (g) which is a Professional Claim for which a fee award amount has been approved by order of the Bankruptcy Court; provided, however, that Claims or Interests allowed solely for the purpose of voting to accept or reject the Plan pursuant to an order of the Bankruptcy Court shall not be considered “Allowed” hereunder.

**1.7 “Allowed Claim”** means an Allowed Claim of the particular type or Class described.

**1.8 “Allowed \_\_ Claim”** means, with respect to any specified Class or type of Claim, whether classified or unclassified, that the referenced Claim is an Allowed Claim.

**1.9 “Aurora”** means Aurora Commercial Corporation, f/k/a Aurora F.S.B., formerly a “savings association” within the meaning of 12 U.S.C. §§ 1462(4) and 1813(b), that was chartered by the Office of the Controller of Currency of the United States.

**1.10 “Aurora Litigation”** means *Allonhill, LLC v. Aurora Bank, FSB* (Case No. 12CV6381) in the District Court for the City and County of Denver, Colorado.

**1.11 “Avoidance Actions”** means any and all Causes of Action (other than those which are released or dismissed as part of and pursuant to the Plan) which a trustee, debtor-in-possession, the estate or other appropriate party in interest may assert under sections 502(d), 510, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551, or 553 of the Bankruptcy Code or under related state or federal statutes and common law, including, without limitation, fraudulent transfer laws (whether or not litigation is commenced to prosecute such Causes of Action) and including the Debtor’s rights of setoff, recoupment, contribution, reimbursement, subrogation or indemnity (as those terms are defined by the non-bankruptcy law of any relevant jurisdiction) and any other indirect claim of any kind whatsoever, whenever and wherever arising or asserted.

**1.12 “Ballot”** means each of the ballot forms, other than a master ballot form, distributed to each Holder of a Claim or Interest entitled to vote to accept or reject this Plan.

**1.13 “Bankruptcy Code”** means the Bankruptcy Reform Act of 1978, as codified in title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as in effect on the Petition Date, together with all amendments and modifications thereto that were subsequently made applicable to the Chapter 11 Case.

**1.14 “Bankruptcy Court”** means the United States Bankruptcy Court for the District of Delaware or such other court as may have jurisdiction over the Chapter 11 Case or any aspect thereof.

**1.15 “Bankruptcy Rules”** means (i) the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, as amended and promulgated under section 2075 of title 28 of the United States Code, (ii) the applicable Federal Rules of Civil Procedure, as amended and promulgated under section 2072 of title 28 of the United States Code, (iii) the applicable Local Rules of Bankruptcy Practice and Procedure for the Bankruptcy Court, and (iv) any standing orders governing practice and procedure issued by the Bankruptcy Court, each as in effect on the Petition Date, together with all amendments and modifications thereto that were subsequently made applicable to the Chapter 11 Case or proceedings therein, as the case may be.

**1.16 “Bar Date”** means January 20, 2015, the date set by the Bankruptcy Court as the last day for Filing a Proof of Claim or Proof of Interest against the Debtor in the Chapter 11 Case.

**1.17 “Business Day”** means any day, excluding Saturdays, Sundays, or “legal holidays” (as defined in Bankruptcy Rule 9006(a)), on which commercial banks are open for business in Wilmington, Delaware.

**1.18 “Cash or \$”** means legal tender of the United States of America or the equivalent thereof, including bank deposits, checks and cash equivalents.

**1.19 “Causes of Action”** means any and all actions, causes of action, Claims, rights, defenses, liabilities, obligations, executions, choses in action, controversies, rights (including rights to legal remedies, rights to equitable remedies, rights to payment), suits, debts, damages, judgments, remedies, demands, setoffs, defenses, recoupments, crossclaims, counterclaims, third-party claims, indemnity claims, contribution claims or any other claims whatsoever, whether known or unknown, reduced to judgment or not reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, secured or unsecured, choate or inchoate, existing or hereafter arising, suspected or unsuspected, foreseen or unforeseen, and whether asserted or assertable directly, indirectly or derivatively, at law, in equity or otherwise, based on whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Case, including through the Effective Date; and, for avoidance of doubt, includes, but is not limited to, Avoidance Actions, Litigation Rights and actions belonging to the Debtor or the Estate to recover on or under any contract, including for breach, indemnification or any other damages, to recover damages and losses due to torts or fraud (in all cases, regardless of intent) or to recover damages, losses and/or amounts due under any statute, regulation, act or law (whether legislative, judicially-made or agency- or regulator-promulgated) of any State or the United States.

**1.20 “Chapter 11 Case”** means chapter 11 case number 14-10663 (KG) commenced by the Debtor in the Bankruptcy Court.



**1.21 “Claim”** means any “claim” against the Debtor as defined in Bankruptcy Code section 101(5).

**1.22 “Claims Objection Bar Date”** means the date that is one hundred and eighty (180) days after the Effective Date or such later date as may be extended by order of the Bankruptcy Court.

**1.23 “Class”** means a category of Holders of Claims or Interests in the Debtor pursuant to section 1122(a) of the Bankruptcy Code, as described in Articles II and III of the Plan.

**1.24 “Collateral”** means any property or interest in property of the Estate which shall be subject to a Lien to secure the payment or performance of a Claim, which Lien is not subject to avoidance under the Bankruptcy Code or otherwise invalid under the Bankruptcy Code or applicable state law, including the Class 5 Collateral.

**1.25 “Colorado Court”** means the District Court for the City and County of Denver, Colorado, and, as the case may be or context requires, such superior courts of the State of Colorado as may have jurisdiction over appeals of decisions and judgments rendered in the Aurora Litigation.

**1.26 “Confirmation”** means the entry of the Confirmation Order on the docket of the Chapter 11 Case, subject to all conditions specified having been (a) satisfied, or (b) waived.

**1.27 “Confirmation Date”** means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Case, within the meaning of Bankruptcy Rules 5003 and 9021.

**1.28 “Confirmation Hearing”** means the hearing held by the Bankruptcy Court to consider Confirmation of the Plan, as such hearing may be adjourned or continued from time to time.

**1.29 “Confirmation Order”** means the order of the Bankruptcy Court confirming the Plan pursuant to, among others, section 1129 of the Bankruptcy Code.

**1.30 “Consummation”** means the occurrence of the Effective Date as set forth in the Plan.

**1.31 “Contingent”** means, with reference to a Claim, a Claim that has not accrued or is not otherwise payable and the accrual of which, or the obligation to make payment on which, is dependent upon a future event that may or may not occur.

**1.32 “Contribution”** means \$150,000 to be paid to the Debtor by the Debtor’s Principals as a condition to the Effective Date, in accordance with Section 9.02(b) hereof.

**1.33 “Creditor”** means any Holder of a Claim.

**1.34 “Cure”** means the Distribution of Cash, or such other property as may be agreed upon by the parties or ordered by the Bankruptcy Court, with respect to the assumption or assumption and assignment of an Executory Contract or Unexpired Lease, pursuant to Bankruptcy Code section 365(b), in an amount equal to all unpaid monetary obligations, without interest, or such other amount as may be agreed upon by the parties, under such Executory Contract or Unexpired Lease, to the extent such obligations are enforceable under the Bankruptcy Code and applicable bankruptcy law.

**1.35 “Debtor”** has the meaning ascribed to it in the Introduction to this Plan.

**1.36 “Debtor Principals”** means Margaret Sue Allon, BHC Allonhill, LLC and Harvey B. Allon.

**1.37 “Disallowed”** means, with respect to any Claim or Interest or portion thereof, any Claim against or Interest in the Debtor which: (i) has been disallowed, in whole or part, by a Final Order; (ii) has been withdrawn by agreement of the Holder thereof and the Debtor, in whole or in part; (iii) has been withdrawn, in whole or in part, by the Holder thereof; (iv) if listed in the Schedules as zero or as Disputed, contingent or unliquidated and in respect of which a Proof of Claim or a Proof of Interest, as applicable, has not been timely Filed or deemed timely Filed pursuant to the Plan, the Bankruptcy Code or any Final Order or other applicable law; (v) has been reclassified, expunged, subordinated or estimated to the extent that such reclassification, expungement, subordination or estimation results in a reduction in the Filed amount of any Proof of Claim or Proof of Interest; (vi) is evidenced by a Proof of Claim or a Proof of Interest which has been Filed, or which has been deemed to be Filed under applicable law or order of the Bankruptcy Court or which is required to be Filed by order of the Bankruptcy Court but as to which such Proof of Claim or Proof of Interest was not timely or properly Filed; (vii) is unenforceable to the extent provided in section 502(b) of the Bankruptcy Code; (viii) where the Holder of a Claim is a Person or Entity from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, unless such Person, Entity or transferee has paid the amount, or turned over any such Property, for which such Person, Entity or transferee is liable under section 522(i), 542, 543, 550, or 553 of the Bankruptcy Code; or (ix) is for reimbursement or contribution that is contingent as of the time of allowance or disallowance of such claim. In each case a Disallowed Claim or a Disallowed Interest is disallowed only to the extent of disallowance, withdrawal, reclassification, expungement, subordination or estimation.

**1.38 “Disallowed Claim”** means a Claim, or any portion thereof, that is Disallowed.

**1.39 “Disallowed Interest”** means an Interest, or any portion thereof, that is Disallowed.

**1.40 “Disbursing Agent”** means the Reorganized Debtor or any Person or Persons designated by the Debtor or the Reorganized Debtor, in its discretion, to serve as

disbursing agent under the Plan with respect to Distributions to Holders in particular Classes of Claims; which may include, without limitation, the claims agent.

**1.41 “Disclosure Statement”** means the disclosure statement for the Plan, as amended, supplemented or modified from time to time, describing the Plan, which is prepared and distributed in accordance with, among others, sections 1125, 1126(b) and 1145 of the Bankruptcy Code, Bankruptcy Rule 3018 and other applicable law.

**1.42 “Disputed Claim”** means (a) if no Proof of Claim has been Filed by the applicable Bar Date or has otherwise been deemed timely Filed under applicable law: (i) a Claim that is listed on the Debtor’s Schedules as other than disputed, contingent or unliquidated, but as to which the Debtor or Reorganized Debtor or, prior to the Confirmation Date, any other party in interest, has Filed an objection by the Claims Objection Bar Date, and such objection has not been withdrawn or denied by a Final Order; or (ii) a Claim that is listed on the Debtor’s Schedules as disputed, contingent or unliquidated; or (b) if a Proof of Claim or request for payment of an Administrative Claim has been Filed by the applicable Bar Date or has otherwise been deemed timely Filed under applicable law: (i) a Claim for which no corresponding Claim is listed on the Debtor’s Schedules; (ii) a Claim for which a corresponding Claim is listed on the Debtor’s Schedules as other than disputed, contingent or unliquidated, but the nature or amount of the Claim as asserted in the Proof of Claim varies from the nature and amount of such Claim as it is listed on the Schedules; (iii) a Claim for which a corresponding Claim is listed on the Debtor’s Schedules as disputed, contingent or unliquidated; (iv) a Claim for which an objection has been Filed by the Debtor or Reorganized Debtor or, prior to the Confirmation Date, any other party-in-interest, by the Claims Objection Bar Date, and such objection has not been withdrawn or denied by a Final Order; (v) a Claim which asserts it is contingent or unliquidated in whole or in part; or (vi) a tort claim.

**1.43 “Disputed Claim Amount”** means (a) if a liquidated amount is set forth in the Proof of Claim relating to a Disputed Claim, (i) the liquidated amount set forth in the Proof of Claim relating to the Disputed Claim; (ii) an amount agreed to by the Debtor or the Reorganized Debtor, as applicable, and the Holder of such Disputed Claim; or (iii) if a request for estimation is Filed by any party, the amount at which such Disputed Claim is estimated by the Bankruptcy Court; (b) if no liquidated amount is set forth in the Proof of Claim relating to a Disputed Claim, (i) an amount agreed to by the Debtor or the Reorganized Debtor, as applicable, and the Holder of such Disputed Claim or (ii) the amount estimated by the Bankruptcy Court with respect to such Disputed Claim; or (c) zero, if the Disputed Claim was listed on the Schedules as unliquidated, contingent or disputed and no Proof of Claim was Filed, or deemed to have been Filed, by the applicable Bar Date and the Claim has not been resolved by written agreement of the parties or an order of the Court.

**1.44 “Disputed Claims Reserve”** means the reserve of Cash established and maintained by the Debtor prior to the Effective Date, or the Reorganized Debtor after the Effective Date, to pay Disputed Claims upon allowance by the Bankruptcy Court.

**1.45 “Distributable Cash”** means all Cash held by the Debtor on the Effective Date or a Distribution Date, (as the case may be) less (i) the Reserves set forth in Section 8.03 of the Plan, and (2) the amount of Cash on hand the Debtor or Reorganized Debtor (as the case may be) is authorized to retain on such date.

**1.46 “Distribution”** means any distribution pursuant to the Plan to the Holders of Allowed Claims against or Interests in the Debtor.

**1.47 “Distribution Date”** means, (i) when used with respect to an Allowed Claim or an Allowed Interest, the Initial Distribution Date and any Subsequent Distribution Date upon which a Distribution is made by the Disbursing Agent in accordance with the Plan which is the latest to occur of: (a) the Initial Distribution Date; (b) the date that is ten (10) Business Days after the date after such Claim or Interest becomes an Allowed Claim or an Allowed Interest by a Final Order; or (c) the date that such Claim becomes payable under any agreement between the Debtor and the Holder of such Claim.

**1.48 “Distribution Record Date”** means the date which is the earlier of 180 days after a final and non-appealable judgment is rendered in the Aurora Litigation or [ ] years from the Effective Date, the record date for determining entitlement to receive Distributions under the Plan on account of Allowed Claims and/or Allowed Interests and for closing of the claims registers for all Claims pursuant to Section 7.08 of the Plan.

**1.49 “Effective Date”** means the first Business Day following the date on which all conditions to Consummation set forth in Section 9.02 of the Plan have been satisfied or, if capable of being duly and expressly waived, as provided in Section 9.04 of the Plan, any conditions to the occurrence of consummation set forth in the Plan has been satisfied or waived.

**1.50 “Entity”** means a Person, estate, trust, governmental unit, and U.S. Trustee, within the meaning of Bankruptcy Code section 101(15).

**1.51 “Escrow Agent”** shall mean Wells Fargo Bank, N.A., as escrow agent with respect to the SLS Account.

**1.52 “Estate”** means the estate of the Debtor in the Chapter 11 Case, created pursuant to section 541 of the Bankruptcy Code.

**1.53 “Estate Representative”** means the Reorganized Debtor and its successors, as appointed by section 5.09(a) of this Plan.

**1.54 “Excess Cash”** means (i) all cash held by the Debtor on the Effective Date; minus (x) Distributions due under the Plan on the Effective Date, (y) the Reserves set forth in Section 8.03 of the Plan, and (z) the amount of Cash on hand the Debtor is authorized to retain on the Effective Date; plus (v) any funds in the Disputed Claims Reserve at any time after the Effective Date in excess of the Disputed Claims Amount. The Debtor will provide an estimate of Excess Cash and Withheld Excess Cash in the Plan Supplement.

**1.55 “Exculpated Parties”** means the (a) Debtor; (b) Reorganized Debtor; (c) the Debtor Principals; and (d) each Indemnified Person.

**1.56 “Escrow Agent”** shall mean Wells Fargo Bank, N.A., as escrow agent with respect to the SLS Escrow.

**1.57 “Executory Contract”** means a contract to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

**1.58 “Exhibit Filing Date”** means the date on which exhibits to the Plan or the Disclosure Statement shall be Filed with the Bankruptcy Court, which date shall be not later than ten (10) days prior to the Voting Deadline or such later date as may be established by order of the Bankruptcy Court.

**1.59 “Face Amount”** means (a) when used in reference to a Disputed Claim, the Disputed Claim Amount and (b) when used in reference to an Allowed Claim, the Allowed Claim amount.

**1.60 “File, Filed or Filing”** means file, filed or filing with the Bankruptcy Court in the Chapter 11 Case; provided, however, that with respect to Proofs of Claim and Proofs of Interest only, “Filed” shall mean delivered and received in the manner provided in any order approving the Bar Date or the Administrative Claims Bar Date.

**1.61 “Final Order”** means an order, ruling, judgment, the operation or effect of a judgment or other decree issued and entered by the Bankruptcy Court or by any state or other federal court or other court of competent jurisdiction which has not been reversed, vacated, stayed, modified or amended and as to which (i) the time to appeal or petition for review, rehearing, certiorari, reargument or retrial has expired and as to which no appeal or petition for review, rehearing, certiorari, reargument or retrial is pending or (ii) any appeal or petition for review, rehearing, certiorari, reargument or retrial has been finally decided and no further appeal or petition for review, rehearing, certiorari, reargument or retrial can be taken or granted; provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order or judgment shall not cause such order or judgment not to be a Final Order.

**1.62 “General Unsecured Claim”** means any Unsecured Claim against the Debtor that is not an Administrative Claim, a Priority Tax Claim, an Other Priority Claim, a Secured Claim or a Common Equity Interest.

**1.63 “Holder”** means the legal or beneficial holder of a Claim or Interest (and, when used in conjunction with a Class or type of Claim or Interest, means a Holder of a Claim or Interest in such Class or of such type).

**1.64 “Impaired”** means, when used with reference to a Claim or Interest, a Claim or Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

**1.65 “Impaired Class”** means a Class of Claims or Interests that are Impaired.

**1.66 “Indemnification Obligation”** means any obligation of the Debtor to indemnify, reimburse, advance expenses or provide contribution to or with respect to any Indemnified Person, pursuant to by-laws, articles of incorporation, agreements, contracts, common law or otherwise, to the extent permitted under applicable state law, as of immediately prior to the Petition Date.

**1.67 “Indemnified Person”** means all officers, directors, employees, members, attorneys, actuaries, financial advisors, accountants, investment bankers, agents, professionals and representatives of the Debtor as of the Petition Date and through the Effective Date (in each case in his, her or its capacity as such).

**1.68 “Initial Distribution Date”** means the Effective Date when used with respect to a Claim that is an Allowed Claim or an Allowed Interest as of the Effective Date, or as soon as reasonably practicable after the Effective Date, but in any event not later than ten (10) days after the Effective Date.

**1.69 “Insider”** shall have the same meaning set forth in section 101(31) of the Bankruptcy Code, 11 U.S.C. § 101(31).

**1.70 “Insured Claim”** means any Allowed Claim or portion of an Allowed Claim that is insured under the Debtor’s insurance policies, but only to the extent of such coverage.

**1.71 “Interest”** means the legal interests, equitable interests, contractual interests, equity interests or ownership interests, or other rights of any Person in any other Person including all capital stock, stock certificates, common stock, preferred stock, partnership interests, limited liability company or membership interests, rights, treasury stock, options, warrants, contingent warrants, convertible or exchangeable securities, investment securities, subscriptions or other agreements and contractual rights to acquire or obtain such an interest or share in any other Person, partnership interests in any other Person’s stock appreciation rights, conversion rights, repurchase rights, redemption rights, dividend rights, preemptive rights, subscription rights and liquidation preferences, puts, calls, awards or commitments of any character whatsoever relating to any such equity, common stock, preferred stock, ownership interests or other shares of capital stock in any other Person or obligating such other Person to issue, transfer or sell any shares of capital stock whether or not certificated, transferable, voting or denominated “stock” or a similar security.

**1.72 “Lien”** means, with respect to any asset or Property (or the rents, revenues, income, profits or proceeds therefrom), and in each case, whether the same is consensual or nonconsensual or arises by contract, operation of law, legal process or otherwise: (a) any and all mortgages or hypothecation to secure payment of a debt or performance of an obligation, liens, pledges, attachments, charges, leases evidencing a capitalizable lease obligation, conditional sale or other title retention agreement, or other security interest or encumbrance or other legally cognizable security devices of any kind

in respect of any asset or Property, or upon the rents, revenues, income, profits or proceeds therefrom; or (b) any arrangement, express or implied, under which any Property is transferred, sequestered or otherwise identified for the purpose of subjecting or making available the same for the payment of debt or performance of any other obligation in priority to the payment of general unsecured creditors; provided, however, that a lien that has or may be avoided pursuant to any Avoidance Action shall not constitute a lien hereunder.

**1.73 “Litigation Rights”** means the Causes of Action, including the Aurora Litigation and the SLS Claims, that the Debtor or the Estate may hold against any Person or Entity (except to the extent expressly released under the Plan), including, without limitation, Avoidance Actions (except with respect to the Avoidance Actions, if any, waived under the Plan).

**1.74 “New Board”** means the board of directors of the Reorganized Debtor, to be constituted as of the Effective Date pursuant to Section 5.05 of the Plan.

**1.75 “New Common LLC Interests”** means the common limited liability company interests in the Reorganized Debtor issued by the Reorganized Debtor on the Distribution Date to the Holders of Allowed Class 5 Interests.

**1.76 “New Governance Documents”** means the (i) the certificate of formation of the Reorganized Debtor substantially in the form set forth in the Plan Supplement, and (ii) the Operating Agreement.

**1.77 “Old Class C Interests”** means any membership interest or share of common stock or other instrument evidencing an ownership interest in the Debtor, whether or not transferable, and any option, warrant or right, contractual or otherwise, to acquire any such interest in the Debtor that existed immediately prior to the Effective Date including the Class A Interests, the Class B Interests and the Class C Interests.

**1.78 “Old Class A Interests”** means any Class A membership interests or other instrument evidencing Class A membership interests in the Debtor, whether or not transferable, and any option, warrant or right, contractual or otherwise to acquire a Class A membership interest in the Debtor, that existed immediately prior to the Effective Date including the Class C Interests.

**1.79 “Old Operating Agreement”** means that certain Amended and Restated Limited Liability Company Agreement of Allonhill, LLC, dated March 18, 2013.

**1.80 “Operating Agreement”** means the limited liability company agreement of the Reorganized Debtor, to be Filed as part of the Plan Supplement, as the same may be amended pursuant to the Plan or otherwise from time to time.

**1.81 “Other Priority Claims”** means any and all Allowed Claims accorded priority in right of payment under section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim.

**1.82 “Person”** means and includes a natural person, individual, partnership, corporation (as defined in section 101(a) of the Bankruptcy Code), or organization including, without limitation, corporations, limited partnerships, limited liability companies, general partnerships, joint ventures, joint stock companies, trusts, land trusts, business trusts, unincorporated organizations or associations, any ad hoc committee, or other organizations, irrespective of whether they are legal entities, governmental bodies (or any agency, instrumentality or political subdivision thereof), or any other form of legal entities; provided, however, the term “Person” does not include governmental units, except that a governmental unit that (a) acquires an asset from a Person (i) as a result of the operation of a loan guarantee agreement or (ii) as receiver or liquidating agent of a Person; (b) is a guarantor of a pension benefit payable by or on behalf of the Debtor or an Affiliate of the Debtor; or (c) is the legal or beneficial owner of an asset of (i) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986 or (ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986, shall be considered for purposes of section 1102 of the Bankruptcy Code to be a Person with respect to such asset or such benefit.

**1.83 “Petition Date”** means March 26, 2014, the date on which the Debtor Filed its petition for relief commencing the Chapter 11 Case.

**1.84 “Plan”** means this plan of reorganization under chapter 11 of the Bankruptcy Code, as it may be altered, amended, modified or supplemented from time to time including in accordance with any Plan Supplement and the Bankruptcy Code or the Bankruptcy Rules.

**1.85 “Plan Proponent”** means the Debtor.

**1.86 “Plan Supplement”** means the supplement to the Plan to be Filed as provided in Section 11.16 of this Plan.

**1.87 “Priority Tax Claim”** means any and all Claims of a governmental unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

**1.88 “Professional”** means any professional employed in this Chapter 11 Case pursuant to Bankruptcy Code sections 327, 328, or 1103.

**1.89 “Professional Fee Claim”** means a Claim of a Professional for compensation for services rendered or reimbursement of costs, expenses, or other charges incurred after the Petition Date and on or before the Effective Date.

**1.90 “Professional Fee Reserve”** means the reserve of Cash established and maintained by the Debtor or the Reorganized Debtor to pay Allowed Professional Fee Claims.

**1.91 “Proof of Claim”** means a proof of claim Filed with the Bankruptcy Court or its duly appointed claims agent in connection with the Chapter 11 Case.



**1.92 “Proof of Interest”** means a proof of interest Filed with the Bankruptcy Court or its duly appointed claims agent in connection with the Chapter 11 Case.

**1.93 “Pro Rata”** means with respect to any Distribution to a Class under the Plan, the ratio (expressed as a percentage) of the amount of an Allowed Claim in such Class to the aggregate amount of all Allowed Claims plus the Disputed Claim Amount of all Disputed Claims in the same Class.

**1.94 “Releasee”** has the meaning ascribed to such term in Section 11.10(b) of the Plan.

**1.95 “Reinstated”** means (i) leaving unaltered the legal, equitable and contractual rights to which a Claim or Interest entitles the Holder so as to leave such Claim or Interest Unimpaired in accordance with Bankruptcy Code section 1124; or (ii) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Interest to demand or receive accelerated payment of such Claim or Interest after the occurrence of a default (a) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in Bankruptcy Code section 365(b)(2); (b) reinstating the maturity of such Claim or Interest as such maturity existed before such default; (c) compensating the Holder of such Claim or Interest for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; and (d) not otherwise altering the legal, equitable, or contractual rights to which such Claim or Interest entitles the Holder of such Claim or Interest; provided, however, that any contractual right that does not pertain to the payment when due of principal and interest on the obligation on which such Claim or Interest is based, including, but not limited to, financial covenant ratios, negative pledge covenants, covenants or restrictions on merger or consolidation and affirmative covenants regarding corporate existence prohibiting certain transactions or actions contemplated by the Plan, or conditioning such transactions or actions on certain factors, shall not be required to be reinstated in order to accomplish reinstatement.

**1.96 “Reorganized Debtor”** means the Debtor as reorganized upon the Effective Date pursuant to this Plan including Section 5.12(b) of this Plan.

**1.97 “Schedules”** means the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases and statements of financial affairs Filed by the Debtor pursuant to section 521 of the Bankruptcy Code and in substantial accordance with the Official Bankruptcy Forms, as the same may have been amended, modified or supplemented from time to time.

**1.98 “Secured Claim”** means a Claim that is secured by a Lien which is not subject to avoidance under the Bankruptcy Code or otherwise invalid under the Bankruptcy Code or applicable state law, on property in which the Estate has an interest, or a Claim that is subject to setoff under section 553 of the Bankruptcy Code; to the extent of the value of the Holder’s interest in the Estate’s interest in such property or to the extent of the amount subject to setoff, as applicable; as determined by a Final Order pursuant to section 506(a) of the Bankruptcy Code, or in the case of setoff, pursuant to

section 553 of the Bankruptcy Code, or in either case as otherwise agreed upon in writing by the Debtor or the Reorganized Debtor and the Holder of such Claim. The amount of any Claim that exceeds the value of the Holder's interest in the Estate's interest in property or the amount subject to setoff shall be treated as a General Unsecured Claim.

**1.99** "SLS" means Stewart Lenders Services, Inc., a company incorporated in Texas with its registered office at 1980 Post Oak Blvd., Ste. 800, Houston, TX 77056.

**1.100** "SLS APA" means the Asset Purchase Agreement dated August 28, 2013 by and between the Debtor and SLS.

**1.101** "SLS Claims" means claims held by the Debtor against SLS for amounts due under, related to or in respect of the SLS APA, and includes claims arising from events occurring at any time in relation to the execution of the SLS APA.

**1.102** "SLS Escrow" means the escrowed funds in the amount of \$2,000,554.11, together with any interest having accrued thereon as of the Effective Date, being held in account #46609500 by Wells Fargo Bank, N.A.

**1.103** "SLS Jurisdiction Agreement" means the Agreement to Bankruptcy Court Jurisdiction, dated February 12, 2015, by and between the Debtor and Stewart.

**1.104** "Solicitation Procedures Order" means Order [\_\_\_\_], dated [\_\_\_\_], 2015 [Docket No. \_\_\_\_].

**1.105** "Subsequent Distribution Date" means a date not more than sixty (60) business days from the date on which the Reorganized Debtor realizes, by the collection of Cash, proceeds from the liquidation of an asset or from pursuit of any Avoidance Action, Litigations Right and Cause of Action.

**1.106** "UCC" means the Uniform Commercial Code as adopted by the State of New York, NY UCC §§ 1-101, *et seq.*

**1.107** "Unexpired Lease" means a lease of non-residential real property to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

**1.108** "Unimpaired" means Claims in an Unimpaired Class.

**1.109** "Unimpaired Class" means an unimpaired Class within the meaning of section 1124 of the Bankruptcy Code.

**1.110** "Unsecured Claim" means a Claim arising prior to the Petition Date against the Debtor that is neither a Secured Claim nor entitled to priority under section 507 of the Bankruptcy Code or any order of the Bankruptcy Court, which Claim may be a General Unsecured Claim.

**1.111 “U.S. Trustee”** means the Office of the United States Trustee for the District of Delaware.

**1.112 “Voting Deadline”** means *[date]*, 2015 at 5:00 p.m. Eastern Time, the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted, as set forth by the Solicitation Procedures Order.

**1.113 “Withheld Excess Cash”** shall have the meaning set forth in the definition of Excess Cash hereinabove.

**1.114 “XL”** means XL Specialty Insurance Company.

**1.115 “XL Policy”** means the Financial Services Liability Policy, No. ELU 124726-12 issued to the Debtor by XL.

## ARTICLE II

### CLASSIFICATION OF CLAIMS AND INTERESTS IN THE DEBTOR

#### **Section 2.01. Introduction**

(a) All Claims and Interests in the Debtor, except Administrative Claims and Priority Tax Claims, are placed in the Classes set forth below. In accordance with Bankruptcy Code section 1123(a)(1), Administrative Claims and Priority Tax Claims have not been classified, and the respective treatment of such unclassified Claims is set forth below in Section 3.01 of the Plan.

(b) A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class, and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes. A Claim is also placed in a particular Class for the purpose of receiving Distributions pursuant to the Plan only to the extent that such Claim is an Allowed Claim in that Class and such Claim has not been paid, released, or otherwise settled prior to the Effective Date.

#### **Section 2.02. Unclassified Claims (not entitled to vote on the Plan)**

- (a) Administrative Claims
- (b) Priority Tax Claims

#### **Section 2.03. Unimpaired Classes of Claims and Interests in the Debtor (deemed to have accepted the Plan and, therefore, not entitled to vote on the Plan)**

- (a) Class 1. Other Priority Claims
- (b) Class 2. Secured Claims

**Section 2.04. Impaired/Voting Classes of Claims**

- (a) Class 3. General Unsecured Claims of Aurora and Pre-Petition Creditors
- (b) Class 4. General Unsecured Claims of SLS and XL (Creditors Owing Post Confirmation Contract Obligations to the Reorganized Debtor)
- (c) Class 5. Old Class A Interests
- (d) Class 6: Old Class C Interests

**ARTICLE III**

**TREATMENT OF CLAIMS AND INTERESTS IN THE DEBTOR**

**Section 3.01. Unclassified Claims**

- (a) Administrative Claims

Except to the extent that an Allowed Administrative Claim has been paid prior to the Initial Distribution Date, except as otherwise provided for herein (including Section 11.02 with respect to Professional Fee Claims) or unless otherwise agreed to by the Debtor and the Holder of an Allowed Administrative Claim, each Holder of an Allowed Administrative Claim shall be entitled to receive in full and complete settlement, release, and discharge of such Claim, payment in full in Cash of the unpaid portion of an Allowed Administrative Claim on the Distribution Date.

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

Except to the extent that an Allowed Priority Tax Claim has been paid prior to the Initial Distribution Date or unless otherwise agreed to by the Debtor and the Holder of an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim shall be entitled to receive in full and complete settlement, release, and discharge of such Claim, payment in Cash of the unpaid portion of an Allowed Priority Tax Claim on the Distribution Date.

**Section 3.02. Unimpaired Classes of Claims and Interests in the Debtor**

- (a) Class 1: Other Priority Claims

**Classification:** Class 1 consists of Other Priority Claims against the Debtor.

**Treatment:** The legal, equitable and contractual rights of the Holders of Allowed Class 1 Claims will be unaltered by the Plan. Unless otherwise agreed to by the Holders of the Allowed Class 1 Claims and the Debtor, each Holder of an Allowed Class 1 Claim shall receive in full, final and complete satisfaction, settlement, release, and discharge of such Allowed Class 1 Claim, payment of the Allowed Class 1 Claim in full in Cash on the Distribution Date.

Voting: Class 1 is Unimpaired, and the Holders of Class 1 Claims will be conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims will not be entitled to vote to accept or reject the Plan.

(b) Class 2: Secured Claims

Classification: Class 2 consists of Secured Claims against the Debtor.

Treatment: Each holder of an Allowed Class 2 Secured Claim shall receive, in the sole discretion of the Debtor or the Reorganized Debtor, one of the four following forms of treatment:

(a) an amount equal to the unpaid amount of such Allowed Claim in Cash commencing on the later of (i) the Effective Date, (ii) the date that is ten (10) Business Days after such Claim becomes an Allowed Class 2 Claim by a Final Order; or

(b) the Debtor shall abandon the Property that secures the Allowed Class 2 Claim to the Holder of such Claim on or as soon as practicable after the later of (i) the Effective Date and (ii) the date that is ten (10) Business Days after the date on which such Claim becomes an Allowed Class 2 Claim by a Final Order; or

(c) such other treatment as the Holder and the Debtor or the Reorganized Debtor shall have agreed upon in writing; or

(d) (i) such holder shall retain its Lien securing its Allowed Class 2 Secured Claim to the extent of the Allowed Amount of its Secured Claim; and (ii) on or as soon as practicable after the later of (x) the Effective Date and (y) the date that is ten (10) Business Days after such Claim becomes an Allowed Secured Claim by a Final Order:

(A) the Reorganized Debtor will cure any default other than a default of the kind specified in section 365(b)(2) of the Bankruptcy Code;

(B) the maturity of such Claim shall be Reinstated as the maturity existed before any default;

(C) the Holder of such Claim shall be compensated for any damages which occurred as the result of any reasonable reliance by the Holder on any provision that entitled the Holder to accelerate the maturing of such Claim; and

(D) the other legal, equitable and contractual rights to which such Claim entitles the Holder shall not otherwise be altered.

Voting: Class 2 is Unimpaired, and the Holders of Class 2 Claims will be conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 2 Claims will not be entitled to vote to accept or reject the Plan.

### **Section 3.03. Impaired/Voting Classes of Claims and Interests in the Debtor**

(a) Class 3: General Unsecured Claims of Aurora and Pre-Petition Creditors

Classification: Class 3 consists of General Unsecured Claims against the Debtor arising from contracts terminated prior to the Petition Date, or deemed to have been terminated prior to the Petition Date as a result of such contract's rejection by the Debtor.

Treatment: Each Holder of an Allowed Class 3 Claim shall be paid a *pro rata* percentage of the Allowed amount of its Class 3 Claim, *provided* that, the Claims in Class 3 and 4 shall share priority as General Unsecured Creditors, in Cash (i) on the Initial Distribution Date, from the Debtor's available assets, less (y) the Reserves set forth in Section 8.03 of the Plan, and (z) the amount of Cash on hand the Debtor is authorized to retain on the Effective Date, and (ii) on Subsequent Distribution Dates from the Debtor's available assets, less (y) the Reserves set forth in Section 8.03 of the Plan, in full, final and complete satisfaction, settlement, release, and discharge of such Allowed Class 3 Claim. In the event that Excess Cash exists in sufficient amount to pay 100% of the Allowed amount of Class 3 Claims, each Holder thereof shall be paid simple interest on the Allowed amount of its Class 3 Claim at the post-judgment interest rate provided for in 28 U.S.C. § 1961 (on the Petition Date) on the unpaid principal amount of such Allowed Claim from the Petition Date to and including the Effective Date.

Classes 3 and 4 will be paid *pari passu* on each Distribution Date from all Distributable Cash until the Allowed Claims of each Creditor in Classes 3 and 4 are paid in full, with simple interest on the Allowed amount of each such Claim at the post-judgment interest rate provided for in 28 U.S.C. § 1961 (on the Petition Date) on the unpaid principal amount of such Allowed Claim from the Petition Date to and including the Effective Date.

Voting: Class 3 is Impaired, and the Holder of Class 3 Interests will be entitled to vote to accept or reject the Plan.

(b) Class 4: General Unsecured Claims of SLS and XL (Creditors owing Post-Confirmation Contract Obligations to the Reorganized Debtor)

Classification: Class 4 consists of General Unsecured Claims against the Debtor arising from contracts to which the Debtor is party and under which performance obligations remain due from the contract counterparty. This Class 4 includes the claims of SLS and XL.

Treatment: Each Holder of an Allowed Class 4 Claim shall be paid a *pro rata* percentage of the Allowed amount of its Class 4 Claim, *provided* that the Claims in Class 3 and 4 shall share priority as General Unsecured Creditors in Cash (i) on the Initial Distribution Date, from the Debtor's available assets, less (y) the Reserves set forth in Section 8.03 of the Plan, and (z) the amount of Cash on hand the Debtor is authorized to retain on the Effective Date, and (ii) on Subsequent Distribution Dates from the Debtor's available assets, less (y) the Reserves set forth in Section 8.03 of the Plan, in full, final and complete satisfaction, settlement, release, and discharge of such Allowed Class 4 Claim. In the event that Excess Cash exists in sufficient amount to pay 100% of the Allowed amount of Class 4 Claims, each Holder thereof shall be paid simple interest on the Allowed amount of its Class 4 Claim at the post-judgment interest rate

provided for in 28 U.S.C. § 1961 (on the Petition Date) on the unpaid principal amount of such Allowed Claim from the Petition Date to and including the Effective Date.

Classes 3 and 4 will be paid *pari passu* on each Distribution Date from all Distributable Cash until the Allowed Claims of each Creditor in Classes 3 and 4 are paid in full, simple interest on the Allowed amount of each such Claim at the post-judgment interest rate provided for in 28 U.S.C. § 1961 (on the Petition Date) on the unpaid principal amount of such Allowed Claim from the Petition Date to and including the Effective Date.

Voting: Class 4 is Impaired, and the Holder of Class 4 Interests will be entitled to vote to accept or reject the Plan.

(c) Class 5 - Old Class A Interests

Classification: Class 5 consists of the Old Class A Interests in the Debtor held by Debtor Principals as of the Petition Date.

Treatment: The Holders of the Allowed Class 5 Old Class A Interests shall receive 100% of the New Common LLC Interests in the Reorganized Debtor.

Voting: Class 5 is Impaired, and the Holders of Class 5 Old Class A Interests will be entitled to vote to accept or reject the Plan.

(d) Class 6 - Old Class C Interests

Classification: Class 6 consists of the Old Class C Interests in the Debtor held by former employees of the Debtor as of the Petition Date.

Treatment: The Old Class C Interests in the Debtor shall be cancelled and Holders of the Allowed Class 6 Interests shall receive a *pro rata* percentage of the Allowed amount of its Class 6 Interest, in accordance with the terms of the Debtor's Operating Agreement as if the Old Class A Interests were not cancelled by this Plan, subject to the prior payment in full of Claims in Classes 1 through 5, in Cash (i) on the Initial Distribution Date, from the Debtor's available assets, less (y) the Reserves set forth in Section 8.03 of the Plan, and (z) the amount of Cash on hand the Debtor is authorized to retain on the Effective Date, and (ii) on Subsequent Distribution Dates from the Debtor's available assets, less (y) the Reserves set forth in Section 8.03 of the Plan, in full, final and complete satisfaction, settlement, release, and discharge of such Allowed Class 6 Interest. For the avoidance of doubt, the Holder of Class 6 Interests will be entitled to payment of their Interests only in the event that the Reorganized Debtor is able to pay all Claims of Classes 1, 2, 3, 4, and 5 in accordance with the treatment afforded to those Classes under the Plan, and in the event such Claims of these prior Classes are paid in full, then the Holder of Class 6 Interests will be entitled to payment of their Interests in accordance with the terms of the Debtor's Operating Agreement as if the Interests of Old Class A Interests are not cancelled by the Plan.

Voting: Class 6 is Impaired, and the Holder of Class 6 Interests will be entitled to vote to accept or reject the Plan.

### **Section 3.04. Special Provisions Regarding Insured Claims**

(a) Distributions under the Plan to each Holder of an Allowed Insured Claim shall be in accordance with the treatment provided under the Plan for General Unsecured Claims; provided, however, that the maximum amount of any Distribution under the Plan on account of an Allowed Insured Claim shall be limited to an amount equal to the applicable self-insured retention under the relevant insurance policy; provided, further, however, that, to the extent a Holder has an Allowed Insured Claim, the amount of which exceeds the total coverage available from the relevant insurance policies of the Debtor, such Holder shall have an Allowed General Unsecured Claim in the amount by which such Allowed Insured Claim exceeds the coverage available from the Debtor's insurance policies. Nothing in this section shall constitute a waiver of any Litigation Rights the Debtor may hold against any Person, including the Debtor's insurance carriers; and nothing in this section is intended to, shall, or shall be deemed to preclude any Holder of an Allowed Insured Claim from seeking and/or obtaining a Distribution or other recovery from any insurer of the Debtor in addition to (but not in duplication of) any Distribution such Holder may receive under the Plan; provided, however, that the Debtor does not waive, and expressly reserves its rights to assert that any insurance coverage is property of the Estate to which it is entitled.

(b) The Plan shall not expand the scope of, or alter in any other way, the rights and obligations of the Debtor's insurers under their policies, and the Debtor's insurers shall retain any and all defenses to coverage that such insurers may have, including the right to contest and/or litigate with any party, including the Debtor, the existence, primacy and/or scope of available coverage under any alleged applicable policy. The Plan shall not operate as a waiver of any other Claims the Debtor's insurers have asserted or may assert in any Proof of Claim or the Debtor's rights and defenses to such Proofs of Claim.

### **Section 3.05. Reservation of Rights Regarding Claims**

Except as otherwise explicitly provided in the Plan, nothing herein shall affect the Debtor's or the Reorganized Debtor's rights and defenses, both legal and equitable, with respect to any Claims, including, but not limited to, all rights with respect to legal and equitable defenses to alleged rights of setoff or recoupment.

## **ARTICLE IV**

### **ACCEPTANCE OR REJECTION OF THE PLAN**

#### **Section 4.01. Impaired Classes of Claims Entitled to Vote**

Holders of Allowed Claims and Interests in the Debtor in each Impaired Class of Claims or Interests in the Debtor are entitled to vote as a Class to accept or reject the Plan. Accordingly, only the votes of Holders of Claims and Interests in Classes 3, 4, 5 and 6 shall be solicited with respect to the Plan.



#### **Section 4.02. Acceptance by an Impaired Class**

In accordance with section 1126(c) of the Bankruptcy Code, and except as provided in section 1126(e) of the Bankruptcy Code, an Impaired Class of Claims shall have accepted the Plan if the Plan is accepted by the Holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims in such Class that have timely and properly voted to accept or reject the Plan.

#### **Section 4.03. Presumed Acceptances by Unimpaired Classes**

Classes 1 and 2 are Unimpaired under the Plan. Under section 1126(f) of the Bankruptcy Code, Holders of such Unimpaired Claims are conclusively presumed to have accepted the Plan, and the votes of Holders of such Unimpaired Claims shall not be solicited.

#### **Section 4.04. Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code**

To the extent that any Impaired Class rejects the Plan or is deemed to have rejected the Plan, the Debtor reserves the right to request Confirmation of the Plan, as it may be modified from time to time, under section 1129(b) of the Bankruptcy Code. The Debtor reserves the right to alter, amend, modify, revoke, or withdraw the Plan, the Plan Supplement, or any schedule or exhibit, including to amend or modify it to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary.

#### **Section 4.05. Elimination of Vacant Classes**

Any Class of Claims or Interests in the Debtor that does not contain, as of the date of the commencement of the Confirmation Hearing, a Holder of an Allowed Claim or Interest, or a Holder of a Claim temporarily allowed under Bankruptcy Rule 3018, shall be deemed deleted from the Plan for all purposes, including for purposes of determining acceptance of the Plan by such Class under section 1129(a)(8) of the Bankruptcy Code.

### **ARTICLE V**

#### **MEANS FOR IMPLEMENTATION OF THE PLAN**

##### **Section 5.01. Continued Existence**

After the Effective Date, the Reorganized Debtor may operate its business and use, acquire, dispose of property and settle and compromise Claims or Interests without the supervision of the Bankruptcy Court, free of any restrictions of the Bankruptcy Code or Bankruptcy Rules subject to the terms of this Plan and the Plan Supplement and all documents and exhibits thereto implementing the provisions of the Plan.

##### **Section 5.02. Governance**

Subject to any requirement of Bankruptcy Court approval pursuant to section 1129(a)(5) of the Bankruptcy Code, on the Effective Date, the New Board will be constituted in the manner set forth in Section 5.05 below and the managers and/or officers of the Reorganized Debtor will

be as set forth in Section 5.06 below. Each such officer will serve from and after the Effective Date in accordance with the terms of the New Governance Documents and/or other governance policies of the Reorganized Debtor, as the same may be amended from time to time, pursuant to applicable state law.

The New Governance Documents satisfy the provisions of this Plan and the Bankruptcy Code and shall include, among other things, (a) pursuant to section 1123(a)(6) of the Bankruptcy Code, a provision prohibiting the issuance of non-voting equity securities, but only to the extent required by section 1123(a)(6) of the Bankruptcy Code and (b) officer and director liability exculpation, indemnity and advancement provisions to the fullest extent permitted by Delaware law. After the Effective Date, the Reorganized Debtor may amend and restate the New Governance Documents and any other certificates or articles of incorporation, by-laws, limited liability company agreements, certificates of formation, partnership agreements and certificates of partnership, as applicable, as permitted by applicable law.

### **Section 5.03. Cancellation of Old Class A Interests and Old Class C Interests**

Except as otherwise provided for herein, or in any contract, instrument or other agreement or document created in connection with the Plan, on the Effective Date and concurrently with the applicable Distributions made pursuant to Article III hereof, the old Class C Interests and Old Class A Interests and any other promissory notes, share certificates, whether for preferred or common stock (including treasury stock), other instruments evidencing any Claims or Interests in the Debtor, other than a Claim that is being Reinstated and rendered Unimpaired, and all options, warrants, calls, rights, puts, awards, commitments or any other agreements of any character to acquire such Interests in the Debtor shall be deemed canceled and of no further force and effect, without any further act or action under any applicable agreement, law, regulation, order or rule, and the obligations of the Debtor under the notes, share certificates and other agreements and instruments governing such Claims and Interests in the Debtor shall be discharged subject to the provisions of the Plan. The Holders of or parties to such canceled notes, shares, share certificates and other agreements and instruments shall have no rights arising from or relating to such notes, shares, share certificates and other agreements and instruments or the cancellation thereof, except the rights provided pursuant to the Plan.

### **Section 5.04. Authorization and Issuance of New Common LLC Interests**

(a) On the Effective Date, the Reorganized Debtor shall be authorized to issue, execute, deliver and perform under: (i) the New Governance Documents; (ii) the New Common LLC Interests; and (iii) any other documents incidental thereto as necessary to implement the terms of the Plan.

(b) The issuance of the New Common LLC Interests and all other instruments, certificates and other documents required to be issued or distributed pursuant to the Plan shall be authorized under section 1145 of the Bankruptcy Code as of the Effective Date without further act or action, except as may be required by the New Governance Documents, or applicable law, regulation, order or rule; and all documents evidencing same shall be executed and delivered as provided for in the Plan or the Plan Supplement.

### **Section 5.05. New Board of Managers of the Reorganized Debtor**

Pursuant to the Operating Agreement, the New Board shall initially consist of *[three (3)]* members on the Effective Date designated by the Debtor. The identity of all members of the New Board shall be set forth in the Plan Supplement. The initial members of the New Board shall serve from the Effective Date and thereafter in accordance with the New Governance Documents.

### **Section 5.06. Managers, Officers, Directors and Key Employees of Reorganized Debtor; Indemnification**

(a) The initial officers of the Reorganized Debtor shall be disclosed in the Plan Supplement.

(b) Upon the Effective Date, the New Governance Documents of the Reorganized Debtor, shall contain provisions which (i) indemnify the Debtor's and the Reorganized Debtor's then present and future managers, directors and officers for post-emergence monetary damages resulting from breaches of their fiduciary duties on or after the Effective Date to the fullest extent permitted by applicable state law; and (ii) require such Reorganized Debtor, subject to appropriate procedures, to indemnify and advance expenses to the Debtor's and the Reorganized Debtor's managers, directors, officers, and other key employees (as such key employees are identified by the Chief Executive Officer of the Reorganized Debtor and the New Board) serving on or after the Effective Date for all claims and actions relating to postpetition service to the fullest extent permitted by applicable state law.

(c) All indemnification or advancement provisions currently in place (whether in the by-laws, operating agreement, board resolutions, agreements or employment contracts) for the directors or managers of the Debtor who were in place as of the Petition Date and current managers, officers, employees, attorneys, other professionals and agents of the Debtor shall be assumed through the Effective Date, subject to replacement by the foregoing provisions in section 5.06(b), if applicable, for the period on and after the Effective Date. All indemnification or advancement provisions in place on and prior to the Effective Date for those parties set forth in the preceding sentence, not replaced pursuant to the provisions of section 5.06(b), shall survive the Effective Date for Claims related to or in connection with any actions, omissions or transactions occurring prior to the Effective Date.

(d) Upon and after the Effective Date, and for six (6) years thereafter, the Debtor or the Reorganized Debtor, as the case may be, shall obtain reasonably sufficient tail coverage under a director and officer liability insurance policy for the current and former directors and officers of the Reorganized Debtor and its Affiliates. As of the Effective Date, the Debtor shall assume all obligations owing under the director and officer insurance policies pursuant to section 365(a) of the Bankruptcy Code. Entry of the Confirmation Order will constitute the Bankruptcy Court's approval of the Debtor's foregoing assumption of each of the director and officer liability insurance policies. Notwithstanding anything to the contrary contained in the Plan, Confirmation of the Plan shall not discharge, impair or otherwise modify any indemnity or advancement obligations assumed by the foregoing assumption of the director and officer liability insurance policies, and each such indemnity or advancement obligation will

be deemed and treated as an Executory Contract that has been assumed by the Debtor under the Plan as to which no Proof of Claim need be Filed.

**Section 5.07. Delivery of the Contribution.**

On or prior to the Effective Date, the Debtor's Principals shall deliver the Contribution to the Debtor. On the Effective Date, all of the Debtor's right, title and interest in and to the Contribution shall automatically be vested in the Reorganized Debtor.

**Section 5.08. Release of the SLS Escrow.**

In consideration of the Releases set forth in Section 11.10 hereof and in the Confirmation Order, the effects of which are deemed by this Plan and the Confirmation Order to be an Aurora Resolution Event as defined by the SLS APA and to satisfy all conditions stated by the APA and any indemnification agreements between SLS and Allonhill for the release by Stewart and/or the Escrow Agent of funds held in the SLS Escrow and the termination of SLS's rights under the SLS APA and any indemnification agreements between SLS and Allonhill to be indemnified for Aurora Losses or any other indemnified claims, all funds held in the SLS Escrow shall be delivered to the Debtor. The Confirmation Order shall constitute a direction to the Escrow Agent to deliver the funds held in the SLS Escrow to the Debtor. On the Effective Date, all of the Debtor's right, title and interest in and to the funds received from the release of the SLS Escrow shall automatically be vested in the Reorganized Debtor.

**Section 5.09. Revesting of Assets; Preservation of Causes of Action, Litigation Rights and Avoidance Actions; Release of Liens; Resulting Claim Treatment**

(a) **Except as otherwise provided herein, or in the Confirmation Order, and pursuant to section 1123(b)(3) and section 1141(b) and (c) of the Bankruptcy Code, on the Effective Date, all of the property and assets of the Debtor and all Causes of Action and Litigation Rights, including the Avoidance Actions, the Aurora Litigation and the SLS Claims (including, without limitation, those potential claims and causes of action identified on Schedule \_\_ to the Plan Supplement), shall be preserved by the Plan and shall automatically revest in the Reorganized Debtor, free and clear of all Claims, Liens and Interests. The Reorganized Debtor shall be appointed representative of the Estate pursuant to Bankruptcy Code section 1123(b) for all purposes related to the Causes of Action, Litigation Rights, and Avoidance Actions, including the Aurora Litigation and the SLS Claims (including, without limitation, those potential claims and causes of action identified on Schedule \_\_ to the Plan Supplement).** Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement entered into or delivered in connection with the Plan, in accordance with section 1123(b) of the Bankruptcy Code and to the fullest extent possible under applicable law, on the Effective Date, the Reorganized Debtor shall retain all Causes of Action, Litigation Rights, and Avoidance Actions and may enforce, and shall have the sole right to enforce or prosecute, any claims, demands, rights, and Causes of Action, Litigation Rights, and Avoidance Actions, that the Debtor may hold against any Entity, including, without limitation all Avoidance Actions, the Aurora Litigation and the SLS Claims (including, without limitation, those potential claims and causes of action identified on Schedule \_\_ hereto). The Reorganized Debtor or its successor may pursue such retained claims, demands,

rights and Causes of Action, Litigation Rights, and Avoidance Actions, and may exercise any and all rights, including, without limitation, the Aurora Litigation or the SLS Claims, as appropriate, in accordance with the best interests of the Reorganized Debtor or its successor holding such claims, demands, rights, Causes of Action, Litigation Rights, and Avoidance Actions.

(b) The Reorganized Debtor (directly or through the Disbursing Agent) shall make all Distributions under the Plan. Thereafter, the Reorganized Debtor may operate its business and may use, acquire, and dispose of such property free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Court. As of the Effective Date, all such property of the Reorganized Debtor shall be free and clear of all Claims, Liens and Interests, except as specifically provided in the Plan or the Confirmation Order and the Reorganized Debtor shall receive the benefit of any and all discharges under the Plan.

(c) If, as a result of the pursuit of any Causes of Action, Litigation Rights or Avoidance Actions, a Claim would arise from a recovery pursuant to section 550 of the Bankruptcy Code after Distributions under the Plan have commenced, making it impracticable to treat the Claim in accordance with the applicable provisions of Article VII of the Plan, the Reorganized Debtor shall be permitted to reduce the recovery by an amount that reflects the value of the treatment that would have been accorded to the Claim under the Plan, thereby effectively treating the Claim through the reduction.

#### **Section 5.10. Restructuring Transactions**

On, as of, or after the Effective Date, the Reorganized Debtor may enter into such transactions and may take such actions as may be necessary or appropriate, in accordance with any applicable state and federal law, to effect a corporate or operational restructuring of its business, to otherwise simplify the overall corporate or operational structure of the Reorganized Debtor, to achieve tax corporate or operational efficiencies and benefits for the Reorganized Debtor, the Debtor's Principals or holders of Interests in the Reorganized Debtor, or to otherwise improve financial results; provided that such transactions or actions are not otherwise inconsistent with the Plan, the Distributions to be made under the Plan or the New Governance Documents.

#### **Section 5.11. Effectuating Documents; Further Transactions**

The Manager, Chief Financial Officer, or any other appropriate officer of the Reorganized Debtor shall be authorized to execute, deliver, File, or record such contracts, instruments, releases, indentures, and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. In addition, and without limitation of the foregoing, the Secretary or Assistant Secretary of the Reorganized Debtor shall be authorized to certify or attest to any of the foregoing actions.

#### **Section 5.12. Exemption from Certain Transfer Taxes**

Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer from the Debtor to the

Reorganized Debtor or any other Person or Entity pursuant to this Plan, the granting or recording of any Lien or mortgage on any property under the Exit Facility, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment. State or local governmental officials or agents are directed to forego the collection of any such tax or governmental assessment and to accept for Filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

### **Section 5.13. Limited Liability Company Action**

On the Effective Date, the adoption and/or filing of the New Governance Documents, as applicable, the appointment of managers and/or officers of the Reorganized Debtor, and all actions contemplated hereby shall be authorized and approved in all respects pursuant to the Plan. All matters provided for herein involving the corporate structure of the Debtor or Reorganized Debtor, and any legal, identity, organization and action required by the Debtor or Reorganized Debtor in connection with the Plan, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the members or managers of the Debtor or Reorganized Debtor, except that the Debtor shall take affirmative steps to File the documents necessary to implement the Restructuring Transactions set forth in Section 5.12 (b) of the Plan. On the Effective Date, and pursuant to Section 303 of the General Corporation Law of the State of Delaware, the appropriate officers or managers of the Reorganized Debtor are authorized and directed to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated by the Plan in the name of and on behalf of the Reorganized Debtor without the need for any required approvals, authorizations, or consents, except for any express consents required under the Plan.

### **Section 5.14. Reorganized Debtor's Obligations Under the Plan**

From and after the Effective Date, the Reorganized Debtor shall exercise its reasonable discretion and business judgment to perform the corresponding obligations under the Plan of its predecessor or predecessor-in-interest. The Plan will be administered and actions will be taken in the name of the Debtor and the Reorganized Debtor. From and after the Effective Date, the Reorganized Debtor shall conduct, among other things, the following tasks:

- (a) Administer the Plan and take all steps and execute all instruments and documents necessary to effectuate the terms of the Plan;
- (b) Implement the governance provisions including without limitation the following, which shall be set forth in more detail in the New Governance Documents;
- (c) Accept appointment as Estate Representative and in that capacity pursue (including, as it determines through the exercise of its business judgment, investing, conducting discovery, prosecuting, enforcing, objecting to, litigating, reconciling, settling, abandoning, and resolving) all of the rights (including Litigation Rights), Claims, Causes of Action, defenses, and counterclaims retained by the Debtor or the Reorganized Debtor;

(d) Reconcile Claims and resolve Disputed Claims, and administer the Claims allowance and disallowance processes as set forth in the Plan, including objecting to, prosecuting, litigating, reconciling, settling, and resolving Claims and Disputed Claims in accordance with the Plan;

(e) Make decisions regarding the retention, engagement, payment, and replacement of professionals, employees and consultants;

(f) Administer the Distributions under the Plan, including (i) making Distributions in accordance with the terms of the Plan, and (ii) Filing with the Bankruptcy Court on each three (3) month anniversary of the Effective Date reports regarding the Distributions made and to be made to the Holders of Allowed Claims as required by the U.S. Trustee;

(g) Exercise such other powers as necessary or prudent to carry out the provisions of the Plan;

(h) File appropriate tax returns; and

(i) Take such other action as may be necessary or appropriate to effectuate the Plan.

(j) The Reorganized Debtor shall have the power and authority to perform the following acts: (a) secure its right title and interest in the assets revested in it by the Plan; (b) acquire possession of all such assets; (c) manage, operate and protect such assets pending their prosecution or sale and the conversion to Cash; (d) pay costs, expenses and fees deemed necessary to preserve such assets; (c) employ professionals, including attorneys, accountants, engineers, agents, brokers, tax specialist, appraisers and clerical and stenographic assistance that may be deemed necessary; (f) exercise Litigation Rights and prosecute and settle or compromise any Cause(s) of Action; (g) prepare and file tax returns and make elections allowed under tax laws; (h) sell or auction such assets for such purchase price and for Cash as deemed appropriate; (i) exchange such assets for other real or personal property; (j) convey title to the such assets; (k) authorize and make interim distributions to holders of Allowed Claims under the Plan; (l) invest proceeds from the sale of such assets in certain limited, conservative investments as specified under the Plan; (m) abandon assets deemed burdensome or of inconsequential value to the Creditors; (n) initiate objections to claims, or File causes of action which could be brought by a Trustee or debtor-in-possession under the Bankruptcy Code; (o) prepare and File with the Bankruptcy Court the Final Report and seek the entry of a Final Decree closing the Debtor's cases; and (p) pay U.S. Trustee fees or File any reports with the U.S. Trustee, without further Court order; provided however, that the Reorganized Debtor's power and authority shall be limited to those acts enumerated therein.

#### **Section 5.15. Transactions on Business Days**

If the date on which a transaction may occur under this Plan shall occur on a day that is not a Business Day, then such transaction shall instead occur on the next succeeding Business Day.

### **Section 5.16. Compromise and Settlement Under the Plan**

NOTWITHSTANDING ANYTHING CONTAINED IN THE PLAN TO THE CONTRARY, THE ALLOWANCE, CLASSIFICATION AND TREATMENT OF ALL ALLOWED CLAIMS AND ALLOWED INTERESTS AND THEIR RESPECTIVE DISTRIBUTIONS AND TREATMENTS HEREUNDER TAKE INTO ACCOUNT FOR AND CONFORM TO THE RELATIVE PRIORITY AND RIGHTS OF THE CLAIMS AND INTERESTS IN EACH CLASS IN CONNECTION WITH ANY CONTRACTUAL, LEGAL AND EQUITABLE SUBORDINATION RIGHTS RELATING THERETO. AS OF THE EFFECTIVE DATE, ANY AND ALL SUCH RIGHTS DESCRIBED IN THE PRECEDING SENTENCE ARE SETTLED, COMPROMISED AND RELEASED PURSUANT TO THE PLAN. THE CONFIRMATION ORDER SHALL CONSTITUTE THE BANKRUPTCY COURT'S FINDING AND DETERMINATION THAT THE SETTLEMENTS REFLECTED IN THE PLAN ARE (1) IN THE BEST INTERESTS OF THE DEBTOR AND ITS ESTATE, (2) FAIR, EQUITABLE AND REASONABLE, (3) MADE IN GOOD FAITH AND (4) APPROVED BY THE BANKRUPTCY COURT PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 9019. IN ADDITION, THE ALLOWANCE, CLASSIFICATION AND TREATMENT OF ALLOWED CLAIMS TAKES INTO ACCOUNT ANY CAUSES OF ACTION, CLAIMS OR COUNTERCLAIMS, WHETHER UNDER THE BANKRUPTCY CODE OR OTHERWISE UNDER APPLICABLE LAW, THAT MAY EXIST BETWEEN THE DEBTOR AND THE RELEASING PARTIES; AND AS BETWEEN THE RELEASING PARTIES AND THE RELEASEES. AS OF THE EFFECTIVE DATE, ANY AND ALL SUCH CAUSES OF ACTION, CLAIMS AND COUNTERCLAIMS ARE SETTLED, COMPROMISED AND RELEASED PURSUANT TO THE PLAN AND THE CONFIRMATION ORDER.

## **ARTICLE VI**

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

#### **Section 6.01. Assumption of Executory Contracts and Unexpired Leases**

(a) The Disclosure Statement shall set forth a Schedule of Unexpired Executory Contracts and Unexpired Leases To Be Assumed as of the Effective Date. The Confirmation Order shall constitute an order of the Bankruptcy Court approving the assumption or assumption and assignment, of such contracts as contemplated herein pursuant to section 365 of the Bankruptcy Code.

(b) Notwithstanding anything to the contrary in the Plan, the Debtor and the Reorganized Debtor reserve the right to assert that any license, franchise and partially performed contract is a property right and not an Executory Contract. Contracts or leases entered into after the Petition Date will be performed by the Reorganized Debtor in the ordinary course of business.

(c) Notwithstanding anything to the contrary in any contract, agreement or lease to which the Reorganized Debtor is a party, (a) the transactions contemplated by the Plan and (b) the consequences of the Plan's implementation shall not trigger any change of control or



similar provisions and shall not be voided by any restraints against assignment in any contract, agreement or lease governed by the Plan.

### **Section 6.02. Rejection of Executory Contracts and Unexpired Leases**

(a) Except as otherwise provided in the Plan, or in any contract, instrument, release, indenture, or other agreement or document entered into by the Debtor in connection with the Plan, as of the Effective Date, the Debtor shall be deemed to have rejected each prepetition written Executory Contract and Unexpired Lease to which it is a party unless such Executory Contract or Unexpired Lease (a) is expressly assumed or rejected pursuant to a Final Order prior to the Confirmation Date, (b) previously expired or terminated pursuant to its own terms, (c) is listed on the Schedule of Unexpired Executory Contracts and Unexpired Leases To Be Assumed Filed with the Plan Supplement, (d) is the subject of any pending motion, including to assume, to assume on modified terms, to reject or to make any other disposition Filed by the Debtor on or before ten (10) days prior to the Confirmation Date.

(b) The Confirmation Order shall constitute an order of the Bankruptcy Court approving the rejection of executory contracts as contemplated herein pursuant to section 365 of the Bankruptcy Code.

### **Section 6.03. Assignment of Executory Contracts and Unexpired Leases**

To the extent provided under the Bankruptcy Code or other applicable law, any Executory Contract or Unexpired Lease transferred and assigned pursuant to this Plan shall remain in full force and effect for the benefit of the transferee or assignee in accordance with its terms, notwithstanding any provision in such Executory Contract or Unexpired Lease (including those of the type described in section 365(b)(2) of the Bankruptcy Code) that prohibits, restricts or conditions such transfer or assignment. To the extent provided under the Bankruptcy Code or other applicable law, any provision that prohibits, restricts or conditions the assignment or transfer of any such Executory Contract or Unexpired Lease or that terminates or modifies such Executory Contract or Unexpired Lease or allows the counterparty to such Executory Contract or Unexpired Lease to terminate, modify, recapture, impose any penalty, condition renewal or extension or modify any term or condition upon any such transfer and assignment constitutes an unenforceable anti-assignment provision and is void and of no force or effect.

### **Section 6.04. Cure Rights for Executory Contracts and Unexpired Leases Assumed Under the Plan**

Any monetary amounts by which each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by Cure. If there is a dispute regarding (a) the nature or amount of any Cure, (b) the ability of any Reorganized Debtor or any assignee 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 (c) any other matter pertaining to assumption, Cure shall occur following the entry of a Final Order by the Bankruptcy Court resolving the dispute and approving the assumption or assumption and assignment, as the case may be; provided, however, that the Debtor or Reorganized Debtor, as applicable, shall be authorized to reject any Executory

Contract or Unexpired Lease to the extent the Debtor or Reorganized Debtor, in the exercise of its sound business judgment, concludes that the amount of the Cure obligation as determined by such Final Order, renders assumption of such Executory Contract or Unexpired Lease unfavorable to the Debtor or Reorganized Debtor. Cure amounts are listed in the Plan Supplement, which shall be Filed at least ten (10) days prior to the Confirmation Hearing as part of the Plan Supplement. If no Cure amount for an assumed Executory Contract or Unexpired Lease is listed in the Plan Supplement, the Cure amount shall be deemed to be \$0.

#### **Section 6.05. Rejection Damages Bar Date for Rejections Pursuant to Plan**

If the rejection of an Executory Contract or Unexpired Lease pursuant to the Plan results in a Claim, then such Claim shall be forever barred and shall not be enforceable against the Debtor, its Estate, the Reorganized Debtor or any of its properties unless a Proof of Claim is Filed with the claims agent and served upon counsel to the Reorganized Debtor within thirty (30) days after entry of the Confirmation Order. The foregoing applies only to Claims arising from the rejection of an Executory Contract or Unexpired Lease pursuant to the Plan; any other Claims held by a party to a rejected contract or lease shall have been evidenced by a Proof of Claim Filed by earlier applicable Bar Dates or shall be barred and unenforceable.

#### **Section 6.06. Certain Indemnification Obligations Owed by Debtor**

(a) Indemnification Obligations owed to managers, directors, officers, and employees of the Debtor (or the Estate) who served or were employed by the Debtor as of and after the Petition Date, shall be deemed to be, and shall be treated as though they are, Executory Contracts that are assumed pursuant to section 365 of the Bankruptcy Code and Section 6.01 of the Plan. Notwithstanding the foregoing, the Reorganized Debtor shall not assume any claim for liability, reimbursement obligations, contributions or indemnity concerning the contractual obligations of directors or officers of the Debtor, including, without limitation, the contractual guaranties.

(b) All Indemnification Obligations owed to managers, directors, officers, and employees of the Debtor who served or were employed by the Debtor on or prior to, but not after, the Petition Date shall be deemed to be, and shall be treated as though they are, Executory Contracts that are rejected pursuant to section 365 of the Bankruptcy Code under the Plan.

(c) Indemnification Obligations owed to any Professionals retained pursuant to sections 327 or 328 of the Bankruptcy Code and order of the Bankruptcy Court, to the extent that such Indemnification Obligations relate to the period after the Petition Date, excluding claims resulting from gross negligence, willful misconduct, breach of fiduciary duty, self-interested transactions or intentional tort, shall be deemed to be, and shall be treated as though they are, Executory Contracts that are assumed pursuant to section 365 of the Bankruptcy Code and Section 6.01 of the Plan.

#### **Section 6.07. Continuing Obligations Owed to Debtor**

(a) Any confidentiality agreement entered into between the Debtor and any other Person requiring the parties to maintain the confidentiality of each other's proprietary information shall be deemed to be, and shall be treated as though it is, an Executory Contract that

is assumed and assigned pursuant to section 365 of the Bankruptcy Code and Section 6.01 of the Plan, except as otherwise provided in the Plan.

(b) Any indemnity agreement entered into between the Debtor and any other Person requiring the supplier to provide insurance in favor of the Debtor, to warrant or guarantee such supplier's goods or services, or to indemnify the Debtor for claims arising from the goods or services shall be deemed to be, and shall be treated as though it is, an Executory Contract that is assumed and assigned pursuant to section 365 of the Bankruptcy Code and Section 6.01 of the Plan; provided, however, that if any party thereto asserts any Cure, at the election of the Debtor such agreement shall not be deemed assumed, and shall instead be rejected pursuant to section 365 of the Bankruptcy Code under the Plan.

(c) Continuing obligations of third parties to the Debtor under insurance policies, contracts, or leases that have otherwise ceased to be executory or have otherwise expired on or prior to the Effective Date, including, without limitation, continuing obligations to pay insured claims, to defend against and process claims, to refund premiums or overpayments, to provide indemnification, contribution or reimbursement, to grant rights of first refusal, to maintain confidentiality, or to honor releases, shall continue and shall be binding on such third parties notwithstanding any provision to the contrary in the Plan, unless otherwise specifically terminated by the Debtor or by order of Bankruptcy Court.

(d) To the extent any insurance policy under which the insurer has a continuing obligation to pay the Debtor or a third party on behalf of the Debtor is held by the Bankruptcy Court to be an Executory Contract, such insurance policy shall be treated as though it is an Executory Contract that is assumed pursuant to section 365 of the Bankruptcy Code and Section 6.01 of the Plan. Any and all Claims (including Cure) arising under or related to any insurance policies or related insurance agreements that are assumed by the Debtor prior to or as of the Effective Date: (i) shall not be discharged; (ii) shall be Allowed Administrative Claims; and (iii) shall be paid in full in the ordinary course of business of the Reorganized Debtor as set forth in Section 3.01(a) of the Plan.

#### **Section 6.08. Limited Extension of Time to Assume or Reject**

In the event of a dispute as to whether a contract or lease between the Debtor and a Person that is not an Insider is executory or unexpired, the right of the Debtor or the Reorganized Debtor to move to assume or reject such contract or lease shall be extended until the date that is thirty (30) days after entry of a Final Order by the Bankruptcy Court determining that the contract or lease is executory or unexpired, provided such dispute is pending as of the Confirmation Date.

#### **Section 6.09. Postpetition Contracts and Leases**

The Debtor shall not be required to assume or reject any contract or lease entered into by the Debtor after the Petition Date. Any such contract or lease shall continue in effect in accordance with its terms after the Effective Date, unless the Reorganized Debtor has obtained a Final Order of the Bankruptcy Court approving termination of such contract or lease. Contracts

or leases entered into after the Petition Date will be performed by the Reorganized Debtor in the ordinary course of its business.

### **Section 6.10. Treatment of Claims Arising from Assumption or Rejection**

All Allowed Claims for Cure arising from the assumption of any Executory Contract or Unexpired Lease shall be treated as Administrative Claims pursuant to Section 2.02 of the Plan; all Allowed Claims arising from the rejection of an Executory Contract or Unexpired Lease shall be treated, to the extent applicable, as General Unsecured Claims, unless otherwise ordered by Final Order of the Bankruptcy Court; and all other Allowed Claims relating to an Executory Contract or Unexpired Lease shall have such status as they may be entitled to under the Bankruptcy Code as determined by Final Order of the Bankruptcy Court.

## **ARTICLE VII**

### **PROVISIONS GOVERNING DISTRIBUTIONS**

#### **Section 7.01. Distributions for Allowed Claims**

(a) Except as otherwise provided herein or as ordered by the Bankruptcy Court, all Distributions to Holders of Allowed Claims as of the applicable Distribution Date shall be made on or as soon as practicable after the applicable Distribution Date. Distributions on account of Claims that first become Allowed Claims after the applicable Distribution Date shall be made pursuant to Section 8.02 of the Plan and on such day as selected by the Reorganized Debtor, in its sole discretion.

(b) The Reorganized Debtor shall have the right, in its sole and absolute discretion, to accelerate any Distribution Date occurring after the Effective Date if the facts and circumstances so warrant.

#### **Section 7.02. Interest on Claims**

Unless otherwise specifically provided for in the Plan or the Confirmation Order, postpetition interest shall not accrue or be paid on Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim. Unless otherwise specifically provided for in the Plan or the Confirmation Order, interest shall not accrue or be paid upon any Claim in respect of the period from the Petition Date to the date a final Distribution is made thereon if and after such Claim becomes an Allowed Claim.

#### **Section 7.03. Designation; Distributions by Disbursing Agent**

(a) The Reorganized Debtor or the Disbursing Agent on its behalf shall make all Distributions required to be made to Holders of Class 3, 4, and 5 Claims and Class 4 Interests, on the respective Distribution Dates under the Plan and such other Distributions to other Holders of Claims or Interests in the Debtor as are required to be made or delegated to the Disbursing Agent by the Reorganized Debtor.

(b) If the Disbursing Agent is an independent third party designated to serve in such capacity, such Disbursing Agent shall receive, without further approval from the Bankruptcy Court, reasonable compensation for distribution services rendered pursuant to the Plan and reimbursement of reasonable out of pocket expenses incurred in connection with such services from the Reorganized Debtor. No Disbursing Agent shall be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court.

#### **Section 7.04. Means of Cash Payment**

(a) Cash payments under this Plan shall be in U.S. funds, and shall be made, at the option, and in the sole discretion, of the Reorganized Debtor, by (i) checks drawn on or (ii) wire transfers from a domestic bank selected by the Reorganized Debtor. Cash payments to foreign Creditors may be made, at the option, and in the sole discretion, of the Reorganized Debtor, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction. Cash payments made pursuant to this Plan in the form of checks issued by the Reorganized Debtor shall be null and void if not cashed within 120 days of the date of the issuance thereof. Requests for reissuance of any check shall be made directly to the Reorganized Debtor.

(b) For purposes of effectuating Distributions under the Plan, any Claim denominated in foreign currency shall be converted to U.S. Dollars pursuant to the applicable published exchange rate in effect on the Petition Date.

#### **Section 7.05. Fractional Distributions**

Notwithstanding any other provision of the Plan to the contrary, no cash payments of fractions of cents will be made. Fractional cents shall be rounded to the nearest whole cent (with .5 cent or less to be rounded down).

#### **Section 7.06. *De Minimis* Distributions**

Notwithstanding anything to the contrary contained in the Plan, the Disbursing Agent shall not be required to distribute, and shall not distribute, Cash or other property to the Holder of any Allowed Claim if the amount of Cash or other property to be distributed on account of such Claim is less than \$50. Any Holder of an Allowed Claim on account of which the amount of Cash or other property to be distributed is less than such amount shall have such Claim discharged and shall be forever barred from asserting such Claim against the Debtor, the Reorganized Debtor or their respective property. Any Cash or other property not distributed pursuant to this provision shall be the property of the Reorganized Debtor, free of any restrictions thereon.

#### **Section 7.07. Delivery of Distributions**

Distributions to Holders of Allowed Claims shall be made by the Disbursing Agent (a) at the addresses set forth on the Proofs of Claim Filed by such Holders, (b) at the addresses reflected in the Schedules if no Proof of Claim has been Filed, or (c) at the addresses set forth in any written notices of address changes delivered to the Debtor, the Reorganized Debtor or the

Disbursing Agent after the date of any related Proof of Claim or after the date of the Schedules if no Proof of Claim was Filed. If any Holder's Distribution is returned as undeliverable, a reasonable effort shall be made to determine the current address of such Holder, but no further Distributions to such Holder shall be made unless and until the Disbursing Agent is notified of such Holder's then current address, at which time all missed Distributions shall be made to such Holder without interest. Unless otherwise agreed between the Reorganized Debtor and the Disbursing Agent, amounts in respect of undeliverable Distributions made by the Disbursing Agent shall be returned to the Reorganized Debtor, and held in trust by the Reorganized Debtor, until such Distributions are claimed, at which time the applicable amounts shall be returned to the Disbursing Agent for distribution pursuant to the Plan. All claims for undeliverable Distributions must be made on or before the second (2<sup>nd</sup>) anniversary of the Initial Distribution Date, after which date all unclaimed property shall revert to the Reorganized Debtor free of any restrictions thereon and the claims of any Holder or successor to such Holder with respect to such property shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary. Nothing contained in the Plan shall require the Debtor, the Reorganized Debtor or any Disbursing Agent to attempt to locate any Holder of an Allowed Claim.

#### **Section 7.08. Application of Distribution Record Date**

At the close of business on the Distribution Record Date, the claims registers for all Claims shall be closed, and there shall be no further changes in the record Holders of such Claims. Except as provided herein, the Reorganized Debtor, the Disbursing Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize any transfer of Claims occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record Holders stated on the claims registers as of the close of business on the Distribution Record Date irrespective of the number of Distributions to be made under the Plan to such Persons or the date of such Distributions.

#### **Section 7.09. Withholding, Payment and Reporting Requirements**

In connection with the Plan and all Distributions under the Plan, the Disbursing Agent shall, to the extent applicable, comply with all tax withholding, payment, and reporting requirements imposed by any federal, state, provincial, local, or foreign taxing authority, and all Distributions under the Plan shall be subject to any such withholding, payment, and reporting requirements. The Disbursing Agent shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding, payment, and reporting requirements. Notwithstanding any other provision of the Plan, (a) each Holder of an Allowed Claim that is to receive a Distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding, and other tax obligations, on account of such Distribution, and including, in the case of any Holder of a Disputed General Unsecured Claim that has become an Allowed General Unsecured Claim, any tax obligation that would be imposed upon the Reorganized Debtor in connection with such Distribution, and (b) no Distribution shall be made to or on behalf of such Holder pursuant to the Plan unless and until such Holder has made arrangements satisfactory to the Disbursing Agent for the payment and satisfaction of such withholding tax obligations or such tax obligation that would be imposed upon the Reorganized Debtor in

connection with such Distribution. Any property to be distributed pursuant to the Plan shall, pending the implementation of such arrangements, be treated as an undeliverable Distribution pursuant to Section 7.06 of the Plan.

#### **Section 7.10. Setoffs**

The Reorganized Debtor may, but shall not be required to, set off against any Claim or any Allowed Claim, and the payments or other Distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever that the Debtor or the Reorganized Debtor may have against the Holder of such Claim; provided, however, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Reorganized Debtor of any such claim that the Debtor or the Reorganized Debtor may have against such Holder.

#### **Section 7.11. Pre-Payment**

Except as otherwise provided in the Plan, any ancillary documents entered into in connection herewith, or the Confirmation Order, the Reorganized Debtor shall have the right to pre-pay, without penalty, all or any portion of an Allowed Claim entitled to payment in Cash at any time.

#### **Section 7.12. No Distribution in Excess of Allowed Amounts**

Notwithstanding anything to the contrary herein, no Holder of an Allowed Claim shall receive in respect of such Claim any Distribution of a value as of the Effective Date in excess of the Allowed amount of such Claim (excluding payments on account of interest due and payable from and after the Petition Date pursuant to the Plan, if any).

#### **Section 7.13. Allocation of Distributions**

All Distributions received under the Plan by Holders of Claims shall be deemed to be allocated first to the principal amount of such Claim as determined for United States federal income tax purposes and then to accrued interest, if any, with respect to such Claim.

### **ARTICLE VIII**

#### **PROCEDURES FOR RESOLVING DISPUTED, CONTINGENT, AND UNLIQUIDATED CLAIMS AND DISTRIBUTIONS WITH RESPECT THERETO**

##### **Section 8.01. Prosecution of Objections to Claims**

###### **(a) Objections to Claims; Estimation Proceedings**

Except as set forth in the Plan or any applicable Bankruptcy Court order, all objections to Claims must be Filed and served on the Holders of such Claims by the Claims Objection Bar Date, as the same may be extended by the Bankruptcy Court upon motion by the Debtor, the Reorganized Debtor or any other party-in-interest. If a timely objection has not been Filed to a Proof of Claim or the Schedules have not been amended with respect to a Claim that (i) was

Scheduled by the Debtor but (ii) was not Scheduled as contingent, unliquidated, and/or disputed, the Claim to which the Proof of Claim or Scheduled Claim relates will be treated as an Allowed Claim if such Claim has not been Allowed earlier. No payments or Distributions shall be made on account of a Claim until such Claim becomes an Allowed Claim. Notice of any motion for an order extending any Claims Objection Bar Date shall be required to be given only to those Persons or Entities that have requested notice in the Chapter 11 Case, or to such Persons as the Bankruptcy Court shall order.

The Debtor (prior to the Effective Date) or Reorganized Debtor may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the Bankruptcy Code, regardless of whether the Debtor or the Reorganized Debtor has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event the Bankruptcy Court so estimates any contingent or unliquidated Claim, that estimated amount shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court, as applicable. If the estimated amount constitutes a maximum limitation on such Claim, the Reorganized Debtor may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned Claims objection, estimation, and resolution procedures are cumulative and are not necessarily exclusive of one another. Claims may be estimated and thereafter resolved by any permitted mechanisms.

The Reorganized Debtor will have no obligation to review and/or respond to any Claim that is not Filed by the applicable Bar Date unless: (i) the filer has obtained an order from the Bankruptcy Court authorizing it to File such Claim; or (ii) the Reorganized Debtor has consented to the Filing of such Claim in writing.

(b) Authority to Prosecute Objections

After the Effective Date, only the Reorganized Debtor shall have the authority to File objections to Claims and to settle, compromise, withdraw, or litigate to judgment objections to Claims, including, without limitation, Claims for reclamation under section 546(c) of the Bankruptcy Code. The Reorganized Debtor may settle or compromise any Disputed Claim without approval of the Bankruptcy Court.

**Section 8.02. Treatment of Disputed Claims**

(a) No Distribution Pending Allowance

Notwithstanding any other provisions of the Plan, no payments or Distributions will be made on account of a Disputed Claim or, if less than the entire Claim is a Disputed Claim, the portion of a Claim that is Disputed, until such Disputed Claim becomes an Allowed Claim.

(b) Distributions on Accounts of Disputed Claims Once They are Allowed

The Disbursing Agent shall, on the Distribution Date and on each Subsequent Distribution Date, make Distributions on account of any Disputed Claim that has become an



Allowed Claim. Such Distributions shall be made pursuant to the provisions of the Plan governing the applicable Class. Such Distributions shall be based upon the Distributions that would have been made to the Holder of such Claim under the Plan if the Disputed Claim had been an Allowed Claim on the Effective Date in the amount ultimately Allowed.

### **Section 8.03. Accounts; Escrows; Reserves**

The Debtor and Reorganized Debtor shall, subject to and in accordance with the provisions of this Plan (a) establish one or more general accounts into which shall be deposited all funds not required to be deposited into any other account, reserve or escrow, (b) create, fund and withdraw funds from, as appropriate, the Administrative Claims Reserve, and the Professional Fee Reserve and (c) if practicable, invest any Cash that is withheld as the applicable claims reserve in an appropriate manner to ensure the safety of the investment. Nothing in this Plan or the Disclosure Statement shall be deemed to entitle the Holder of a Disputed Claim to postpetition interest on such Claim, however.

#### **(a) Administrative Claims Reserve**

On the Effective Date (or as soon thereafter as is practicable), the Debtor or Reorganized Debtor shall create and fund the Administrative Claims Reserve in the amount budgeted to be used by the Reorganized Debtor to pay Distributions on account of Allowed Administrative Claims, including Claims under section 503(b)(9) of the Bankruptcy Code and lease payments under section 365(d)(5) of the Bankruptcy Code. To the extent necessary to fund payments to Allowed Claims thereunder, the funds in the Administrative Claims Reserve shall be periodically replenished by the Reorganized Debtor in such amounts as may be determined by the Reorganized Debtor in its sole discretion. The Reorganized Debtor shall be obligated to pay all Allowed Administrative Claims designated to be paid from the proceeds of the Administrative Claims Reserve thereunder in excess of the amounts actually deposited in the Administrative Claims Reserve. In the event that any Cash remains in the Administrative Claims Reserve after payment of all Allowed Administrative Claims to be paid thereunder, such Cash shall be distributed to the Reorganized Debtor as provided in Section 7.06 hereof.

#### **(b) Professional Fee Reserve**

The Debtor or Reorganized Debtor shall create and fund the Professional Fee Reserve on the Effective Date (or as soon thereafter as is practicable) in the amount of the budgeted but unpaid Professional fees projected through the Effective Date, which amount shall be used to pay Allowed Professional Fee Claims held by any professionals working on behalf of the Debtor. The Reorganized Debtor shall be obligated to pay all Allowed Professional Fee Claims even if in excess of the amounts actually deposited in the Professional Fee Reserve. In the event that any Cash remains in the Professional Fee Reserve after payment of all Allowed Professional Fee Claims, such Cash will be distributed to the Reorganized Debtor as provided by Section 7.07 hereof.

#### **(c) Disputed Claims Reserve**

On the Effective Date and on each subsequent Distribution Date, the Debtor or Reorganized Debtor shall withhold on a Pro Rata basis from property that would otherwise be

distributed to Classes of Claims entitled to Distributions under the Plan on such date, in a separate Disputed Claims Reserve, such amounts or property as may be necessary to equal one hundred percent (100%) of Distributions to which Holders of such Disputed Claims would be entitled under this Plan if such Disputed Claims were allowed in their Disputed Claim Amount. The Debtor or Reorganized Debtor may request, if necessary, estimation for any Disputed Claim that is contingent or unliquidated, or for which the Debtor or Reorganized Debtor determine to reserve less than the Face Amount. The Debtor or Reorganized Debtor shall withhold the applicable portion of the Disputed Claims Reserve with respect to such Claims based upon the estimated amount of each such Claim as estimated by the Bankruptcy Court. If the Debtor or Reorganized Debtor elect not to request such an estimation from the Bankruptcy Court with respect to a Disputed Claim that is contingent or unliquidated, the Debtor or Reorganized Debtor shall withhold the applicable Disputed Claims Amount based upon the good faith estimate of the amount of such Claim by the Debtor or the Reorganized Debtor after the Effective Date. If practicable, the Debtor or Reorganized Debtor will invest any Cash that is withheld as the applicable Disputed Claims Reserve in an appropriate manner to ensure the safety of the investment. Nothing in this Plan or the Disclosure Statement shall be deemed to entitle the Holder of a Disputed Claim to postpetition interest on such Claim, however, except as otherwise provided in the Plan.

(d) Reorganized Debtor Expense Reserve

The Debtor or Reorganized Debtor shall create and fund the Reorganized Debtor Expense Reserve on the Effective Date (or as soon thereafter as is practicable) in the amount of the projected Reorganized Debtor Expenses listed on Schedule [ ] to the Plan Supplement. Amounts held in the Reorganized Debtor Expense Reserve shall be used to pay Expense Claims held by any professionals working on behalf of the Debtor, as approved by the Bankruptcy Court on a quarterly basis, upon submission of appropriate fee applications, on notice to the U.S. Trustee and all parties having requested notices in the bankruptcy case. The Reorganized Debtor shall be entitled to apply to the Bankruptcy Court, within forty-five (45) days prior to a Subsequent Distribution Date, that additional amounts be added to the Reorganized Debtor Expense Reserve prior to distribution of amounts payable to Creditors and Interests under this Plan. In the event that any Cash remains in the Reorganized Debtor Expense Reserve after payment of all Allowed Professional Fee Claims, such Cash will be distributed to the Reorganized Debtor as provided by Section 7.07 hereof.

## ARTICLE IX

### CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN

#### Section 9.01. Conditions to Confirmation

The following conditions precedent to the occurrence of the Confirmation Date must be satisfied unless any such condition shall have been waived by the Debtor:

(a) The Confirmation Order shall have been entered in form and substance satisfactory to the Debtor, and shall, among other things:

(i) provide that the Debtor and the Reorganized Debtor are authorized and directed to take all actions necessary or appropriate to enter into, implement, and consummate the Plan and all related contracts, instruments, releases, leases, indentures and other agreements or documents created in connection with the Plan or necessary to implement the Plan;

(ii) authorize the issuance of the New Common LLC Interests;

(b) The Bankruptcy Court finds that adequate information and sufficient notice of the Disclosure Statement, the Plan and the Confirmation Hearing, along with all deadlines for voting on or objecting to the Plan have been given to all relevant parties in accordance with the solicitation procedures governing such service and in substantial compliance with Bankruptcy Rules 2002(b), 3017, 9019, and 3020(b); and

(c) The Plan and all Plan Supplement documents, including any exhibits, schedules, amendments, modifications or supplements thereto, shall be acceptable to the Debtor.

#### **Section 9.02. Conditions to the Effective Date**

The following conditions precedent to the occurrence of the Effective Date must be satisfied or waived by the Debtor on or prior to the Effective Date in accordance with Section 9.04 of the Plan:

(a) Each of the exhibits to the Plan and any other necessary documents shall be fully executed and delivered to the Debtor, shall be in form and substance reasonably acceptable to the Debtor, and shall be fully enforceable in accordance with their terms.

(b) The Contribution shall have been made to the Debtor.

(c) The Escrow Agent shall have released all funds in SLS Escrow to Debtor.

#### **Section 9.03. Notice of Occurrence of the Effective Date**

The Debtor or Reorganized Debtor shall File a notice of the occurrence of the Effective Date within five (5) business days thereafter.

#### **Section 9.04. Waiver of Conditions**

The conditions set forth in Section 9.02(a) may be waived in whole or in part by the Debtor without any notice to parties-in-interest or the Bankruptcy Court and without a hearing.

#### **Section 9.05. Consequences of Non-Occurrence of Effective Date**

If the Confirmation Order is vacated, (a) the Plan shall be null and void in all respects; (b) any settlement of Claims or Interests in the Debtor provided for hereby shall be null and void

without further order of the Bankruptcy Court; and (c) to the extent permitted under the Bankruptcy Code, the time within which the Debtor may assume and assign or reject all Executory Contracts and Unexpired Leases shall be extended for a period of one hundred twenty (120) days after the date the Confirmation Order is vacated.

## **ARTICLE X**

### **RETENTION OF JURISDICTION**

#### **Section 10.01. Scope of Retention of Jurisdiction**

Under sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, and except as otherwise ordered by the Bankruptcy Court, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, this Chapter 11 Case and the Plan to the fullest extent permitted by law (provided, however, that notwithstanding the foregoing, with respect to all civil proceedings arising in or related to the Chapter 11 Case and the Plan, the Bankruptcy Court shall have original but not exclusive jurisdiction, in accordance with section 1334(b) of title 28 of the United States Code), including, among other things, jurisdiction to:

(a) allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured, or unsecured status of any Claim or Interest not otherwise Allowed under the Plan (other than personal injury or wrongful death Claims, unless agreed by the Holder), including the resolution of any request for payment of any Administrative Claim and the resolution of any objections to the allowance or priority of Claims or Interests in the Debtor;

(b) hear and determine all applications for compensation and reimbursement of expenses of Professionals under the Plan or under sections 327, 328, 330, 331, 503(b), 1103, and 1129(a)(4) of the Bankruptcy Code; provided, however, that from and after the Effective Date, the payment of the fees and expenses of the Professionals of the Reorganized Debtor shall be made in the ordinary course of business and shall not be subject to the approval of the Bankruptcy Court;

(c) hear and determine all matters with respect to the assumption or rejection of any Executory Contract or Unexpired Lease to which the Debtor is a party or with respect to which the Debtor may be liable, including, if necessary, the nature or amount of any required Cure or the liquidation or allowance of any Claims arising therefrom;

(d) effectuate performance of and payments under the provisions of the Plan and enforce remedies upon any default under the Plan;

(e) hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters arising out of, under, or related to, the Chapter 11 Case (including pursuant to the SLS Jurisdiction Agreement), the Avoidance Actions, the Aurora Litigation, the Litigation Rights, the Causes of Action or the Plan, including without limitation the enforcement of the injunction provisions contained in Section 11.12 of the Plan;

(f) enter such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan, the Disclosure Statement or the Confirmation Order;

(g) hear and determine disputes arising in connection with the interpretation, implementation, consummation, or enforcement of the Plan, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;

(h) consider any modifications of the Plan, cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

(i) issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Person or Entity with the implementation, consummation, or enforcement of the Plan or the Confirmation Order;

(j) enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified, or vacated;

(k) hear and determine any matters arising in connection with or relating to the Plan, the Plan Supplement, the schedules to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, or other agreement or document created in connection with the Plan, the Plan Supplement, the schedules to the Plan, the Disclosure Statement, or the Confirmation Order;

(l) enforce, interpret, and determine any disputes arising in connection with any stipulations, orders, judgments, injunctions, releases, exculpations, indemnifications, and rulings entered in connection with the Chapter 11 Case (whether or not the Chapter 11 Case has been closed);

(m) except as otherwise limited herein, recover all assets of the Debtor and property of the Estate, wherever located;

(n) hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

(o) hear and determine all disputes involving the existence, nature, or scope of the Debtor's discharge;

(p) hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, the provisions of the Bankruptcy Code; and

(q) enter a final decree closing the Chapter 11 Case.

### **Section 10.02. Failure of the Bankruptcy Court to Exercise Jurisdiction**

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to the Chapter 11 Case, including the matters set forth in Section 10.01 of the Plan, the provisions of this Article X shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court having jurisdiction with respect to such matter.

## **ARTICLE XI**

### **MISCELLANEOUS PROVISIONS**

#### **Section 11.01. Administrative Claims**

All Administrative Expense Requests (other than as set forth in Sections 3.01(a), 11.02 or this Section 11.01 of the Plan) must be made by application Filed with the Bankruptcy Court and served on counsel for the Reorganized Debtor **no later than forty-five (45) days after the Effective Date** or their Administrative Claims shall be forever barred. In the event that the Reorganized Debtor objects to an Administrative Claim, the Bankruptcy Court shall determine the Allowed amount of such Administrative Claim. Notwithstanding the foregoing, (a) no application seeking payment of an Administrative Claim need be Filed with respect to an undisputed postpetition obligation which was paid or is payable by the Debtor in the ordinary course of business, including obligations to Insiders as set forth in the monthly budgets attached to the Debtor's monthly operating reports; provided, however, that in no event shall a postpetition obligation that is contingent or disputed and subject to liquidation through pending or prospective litigation, including, but not limited to, alleged obligations arising from personal injury, property damage, products liability, consumer complaints, employment law (excluding claims arising under workers' compensation law), secondary payor liability, or any other disputed legal or equitable claim based on tort, statute, contract, equity, or common law, be considered to be an obligation which is payable in the ordinary course of business; and (b) no application seeking payment of an Administrative Claim need be Filed with respect to Cure owing under an Executory Contract or Unexpired Lease if the amount of Cure is fixed or proposed to be fixed by order of the Bankruptcy Court pursuant to a motion to assume and fix the amount of Cure Filed by the Debtor and a timely objection asserting an increased amount of Cure Filed by the non-Debtor party to the subject contract or lease; provided further, however, that postpetition statutory tax claims shall not be subject to the Administrative Claims Bar Date.

With respect to Administrative Claims, the last day for Filing an objection to any Administrative Expense Claim will be the later of (a) 180 days after the Effective Date, (b) 90 days after the filing of such Administrative Claim or (c) such other date specified in the Plan or ordered by the Bankruptcy Court.

#### **Section 11.02. Professional Fee Claims**

(a) All final requests for payment of Professional Fee Claims pursuant to sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code must be made by application Filed with the Bankruptcy Court and served on the Reorganized Debtor, their

counsel, and other necessary parties-in-interest **no later than sixty (60) days after the Effective Date**, unless otherwise ordered by the Bankruptcy Court. Objections to such applications must be Filed and served on the Reorganized Debtor, its counsel, and the requesting Professional or other Entity on or before the date that is thirty (30) days (or such longer period as may be allowed by order of the Bankruptcy Court) after the date on which the applicable application was served.

(b) The Reorganized Debtor may, without application to or approval by the Bankruptcy Court, retain professionals and pay reasonable professional fees and expenses in connection with services rendered to it after the Effective Date.

### **Section 11.03. Payment of Statutory Fees**

All fees payable pursuant to section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid on or before the Effective Date. All such fees that arise after the Effective Date shall be paid by the Reorganized Debtor. The obligation of each of the Reorganized Debtor to pay quarterly fees to the Office of the United States Trustee pursuant to section 1930 of title 28 of the United States Code shall continue until such time as the Debtor's case is closed.

### **Section 11.04. Modifications and Amendments**

(a) The Debtor may by mutual agreement alter, amend, or modify the Plan or any exhibits thereto under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date. The Debtor shall provide parties-in-interest with notice of such amendments or modifications as may be required by the Bankruptcy Rules or order of the Bankruptcy Court. A Holder of a Claim or Interest that has accepted the Plan shall be deemed to have accepted the Plan, as altered, amended, modified, or clarified, if the proposed alteration, amendment, modification, or clarification does not materially and adversely change the treatment of the Claim or Interest of such Holder. In the event of any dispute as to whether such proposed alteration, amendment, modification, or clarification materially and adversely changes the treatment of the Claim or Interest of any such Holder, the Debtor shall bear the burden of demonstrating that such proposed alteration, amendment, modification, or clarification does not materially adversely change the treatment of the Claim or Interest of such Holder.

(b) After the Confirmation Date and prior to substantial consummation (as defined in section 1101(2) of the Bankruptcy Code) of the Plan, the Debtor or Reorganized Debtor, as applicable, may, under section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or to reconcile any inconsistencies in the Plan, the Disclosure Statement approved with respect to the Plan, or the Confirmation Order, and such matters as may be necessary to carry out the purpose and effect of the Plan so long as such proceedings do not adversely affect the treatment of Holders of Claims or Interests in the Debtor under the Plan; provided, however, that, to the extent required, prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or an order of the Bankruptcy Court. A Holder of a Claim or Interest that has accepted the Plan shall be deemed to have accepted the Plan, as altered, amended, modified, or clarified, if the proposed alteration, amendment, modification, or clarification does not materially and adversely change the treatment

of the Claim or Interest of such Holder. In the event of any dispute as to whether such proposed alteration, amendment, modification, or clarification materially and adversely changes the treatment of the Claim or Interest of any such Holder, the Debtor or Reorganized Debtor, as the case may be, shall bear the burden of demonstrating that such proposed alteration, amendment, modification, or clarification does not materially adversely change the treatment of the Claim or Interest of such Holder.

#### **Section 11.05. Continuing Exclusivity and Solicitation Period**

Subject to further order of the Bankruptcy Court, until the Effective Date, the Debtor shall, pursuant to section 1121 of the Bankruptcy Code, retain the exclusive right to amend the Plan and to solicit acceptances thereof, and any modifications or amendments thereto.

#### **Section 11.06. Severability of Plan Provisions**

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtor, shall have the power to alter and interpret such term or provision to make 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 shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall 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.

#### **Section 11.07. Successors and Assigns and Binding Effect**

The rights, benefits, and obligations of any Person or Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, personal representative, successor, or assign of such Person or Entity, including, but not limited to, the Reorganized Debtor and all other parties-in-interest in the Chapter 11 Case.

#### **Section 11.08. Compromises and Settlements**

From and after the Effective Date, the Reorganized Debtor may compromise and settle various Claims against or Interests in the Debtor, Litigation Rights, and/or Avoidance Actions that they may have against other Persons or Entities without any further approval by the Bankruptcy Court.

Until the Effective Date, the Debtor expressly reserves the right to compromise and settle (subject to the approval of the Bankruptcy Court) Claims against or Interests in the Debtor, Avoidance Actions, Litigation Rights or other claims that it may have against other Persons or Entities.



### **Section 11.09. Releases and Satisfaction of Subordination Rights**

All Claims against the Debtor and all rights and claims between or among the Holders of Claims relating in any manner whatsoever to any claimed subordination rights shall be deemed satisfied by the Distributions under, described in, contemplated by, and/or implemented in Article III of the Plan. Distributions under, described in, contemplated by, and/or implemented by the Plan to the various Classes of Claims or Interests hereunder shall not be subject to levy, garnishment, attachment, or like legal process by any Holder of a Claim or Interest by reason of any claimed subordination rights or otherwise, so that each Holder of a Claim or Interest shall have and receive the benefit of the Distributions in the manner set forth in the Plan.

### **Section 11.10. Releases and Related Matters**

#### **(a) Releases by Debtor**

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtor, the Reorganized Debtor and any Person or Entity seeking to exercise the rights of the Debtor's estate, including, without limitation, any successor to the Debtor or any Estate Representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code, shall be deemed to forever release, waive, and discharge each of the Exculpated Parties from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action (including Litigation Rights and Avoidance Actions), and liabilities whatsoever in connection with or related to the Debtor, the conduct of the Debtor's business, the Chapter 11 Case, or the Plan (other than the rights of the Debtor, the Reorganized Debtor or a Creditor holding an Allowed Claim to enforce the obligations under the Confirmation Order and the Plan and the contracts, instruments, releases, indentures, and other agreements or documents assumed or delivered thereunder), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity, or otherwise, that are based in whole or part on any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtor, the conduct of the Debtor's business, the Reorganized Debtor, the Chapter 11 Case, the Disclosure Statement or the Plan, and that may be asserted by or on behalf of the Debtor, the Estate, or the Reorganized Debtor against any of the shareholders, directors, officers, employees or advisors of the Debtor, as of the Petition Date and through the Effective Date, excluding any claims arising from fraud, gross negligence, or willful misconduct; provided, however, that nothing in this Section 11.10(a):

(i) shall be deemed to prohibit the Reorganized Debtor from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any employee (including directors and officers) for alleged breach of confidentiality, or any other contractual obligations owed to the Debtor or the Reorganized Debtor, including non-compete and related agreements or obligations;

(ii) constitutes a waiver of any right of the Reorganized Debtor to: (x) enforce all rights and claims concerning any and all intellectual property (including,

without limitation, trademarks, copyrights, patents, customer lists, trade secrets and confidential or proprietary business information), all of which rights are expressly reserved and not released and (y) assert any defense based on whether or not applicable standards have been met; or

(iii) shall be deemed to prohibit any party from asserting or enforcing any direct contractual obligation against any Releasee, with all rights and defenses to such claims being reserved by the Releasees.

**THE FOREGOING RELEASE IN FAVOR OF ANY RELEASEE IS CONDITIONED UPON AND IN CONSIDERATION OF SUCH ENTITIES' WRITTEN AGREEMENT TO BE BOUND TO THE TERMS OF THIS PLAN, INCLUDING WITHOUT LIMITATION THEIR AGREEMENT TO COMPLY WITH THE PROVISIONS OF SECTIONS 5 AND 11.12 OF THIS PLAN AND TO SUBJECT THEMSELVES TO THE JURISDICTION OF THE BANKRUPTCY COURT FOR PURPOSES OF ENFORCEMENT OF THE TERMS OF THIS PLAN, AS SET FORTH IN THE ACKNOWLEDGEMENT AGREEMENT TO BE DELIVERED AS PART OF THE PLAN SUPPLEMENT. For the avoidance of doubt, nothing herein constitutes or shall constitute a waiver, release, discharge or compromise by the Debtor, its Estate or the Reorganized Debtor with respect to the Aurora Litigation or the SLS Claims.**

**(b) Releases by Holders of Claims**

As of the Effective Date and to the extent permitted under Delaware law, Holders of Claims and Interests shall be deemed to have conclusively, absolutely, unconditionally, irrevocably and forever released and discharged the Debtor, Debtor Principals, the Reorganized Debtor, other Holders of Claims or Interests (except such other Holders of Claims owing obligations under policies of insurance issued to the Debtor or the Estate) and the directors, officers, employees or advisors of the Debtor as of the Petition Date and through the Effective Date (the "Releasees"), and from any and all Claims, Interests, Causes of Action or Avoidance Actions that such Entity would have been legally entitled to assert (whether individually or collectively or directly, indirectly or derivatively, at law, in equity or otherwise), based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Debtor's restructuring, the conduct of the Debtor's business, the Chapter 11 Case, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Releasee and the Debtor, the restructuring of Claims and Interests prior to or in the Chapter 11 Case, the negotiation, formulation or preparation of the Plan and Disclosure Statement, or related agreements, instruments, or other documents, upon any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date, other than Claims or liabilities arising out of fraud, willful misconduct or gross negligence AND other than the rights of the Debtor, the Reorganized Debtor or a Creditor Holding an Allowed Claim to enforce the obligations under and Avoidance Actions, Litigation Rights and Causes of Action preserved by the Plan, the Confirmation Order and the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered thereunder); provided, however, that nothing in this Section 11.10(b) shall be deemed to prohibit any party from asserting or enforcing any

**direct contractual obligation against any Releasee, with all rights and defenses to such claims being reserved by the Releasees.**

**THE FOREGOING RELEASE IN FAVOR OF ANY RELEASEE IS CONDITIONED UPON AND IN CONSIDERATION OF SUCH ENTITIES' WRITTEN AGREEMENT TO BE BOUND TO THE TERMS OF THIS PLAN, INCLUDING WITHOUT LIMITATION THEIR AGREEMENT TO COMPLY WITH THE PROVISIONS OF SECTIONS 5 AND 11.12 OF THIS PLAN AND TO SUBJECT THEMSELVES TO THE JURISDICTION OF THE BANKRUPTCY COURT FOR PURPOSES OF ENFORCEMENT OF THE TERMS OF THIS PLAN, AS SET FORTH IN THE ACKNOWLEDGEMENT AGREEMENT TO BE DELIVERED AS PART OF THE PLAN SUPPLEMENT. For the avoidance of doubt, nothing herein constitutes or shall constitute a waiver, release, or discharge by Aurora of the Debtor or compromise by Aurora of rights against the Debtor with respect to the Aurora Litigation.**

#### **Section 11.11. Release of Liens**

Except as otherwise provided in the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all mortgages, deeds, trusts, Liens, pledges, or other security interests, if any, against any property of the Estate shall be fully released and discharged, and all of the right, title, and interest of any Holder of such mortgages, deeds, trusts, Liens, pledges, or other security interests shall revert to the Reorganized Debtor.

#### **Section 11.12. Discharge of Claims**

Pursuant to and to the fullest extent permitted by Bankruptcy Code section 1141(d), and except as otherwise provided in the Plan, the distributions, rights, and treatment that are provided in the Plan shall be in full and final satisfaction, settlement, release, and discharge, effective as of the Effective Date, of all Claims, Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from and after the Commencement Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Interests in the Debtor, the Reorganized Debtor, or their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims or Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in Bankruptcy Code sections 502(g), 502(h), or 502(i), in each case whether or not: (i) a Proof of Claim or Interest based upon such Claim, debt, right, or Interest is Filed or deemed Filed pursuant to Bankruptcy Code section 501; (ii) a Claim or Interest based upon such Claim, debt, right, or Interest is Allowed pursuant to Bankruptcy Code section 502; or (iii) the Holder of such a Claim or Interest has accepted the Plan. Any default by the Debtor or its Affiliates with respect to any Claim or Interest that existed immediately before or on account of the Filing of the Chapter 11 Case shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the discharge of all Claims and Interests subject to the Effective Date occurring. In accordance with section 1141(d)(3) of the Bankruptcy Code, Confirmation will not discharge Claims against and Interests in the Debtor; provided, however, that no Holder of a Claim against or Interest in the Debtor may, on account of such Claim or Interest, seek or receive

any payment or other distribution from, or seek recourse against, the Debtor or their respective property or any assets previously distributed or to be distributed on account of any Allowed Claim except as provided herein.

### **Section 11.13. Injunction**

(a) **Except as provided in the Plan or the Confirmation Order**, as of the Effective Date, all Persons that have held, currently hold, may hold, or allege that they hold, a Claim, Interest or other debt or liability that is discharged pursuant to Section 11.12 of the Plan, released pursuant to Section 11.10 of the Plan, or is subject to exculpation pursuant to Section 11.14 of the Plan are permanently enjoined from taking any of the following actions against the Debtor, the Reorganized Debtor, and their respective affiliates or their property on account of any such discharged Claims, debts, or liabilities or any Release terminated Interests or rights: (i) commencing or continuing, in any manner or in any place, any action or other proceeding of any kind; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against the Debtor, the Reorganized Debtor or its property; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a right of setoff, recoupment or subrogation of any kind against any debt, liability, or obligation due to the Debtor or the Reorganized Debtor, unless such Holder has Filed a motion requesting the right to perform such setoff, subrogation, or recoupment on or before the Confirmation Date, and notwithstanding an indication in a Proof of Claim or otherwise that such Holder asserts, has, or intends to preserve any right of setoff, subrogation, or recoupment pursuant to Bankruptcy Code section 553 or otherwise; or (v) commencing or continuing any action, in each such case in any manner, in any place, or against any Person that does not comply with or is inconsistent with the provisions of the Plan.

(b) Without limiting the effect of the foregoing provisions of this Section 11.12 upon any Person, by accepting Distributions pursuant to the Plan, each Holder of an Allowed Claim or Interest receiving a Distribution pursuant to the Plan shall be deemed to have specifically consented to the injunctions set forth in this Section 11.12.

(c) Nothing in this Section 11.12 shall impair (i) the rights of any Holder of a Disputed Claim to establish its Claim in response to an objection Filed by the Debtor or the Reorganized Debtor, (ii) the rights of any defendant in an Avoidance Action Filed by the Debtor to assert defenses in such action, (iii) the rights of any party to an Executory Contract or Unexpired Lease that has been assumed by the Debtor pursuant to an order of the Bankruptcy Court or the provisions of the Plan to enforce such assumed contract or lease; or (iv) or the rights of Aurora against the Debtor with respect to the Aurora Litigation.

### **Section 11.14. Exculpation and Limitations of Liability**

(a) On the Effective Date, the Exculpated Parties shall neither have, nor incur any liability to any Holder of a Claim or an Interest, the Debtor, the Reorganized Debtor, or any other party-in-interest, or any of their respective agents, employees, representatives, advisors, attorneys, or affiliates, or any of their successors or assigns, for any prepetition or postpetition

act or omission in connection with, relating to, or arising out of, the Chapter 11 Case, the formulation, negotiation, or implementation of the Plan, the solicitation of acceptances of the Plan, the pursuit of Confirmation of the Plan, the Confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, and further including, without limitation, all documents ancillary thereto, all decisions, actions, inactions and alleged negligence or misconduct relating thereto, and all prepetition activities leading to the promulgation and confirmation of the Plan, except for acts or omissions that are the result of fraud, gross negligence, or willful misconduct; provided, however, that the foregoing is not intended to limit or otherwise impact any defense of qualified immunity that may be available under applicable law; provided further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her or its duties pursuant to, or in connection with, the Plan; provided still further, that the foregoing Exculpation shall not be deemed to, release, affect, or limit any of the rights and obligations of the Exculpated Parties from, or exculpate the Exculpated Parties with respect to, any of the Exculpated Parties' obligations or covenants arising pursuant to the Plan or the Confirmation Order.

(b) Notwithstanding any other provision of the Plan, no Holder of a Claim or an Interest, the Debtor, the Reorganized Debtor, no other party-in-interest, none of their respective agents, employees, representatives, advisors, attorneys, or affiliates, and none of their respective successors or assigns shall have any right of action against any of the Exculpated Parties for any act or omission in connection with, relating to, or arising out of, the Chapter 11 Case, the formulation, negotiation, or implementation of the Plan, solicitation of acceptances of the Plan, the pursuit of Confirmation of the Plan, the Confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for acts or omissions which are the result of fraud, gross negligence, or willful misconduct.

#### **Section 11.15. Term of Injunctions or Stays**

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Case under sections 105 or 362 of the Bankruptcy Code or otherwise, and existing on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date.

#### **Section 11.16. Revocation, Withdrawal or Non-Consummation**

The Debtor reserves the right to revoke or withdraw the Plan at any time prior to the Confirmation Date and to File subsequent plans of reorganization. If the Debtor revoke or withdraw the Plan prior to the Confirmation Date, or if Confirmation or the Effective Date does not occur, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Class of Claims), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan shall be deemed null and void, and (c) nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims against, or any Interests in, the Debtor, or any Avoidance Actions, Litigation Rights

or other claims by or against the Debtor, or any Person or Entity, (ii) prejudice in any manner the rights of the Debtor, or any Person or Entity in any further proceedings involving the Debtor, or (iii) constitute an admission of any sort by the Debtor, or any other Person or Entity.

### **Section 11.17. Plan Supplement**

The Plan Supplement shall be Filed with the Bankruptcy Court at least ten (10) days prior to the Confirmation Hearing or by such later date as may be established by order of the Bankruptcy Court, provided that all documents set forth in the Plan Supplement shall first have been approved by the Debtor. Upon such Filing, all documents set forth in the Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court during normal business hours. Holders of Claims or Interests may obtain a copy of any document set forth in the Plan Supplement upon written request to the Debtor in accordance with Section 11.22 of the Plan.

### **Section 11.18. Notices**

Any notice, request, or demand required or permitted to be made or provided under the Plan shall be (a) in writing, (b) served by (i) certified mail, return receipt requested, (ii) hand delivery, (iii) overnight delivery service, (iv) first class mail, or (v) facsimile transmission, and (c) deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

If to the Debtor:

Hogan Lovells US LLP  
Attn: Peter A. Ivanick  
Lynn W. Holbert  
875 Third Avenue  
New York, NY 10022  
Telephone: (212) 918-3000

- and -

Bayard, P.A.  
Attn: Neil B. Glassman  
Justin R. Alberto  
Evan T. Miller  
222 Delaware Avenue, Suite 900  
Wilmington, Delaware 19801  
Telephone: (302) 655-5000

If to the Reorganized Debtor:

Allonhill, LLC  
1200 17<sup>th</sup> Street, Suite 880  
Denver, Colorado 80202  
Telephone: 303.308.6407

### **Section 11.19. Computation of Time**

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

### **Section 11.20. Governing Law**

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), the laws of (a) the State of Delaware shall govern the construction and implementation of the Plan and (except as may be provided otherwise in any such agreements, documents, or instruments) any agreements, documents, and instruments executed in connection with the Plan and (b) the laws of the state of incorporation of the Debtor shall govern corporate governance matters with respect to the Debtor; in each case without giving effect to the principles of conflicts of law thereof.

### **Section 11.21. Exhibits**

All exhibits are incorporated into and are a part of this Plan as if set forth in full herein, and, to the extent not annexed hereto, such exhibits shall be Filed with the Bankruptcy Court on or before the Exhibit Filing Date. After the Exhibit Filing Date, copies of exhibits can be obtained upon written request to Hogan Lovells US LLP, 875 Third Avenue, New York, NY 10022, Attn: Peter A. Ivanick, Esq. and Bayard, P.A., 222 Delaware Avenue, Suite 900, Wilmington, DE 19801, Attn: Neil B. Glassman, Esq., counsel to the Debtor or by downloading such exhibits from the Bankruptcy Court's website at <http://www.deb.uscourts.gov> (registration required) or the Claims Agent's website at [upshotservices.com/Allonhill](http://upshotservices.com/Allonhill). To the extent any exhibit is inconsistent with the terms of the Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit portion of the Plan shall control.

Peter A. Ivanick  
Lynn W. Holbert  
Hogan Lovells US LLP  
875 Third Avenue  
New York, NY 10022  
Telephone: (212) 918-3000

/s/ Neil B. Glassman

Neil B. Glassman (No. 2087)  
Justin R. Alberto (No. 5126)  
Evan T. Miller (No. 5364)  
BAYARD, P.A.  
222 Delaware Avenue, Suite 900  
Wilmington, Delaware 19801  
Telephone: (302) 655-5000

Counsel for the Debtor and Debtor-in-Possession