

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

---

In re:

ALS LIQUIDATION LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-11774 (LSS)  
(Jointly Administered)

**Re: Dkt. Nos. 452, 490 & 508**

---

**FINDINGS OF FACT AND CONCLUSIONS OF LAW (I) APPROVING  
DISCLOSURE STATEMENT ON A FINAL BASIS; AND (II) CONFIRMING  
COMBINED DISCLOSURE STATEMENT AND CHAPTER 11 PLAN OF LIQUIDATION  
JOINTLY PROPOSED BY ALS LIQUIDATION LLC AND ITS AFFILIATED DEBTORS  
AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS,  
DATED AS OF OCTOBER 28, 2021**

---

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) and the Official Committee of Unsecured Creditors (the “Committee” and together with the Debtors, the “Plan Proponents”) having filed the *Combined Disclosure Statement and Chapter 11 Plan of Liquidation Jointly Proposed by ALS Liquidation LLC and Its Affiliated Debtors and the Official Committee of Unsecured Creditors, Dated October 28, 2021* [Docket No. 452], and the *Plan Supplement for the Combined Disclosure Statement and Chapter 11 Plan of Liquidation Jointly Proposed by ALS Liquidation LLC and Its Affiliated Debtors and the Official Committee of Unsecured Creditors, Dated October 28, 2021* [Docket No. 490] (as amended at Docket No. 508 and as may be subsequently amended, the “Plan Supplement,” and collectively with all exhibits

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable are: ALS Liquidation LLC (f/k/a Apex Linen Service LLC) (9075), HAH Liquidation LLC (f/k/a Highland Apex Holdings LLC) (0537), HAC Liquidation LLC (f/k/a Highland Avenue Capital Partners LLC) (2825), HAGP Liquidation LLC (f/k/a Highland Apex GP LLC) (9246), and HAM Liquidation LLC (f/k/a Highland Apex Management LLC) (5476). The Debtors’ mailing address is c/o Bill Hughes, 2355 East Camelback Road, Suite 830, Phoenix, AZ 85016.

and any other modifications, amendments, or supplements thereto, the “Plan”);<sup>2</sup> the Court having entered, on October 28, 2021, the *Order (I) Approving On An Interim Basis The Adequacy Of Disclosures In The Combined Disclosure Statement And Plan, (II) Scheduling The Confirmation Hearing And Deadline For Filing Objections, (III) Approving The Procedures And Forms For Solicitation And Tabulation Of Votes, And (IV) Approving The Notice Provisions And Related Relief* [Docket No. 451], establishing, among other things, certain solicitation and voting tabulation procedures associated with the Plan; and the Court having conducted a hearing on December 17, 2021, to consider approval of the Disclosure Statement on a final basis and confirmation of the Plan (the “Confirmation Hearing”); the Court having considered: (a) any witness testimony at the Confirmation Hearing, as well as the declarations and exhibits admitted into evidence at the Confirmation Hearing, including the (i) *Declaration of Christopher Bryan In Support of First Day Motions* [Docket No. 25] (the “First Day Declaration”); (ii) *Declaration of Bill Hughes in Support of the Combined Disclosure Statement and Chapter 11 Plan of Liquidation Jointly Proposed by ALS Liquidation LLC and Its Affiliated Debtors and the Official Committee of Unsecured Creditors, Dated October 28, 2021* [Docket No. 507] (the “Confirmation Declaration”); and (iii) *Declaration of Aileen Daversa Regarding Analysis of Ballots for Accepting or Rejecting the Combined Disclosure Statement and Chapter 11 Plan of Liquidation Jointly Proposed by ALS Liquidation LLC and Its Affiliated Debtors and the Official Committee of Unsecured Creditors, Dated October 28, 2021* [Docket No. 506] (the “Voting Declaration,” and, together with the First Day Declaration, and the Confirmation Declaration, the “Declarations”); (b) the arguments of counsel and all evidence proffered or adduced at the Hearing; (c) the resolution and settlement of any filed objections or informal comments received in opposition to

---

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

the Plan; and (d) the additional filings made by the Plan Proponents in support of the Plan, including (i) the *Memorandum of Law in Support of the Combined Disclosure Statement and Chapter 11 Plan of Liquidation Jointly Proposed by ALS Liquidation LLC and Its Affiliated Debtors and the Official Committee of Unsecured Creditors, Dated October 28, 2021* [Docket No. 509] (the “Confirmation Memorandum”), (ii) the affidavits of service for the Plan, the ballots and other solicitation materials [Docket Nos. 457, 459, 462, 482, & 486] (the “Service Affidavits”); the Court being familiar with the Plan, and the relevant facts and circumstances concerning these Chapter 11 Cases; the Court having taken judicial notice of the entire docket of the Chapter 11 Cases and all pleadings and other documents filed, all orders entered, and evidence and arguments made, proffered, or adduced at the hearings held before the Court during these Chapter 11 Cases; the Court having found that due and proper notice has been given with respect to the Confirmation Hearing and the deadlines and procedures for voting on the Plan and asserting objections to the Plan consistent with the Solicitation Procedures Order and the Bankruptcy Code; the appearance of all interested parties having been duly noted in the record of the Hearing; and upon the record of the Confirmation Hearing, and after due deliberation thereon, and sufficient cause appearing therefor:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

A. Findings of Fact and Conclusions of Law. The findings set forth herein and on the record of the Confirmation Hearing constitute the Court’s findings of fact pursuant to Rule 52 of the Federal Rules of Civil Procedure, as made applicable herein by Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. Exclusive Jurisdiction; Core Proceeding; Venue. This Court has jurisdiction over the Chapter 11 Cases and to confirm the Plan pursuant to 28 U.S.C. § 1334. Confirmation of the Plan is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court and in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

C. Chapter 11 Petition. On July 6, 2020 (the “Petition Date”), each of the Debtors commenced a voluntary case under Chapter 11 of the Bankruptcy Code.

D. Eligibility for Relief. The Debtors are each a proper debtor under section 109 of the Bankruptcy Code.

E. Plan Proponents. On July 23, 2020, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) formed the Committee; the Debtors and the Committee are the co-proponents of the Plan under section 1121(a) of the Bankruptcy Code.

F. Solicitation Procedures Order. On October 28, 2021, the Court entered the Solicitation Procedures Order, approving the adequacy of the Disclosure Statement on an interim basis, and establishing the procedures for solicitation of the Plan.

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

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

I. Vote Certification. All procedures used to tabulate the Ballots were fair and conducted in accordance with the Solicitation Procedures Order, the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and all other applicable rules, laws, and regulations. As evidenced by the Voting Declaration, Class 3 voted unanimously to accept the Plan and no member of Class 4 submitted a voted.

J. Deemed Acceptance by Class 4. Pursuant to the Tabulation Procedures approved by the Solicitation Procedures Order, the Plan Proponents have requested that Class 4 be deemed an accepting class because no member of Class 4 submitted a ballot. Given the lack of objection to the request, Class 4 is hereby deemed an accepting Class.

K. Plan Supplement. On December 1, 2021, the Committee filed the Plan Supplement, which included the (i) the Liquidating Trust Agreement and (ii) the Schedule of Retained Causes of Action. All information and documents included in the Plan Supplement and any amendments thereto are integral to, part of, and incorporated by reference into the Plan. The Plan Supplement complies with the terms of the Plan, and the filing and notice of such documents provided due, adequate, and sufficient notice in accordance with the Solicitation Procedures Order, the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and no other or further notice is necessary or shall be required. Consistent with the terms of the Plan, the Plan Proponents reserve the right to alter, amend, update, or modify the Plan Supplement before the Effective Date.

L. Bankruptcy Rule 3016. The Plan is dated and identifies its proponents in accordance with Bankruptcy Rule 3016(a), and the Disclosure Statement satisfies Bankruptcy Rule 3016(b).

**I. The Plan Satisfies Section 1125 of the Bankruptcy Code**

M. The Plan provides holders of claims and interests in the Chapter 11 Cases with information, including among other things: (i) the circumstances that gave rise to the filing of the Debtors' bankruptcy petitions; (ii) the Debtors' actions and conditions during the Chapter 11 Cases, including the sale of substantially all of the Debtors' assets, and the resolutions reached among the purchaser, the Prepetition Lenders, the Debtors, and the Committee, (iii) the assets of the estates remaining after the sale; (iv) an estimate of the estates' liabilities; (v) the proposed treatment of claims and interests under the Plan and likely distributions to be received on account of each class of claims and interests under the Plan; (vi) an analysis as to the distributions creditors would receive from the Debtors' estates were they liquidated under Chapter 7; (vii) a summary of what remaining assets are left to be liquidated by the Liquidating Trust after the Effective Date; (viii) a disclaimer stating that no statements or information regarding the Debtors, their assets or securities are authorized, other than those included in the Plan; (ix) the relevant sources of information contained in the Plan; (x) information regarding the Liquidating Trust, including the Liquidating Trustee and its compensation; (xi) financial information necessary to allow a creditor to decide whether to approve or reject the plan; (xii) information regarding the risks being taken by the Holders of Claims and Interests prior to voting; (xiii) the right and ability of the Liquidating Trustee to assert, compromise or dispose of the certain causes of action without further notice to Creditors or Interest Holders or authorization of the Bankruptcy Court; (xiv) the tax consequences of the Plan; (xv) conspicuous language containing exculpation and limitation of liabilities and the injunction to be entered by and in connection with the Plan; and (xvi) such other and further information that informs Holders of Claims and Interests of their rights arising from and relating to the Plan.

N. The Plan provides holders of Claims and Interests with adequate information with respect to such Claim and Interest, to enable those holders of Claims and Interests sufficient information to make an informed decision whether to vote to accept or reject the Plan and satisfies the requirements of Section 1125 of the Bankruptcy Code.

## **II. Compliance with Section 1129 of the Bankruptcy Code**

O. Burden of Proof. The Plan Proponents have satisfied their burden of proving the elements of sections 1129(a) and (b) of the Bankruptcy Code by a preponderance of the evidence, which is the applicable standard.

P. The Plan Complies with Section 1129(a) of the Bankruptcy Code. The record at the Confirmation Hearing, the Declarations, the contents of the Plan and the Confirmation Memorandum support the findings of fact and conclusions of law set forth herein.

Q. Section 1129(a)(1). The Plan complies with section 1129(a)(1) of the Bankruptcy Code, as the Plan complies with each applicable provision of the Bankruptcy Code. In particular, the Plan complies with the requirements of sections 1122 and 1123 of the Bankruptcy Code as follows:

- (i) In accordance with section 1122(a) of the Bankruptcy Code, (a) Article IV of the Plan classifies Claims and Equity Interests into six (6) separate Classes reflecting the differing characteristics of those Claims and Equity Interests between Classes and the distinct legal rights of the holders of those Claims and Equity Interests in the separate Classes; and (b) the Claims and Equity Interests within each Class are substantially similar to the other Claims or Equity Interests within the same Class.
- (ii) In accordance with section 1123(a)(1) of the Bankruptcy Code, Article IV of the Plan properly classifies all Claims and Equity Interests that require classification.
- (iii) In accordance with section 1123(a)(2) of the Bankruptcy Code, Section 4.03 of the Plan properly identifies and describes that Classes 1 and 2 are not impaired under the Plan, and are deemed to accept.
- (iv) In accordance with section 1123(a)(3) of the Bankruptcy Code, Section 4.03 of the Plan properly identifies and describes that Classes 3 and 4 are impaired under the Plan and are entitled to vote.

- (v) In accordance with section 1123(a)(3) of the Bankruptcy Code, Section 4.03 of the Plan properly identifies and describes that Classes 5 and 6 are impaired under the Plan and are deemed to reject the Plan and not entitled to vote.
- (vi) In accordance with section 1123(a)(4) of the Bankruptcy Code, Article IV of the Plan treats each Claim or Equity Interest against the Debtors, in each respective Class, the same as each other Claim or Interest in such Class.
- (vii) In accordance with section 1123(a)(5) of the Bankruptcy Code, the Plan provides adequate means for its implementation, including, without limitation, (a) the deemed substantive consolidation of the Debtors, (b) the vesting of the Retained Assets in the Apex Liquidating Trust and the vesting of the Unsecured Cash Amount in the GUC Sub-trust, (c) the appointment and powers of the Liquidating Trustee, (d) the establishment and funding of the Liquidating Trusts, and (e) the distribution to be received on account of Allowed Claims.
- (viii) Section 1123(a)(6) of the Bankruptcy Code is satisfied because the Plan does not contemplate or provide for the issuance of non-voting equity securities.
- (ix) In accordance with section 1123(a)(7) of the Bankruptcy Code the identity of the Liquidating Trustee has been disclosed in the Plan Supplement and the Liquidating Trustee shall be the sole representative of the Estates from and after the Effective Date.
- (x) Section 1123(a)(8) of the Bankruptcy Code is not applicable in the Chapter 11 Cases because the Debtors are not “individuals.”
- (xi) Consistent with section 1123(b)(1) of the Bankruptcy Code, Article IV of the Plan impairs or leaves unimpaired, as the case may be, each of the Claims in Classes 1 through 6.
- (xii) Consistent with section 1123(b)(2) of the Bankruptcy Code, section 7.01 of the Plan provides for the rejection of all of the executory contracts or unexpired leases of the Debtors that have not already been assumed or rejected in the Chapter 11 Cases.
- (xiii) Consistent with section 1123(b)(3) of the Bankruptcy Code, (a) Section 6.03 of the Plan provides for the retention of Retained Causes of Action by the Liquidating Trustee; (b) Section 8.01 of the Plan provides for the pursuit of certain claim objections by the Liquidating Trustee; and (c) Section 13.13 of the Plan provides for the comprehensive settlement of claims and controversies relating to the rights that holders of Claims or Equity Interests may have with respect to any Allowed Claims or Equity Interests or any distributions made pursuant to the Plan on account of such Allowed Claims or Equity Interests.
- (xiv) Section 1123(b)(4) of the Bankruptcy Code is not applicable because substantially all of the Debtors’ assets were previously sold pursuant to section 363 of the Bankruptcy Code.

- (xv) Consistent with section 1123(b)(5) of the Bankruptcy Code, Article IV of the Plan permissibly modifies the rights of holders of unsecured claims.
- (xvi) Consistent with section 1123(b)(6) of the Bankruptcy Code, the Plan includes additional appropriate provisions that are not inconsistent with applicable provisions of the Bankruptcy Code.
- (xvii) Section 1123(c) of the Bankruptcy Code is not applicable in the Chapter 11 Cases because the Debtors are not “individuals.”

R. Section 1129(a)(2). The Plan Proponents have complied with all applicable provisions of the Bankruptcy Code with respect to the Plan and the solicitation of acceptances or rejections thereof. In particular, the Plan complies with the requirements of sections 1125 and 1126 of the Bankruptcy Code, and as set forth the Service Affidavits, the Plan Proponents have caused service of the Plan and solicitation materials as follows:

1. In compliance with the Solicitation Procedures Order, on or prior to October 29, 2021 (the “Solicitation Commencement Date”), the Plan Proponents caused copies of the following materials to be transmitted to the known holders of Claims in Class 3 and Class 4:
  - (a) the Plan and all exhibits annexed thereto;
  - (b) the Solicitation Procedures Order (including the Tabulation Procedures attached thereto);
  - (c) the Notice of Confirmation Hearing, Objection Deadline, and Related Notice and Procedures (the “Confirmation Hearing Notice”);
  - (d) an appropriate form Ballot for Accepting or Rejecting the Plan, with a return envelope postage prepaid; and
  - (e) the Committee Letter to All Holders of Claims Entitled to Vote on the Plan.
2. In compliance with the Solicitation Procedures Order, on the Solicitation Commencement Date, the Plan Proponents caused the following materials to be served on all members of Classes 1 and 2:
  - (a) the Confirmation Hearing Notice; and
  - (b) Notice of Non-Voting Status to Holder of Unimpaired Claims Conclusively Presumed to Accept the Plan.

3. In compliance with the Solicitation Procedures Order, on the Solicitation Commencement Date, the Plan Proponents caused the following materials to be served on all members of Classes 5 and 6:
  - (a) the Confirmation Hearing Notice; and
  - (b) Notice of Non-Voting Status to Holders of Impaired Claims and Interests Deemed to Reject the Plan.
4. In compliance with the Solicitation Procedures Order, on the Solicitation Commencement Date, the Plan Proponents caused a copy of the Plan, the Confirmation Hearing Notice and the Solicitation Procedures Order to be served upon the U.S. Trustee, governmental units having an interest in the Chapter 11 Cases, and all parties that have requested pursuant to Bankruptcy Rule 2002 to receive notices in these Chapter 11 Cases.
5. In compliance with the Solicitation Procedures Order, on the Solicitation Commencement Date, the Plan Proponents caused a copy of the Confirmation Hearing Notice to be served upon all state and local taxing authorities for the jurisdictions in which the Debtors did business, the Internal Revenue Service, the United States Attorney for the District of Delaware, and all persons or entities listed on the Debtors' creditor mailing matrix, with the exception of parties whose claims have been satisfied.
6. On December 1, 2021, the Plan Proponents filed the Plan Supplement and caused service of the Plan Supplement to be served upon all parties having entered their appearance in the Chapter 11 cases.
7. The Confirmation Hearing Notice provided due and proper notice of the Confirmation Hearing and all relevant dates, deadlines, procedures, and other information relating to the Plan and/or the solicitation of votes thereon, including, without limitation, the deadline to file objections to and vote on the Plan, the time, date, and place of the Confirmation Hearing and referenced the provisions in the Plan concerning the exculpation and injunction provisions provided for in the Plan.
8. In addition, and as disclosed in the Confirmation Hearing Notice, in compliance with the Solicitation Procedures Order, copies of the Solicitation Procedures Order, and the Plan are available through the Court's website for a charge and are available on the Debtors' website free of charge.

Based on the foregoing, the Court finds that, all persons entitled to receive notice of the Plan and the Confirmation Hearing have received proper, timely, and adequate notice in accordance with the Solicitation Procedures Order, the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, and have had an opportunity to appear and be heard with respect thereto. As

such, the Plan Proponents are in compliance with section 1128 of the Bankruptcy Code and Bankruptcy Rules 2002(b) and 3017(d)–(f). No other or further notice is required. Further, the Court finds that such service constitutes adequate service of the Plan and other solicitation materials on known and unknown holders of Claims and Interests.

S. Section 1129(a)(3). The Plan has been proposed by the Plan Proponents in good faith and in the belief that the terms thereof and the establishment of the Liquidating Trust will maximize value for the Debtors' creditors. The Plan accomplishes the goals promoted by section 1129(a)(3) of the Bankruptcy Code by enabling the Debtors to maximize the value of their assets through liquidation and enabling the Liquidating Trustee to make distributions to creditors on a fair and equitable basis, in accordance with the priorities established by the Bankruptcy Code. The Plan is the direct result of extensive good faith, arm's length negotiations between the Debtors and the Committee and thereby reflects significant benefit to the Debtors' Estates. The Plan has been proposed with the legitimate and honest purpose of implementing a liquidation of the Debtors' assets and maximizing the value of the Estates to achieve the best interests of the Debtors' creditors. In so finding, the Court has considered the totality of the circumstances in the Chapter 11 Cases. The support for the Plan by holders of Claims in Class 3 further demonstrates that the Plan was proposed in good faith. Finally, as described in greater detail below, the Plan's exculpation and injunction provisions are warranted, necessary, and appropriate, under the circumstances of the Chapter 11 Cases as a whole.

T. Section 1129(a)(4). No payment for services or costs and expenses in connection with the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, has been or will be made by the Debtors other than payments that have been authorized by an order of the Court, including without limitation by the confirmation of the Plan by this Confirmation

Order. Pursuant to Section 4.02 of the Plan, applications for final allowance and payment of Professional Fee Claims must be filed and served no later than thirty (30) days after the Effective Date (except as otherwise provided in the Plan).

U. Disclosure of Liquidating Trustee. The identity and compensation of the Liquidating Trustee was disclosed in the Plan Supplement, in satisfaction of section 1129(a)(5)(A)(i) of the Bankruptcy Code. Further, in accordance with section 1129(a)(5)(A)(ii) of the Bankruptcy Code, the appointment of the Liquidating Trustee is consistent with the interests of creditors and with public policy inasmuch as no objection to the proposed Liquidating Trustee was received. Further, in accordance with section 1129(a)(5)(B), no insider will be employed or retained by the Liquidating Trust.

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

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

X. Section 1129(a)(8). Four (4) of the six (6) Classes under the Plan have either voted to accept the Plan, or are unimpaired under the Plan. Holders of Claims in Classes 1 and 2 are unimpaired and deemed to accept. Holders of Claims in Class 3 voted to accept the Plan. No

Holders of Claims in Class 4 submitted a ballot and, based on a lack of objection, Class 4 is deemed to accept the Plan. Only Holders of Claims and Interests in Classes 5 and 6 are deemed to reject. Nevertheless, with respect to Classes 5 and 6, the Plan is confirmable because it satisfies section 1129(b)(1) of the Bankruptcy Code with respect to such non-accepting Classes.

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

Z. Section 1129(a)(10). The Voting Declaration sets forth the tabulation of votes and demonstrates that such tabulation was conducted in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Solicitation Procedures Order. Further, the Court finds that, based on the foregoing, the Plan Proponents solicited votes with respect to the Plan in good faith and in a manner consistent with the Bankruptcy Code, the Bankruptcy Rules, and the Solicitation Procedures Order, and the Plan has been accepted by Class 3 and Class 4 is deemed to accept.

AA. Section 1129(a)(11). The Plan is feasible and complies with section 1129(a)(11) of the Bankruptcy Code.

BB. Section 1129(a)(12). As set forth in in Section 4.02 of the Plan, all U.S. Trustee Fees payable on or before the Effective Date shall be paid in full in Cash by the Debtors on or before the Effective Date (or by the Liquidating Trustee if any such U.S. Trustee fees remain outstanding as of the Effective Date). From and after the Effective Date, the Liquidating Trustee

shall pay all U.S. Trustee Fees assessed in full in Cash when due until such time as the Chapter 11 Cases are closed, dismissed or converted, whichever occurs first.

CC. Section 1129(a)(13). The Debtor does not owe retiree benefits (as that term is defined under section 1114 of the Bankruptcy Code). Thus, section 1129(a)(13) of the Bankruptcy Code is inapplicable to the Plan.

DD. Sections 1129(a)(14)-(16). Sections 1129(a)(14)-(16) of the Bankruptcy Code apply to individuals or nonprofit entities and are not applicable to the Chapter 11 Cases.

EE. Section 1129(b). The Plan does not “discriminate unfairly” with respect to Classes 5 and 6, which are the only impaired Classes under the Plan that are deemed to reject the Plan. In addition, the Plan is “fair and equitable” under section 1129(b) of the Bankruptcy Code with respect to Classes 5 and 6 because no holder of a claim or interest that is junior to the Claims and Equity Interests in Class 5 and 6 is receiving or retaining any property under the Plan on account of such interest.

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

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

HH. Section 1129(e). The Plan complies with section 1129(e) of the Bankruptcy Code, since the Plan complies with the applicable provisions of this title and was filed in accordance with section 1121(e) of the Bankruptcy Code.

### **III. Means for Implementation of the Plan**

II. Implementation. The various means for implementation of the Plan, as set forth in Article VI and other provisions of the Plan (collectively, the “Implementation Activities”), have been designed and proposed in good faith. The Implementation Activities are adequate and will promote the maximization of the value of the ultimate recoveries under the Plan in a fair and equitable manner in accordance with the priorities established by the Bankruptcy Code. The Implementation Activities are not intended to hinder, delay, or defraud any entity to which the Debtors are indebted on the Effective Date. Pursuant to Section 6.03 of the Plan, on the Effective Date, all Retained Assets shall vest in the Apex Liquidating Trust and the Unsecured Cash Amount shall vest the GUC Sub-trust, in each case, free and clear of all Claims, liens, charges, other encumbrances, Interests or other interests, but otherwise in accordance with the terms of the Plan and the Liquidating Trust Agreement. On and after the Effective Date, the Liquidating Trustee may, in his discretion use, acquire, dispose of and/or abandon any property and prosecute, settle, resolve or abandon any Retained Causes of Action vested in the Liquidating Trusts free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules or Bankruptcy Court approval, subject only to the terms and provisions of the Plan, the Liquidating Trust Agreement and this Confirmation Order.

JJ. Substantive Consolidation. Section 6.01 of the Plan seeks, pursuant to section 105 of the Bankruptcy Code and Bankruptcy Rule 9019, entry of an Order that, effective upon the Effective Date, substantively consolidates the Debtors’ Estates into a single consolidated Estate

and consolidates all of the debts of all of the Debtors, for all purposes associated with Confirmation and Consummation on the terms and subject to the conditions set forth in Section 6.01 of the Plan. No party in interest has objected to the Plan Proponents request and, therefore the request for substantive consolidation is consensual.

KK. Securities Exempt from Registration. Any obligations under the Plan to make distributions of securities including the issuance of Beneficial Interests in the Liquidating Trusts, shall in each case be exempt, pursuant to section 1145 of the Bankruptcy Code, from Section 5 of the Securities Act of 1933 and from any and all federal, state, or local laws requiring the registration of the offer, sale or other distribution of such securities.

LL. Executory Contracts and Unexpired Leases. Pursuant to sections 365 and 1123(b)(2) of the Bankruptcy Code, section 7.01 of the Plan provides that except for any Executory Contracts of the Debtors: (i) that previously were assumed or rejected by an order of the Bankruptcy Court, pursuant to section 365 of the Bankruptcy Code; (ii) as to which a motion for approval of the assumption or rejection of such contract or lease has been filed and served prior to, and remains pending as of, Confirmation; or (iii) that were previously assumed and assigned to the Purchaser, each Executory Contract entered into by the Debtors prior to the Petition Date that has not previously expired or terminated pursuant to its own terms shall be deemed rejected pursuant to section 365 of the Bankruptcy Code as of the Effective Date.

MM. No Objection to Rejection of Executory Contracts or Unexpired Leases. No party objected to the rejection of any executory contracts or unexpired leases pursuant to Section 7.01 of the Plan.

NN. Injunction and Exculpation and Limitation of Liability. The Court has jurisdiction to approve the injunction, exculpation and limitation of liability provisions set forth in Article IX

of the Plan. The exculpation and limitation of liability provisions set forth in Section 9.02 of the Plan are appropriately tailored to protect the Exculpated Parties from inappropriate litigation and do not relieve any party of liability for gross negligence, willful misconduct or fraud. The injunction set forth in Sections 9.03 of the Plan is important to the overall objectives of the Plan to finally resolve all claims against the Debtors in the Chapter 11 Cases. Accordingly, this Court finds that the injunction, exculpation and limitation of liability provisions set forth in Article IX of the Plan are consistent with the Bankruptcy Code and applicable law.

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

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

1. Disclosure Statement. The Disclosure Statement is **APPROVED** on a final basis.
2. Confirmation. All requirements for confirmation of the Plan have been satisfied.

The Plan is **CONFIRMED** in its entirety pursuant to section 1129 of the Bankruptcy Code. The terms of the Plan, exhibits to the Plan, the Plan Supplement (including the Liquidating Trust Agreement), and any other documents filed in connection with the Plan and/or executed or to be executed in connection with the transactions contemplated by the Plan, and all amendments and modifications thereof, are hereby approved in their entirety. A copy of the Plan in the form confirmed is attached hereto as **Exhibit A**.

3. Objections. All Objections that have not been withdrawn or resolved prior to the entry of this Confirmation Order, including any with respect to the Plan, are overruled in all

respects for the reasons set forth in the record of the Confirmation Hearing, which record is incorporated herein, and all withdrawn objections, if any, are deemed withdrawn with prejudice.

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

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

6. Substantive Consolidation. Upon the Effective Date, in accordance with the terms of Section 6.01 of the Plan, the Debtors' Estates shall be consolidated into a single consolidated Estate and all Assets and liabilities of the Debtors shall be treated as though they were merged into the Estate of ALS Liquidation LLC for all purposes associated with Confirmation and Consummation of the Plan, and all guarantees by any Debtor of the obligations of any other Debtor shall be eliminated so that any Claim and any guarantee thereof by any other Debtor, as well as any joint and several liability of any Debtor with respect to any other Debtor shall be treated as one collective obligation of the Debtors, subject to all rights, claims, defenses, and arguments

available to the Debtors or the Liquidating Trustee. As part of the substantive consolidation of the Debtors' Assets and liabilities as set forth in the Plan, on the Effective Date all Intercompany Claims and other Intercompany liabilities, whether arising prior to or after the Petition Date, shall be deemed canceled, extinguished and of no further force and effect. Substantive consolidation (including the dissolution of any Debtor) will not (i) alter the state of incorporation or state of formation of any Debtor for purposes of determining the applicable law for any of the Retained Causes of Action, (ii) alter or impair the legal and equitable rights of the Liquidating Trustee to prosecute any of the Retained Causes of Action, or (iii) otherwise impair, release, discharge, extinguish or affect any of the Retained Causes of Action or issues raised as a part thereof. Notwithstanding anything in the Plan or in the Confirmation Order to the contrary, the entry of the Confirmation Order ordering substantive consolidation of the Estates shall not have any effect upon the separate and distinct legal entities as they existed at the time of any prepetition transaction that is the subject of any litigation; provided, however, that the foregoing provision shall not serve to prejudice or compromise whatever rights, if any, the Debtors or the Liquidating Trustee, as applicable, may have to contend in any pending or future adversary proceeding or other lawsuit that the Debtors or the Liquidating Trustee, as applicable, may prosecute claims for fraudulent conveyance or fraudulent transfer arising from transfers made by one or more of the Debtors based on any theory or doctrine, including any federal, state, or common law alter-ego, veil-piercing, or any other theory or doctrine that would permit or require the disregard of corporate separateness or facts as they existed at the time of the transaction in question. Moreover, substantive consolidation shall not affect the obligation of each Debtors or the Liquidating Trustee to pay U.S. Trustee Fees until the earlier of the time that a particular Case has been closed, dismissed, or converted.

7. Effective Date. The Effective Date of the Plan shall occur on the date determined jointly by the Plan Proponents when the conditions set forth in Section 10.02 of the Plan have been satisfied or, if applicable, waived in accordance with the Plan.

8. Modifications or Alterations to Plan. To the extent the Plan has been modified, supplemented, or altered subsequent to solicitation, such modifications, supplements, and alterations constitute clarifications or technical changes, and do not materially adversely affect or change the treatment of any Claims or Equity Interests. Accordingly, pursuant to Bankruptcy Rule 3019, such modifications or alterations, if any, do not require additional disclosure under section 1125 of the Bankruptcy Code or re-solicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that holders of Claims or Equity Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan.

9. Binding Effect of Plan. Subject to the occurrence of the Effective Date, the provisions of the Plan and this Confirmation Order shall be binding upon: (a) the Debtors and the estates; (b) the Liquidating Trusts and the Liquidating Trustee; (c) all Professionals; (d) any and all non-Debtor parties to judicial or administrative proceedings in which any Debtor is a party; (e) any and all holders of Claims or Equity Interests (irrespective of (i) whether such Claims or Equity Interests are impaired under the Plan, (ii) whether the holders of such Claims or Equity Interests accepted, rejected, or are deemed to have accepted or rejected the Plan, or (iii) whether such Claims or Equity Interests have been asserted in a filed proof of claim, proof of interest, request for administrative expense payment or other pleading or filing); (f) any and all non-Debtor parties to executory contracts or unexpired leases with any Debtor; (g) any party that had received or may be deemed to have received notice of the Plan and the Confirmation Hearing; and (h) the respective heirs, executors, administrators, trustees, affiliates, officers, directors, agents, representatives,

attorneys, beneficiaries, guardians, successors or assigns, if any, of any of the foregoing. All settlements, compromises, discharges, releases, waivers, exculpations, and injunctions set forth in the Plan shall be, and hereby are, effective and binding on all Persons who may have had standing to assert any settled, released, discharged, exculpated, or enjoined causes of action, and no other Person or entity shall possess such standing to assert such causes of action after the Effective Date.

10. Distributions. Subject to the terms of the Plan, on and after the Effective Date, the Distributions on account of Allowed Claims and Administrative Claims and the resolution and treatment of Disputed Claims and Administrative Claims pursuant to Article VIII of the Plan are authorized to occur and, without limitation on the other provisions of the Plan, the Liquidating Trust Agreement and/or and this Confirmation Order concerning the powers, duties, and authority of the Liquidating Trustee, and the Liquidating Trustee shall be authorized to effectuate such Distributions, resolution, and treatment, of Claims as allowed under the Plan.

11. Executory Contracts and Unexpired Leases. The executory contract and unexpired lease provisions of Article VII of the Plan, including without limitation the deemed rejection of executory contracts and unexpired leases pursuant to Section 7.01 of the Plan, are specifically approved in all respects, are incorporated herein in their entirety, and are so ordered.

12. Rejection of Executory Contracts or Unexpired Leases. The rejection of any executory contract or unexpired lease pursuant to the Plan or otherwise shall not constitute a termination of pre-existing obligations owed to the Debtors under such executory contract or unexpired lease by any counterparty thereto.

13. Bar Date for Rejection Claims. Claims arising out of the rejection of an executory contract or unexpired lease pursuant to Section 7.01 of the Plan must be filed with the Court on or before thirty (30) days after the Effective Date (the "Rejection Damages Bar Date") and served

upon the parties in Section 13.05 of the Plan. Unless otherwise ordered by the Court, any such Claims not timely filed shall be forever barred.

14. Retained Causes of Action. Unless a Retained Cause of Action against any entity is expressly waived, relinquished, released, or compromised in the Plan (including, without limitation, in the exculpation and limitation of liability provisions set forth in Section 9.02 of the Plan), all Retained Causes of Action shall be vested in the Apex Liquidating Trust on the Effective date and are hereby preserved for the benefit of the Liquidating Trustee to enforce, commence, pursue, or settle, as applicable, in accordance with the Plan.

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

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

17. Securities Exempt from Registration. To the maximum extent provided by section 1145 of the Bankruptcy Code and/or applicable non-bankruptcy law, the issuance of any Beneficial Interests in the Liquidating Trusts, shall in each case be exempt from registration under the Securities Act of 1933, as amended, and all rules and regulations promulgated thereunder and any state or local law requiring registration prior to the offering, issuance, distribution, or sale of securities.

18. Extinguishment of Claims and Equity Interests. Except as provided in the Plan, the rights afforded in and the payments and distributions to be made under the Plan shall terminate all Equity Interests and shall settle and resolve all existing debts and Claims of any kind, nature or

description whatsoever against or in the Debtors or any of their assets or properties to the fullest extent permitted by section 1141 of the Bankruptcy Code. Except as provided in the Plan, upon the Effective Date, all existing Claims against and Equity Interests in the Debtors shall be, and shall be deemed to be, terminated settled and resolved, and all holders of such Claims and Equity Interests shall be precluded and enjoined from asserting against the Debtors, the Estates, the Liquidating Trustee, the Liquidating Trusts or their respective successors or assignees, or any of their respective assets or properties any other or further Claim or Equity Interest based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not such holder has filed a proof of claim or proof of interest and whether or not the facts or legal bases therefor were known or existed prior to the Effective Date.

19. Indemnification Obligations. Any obligation of the Debtors that is not contained in the Plan to indemnify, contribute, reimburse, or limit the liability of any Person, including any current or former officer or director of the Debtors, or any agent, professional, financial advisor, or underwriter of any securities issued by the Debtors, relating to any acts or omissions occurring before the Effective Date, whether arising pursuant to charter, bylaws, contract, applicable state law or otherwise, shall be canceled as of the Effective Date and, to the extent such obligation is contained an Executory Contract, rejected, pursuant to the Plan as of the Effective Date, provided, however, that nothing herein shall affect or impair the right of (i) any such officer or director to liquidate and assert against the Estate and seek recovery therefrom on account of any timely filed claim concerning any obligation of the Debtors to indemnify, contribute, reimburse or limit the liability of any such officer or director; or (ii) the Debtors, their Estates, or the Liquidating Trustee to object, dispute or otherwise contest any such claims; provided, further, however, that the Debtors, or the Liquidating Trust shall not have any obligation to indemnify, contribute, reimburse

or limit the liability of any current or former officer or director of the Debtors in their respective capacities as such for any acts or omissions that are alleged to have occurred following the later of (i) the resignation of any such current or former officer or director, or (ii) the Petition Date.

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

21. Exculpation; Injunction. The exculpation and limitation of liability provisions contained in Section 9.02 of the Plan and the injunction provisions contained section 9.03 of the Plan are approved and authorized in their entirety and in all respects.

22. Vesting of Property in Liquidating Trusts. Pursuant to section 1141 of the Bankruptcy Code and Section 6.03 of the Plan, on the Effective Date, all Retained Assets shall vest in the Apex Liquidating Trust and the Unsecured Cash Amount shall vest the GUC Sub-trust, in each case, free and clear of all Claims, liens, charges, other encumbrances, Interests or other interests, but otherwise in accordance with the terms of the Plan and the Liquidating Trust Agreement. On and after the Effective Date, the Liquidating Trustee may, in his discretion use, acquire, dispose of and/or abandon any property and prosecute, settle, resolve or abandon any Retained Causes of Action vested in the Liquidating Trusts free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules or Bankruptcy Court approval, subject only to the terms and provisions of the Plan, Liquidating Trust Agreement and this Confirmation Order.

23. General Administrative Claim Bar Date Provisions. Unless previously filed or as otherwise governed by a bar date order or in another order of the Court, requests for payment of

Administrative Claims accruing from the Petition Date through and including the Effective Date, other than Professional Fee Claims, must be filed with the Court and served on the parties identified in Section 13.05 of the Plan by the Administrative Claim Bar Date, which shall be the first Business Day that is thirty (30) days after the Effective Date. Holders of Administrative Claims that are required to file and serve a request for payment of such Administrative Claims and that do not file and serve such a request by the Administrative Claim Bar Date shall be forever barred from asserting such Administrative Claims against the Debtors, their Estates, the Liquidating Trustee, the Liquidating Trusts, or their respective property or receiving any payment on account thereof and any such Administrative Claim shall be deemed waived. The Liquidating Trustee shall have 365 days following the Effective Date (or such longer period as may be allowed by order of the Bankruptcy Court on motion of the Liquidating Trustee) to review and object to Administrative Claims other than Professional Fee Claims. For the avoidance of doubt, the deadline for filing requests for payment of 503(b)(9) Claims was the General Bar Date and the deadline for filing such requests is not extended by either the Plan nor this Confirmation Order.

24. Professional Fee Claims. All applications for final allowance and payment of Professional Fee Claims (each a “Final Fee Application”) shall be filed with the Bankruptcy Court on or before the Professional Fee Bar Date, which shall be the first Business Day that is thirty (30) days after the Effective Date. If an application for a Professional Fee Claim is not Filed by the Professional Fee Bar Date, such Professional Fee Claim shall be deemed waived and the Holder of such Claim shall be forever barred from receiving payment on account thereof. The final allowance of Professional Fee Claims shall be subject to further order of the Bankruptcy Court. For the avoidance of doubt, nothing in this paragraph 24 shall be construed as allowing or be deemed to allow attorney fees or expenses for defending fee applications in Court.

Notwithstanding the foregoing, if any objections are filed with respect to any Final Fee Application filed by the Debtors' Professionals or any fees or expenses therein are disallowed or not indefeasibly paid in full, such Professional(s) shall have the right to supplement such Fee Application after the Professional Fee Bar Date to seek allowance of Professional Fee Claims in excess of the Professional Fee Agreement, provided that payment of the Debtors' Professional Fee Claims shall still remain consistent with the Professional Fee Agreement.

25. The Professional Fee Agreement is hereby approved and shall be binding in accordance with the Plan.

26. U.S. Trustee Fees. All U.S. Trustee Fees payable on or before the Effective Date shall be paid in full in Cash by the Debtors on or before the Effective Date (or by the Liquidating Trustee if any such U.S. Trustee fees remain outstanding as of the Effective Date). From and after the Effective Date, the Liquidating Trustee shall pay all U.S. Trustee Fees assessed in full in Cash when due until such time as the Chapter 11 Cases are closed, dismissed or converted, whichever occurs first. From and after the Effective Date, the Liquidating Trustee shall file with the Bankruptcy Court and serve on the U.S. Trustee quarterly financial reports in a format prescribed by the U.S. Trustee. The U.S. Trustee Fees are Allowed, and the U.S. Trustee shall not be required to File a request for payment of administrative expense for any U.S. Trustee Fees.

27. Approval of Liquidating Trusts. The establishment of the Liquidating Trusts in accordance with the terms of the Plan and the Liquidating Trust Agreement is hereby authorized and approved in accordance with their respective terms.

28. Appointment of Liquidating Trustee. William Homony is hereby appointed to serve as the Liquidating Trustee on the terms set forth in this Confirmation Order, the Plan, and the Liquidating Trust Agreement.

29. Authorization, Duties, and Powers of Liquidating Trustee. On and after the Effective Date, the Liquidating Trustee is hereby authorized to take any and all actions necessary or appropriate in furtherance of, and to implement, effectuate and consummate the Plan, this Confirmation Order, and the Implementation Activities contemplated thereby and hereby and further, without limitation of the foregoing, the Liquidating Trustee shall have all of the specified authority, rights, duties, powers, options, and elections of the Liquidating Trustee as set forth in the Liquidating Trust Agreement and shall serve as a “representative of the estate” as such phrase is used in section 1123(b)(3)(B) of the Bankruptcy Code.

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

31. Compensation of Liquidating Trustee; Payment of Liquidating Trust Expenses. The compensation of the Liquidating Trustee shall be calculated pursuant to section 326 of the Bankruptcy Code, such that the Liquidating Trustee shall receive a commission for any disbursements made from amounts that come into the Liquidating Trusts on or after the Effective Date; provided that the Liquidating Trustee shall not receive a commission for any disbursements made to chapter 11 professionals on account of allowed professional fees incurred prior to the Effective Date. All compensation of the Liquidating Trustee and all other Liquidating Trust Expenses shall be paid from Liquidating Trust Expenses Reserve without further order of the Court, subject to the terms and conditions of the Liquidating Trust Agreement.

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

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

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

35. Effect of Reversal. If any or all of the provisions of this Confirmation Order are hereafter reversed, modified, or vacated by subsequent order of this Court or any other court, such reversal, modification or *vacatur* shall not affect the validity of the acts or obligations incurred or undertaken under or in connection with the Plan prior to the Liquidating Trustee's receipt of written notice of such order. Notwithstanding any such reversal, modification or *vacatur* of this Confirmation Order, any such act or obligation incurred or undertaken pursuant to, and in reliance on, this Confirmation Order prior to the effective date of such reversal, modification or *vacatur* shall be governed in all respects by the provisions of this Confirmation Order and the Plan and all related documents or any amendments or modifications thereto.

36. Notice of Confirmation and Effective Date. Promptly following the occurrence of the Effective Date, pursuant to Bankruptcy Rules 2002(f)(7) and 3020(c)(2), the Liquidating Trustee is directed to serve a notice of the entry of this Confirmation Order, the establishment hereunder of bar dates for certain Claims (including the Administrative Claim Bar Date, the

Professional Fee Bar Date and the Rejection Damages Bar Date) and the occurrence of the Effective Date, substantially in the form of **Exhibit B** attached hereto and incorporated herein by reference (the “Confirmation and Effective Date Notice”), on all parties that have requested notice in these cases.

37. Insurance. Up to and including their policy expiration date(s), including any extension thereof or tail period, any and all Insurance Policies in effect as of the Effective Date shall remain in full force and effect according to their terms and the coverage obligations of the insurers and third party administrators under such Insurance Policies shall continue following the Effective Date (including any obligations to pay, defend and process insured claims).

38. Plan and Confirmation Order Govern. Without intending to modify any prior order of this Court (or any agreement, instrument, or document addressed by any prior order), in the event of an inconsistency between the Plan, on the one hand, and any other agreement, instrument, or document intended to implement the provisions of the Plan, on the other, the provisions of the Plan shall govern (unless otherwise expressly provided for in such agreement, instrument, or document); *provided, further*, that, for the avoidance of doubt, in the event of any inconsistency between the Plan and the terms of this Confirmation Order, the terms of this Confirmation Order shall govern.

39. Reservation of Rights. Nothing in the Plan or this Confirmation Order shall waive, release, modify, discharge or impair any setoff and recoupment rights (to the extent any such rights exist) of ALSI, Inc., Joseph W. Dramise, and Glenn E. Martin, IV nor shall the Plan or this Confirmation Order expand, enhance or enlarge any such setoff or recoupment rights of such parties in any manner.

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

Dated: December 17th, 2021  
Wilmington, Delaware

  
LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit A**

Plan of Reorganization

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

ALS LIQUIDATION LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-11774 (LSS)  
(Jointly Administered)

COMBINED DISCLOSURE STATEMENT AND CHAPTER 11 PLAN OF  
LIQUIDATION JOINTLY PROPOSED BY ALS LIQUIDATION LLC AND ITS  
AFFILIATED DEBTORS AND THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS, DATED AS OF OCTOBER 28, 2021

**GOLDSTEIN & MCCLINTOCK, LLLP**

Maria Aprile Sawczuk (No. 3320)  
501 Silverside Road, Suite 65  
Wilmington, DE 19809  
Telephone: (302) 444-6710  
marias@goldmclaw.com

-and-

Harley J. Goldstein (*admitted pro hac vice*)  
Jeffrey C. Dan (*admitted pro hac vice*)  
111 W. Washington Street, Suite 1221  
Chicago, IL 60602  
Telephone: (312)337-7700  
harleyg@goldmclaw.com  
jeffd@goldmclaw.com

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

**ARCHER & GREINER, P.C.**

Alan M. Root (No. 5427)  
Bryan J. Hall (No. 6285)  
300 Delaware Ave., Suite 1100  
Wilmington, DE 19801  
(302) 777-4350  
(302) 777-4352 (fax)  
aroot@archerlaw.com  
bjhall@archerlaw.com

*Counsel to the Official  
Committee of Unsecured Creditors*

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable are: ALS Liquidation LLC (f/k/a Apex Linen Service LLC) (9075), HAH Liquidation LLC (f/k/a Highland Apex Holdings LLC) (0537), HAC Liquidation LLC (f/k/a Highland Avenue Capital Partners LLC) (2825), HAGP Liquidation LLC (f/k/a Highland Apex GP LLC) (9246), and HAM Liquidation LLC (f/k/a Highland Apex Management LLC) (5476). The Debtors' mailing address is c/o Bill Hughes, 2355 East Camelback Road, Suite 830, Phoenix, AZ 85016.

**TABLE OF CONTENTS**

	<b>PAGE</b>
<b>INTRODUCTION.....</b>	<b>2</b>
<b>ARTICLE I DEFINITION AND CONSTRUCTION OF TERMS .....</b>	<b>3</b>
<b>ARTICLE II BACKGROUND AND DISCLOSURES.....</b>	<b>15</b>
<b>2.01 The Debtors’ Business and Historical Operations.....</b>	<b>15</b>
<b>2.02 The 2019 Acquisition .....</b>	<b>16</b>
<b>2.03 The Debtors’ Prepetition Capital Structure.....</b>	<b>16</b>
<b>2.04 Events Leading to the Chapter 11 Cases .....</b>	<b>17</b>
<b>2.05 Commencement of the Chapter 11 Cases and First Day Relief.....</b>	<b>17</b>
<b>2.06 Retention of Estate Professionals and Appointment of Creditors’         Committee.....</b>	<b>18</b>
<b>2.07 Initial Cash Collateral and Financing Disputes with Prepetition Lenders .....</b>	<b>19</b>
<b>2.08 Debtor-In-Possession Financing; Creditors’ Committee Investigation .....</b>	<b>19</b>
<b>2.09 Sale of the Debtors’ Assets .....</b>	<b>20</b>
<b>2.10 Post-Sale Administration of the Estates.....</b>	<b>21</b>
<b>2.11 Claims Bar Date, Claims Pool and Reconciliation, PPP Loan Forgiveness .....</b>	<b>22</b>
<b>ARTICLE III CONFIRMATION PROCEDURES .....</b>	<b>23</b>
<b>3.01 Confirmation Procedures.....</b>	<b>23</b>
<b>3.02 Procedure for Objections .....</b>	<b>23</b>
<b>3.03 Requirements for Confirmation .....</b>	<b>23</b>
<b>3.04 Classification of Claims and Equity Interests .....</b>	<b>24</b>
<b>3.05 Impaired Claims or Equity Interests .....</b>	<b>25</b>
<b>3.06 Confirmation Without Necessary Acceptances; Cramdown .....</b>	<b>25</b>
<b>3.07 Feasibility.....</b>	<b>26</b>
<b>3.08 Best Interests Test and Liquidation Analysis.....</b>	<b>27</b>

3.09 Acceptance of the Plan.....28

**ARTICLE IV CLASSIFICATION OF CLAIMS AND INTERESTS AND EXPECTED RECOVERIES .....28**

4.01 Overview of Classification.....28

4.02 Identification and Treatment of Unclassified Claims.....28

4.03 Identification of Classes of Claims .....30

4.04 Treatment of Classified Classes, Rights to Vote, and Estimated Distributions .....32

4.05 Elimination of Classes for Voting Purposes .....35

4.06 Confirmation via “Cramdown” .....35

4.07 Controversy Concerning Classification, Impairment or Voting Rights .....35

4.08 Insurance .....36

**ARTICLE V CERTAIN RISK FACTORS TO BE CONSIDERED PRIOR TO VOTING 36**

5.01 The Plan May Not Be Accepted.....36

5.02 The Plan May Not Be Confirmed.....36

5.03 Distributions to Holders of Allowed Claims under the Plan May Be Inconsistent with Projections.....37

5.04 Objections to Classification of Claims.....37

5.05 Failure to Consummate the Plan.....38

5.06 Allowance of Claims May Substantially Dilute the Recovery to Holders of Claims under the Plan.....38

5.07 Certain Tax Considerations.....38

**ARTICLE VI MEANS FOR IMPLEMENTATION OF THE PLAN.....38**

6.01 Substantive Consolidation.....38

6.02 Cancellation of Equity Interests .....39

6.03 The Liquidating Trusts.....40

6.04 Insurance Policies.....42

6.05 Dissolution of Creditors’ Committee .....42

6.06 Transfer of Privilege/No Waiver .....42

6.07 Termination of the Claims Agent .....42

6.08 Closing of Cases other than ALS Liquidation LLC .....43

6.09 Final Decree.....43

**ARTICLE VII EXECUTORY CONTRACTS.....43**

7.01 Rejection of Executory Contracts.....43

7.02 Bar Date for Rejection Damages .....44

7.03 Pre-Existing Obligations to the Debtors Under Executory Contracts.....44

**ARTICLE VIII PROVISIONS GOVERNING RESOLUTION OF CLAIMS AND DISTRIBUTIONS OF PROPERTY UNDER THE PLAN.....44**

8.01 Claim Objections.....44

8.02 Adjustments to Claims and Administrative Claims Without Objection .....45

8.03 Late Claims; No Amendment Without Prior Authorization .....45

8.04 Distribution Provisions.....45

**ARTICLE IX EXCULPATION, INJUNCTION, AND RELATED PROVISIONS .....48**

9.01 Term of Bankruptcy Injunction or Stay .....48

9.02 Exculpation and Limitation of Liability .....48

9.03 Injunction.....49

**ARTICLE X CONDITIONS TO CONFIRMATION AND EFFECTIVE DATE .....49**

10.01 Conditions Precedent to Confirmation .....49

10.02 Conditions Precedent to the Effective Date .....50

10.03 Waiver of Conditions.....50

10.04 Effect of Failure of Conditions.....50

10.05 Filing of Notice of the Effective Date.....50

**ARTICLE XI MODIFICATION, REVOCATION OR WITHDRAWAL OF PLAN .....51**

11.01	Modification and Amendments .....	51
11.02	Effect of Confirmation on Modifications.....	51
11.03	Revocation or Withdrawal of the Plan.....	51
<b>ARTICLE XII JURISDICTION .....</b>		<b>52</b>
12.01	Bankruptcy Court Jurisdiction .....	52
12.02	Limitation on Jurisdiction.....	53
<b>ARTICLE XIII MISCELLANEOUS.....</b>		<b>53</b>
13.01	Defenses and Setoff .....	53
13.02	Governing Law.....	54
13.03	Successors and Assigns.....	54
13.04	Post-Effective Date Service List.....	54
13.05	Notices .....	54
13.06	Immediate Binding Effect .....	55
13.07	Severability of Plan Provisions .....	56
13.08	Exhibits .....	56
13.09	Votes Solicited in Good Faith.....	56
13.10	Conflicts .....	56
13.11	Implementation .....	56
13.12	Compromise of Controversies .....	57
13.13	No Admissions .....	57

**DISCLAIMER**

THIS COMBINED DISCLOSURE STATEMENT AND PLAN WAS COMPILED FROM INFORMATION OBTAINED FROM NUMEROUS SOURCES BELIEVED TO BE ACCURATE TO THE BEST KNOWLEDGE, INFORMATION, AND BELIEF OF THE PLAN PROPONENTS (DEFINED BELOW). NO GOVERNMENTAL AUTHORITY HAS PASSED ON, CONFIRMED OR DETERMINED THE ACCURACY OR ADEQUACY OF THE INFORMATION CONTAINED HEREIN.

NOTHING STATED HEREIN SHALL BE (I) DEEMED OR CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, (II) ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DEBTORS OR ANY OTHER PARTY, OR (III) DEEMED CONCLUSIVE EVIDENCE OF THE TAX OR OTHER LEGAL EFFECTS OF THE COMBINED DISCLOSURE STATEMENT AND PLAN ON THE DEBTORS OR HOLDERS OF CLAIMS OR INTERESTS. CERTAIN STATEMENTS CONTAINED HEREIN, BY NATURE, ARE FORWARD-LOOKING AND CONTAIN ESTIMATES AND ASSUMPTIONS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL REFLECT ACTUAL OUTCOMES.

THE STATEMENTS CONTAINED HEREIN ARE MADE AS OF THE DATE HEREOF, UNLESS ANOTHER TIME IS SPECIFIED. THE DELIVERY OF THIS COMBINED DISCLOSURE STATEMENT AND PLAN SHALL NOT BE DEEMED OR CONSTRUED TO CREATE ANY IMPLICATION THAT THE INFORMATION CONTAINED HEREIN IS CORRECT AT ANY TIME AFTER THE DATE HEREOF. HOLDERS OF CLAIMS OR INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS COMBINED DISCLOSURE STATEMENT AND PLAN AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. THEREFORE, EACH SUCH HOLDER SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS CONCERNING THE COMBINED DISCLOSURE STATEMENT AND PLAN AND THE TRANSACTIONS CONTEMPLATED HEREBY.

NO PARTY IS AUTHORIZED TO GIVE ANY INFORMATION WITH RESPECT TO THE COMBINED DISCLOSURE STATEMENT AND PLAN OTHER THAN THAT WHICH IS CONTAINED IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN. NO REPRESENTATIONS CONCERNING THE DEBTORS, THEIR ESTATES, OR THE VALUE OF THEIR PROPERTY HAVE BEEN AUTHORIZED OTHER THAN AS SET FORTH IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN. ANY INFORMATION, REPRESENTATIONS OR INDUCEMENTS MADE TO OBTAIN AN ACCEPTANCE OF THE COMBINED DISCLOSURE STATEMENT AND PLAN OTHER THAN, OR INCONSISTENT WITH, THE INFORMATION CONTAINED HEREIN SHOULD NOT BE RELIED UPON BY ANY HOLDER OF A CLAIM OR INTEREST. THIS COMBINED DISCLOSURE STATEMENT AND PLAN HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3016(b), AND LOCAL RULE 3017-2 AND NOT IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER NON-APPLICABLE BANKRUPTCY LAWS. THIS COMBINED DISCLOSURE STATEMENT AND PLAN HAS NOT BEEN APPROVED OR DISAPPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION (THE "SEC"), NOR HAS

THE SEC PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.

SEE ARTICLE V OF THIS COMBINED DISCLOSURE STATEMENT AND PLAN, ENTITLED "CERTAIN RISK FACTORS TO BE CONSIDERED PRIOR TO VOTING," FOR A DISCUSSION OF CERTAIN CONSIDERATIONS IN CONNECTION WITH A DECISION BY A HOLDER OF AN IMPAIRED CLAIM TO ACCEPT THE COMBINED DISCLOSURE STATEMENT AND PLAN.

## INTRODUCTION

The above-captioned debtors and debtors-in-possession (collectively, the "Debtors") and the official committee of unsecured creditors appointed in the Debtors' Chapter 11 Cases (the "Creditors' Committee," and together with the Debtors, the "Plan Proponents"), hereby jointly propose this Combined Disclosure Statement and Plan pursuant to sections 1125 and 1129 of the Bankruptcy Code.

This Combined Disclosure Statement and Plan is the product of the Debtors' and the Creditors' Committee's efforts to create an efficient process for the wind down of the Debtors' Estates and their exit from chapter 11 in a manner that maximizes value under the circumstances.

This Combined Disclosure Statement and Plan contemplates the establishment of certain liquidating trusts by and through which the Liquidating Trustee(s) will: (i) marshal the remaining assets of the Debtors' estates, including the proceeds from the sale of substantially all of the Debtors' assets and certain retained causes of action; (ii) implement the terms of the Bankruptcy Court approved Sale by segregating and distributing certain cash held for the benefit of non-insider general unsecured creditors; (iii) review, reconcile, and resolve claims; and (iv) make distributions to holders of allowed claims, all as set forth more fully herein and consistent with the priority of distribution provisions of the Bankruptcy Code.

This Combined Disclosure Statement and Plan contains, among other things, (i) a discussion of the Debtors' history and businesses, (ii) a summary of the events leading to these Chapter 11 Cases, (iii) descriptions of key events during the Chapter 11 Cases, (iv) certain risk factors, (v) a summary and analysis of this Plan, and (vi) certain other related matters. **Article IV of the Combined Disclosure Statement and Plan provides information on classification of claims and projected recoveries. In particular, section 4.04 provides a chart of projected recoveries.**

ALL HOLDERS OF CLAIMS AGAINST THE DEBTORS ARE ENCOURAGED TO READ THE COMBINED DISCLOSURE STATEMENT AND PLAN IN ITS ENTIRETY, AND TO CONSULT WITH AN ATTORNEY, 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 PROPONENTS RESERVE THE RIGHT TO ALTER, AMEND, MODIFY, REVOKE OR WITHDRAW THE PLAN, OR ANY PART THEREOF, PRIOR TO ITS SUBSTANTIAL CONSUMMATION.

## ARTICLE I

### DEFINITION AND CONSTRUCTION OF TERMS

For purposes of the Plan, except as expressly provided or unless the context otherwise requires, (i) any capitalized term used in this Combined Disclosure Statement and Plan (also referred to herein as the Plan) that is not defined herein, 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, (ii) 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, (iii) any reference in this Combined Disclosure Statement and 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, (iv) any reference in this Combined Disclosure Statement and Plan to an existing document or exhibit means such document or exhibit as it may be amended, modified, or supplemented from time to time, (v) unless otherwise specified, all references in this Combined Disclosure Statement and Plan to sections, articles, schedules, and exhibits are references to sections, articles, schedules, and exhibits of or to this Combined Disclosure Statement and Plan, (vi) the words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to this Combined Disclosure Statement and Plan in its entirety, including any schedules and exhibits hereto, rather than to any particular paragraph, subparagraph, or clause contained in this Combined Disclosure Statement and Plan, (vii) 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 this Combined Disclosure Statement and Plan, and (viii) the rules of construction set forth in section 102 of the Bankruptcy Code and in the Bankruptcy Rules shall apply.

As used in this Combined Disclosure Statement Plan, the following terms have the following meanings:

1.1 “**503(b)(9) Claims**” shall mean Claims arising under section 503(b)(9) of the Bankruptcy Code against one or more of the Debtors that were required to be Filed against one or more of the Debtors on or before the General Bar Date.

1.2 “**Administrative Claim**” shall mean any right to payment constituting a cost or expense of administration of the Chapter 11 Cases as it relates to one of the Debtors under section 503(b) and 507(a)(2) of the Bankruptcy Code including, any actual and necessary costs and expenses of preserving the Debtors’ Estates, any actual and necessary costs and expenses of operating the Debtors’ business, any indebtedness or obligations incurred by the Debtors after the Petition Date in connection with the conduct of its business, all compensation and reimbursement of expenses awarded or otherwise approved for payment by Final Order of the Bankruptcy Court under section 330, 503(b) or 1129(a)(4) of the Bankruptcy Code, any fees or charges assessed against the Debtors’ Estates under section 1930 of chapter 123 of title 28 of the United States Code, all wages, salaries and health and other benefits on account of services rendered after the Petition Date, all post-Petition Date taxes, and all other claims entitled to administrative expense status

pursuant to a Final Order of the Bankruptcy Court, in each case relating to the period from the Petition Date to the Effective Date but not beyond.

1.3 **Administrative Claim Bar Date**” means the date that is 30 days after the Effective Date, which shall be the deadline for Filing requests for payment of Administrative Claims that arose after the Petition Date.

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

1.5 **“Allowed”** shall mean all or a portion of a Claim or Administrative Claim against one of the Debtors or an Interest in the Debtors (a) that has been listed by one of the Debtors in its Schedules as liquidated in amount and not “disputed” or “contingent,” and with respect to which no contrary Claim, Administrative Claim, or proof of Interest has been Filed; (b) as to which no Objection or request for estimation has been Filed on or before the Claims Objection Deadline or the expiration of such other applicable period fixed by the Bankruptcy Court; (c) that has not previously been satisfied; or (d) that is allowed (i) by a Final Order, (ii) by an agreement between the Holder of such Claim, Administrative Claim, or Interest and the Plan Proponents prior to the Effective Date, or the Liquidating Trustee on behalf of the Debtors’ Estates after the Effective Date, or (iii) pursuant to the terms of this Plan. For purposes of computing Distributions under this Plan, a Claim, Administrative Claim, or Interest that has been deemed “Allowed” shall not include interest, costs, fees or charges on such Claim, Administrative Claim, or Interest from and after the Petition Date, except as provided in section 506(b) of the Bankruptcy Code or as otherwise expressly set forth in this Plan. For the avoidance of doubt, any Claim or Administrative Claim that relates to obligations that were assumed by the Purchaser pursuant to the Asset Purchase Agreement shall not be Allowed for purposes of this Plan.

1.6 **“Apex Liquidating Trust”** shall mean the trust established under the Plan and the Liquidating Trust Agreement, which on the Effective Date shall be vested with the Retained Assets and shall be governed by the terms of the Liquidating Trust Agreement.

1.7 **“Asset Purchase Agreement”** or **“APA”** shall mean that certain asset purchase agreement by and between the Debtors and the Purchaser, including all schedules and exhibits thereto and any subsequent amendments.

1.8 **“Assets”** means all tangible and intangible assets of every kind and nature of the Debtors and their Estates within the meaning of section 541 of the Bankruptcy Code.

1.9 **“Bankruptcy Code”** shall mean title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*, and as such title has been, or may be, amended from time to time, to the extent that any such amendment is applicable to these Chapter 11 Cases.

1.10 **“Bankruptcy Court”** shall mean the United States Bankruptcy Court for the District of Delaware.

1.11 **“Bankruptcy Rules”** shall mean, when referenced generally, (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, and (iv) any standing orders governing practice and procedure issues 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; provided, however, when a specific Bankruptcy Rule is referenced (*e.g.*, Bankruptcy Rule 9019), such reference shall be to such Rule under the Federal Rules of Bankruptcy Procedure.

1.12 “**Bar Date**” shall mean, with respect to any particular Claim, the specific date set by the Bankruptcy Court as the last day for Filing proofs of Claim or proofs of Interest against one or more of the Debtors in the Chapter 11 Cases for that specific Claim or Interest. The Bar Date that was previously ordered by the Court was January 11, 2021.

1.13 “**Bar Date Order**” shall mean the *Order (A) Fixing the Procedures and Deadlines to File Proofs of Claim, Including Section 503(b)(9) Claims and (B) Approving the Form and Manner of Notice of Thereof*, entered by the Bankruptcy Court on November 17, 2020 [D.I. 304].

1.14 “**Beneficial Interest**” shall mean an interest that entitles the holder thereof to a Distribution from the Apex Liquidating Trust and/or the GUC Sub-trust, as applicable, in accordance with the terms of the Plan and the Liquidating Trust Agreement.

1.15 “**Bidding Procedures Order**” shall mean the *Order (I) Approving Bid and Sale Procedures, (II) Approving Certain Bidding Protections, (III) Approving the Form and Manner of Notice of the Sale and Assumption and Assignment of Executory Contracts and Unexpired Leases, and (IV) Scheduling an Auction and Sale Hearing*, entered by the Bankruptcy Court on September 22, 2020 [D.I. 227].

1.16 “**Business Day**” shall mean any day, other than a Saturday, Sunday or a legal holiday (as that term is defined in Bankruptcy Rule 9006(a)).

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

1.18 “**Causes of Action**” shall mean all Claims, causes of action controversies, obligations, suits, judgments, damages, demands, debts, rights, preference actions, fraudulent conveyance actions and other claims or causes of action under sections 510, 542, 543, 544, 545, 546, 547, 548, 549, 550 and 553 of the Bankruptcy Code and other similar state law claims and causes of action, liens, indemnities, guaranties, suits, liabilities, judgments, accounts, defenses, offsets, powers, privileges, licenses and franchises of any kind or character whatsoever, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, suspected or unsuspected, disputed or undisputed, secured or unsecured, assertable directly or derivatively, whether arising before, on, or after the Petition Date, in contract or in tort, arising in law, equity or pursuant to any other theory of law. For the avoidance of doubt, Causes of Action also includes: (a) any right of setoff, counterclaim or recoupment and any claim on contracts or for breaches of duties imposed by law or in equity; (b) the right to object to any Claim or Interest; (c) any claim pursuant to sections 362 or chapter 5 of the Bankruptcy Code; (d)

any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; and (e) any state law fraudulent transfer claim.

1.19 “**Chapter 11 Cases**” shall mean the cases filed with the Bankruptcy Court on July 6, 2020 by each of the Debtors pursuant to chapter 11 of the Bankruptcy Code, which cases are jointly administered under Case No. 20-11774 (LSS).

1.20 “**Claim**” or “**Claims**” shall mean a claim or claims against one or more of the Debtors, as such term is defined in section 101(5) of the Bankruptcy Code, and shall include 503(b)(9) Claims.

1.21 “**Claims Agent**” shall mean Stretto or any successor appointed by the Bankruptcy Court.

1.22 “**Claims Objection Deadline**” shall mean three hundred sixty five (365) days after the Effective Date, or such later date as may be ordered by the Bankruptcy Court, *provided however*, that the Liquidating Trustee may file one or more motions with the Bankruptcy Court on notice and an opportunity for a hearing to extend such deadline from time to time.

1.23 “**Class**” shall mean each category or group of Holders of Claims or Interests that has been designated as a class in Article IV of this Combined Disclosure Statement and Plan.

1.24 “**Combined Disclosure Statement and Plan**” shall mean this entire document and all exhibits, schedules and related documents, whether annexed hereto or Filed in connection herewith, including the Disclosure Statement portions and the Plan portions.

1.25 “**Confirmation Date**” shall mean the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases, within the meaning of Bankruptcy Rules 5003 and 9021.

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

1.27 “**Confirmation Order**” shall mean the order of the Bankruptcy Court confirming this Plan pursuant to, among others, section 1129 of the Bankruptcy Code.

1.28 “**Consummation**” shall mean the occurrence of the Effective Date.

1.29 “**Creditor**” shall have the meaning ascribed to such term in section 101(10) of the Bankruptcy Code.

1.30 “**Creditors’ Committee**” shall mean the official committee of unsecured creditors appointed by the U.S. Trustee in these Chapter 11 Cases, which currently is comprised of the following members: Standard Textile Co. Inc.; Gardner Machinery Corp.; and GA Braun, Inc.

1.31 “**Debtors**” shall mean ALS Liquidation LLC (f/k/a Apex Linen Service LLC), HAH Liquidation LLC (f/k/a Highland Apex Holdings LLC), HAC Liquidation LLC (f/k/a

Highland Avenue Capital Partners LLC), HAGP Liquidation LLC (f/k/a Highland Apex GP LLC), and HAM Liquidation LLC (f/k/a Highland Apex Management LLC).

1.32 “**Disallowed**” shall mean with respect to any Claim, Administrative Claim, or Interest or portion thereof, any Claim or Administrative Claim against or Interest in one or more of the Debtors 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 Plan Proponents or the Liquidating Trustee, as applicable, in whole or in part; (iii) has been satisfied in full or, to the extent satisfied in the part, the portion of which has been satisfied; (iv) has been assumed by the Purchaser pursuant to the Asset Purchase Agreement; (v) has been withdrawn, in whole or in part, by the Holder thereof; (vi) 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; (vii) 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 Administrative Claim or proof of Interest; (viii) is evidenced by a proof of Claim or Administrative 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 Administrative Claim or proof of Interest was not timely or properly Filed; (ix) is unenforceable to the extent provided in section 502(b) of the Bankruptcy Code; or (x) where the Holder of such Claim, Administrative Claim, or Interest 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. In each case a Disallowed Claim or a Disallowed Interest is Disallowed only to the extent of disallowance, withdrawal, reclassification, expungement, subordination or estimation.

1.33 “**Disallowed Claim**” shall mean a Claim or Administrative Claim, or any portion thereof, that is Disallowed.

1.34 “**Disallowed Interest**” shall mean an Interest, or any portion thereof, that is Disallowed.

1.35 “**Disbursing Agent**” shall mean the Liquidating Trustee or any third party designated by the Liquidating Trustee to act as Disbursing Agent.

1.36 “**Disclosure Statement**” shall mean the disclosure statement, as amended, supplemented or modified from time to time, that is embodied within this Combined Disclosure Statement and Plan and distributed in accordance with, among others, sections 1125, 1126(b) and 1145 of the Bankruptcy Code, Bankruptcy Rule 3018 and other applicable law.

1.37 “**Disputed**” shall mean any Claim, Administrative Claim, or Interest which has not yet been Allowed or Disallowed in accordance with the terms of this Plan.

1.38 “**Disputed Administrative Claim, Priority Tax Claim, Priority Non-Tax Claims Secured Claims, General Unsecured Claim and Insider Claim Reserves**” shall mean the reserves that may be established by the Liquidating Trustee in its discretion pursuant to Section 8.02 of this Plan and the Liquidating Trust Agreement, which Reserve(s) shall contain amounts relating to Disputed Administrative Claims, Disputed Priority Tax Claims, Disputed Priority Non-Tax Claims, Disputed Secured Claims, Disputed General Unsecured Claims and/or Disputed Insider Claims.

1.39 “**Distribution**” shall mean any distribution made pursuant to the terms of Plan by the Liquidating Trustee or another Entity acting as the Disbursing Agent, to the Holders of Allowed Claims.

1.40 “**Distribution Date**” shall mean the date on which a Distribution is made pursuant to this Plan.

1.41 “**Distribution Record Date**” shall mean the date established for determining the Holders of Allowed Claims or Allowed Interests entitled to Distributions pursuant to the Plan, which date shall be the Confirmation Date.

1.42 “**Effective Date**” shall mean the first Business Day after the later of the date on which (a) all conditions in Article X of this Plan have been satisfied or waived in accordance with that Article and (b) no stay of the Confirmation Order is in effect.

1.43 “**Entity**” shall have the meaning ascribed to such term in section 101(15) of the Bankruptcy Code.

1.44 “**Estate**” or “**Estates**” shall mean one or more estate of the Debtors created pursuant to section 541 of the Bankruptcy Code.

1.45 “**Estate Cash**” shall mean the \$650,000 paid by Purchaser in connection with the closing of the Sale in accordance with the terms of the Asset Purchase Agreement.

1.46 “**Exculpated Parties**” shall mean (i) the Debtors, (ii) the Creditors’ Committee, and (iii) each of their respective Representatives, and in the case of the Creditors’ Committee, each of its members (each solely in such capacity). The term Exculpated Parties shall specifically include any chief restructuring officer retained by the Debtors in connection with the Chapter 11 Cases (including such chief restructuring officer’s firm and any other member or employee of such chief restructuring officer’s firm), but shall exclude any of the Debtors’ other current or former directors, officers, partners, shareholders, employees, members, managers, or similar persons.

1.47 “**Executory Contract**” shall mean a contract or lease to which one of the Debtors is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

1.48 “**File,**” “**Filed,**” or “**Filing**” shall mean, respectively, file, filed, or filing with the Bankruptcy Court or its authorized designee in these Chapter 11 Cases; provided, however, that with respect to proofs of Claim and Administrative Claim and proofs of Interest only, “**Filed**” shall mean delivered and received in the manner provided by the applicable Bar Date Order or as otherwise established by order of the Bankruptcy Court.

1.49 “**Final Order**” shall mean an unstayed order, ruling or judgment of the Bankruptcy Court or any other court of competent jurisdiction as to which the time to appeal, petition for certiorari, or request for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing shall then be pending, or as to which any right to appeal, petition for certiorari, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Plan Proponents or the Liquidating Trustee on behalf of the Estates (on or after the Effective Date), or, in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order of the Bankruptcy Court or other court of competent jurisdiction shall have been determined by the highest court to which such order was appealed, or certiorari, reargument or rehearing shall have been denied and the time to take any further appeal, petition for certiorari or move for reargument or rehearing shall have expired; 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 or applicable state court rules of civil procedure, may be Filed with respect to such order, shall not cause such order not to be a Final Order.

1.50 “**General Bar Date**” shall mean January 11, 2021, for certain Claims arising before the Petition Date, including 503(b)(9) Claims, Secured Claims, General Unsecured Claims, or Priority Non-Tax Claims, as established by the Bar Date Order.

1.51 “**General Unsecured Claim**” shall mean any Claim against one or more of the Debtors that is not: (i) an Administrative Claim, (ii) a Priority Tax Claim, (iii) a Secured Claim, (iv) a Priority Non-Tax Claim, (v) an Insider Claim, or (vi) an Intercompany Claim.

1.52 “**Governmental Unit**” shall have the meaning ascribed to such term in section 101(27) of the Bankruptcy Code.

1.53 “**Governmental Unit Bar Date**” shall mean January 11, 2021, as established by the Bar Date Order.

1.54 “**GUC Sub-trust**” shall mean the sub-trust to the Apex Liquidating Trust established under the Plan and the Liquidating Trust Agreement, which on the Effective Date shall be vested with sole and exclusive title and possession of the Unsecured Cash Amount and shall be governed by the terms of the Liquidating Trust Agreement. The GUC Sub-trust shall be established to implement the terms of the Asset Purchase Agreement previously approved by the Sale Order, and Holders of non-Insider Allowed General Unsecured Claims shall be the sole beneficiaries of the GUC Sub-trust.

1.55 “**Holder**” or “ **Holders**” shall mean the legal or beneficial Holder of a Claim, Administrative Claim, or Interest (and, when used in conjunction with a Class or type of Claim, Administrative Claim, or Interest, means a Holder of a Claim, Administrative Claim, or Interest in such Class or of such type).

1.56 “**Impaired**” shall mean, when used in reference to a Claim or Interest, a Claim or Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

1.57 “**Impaired Class**” shall mean a Class of Claims or Interests that is Impaired.

1.58 “**Insider**” shall have the meaning ascribed to such term in section 101(31) of the Bankruptcy Code and shall include, without limitation, insiders of the Debtors and their respective affiliates, subsidiaries and predecessors, including any of the Debtors’, affiliates’, subsidiaries’, or predecessors’ former or current owners, officers, directors, members, or managers.

1.59 “**Insider Claim**” shall mean any Claim or Administrative Claim against the Debtors, which Claim or Administrative Claim has been or may be Filed by, held by, asserted by, or scheduled on behalf of any Insider of any Debtor, including any Claim or Administrative Claim of any Insider listed on the Debtors’ Schedules, regardless of whether such Claim or Administrative Claim may have been transferred to a non-Insider. For the avoidance of doubt the term Insider Claim specifically includes all Claims and Administrative Claims Filed by, held by, asserted by, or scheduled on behalf of: (i) ALSI, Inc.; (ii) Glen E. Martin, IV; (iii) Joseph W. Dramise; (iv) Christopher Bryan, and/or (v) Highland Avenue Capital Funds.

1.60 “**Insurance Policies**” shall mean any issued policy of insurance and any agreements relating thereto covering one or more of the Debtors, the Debtors’ Estates, or their assets, directors, officers, members, managers, employees and fiduciaries, or that may be available to provide coverage for Claims against any Debtor or any of the foregoing, including any general liability, property, workers compensation, casualty, umbrella or excess liability policy(ies), errors and omissions, director and officer or similar executive, fiduciary and organization liability policy(ies) (A, B or C coverage), and any tail or extended reporting requirement with respect thereto

1.61 “**Intercompany Claim**” shall mean (i) any account reflecting intercompany book entries by one Debtor with respect to another Debtor, or (ii) any Claim, Administrative Claim, or Interest that is not reflected in such book entries and is held by a Debtor against the other Debtor, in each case accruing before or after the Petition Date through the Effective Date, including, but not limited to, any Claim or Administrative Claim for reimbursement, payment as guarantor or surety, or any Claim or Administrative Claim for contribution or expenses that were allocable between the one or more of the Debtors. For the avoidance of doubt, the term Intercompany Claim specifically includes all Claims, Administrative Claims, and Interests Filed by, held by, asserted by, or scheduled on behalf of any of the Debtors, including but not limited to: (i) Highland Apex GP LLC and (ii) Highland Apex Management LLC.

1.62 “**Interests**” shall mean the legal interests, equitable interests, contractual interests, equity interests or ownership interests, or other rights of any Person in the Debtors 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 the Debtors, partnership interests in the Debtors’ 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 of the Debtors or obligating the Debtors to issue, transfer or sell any shares of capital stock whether or not certificated, transferable, voting or denominated “stock” or a similar security.

1.63 “**Liquidating Trusts**” shall collectively mean the Apex Liquidating Trust and the GUC Sub-trust established under the terms of the Plan and the Liquidating Trust Agreement.

1.64 “**Liquidating Trustee**” shall mean the Person(s) appointed pursuant the terms of this Plan to serve as the trustee of the Liquidating Trusts for the purposes of, among other things, liquidating the Estates’ remaining assets, reconciling Claims, making Distributions, and otherwise implementing the Plan following the Effective Date. The Liquidating Trustee shall be selected by a majority of the members of the Creditors’ Committee and shall serve as the Liquidating Trustee for the both the Apex Liquidating Trust and the GUC Sub-trust. As set forth in the Liquidating Trust Agreement, at the discretion of the Creditors’ Committee, the role of Liquidating Trustee may be fulfilled by a liquidating trust committee, which may consist of one or more members of the Creditors’ Committee. Any reference herein to the Liquidating Trustee shall be deemed to be a reference to any liquidating trust committee that may be selected to serve the role of Liquidating Trustee.

1.65 “**Liquidating Trust Agreement**” means the trust agreement that establishes the Liquidating Trusts and governs the powers, duties, and responsibilities of the Liquidating Trustee. The Liquidating Trust Agreement shall be part of the Plan Supplement and shall be reasonably acceptable to the Plan Proponents.

1.66 “**Liquidating Trust Expenses**” shall mean (i) the actual and projected costs and expenses of the Liquidating Trusts and (ii) actual and projected reasonable fees, costs and expenses of the Liquidating Trustee and the Liquidating Trustee’s retained professionals, as determined in the reasonable discretion of the Liquidating Trustee, subject to the terms of the Plan and the Liquidating Trust Agreement.

1.67 “**Liquidating Trust Expense Reserves**” shall mean the reserve(s) established by the Liquidating Trustee for payment of actual and projected Liquidating Trust Expenses, which reserve(s) may be replenished or adjusted from time to time by the Liquidating Trustee in its reasonable discretion in accordance with the terms of the plan and the Liquidating Trust Agreement. The Liquidating Trust Expense Reserve shall be funded exclusively from the Retained Assets vested in the Apex Liquidating Trust and not from the Unsecured Cash Amount; *provided* that the Liquidating Trustee may in its reasonable discretion reserve from the Unsecured Cash Amount an amount necessary to satisfy projected Liquidating Trust Expenses solely arising from the activities of the GUC Sub-trust, including the distribution of the Unsecured Cash Amount; *provided further that* any such funds reserved from the Unsecured Cash Amount shall not be reserved for any other purpose. Any such reserve established from the Unsecured Cash Amount shall be separately segregated by the Liquidating Trustee and any unused portion of such reserve shall be re-vested in the GUC Sub-trust for the sole benefit of Holders of Allowed General Unsecured Claims.

1.68 “**Local Rules**” shall mean the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware.

1.69 “**Person**” shall have the meaning ascribed to such term in section 101(41) of the Bankruptcy Code.

1.70 “**Petition Date**” shall mean July 6, 2020, the date on which the Debtors commenced the Chapter 11 Cases in the Bankruptcy Court.

1.71 “**Plan**” shall mean this joint plan of liquidation 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 documents submitted in support hereof and the Bankruptcy Code or the Bankruptcy Rules.

1.72 “**Plan Proponents**” shall mean the Debtors and the Creditors’ Committee.

1.73 “**Plan Supplement**” shall mean the compilation of documents and forms of documents, agreements, schedules, and exhibits to this Plan, which shall be in form and substance acceptable to the Plan Proponents, and which shall be Filed in the Chapter 11 Cases, and notice of which shall be served in accordance with the Solicitation Procedures Order as may be amended or supplemented by additional documents Filed in the Chapter 11 Case prior to the Effective Date as amendments to the Plan Supplement.

1.74 “**PPP Loan**” shall mean that certain unsecured prepetition loan in the principal sum of \$3,010,100.00 (plus all interest accrued thereon) made by Western Alliance Bank to Apex Linen pursuant to the U.S. Small Business Administration, Coronavirus Aid, Relief, and Economic Security Act. The PPP Loan was forgiven in full on or about August 17, 2021.

1.75 “**Priority Non-Tax Claim**” shall mean any and all Claims (or any portion of a Claim) accorded priority in right of payment under section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

1.76 “**Priority Tax Claim**” shall mean a Claim or a portion of a Claim for which priority is asserted under section 507(a)(8) of the Bankruptcy Code.

1.77 “**Pro Rata**” shall mean the proportion that an Allowed Claim or Administrative Claim in a particular Class bears to the aggregate amount of Allowed Claims or Administrative Claims in that respective Class, or the proportion that Allowed Claims or Administrative Claims in a particular Class bear to the aggregate amount of Allowed Claims or Administrative Claims in a particular Class and other Classes entitled to share in the same recovery as such Allowed Claim or Administrative Claim under the Plan, as applicable.

1.78 “**Professional**” shall mean any professional employed in these Chapter 11 Cases pursuant to a Final Order of the Bankruptcy Court under Bankruptcy Code sections 327, 328 or 1103, or for which compensation and reimbursement has been Allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

1.79 “**Professional Fee Agreement**” means the agreement by the Debtors’ Professionals on the amount such Professionals will be paid on account of Allowed Professional Fee Claims (and related issues) as set forth in paragraph 7 of the *Fifth Monthly Staffing Report by GlassRatner Advisory & Capital Group, LLC for the Period from November 1, 2020 through November 30, 2020* [Dkt. No. 422]. The Professional Fee Agreement is contingent upon confirmation of this Plan.

1.80 “**Professional Fee Bar Date**” shall mean the deadline for Filing all applications for Professional Fee Claims, which shall be thirty (30) days after the Effective Date.

1.81 “**Professional Fee Claims**” shall mean a Claim of a Professional for compensation for services rendered, reimbursement of costs, expenses, or other charges incurred, or substantial contribution after the Petition Date and on or before the Effective Date.

1.82 “**Purchaser**” means Apex Linen Holdings, LLC.

1.83 “**Rejection Claim**” shall mean any Claim or Administrative Claim for amounts due as a result of the rejection by one of the Debtors of any Executory Contract under section 365 of the Bankruptcy Code.

1.84 “**Rejection Damages Bar Date**” shall mean the deadline by which a counterparty to an Executory Contract of the Debtors rejected under this Plan must File a proof of Claim or Administrative Claim for damages arising from such rejection, and shall be the later of (a) the General Bar Date or the Governmental Bar Date, as applicable, or (b) 5:00 p.m. (prevailing Eastern time) on the date that is 30 days following service of an order approving rejection of any executory contract or unexpired lease of one of the Debtors.

1.85 “**Representatives**” shall mean each Professional retained by the Debtors and by the Creditors’ Committee pursuant to a Final Order entered in these Chapter 11 Cases, including such Professional’s directors, officers, partners, shareholders, associates employees, members, managers, or similar persons.

1.86 “**Reserves**” shall mean, collectively, the Disputed Administrative Claims Reserve, the Disputed Professional Fee Claims Reserve, the Disputed Priority Tax Claims Reserve, the Disputed Priority Non-Tax Claims Reserve, the Disputed Secured Claims Reserves, the Disputed General Unsecured Claims Reserve, the Disputed Insider Claim Reserve, the Liquidating Trust Expense Reserve, and any other reserves that may be established by the Liquidating Trustee pursuant to Section 8.02 of the Plan.

1.87 “**Retained Assets**” shall mean all of the Debtors’ Cash and other Assets of the Estates existing on the Effective Date and all proceeds thereof, including the Estate Cash and the Retained Causes of Action. For the avoidance of doubt, the Unsecured Cash Amount is not included within the definition of Retained Assets as the Unsecured Cash Amount is not an Asset of the Debtors’ Estates.

1.88 “**Retained Causes of Action**” shall mean all Causes of Action retained by the Estates as set forth on Schedule 2.2(c) to the Asset Purchase Agreement, which Schedule shall be Filed as part of the Plan Supplement. Any Cause of Action, not set forth on Schedule 2.2(c) to the Asset Purchase Agreement shall not constitute a Retained Cause of Action.

1.89 “**Sale**” shall mean the sale of substantially all of the Debtors’ Assets to the Purchaser pursuant to the Asset Purchase Agreement and the Sale Order.

1.90 “**Sale Documents**” shall mean the Asset Purchase Agreement, the Sale Order, and all documents, instruments, and agreements executed and delivered in connection with the consummation of the transactions contemplated by the Asset Purchase Agreement.

1.91 “**Sale Motion**” shall mean the *Debtors’ Emergency Motion for Entry of Orders: (I) Establishing Bidding and Sale Procedures; (II) Approving the Sale of Assets; and (III) Granting Related Relief*, filed with the Bankruptcy Court on August 6, 2020 [D.I. 132].

1.92 “**Sale Order**” shall mean the *Order (A) Authorizing the Sale of Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (B) Authorizing and Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Such Sale, and (C) Granting Related Relief*, entered by the Bankruptcy Court on October 20, 2020 [D.I. 271].

1.93 “**Schedules**” shall mean the Schedules of Assets and Liabilities and Statements of Financial Affairs Filed by the Debtors 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, which were filed on September 1, 2020 [D.I. 190 – 194; 221 and 309].

1.94 “**Secured Claim**” shall mean, pursuant to section 506 of the Bankruptcy Code, that portion of a Claim that is (a) secured by a valid, perfected and enforceable security interest, lien, mortgage, or other encumbrance, that is not subject to avoidance under applicable bankruptcy or non-bankruptcy law, in or upon any right, title or interest of one or more of the Debtors in and to property of the Estates, to the extent of the value of the Holder’s interest in such property as of the relevant determination date, or (b) Allowed as such pursuant to the terms of this Plan (subject to the Confirmation Order becoming a Final Order). The defined term Secured Claim includes any Claim that is (i) subject to an offset right under applicable law as of the Petition Date, and (ii) a secured claim against the one or more of the Debtors pursuant to sections 506(a) and 553 of the Bankruptcy Code.

1.95 “**Solicitation Procedures Order**” shall mean the Bankruptcy Court’s Order approving the *Joint Motion of the Plan Proponents (i) Approving on an Interim Basis the Adequacy of Disclosures in the Combined Plan and Disclosure Statement, (ii) Scheduling the Confirmation Hearing and Deadline for Filing Objections, (iii) Establishing Procedures for Solicitation and Tabulation of Votes to Accept or Reject the Combined Plan and Disclosure Statement, and Approving the Form Of Ballot And Solicitation Package, and (iv) Approving the Notice Provisions* entered by the Bankruptcy Court on October 28, 2021.

1.96 “**Tax**” or “**Taxes**” shall mean all income, gross receipts, sales, use, transfer, payroll, employment, franchise, profits, property, excise, or other similar taxes, estimated import duties, fees, stamp taxes, and duties, value added taxes, assessments, or charges of any kind whatsoever (whether payable directly or by withholding), together with any interest and any penalties, additions to tax, or additional amounts imposed by any taxing authority of a Governmental Unit with respect thereto.

1.97 “**Unclaimed Distributions**” shall mean any undeliverable or unclaimed Distributions.

1.98 “**Unimpaired**” shall mean, when used in reference to a Claim, Administrative Claim, or Interest, any Claim, Administrative Claim, or Interest that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

1.99 “**Unimpaired Class**” shall mean a Class of Claims, Administrative Claims, or Interests that are not impaired within the meaning of section 1124 of the Bankruptcy Code.

1.100 “**U.S. Trustee**” shall mean the office of the United States Trustee for the District of Delaware.

1.101 “**U.S. Trustee Fees**” shall mean all fees payable pursuant to 28 U.S.C. § 1930 and any interest thereon pursuant to 31 U.S.C. § 3717.

1.102 “**Unsecured Cash Amount**” shall mean the sum of \$500,000, deposited by Purchaser into a segregated account for the sole benefit of Holders of Allowed General Unsecured Claims, in accordance with and subject to the provisions of section 10.2 of the Asset Purchase Agreement. The Unsecured Cash Amount is not property of the Debtors’ Estates and neither the Debtors nor the Purchaser have any interest in the Unsecured Cash Amount.

1.103 “**Voting Agent**” shall mean Stretto or any successor appointed by the Bankruptcy Court.

1.104 “**Voting Deadline**” shall mean December 8, 2021, at 4:00 p.m. (prevailing Eastern time), the date and time by which ballots to accept or reject the Plan must be received by the Voting Agent in order to be counted, as set forth by the Solicitation Procedures Order.

## ARTICLE II

### **BACKGROUND AND DISCLOSURES**

#### **2.01 The Debtors’ Business and Historical Operations**

Prior to selling substantially all of their assets during the Chapter 11 Cases, the Debtors owned and operated a commercial linen service based in Las Vegas, Nevada that serviced the high-volume needs of large-scale hotel and casino resort operators for the laundering of bed linens, towels, and employee uniforms, and for guest dry cleaning. The Debtors’ operations were historically successful and buttressed by a wide customer base. As one of the largest suppliers of laundry, linen, and dry-cleaning services in Clark County, Nevada, the Debtors offered a unique total cost approach to linen service.

The Debtors’ operations were principally conducted from a facility at 6375 Street Arville Street, Las Vegas, Nevada. The Debtors also utilized two warehouses also located in Las Vegas, Nevada. As of the Petition Date, the Debtors employed nearly 200 full time employees. For the calendar year ended December 31, 2019, the Debtors generated \$21,261,943 in revenue.

## 2.02 The 2019 Acquisition

Debtor Apex Linen Service LLC (“Apex Linen”) historically operated as Apex Linen Service Inc. (the predecessor of Apex Linen, “ALSI”) from its founding in 2010. In June 2019, Highland Apex Holdings LLC (“Highland Apex”) entered into a Unit Purchase Agreement with ALSI pursuant to which Highland Apex purchased all of the ownership interests in ALSI for a cash payment of approximately \$30 million (the “2019 Acquisition”).

From and after the 2019 Acquisition Debtor Apex Linen was the sole operating company of the Debtors’ business. As a result of the 2019 Acquisition, Debtor Highland Apex, a holding company, is the direct owner of Apex Linen and also served as its manager. The managing member of Highland Apex was Highland Apex GP LLC. The remaining Debtors are likewise holding companies that never had any active operations or any material assets. Christopher Bryan, through a fundless private equity fund, organized the 2019 Acquisition on the buyer side and, thereafter, served as the managing member of Highland Avenue Capital Partners LLC, Highland Apex GP LLC and Highland Apex Management LLC.

The 2019 Acquisition was financed through a leveraged buyout with Apex Linen borrowing a term loan from the Prepetition Lenders (as defined below). In addition, as described more fully below, the 2019 Acquisition led to numerous disputes between the Debtors and the former principal shareholders of Apex Linen.

## 2.03 The Debtors’ Prepetition Capital Structure

### (a) The Prepetition Loan Facility

Pursuant to that certain *Amended and Restated Loan and Security Agreement*, dated as of October 4, 2019, among Apex Linen, non-debtor Apex Linen Managed Service LLC (with Apex Linen, the “Prepetition Borrowers”), Highland Apex, Breakwater Management LP as agent (the “Agent”), and certain lenders (collectively, the “Prepetition Lenders”) (as the same may have been amended from time to time, and together with all related loan and security documents, the “Prepetition Credit Documents”), the Prepetition Lenders provided secured revolving and term loan facilities to or for the benefit of the Prepetition Borrowers (the “Prepetition Facility”).

As of July 31, 2020, the aggregate amount due under the term loan portion of the Prepetition Facility, exclusive of attorneys’ fees, was not less than \$17,295,256.94 (which amount does not include \$3,010,100 related to the PPP Loan, which has been forgiven in full) and the amount due under the revolving loan portion of the Prepetition Facility, exclusive of attorneys’ fees, was not less than \$5,451,972.68 (all amounts due under the Prepetition Credit Documents, collectively, the “Prepetition Obligations”).

To secure the Prepetition Obligations, the Prepetition Borrowers and Holdings granted to the Agent, for the benefit of the Prepetition Lenders, first priority security interests in and liens on the assets of the Prepetition Borrowers and Holdings (the “Prepetition Liens”), as described in the Prepetition Credit Documents (the “Prepetition Collateral”).

(b) Linen Loans

Additionally, the Debtors believe, as of the Petition Date, they owed approximately \$1,500,000 on account of certain loans used to purchase linen, textiles, and other materials used in the course of their business (the “Linen Loans”). Certain of the holders of the Linen Loans asserted a floating lien interest that covers all such materials purchased with the Linen Loans. As set forth below, the asserted secured status of the Linen Loans has been resolved by Orders entered by the Bankruptcy Court.

(c) Unsecured Debt

As of the Petition Date, the Debtors estimated they owed aggregate unsecured operating debt of approximately \$5 million to non-Insider trade creditors and landlords.

## **2.04 Events Leading to the Chapter 11 Cases**

A number of factors led to the filing of the Debtors’ Chapter 11 Cases. The COVID-19 pandemic wreaked havoc on the local and global economy and, in particular, the industry served by the Debtors. The sharp decline in tourism due to the closure of Las Vegas hotels and casinos for months caused a precipitous drop in demand for the Debtors’ services. As a result, the Debtors were forced to enter in a complete shutdown of their operational plant in the timeframe leading up to the filing of the Chapter 11 Cases.

The Debtors were also embroiled in litigation against the former principals of Apex Linen concerning the 2019 Acquisition. In May 2020, less than a year after closing on that transaction, ALSI and its principal shareholders, Joseph Dramise (“Dramise”) and Glenn Martin (“Martin”), filed an arbitration proceeding against certain of the Debtors.

The Debtors likewise asserted that the sellers made certain inaccurate representations and warranties in connection with the 2019 Acquisition and asserted certain claims against the sellers and tendered a claim with their “representation and warranties insurance” carrier.

In addition, the Debtors and Dramise were engaged in disputes and litigation in connection regarding Dramise’s consulting agreement with Apex Linen and his actions while serving as CEO of Apex Linen after the 2019 Acquisition.

The foregoing combined to create a liquidity crisis for the Debtors and the potential for the Prepetition Lenders to exercise remedies under the Prepetition Facility. Although the Debtors engaged in negotiations with the Agent, the Debtors determined, in an exercise of their business judgment, that it was necessary to file the Chapter 11 Cases.

## **2.05 Commencement of the Chapter 11 Cases and First Day Relief**

The Debtors commenced these Chapter 11 Cases on the Petition Date (*i.e.*, July 6, 2020). Shortly after the Petition Date, the Debtors sought various types of “first day” relief intended to facilitate the transition of the Debtors’ business operations into chapter 11. The Bankruptcy Court entered several “first day” orders (and later final orders, where appropriate), which authorized, among other things:

- joint administration of the Chapter 11 Cases for procedural purposes [D.I. 27];
- the maintenance of the Debtors' existing bank accounts and business forms and the operation of the Debtors' existing cash management system [D.I. 29, 150];
- the establishment of procedures for requesting additional adequate assurance and prohibiting the Debtors' utility companies from altering, refusing or discontinuing service [D.I. 38, 151];
- the appointment of Stretto as the Debtors' claims and noticing agent [D.I. 70];
- the payment of certain prepetition Claims of critical vendors [D.I. 71, 236]; and
- the payment of certain prepetition employee wages, benefits and other obligations [D.I. 28].

## **2.06 Retention of Estate Professionals and Appointment of Creditors' Committee**

### **(a) Retention of Debtor Professionals**

Shortly after the Petition Date, the Debtors filed applications to retain: (i) Goldstein McClintock LLLP as bankruptcy counsel [D.I. 43]; (ii) GlassRatner Advisory & Capital Group LLC to provide the Debtors a Chief Restructuring Officer and certain other personnel and designate Jeff Nerland as Chief Restructuring Officer [D.I. 10]; and (iii) FocalPoint Securities LLC as investment banker [D.I. 69].

On July 31, 2020, the Prepetition Lenders Filed objections to the Debtors' retention applications [D.I. 111 & 112] (the "Retention Objections") and filed an adversary proceeding against, among others, certain of the Debtors, GlassRatner and the proposed Chief Restructuring Officer, Jeff Nerland [Adv. Pro. No. 20-50779] (the "Adversary Proceeding").

In connection with filing the DIP Financing Motion (as defined below), the Debtors and the Prepetition Lenders resolved the Retention Objections, by agreeing: (i) to have Bill Hughes (also of GlassRatner) succeed Jeff Nerland as Chief Restructuring Officer and (ii) that FocalPoint would be paid \$50,000 for services rendered and its retention would be concluded. Thereafter, the Bankruptcy Court entered Orders approving the Debtors' retention applications, with revisions to reflect the agreements between the Debtors and the Prepetition Lenders [D.I. 143 – 145].

On August 14, 2020, the Debtors filed an application to retain JD Merit as investment bankers [D.I. 165]. On September 11, 2020, the Bankruptcy Court entered an Order approving the retention of JD Merit *nunc pro tunc* to August 14, 2020 [D.I. 203].

### **(b) Appointment of Creditors' Committee; Retention of Counsel**

On July 23, 2020, the U.S. Trustee's Office appointed the Creditors' Committee. The Creditors' Committee currently is comprised of the following unsecured creditors: Standard Textile Co. Inc.; Gardner Machinery Corp.; and GA Braun, Inc.

On August 3, 2020, the Committee selected Archer & Greiner P.C. to act as its counsel in these Chapter 11 Cases. On August 17, 2020, the Creditors' Committee filed the Application to Employ Archer & Greiner, P.C. as Counsel to the Creditors' Committee, *Nunc Pro Tunc* to August 3, 2020 [D.I. 172]. On September 11, 2020, the Court entered an order [D.I. 204] approving the employment of Archer & Greiner as Committee counsel, *nunc pro tunc* to August 3, 2020.

## **2.07 Initial Cash Collateral and Financing Disputes with Prepetition Lenders**

The Debtors commenced these Chapter 11 Cases without an agreement with the Prepetition Lenders regarding postpetition financing or use of cash collateral. As a result, the outset of the Chapter 11 Cases were largely consumed by disputes between the Debtors and the Prepetition Lenders and a series of short term, interim measures. Initially, to avoid an immediate shutdown of the Debtors' operations, the Court entered two interim orders allowing use of cash collateral for limited purposes [D.I. 30 & 68]. On July 20, 2020, the Debtors Filed a Motion to approve priming debtor-in-possession from a third party lender [D.I. 75] (the "Priming DIP Motion"). The Agent objected to the Priming DIP Motion [D.I. 80]. After discovery and a contested evidentiary hearing, the Bankruptcy Court denied the Priming DIP Motion. Thereafter, on July 24, 2020, to avoid a shutdown of the Debtors' operations, the Debtors and the Prepetition Lenders agreed to the terms of a third interim order authorizing cash collateral usage through July 31, 2020 [D.I. 100].

## **2.08 Debtor-In-Possession Financing; Creditors' Committee Investigation**

### **(a) Interim Debtor-In-Possession Financing**

On August 3, 2020, the Debtors and the Prepetition Lenders reached an agreement on the terms of Debtor-in-Possession financing. Also on August 3, 2020, the Debtors Filed the *Debtors Emergency Motion for an Interim Order: (I) Authorizing the Debtors to Obtain Senior Secured Postpetition Financing; (II) Granting Liens and Superpriority Administrative Expense Status; (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, (V) Authorizing Use of Cash Collateral; (VI) Scheduling a Final Hearing; and (VII) Granting Further Relief* [D.I. 119] (the "DIP Financing Motion"). As a result of filing the DIP Financing Motion, the Prepetition Lenders dismissed the Adversary Proceeding.

On August 6, 2020, the Committee Filed an Objection to the DIP Financing Motion [D.I. 139]. The Debtors, the Committee and the Prepetition Lenders engaged in negotiations and came to an agreement on a revised form of Order approving the DIP Financing Motion on an interim basis (the "Interim DIP Order"). On August 9, 2020, the Bankruptcy Court entered the Interim DIP Order [D.I. 154]. Thereafter, the Bankruptcy Court entered two further Orders approving the DIP Financing Motion on an interim basis, while the Debtors, the Committee and the Prepetition Lenders continued to negotiate the terms of a final financing order as well as issues related to the sale of the Debtors' Assets [D.I. 183 & 216].

### **(b) The Creditors' Committee Investigation**

After entry of the Interim DIP Order, the Creditors' Committee engaged in an investigation of Challenges (as defined in the Interim DIP Order) against the Prepetition Lenders. The Creditors' Committee investigated the extent, validity and priority of the Prepetition Liens as well as other

potential Claims against the Prepetition Lenders. In connection therewith, the Creditors' Committee reviewed and analyzed, among other things, the Prepetition Credit Documents and lien perfection documents and filings. In addition, the Creditors' Committee propounded informal discovery upon the Agent.

While conducting its Challenge investigation, the Creditors' Committee simultaneously engaged in extensive negotiations with the Agent regarding a potential global resolution of issues regarding financing and a sale of the Debtors' Assets.

(c) Final Debtor-In-Possession Financing

On September 22, 2020, after the Debtors, the Committee and the Prepetition Lenders reached an agreement on the final terms of financing and a path forward for a sale of the Debtors' Assets, the Bankruptcy Court entered an Order approving the DIP Financing Motion on final basis [D.I. 226] (the "Final DIP Order"). Among other things, the Final DIP Order authorized the Debtors to obtain senior secured postpetition financing in an aggregate principal amount not to exceed \$4,000,000, inclusive of all amounts advanced under the Interim DIP Order (the "DIP Financing Obligations"), to fund administrative expenses and Debtor operations through a closing of a sale of the Debtors' Assets. To secure the DIP Financing Obligations, the Debtors granted to the Agent postpetition security interests in and liens on (the "DIP Liens") the DIP Collateral (as defined in the Final DIP Order).

## **2.09 Sale of the Debtors' Assets**

On August 6, 2020, the Debtors filed the Sale Motion. By the Sale Motion, the Debtors sought, among other things, approval of sale of the Debtors' operating Assets to one or more buyers. Thereafter, the Debtors, the Committee and the Prepetition Lenders engaged in extensive negotiations regarding (i) the terms of bidding procedures to govern the sale and marketing process and (ii) the terms of the Asset Purchase Agreement, which was to serve as the stalking horse bid for the Debtors' Assets. Upon the parties reaching a resolution of these issues, as well as issues relating to the DIP Financing Motion (as described above), the Bankruptcy Court entered the Bidding Procedures Order approving: (i) the terms of agreed upon bidding procedures and (ii) the Asset Purchase Agreement as the stalking horse bid for substantially all of the Debtors' Assets.

Despite a marketing process run by the Debtors' investment banker, JD Merit, the Debtors did not receive any competing bids for the Debtors' Assets by the bid deadline set forth in the Bidding Procedures Order. Accordingly, on October 20, 2020, the Bankruptcy Court entered the Sale Order, thereby approving the Sale to the Purchaser pursuant to the terms of the Asset Purchase Agreement. The Sale subsequently closed on October 26, 2020. The Debtors ceased operations upon the closing of the Sale.

The terms of the Asset Purchase Agreement and the other Sale Documents were heavily negotiated, primarily between the Creditors' Committee and the Prepetition Lenders. As set forth more fully in the Asset Purchase Agreement, the Purchaser purchased all of the Debtors' Assets, other than certain "Excluded Assets." The "Excluded Assets" include the Retained Causes of Action, which remain assets of the Debtors' Estates.

The purchase price for the Assets sold under the Asset Purchase Agreement, consisted of a combination of (i) a credit bid and assumption of the Prepetition Obligations and the DIP Financing Obligations, (ii) the Estate Cash of \$650,000, (iii) the Unsecured Cash Amount of \$500,000, and (iv) the assumption of certain other obligations (including the payment of cure amounts associated with assigned contracts). By virtue of the purchase, all of the Debtors' liabilities related to the Prepetition Obligations and the DIP Financing Obligations have been satisfied in full and the Excluded Assets (including the Retained Causes of Action), the Estate Cash, and the Unsecured Cash Amount are all free and clear of the Prepetition Liens and the DIP Liens.

Upon the closing of the Sale, the Purchaser transferred the Estate Cash to the Debtors and, consistent with section 10.2 of the Asset Purchase Agreement, transferred the Unsecured Cash Amount into a segregated bank account not controlled by the Debtors. As set forth in the Asset Purchase Agreement, the Unsecured Cash Amount (i) was contributed by the Purchaser for the sole benefit of non-Insider Holders of Allowed General Unsecured Claims (ii) is not property of the Debtors' Estates and (iii) neither the Debtors nor the Purchaser have any interest in the Unsecured Cash Amount. Moreover, the Asset Purchase Agreement provides that the Unsecured Cash Amount shall be used only through a separate liquidating trust to be established for the sole benefit of Holders of Allowed General Unsecured Claims.

The Plan implements the terms of the Bankruptcy Court approved Asset Purchase Agreement by (i) establishing the GUC Sub-trust for the sole benefit of Holders of Allowed General Unsecured Claims and (ii) transferring and vesting the Unsecured Cash Amount in the GUC Sub-trust.

## **2.10 Post-Sale Administration of the Estates**

### **(a) Debtor Name Change; Amendment to Case Caption**

After the Sale closed, as required under the terms of the Asset Purchase Agreement, the Debtors changed their names in connection with the wind down of their affairs and filed a Motion to amend the caption of the Chapter 11 Cases [D.I. 285]. On November 17, 2020, the Bankruptcy Court granted the Debtors' Motion [D.I. 301] and the caption in these Chapter 11 Cases has been amended to reflect the Debtors' name changes.

### **(b) Rejection of Certain Remaining Executory Contracts**

On November 5, 2020, the Debtors filed a Motion [D.I. 289] to reject certain remaining Executory Contracts, which were no longer necessary to the Estates, given that the Debtors ceased operating upon closing of the Sale. In particular, the Debtors sought authority to reject (i) a warehouse lease with Total Transportation Services LLC, (ii) a collective bargaining agreement with the International Union of Operating Engineers Local 501, ALF-CIO, and (iii) a management agreement with Highland Apex Partners LLC. On November 17, 2020, the Bankruptcy Court entered an Order granting the rejection Motion [D.I. 302]

## 2.11 Claims Bar Date, Claims Pool and Reconciliation, PPP Loan Forgiveness

### (a) Bar Date and Claims Pool

Each of the Debtors filed its Schedules with the Bankruptcy Court on September 1, 2020. Subsequently, Apex Linen amended and modified its Schedules E and F on September 21, 2020.

By the Bar Date Order, the Bankruptcy Court established January 11, 2021 as the General Bar Date and the Governmental Bar Date.

In total, there were 72 proofs of Claim filed by the General Bar Date. Other than duplicate Claims, only one Claim, in the amount of \$40,000 was Filed against any Debtor other than Apex Linen. In addition, the Schedules do not list liquidated Claims against any Debtor other than Apex Linen.<sup>2</sup> This is consistent with the Debtors' historical operations. As set forth above, Apex Linen was the only operating Debtor. The remainder of the Debtors were holding companies with no operations or significant assets.

### (b) Claims Reconciliation

Since the General Bar Date, the Debtors and the Creditors' Committee have engaged in a preliminary reconciliation of certain Filed Claims in advance of proposing and seeking approval and Confirmation of this Combined Disclosure Statement and Plan. Those efforts have resulted in the following:

- Stipulations reclassifying certain asserted secured Linen Loan Claims as General Unsecured Claims [D.I. 342 & 352];
- Filing a Notice of Satisfaction of Claims [D.I. 340];
- Withdrawal of a Secured Claim Filed by the Las Vegas Valley Water District in the amount of approximately \$208,000 [D.I. 361]; and
- Withdrawal of Priority Tax Claims filed by the Internal Revenue Service in amounts exceeding \$7 million.

The Claims reconciliation process is ongoing, and as set forth in the Plan, the Plan Proponents or the Liquidating Trustee, as applicable, will continue the process of reconciling Claims.

### (c) PPP Loan Forgiveness

Post-petition, the Debtors applied for forgiveness of the PPP Loan. On August 19, 2021, the Debtors received a letter from Western Alliance Bank indicating that, the full amount of the PPP Loan, including all interest accrued thereon had been forgiven and that, as of August 17, 2021, there was no further balance on the PPP Loan and the PPP Loan was closed. On September 17,

---

<sup>2</sup> The Schedules of certain of the Debtors other than Apex Linen list unliquidated Claims of Insiders.

2021, the Debtors filed an objection to the proof of claim filed by Western Alliance Bank on account of the PPP Loan [D.I. 409].

### ARTICLE III

#### CONFIRMATION PROCEDURES

##### 3.01 Confirmation Procedures

October 28, 2021, the Court entered the Solicitation Procedures Order [D.I. 451] Among other things, the Solicitation Procedures Order, approved the adequacy of disclosures in the Plan on an interim basis and set certain deadlines for the solicitation of the Plan, voting on the Plan, filing objections to the Plan and a hearing to consider approval of the Plan. The Confirmation Hearing has been scheduled for **December 17, 2021 at 10:00 a.m.** (prevailing Eastern Time) at the Bankruptcy Court<sup>3</sup> to consider (a) final approval of the Disclosure Statement as providing adequate information pursuant to section 1125 of the Bankruptcy Code and (b) Confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code. The Confirmation Hearing may be adjourned from time to time by the Plan Proponents without further notice, except for an announcement of the adjourned date made at the Confirmation Hearing or by Filing a notice with the Bankruptcy Court.

##### 3.02 Procedure for Objections

Any objection to final approval of the Disclosure Statement as providing adequate information pursuant to section 1125 of the Bankruptcy Code and/or Confirmation of the Plan must be made in writing and Filed with the Bankruptcy Court and served on the following parties so as to be actually received on or before **December 8, 2021 at 4:00 p.m. (prevailing Eastern time)** upon: (a) counsel to the Debtors: Harley J. Goldstein, Esquire, Jeffrey C. Dan, Esquire and Maria Aprile Sawczuk, Esquire at [harleyg@goldmclaw.com](mailto:harleyg@goldmclaw.com), [jeffd@goldmclaw.com](mailto:jeffd@goldmclaw.com), and [marias@goldmclaw.com](mailto:marias@goldmclaw.com), respectively; (b) counsel to the Creditors' Committee, David W. Carickhoff, Esquire and Alan M. Root, Esquire at [dcarickhoff@archerlaw.com](mailto:dcarickhoff@archerlaw.com) and [aroot@archerlaw.com](mailto:aroot@archerlaw.com), respectively; and (c) counsel to the Office of the United States Trustee, Benjamin A. Hackman, Esquire at [Benjamin.a.hackman@usdoj.gov](mailto:Benjamin.a.hackman@usdoj.gov). Unless an objection is timely Filed and served, it may not be considered by the Bankruptcy Court at the Confirmation Hearing.

##### 3.03 Requirements for Confirmation

The Bankruptcy Court may Confirm the Plan if it meets the applicable requirements of section 1129 of the Bankruptcy Code. Among other requirements, the Plan (a) must be accepted by all Impaired Classes of Claims or Interests or, if rejected by an Impaired Class, the Plan must not “discriminate unfairly” against, and be “fair and equitable” with respect to, such Class; and (b) must be feasible. In order to confirm the Plan, the Bankruptcy Court must also find that: (i) the Plan has classified Claims and Interests in a permissible manner; (ii) the Plan complies with the

---

<sup>3</sup> Because of restrictions due to COVID-19, it is currently anticipated that the hearing will be held remotely via Zoom and/or CourtCall. Notice and details regarding participation in the hearing will be separately provided in advance of the hearing.

technical requirements of Chapter 11 of the Bankruptcy Code; and (iii) the Plan has been proposed in good faith.

### **3.04 Classification of Claims and Equity Interests**

Section 1123 of the Bankruptcy Code provides that a plan must classify the claims and interests of a debtor's creditors and equity interest holders. In accordance with section 1123 of the Bankruptcy Code, the Plan divides Claims and Interests into Classes and sets forth the treatment for each Class (other than those claims which pursuant to section 1123(a)(1) of the Bankruptcy Code need not be and have not been classified). The Plan Proponents also are required, under section 1122 of the Bankruptcy Code, to classify Claims and Interests into Classes that contain Claims or Interests that are substantially similar to the other Claims or Interests in such Class.

The Bankruptcy Code also requires that a plan provide the same treatment for each claim or interest of a particular class unless the claim holder or interest holder agrees to a less favorable treatment of its claim or interest. The Plan Proponents believe that the Plan complies with such standard. If the Bankruptcy Court finds otherwise, however, it could deny Confirmation of the Plan if the Holders of Claims or Interests affected do not consent to the treatment afforded them under the Plan.

A Claim or Interest is placed in a particular Class only to the extent such Claim or Interest falls within the description of that Class and is classified in other Classes to the extent that any portion of such Claim or Interest falls within the description of such other Classes. A Claim also is 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. The Plan Proponents believe that the Plan has classified all Claims and Interests in compliance with the provisions of section 1122 of the Bankruptcy Code and applicable case law. It is possible that a Holder of a Claim or Interest may challenge the Plan Proponents' classification of Claims or Interests and that the Bankruptcy Court may find that a different classification is required for the Plan to be confirmed. If such a situation develops, the Plan Proponents intend, in accordance with the terms of the Plan, to make such permissible modifications to the Plan as may be necessary to permit its Confirmation. Any such reclassification could adversely affect Holders of Claims by changing the composition of one or more Classes and the vote required of such Class or Classes for approval of the Plan.

**EXCEPT AS SET FORTH IN THE PLAN, UNLESS SUCH MODIFICATION OF CLASSIFICATION MATERIALLY ADVERSELY AFFECTS THE TREATMENT OF A HOLDER OF A CLAIM AND REQUIRES RE-SOLICITATION, ACCEPTANCE OF THE PLAN BY ANY HOLDER OF A CLAIM PURSUANT TO THIS SOLICITATION WILL BE DEEMED TO BE A CONSENT TO THE PLAN'S TREATMENT OF SUCH HOLDER OF A CLAIM REGARDLESS OF THE CLASS AS TO WHICH SUCH HOLDER ULTIMATELY IS DEEMED TO BE A MEMBER.**

The amount of any Claim that ultimately is Allowed by the Bankruptcy Court may vary materially from any estimated Allowed amount of such Claim and, accordingly, the total Claims that are ultimately Allowed by the Bankruptcy Court with respect to each Class of Claims may also vary materially from any estimates contained herein with respect to the aggregate Claims in

any Class. Thus, the actual recovery ultimately received by a particular Holder of an Allowed Claim may be adversely or favorably affected by the aggregate amount of Claims Allowed. Additionally, any changes to any of the assumptions underlying the estimated Allowed amounts could result in material adjustments to recovery estimates provided herein and/or the actual Distribution received by Creditors. The projected recoveries are based on information available to the Plan Proponents as of the date hereof and reflect the Plan Proponents' views as of the date hereof only.

The classification of Claims and Interests and the nature of Distributions to members of each Class are summarized herein. The Plan Proponents believe that the consideration, if any, provided under the Plan to Holders of Claims reflects an appropriate resolution of their Claims taking into account the differing nature and priority (including applicable contractual subordination) of such Claims and Interests. The Bankruptcy Court must find, however, that a number of statutory tests are met before it may confirm the Plan. Many of these tests are designed to protect the interests of Holders of Claims or Interests who are not entitled to vote on the Plan, or do not vote to accept the Plan, but who will be bound by the provisions of the Plan if it is confirmed by the Bankruptcy Court.

### **3.05 Impaired Claims or Equity Interests**

Pursuant to the provisions of the Bankruptcy Code, only classes of claims or interests that are "impaired" (as defined in section 1124 of the Bankruptcy Code) under a plan may vote to accept or reject such plan. Generally, a claim or interest is impaired under a plan if the holder's legal, equitable or contractual rights are changed under such plan. In addition, if the holders of claims or interests in an impaired class do not receive or retain any property under a plan on account of such claims or interests, such impaired class is deemed to have rejected such plan under section 1126(g) of the Bankruptcy Code and, therefore, such holders are not entitled to vote on such plan.

Under the Plan, only Holders of Claims in Class 3 (General Unsecured Claims) and Class 4 (Insider Claims) are Impaired and are entitled to vote on the Plan. Under the terms of the Plan, Holders of Claims in Class 5 (Intercompany Claims) and Holders of Interests in Class 6 are Impaired and are deemed to reject the Plan and are therefore not entitled to vote on the Plan. Under the Plan, Holders of Claims in Classes 1 and 2 are Unimpaired and, therefore, not entitled to vote on the Plan and are deemed to accept the Plan.

ACCORDINGLY, A BALLOT FOR ACCEPTANCE OR REJECTION OF THE PLAN IS BEING PROVIDED ONLY TO HOLDERS OF CLAIMS IN CLASS 3 (GENERAL UNSECURED CLAIMS) AND CLASS 4 (INSIDER CLAIMS).

### **3.06 Confirmation Without Necessary Acceptances; Cramdown**

In the event that any impaired class of claims or interests does not vote to accept a plan, a debtor nevertheless may move for confirmation of the plan. A plan may be confirmed, even if it is not accepted by all impaired classes, if the plan has been accepted by at least one impaired class of claims, and the plan meets the "cramdown" requirements set forth in section 1129(b) of the Bankruptcy Code. Section 1129(b) of the Bankruptcy Code requires that a court find that a plan

“does not discriminate unfairly” and (b) is “fair and equitable,” with respect to each non-accepting impaired class of claims or interests. Here, because Holders of Claims and Interests in Classes 5 and 6 are deemed to reject the Plan, the Plan Proponents will seek Confirmation of the Plan from the Bankruptcy Court by satisfying the “cramdown” requirements set forth in section 1129(b) of the Bankruptcy Code. The Plan Proponents believe that such requirements are satisfied.

A plan does not “discriminate unfairly” if (a) the legal rights of a non-accepting class are treated in a manner that is consistent with the treatment of other classes whose legal rights are similar to those of the non-accepting class and (b) no class receives payments in excess of that which it is legally entitled to receive for its claims or interests. The Plan Proponents believe that, under the Plan, all Impaired Classes of Claims or Interests are treated in a manner that is consistent with the treatment of other Classes of Claims or Interests that are similarly situated, if any, and no Class of Claims or Interests will receive payments or property with an aggregate value greater than the aggregate value of the Allowed Claims or Allowed Interests in such Class. Accordingly, the Plan Proponents believe that the Plan does not discriminate unfairly as to any Impaired Class of Claims or Interests.

The Bankruptcy Code provides a nonexclusive definition of the phrase “fair and equitable.” In order to determine whether a plan is “fair and equitable,” the Bankruptcy Code establishes “cram down” tests for secured creditors, unsecured creditors and equity holders, as follows:

(a) Secured Creditors. Either (i) each impaired secured creditor retains its liens securing its secured claim and receives on account of its secured claim deferred Cash payments having a present value equal to the amount of its allowed secured claim, (ii) each impaired secured creditor realizes the “indubitable equivalent” of its allowed secured claim or (iii) the property securing the claim is sold free and clear of liens with such liens to attach to the proceeds of the sale and the treatment of such liens on proceeds to be as provided in clause (i) or (ii) above.

(b) Unsecured Creditors. Either (i) each impaired unsecured creditor receives or retains under the plan property of a value equal to the amount of its allowed claim or (ii) the holders of claims and interests that are junior to the claims of the dissenting class will not receive any property under the plan.

(c) Equity Interests. Either (i) each holder of an equity interest will receive or retain under the plan property of a value equal to the greatest of the fixed liquidation preference to which such holder is entitled, the fixed redemption price to which such holder is entitled or the value of the interest or (ii) the holder of an interest that is junior to the non-accepting class will not receive or retain any property under the plan. As discussed above, the Plan Proponents believe that the Distributions provided under the Plan satisfy the absolute priority rule, where required.

### **3.07 Feasibility**

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of a plan not be likely to be followed by the liquidation, or the need for further financial reorganization, of the debtors or any successor to the debtors (unless such liquidation or reorganization is proposed in

the plan). Inasmuch as the Debtors' Assets have principally been liquidated and the Plan provides for the distribution of all of the Cash proceeds of the Debtors' Assets to Holders of Claims that are Allowed as of the Effective Date in accordance with the Plan, for purposes of this test, the Plan Proponents have analyzed the ability of the Liquidating Trust to meet its obligations under the Plan. Based on the Plan Proponents' analysis, the Liquidating Trustee will have sufficient assets to accomplish its tasks under the Plan. Therefore, the Plan Proponents believes that the liquidation pursuant to the Plan will meet the feasibility requirements of the Bankruptcy Code.

### **3.08 Best Interests Test and Liquidation Analysis**

Even if a plan is accepted by the holders of each class of claims and interests, the Bankruptcy Code requires a court to determine that such plan is in the best interests of all holders of claims or interests that are impaired by that plan and that have not accepted the plan. The "best interests" test, as set forth in section 1129(a)(7) of the Bankruptcy Code, requires a court to find either that all members of an impaired class of claims or interests have accepted the plan or that the plan will provide a member who has not accepted the plan with a recovery of property of a value, as of the effective date of the plan, that is not less than the amount that such holder would recover if the debtor were liquidated under chapter 7 of the Bankruptcy Code. To calculate the probable distribution to holders of each impaired class of claims and interests if the debtor was liquidated under chapter 7, a court must first determine the aggregate dollar amount that would be generated from a debtor's assets if its chapter 11 cases were converted to chapter 7 cases under the Bankruptcy Code. To determine if a plan is in the best interests of each impaired class, the present value of the distributions from the proceeds of a liquidation of the debtors' unencumbered assets and properties, after subtracting the amounts attributable to the costs, expenses and administrative claims associated with a chapter 7 liquidation, must be compared with the value offered to such impaired classes under the plan. If the hypothetical liquidation distribution to holders of claims or interests in any impaired class is greater than the Distributions to be received by such parties under the plan, then such plan is not in the best interests of the holders of claims or interests in such impaired class. See Liquidation Analysis prepared by the Debtors, which is attached as Exhibit A to this Combined Disclosure Statement and Plan.

Because the Plan is a liquidating plan, the "liquidation value" in the hypothetical chapter 7 liquidation analysis for purposes of the "best interests" test is substantially similar to the estimates of the results of the chapter 11 liquidation contemplated by the Plan. However, the Plan Proponents believes that in a chapter 7 liquidation, there would be additional costs and expenses that the Estates would incur as a result of liquidating the Estates in chapter 7.

The costs of liquidation under chapter 7 of the Bankruptcy Code would include the compensation of a trustee, as well as the costs of counsel and other professionals retained by the trustee. The Plan Proponents believe such amount would exceed the amount of expenses that would be incurred in implementing the Plan and winding up the affairs of the Debtors. The Estates would also be obligated to pay all unpaid expenses incurred by the Debtors during the Chapter 11 Cases (such as compensation for Professionals) that are allowed in the chapter 7 case. Conversion also would likely delay the liquidation process and ultimately distributions.

Accordingly, the Plan Proponents believe that Holders of Allowed Claims would receive less than anticipated under the Plan if the Chapter 11 Cases were converted to chapter 7 cases, and

therefore, the classification and treatment of Claims and Interests in the Plan complies with section 1129(a)(7) of the Bankruptcy Code.

### **3.09 Acceptance of the Plan**

The rules and procedures governing eligibility to vote on the Plan, solicitation of votes, and submission of ballots are set forth in the Solicitation Procedures Order. In order for the Plan to be accepted by an Impaired Class of Claims, a majority in number and two-thirds in dollar amount of the Claims voting in such Class must vote to accept the Plan. At least one Voting Class, excluding the votes of Insiders, must actually vote to accept the Plan.

IF YOU ARE ENTITLED TO VOTE ON THE PLAN, YOU ARE URGED TO COMPLETE, DATE, SIGN AND PROMPTLY MAIL THE BALLOT YOU RECEIVE. PLEASE BE SURE TO COMPLETE THE BALLOT PROPERLY AND LEGIBLY AND TO IDENTIFY THE EXACT AMOUNT OF YOUR CLAIM AND THE NAME OF THE HOLDER. IF YOU ARE A HOLDER OF A CLAIM ENTITLED TO VOTE ON THE PLAN AND YOU DID NOT RECEIVE A BALLOT, YOU RECEIVED A DAMAGED BALLOT OR YOU LOST YOUR BALLOT OR IF YOU HAVE ANY QUESTIONS CONCERNING THE PLAN OR PROCEDURES FOR VOTING ON THE PLAN, PLEASE CONTACT THE VOTING AGENT VIA E-MAIL AT [TEAMAPEXLINEN@STRETTO.COM](mailto:TEAMAPEXLINEN@STRETTO.COM) OR YOU CAN GO TO THE DEBTORS' WEBSITE AT [HTTPS://CASES.STRETTO.COM/APEXLINEN](https://cases.stretto.com/apexlinen). THE VOTING AGENT IS NOT AUTHORIZED TO, AND WILL NOT, PROVIDE LEGAL ADVICE.

## **ARTICLE IV**

### **CLASSIFICATION OF CLAIMS AND INTERESTS AND EXPECTED RECOVERIES**

#### **4.01 Overview of Classification.**

Pursuant to section 1122 of the Bankruptcy Code, a Claim or Equity Interest is placed in a particular Class for purposes of voting on the Plan and receiving Distributions under the Plan only to the extent (i) the Claim or Equity Interest qualifies within the description of that Class; and (ii) the Claim or Equity Interest has not been paid, released, or otherwise compromised before the Effective Date. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Professional Compensation Claims, and Priority Tax Claims are not classified under the Plan and are excluded from the following Classes.

#### **4.02 Identification and Treatment of Unclassified Claims**

(a) Administrative Claims. On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Administrative Claim shall receive in full and final satisfaction, settlement, and release of and in exchange for such Allowed Administrative Claim: (a) a Distribution of Cash from the Estate Cash in an amount equal to the amount of such Allowed Administrative Claim; or (b) such other treatment as to which the Plan Proponents or the Liquidating Trustee, as applicable, and the Holder of such Allowed Administrative Claim shall have agreed upon in writing.

(i) Administrative Claim Bar Date. Holders of Administrative Claims accruing from the Petition Date through and including the Effective Date, other than Professional Fee Claims, shall File with the Bankruptcy Court and serve on the Liquidating Trustee requests for payment, in writing, together with supporting documents, substantially complying with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, so as to actually be received on or before the Administrative Claim Bar Date. Any such Claim not Filed by the Administrative Claim Bar Date shall be deemed waived and the Holder of such Claim shall be forever barred from receiving payment on account thereof. The notice of Confirmation to be delivered pursuant to Bankruptcy Rules 2002(c)(3) and 2002(f) shall set forth the Administrative Claim Bar Date and shall constitute notice of such Bar Date. The Liquidating Trustee shall have 365 days following the Effective Date (or such longer period as may be allowed by order of the Bankruptcy Court on motion of the Liquidating Trustee) to review and object to Administrative Claims other than Professional Fee Claims.

(ii) Bar Date for Applications for Professional Fees. All applications for final allowance and payment of Professional Fee Claims (each a “Final Fee Application”) shall be Filed with the Bankruptcy Court on or before the Professional Fee Bar Date. If an application for a Professional Fee Claim is not Filed by the Professional Fee Bar Date, such Professional Fee Claim shall be deemed waived and the Holder of such Claim shall be forever barred from receiving payment on account thereof. The notice of Confirmation to be delivered pursuant to Bankruptcy Rules 2002(c)(3) and 2002(f) shall set forth the Professional Fee Bar Date and shall constitute notice of such Bar Date. The final allowance of Professional Fee Claims shall be subject to further order of the Bankruptcy Court. Notwithstanding the foregoing, if any objections are Filed with respect to any Final Fee Application filed by the Debtors’ Professionals or any fees or expenses therein are disallowed or not indefeasibly paid in full, such Professional(s) shall have the right to supplement such Fee Application after the Professional Fee Bar Date to seek allowance of Professional Fee Claims in excess of the Professional Fee Agreement, provided that payment of the Debtors’ Professional Fee Claims shall still remain consistent with the Professional Fee Agreement.

(iii) Section 503(b)(9) Claims. For the avoidance of doubt, the deadline for Filing requests for payment of 503(b)(9) Claims was the General Bar Date and the deadline for Filing such requests is not extended by either the Plan nor the Confirmation Order.

(b) U.S. Trustee Fees. All U.S. Trustee Fees payable on or before the Effective Date shall be paid in full in Cash by the Debtors on or before the Effective Date. From and after the Effective Date, the Liquidating Trustee shall pay all U.S. Trustee Fees assessed in full in Cash when due until such time as the Chapter 11 Cases are closed, dismissed or converted, whichever occurs first. From and after the Effective Date, the Liquidating Trustee shall file with the Bankruptcy Court and serve on the U.S. Trustee quarterly financial reports in a format prescribed by the U.S. Trustee. Notwithstanding anything to the contrary in this Plan, U.S. Trustee Fees are

Allowed, and the U.S. Trustee shall not be required to File a request for payment of administrative expense for any U.S. Trustee Fees.

(c) Priority Tax Claims. On or as soon as reasonably practicable the Effective Date, each Holder of an Allowed Priority Tax Claim shall receive in full and final satisfaction, settlement, and release of and in exchange for such Allowed Priority Tax Claim: (a) a Distribution of Cash from the Estate Cash equal to the amount of such Allowed Priority Tax Claim; or (b) such other treatment as to which the Plan Proponents or the Liquidating Trustee, as applicable, and the Holder of such Allowed Priority Tax Claim shall have agreed upon in writing.

(d) Administrative and Priority Tax Claim Reserve. As set forth in Section 8.02 of this Plan, on or as soon as reasonably practicable after the Effective Date, the Liquidating Trustee shall establish reserves in Cash, in an amount sufficient for the payment of all Administrative Claims and Priority Tax Claims. Such reserves will be established from the Estate Cash or the proceeds of other Retained Assets vested in the Liquidating Trust, but not from the Unsecured Cash Amount.

#### **4.03 Identification of Classes of Claims**

(a) Treatment of Secured Claims (Class 1). Each Holder of an Allowed Secured Claim, at the option of the Plan Proponents or the Liquidating Trustee, as applicable, shall receive on or as soon as reasonably practicable after the Effective Date in full and final satisfaction, settlement, and release of and in exchange for such Allowed Secured Claim: (A) return of the collateral securing such Allowed Secured Claim; or (B) a Distribution of Cash from the Estate Cash equal to the amount of such Allowed Secured Claim; or (C) such other treatment which the Plan Proponents or the Liquidating Trustee, as applicable, and the Holder of such Allowed Secured Claim have agreed upon in writing. Such Claims are therefore unimpaired, are deemed to accept the Plan, and are not entitled to vote.

(b) Treatment of Priority Non-Tax Claims (Class 2). Each Holder of an Allowed Priority Unsecured Non-Tax Claim against the Debtors shall receive on or as soon as reasonably practicable after the Effective Date, on account of and in full and complete settlement, release and discharge of, and in exchange for, such Allowed Priority Unsecured Non-Tax Claim, either a Distribution of Cash from the Estate Cash equal to the full unpaid amount of such Allowed Priority Unsecured Non-Tax Claim, or such other treatment as the Plan Proponents or the Liquidating Trustee, as applicable, and the holder of such Allowed Priority Unsecured Non-Tax Claim shall have agreed. Such Claims are therefore unimpaired, are deemed to accept the Plan, and are not entitled to vote.

(c) Treatment of General Unsecured Claims (Class 3).

Each Holder of an Allowed General Unsecured Claim against the Debtors shall receive on account of and in full and complete settlement and resolution of and in exchange for such Allowed General Unsecured Claim its Pro Rata share of: (i) the Unsecured Cash Amount; (ii) the Beneficial Interest in the GUC Sub-trust in accordance with the Liquidating Trust Agreement; (iii) any remaining Estate Cash after all Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Secured Claims, and Allowed Priority Non-Tax Claims have been paid, resolved, or

reserved for, as applicable; and (iv) the Beneficial Interest in the Apex Liquidating Trust in accordance with the Liquidating Trust Agreement.

For the avoidance of doubt, Western Alliance Bank shall not be a Holder of an Allowed General Unsecured Claim and shall not receive the treatment provided hereunder for Class 3 Creditors on account of the PPP Loan because the PPP Loan has been forgiven in full.<sup>4</sup>

Class 3 General Unsecured Claims are impaired and are entitled to vote on the Plan.

(d) Treatment of Insider Claims (Class 4).

Each Holder of an Allowed Insider Claim against the Debtors shall receive on account of and in full and complete settlement and resolution of and in exchange for such Allowed Insider Claim its Pro Rata share of: (i) any remaining Estate Cash after all Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Secured Claims, and Allowed Priority Non-Tax Claims have been paid, resolved, or reserved for, as applicable; and (ii) the Beneficial Interest in the Apex Liquidating Trust in accordance with the Liquidating Trust Agreement.

Allowed Insider Claims shall share Pro Rata with Allowed General Unsecured Claims in any remaining Estate Cash and the Beneficial Interest in the Apex Liquidating Trust. Holders of Allowed Insider Claims shall not be entitled to any Distribution from the Unsecured Cash Amount, and shall not hold any Beneficial Interest in the GUC Sub-trust.

Class 4 Insider Claims are impaired and are entitled to vote on the Plan.

(e) Treatment of Intercompany Claims (Class 5). To effectuate the substantive consolidation of the Debtors' Estates as contemplated under the Plan, on the Effective Date all Intercompany Claims and other Intercompany liabilities, whether arising prior to or after the Petition Date, shall be deemed canceled, extinguished and of no further force and effect. Holders of Intercompany Claims shall not be entitled to receive or retain any property on account of such Claim. Class 5 Intercompany Claims are impaired, and deemed to reject Plan, and are not entitled to vote.

(f) Treatment of Equity Interests (Class 6). On the Effective Date, all Interests shall be deemed canceled, extinguished and of no further force or effect, and the Holders of Interests shall not be entitled to receive or retain any property on account of such Interest. Class 6 Equity Interests are impaired, and deemed to reject Plan, and are not entitled to vote.

---

<sup>4</sup> Regardless, if Western Alliance Bank continues to assert that it is entitled to an Allowed Claim arising from the PPP Loan, such Claim would be treated in accordance with the Asset Purchase Agreement with respect to any Distribution from the Unsecured Cash Amount. In particular, section 10.2 of the Asset Purchase Agreement provides that, to the extent that Western Alliance Bank becomes entitled to a Distribution out of the Unsecured Cash Amount on Western Alliance Bank's claim arising from the PPP Loan (the "WAB Distribution"), Purchaser shall make a cash payment to Western Alliance Bank equal to the amount of the WAB Distribution in lieu of the Liquidating Trustee making a Distribution to Western Alliance Bank in the amount of the WAB Distribution.

#### 4.04 Treatment of Classified Classes, Rights to Vote, and Estimated Distributions

The table below sets forth the proposed treatment of Classified Claims, rights to vote on the Plan, and estimated Distributions as of the date hereof.

The information set forth in the table below is provided in summary form for illustrative purposes only and is subject to material change based on certain contingencies, including without limitation relating to the amount of Proofs of Claims that are Filed after the Bar Date, and the amount of Claims that exist after the claims reconciliation process. Actual recoveries may widely vary within these ranges, and any changes to any of the assumptions underlying these amounts could result in material adjustments to recovery estimates provided herein and/or the actual Distributions received by Creditors. The projected recoveries are based on information available to the Plan Proponents as of the date hereof and reflect the Plan Proponents' best estimates as of the date hereof only. In addition to the cautionary notes contained elsewhere in the Combined Disclosure Statement and Plan, it is underscored that **the Plan Proponents make no representation whatsoever as to the accuracy of these recovery estimates.** The Plan Proponents expressly disclaim any obligation to update any estimates or assumptions after the date hereof on any basis (including new or different information received and/or errors discovered). 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 or Interest is also placed in a particular Class for the purpose of receiving Distributions pursuant to this Plan only to the extent that such Claim or Interest is an Allowed Claim in that Class and such Claim or Interest has not been paid, released or otherwise settled prior to the Effective Date.

All Claims and Interests, except Administrative Claims and Priority Tax Claims, are placed in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims, as described herein, have not been classified, and the respective treatment of such unclassified Claims is set forth below. The categories of Claims and Interests listed below classify Claims and Interests for all purposes, including voting, Confirmation and Distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code.

Class/Designation	Plan Treatment	Status	Estimated Claim Pool /Projected Recovery
Class 1: Secured Claims	Each Holder of an Allowed Secured Claim, at the option of the Plan Proponents or the Liquidating Trustee, as applicable, shall receive on or as soon as reasonably practicable after the Effective Date in full and final satisfaction, settlement, and release of and in exchange for such Allowed Secured Claim: (A) return of the collateral securing such Allowed	Unimpaired; <b>Not entitled to vote;</b> Deemed to accept Plan	Approx. \$0 - \$17,562.60 Recovery: 100%

	Secured Claim; or (B) a Distribution of Cash from the Estate Cash equal to the amount of such Allowed Secured Claim; or (C) such other treatment which the Plan Proponents or the Liquidating Trustee, as applicable, and the Holder of such Allowed Secured Claim have agreed upon in writing.		
Class 2: Priority Non-Tax Claims	Each holder of an Allowed Priority Unsecured Non-Tax Claim against the Debtors shall receive on or as soon as reasonably practicable after the Effective Date, on account of and in full and complete settlement, release and discharge of, and in exchange for, such Allowed Priority Unsecured Non-Tax Claim, either a Distribution of Cash from the Estate Cash equal to the full unpaid amount of such Allowed Priority Unsecured Non-Tax Claim, or such other treatment as the Plan Proponents or the Liquidating Trustee, as applicable, and the holder of such Allowed Priority Unsecured Non-Tax Claim shall have agreed.	Unimpaired; <b>Not entitled to vote;</b> Deemed to accept Plan	Approx. \$0 - \$18,226.66 Recovery: 100%
Class 3: General Unsecured Claims	Each Holder of an Allowed General Unsecured Claim against the Debtors shall receive on account of and in full and complete settlement, release and discharge of, and in exchange for, such Allowed General Unsecured Claim its Pro Rata share of: (i) the Unsecured Cash Amount; (ii) the Beneficial Interest in the GUC Sub-trust in accordance with the Liquidating Trust Agreement; (iii) any remaining Estate Cash after all Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Secured Claims, and Allowed Priority Non-Tax Claims have been paid, resolved, or reserved for, as applicable; and (iv) the Beneficial Interest in the	Impaired; <b>Entitled to vote</b>	Approx. \$6 million - \$9 million <sup>5</sup>  Estimated Recovery: 3% - 9%

<sup>5</sup> The estimate of \$9 million includes the proof of claim filed for the PPP Loan. The PPP Loan has been forgiven but the proof of claim has not been withdrawn.

	Apex Liquidating Trust in accordance with the Liquidating Trust Agreement.		
Class 4: Insider Claims	<p>Each Holder of an Allowed Insider Claim against the Debtors shall receive on account of and in full and complete settlement, release and discharge of, and in exchange for, such Allowed Insider Claim its Pro Rata share of: (i) any remaining Estate Cash after all Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Secured Claims, and Allowed Priority Non-Tax Claims have been paid, resolved, or reserved for, as applicable; and (ii) the Beneficial Interest in the Apex Liquidating Trust in accordance with the Liquidating Trust Agreement.</p> <p>Allowed Insider Claims shall share Pro Rata with Allowed General Unsecured Claims in any remaining Estate Cash and the Beneficial Interest in the Apex Liquidating Trust. Holders of Allowed Insider Claims shall not be entitled to any Distribution from the Unsecured Cash Amount, and shall not hold any Beneficial Interest in the GUC Sub-trust.</p>	Impaired; <b>Entitled to vote</b>	Approx. \$17,000,000  Recovery: 0%: - 1%

Class 5: Intercompany Claims	On the Effective Date all Intercompany Claims and other Intercompany liabilities, whether arising prior to or after the Petition Date, shall be deemed canceled, extinguished and of no further force and effect. Holders of Intercompany Claims shall not be entitled to receive or retain any property on account of such Claim. Class 5 Intercompany Claims are impaired, and deemed to reject Plan, and are not entitled to vote.	Impaired; Deemed to reject Plan and <b>Not entitled to vote</b>	Approx. \$850,000  Recovery: 0%:
Class 6: Equity Interests	On the Effective Date, all Interests shall be deemed canceled, extinguished and of no further force or effect, and the Holders of Interests shall not be entitled to receive or retain any property on account of such Interest.	Impaired; Deemed to reject Plan and <b>Not entitled to vote</b>	Recovery: 0%

#### 4.05 Elimination of Classes for Voting Purposes

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

#### 4.06 Confirmation via “Cramdown”

With respect to the Impaired Classes of Claims and Equity Interests that reject or that are deemed to have rejected the Plan, the Plan Proponents hereby request, without any delay in the occurrence of the Confirmation Hearing or Effective Date, that the Bankruptcy Court Confirm the Plan in accordance with Section 1129(b) of the Bankruptcy Code with respect to such non-accepting Classes, in which case the Plan shall constitute a motion for such relief. As set forth in section 3.06 of this Combined Disclosure Statement and Plan, the Plan Proponents believe the Plan satisfies the “cramdown” requirements set forth in section 1129(b) of the Bankruptcy Code. Provided however, that it is possible that, given the requirements of section 1129(a)(10) of the Bankruptcy Code, the Plan may not be confirmed unless Class 3 votes to accept the Plan. The Plan Proponents reserve all rights and arguments with respect to the foregoing.

#### 4.07 Controversy Concerning Classification, Impairment or Voting Rights

In the event a controversy or dispute should arise involving issues related to the classification, impairment or voting rights of any Creditor or Interest Holder under the Plan, whether before or after the Confirmation Date, the Bankruptcy Court may, after notice and a

hearing, determine such controversy. Without limiting the foregoing, the Bankruptcy Court may estimate for voting purposes (i) the amount of any contingent or unliquidated Claim the fixing or liquidation of, as the case may be, would unduly delay the administration of the Chapter 11 Cases and (ii) any right to payment arising from an equitable remedy for breach of performance.

#### **4.08 Insurance**

Notwithstanding anything to the contrary herein, unless elected otherwise by the Liquidating Trustee, if any Allowed Claim or Administrative Claim is covered by an Insurance Policy, such Claim or Administrative Claim shall first be paid from proceeds of such Insurance Policy to the extent such proceeds are available, with the balance, if any, treated in accordance with the provisions of the Plan governing the Class applicable to such Claim or Administrative Claim.

### **ARTICLE V**

#### **CERTAIN RISK FACTORS TO BE CONSIDERED PRIOR TO VOTING**

THE PLAN AND ITS IMPLEMENTATION ARE SUBJECT TO CERTAIN RISKS, INCLUDING, BUT NOT LIMITED TO, THE RISK FACTORS SET FORTH BELOW. HOLDERS OF CLAIMS WHO ARE ENTITLED TO VOTE ON THE PLAN SHOULD READ AND CAREFULLY CONSIDER THE RISK FACTORS, AS WELL AS THE OTHER INFORMATION SET FORTH IN THE PLAN AND THE DOCUMENTS DELIVERED TOGETHER HERewith OR REFERRED TO OR INCORPORATED BY REFERENCE HEREIN, BEFORE DECIDING WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN. THESE FACTORS SHOULD NOT, HOWEVER, BE REGARDED AS CONSTITUTING THE ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN AND ITS IMPLEMENTATION.

#### **5.01 The Plan May Not Be Accepted.**

The Plan Proponents can make no assurances that the requisite acceptances to the Plan will be received, and the Debtors may need to obtain acceptances of an alternative plan of liquidation for the Debtors, or otherwise, that may not have the support of Creditors and/or may be required to liquidate the Estates under chapter 7 of the Bankruptcy Code. There can be no assurance that the terms of any such alternative restructuring arrangement or plan would be similar to or as favorable to Creditors as those proposed in the Plan.

#### **5.02 The Plan May Not Be Confirmed.**

Even if the Debtors receive the requisite acceptances, there is no assurance that the Bankruptcy Court, which may exercise substantial discretion as a court of equity, will confirm the Plan. Even if the Bankruptcy Court determined that the Combined Disclosure Statement and Plan and the balloting procedures and results were appropriate, the Bankruptcy Court could still decline to confirm the Plan if it finds that any of the statutory requirements for Confirmation have not been met. Moreover, there can be no assurance that modifications to the Combined Disclosure Statement and Plan will not be required for Confirmation or that such modifications would not necessitate the resolicitation of votes. If the Plan is not confirmed, it is unclear what distributions

Holders of Claims or Interests ultimately would receive with respect to their Claims or Interests in a subsequent plan of liquidation.

### **5.03 Distributions to Holders of Allowed Claims under the Plan May Be Inconsistent with Projections.**

Projected Distributions are based upon good faith estimates of the total amount of Claims ultimately Allowed and the funds available for Distribution. There can be no assurance that the estimated Claim amounts set forth in the Plan are correct. These estimated amounts are based on certain assumptions with respect to a variety of factors. Both the actual amount of Allowed Claims in a particular Class and the funds available for Distribution to such Class may differ from the Plan Proponents' estimates. If the total amount of Allowed Claims in a Class is higher than the Plan Proponents' estimates, or the funds available for distribution to such Class are lower than the Plan Proponents' estimates, the percentage recovery to Holders of Allowed Claims in such Class will be less than projected.

### **5.04 Objections to Classification of Claims.**

Section 1122 of the Bankruptcy Code requires that the Plan classify Claims and Interests. The Bankruptcy Code also provides that the Plan may place a Claim or Interest in a particular Class only if such Claim or Interest is substantially similar to the other Claims or Interests of such Class. The Plan Proponents believe that all Claims and Interests have been appropriately classified in the Plan. To the extent that the Bankruptcy Court finds that a different classification is required for the Plan to be confirmed, the Plan Proponents would seek to (i) modify the Plan to provide for whatever classification might be required for Confirmation and (ii) use the acceptances received from any Holder of Claims pursuant to this solicitation for the purpose of obtaining the approval of the Class or Classes of which such Holder ultimately is deemed to be a member. Any such reclassification of Claims, although subject to the notice and hearing requirements of the Bankruptcy Code, could adversely affect the Class in which such Holder was initially a member, or any other Class under the Plan, by changing the composition of such Class and the vote required for approval of the Plan. There can be no assurance that the Bankruptcy Court, after finding that a classification was inappropriate and requiring a reclassification, would approve the Plan based upon such reclassification. Except to the extent that modification of classification in the Plan requires resolicitation, the Plan Proponents will, in accordance with the Bankruptcy Code and the Bankruptcy Rules, seek a determination by the Bankruptcy Court that acceptance of the Plan by any Holder of Claims pursuant to this solicitation will constitute a consent to the Plan's treatment of such Holder, regardless of the Class as to which such Holder is ultimately deemed to be a member. The Plan Proponents believe that under the Bankruptcy Rules, the Debtors would be required to resolicit votes for or against the Plan only when a modification adversely affects the treatment of the Claim or Interest of any Holder. The Bankruptcy Code also requires that the Plan provide the same treatment for each Claim or Interest of a particular Class unless the Holder of a particular Claim or Interest agrees to a less favorable treatment of its Claim or Interest. The Plan Proponents believe that the Plan complies with the requirement of equal treatment. To the extent that the Bankruptcy Court finds that the Plan does not satisfy such requirement, the Bankruptcy Court could deny Confirmation of the Plan. Issues or disputes relating to classification and/or treatment could result in a delay in the Confirmation and Consummation of the Plan and could increase the risk that the Plan will not be consummated.

### **5.05 Failure to Consummate the Plan.**

The Plan provides for certain conditions that must be satisfied (or waived) prior to Confirmation and for certain other conditions that must be satisfied (or waived) prior to the Effective Date. As of the date of the Plan, there can be no assurance that any or all of the conditions in the Plan will be satisfied (or waived). Accordingly, there can be no assurance that the Plan will be confirmed by the Bankruptcy Court. Further, if the Plan is confirmed, there can be no assurance that the Plan will be Consummated.

### **5.06 Allowance of Claims May Substantially Dilute the Recovery to Holders of Claims under the Plan.**

There can be no assurance that the estimated Claim amounts set forth in the Plan are correct, and the actual Allowed amounts of Claims may differ materially from such estimates. The estimated amounts are based on certain assumptions with respect to a variety of factors, including with respect to Disputed Claims. Should these underlying assumptions prove incorrect, the actual Allowed amounts of Claims may vary from those estimated herein, thereby materially reducing the recovery to the Holders of Allowed General Unsecured Claims and/or Allowed Insider Claims under the Plan.

### **5.07 Certain Tax Considerations.**

There are a number of material income tax considerations, risks and uncertainties associated with the Plan described in this Combined Disclosure Statement and Plan.

THE U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN ARE COMPLEX. NOTHING HEREIN SHALL CONSTITUTE TAX ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A HOLDER'S PARTICULAR CIRCUMSTANCES. ACCORDINGLY, HOLDERS ARE URGED TO CONSULT THEIR TAX ADVISORS ABOUT THE UNITED STATES FEDERAL, STATE AND LOCAL, AND APPLICABLE FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.

## **ARTICLE VI**

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

#### **6.01 Substantive Consolidation**

The Plan Proponents seek entry, pursuant to section 105 of the Bankruptcy Code and Bankruptcy Rule 9019, of a Bankruptcy Court order that, effective upon the Effective Date, substantively consolidates the Debtors' Estates into a single consolidated Estate and consolidates all of the debts of all of the Debtors, for all purposes associated with Confirmation and Consummation.

On and after the Effective Date, all Assets and liabilities of the Debtors shall be treated as though they were merged into the Estate of ALS Liquidation LLC for all purposes associated with Confirmation and Consummation, and all guarantees by any Debtor of the obligations of any other

Debtor shall be eliminated so that any Claim and any guarantee thereof by any other Debtor, as well as any joint and several liability of any Debtor with respect to any other Debtor shall be treated as one collective obligation of the Debtors, subject to all rights, claims, defenses, and arguments available to the Debtors or the Liquidating Trustee.

As part of the substantive consolidation of the Debtors' Assets and liabilities as set forth in the Plan, on the Effective Date all Intercompany Claims and other Intercompany liabilities, whether arising prior to or after the Petition Date, shall be deemed canceled, extinguished and of no further force and effect.

Substantive consolidation will not (i) alter the state of incorporation or state of formation of any Debtor for purposes of determining the applicable law for any of the Retained Causes of Action, (ii) alter or impair the legal and equitable rights of the Liquidating Trustee to prosecute any of the Retained Causes of Action, or (iii) otherwise impair, release, discharge, extinguish or affect any of the Retained Causes of Action or issues raised as a part thereof.

Notwithstanding anything in the Plan or in the Confirmation Order to the contrary, the entry of the Confirmation Order ordering substantive consolidation of the Estates shall not have any effect upon the separate and distinct legal entities as they existed at the time of any prepetition transaction that is the subject of any litigation; *provided, however*, that the foregoing provision shall not serve to prejudice or compromise whatever rights, if any, the Debtors or the Liquidating Trustee, as applicable, may have to contend in any pending or future adversary proceeding or other lawsuit that the Debtors or the Liquidating Trustee, as applicable, may prosecute claims for fraudulent conveyance or fraudulent transfer arising from transfers made by one or more of the Debtors based on any theory or doctrine, including any federal, state, or common law alter-ego, veil-piercing, or any other theory or doctrine that would permit or require the disregard of corporate separateness or facts as they existed at the time of the transaction in question. Moreover, substantive consolidation shall not affect the obligation of each Debtors or the Liquidating Trustee to pay U.S. Trustee Fees until the earlier of the time that a particular Case has been closed, dismissed, or converted.

**This Plan shall serve as a motion seeking entry of an order consolidating the Debtors, as described above. Unless an objection to such consolidation is made in writing by any Holder of a Claim affected by the Plan, filed with the Bankruptcy Court and served in accordance with the objection procedures established by the Bankruptcy Court, the consolidation order (which may be the Confirmation Order) may be entered by the Bankruptcy Court. In the event any such objections are timely filed, a hearing with respect thereto shall occur at or before the Confirmation Hearing.**

## **6.02 Cancellation of Equity Interests**

On the Effective Date, all existing Equity Interests of each of the Debtors shall be retired, cancelled, extinguished and/or discharged in accordance with the terms of the Plan. Except as otherwise provided in the Plan or the Plan Supplement, on the Effective Date: (1) the obligations of the Debtors under any certificate, share, note, bond, indenture, purchase right, option, warrant, or other instrument or document, directly or indirectly, evidencing or creating any indebtedness or obligation of or ownership interest in the Debtors giving rise to any Claim or Equity Interest shall

be cancelled as to the Debtors shall not have any continuing obligations thereunder, and (2) the Debtors shall have no further obligations pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificate or articles of incorporation or similar documents governing the shares, certificates, notes, bonds, purchase rights, options, warrants or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtors.

### **6.03 The Liquidating Trusts**

#### **(a) Formation and Purpose of the Liquidating Trusts.**

On the Effective Date, the Apex Liquidating Trust and the GUC Sub-trust shall be established pursuant to and in accordance with the terms of the Liquidating Trust Agreement Filed with the Plan Supplement, as may be amended from time to time. The Apex Liquidating Trust will be vested with the Retained Assets and will be established for the purpose of making Distributions to Holders of Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Secured Claims, Allowed General Unsecured Claims, and Allowed Insider Claims in accordance with and subject to the terms of the Plan and the Liquidating Trust Agreement and performing related and incidental functions referenced in the Liquidating Trust Agreement.

The GUC Sub-trust is being established to implement the terms of the Bankruptcy Court approved Asset Purchase Agreement, which requires that (i) a liquidating trust be established for the sole benefit of Holders of Allowed General Unsecured Claims and (ii) such trust be vested with the Unsecured Cash Amount. Consistent with those requirements, the GUC Sub-trust will be vested with the Unsecured Cash Amount and will be established for the sole benefit of Holders of Allowed General Unsecured Claims and for the purpose of making Distributions to Holders of Allowed General Unsecured Claims and performing related and incidental functions referenced in the Liquidating Trust Agreement.

The Liquidating Trusts shall have no objective of continuing or engaging in any trade or business except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the trusts.

(b) Execution and Ratification of the Liquidating Trust Agreement. On or as soon as reasonably practicable after the Effective Date, the Liquidating Trust Agreement shall be executed by all parties thereto. The Liquidating Trust Agreement shall be provided in the Plan Supplement and shall govern the powers, duties, and responsibilities of the Liquidating Trustee. Each holder of a Claim or Equity Interest shall be bound by the terms and conditions of the Liquidating Trust Agreement.

(c) Federal Income Tax Treatment of the Liquidating Trusts. For federal income tax purposes, it is intended that the Liquidating Trusts be classified as “grantor trusts” for federal income tax purposes, pursuant to sections 671-677 of the Internal Revenue Code of 1986, as amended, and that the Liquidation Trusts be owned by the beneficiaries thereof. Accordingly, for federal income tax purposes, it is intended that the beneficiaries of the Liquidating Trusts be treated as if they had received a distribution from the Debtors’ Estates of an undivided interest in

each of the Retained Assets and/or the Unsecured Cash Amount, as applicable, and then contributed such interest to the Liquidation Trusts.

(d) Vesting of Assets in the Liquidating Trusts. Except as otherwise provided in this Plan, on the Effective Date, (i) all Retained Assets, including the Retained Causes of Action, shall be transferred to and shall vest in the Apex Liquidating Trust and (ii) the Unsecured Cash Amount shall be transferred to and shall vest in the GUC Sub-trust, in each case free and clear of all Claims, liens, charges, other encumbrances, Interests or other interests.

(e) Powers and Duties of Liquidating Trustee.

The powers, duties and authority of the Liquidating Trustee shall be set forth and governed by the terms of the Liquidating Trust Agreement. From and after the Effective Date, the Liquidating Trustee may in its discretion use, acquire, dispose of and/or abandon any property and prosecute, settle, resolve or abandon any Retained Causes of Action vested in the Liquidating Trusts free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules or Bankruptcy Court approval, subject only to the terms and provisions of the Plan and Liquidating Trust Agreement.

The Liquidating Trustee may in the exercise of his business judgment, but, unless otherwise ordered by the Bankruptcy Court, shall not be required to, give any bond or surety or other security for the performance of his duties. The Liquidating Trustee will make such determination in his business judgment by, among other things, weighing the costs of a bond or other security against the potential benefits thereof.

The material terms of the Liquidating Trustee's compensation are included in the Liquidating Trust Agreement and are payable from the Liquidating Trust Expense Reserve. The Liquidating Trustee shall be authorized to retain and compensate professionals from the Liquidating Trust Expense Reserve.

The Liquidating Trustee, the professionals retained by the Liquidating Trustee shall be defended, held harmless and indemnified against, and shall be entitled to advancement of their expenses in connection with, any proceeding against them arising from their actions as or on behalf of the Liquidating Trustee, provided, however, any such indemnified Person shall be obligated to repay any amounts advanced hereunder, if a court of competent jurisdiction shall determine by a Final Order such indemnified Person's actions constituted gross negligence or willful misconduct. All Persons having any claim against the Liquidating Trustee or the Liquidating Trustee's professionals or agents by reason of the transactions contemplated hereby shall look only to the Trust Assets for payment or satisfaction thereof. In addition and without limiting the foregoing, the Liquidating Trustee shall be afforded the indemnifications and other similar protections as set forth in the Liquidating Trust Agreement.

(f) Liquidating Trust Expenses. Without further order of the Bankruptcy Court, the Liquidating Trustee shall pay all reasonable Liquidating Trust Expenses from Liquidating Trust Expenses Reserve, in accordance with the terms of the Plan and the Liquidating Trust Agreement.

(g) Records. On the Effective Date, the Debtors' remaining books and records (the "Books and Records") shall be transferred to the Apex Liquidating Trust. The Liquidating Trustee shall be free, in its discretion, to abandon, destroy or otherwise dispose of the Books and

Records in compliance with applicable non-bankruptcy law at any time on and after the Effective Date, without the need for any order of the Bankruptcy Court.

#### **6.04 Insurance Policies**

(a) Insurance Policies Remain In Force. Up to and including their policy expiration date(s), including any extension thereof or tail period, any and all Insurance Policies in effect as of the Effective Date shall remain in full force and effect according to their terms and the coverage obligations of the insurers and third party administrators under such Insurance Policies shall continue following the Effective Date (including any obligations to pay, defend and process insured claims).

(b) D&O Insurance Policies; Employment Practice Liability Policies; Similar Policies. Nothing contained in this Plan shall affect or impair the rights of any non-Debtor insured persons covered under any directors and officers Insurance Policy, employment practices or similar liability Insurance Policies (including, without limitation, policies for the benefit of the Debtors' directors, officers, employees, members, managers, or similar persons who served in such capacity either before or after the Petition Date).

#### **6.05 Dissolution of Creditors' Committee**

Following the Effective Date, the Creditors' Committee shall continue in existence and have standing and capacity to (i) prepare and prosecute applications for the payment of fees and reimbursement of expenses incurred by the Creditors' Committee or its respective Professionals. Following the completion of the foregoing, the Creditors' Committee shall be dissolved and the members of the Creditors' Committee shall be released and discharged from any further authority, duties, responsibilities, and obligations related to, or arising from, the Chapter 11 Cases.

#### **6.06 Transfer of Privilege/No Waiver**

On the Effective Date, all of the Debtors' evidentiary privileges, including the attorney/client privilege, shall be deemed transferred to the Apex Liquidating Trust. The Plan shall be considered a motion pursuant to sections 105, 363 and 365 of the Bankruptcy Code for such relief. Upon such transfer, the Debtors and the Estates shall have no other further rights or obligations with respect thereto. Nothing herein shall be deemed a waiver of the Debtors' or the Estates' rights of privilege. For the avoidance of doubt, nothing herein shall create any obligation by the Debtors or the Debtors' Professionals to turnover or produce any documents, records or communications (privileged or otherwise). To the extent the Debtors' Professionals are required to turnover any documents, records or communications (privileged or otherwise), such professionals shall be entitled to compensation at their normal hourly rates (and reimbursement of out-of-pocket expenses) from the Apex Liquidating Trust for reasonable amounts of their time they incur.

#### **6.07 Termination of the Claims Agent**

At any time following the Effective Date, the Liquidating Trustee shall be authorized to terminate the services of the Claims Agent by providing advance written notice to the Claims Agent, without need for order of the Bankruptcy Court or any other party. Following termination,

the Claims Agent shall provide the Liquidating Trustee and the Bankruptcy Court with a copy of the claims register and a copy of all filed proofs of Claim. No later than thirty (30) days after its termination, the Claims Agent shall provide the Liquidating Trustee with a final invoice, and unless the Liquidating Trustee has any issues with respect to the Claims Agent's fees or expenses, the Liquidating Trustee will be authorized to remit payment of the final invoice within fifteen (15) days of receipt. The Bankruptcy Court will retain jurisdiction to hear any dispute in the event that the Liquidating Trustee and Claims Agent cannot agree upon the amount of fees and expenses sought by the Claims Agent.

#### **6.08 Closing of Cases other than ALS Liquidation LLC**

Promptly upon the occurrence of the Effective Date, the Liquidating Trustee in its reasonable discretion file a motion seeking entry of an Order authorizing the Clerk of the Bankruptcy Court to close all of the Bankruptcy Cases, other than the Bankruptcy Case of ALS Liquidation LLC, without need for further notice or Order of the Court.

#### **6.09 Final Decree**

At any time following the Effective Date, after the Plan has been substantially consummated, the Liquidating Trustee shall be authorized to file a motion for entry of a final decree closing the Chapter 11 Case of ALS Liquidation LLC.

### **ARTICLE VII**

#### **EXECUTORY CONTRACTS**

#### **7.01 Rejection of Executory Contracts**

(a) Except for any Executory Contracts of the Debtors: (i) that previously were assumed or rejected by an order of the Bankruptcy Court, pursuant to section 365 of the Bankruptcy Code; (ii) as to which a motion for approval of the assumption or rejection of such contract or lease has been filed and served prior to, and remains pending as of, Confirmation; or (iii) that were previously assumed and assigned to the Purchaser, each Executory Contract entered into by the Debtors prior to the Petition Date that has not previously expired or terminated pursuant to its own terms shall be deemed rejected pursuant to section 365 of the Bankruptcy Code as of the Effective Date. The Confirmation Order shall constitute an order of the Bankruptcy Court approving such rejection, pursuant to section 365 of the Bankruptcy Code, as of the Effective Date. Nothing herein is intended to affect the validity of contracts and leases entered into by the Debtors on or after the Petition Date, or the rights of the Debtors thereunder, which shall remain in full force and effect after the Effective Date in accordance with their terms.

(b) The Insurance Policies shall not be considered Executory Contracts for purposes of subsection (a), above. As discussed in section 6.09, the Insurance Policies shall remain in full force and effect following the Effective Date.

## **7.02 Bar Date for Rejection Damages**

If the rejection of an Executory Contract pursuant to the Plan or otherwise gives rise to a Claim by the other party or parties to such contract or lease, such Claim shall be forever barred and shall not be enforceable against the Debtors, Estates, or the Liquidating Trusts, unless a proof of Claim or Administrative Claim is filed with the Bankruptcy Court by no later than 30 days after the Effective Date.

## **7.03 Pre-Existing Obligations to the Debtors Under Executory Contracts**

Rejection of any Executory Contract pursuant to the Plan or otherwise shall not constitute a termination of pre-existing obligations owed to the Debtors under such Executory Contracts and the Plan Proponents and the Liquidating Trustee, as applicable, expressly reserve and do not waive any rights with respect to any such pre-existing obligations.

# **ARTICLE VIII**

## **PROVISIONS GOVERNING RESOLUTION OF CLAIMS AND DISTRIBUTIONS OF PROPERTY UNDER THE PLAN**

### **8.01 Claim Objections**

(a) Right to Object to Claims. Notwithstanding anything to the contrary herein, notwithstanding any requirements that may be imposed pursuant to Bankruptcy Rule 9019, except insofar as a Claim is Allowed under the Plan on and after the Effective Date, the Liquidating Trustee will have the authority, but not the obligation, to do any of the following with respect to any Claims, Administrative Claims, or Interests: (1) file, withdraw or litigate to judgment objections to and requests for estimation of Claims; (2) settle or compromise any Disputed Claim or Disputed Administrative Claim without any further notice to or action, order or approval by the Bankruptcy Court; and (3) administer and adjust the claims register to reflect any such settlements or compromises without any further notice to or action, order or approval by the Bankruptcy Court. The Liquidating Trustee shall succeed to any pending objections to Claims or Administrative Claims filed by the Debtors and/or the Creditors' Committee prior to the Effective Date, and shall have and retain any and all rights and defenses the Debtors had immediately prior to the Effective Date with respect to any Disputed Claim or Disputed Administrative Claim.

(b) Claims Objection Deadline. Objections to Claims or Administrative Claims must be filed with the Bankruptcy Court, and a copy of the objection must be served on the subject Creditor before the expiration of the Claims Objection Deadline, including any extension thereof; otherwise such Claims or Administrative Claims shall be deemed Allowed in accordance with Bankruptcy Code sections 502 or 503, as applicable. The objection shall notify the Creditor of the deadline for responding to such objection.

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

## **8.02 Adjustments to Claims and Administrative Claims Without Objection**

After the Effective Date, upon 10 days' written notice to the affected Claimant, any Claim or Administrative Claim that has been paid or satisfied, including payment from any third party including insurance coverage, or any Claim or Administrative Claim that has been amended or superseded, may be marked as satisfied, adjusted or expunged, as applicable, on the claims register in the Chapter 11 Cases by the Claims' Agent at the direction of the Liquidating Trustee without an objection having to be filed.

## **8.03 Late Claims; No Amendment Without Prior Authorization**

Except as provided herein or otherwise agreed, any and all Holders of Claims or Administrative Claims filed after the applicable Bar Date shall not be treated as Creditors for purposes of Distribution pursuant to Bankruptcy Rule 3003(c)(2) and the Bar Date Order unless, on or before the Confirmation Date, such late Claim or Administrative Claim has been deemed timely filed by a Final Order.

On or after the Effective Date, a claim subject to an applicable Bar Date may not be filed or amended unless such filing or amendment has been authorized by a Final Order of the Bankruptcy Court or agreement of the Liquidating Trustee.

## **8.04 Distribution Provisions**

(a) Distributions to be Made. The Liquidating Trustee shall be responsible for making Distributions required to be made under the Plan and Liquidating Trust Agreement.

(b) Establishment of Disputed Claims Reserves.

On or after the Effective Date, the Liquidating Trustee shall establish and maintain one or more Reserves of Cash as the Liquidating Trustee deems reasonably necessary to satisfy Disputed Administrative Claims, Disputed Priority Tax Claims, Disputed Priority Non-Tax Claims, Disputed Secured Claims and Disputed Insider Claims. Further, upon the Professional Fee Bar Date, the Liquidating Trustee shall establish a Reserve in an amount that the Liquidating Trustee deems reasonably necessary to satisfy all Professional Fees. All such Reserves shall be established from the Estate Cash or the proceeds of other Retained Assets vested in the Apex Liquidating Trust, but not from the Unsecured Cash Amount vested in the GUC Sub-trust.

On or after the Effective Date, the Liquidating Trustee may establish and maintain a separate Reserve of Cash as the Liquidating Trustee deems reasonably necessary to satisfy Disputed General Unsecured Claims. Such additional Reserve may be established from the Unsecured Cash Amount vested in the GUC Sub-trust.

(c) Distribution Record Date. As of 5:00 p.m. (prevailing Eastern Time) on the Distribution Record Date, the transfer registers for Claims shall be closed. The Liquidating Trustee shall have no obligation to recognize the transfer or sale of any Claim that occurs after such time on the Distribution Record Date and shall be entitled for all purposes herein to recognize and make Distributions only to those Holders who are Holders of Claims as of 5:00 p.m. (prevailing Eastern Time) on the Distribution Record Date. Except as otherwise provided in a Final Order of the

Bankruptcy Court, the transferees of Claims that are transferred pursuant to Bankruptcy Rule 3001 on or prior to 5:00 p.m. (prevailing Eastern Time) on the Distribution Record Date shall be treated as the Holders of such Claims for all purposes, notwithstanding that any period provided by Bankruptcy Rule 3001 for objecting to such transfer has not expired by the Distribution Record Date.

(d) Manner of Distributions. The Liquidating Trustee shall only be required to act and make Distributions in accordance with the terms of the Plan and the Liquidating Trust Agreement.

(e) Distributions on Account of Disputed Claims. If any portion of a Claim or Administrative Claim is Disputed, no payment or Distribution shall be made on account of such Claim or Administrative Claim until such Claim or Administrative Claim becomes Allowed. Except as otherwise provided in a Final Order or as agreed by the relevant parties, Distributions on account of Disputed Claims or Disputed Administrative Claims, if any, that become Allowed, shall be made by the Liquidating Trustee at such periodic intervals as the Liquidating Trustee determines to be reasonably prudent.

(f) No Distributions Pending Allowance. Notwithstanding anything herein to the contrary: (a) no Distribution shall be made with respect to any Disputed Claim or Disputed Administrative Claim until such Claim or Administrative Claim becomes Allowed, and (b) unless agreed otherwise by the Liquidating Trustee no Distribution shall be made to any Person that holds both an Allowed Claim and a Disputed Claim until such Person's Disputed Claims or Disputed Administrative Claim have been resolved by settlement or Final Order.

(g) Distributions in Cash. Any required Cash payments to the Holders of Allowed Claims or Allowed Administrative Claims shall be made by the Liquidating Trustee: (a) in U.S. dollars by check, draft or warrant, drawn on a domestic bank, or by wire transfer from a domestic bank, and (b) by first-class mail (or by other equivalent or superior means as determined by the Liquidating Trustee). All Distributions shall be allocated first to the principal amount of the Allowed Claim or Allowed Administrative Claim. Except as otherwise set forth in this Plan or in a Final Order of the Bankruptcy Court, no Holder of an Allowed Claim or Allowed Administrative Claim shall be entitled to interest from the Petition Date through and including the date of payment or Distribution. No Holder of an Allowed Claim or Allowed Administrative Claim shall receive any Distribution in excess of the Allowed amount of such Claim or Administrative Claim.

(h) Timing of Distributions. Except as specifically set forth in the Plan or Liquidating Trust Agreement, the Liquidating Trustee may determine, in its discretion, the appropriate timing, amount, and cadence for Distributions. The Trustee, in its discretion, may make one or more interim Distributions.

(i) Withholdings. The Liquidating Trustee may, but shall not be required to, at any time withhold from a Distribution to any Person (except the Internal Revenue Service) amounts sufficient to pay any tax or other charge that has been or may be imposed on such Person with respect to the amount distributable or to be distributed under the income tax laws of the United States or of any state or political subdivision or entity by reason of any Distribution provided for

in the Plan, whenever such withholding is determined by the Liquidating Trustee (in its sole discretion) to be required by any law, regulation, rule, ruling, directive, or other governmental requirement. The Liquidating Trustee, in the exercise of its sole discretion and judgment, may enter into agreements with taxing or other authorities for the payment of such amounts that may be withheld in accordance with the provisions of this section. Notwithstanding anything to the contrary contained in this Plan, all Persons that received Distributions under the Plan shall be solely responsible for reporting and paying, as applicable, all federal, state, and local taxes on account of such Distributions.

(j) Delivery of Distributions. Except as otherwise provided in the Plan or Liquidating Trust Agreement, Distributions to Holders of Allowed Claims and Allowed Administrative Claims shall be made to Holders of record as of the Distribution Record Date by the Liquidating Trustee, as set forth on the latest date of the following documents: (a) to the address of payment set forth on any of the Proofs of Claim or Administrative Claim request Filed by such Holder or other representative identified therein; (b) at the addresses set forth in any written notices of address changes delivered to the Debtors after the date of any related Proof of Claim or Administrative Claim and prior to the Effective Date; and (c) at the addresses reflected in the Schedules if no Proof of Claim has been Filed and the Debtors have not received a written notice of a change of address prior to the Effective Date (or at such Holder's last known address if the address is not listed in the Schedules). Before receiving any Distributions, all Holders of Allowed Claims (including Holders of Allowed Administrative Claims), at the request of the Liquidating Trustee, must provide written notification of their respective federal tax identification numbers or social security numbers to the Liquidating Trustee; otherwise, if a Holder of an Allowed Claim or Allowed Administrative Claim fails to provide such requested tax information within 90 days after the request has been sent to such Holder's last known address, the Distribution on account of such Allowed Claim or Administrative Claim shall be deemed an unclaimed Distribution, and Section 8.02(l) of the Plan shall be applicable thereto.

(k) Undeliverable Distributions. The Liquidating Trustee shall make one attempt to make the Distributions contemplated hereunder in accordance with the procedures set forth herein. The Liquidating Trustee in its sole discretion may, but shall have no obligation to, attempt to locate Holders of undeliverable Distributions. Any Distributions returned to the Liquidating Trustee as undeliverable or otherwise shall remain in the possession of the Liquidating Trustee, and no further Distributions shall be made to such Holder unless such Holder notifies the Liquidating Trustee of its then current address. If the Liquidating Trustee cannot determine, or is not notified of, a then current address for such Holder within 120 days after the Distribution is returned as undeliverable, the Distribution on account of such Allowed Claim or Allowed Administrative Claim shall be deemed an unclaimed Distribution, and Section 8.02(l) of the Plan shall be applicable thereto.

(l) Unclaimed Distributions. Any Holder of an Allowed Claim or an Allowed Administrative Claim who fails to: (i) provide the Liquidating Trustee with an updated address in accordance with section 8.02(k) of the Plan, (ii) claim or negotiate any Distribution within 90 days from the date upon which a Distribution is first made to such entity or (iii) fails to provide the Liquidating Trustee with a federal tax identification or social security number within 90 days from the Liquidating Trustee's request, shall forfeit all rights to any Distribution under the Plan, and the Liquidating Trustee shall be authorized to cancel any Distribution to such Holder. Pursuant to

section 347(b) of the Bankruptcy Code, upon forfeiture, such Distribution (including interest thereon, if any) shall revert to the source of such Distribution. Upon forfeiture, the claim of such Holder to such funds shall be irrevocably waived and forever barred against the all of the Debtors, the Estates, the Liquidating Trusts, and the Liquidating Trustee, notwithstanding any federal or state escheat laws to the contrary, and such Holder shall have no claim whatsoever against the any of the foregoing or to any Holder of a Claim to whom Distributions are made.

(m) De Minimis Distributions. If any interim Distribution under the Plan to the Holder of an Allowed Claim or Allowed Administrative Claim would be less than \$100.00, the Liquidating Trustee may withhold such Distribution until a final Distribution is made to such Holder. If any final Distribution under the Plan to the Holder of an Allowed Claim or Allowed Administrative Claim would be less than \$25.00, the Liquidating Trustee may cancel such Distribution and use such funds in accordance with the terms of the Plan.

(n) Remainder Amounts After Distribution. If at any time the Liquidating Trustee determines, in reliance upon such professionals as the Liquidating Trustee may retain, that the expense of administering the Liquidating Trust so as to make a final Distribution to beneficiaries of the Liquidating Trust is likely to exceed the value of the assets remaining in the Liquidating Trusts, the Liquidating Trustee may (i) reserve any amount necessary to dissolve the Liquidating Trusts and (ii) donate any remaining assets to a 501(c)(3) charity to be selected by the Liquidating Trustee.

## ARTICLE IX

### EXCULPATION, INJUNCTION, AND RELATED PROVISIONS

#### 9.01 Term of Bankruptcy Injunction or Stay

Except as otherwise expressly provided in the Plan or the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code, or otherwise, and which are in effect on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### 9.02 Exculpation and Limitation of Liability

**EACH OF THE EXCULPATED PARTIES SHALL NOT BE LIABLE FOR ANY CLAIM, ACTION, PROCEEDING, CAUSE OF ACTION, SUIT, ACCOUNT, SETOFF, RECOUPMENT, CONTROVERSY, AGREEMENT, PROMISE, RIGHT TO LEGAL REMEDIES, RIGHT TO EQUITABLE REMEDIES, RIGHT TO PAYMENT OR CLAIM (AS DEFINED IN SECTION 101(5) OF THE BANKRUPTCY CODE), WHETHER KNOWN, UNKNOWN, REDUCED TO JUDGMENT, NOT REDUCED TO JUDGMENT, LIQUIDATED, UNLIQUIDATED, FIXED, CONTINGENT, MATURED, UNMATURED, DISPUTED, UNDISPUTED, SECURED OR UNSECURED AND WHETHER ASSERTED OR ASSERTABLE DIRECTLY OR DERIVATIVELY, IN LAW, EQUITY OR OTHERWISE TO ONE ANOTHER OR TO ANY HOLDER OF A CLAIM OR EQUITY INTEREST, OR ANY OTHER PARTY IN INTEREST, THE DEBTORS' ESTATES, THE LIQUIDATING TRUSTS, THE LIQUIDATING TRUSTEE OR ANY OTHER PERSON**

**OR ENTITY OR ANY OF THEIR RESPECTIVE AGENTS, EMPLOYEES, REPRESENTATIVES, FINANCIAL ADVISORS, ATTORNEYS, OR ANY OF THEIR SUCCESSORS OR ASSIGNS, FOR ANY ACT OR OMISSION OCCURRING ON OR BEFORE THE EFFECTIVE DATE OF THE PLAN AND IN CONNECTION WITH, RELATING TO, OR ARISING OUT OF THE CHAPTER 11 CASES, THE NEGOTIATION AND FILING OF THE PLAN OR ANY PRIOR PLANS, THE FILING OF THE CHAPTER 11 CASES, THE PURSUIT OF CONFIRMATION OF THE PLAN OR ANY PRIOR PLANS, ANY SALE ORDER, THE CONSUMMATION OF THE PLAN, OR THE ADMINISTRATION OF THE PLAN OR THE PROPERTY TO BE LIQUIDATED AND/OR DISTRIBUTED UNDER THE PLAN, EXCEPT FOR WILLFUL MISCONDUCT, GROSS NEGLIGENCE OR FRAUD AS DETERMINED BY A FINAL ORDER OF A COURT OF COMPETENT JURISDICTION.**

### **9.03 Injunction**

**EXCEPT AS OTHERWISE PROVIDED IN THE PLAN, FROM AND AFTER THE EFFECTIVE DATE, ALL PERSONS WHO HAVE HELD, HOLD OR MAY HOLD CLAIMS AGAINST OR INTERESTS IN ANY OF THE DEBTORS ARE PERMANENTLY ENJOINED FROM TAKING ANY OF THE FOLLOWING ACTIONS AGAINST ANY OF THE DEBTORS OR THEIR ESTATES, ANY OF THE DEBTORS' PROPERTY, THE LIQUIDATING TRUSTS OR THE LIQUIDATING TRUSTEE, ON ACCOUNT OF ANY SUCH CLAIMS OR INTERESTS: (A) ENFORCING, ATTACHING, COLLECTING OR RECOVERING IN ANY MANNER ANY JUDGMENT, AWARD, DECREE OR ORDER; (B) CREATING, PERFECTING OR ENFORCING ANY LIEN OR ENCUMBRANCE; (C) ASSERTING A SETOFF OR RIGHT OF SUBROGATION OF ANY KIND AGAINST ANY DEBT, LIABILITY OR OBLIGATION DUE TO ANY DEBTOR; (D) COMMENCING OR CONTINUING, IN ANY MANNER OR IN ANY PLACE, ANY ACTION THAT DOES NOT COMPLY WITH OR IS INCONSISTENT WITH THE PROVISIONS OF THE PLAN; AND (E) TAKING ANY ACTION WHICH INTERFERES WITH THE IMPLEMENTATION OR CONSUMMATION OF THE PLAN; PROVIDED, HOWEVER, THAT NOTHING CONTAINED IN THE PLAN SHALL PRECLUDE SUCH PERSONS FROM EXERCISING AND/OR ENFORCING THEIR RIGHTS PURSUANT TO AND CONSISTENT WITH THE TERMS OF THE PLAN OR THE CONFIRMATION ORDER.**

## **ARTICLE X**

### **CONDITIONS TO CONFIRMATION AND EFFECTIVE DATE**

#### **10.01 Conditions Precedent to Confirmation**

It shall be a condition to Confirmation hereof that the following provisions, terms and conditions shall have been satisfied or waived pursuant to Section 10.03:

(a) The Bankruptcy Court shall have entered an order, in form and substance reasonably acceptable to the Plan Proponents, approving the Disclosure Statement with respect to

the Plan as containing adequate information within the meaning of section 1125 of the Bankruptcy Code.

(b) The Plan, the Confirmation Order, and documents in the Plan Supplement shall be in a form and substance reasonably acceptable to the Plan Proponents.

#### **10.02 Conditions Precedent to the Effective Date**

It shall be a condition to the Effective Date that the following provisions, terms and conditions shall have been satisfied or waived pursuant to Section 10.03:

(a) The Bankruptcy Court shall have entered an order, in form and substance reasonably acceptable to the Plan Proponents confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

(b) All authorizations, consents and regulatory approvals required, if any, in connection with the Plan's effectiveness shall have been obtained.

(c) No order of a court shall have been entered and remain in effect restraining the Debtors from consummating the Plan and the transactions contemplated therein, and the Confirmation Order shall be in full force and effect.

(d) All actions, documents, certificates and agreements necessary to implement the Plan, including the Liquidating Trust Agreement, shall have been effected or executed and delivered to the required parties and, to the extent required, filed with the applicable Governmental Units in accordance with applicable laws, and are in form and substance, acceptable to the Plan Proponents.

#### **10.03 Waiver of Conditions**

Except with respect to the conditions set forth in section 10.01(a) and 10.02(a), which may not be waived, all other conditions to Confirmation of the Plan and to the occurrence of the Effective Date set forth in this Article X may be waived at any time by each of the Plan Proponents.

#### **10.04 Effect of Failure of Conditions**

If the Effective Date does not occur, the Plan shall be null and void in all respects and nothing contained in the Plan shall: (i) constitute a waiver or release of any claims by or Claims against the Debtors; (ii) prejudice in any manner the rights of the Debtors, any Holders of a Claim or Interest or any other entity; or (iii) constitute an admission, acknowledgment, offer or undertaking by the Debtors, the Creditors' Committee, any Creditors or Interest Holders or any other entity in any respect.

#### **10.05 Filing of Notice of the Effective Date.**

On the Effective Date or as shortly thereafter as reasonably practicable, the Plan Proponents shall file a notice of the Effective Date with the Bankruptcy Court.

## ARTICLE XI

### MODIFICATION, REVOCATION OR WITHDRAWAL OF PLAN

#### **11.01 Modification and Amendments**

Except as otherwise specifically provided herein, the Plan Proponents reserve the right to modify the Plan as to material terms and seek Confirmation consistent with the Bankruptcy Code and Bankruptcy Rules and, as appropriate, not re-solicit votes on such modified Plan. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan, the Plan Proponents expressly reserve their rights to alter, amend or modify materially the Plan with respect to any or all Debtors, one or more times, after Confirmation and before Consumation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend or modify the Plan or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan; provided, however, that any alterations, amendments or modifications to the Plan, the Disclosure Statement and Confirmation Order must be consistent in all respects with the Settlements. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with this Article and with the consent of both of the Plan Proponents. In addition, prior to the Effective Date, the Plan Proponents may make appropriate technical adjustments and modifications to the Plan, without further order or approval of the Bankruptcy Court; provided, however, that such technical adjustments and modifications do not adversely affect in a material way the treatment of Holders of Allowed Claims or Interests.

#### **11.02 Effect of Confirmation on Modifications**

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan occurring after the commencement of the solicitation of votes on the Plan are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or re-solicitation under Bankruptcy Rule 3019.

#### **11.03 Revocation or Withdrawal of the Plan**

The Plan Proponents reserve the right to revoke or withdraw the Plan before the Effective Date. If the Plan Proponents revoke or withdraw the Plan, or if the Confirmation Date or the Effective Date does not occur, then: (i) the Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption or rejection of any Executory Contracts effected by the Plan, and any document or agreement executed pursuant to the Plan shall be deemed null and void; and (iii) nothing contained in the Plan shall (a) constitute a waiver or release of any Claims or Interests or claims by any Debtor against any other entity; (b) prejudice in any manner the rights of such Debtor, the Creditors' Committee, the Holder of any Claim or Interest or any other entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by such Debtor, the Creditors' Committee or any other entity.

## ARTICLE XII

### JURISDICTION

#### **12.01 Bankruptcy Court Jurisdiction**

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

(a) To allow, disallow, determine, liquidate, classify or establish the priority or secured or unsecured status of or estimate any Claim, Administrative Claim, or Interest and the resolution of any and all objections to the allowance or priority of Claims, Administrative Claims, or Interests;

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

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

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

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

(f) To consider and act on the compromise and settlement of any claim or cause of action by or against the Debtors, the Estates, the Liquidating Trust, or the Liquidating Trustee;

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

(h) To decide or resolve any and all applications for compensation;

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

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

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

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

## **12.02 Limitation on Jurisdiction**

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

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

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

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

## **ARTICLE XIII**

### **MISCELLANEOUS**

#### **13.01 Defenses and Setoff**

Nothing contained in this Plan shall constitute a waiver or release by the Debtors, the Estates, the Liquidating Trusts, or the Liquidating Trustee of any rights in respect of legal and equitable objections, defenses, setoffs, or recoupment. To the extent permitted by applicable law, the Liquidating Trustee may, but shall not be required to, set off or recoup against any Claim or

Administrative Claim and the payments or other Distributions to be made under the Plan in respect of such Claim or Administrative Claim, claims of any nature whatsoever that arose before the Petition Date that the Debtors, the Estates, the Liquidating Trust or the Liquidating Trustee may have against the Holder of such Claim, or Administrative Claim, or Interest. Nothing in this section 13.01 shall impact the Exculpation and Limitation of Liability provisions of section 9.02 hereof or the Professional Fee Agreement.

### **13.02 Governing Law**

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

### **13.03 Successors and Assigns**

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

### **13.04 Post-Effective Date Service List**

Pursuant to Bankruptcy Rule 2002 and any applicable Local Rule, notice of all post-Confirmation matters for which notice is required to be given shall be deemed sufficient if served only upon the following: (i) counsel for the U.S. Trustee, (ii) counsel to the Plan Proponents, (iii) counsel for the Liquidating Trustee, (iv) any party or its counsel of record, if known, whose rights would be affected by the relief requested, and (v) all persons on the Bankruptcy Rule 2002 service list. With the exception of the Plan Proponents and the U.S. Trustee, any Person desiring to remain on the Debtors' Bankruptcy Rule 2002 service list shall be required to file a request for continued service and to serve such request upon counsel to the Liquidating Trustee within thirty (30) days subsequent to the Effective Date. Persons shall be notified of such continued notice requirements in the notice of entry of the Confirmation Order. **Persons who do not file a request for continued service within thirty (30) days subsequent to the Effective Date shall be removed from the Debtors' Bankruptcy Rule 2002 service list.**

### **13.05 Notices**

To be effective, any pleading, notice or other document required by the Plan or the Confirmation Order to be served on or delivered to counsel to the Debtors, the Creditors' Committee, and the U.S. Trustee must be sent by overnight delivery service, facsimile transmission, courier service or messenger to:

#### **(a) If to the Debtors**

Goldstein & McClintock, LLLP  
Maria Aprile Sawczuk, Esq.  
501 Silverside Road, Suite 65  
Wilmington, DE 19809

[marias@goldmclaw.com](mailto:marias@goldmclaw.com)

and

Harley J. Goldstein, Esq.  
Jeffrey C. Dan, Esq.  
111 W. Washington Street, Suite 1221  
Chicago, IL 60602  
[harleyg@goldmclaw.com](mailto:harleyg@goldmclaw.com)  
[jeffd@goldmclaw.com](mailto:jeffd@goldmclaw.com)

**(b) If to the Creditors' Committee:**

Archer & Greiner PC  
David W. Carickhoff, Esq.  
Alan M. Root, Esq.  
300 Delaware Ave, Suite 1100  
Wilmington, DE 19801  
[dcarickhoff@archerlaw.com](mailto:dcarickhoff@archerlaw.com)  
[aroot@archerlaw.com](mailto:aroot@archerlaw.com)

**(c) If to the U.S. Trustee:**

Office of the U.S. Trustee  
J. Caleb Boggs Federal Building  
844 King Street, Suite 2207  
Wilmington, Delaware 19801  
[Benjamin.A.Hackman@usdoj.gov](mailto:Benjamin.A.Hackman@usdoj.gov)

**(d) If to the Liquidating Trustee**

[To be added]

**13.06 Immediate Binding Effect**

Notwithstanding Bankruptcy Rules 3020(e), 6004(h) and 7062 and/or any other Bankruptcy Rule, upon the occurrence of the Effective Date, the terms of the Plan shall be immediately effective and enforceable and deemed binding upon the Debtors, any and all Holders of Claims, Administrative Claims, and Interests (irrespective of whether such Claims, Administrative Claims, or Interests are Allowed or Disallowed or were voted to accept or reject the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, discharges and injunctions described in the Plan, each entity acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts with one or more of the Debtors.

### **13.07 Severability of Plan Provisions**

If, before the Effective Date of the Plan, any term or provision of the Plan is held by the Bankruptcy Court or any other court exercising jurisdiction to be invalid, void or unenforceable, the Bankruptcy Court or other court exercising jurisdiction 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 so long as such term or provision is acceptable to the Plan Proponents. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order 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 (i) valid and enforceable pursuant to its terms; (ii) integral to the Plan and may not be deleted or modified without the Plan Proponents' consent; and (iii) non-severable and mutually dependent.

### **13.08 Exhibits**

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan, to the extent not inconsistent with the Plan. The Plan Proponents reserve the right to amend the Exhibits and schedules to the Plan any time prior to Confirmation.

### **13.09 Votes Solicited in Good Faith**

Upon entry of the Confirmation Order, the Plan Proponents will be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code and any applicable non-bankruptcy law, and pursuant to section 1125(e), the Plan Proponents and their respective Affiliates, agents, representatives, members, principals, shareholders, officers, directors, employees, advisors and attorneys will be deemed to have participated in good faith and in compliance with the Bankruptcy Code, including, if applicable, in the offer, issuance, sale and purchase of any Plan securities (if any) provided under the Plan, and, therefore, will have no liability for the violation of any applicable law, rule or regulation governing the solicitation of votes on the Plan.

### **13.10 Conflicts**

If there is a conflict between this Plan and a Plan Supplement document, the Plan Supplement document, as applicable, shall govern and control. If any provision of this Plan (including a Plan Supplement) conflicts with or is in any way inconsistent with any provision of the Confirmation Order, the Confirmation Order shall govern and control.

### **13.11 Implementation**

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

### **13.12 Compromise of Controversies**

The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of each of the compromises or settlements provided under the Plan, and all other compromises and settlements provided for in the Plan and the Chapter 11 Cases, and the Bankruptcy Court's findings shall constitute its determination that such compromises and settlements are in the best interests of the Debtors and their Estates.

### **13.13 No Admissions**

Notwithstanding anything herein to the contrary, nothing contained in the Plan shall be deemed an admission by the Debtors, the Estates, or the Creditors' Committee with respect to any matter set forth herein, including, without limitation, liability on any Claim, Administrative Claim, or Interest or the propriety of the classification of any Claim, Administrative Claim, or Interest.

222211952v4

**EXHIBIT A**

**LIQUIDATION ANALYSIS**

Case 20-11774-LSS Doc 452-1 Filed 10/28/21 Page 2 of 2

Hypothetical Liquidation Analysis (\$ in actual)	Notes	Estimated Amount	Proposed Ch. 11 Plan	Hypothetical Liquidation		
Settlement Proceeds (Admin Claims)			\$ 372,825	\$ 372,825		
Settlement Proceeds (Unsecured Claims)			\$ 500,000	\$ 500,000		
Additional Settlement Proceeds Expected			\$ 40,000	\$ -		
<b>Net Proceeds Available for Distribution</b>			<u>\$ 912,825</u>	<u>\$ 872,825</u>		
Administrative Expenses			\$ 275,050	100%	\$ 275,050	100% Note 1
Section 503(b)9 Claims			\$ 9,700	100%	\$ 9,700	100%
Priority Tax Claims			\$ 26,400	100%	\$ 26,400	100%
<b>Remaining Proceeds Available for Distribution</b>			<u>\$ 601,675</u>		<u>\$ 561,675</u>	
Trustee Fees			\$ -	TBD	\$ 25,000	100%
Ch. 7 Professional Fees			\$ -		\$ 100,000	100%
<b>Remaining Proceeds Available for Distribution</b>			<u>\$ 601,675</u>		<u>\$ 436,675</u>	
		<b>Claim Value</b>				
Class 1 - Secured Claims (estimate)		\$ -				
Class 2 - Priority Non-Tax Claims (estimate)		\$ -				
Class 3 - General Unsecured Claims (estimate)		\$ 9,000,000	\$ 601,675	6.7%	\$ 436,675	4.9% Note 2
Class 4 - Insider Claims (estimate)		\$ -				
Class 5 - Intercompany Claims (estimate)		\$ -				
Class 6 - Equity Interests (estimate)		\$ -				
<b>Remaining Proceeds Available</b>			<u>\$ -</u>		<u>\$ -</u>	

## Notes

1 The amount of the administrative expenses under a hypothetical liquidation is understated. The amount listed is the same as under the Proposed Chapter 11 Plan, however that amount includes significant reductions agreed to by professionals employed in these Chapter 11 cases based on confirmation of a Plan, in accordance with Paragraph 7 (the "*Fee Agreement*") of the Fifth Monthly Staffing Report By GlassRatner Advisory & Capital Group., LLC for the Period From November 1, 2020 through November 30, 2020 (Docket No. 422), which is acceptable to the Debtors and Debtors' Professionals, as defined in the Fee Agreement, and all included exculpation language. If such Plan is not confirmed and the cases move to a Chapter 7 liquidation, the agreements for reductions would no longer be valid and the administrative expenses would be significantly increased. The amount of the increase is currently unknown.

2 The Committee does not concede that the \$500,000 currently held for the payment of unsecured claims could be used to pay anything other than Unsecured Claims. The fact that this amount is lower than \$500,000 is merely to illustrate the amount of funds that would be left for payment of Unsecured Claims, after the payment of higher priority claims in the event of a Chapter 7 liquidation.

**Exhibit B**

Form of Confirmation and Effective Date Notice

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

In re:

ALS LIQUIDATION LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-11774 (LSS)  
(Jointly Administered)

**Re: Dkt. Nos. 452, 490 & \_\_\_\_\_**

---

**NOTICE OF ENTRY OF ORDER CONFIRMING, AND OCCURRENCE OF  
EFFECTIVE DATE OF COMBINED DISCLOSURE STATEMENT AND CHAPTER 11  
PLAN OF LIQUIDATION JOINTLY PROPOSED BY ALS LIQUIDATION LLC AND  
ITS AFFILIATED DEBTORS AND THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS, DATED AS OF OCTOBER 28, 2021**

---

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

**A. Confirmation of the Plan.**

On December \_\_, 2021, the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) entered an Order [Docket No. \_\_\_\_\_] (the “Confirmation Order”)<sup>2</sup> confirming the *Combined Disclosure Statement and Chapter 11 Plan of Liquidation Jointly Proposed by ALS Liquidation LLC and Its Affiliated Debtors and the Official Committee of Unsecured Creditors, Dated October 28, 2021* [Docket No. 452] (collectively with all exhibits and supplements and any modifications or other amendments thereto, the “Plan”) in the Chapter 11 cases (the “Chapter 11 Cases”) of the above-captioned debtors (collectively, the “Debtors”).

**B. Occurrence of the Effective Date; Liquidating Trustee; Vesting of Assets.**

The Plan became effective on \_\_\_\_\_ (the “Effective Date”). As of the Effective Date, among other things, (a) the Liquidating Trustee was appointed with the power to exercise the rights, power, and authority of the Liquidating Trusts under applicable provisions of the Plan, Liquidating Trust Agreement, and bankruptcy and non-bankruptcy law and, (b) except as

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable are: ALS Liquidation LLC (f/k/a Apex Linen Service LLC) (9075), HAH Liquidation LLC (f/k/a Highland Apex Holdings LLC) (0537), HAC Liquidation LLC (f/k/a Highland Avenue Capital Partners LLC) (2825), HAGP Liquidation LLC (f/k/a Highland Apex GP LLC) (9246), and HAM Liquidation LLC (f/k/a Highland Apex Management LLC) (5476). The Debtors’ mailing address is c/o Bill Hughes, 2355 East Camelback Road, Suite 830, Phoenix, AZ 85016.

<sup>2</sup> Capitalized terms used but not defined in this Notice shall have the same meanings given to them in the Plan and the Confirmation Order.

otherwise provided in the Plan, (i) the Retained Assets vested in the Apex Liquidating Trust and (ii) the Unsecured Cash Amount vested in the GUC Sub-trust, in each case free and clear of all Claims, Liens, charges, other encumbrances, and interests. Except as otherwise provided in the Plan and Liquidating Trust Agreement, all distributions to be made to creditors under the Plan shall be made by the Liquidating Trustee (or his or her designated agent).

**C. Resolution of Disputed Claims.**

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

**D. Exculpation; Injunction.**

Exculpation and Limitation of Liability. EACH OF THE EXCULPATED PARTIES SHALL NOT BE LIABLE FOR ANY CLAIM, ACTION, PROCEEDING, CAUSE OF ACTION, SUIT, ACCOUNT, SETOFF, RECOUPMENT, CONTROVERSY, AGREEMENT, PROMISE, RIGHT TO LEGAL REMEDIES, RIGHT TO EQUITABLE REMEDIES, RIGHT TO PAYMENT OR CLAIM (AS DEFINED IN SECTION 101(5) OF THE BANKRUPTCY CODE), WHETHER KNOWN, UNKNOWN, REDUCED TO JUDGMENT, NOT REDUCED TO JUDGMENT, LIQUIDATED, UNLIQUIDATED, FIXED, CONTINGENT, MATURED, UNMATURED, DISPUTED, UNDISPUTED, SECURED OR UNSECURED AND WHETHER ASSERTED OR ASSERTABLE DIRECTLY OR DERIVATIVELY, IN LAW, EQUITY OR OTHERWISE TO ONE ANOTHER OR TO ANY HOLDER OF A CLAIM OR EQUITY INTEREST, OR ANY OTHER PARTY IN INTEREST, THE DEBTORS' ESTATES, THE LIQUIDATING TRUSTS, THE LIQUIDATING TRUSTEE OR ANY OTHER PERSON OR ENTITY OR ANY OF THEIR RESPECTIVE AGENTS, EMPLOYEES, REPRESENTATIVES, FINANCIAL ADVISORS, ATTORNEYS, OR ANY OF THEIR SUCCESSORS OR ASSIGNS, FOR ANY ACT OR OMISSION OCCURRING ON OR BEFORE THE EFFECTIVE DATE OF THE PLAN AND IN CONNECTION WITH, RELATING TO, OR ARISING OUT OF THE CHAPTER 11 CASES, THE NEGOTIATION AND FILING OF THE PLAN OR ANY PRIOR PLANS, THE FILING OF THE CHAPTER 11 CASES, THE PURSUIT OF CONFIRMATION OF THE PLAN OR ANY PRIOR PLANS, ANY SALE ORDER, THE CONSUMMATION OF THE PLAN, OR THE ADMINISTRATION OF THE PLAN OR THE PROPERTY TO BE LIQUIDATED AND/OR DISTRIBUTED UNDER THE PLAN, EXCEPT FOR WILLFUL MISCONDUCT, GROSS NEGLIGENCE OR FRAUD AS DETERMINED BY A FINAL ORDER OF A COURT OF COMPETENT JURISDICTION.

Injunction. EXCEPT AS OTHERWISE PROVIDED IN THE PLAN, FROM AND AFTER THE EFFECTIVE DATE, ALL PERSONS WHO HAVE HELD, HOLD OR MAY HOLD CLAIMS AGAINST OR INTERESTS IN ANY OF THE DEBTORS ARE PERMANENTLY ENJOINED FROM TAKING ANY OF THE FOLLOWING ACTIONS AGAINST ANY OF THE DEBTORS OR THEIR ESTATES, ANY OF THE DEBTORS'

PROPERTY, THE LIQUIDATING TRUSTS OR THE LIQUIDATING TRUSTEE, ON ACCOUNT OF ANY SUCH CLAIMS OR INTERESTS: (A) ENFORCING, ATTACHING, COLLECTING OR RECOVERING IN ANY MANNER ANY JUDGMENT, AWARD, DECREE OR ORDER; (B) CREATING, PERFECTING OR ENFORCING ANY LIEN OR ENCUMBRANCE; (C) ASSERTING A SETOFF OR RIGHT OF SUBROGATION OF ANY KIND AGAINST ANY DEBT, LIABILITY OR OBLIGATION DUE TO ANY DEBTOR; (D) COMMENCING OR CONTINUING, IN ANY MANNER OR IN ANY PLACE, ANY ACTION THAT DOES NOT COMPLY WITH OR IS INCONSISTENT WITH THE PROVISIONS OF THE PLAN; AND (E) TAKING ANY ACTION WHICH INTERFERES WITH THE IMPLEMENTATION OR CONSUMMATION OF THE PLAN; PROVIDED, HOWEVER, THAT NOTHING CONTAINED IN THE PLAN SHALL PRECLUDE SUCH PERSONS FROM EXERCISING AND/OR ENFORCING THEIR RIGHTS PURSUANT TO AND CONSISTENT WITH THE TERMS OF THE PLAN OR THE CONFIRMATION ORDER.

**E. Rejection of Executory Contracts and Unexpired Leases Not Assumed.**

Except as otherwise provided (i) in the Plan; (ii) the Confirmation Order; (iii) in any contract, instrument, release, or other agreement or document entered into in connection with the Plan; or (iv) in a Final Order of the Bankruptcy Court, as of the Effective Date, pursuant to section 365 of the Bankruptcy Code, the Debtors have rejected each executory contract and unexpired lease not previously assumed, assumed and assigned, or rejected during the Chapter 11 Cases.

**F. Bar Dates.**

Administrative Bar Date. Unless previously filed or as otherwise governed by a bar date order or in another order of the Court, Holders of Administrative Claims accruing from the Petition Date through and including the Effective Date, other than Professional Fee Claims, shall File with the Bankruptcy Court and serve on the Liquidating Trustee requests for payment, in writing, together with supporting documents, substantially complying with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, within thirty (30) days of the Effective Date (the “Administrative Claim Bar Date”). Any such Claim not Filed by the Administrative Claim Bar Date shall be deemed waived and the Holder of such Claim shall be forever barred from receiving payment on account thereof.

Bar Date for Applications for Professional Fees. All applications for final allowance and payment of Professional Fee Claims (each a “Final Fee Application”) shall be filed with the Bankruptcy Court on within thirty (30) days of the Effective Date (the “Professional Fee Bar Date”). If an application for a Professional Fee Claim is not Filed by the Professional Fee Bar Date, such Professional Fee Claim shall be deemed waived and the Holder of such Claim shall be forever barred from receiving payment on account thereof. The final allowance of Professional Fee Claims shall be subject to further order of the Bankruptcy Court. Notwithstanding the foregoing, if any objections are Filed with respect to any Final Fee Application filed by the Debtors’ Professionals or any fees or expenses therein are disallowed or not indefeasibly paid in full, such Professional(s) shall have the right to supplement such Fee Application after the Professional Fee Bar Date to seek allowance of Professional Fee Claims in excess of the

Professional Fee Agreement, provided that payment of the Debtors' Professional Fee Claims shall still remain consistent with the Professional Fee Agreement.

Rejection Damages Bar Date. Claims arising out of the rejection of an executory contract or unexpired lease pursuant to the Plan must be filed with the Court on or before thirty (30) days after the Effective. Any such Claims not timely filed shall be forever barred from asserting such Claims against the Debtors, their Estates, and the Liquidating Trust, or their respective property. Proofs of Claim arising from the rejection of executory contracts or unexpired leases should be filed so as to be received by the Debtors' claims agent on or before the Rejection Damages Bar Date at the following address:

ALS Liquidation LLC, et al. Claims Processing  
c/o Stretto  
410 Exchange, Suite 100  
Irvine, CA 92602

Alternatively, creditors may file Proofs of Claim electronically at the Debtors' website: <https://cases.stretto.com/ApexLinen/file-a-claim/>

**G. Retention of Jurisdiction by Bankruptcy Court.**

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

**H. Notice Parties' Service Addresses.**

For purposes of serving requests for payment of Administrative Claims, applications for allowance of Professional Fee Claims, and any other papers required to be served shall be served on the notice parties set forth in section 13.05 of the Plan.

**I. Copies of Confirmation Order.**

Copies of the Plan and the Confirmation Order may be obtain copies of any pleadings filed in these Chapter 11 Cases for a fee via PACER at: <http://www.deb.uscourts.gov> or for free either upon request from counsel to the Liquidating Trustee or by visiting the Debtors' website at: <https://cases.stretto.com/ApexLinen>

**GOLDSTEIN & MCCLINTOCK, LLLP**

DRAFT  
Maria Aprile Sawczuk (No. 3320)  
501 Silverside Road, Suite 65  
Wilmington, DE 19809  
Telephone: (302) 444-6710  
marias@goldmclaw.com

**ARCHER & GREINER, P.C.**

DRAFT  
Alan M. Root (No. 5427)  
Bryan J. Hall (No. 6285)  
300 Delaware Ave., Suite 1100  
Wilmington, DE 19801  
(302) 777-4350

-and-

Harley J. Goldstein (*admitted pro hac vice*)  
Jeffrey C. Dan (*admitted pro hac vice*)  
111 W. Washington Street, Suite 1221  
Chicago, IL 60602  
Telephone: (312)337-7700  
harleyg@goldmclaw.com  
jeffd@goldmclaw.com

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

aroot@archerlaw.com  
bjhall@archerlaw.com

*Counsel to the Official  
Committee of Unsecured Creditors*

222836816v1