IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:	)	Chapter 11
	)	
RAS DATA SERVICES, INC.,[1]	)	Case No. 25-11837
	)	
	)	Honorable Michael B. Slade
Debtor.	)	
	)	

Disclosure Statement with Respect to Second Amended Joint Plan of Liquidation of Debtor and Official Committee of Unsecured Creditors

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[1] The last four digits of the federal employer identification number of RAS Data Services, Inc. are 4032.

A. INTRODUCTION AND NARRATIVE DESCRIPTION OF PLAN

RAS Data Services, Inc. (the "**Debtor**") and the Official Committee of Unsecured Creditors appointed in the above-captioned Case (the "**Committee**"), submit this disclosure statement (the "**Disclosure Statement**") pursuant to section 1125 of the Bankruptcy Code, for use in the solicitation of votes on the *Second Amended Joint Plan of Liquidation of Debtor and Official Committee of Unsecured Creditors* (the "**Plan**"). The Debtor and the Committee jointly propose the Plan, which was concurrently filed with the Bankruptcy Court.

This Disclosure Statement sets forth certain information regarding the Debtor's prepetition operating and financial history, the triggering events which drove the Debtor to seek Chapter 11 protection, the dispositive actions taken since the Petition Date, the anticipated process for the remaining liquidation and wind-down of the Debtor, and the distribution of the Debtor's remaining assets to creditors via the Liquidating Trust. This Disclosure Statement also describes terms and provisions of the Plan, certain effects of confirmation of the Plan, certain risk factors associated with the Plan, and the manner in which distributions will be made under the Plan. In addition, this Disclosure Statement sets forth the voting procedures and the confirmation process that Holders of Claims entitled to vote under the Plan must follow for their votes to be counted.

THE DEBTOR AND THE COMMITTEE SUPPORT AND RECOMMEND ACCEPTANCE OF THE PLAN, AND URGE CREDITORS ENTITLED TO VOTE ON THE PLAN TO VOTE TO ACCEPT IT.

Except as otherwise provided herein, capitalized terms used but not otherwise defined in this Disclosure Statement have the respective meanings ascribed to them in the Plan. Unless otherwise noted herein, all dollar amounts provided in this Disclosure Statement and in the Plan are given in United States dollars.

Additional information regarding the Case, as well as a copy of the Plan, including copies of the documents filed in the Case and referenced herein, can be accessed on the Bankruptcy Court's official docket at www.pacer.uscourts.gov, or by contacting counsel to the Debtor.

1. General Structure of the Plan

The following overview is a general summary only, which is qualified in its entirety by, and should be read in conjunction with, the Plan itself and the more detailed discussions and information appearing elsewhere in this Disclosure Statement.

The Plan effectuates a distribution of the assets of the Estate to creditors in accordance with the priorities set forth in the Bankruptcy Code. The Plan provides that on the Effective Date, the Debtor's assets, to the extent they have not already been liquidated, will be liquidated and the proceeds of the liquidation of the assets will be utilized according to the terms of the Plan, to pay Allowed Claims, and to fund the Liquidating Trust and pay for its expenses. The assets comprising the Liquidating Trust, regardless of when such assets are transferred into the Liquidating Trust, are defined in the Plan as the "**Liquidating Trust Assets**."

All Cash remaining in the Estate on the Effective Date that is reserved under the Plan for payment of particular kinds of claims (specifically, payment of Allowed Claims, Allowed Priority Tax Claims, the Infinity Fixed Payment, Allowed Erroneous Payment Claims, Disputed Claims, and estimated fees, costs, and expenses of the Liquidating Trust and its professionals) is defined in the Plan as the "**Reserved Cash**." All Reserved Cash will be transferred to the Liquidating Trust and held in trust for the benefit of the applicable Holders or Persons pending adjudication of their asserted Claims.

Holders of Allowed Administrative Claims and Class 1 Allowed Priority Claims will be paid in full on the Effective Date, or upon allowance of their claims. Holders of Allowed Priority Tax Claims will either be paid in full within 45 days of the Effective Date, or in installments over a longer period.

Holders of Class 2 Allowed Infinity Claims will receive two payments totaling $5,600,000, and retain the balance of their claims (*i.e.,* the Infinity Remaining Claims), solely for purposes of participating in Pro Rata distributions of: (a) funds reserved for Erroneous Payment Claims but later determined to be property of the Estate, and (b) Victim Recovery Funds.

The timing and amounts of payments of Holders of Class 3 Allowed Erroneous Payment Claims will depend on whether each Holder's allegedly erroneously paid funds are deemed, in a Final Order, to constitute property of the Estate. If the funds are deemed to be property of the Estate, then the Holder will receive a Pro Rata portion of the Liquidating Trust Assets (after payment of certain other Allowed Claims and appropriate reserves) in accordance with the Liquidating Trust Agreement and the Plan. If the funds are deemed to be property of the Holder, then the Holder's Claim will be paid in full. Pending a Final Order making such a determination, the aggregate amount of the Class 3 Erroneous Payment Claims will constitute Reserved Cash.

The Holders of Allowed Class 4 General Unsecured Claims will receive Pro Rata portions of the Liquidating Trust Assets (after payment of certain other Allowed Claims and appropriate reserves) in accordance with the Liquidating Trust Agreement and the Plan.

Holders of Allowed Class 5 Interests are not expected to receive a distribution of any amounts, and all such interests will be deemed canceled as of the Effective Date of the Plan.

2. Summary of Treatment of Claims and Interests Under the Plan

a. Overview of Treatment

As contemplated by section 1123(a)(1) of the Bankruptcy Code, Allowed Administrative Claims and Allowed Priority Tax Claims are not classified under the Plan. Allowed Administrative Claims will be paid in full on or before the Effective Date of the Plan or when such Claims become Allowed Claims. Allowed Priority Tax Claims will be paid in full, either (i) within 45 days of the Effective Date, or (ii) over time in accordance with section 1129(a)(9)(C) of the Bankruptcy Code. Administrative Claims are estimated to be approximately $604,000.00[2] (inclusive of Professional Fee Claims and Other Administrative Claims), and Priority Tax Claims are currently estimated to be $0.00.

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[2] The estimated total of Administrative Claims reflects the anticipated accrued but unpaid expenses of the Estate as of the end of July 2026, as set forth in the budget attached as Exhibit A to the *Order Granting Motion to Continue Use of Funds to Administer Bankruptcy Estate and for Shortened Notice Thereof* (Docket No. 269). It does not include

The Plan provides that Persons seeking allowance and payment of Administrative Claims (i.e., Professional Fee Claims or Other Administrative Claims) must file and serve an application or request for allowance of such Administrative Claims, along with all documentation supporting such claim, no later than the "**Administrative Claims Bar Date**," *i.e.*, **within 30 days after the Effective Date of the Plan**. Failure to timely file a request for allowance of an Other Administrative Claim will result in the Other Administrative Claim being disallowed and expunged in its entirety, with the affected Holder having been deemed to waive its right to a Distribution from the Estate or the Liquidating Trust. Failure by a Professional to timely file a request for allowance of a Professional Fee Claim, unless otherwise excused by the Court for good cause shown, will result in such Professional Fee Claim being disallowed and expunged in its entirety, with the affected Professional having been deemed to waive its right to a Distribution from the Estate and the Liquidating Trust.

The table below summarizes the classification and treatment of the prepetition Claims and Interests under the Plan. For certain Classes of Claims and Interests, estimated percentage recoveries are also set forth below. Estimated percentage recoveries have been calculated based upon a number of assumptions, including the dollar amount of Claims in a particular Class. The Liquidating Trustee, upon the establishment of the Liquidating Trust pursuant to the Plan, the Liquidating Trust Agreement, and the Confirmation Order, will have the right to dispute the validity, priority, or amount of any Claim that has not already been Allowed by the Bankruptcy Court. Accordingly, no representation can be, or is being, made with respect to the accuracy of the amounts of the estimated Claims pool in each Class or the estimated recoveries that will actually be realized by the Holders of Allowed Claims in each Class.

The Debtor and the Committee have not completed their investigation regarding the Claims in the Case and the filing of objections to Claims. This investigation is ongoing and will likely be completed by the Liquidating Trustee after the Confirmation Date. As a result, Holders of Claims and other Persons are hereby advised that an objection to a Disputed Claim may be filed at any time. The Liquidating Trustee will have the right to object to amounts that have been scheduled by the Debtor or that are reflected in Debtor's books and records, and which are found to be objectionable in any respect.

b. Classification and Treatment of Claims Against and Interests in the Debtor

Description of Claims or Interests	Summary of Treatment and Voting Rights
Unclassified Administrative Claims	Each Allowed Administrative Claim will be paid: (i) in full, in Cash, in such amount as such Administrative Claim is allowed by the Bankruptcy Court on or before the Effective Date or the date upon which such Administrative Claim is allowed or (ii) upon such other terms as may be

Administrative Claims that have been paid, or are anticipated to be paid by the end of July 2026, even if such Administrative Claims (as in the case of certain Professional Fee Claims) remain subject to final approval of the Bankruptcy Court. Certain Administrative Claims remain subject to investigation and/or objection by the Debtor, the Committee, and/or the Liquidating Trustee. The amount of Administrative Claims cited herein is not intended to bind or otherwise prejudice the Debtor, the Committee, or the Liquidating Trustee.

Description of Claims or Interests	Summary of Treatment and Voting Rights
	agreed upon between the Holder of such Administrative Claim and the Debtor or the Liquidating Trustee (as applicable). Each Holder of an Allowed Administrative Claim is not entitled to vote on the Plan.
Unclassified Priority Tax Claims	Each Holder of an Allowed Priority Tax Claim will be paid in Cash either: (a) in full, in Cash, within forty-five (45) days of the Effective Date; or (b) over time in accordance with section 1129(a)(9)(C)(ii) of the Bankruptcy Code, in the Liquidating Trustee's discretion. Each Holder of an Allowed Priority Tax Claim is not entitled to vote on the Plan.
Class 1: Allowed Priority Claims Class 1 consists of Allowed Priority Claims, which are any claims entitled to priority in payment under section 507(a) of the Bankruptcy Code, other than Administrative Claims or Priority Tax Claims.[3] Estimated Number of Class 1 Claims: 2 Estimated Claims Pool: $24,165[4] Expected Recovery: 100%	**Class 1 is Unimpaired by the Plan.** On the later of the date of any Distribution, or the date on which a Priority Claim becomes an Allowed Priority Claim or is otherwise payable, each Holder of an Allowed Class 1 Claim will receive (a) Cash in an amount equal to the unpaid portion of the Holder's claim, or (b) such other treatment as may be agreed to with the Holder. Each Holder of a Class 1 Claim is conclusively deemed to have accepted the Plan and is not entitled to vote on the Plan.
Class 2: Allowed Infinity Claims Class 2 consists of all Claims or Causes of Action of Infinity that were asserted by, or that could have been asserted by, Infinity in the Case, including without limitation all Infinity Trust Claims. Estimated Number of Class 2 Claims: 14	**Class 2 is Impaired by the Plan.** Infinity Claims will be allowed in the aggregate amount of $10,580,272, and will be satisfied by two Cash payments totaling $5,600,000, plus Pro Rata distributions (calculated on the basis of the $4,980,270 balance, and *pari passu* with Holders of Allowed Class 3 Claims receiving "Treatment A" and Allowed Class 4 Claims), if any, of (a) Cash originally set aside to pay Holders of Class 3

[3] Claims of employees or former employees of the Debtor constitute Priority Claims only to the extent permissible under sections 507(a)(4) and (a)(5) of the Bankruptcy Code or prior order of the Bankruptcy Court.

[4] This amount includes all filed Priority Claims, without accounting for any bases that may exist to object to such Priority Claims. The Debtor, the Committee, and the Liquidating Trustee reserve all rights to object to any Priority Claim on all available grounds.

Description of Claims or Interests	**Summary of Treatment and Voting Rights**
Estimated Claims Pool: $10,580,272[5] Estimated Recovery: 53%[6]	Claims in full, but for which the applicable Holders ultimately received "Treatment A"; and (b) Victim Recovery Funds. Aside from this treatment, all Infinity Claims will be released, Infinity will be entitled to no further Distributions, and the Infinity Adversary Proceeding will be dismissed with prejudice. The release of Infinity encompasses, *inter alia*, all Causes of Action, including Avoidance Actions. Each Holder of an Allowed Class 2 Claim is entitled to vote to accept or reject the Plan.
Class 3: Allowed Erroneous Payment Claims Class 3 consists of the Claims identified in Schedule 1.33 to the Plan, which are based on assertions that their respective Holders tendered funds to the Debtor in error that should be refunded to the Holders. Estimated Number of Class 3 Claims: 11 Estimated Claims Pool: $1,804,387[7] Estimated Recovery: 100%[8]	**Class 3 is Impaired by the Plan.** Treatment A: To the extent funds allegedly transferred by the Holder of an Allowed Class 3 Claim *are not* determined to be payable to the Holder after any appeals, the Holder will receive Pro Rata payment, *pari passu* with the Infinity Contingent Payment and Holders of Allowed Class 4 Claims. Treatment B: To the extent funds allegedly transferred by the Holder of an Allowed Class 3 Claim *are* determined to be payable to the Holder after any appeals, the Holder will receive payment in full of the amount specified in the Final Order. Each Holder of an Allowed Class 3 Claim is entitled to vote to accept or reject the Plan.
Class 4: Allowed General Unsecured Claims	**Class 4 is Impaired by the Plan.**

[5] This amount includes all Claims filed by Infinity, without accounting for any bases that may exist to object to such Claims.

[6] Estimated recovery assumes all Class 3 Claims are allowed and receive "Treatment B," and that no Victim Recovery Funds are available for distribution.

[7] This amount reflects all Erroneous Payment Claims as defined by the Plan, without accounting for any bases that may exist to object to such Claims. The Debtor, the Committee, and the Liquidating Trustee reserve all rights to object to any Erroneous Payment Claim on all available grounds, or to contend that, if allowed, any such Claim should receive "Treatment A."

[8] Estimated recovery assumes all Allowed Class 3 Claims receive "Treatment B."

Description of Claims or Interests	Summary of Treatment and Voting Rights
Class 4 consists of General Unsecured Claims against the Debtor. Estimated Number of Class 4 Claims: 73 Estimated Claims Pool: $32,629,245[9] Estimated Initial Distribution: 33%[10] Estimated Recovery: 33% - 50%	Allowed Class 4 Claims will be paid Pro Rata, *pari passu* with the Infinity Contingent Payment (if any) and Allowed Class 3 Claims receiving "Treatment A," from the Net Trust Proceeds, after satisfaction of Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Class 1 Claims, the Infinity Fixed Payment, and Allowed Class 3 Claims receiving "Treatment B." Each Holder of an Allowed Class 4 Claim is entitled to vote to accept or reject the Plan.
Class 5: Interests Class 5 consists of the equity Interests in the Debtor. Number of Class 5 Interests: 5 Recovery: 0%	**Class 5 is Impaired by the Plan.** Holders of Class 5 Interests will not receive a distribution under the Plan, and their Interests will be canceled and extinguished as of the Effective Date. Each Holder of an Allowed Class 5 Interest is conclusively deemed to have rejected the Plan and is not entitled to vote on the Plan.

B. DISCLAIMER

The Solicitation Procedures Order sets forth deadlines for voting to accept or reject the Plan and procedures to be followed to object to confirmation of the Plan. A Ballot for the acceptance or rejection of the Plan is enclosed with the notice of Combined Hearing submitted to each Holder of a Claim that is entitled to vote to accept or reject the Plan. The Ballot includes certain instructions for voting and the record date for voting purposes. **THE BANKRUPTCY COURT HAS SCHEDULED A COMBINED HEARING TO CONSIDER WHETHER TO APPROVE THIS DISCLOSURE STATEMENT AND CONFIRM THE PLAN. THE BANKRUPTCY COURT HAS SCHEDULED A COMBINED HEARING ON ____________________, at ____________ (PREVAILING CENTRAL TIME) TO CONSIDER WHETHER TO APPROVE THIS DISCLOSURE STATEMENT AND CONFIRM THE PLAN.**

FOR A COMPLETE UNDERSTANDING OF THE PLAN, YOU SHOULD READ THIS DISCLOSURE STATEMENT AND THE PLAN, AND ANY EXHIBITS, APPENDICES, AND

[9] This amount reflects all General Unsecured Claims for which proofs of claim have been filed or which were scheduled as noncontingent, liquidated, and undisputed. The Debtor, the Committee, and the Liquidating Trustee reserve all rights to object to any General Unsecured Claim on all available grounds.

[10] Estimated initial distribution assumes all Class 3 Claims are allowed and receive "Treatment B," that no Victim Recovery Funds are available for distribution, and that no proceeds of Causes of Action are available for distribution. Events contrary to these assumptions could result in the recovery being greater than the percentage specified.

SCHEDULES THERETO IN THEIR ENTIRETY. IF ANY INCONSISTENCY EXISTS BETWEEN THE PLAN, THE LIQUIDATING TRUST AGREEMENT, AND/OR THIS DISCLOSURE STATEMENT, THE TERMS OF THE PLAN WILL CONTROL.

NO PERSON IS AUTHORIZED BY THE DEBTOR OR THE COMMITTEE, IN CONNECTION WITH THE PLAN OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN, TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION REGARDING THIS DISCLOSURE STATEMENT OR THE PLAN OTHER THAN AS CONTAINED IN THIS DISCLOSURE STATEMENT AND ANY EXHIBITS, APPENDICES, AND SCHEDULES ATTACHED HERETO OR INCORPORATED BY REFERENCE OR REFERRED TO HEREIN, AND, IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MAY NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE DEBTOR OR THE COMMITTEE.

THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE LEGAL, BUSINESS, FINANCIAL, OR TAX ADVICE. ANY CREDITOR DESIRING ANY SUCH ADVICE OR ANY OTHER ADVICE SHOULD CONSULT WITH ITS OWN ADVISORS.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF UNLESS ANOTHER TIME IS SPECIFIED HEREIN, AND THE DELIVERY/RECEIPT OF THIS DISCLOSURE STATEMENT WILL NOT CREATE AN IMPLICATION THAT THERE HAS NOT BEEN ANY CHANGE IN THE INFORMATION STATED SINCE THE DATE HEREOF.

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING THE INFORMATION REGARDING THE HISTORY, BUSINESS, AND OPERATIONS OF THE DEBTOR ARE INCLUDED FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE PLAN AND NO OTHER PURPOSE.

THIS DISCLOSURE STATEMENT MAY NOT BE RELIED ON FOR ANY PURPOSE OTHER THAN TO DETERMINE WHETHER TO VOTE TO ACCEPT OR TO REJECT THE PLAN. NOTHING STATED HEREIN MAY BE DEEMED A REPRESENTATION OF THE TAX OR OTHER LEGAL EFFECTS OF THE PLAN ON THE DEBTOR OR HOLDERS OF CLAIMS OR INTERESTS. CERTAIN OF THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT, BY THEIR NATURE, ARE FORWARD LOOKING AND CONTAIN ESTIMATES AND ASSUMPTIONS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL BE REFLECTIVE OF ACTUAL OUTCOMES. ALL HOLDERS OF CLAIMS SHOULD CAREFULLY READ AND CONSIDER THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY, INCLUDING SECTION H OF THIS DISCLOSURE STATEMENT, “RISK FACTORS TO CONSIDER,” BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

C. QUESTIONS AND ANSWERS REGARDING THIS DISCLOSURE STATEMENT AND THE PLAN

1. **What is Chapter 11?**

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. Under Chapter 11, a debtor can reorganize, or conduct an orderly liquidation of, its business for the benefit of itself, its creditors, and its equity interest holders. Filing a Chapter 11 petition and commencing a Chapter 11 case creates an estate comprising all of the legal and equitable interests of the debtor as of its petition filing date. The Bankruptcy Code provides that a debtor may remain in possession of its assets and continue to operate its business as a debtor in possession.

Consummating a Chapter 11 plan is a means of resolving a Chapter 11 case. A Chapter 11 plan sets forth the terms and manner for satisfying or otherwise addressing claims against and equity interests in a debtor. When a bankruptcy court confirms a Chapter 11 plan, it makes the plan binding on the debtor and any creditor of, or equity interest holder in, that debtor, whether or not such creditor or equity interest holder (a) is impaired under or has accepted the plan; or (b) receives or retains any value under the plan.

2. <u>Why is the Debtor sending me this Disclosure Statement</u>?

The Debtor will seek to have the Bankruptcy Court approve the Plan. Before soliciting acceptances of the Plan, section 1125 of the Bankruptcy Code requires the Debtor to prepare a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding acceptance of the Plan, and to share such disclosure statement with all Holders of Claims whose votes on the Plan are being solicited. This Disclosure Statement is being made available to you according to these requirements.

3. <u>What happens to my recovery if the Plan is not confirmed or does not become effective</u>?

If the Plan is not confirmed or does not become effective, there is no assurance that the Debtor will be able to liquidate its business in an orderly manner that maximizes recoveries for stakeholders. If the Plan is not confirmed, one potential consequence is the conversion of the Case to a liquidating case under Chapter 7 of the Bankruptcy Code. A "Hypothetical Liquidation Analysis" (defined below) comparing projected recoveries of Holders of Claims and Interests under the Plan to estimated recoveries in the event of a hypothetical Chapter 7 liquidation is discussed below in section J(5).

4. <u>If the Plan provides that I get a distribution, do I get it upon confirmation or when the Plan becomes effective, and what is meant by "confirmation" and "Effective Date"</u>?

"Confirmation" of the Plan refers to approval of the Plan by the Bankruptcy Court. Confirmation of the Plan does not guarantee that you will receive the distribution indicated under the Plan. After confirmation of the Plan by the Bankruptcy Court, several conditions need to be satisfied or waived so that the Plan can become effective. Initial distributions to Holders of Allowed Claims will only be made on or after the Effective Date of the Plan, as soon as reasonably practicable thereafter, or such other date as specified in the Plan. *See* Section G(7) ("Conditions Precedent to Confirmation and Effective Dates of the Plan") of this Disclosure Statement, for a discussion of the conditions precedent to consummation of the Plan.

5. Will confirmation of the Plan be opposed?

Many of the Debtor's key stakeholders, including the Committee (with whom the Plan is jointly proposed) and Infinity, support the Plan. Parties in interest nevertheless may object to confirmation of the Plan.

6. Will there be releases and exculpation granted to parties in interest as part of the Plan?

As part of the treatment of Class 2 Allowed Infinity Claims, sections 5.4.3 and 5.4.4 of the Plan propose mutual general releases of Infinity, on the one hand, and the Debtor, the Estate, certain identified Released Parties, and the Committee, on the other hand.

Section 11.3 of the Plan proposes that all Persons that receive Distributions under the Plan or the Sale Order be enjoined from taking certain actions that do not comply with, or are inconsistent with, the provisions of the Plan. The Debtor and the Committee also propose that the Confirmation Order enjoin Persons from pursuing Claims or Causes of Action that are released by the Plan (including the releases contained in section 11.7 of the Plan).

Section 11.4 of the Plan proposes that, unless otherwise provided in the Plan, all existing injunctions and stays remain in force until the Case has been closed. Section 11.4 further proposes that the Confirmation Order permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively or otherwise, of any Claims, Interests, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities released pursuant to the Plan.

Section 11.5 of the Plan proposes that the Exculpated Parties be granted an exculpation from liability in connection with the Case, the Plan, or confirmation of the Plan. The Former CEO (as defined below) is expressly excluded from the definition of "Exculpated Parties."

Section 11.7 of the Plan proposes that the Debtor and the Estate (but not third parties) release the "Released Parties" (specifically, Professionals, Pre-Petition-Date Professionals, the Chief Restructuring Officer, and the Independent Director) from claims and causes of action relating generally to the Debtor, the Estate, the Debtor's business, the Case, and the Plan.

The injunction, release, and exculpation provisions included in the Plan are an integral part of the Debtor's overall restructuring efforts and were an essential element of the negotiations among the Debtor and the Committee in obtaining their support for the Plan.

All of the Exculpated Parties and Released Parties have made substantial and valuable contributions to the Debtor's restructuring efforts through, among other things, their efforts to negotiate and implement the Plan, which will maximize and preserve the value of the Debtor's business for the benefit of all parties in interest. Accordingly, the Debtor and the Committee believe each of the Exculpated Parties and each of the Released Parties warrants the benefit of the exculpation and release provisions.

Based on the foregoing, the Debtor and the Committee believe that the injunction, release, and exculpation provisions in the Plan are necessary and appropriate. If necessary, the Debtor will present evidence at the Confirmation Hearing to further demonstrate the basis for and propriety of the injunctive, release, and exculpation provisions. The Plan's generally applicable release, exculpation, and injunction provisions are set forth in Section G(9) of this Disclosure Statement and in Article XI of the Plan.[11]

7. When is the deadline to vote for the Plan?

The Voting Deadline is ______________, at 5:00 p.m. (prevailing Central Time).

8. How do I vote for the Plan?

Detailed instructions regarding how to vote on the Plan are contained on the Ballots that will be distributed to Holders of Claims entitled to vote on the Plan. It is important that a Holder of a Claim in a voting Class follow the specific instructions provided on such Holder's Ballot and the accompanying instructions.

Except in the Debtor's sole discretion or as provided under the Solicitation Procedures Order, Ballots may not be transmitted by facsimile, email, or other electronic means, other than via the Court's electronic filing system. Parties submitting a Ballot should follow the specific instructions provided in the accompanying instructions for completion and delivery. For more information regarding voting, please review the Solicitation Procedures Order, certain terms of which are summarized in Section F of this Disclosure Statement.

9. When and where is the Confirmation Hearing?

The Confirmation Hearing is scheduled to take place on ______________ __, 2026, at __________ (prevailing Central Time) at the Bankruptcy Court, 219 S. Dearborn, Courtroom 642, Chicago, Illinois, or such other time or location as the Bankruptcy Court may direct.

10. Why is the Bankruptcy Court holding a Confirmation Hearing and what are the implications if the Plan is confirmed?

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court to hold a Confirmation Hearing and recognizes that any party in interest may object to confirmation of the Plan.

When a bankruptcy court confirms a Chapter 11 plan, it binds the debtor, any issuer of securities under a plan of reorganization, any person acquiring property under a Chapter 11 plan, any creditor or equity interest holder of a debtor, and any other person or entity as may be ordered by the bankruptcy court according to the applicable provisions of the Bankruptcy Code. Subject to certain limited exceptions, the order issued by the bankruptcy court confirming a Chapter 11 plan discharges a debtor from any debt or claims that arose before the confirmation of the plan, and provides for the treatment of such debt according to the terms of the confirmed Chapter 11 plan.

[11] More specific releases and injunctions are contained elsewhere in the Plan. Specifically, Article V of the Plan contains releases specific to Infinity, Article VI of the Plan contains an injunction specific to insurance companies, and Article VII of the Plan contains injunctions specific to parties who fail to return executed Pre-Distribution Certifications and whose distributions are returned as undeliverable.

11. How will executory contracts and unexpired leases be treated under the Plan?

The Bankruptcy Code authorizes a debtor, subject to bankruptcy court approval, to assume, assume and assign, or reject executory contracts and unexpired leases. Given that the Debtor has ceased doing business and is liquidating its assets, all or substantially all of the Debtor's executory contracts and unexpired leases will be rejected under the terms of the Plan.

12. What is the effect of the Plan on the Debtor's businesses?

The Debtor has already ceased its ordinary business operations and has continued to wind down its business and liquidate its remaining assets in an orderly manner. The Plan will be consummated beginning on the Effective Date. Following the Effective Date, the Liquidating Trustee will administer the Liquidating Trust Assets.

13. What will the Liquidating Trust do?

The Liquidating Trust is being formed for the benefit of the Beneficiaries under the terms of the Liquidating Trust Agreement, which will be executed no later than the Effective Date. The Liquidating Trustee will be responsible for, among other things, liquidating the Liquidating Trust Assets, analyzing and reconciling Claims (including filing and pursuing objections to the extent required), pursuing the Causes of Action, making distributions of the Net Trust Proceeds to the Beneficiaries of the Liquidating Trust in accordance with the Plan, maintaining and administering reserves for Disputed Claims and Claims of Holders that may be the subject of Avoidance Actions, paying Liquidating Trustee's Expenses, preparing and filing post-Effective Date operating reports, filing post-Effective Date tax returns (with all funding required for the preparation and filing of such returns to be pre-paid by the Debtor prior to the Effective Date) and all other activities typically related to trust administration.

14. Who do I contact if I have additional questions about the Disclosure Statement or the Plan?

If you have any questions about the substance of the Disclosure Statement or the Plan, you should consult with a qualified attorney of your choosing.

Copies of the Plan, this Disclosure Statement, and any other publicly filed documents in the Case are available online on the Bankruptcy Court's official docket at www.pacer.uscourts.gov, or by written request to the Debtor's bankruptcy counsel, Adelman & Gettleman, Ltd. ("**A&G**"), at the address provided in section F(3) below.

15. Do the Debtor and the Committee recommend voting in favor of the Plan?

Yes. The Plan contemplates recoveries to various Classes of creditors. The Plan is the product of extensive arms-length negotiations between the Debtor, the Committee, and other key stakeholders in the Case. The Committee and the Debtor believe that the Plan represents the best means available to the Debtor and all of its stakeholders to maximize the value of their assets and make distributions to creditors. As such, the Debtor and the Committee believe that confirmation of the Plan is in the best interests of all Holders of Claims and Interests.

16. <u>How are Owner Trust Claims treated under the Plan</u>?

The Plan is premised on the understanding that Owner Trust Claims will not be pursued after the Confirmation Date. Under section 8.1 of the Plan, all Owner Trust Claims are deemed forever barred and waived upon the Confirmation Date, and Owner Trust Claims asserted thereafter are deemed null and void. Additionally, under section 8.2 of the Plan, any Holder of an Owner Trust Claim that votes to accept the Plan is deemed to have acknowledged that (a) its Owner Trust Claim is disallowed; (b) it accepts treatment as a Class 4 General Unsecured Creditor; and (c) it has waived any assertion of ownership over, or entitlement to a constructive trust encompassing, any property in the Debtor's possession or to be transferred to the Liquidating Trust.

D. Brief History and Background of the Debtor

i. The Debtor's Business[12]

Before the commencement of the Case, the Debtor was one of the leading railcar-management companies in the United States. Founded in 2002, the Debtor essentially served as a knowledge-based, skilled intermediary between owners of freight railcars (inclusive of both the Owners and Infinity, the "**Customers**"), on the one hand, and parties with whom the Customers did business or incur obligations (including railroads, repair shops, railcar lessees, and taxing authorities), on the other.

The Debtor provided services to its Customers under "Management Services Agreements," defined by the Plan as "**MSAs**." Such services included:

- <u>Railroad Repair Audits and Billing</u>: Railroads are entitled to perform certain repairs on railcars without pre-authorization, then invoice the applicable Customer. These invoices utilize standardized "repair codes," corresponding to a particular scope of service and price. The Debtor used specialized knowledge and proprietary software to monitor repairs performed by railroads, and verify the repairs are properly billed. For example, if a railroad's invoice contained a repair code indicating it was required to replace a railcar's side ladder, the Debtor knew what the price should and should not contain. If the invoice omitted a credit for the scrap value of the old ladder, or included an additional charge for a bolt used to attach the new ladder, or mistakenly charged the previous month's rate, the Debtor would flag the invoice as improper.

- <u>Contract Repair Audit, Negotiations, and Billing:</u> When a railcar needs more extensive repairs than a railroad is entitled to perform, the railcar is brought to a contract repair shop. The Debtor would review the shop's estimate and ensure the scope of services and price were acceptable in light of the needed repairs. The Debtor would then negotiate with the repair shop on the Customer's behalf; often an estimate would undergo three or four revisions before being approved. For some Customers, the Debtor would send the Customer a single invoice for all the repairs to be performed by various repair shops on

[12] A detailed discussion of the Debtor's business, and its role in freight rail transport generally can be found in the *Declaration of Sandor Jacobson in Support of Chapter 11 Petition and First-Day Motions*, Docket No. 6. The brief history contained in this Disclosure Statement is merely a summary.

numerous railcars around the country in a given period, and would later pay each repair shop the appropriate amount owed.[13] Other Customers elected to pay repair shops directly. The Debtor also reviewed the repair shop's invoice to confirm it matched the final estimate.

- Car Hire Processing: At times, railroads require the use of railcars they do not own. When this occurs, the railroad must pay the corresponding railcar owner a fee known as "car hire." The amounts of car hire are calculated, and collected from railroads, by Railinc Corporation ("**Railinc**"). Railinc then made a bulk payment to the Debtor, which the Debtor distributed, or credited, to the appropriate Customer based on the utilization of the Customer's railcars.

- Lease Information Management and Rebilling: Many Customers lease their railcars to third-party lessees. The Debtor worked with Customers to maintain databases to track the railcars covered by such leases, the respective lessees, and the pertinent terms of the leases, such as the allocation of repair and maintenance responsibilities thereunder. Notwithstanding the existence of a lease, the owner of the railcar is responsible for paying any repair and maintenance expenses in the first instance. The Debtor would assess the extent to which, based on the terms of the lease, the Customer could be reimbursed for these payments by the lessee. To the extent permissible under the lease, the Debtor would invoice the lessee for reimbursement, a practice known as "re-billing." Once the Debtor received payment from the lessee, it either remitted funds to the Customer or provided a corresponding credit to the Customer on the Debtor's next invoice.

- Repair Data Management and Analysis: The Debtor collected extensive data about repairs performed on the Customers' railcars, either from Railinc (in the case of repairs performed by railroads) or from contract repair shops (in the case of repairs performed by them). Using an internal, proprietary database and proprietary software, the Debtor maintained and analyzed these datapoints to assist Customers. The Debtor's analyses, for example, could be used to identify repetitive repairs that could be corrected with preventative maintenance, or to predict the premature failure of particular railcar components.

- Umler Management: Every railcar in service in North America is required to be listed in a database known as "Umler." Umler contains information such as the height, weight, and capacity of each railcar, as well as records of certain inspections and repairs the railcar has undergone. The Debtor updated Umler on behalf of Customers, adding entries for new or newly acquired railcars, and updating repair and inspection data for existing railcars.

- *Ad Valorem* Tax Review and Filing: Many U.S. taxing authorities (mostly states, but also some municipalities and Native American tribes) collect *ad valorem* taxes based on the time spent, and miles traveled, by a railcar within their territories. The Debtor submitted annual *ad valorem* tax returns on behalf of Customers. The Debtor also analyzed mileage records to determine whether *ad valorem* taxes assessed against Customers could be contested. For example, certain jurisdictions will provide credit, and therefore reduce tax

[13] The MSAs calling for this service typically specified that the Debtor would advance the repair fees to the repair shop and be reimbursed by the Customer. In practice, however, the Debtor waited to pay repair shops until it received payment from Customers.

assessments, based on periods when railcars are idle. In some instances, once *ad valorem* tax assessments are verified as accurate, the Debtor would invoice the Customer, and after being paid by the Customer, the Debtor would remit payments to the appropriate taxing authorities. In other instances, the Customer would pay the taxing authorities directly. The Debtor outsourced most of its *ad-valorem*-related services to Indurante & Associates, Inc., a firm specializing in this kind of work.

- <u>OT-57 Submissions</u>: Railinc administers a system known as OT-57, under which railcar owners are required to identify each of their railcars, and where the railcars can be stored when not in use. This information allows railroads to remove idle railcars from their tracks, thereby clearing the way for railcars that are in use. The Debtor assisted Customers to complete and submit the required information.

- <u>In-Person Railcar Inspections</u>: Occasionally, a Owner would request that the Debtor send its personnel to inspect the condition of railcars located somewhere in North America. While this was not a common request, the Debtor's personnel possessed the requisite mechanical and industry expertise to perform such inspections as needed.

Rarely, if ever, would a Customer need every one of the foregoing services. Rather, each MSA was tailored to the particular Customer's needs, specifying only the particular services requested by the applicable Customer. The MSA also specified the monthly fees to be paid for the services rendered by the Debtor, typically on a sliding scale based on the size of the fleet under management. The MSA also typically set forth a separate hourly rate for any consulting services the Customer might request outside the specific services identified in the MSA.

The Debtor occupied a prominent position in the U.S. freight rail industry. It provided railcar management services of one kind or another to approximately 500,000 railcars—nearly a third of the 1.6 million railcars in service in North America. Only a handful of competitors offered the same services as the Debtor, and of these, all but one were divisions of much larger companies that provided railcar-management services merely as a complement to their core offerings. The Debtor set itself apart in the industry through its relatively large number of employees who specialized, and possess an extraordinary level of knowledge and experience, in railcar management. As of the Petition Date, the Debtor employed approximately thirty-one (31) such individuals, approximately twenty-six (26) of whom were salaried, and approximately five (5) of whom worked on an hourly basis.

ii. The Debtor's Equity Ownership, Directors, and Officers

Seventy percent (70%) of the Debtor's stock is held by a trust for which the Debtor's former chief executive officer, secretary, and treasurer Michael Calomino (the "**Former CEO**") is the trustee. The remaining shares of the Debtor are held by individuals, of whom one individual holds fifteen percent (15%) and three individuals each hold five percent (5%).

The sole member of the Debtor's board of directors is Michael Gesas, whom the Plan defines as the "**Independent Director**." Sandor Jacobson, a partner of the financial services firm of Plante & Moran PLLC ("**Plante Moran**") whom the Plan defines as the "**Chief Restructuring Officer**," serves as the Debtor's chief restructuring officer, chief executive officer, secretary, and treasurer. As of the Petition Date, Robert J. Gordon served as the Debtor's president. After the Sale and attendant wind-down efforts were substantially complete, however, Mr. Gordon resigned this role, but continued to perform further work for the Debtor on a part-time, as-needed basis.

iii. The Debtor's Indebtedness as of the Petition Date[14]

As of the Petition Date, the Debtor had (and still has) no conventional secured debt. All of the Debtor's indebtedness as of the Petition Date consisted of unsecured debt, in the approximate aggregate amount of $43,260,000. The Debtor's primary indebtedness on the Petition Date, in the approximate aggregate amount of $41,054,000, was owed to Customers as damages for breach of their respective MSAs. The Schedules reflect that the Debtor also owed approximately $1,716,000 on account of Erroneous Payment Claims.[15] Aside from Claims of Customers and Erroneous Payment Claims, the Debtor owed or had accrued debts in the amounts of roughly: (i) $374,000 to an unsecured lender; (ii) $29,000 to taxing authorities; (iii) $20,000 to trade vendors; (iv) $2,000 to utilities; and (v) $63,000 to employees and employee benefit providers. Certain of these debts were paid after the Petition Date with the Court's authorization. *See, e.g.*, Docket Nos. 41 (authorizing payment of prepetition wages, salaries, benefit claims, and related debts), 120 (authorizing payment of cure amount to railcar tax service provider).

iv. The Debtor's Assets as of the Petition Date[16]

As of the Petition Date, the Debtor held assets with the approximate aggregate value of $22,388,000. Of this amount, approximately $21,425,000 was held in Cash in the Debtor's deposit accounts with JPMorgan Chase. The balance of the Debtor's assets consisted of various deposits, prepayments, accounts receivable, and office furniture and equipment. The Debtor

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[14] A more comprehensive listing of known Claims against the Debtor as of the Petition Date is contained in the Schedules. This summary, drawn from the Schedules without estimating or incorporating debts scheduled in unknown amounts or subsequent analysis by the Debtor or the Committee, is not intended to supersede or modify the Schedules or to bind the Debtor, the Committee, or the Liquidating Trustee in any way. Further, this summary only reflects the Debtor's understanding of its outstanding debt as of the Petition Date, and does not take into account any contrary assertions that may be contained in the proofs of Claim filed in the Case. The Debtor or the Liquidating Trustee may ultimately determine such assertions are valid and choose not to object to the corresponding Claims, without amending this Disclosure Statement, or may object to such Claims.

[15] Subsequent analysis indicates the amount of Erroneous Payment Claims may be higher than the amount reflected in the Schedules, as indicated in Schedule 1.33 to the Plan. Additionally, some Erroneous Payment Claims appear to have arisen after the Petition Date.

[16] A more comprehensive listing of the Debtor's known assets as of the Petition Date is contained in the Schedules, many of whose values were estimated without an appraisal. This summary, drawn primarily from the Schedules without incorporating assets scheduled with unknown values, is not intended to supersede or modify the Schedules or to bind the Debtor, the Committee, or the Liquidating Trustee in any way. The Debtor or the Liquidating Trustee may have subsequently recovered, or may in the future recover, value greater or less than the identified amounts. Additionally, the assets and values listed in this summary do not include all Causes of Action that may be available for the Debtor or the Liquidating Trustee to pursue. Further, the listed assets and values do not reflect the contentions of Customers that certain Cash held on the Petition Date did not constitute property of the Debtor, and therefore does not constitute property of the Estate.

did not own any real property, and instead leased the office space in Darien, Illinois from which it operated.

v. Events Leading to the Commencement of the Case

Prior to the Petition Date, the Debtor was essentially profitable (on a cash basis of accounting and without extraordinary expenses), and had experienced steady growth in the 23 years since its founding. But on information and belief, from approximately 2016 to 2022, the Former CEO developed a gambling addiction, which he funded by diverting monies from the Debtor to pay casino debts.

Historically, a very large "float" arose from the disparity in timing between the Debtor's receipt of payments from Customers and its payment of invoices from a subset of the vendors who repaired railcars owned or leased by Customers (the "**Float**"). By way of example (although the precise timing would vary), the Debtor would invoice a Customer for repairs, on 30-day terms. The Customer would pay the Debtor within 30 days, but the vendor might not expect, or trace, payments for 60 to 90 days. As a result, at any given time, the Debtor was able to hold a substantial amount of cash without disbursing it immediately. Given the scale of the Debtor's operations—which included thousands of transactions per month—the Float was substantial; in 2024 alone, for instance, its non-operating cash receipts and disbursements exceeded $500 million.

On information and belief, the Former CEO diverted funds from the Float to fund gambling activities. Unfortunately, the Debtor lacked the internal controls and segregation of duties that are typically recommended to prevent a business from falling victim to such misconduct. The Former CEO's actions left the Debtor with a shortfall in the amount of approximately $20 million as of the Petition Date.

On June 20, 2025, the Debtor retained A&G as its insolvency counsel. Then, after initiating certain stabilization efforts, on July 11, 2025, the Former CEO resigned from each of his officer roles on the advice of both A&G and the Former CEO's personal criminal counsel. The Chief Restructuring Officer, an outside Professional with no prior involvement in the Debtor's business, was appointed to the officer roles vacated by the Former CEO, as well as the newly created position of chief executive officer.

Upon his retention, the Chief Restructuring Officer met with the Former CEO remotely to gain an understanding of the state of the Debtor's business. The Chief Restructuring Officer was also provided with the Excel-based files used by the Debtor to track debts and reconcile its Cash receipts, monthly cash basis income statements, certain bank account records, invoices, and an accounts-receivable report. The Chief Restructuring Officer analyzed the Debtor's financial condition and confirmed that the Debtor was unable to comply with its contractual obligations to Owners, and would be unable to earn its way out of the deficiency caused by the misappropriated Float.

Accordingly, the Chief Restructuring Officer and the Debtor's principals determined it was in the Debtor's best interests of its creditors and other interested parties to file the Case, with the objectives of stabilizing the business and operations of the Debtor; preserving and maximizing the Debtor's value as a going concern; seeking authority from the Bankruptcy Court to disburse funds; and, if later deemed appropriate after consultation with the Committee, pursuing a sale of the Debtor's assets as a going concern pursuant to section 363 of the Bankruptcy Code.

Given the imminent bankruptcy filing and the Debtor's inability to pay all its debts as they came due, the Chief Restructuring Officer instructed the Debtor not to make any unnecessary payments to Customers or vendors pending the commencement of the Case. On July 22, 2025, the Chief Restructuring Officer sent an email to all Customers informing them of his appointment, the Former CEO's misconduct, and the Debtor's intention to file bankruptcy the following week. The Chief Restructuring Officer requested that Customers hold all payments to the Debtor pending further notice, aside from management service fees earned by the Debtor.

Despite his resignation as an officer in mid-July 2025, the Former CEO needed to remain as the sole director of the Debtor until an appropriate successor could be found, so that board-level decisions could be made in the meantime. Ultimately, on July 30, 2025, the Former CEO resigned as a director, and the shareholders of the Debtor appointed the Independent Director—who, like the Chief Restructuring Officer, had no prior involvement with the Debtor's business—to fill the vacated position.

On the Petition Date, to protect the integrity of the Chapter 11 process and to preserve Customer confidence, the Former CEO's trust and the Debtor entered into a shareholder voting agreement that restricted the trust's ability to influence or disrupt the Case. Specifically, during the pendency of the Case, the Former CEO's trust agreed, among other things, not to vote any of its shares, or take any action, directly or indirectly, to: (i) elect, appoint, reconstitute, remove, replace, or expand the Debtor's board of directors without the approval of the majority of the other shareholders and order of the Bankruptcy Court; (ii) interfere with or override the authority of any officer, director, or fiduciary appointed or designated by the board of directors or the Bankruptcy Court; (iii) approve any transaction or resolution without the approval of the board of directors and order of the Bankruptcy Court; or (iv) appoint any agent, proxy, or representative to take any of the foregoing actions on the trust's behalf.

On the Petition Date, *i.e.*, August 1, 2025, pursuant to an authorization by its board of directors, the Debtor filed a voluntary petition under Chapter 11 of the Bankruptcy Code, commencing the Case.

E. KEY ACTIVITIES IN THE CASE

The key activities performed by the Debtor, with which the Committee assisted and cooperated following its appointment in each case, with the assistance and cooperation of the Committee) (the "**Estate Undertakings**") may be summarized as follows:

1. **<u>"First-Day" Motions</u>**: Preparing and prosecuting requests for the initial relief that serves as the cornerstones for the Case. These core motions, denominated as "first-day" motions (which, despite the use of this term in bankruptcy parlance, were filed not on the first day of the Case, but instead in its early phases), enabled the Debtor's business to continue with minimal disruption amid the restrictions applicable to a debtor in bankruptcy. The Debtor's first-day motions included motions seeking authority to: (a) pay employee wage and

benefit obligations incurred prior to the Petition Date (Docket No. 10), (b) maintain the Debtor's existing bank accounts and cash-management practices (Docket No. 15); and (c) continue necessary utility services to the Debtor's office (Docket No. 17).

2. **Operating Procedures Motion**: Preparing and prosecuting a motion seeking, among other things, to create an express trust over funds received postpetition from, or on behalf of, Customers (with the exception of management fees earned by the Debtor). Filed alongside the first-day motions, this motion (Docket No. 23) gave Customers renewed confidence that, notwithstanding the prior actions of the Former CEO, their funds would be administered appropriately in accordance with their respective MSAs, provided such Customers paid their management fees.

3. **Schedules**: Preparing and filing the Debtor's Schedules of Assets and Liabilities (Dkt No. 80) and Statement of Financial Affairs (Dkt No. 82), collectively defined in the Plan as the "**Schedules**," which provided lengthy and detailed disclosure of the Debtor's assets, liabilities, and other relevant financial data to the Bankruptcy Court and all interested parties.

4. **Retention of Key Professionals**: Seeking and obtaining the Bankruptcy Court's authorization to retain the slate of professionals required to carry out the duties and responsibilities of a debtor-in-possession and to obtain critical relief designed to provide the necessary tools and course of conduct to enable the Debtor to achieve their goals in the Case, including the retention of: (a) Livingstone Partners LLC (the "**Investment Banker**") to serve as the Debtor's investment banker (Docket No. 83); (b) A&G, as bankruptcy counsel (Docket No. 85); (c) Plante Moran, to provide the services of the Chief Restructuring Officer and his support staff (Docket No. 86); (d) McCullough P.C. to serve as the Debtor's special insurance counsel (Docket No. 124); and (e) ArentFox Schiff LLP as the Debtor's special criminal investigation counsel (Docket No. 164). Relatedly, the Debtor sought (Docket No. 84) and obtained the assumption of its prepetition contract with its railcar tax service provider.

5. **Bar Date**: Seeking (Docket No. 159) and obtaining the entry of an order establishing a bar date for the submission of proofs of Claim in the Case, which enabled the Debtor and the Committee to establish the Claim amounts upon which the Plan is premised.

6. **Use of Funds**: Seeking and obtaining authority to use Estate funds to pursue the Sale, defend the Infinity Adversary Proceeding, wind down the Debtor's affairs, and otherwise administer the Estate. Due to some parties' assertions of ownership over property held by the Debtor, parties doing business with the Debtor as well as Professionals needed certainty that the funds the Debtor expended during the Case would not later be clawed back by Owners. The Debtor's initial motion (Docket No. 78) included a budget within which such funds could be used. The Debtor filed three subsequent motions (Docket Nos. 171, 209, 232), each of which was granted by the Court, requesting continued use of funds on substantially the same terms, subject to extended budgets.

7. **Sale**: Proposing and implementing the sale of substantially all the assets of the Debtor. There was a chance that the Debtor, as an essentially profitable business enjoying an enviable position in its market, could realize substantial value for its Estate by selling itself as a going concern in the Case. But the value of the Debtor lay not in its hard assets (of which there were very few) but in its relationships with its Customers and the MSAs governing those relationships. However, given that the counterparties to those MSAs were the same creditors to whom the Debtor owed approximately $41 million, the Debtor could not possibly pay the cure costs required, under section 365 of the Bankruptcy Code, to assume and assign the MSAs to a purchaser without their counterparties' consent. The Debtor, in consultation with the Committee and the Investment Banker, determined that the only way a sale could be achieved would be through the *consensual* assumption and assignment of the MSAs. The outcome of such a sale was bound to be unpredictable, but the Debtor and the Committee determined that its pursuit was warranted based on the potential to achieve a favorable outcome. The Debtor proposed (Docket No. 128) a novel sale procedure that included several "off-ramps" allowing the process to be terminated if it appeared unlikely to succeed. After a robust marketing process, the submission of non-binding letters of intent containing offers in the millions of dollars, and a public auction (that was continued once to attempt to garner further interest from potential purchasers), the Sale resulted in a purchase price of $525,000 (plus additional consideration). While the ultimate purchase price was a disappointing result, it did generate a modest net recovery for the Debtor's estate, and also allowed for the orderly transition of most of the Debtor's customers to a new provider, thereby avoiding the chaos and wind-down expenses that might have ensued if the Debtor had merely ceased doing business. The purchaser, AllTranstek, L.L.C., and the Debtor closed on the Sale on January 16, 2026.

8. **Infinity Adversary Proceeding**: On the Petition Date, Infinity filed the adversary proceeding in which it asserts the Infinity Claims, *i.e.,* the Infinity Adversary Proceeding. Thereafter, the Debtor and the Committee vigorously defended the Infinity Adversary Proceeding, while also making attempts at a settlement, including participating in mediation. Settlement negotiations eventually resulted in terms embodied in the treatment of Class 2 under the Plan, which is designed to resolve the Infinity Adversary Proceeding consensually, reduce administrative expenses borne by the Estate, and facilitate a much earlier distribution to Holders of Claims than would otherwise have been possible had the Debtor and Committee litigated the Infinity Adversary Proceeding to completion.

Aside from the Estate Undertakings, there have been various actions taken by other parties in interest in the Case. More recently, Infinity filed a motion to convert the Case to a case under Chapter 7 of the Bankruptcy Code on February 5, 2026 (Docket No. 215, the "**Motion to Convert**"). There is no briefing schedule currently in place on the Motion to Convert. The Debtor and the Committee have opposed the Motion to Convert because, among other reasons, they believe the consummation of the Plan will yield a better result for the Holders of Claims than would a liquidation under Chapter 7. This conclusion is addressed in more detail in section J below, in connection with the Hypothetical Liquidation Analysis and the "best interests" test. The Plan provides for withdrawal of the Motion to Convert.

F. VOTING INSTRUCTIONS AND PROCEDURES AND CONFIRMATION HEARING

1. Notice to Holders of Claims

The Debtor will transmit notice of this Disclosure Statement to Holders of Claims entitled to vote on the Plan. Pursuant to section 1126(f) of the Bankruptcy Code, Holders of Claims in Class 1, who are Unimpaired under the Plan, are conclusively deemed to have accepted the Plan and are not entitled to vote on the Plan. Pursuant to section 1126(g) of the Bankruptcy Code, Holders of Interests in Class 5, who will receive no distribution under the Plan on account of their Interests, are conclusively deemed to have rejected the Plan and are not entitled to vote on the Plan. Holders of Claims in Class 2, Class 3, and Class 4 will be the only Holders of Claims entitled to vote on the Plan. The purpose of this Disclosure Statement is to provide adequate information to enable such Holders to make a reasonably informed decision with respect to the Plan prior to exercising their right to vote to accept or reject the Plan.

ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ARE ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND ITS APPENDIX CAREFULLY AND IN THEIR ENTIRETY BEFORE DECIDING TO VOTE EITHER TO ACCEPT OR TO REJECT THE PLAN. This Disclosure Statement contains important information about the Plan and considerations pertinent to acceptance or rejection of the Plan.

THIS DISCLOSURE STATEMENT (INCLUDING ITS APPENDIX) IS THE ONLY DOCUMENT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES ON THE PLAN. No solicitation of votes may be made except after distribution of this Disclosure Statement and its attendant Ballots, and no person has been authorized to distribute any information concerning the Plan other than the information contained herein.

CERTAIN OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS BY ITS NATURE FORWARD-LOOKING AND CONTAINS ESTIMATES AND ASSUMPTIONS THAT MAY BE MATERIALLY DIFFERENT FROM ACTUAL FUTURE RESULTS. This Disclosure Statement does not reflect any events that may occur after the date hereof and that may have a material impact on the information contained in this Disclosure Statement. The Debtor does not intend to update the estimated recoveries on Allowed Claims set forth in this Disclosure Statement; thus, any such estimates will not reflect the impact of any subsequent events not already accounted for in the assumptions underlying the estimates, nor do they reflect expected reserves or enhancements resulting from Disputed Claims. Further, the Debtor does not anticipate that any amendments or supplements to this Disclosure Statement will be distributed to reflect such occurrences. Accordingly, the delivery of this Disclosure Statement will not under any circumstance imply that the information herein is correct or complete as of any time after the date hereof.

2. Solicitation Package

In soliciting votes for the Plan pursuant to this Disclosure Statement from the Holders of Claims entitled to vote, the Debtor and the Committee will provide copies of the Plan, the Disclosure Statement, a Ballot to be used by such Holders in voting to accept or to reject the Plan, and a letter from the chairperson of Committee urging creditors to vote to accept the Plan.

3. Voting Procedures and Ballots and Voting Deadline

A form of Ballot is being provided to Holders of Allowed Claims[17] in Classes 2, 3, and 4, by which Creditors in each such Class may vote their acceptance or rejection of the Plan. The Ballot for voting on the Plan gives Holders of Classes 2, 3, and 4 one important choice to make: whether to vote for or against the Plan.

To vote on the Plan, each Holder of an Allowed Claim in Classes 2, 3, and 4 must complete the Ballot by (a) indicating that such Holder accepts the Plan or rejects the Plan; and (b) signing the Holder's name and mailing the Ballot in the envelope provided for this purpose.

IN ORDER TO BE COUNTED, BALLOTS MUST BE COMPLETED, SIGNED, AND RECEIVED NO LATER THAN 5:00 P.M. PREVAILING CENTRAL TIME ON _____ ____, 2026 AS FOLLOWS:

> **By First-Class Mail, Hand Delivery, or Overnight Mail to**: U.S. Bankruptcy Court, Eastern Division, 219 S. Dearborn, Chicago, IL 60604; **or**
>
> **By CM/ECF Registrants**: via the Court's CM/ECF system, filed in the Case using the "Ballot" event.

DO NOT SEND YOUR BALLOT BY FACSIMILE OR EMAIL. DO NOT SEND YOUR BALLOT TO THE DEBTOR, THE COMMITTEE, OR THEIR PROFESSIONALS.

IF YOUR BALLOT IS NOT PROPERLY COMPLETED, SIGNED, TRANSMITTED, AND RECEIVED AS DESCRIBED HEREIN AND IN THE BALLOT INSTRUCTIONS, IT WILL NOT BE COUNTED. IF YOUR BALLOT IS DAMAGED OR LOST, YOU MAY REQUEST A REPLACEMENT BY ADDRESSING A WRITTEN REQUEST TO THE DEBTOR'S COUNSEL AT THE ADDRESS BELOW. BALLOTS SUBMITTED BY EMAIL OR FACSIMILE WILL NOT BE COUNTED.

If you wish to obtain a hard copy of the Plan, this Disclosure Statement or any appendices or exhibits to such documents, please contact the Debtor's bankruptcy counsel, A&G, in writing, at:

Adam P. Silverman
Alexander F. Brougham
Tevin D. Bowens
ADELMAN & GETTLEMAN, LTD.
53 West Jackson Blvd., Suite 1050
Chicago, Illinois 60604

[17] Pursuant to the Solicitation Procedures Order, and unless otherwise provided under the Plan or by order of the Bankruptcy Court, such Claims are Allowed for voting purposes only, without prejudice to the right of parties-in-interest to object to such Claims for distribution or other purposes.

4. Combined Hearing to Approve Disclosure Statement and Confirm Plan and Deadline for Objections to Disclosure Statement and Confirmation

Section 1125(b) of the Bankruptcy Code requires that the Bankruptcy Court approve the Disclosure Statement. Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing to consider confirmation of the Plan. Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of the Plan. Section 105(d)(2)(vi) allows the Bankruptcy Court to approve the Disclosure Statement and confirm the Plan at the same hearing (the "**Combined Hearing**" or "**Confirmation Hearing**").

The Bankruptcy Court has scheduled a Combined Hearing on **________ __, 2026 at _____ (prevailing Central Time)** in the United States Bankruptcy Court, Courtroom 642, 219 S. Dearborn, Chicago, Illinois. Notice of the Combined Hearing will be provided to Holders of Claims and Interests or their representatives (the "**Notice of Combined Hearing**") as set forth in the Solicitation Procedures Order. Objections to confirmation must be filed with the Bankruptcy Court no later than **_____ ___, 2026 at __________ (prevailing Central Time)** and are governed by Bankruptcy Rules 3020(b) and 9014 and the Court's Local Rules. AN OBJECTION TO CONFIRMATION THAT IS NOT TIMELY SERVED AND FILED MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

THE DEBTOR AND THE COMMITTEE BELIEVE THAT THE PLAN PROVIDES THE BEST RECOVERY POSSIBLE FOR HOLDERS OF CLAIMS AGAINST THE DEBTOR AND THUS STRONGLY RECOMMEND THAT YOU VOTE TO ACCEPT THE PLAN.

G. SUMMARY OF THE PLAN

The primary objective of the Plan is to distribute the proceeds of the Debtor's assets to creditors as fairly and efficiently as possible.

This Disclosure Statement includes summaries of the material provisions contained in the Plan and in documents referred to therein. The statements contained in this Disclosure Statement do not purport to be precise or complete statements of all the terms and provisions of the Plan or documents referred to therein, and reference is made to the Plan and to such documents for the full and complete statements of such terms and provisions.

The Plan itself and the documents referred to therein control the actual treatment of Claims against and Interests in the Debtor under the Plan and will, upon the Effective Date, be binding upon all Holders of Claims against and Interests in the Debtor and its Estate and other parties in interest.

1. Summary of Classification of Claims and Interests

All Claims against or Interests in the Debtor, other than Administrative Claims and Priority Tax Claims, are classified for purposes of voting and distributions under the Plan. The proposed impairment and voting status of each class of Claims and Interests may be summarized as follows:

Class	Status	Entitled to Vote?
Class 1: Allowed Priority Claims	Unimpaired	No (deemed to accept)
Class 2: Allowed Infinity Claims	Impaired	Yes
Class 3: Erroneous Payment Claims	Impaired	Yes
Class 4: Allowed General Unsecured Claims	Impaired	Yes
Class 5: Interests	Impaired	No (deemed to reject)

a. Administrative Claims (Unclassified)

Section 1.2 of the Plan defines an "**Administrative Claim**" as a Claim of the kind specified in section 503(b) of the Bankruptcy Code that is entitled to priority under section 507(a)(2) of the Bankruptcy Code, and includes: (a) any actual and necessary costs and expenses incurred by the Debtor after the Petition Date with respect to preserving the Estate and operating the Debtor's business; (b) any Professional Fee Claims approved by the Bankruptcy Court pursuant to section 330 of the Bankruptcy Code; (c) all UST Fees; and (d) 503(b)(9) Claims.

Section 5.1.1 of the Plan provides that all Persons requesting allowance and payment of Administrative Claims must file with the Bankruptcy Court an application, in accordance with section 503(a) of the Bankruptcy Code, for allowance of such Administrative Claim, along with all documentation supporting such claim, no later than the Administrative Claims Bar Date. Objections to such applications for payment, if any, must be written, filed with the Bankruptcy Court, and served on the applicable parties within twenty-one (21) days after such application is filed.

Section 5.1.1 of the Plan further provides that failure by a Person to timely file a request for allowance of an Other Administrative Claim will result in such Other Administrative Claim being disallowed and expunged in its entirety, with the affected Holder having been deemed to waive its right to a Distribution from the Estate or the Liquidating Trust. Failure by a Professional to timely file a request for allowance of a Professional Fee Claim, unless otherwise excused by the Court for good cause shown, will result in such Professional Fee Claim being disallowed and expunged in its entirety, with the affected Professional having been deemed to waive its right to a Distribution from the Estate and the Liquidating Trust.

Section 5.1.2 of the Plan provides that each Allowed Administrative Claim (to the extent not already paid pursuant to any order entered by the Bankruptcy Court) and will be paid by the Debtor or the Liquidating Trustee (as applicable): (a) in full, in Cash, in such amount as such Administrative Claim is allowed by the Bankruptcy Court on or before the Effective Date or the date upon which such Administrative Claim is allowed; or (b) upon such other terms as may be agreed upon between the Holder of such Administrative Claim and the Debtor or the Liquidating Trustee (as applicable). All UST Fees due and owing will be paid on the Effective

Date. The Liquidating Trust and Liquidating Trustee will be liable for the payment of all UST Fees, if any, after the Effective Date. The Liquidating Trust and Liquidating Trustee will provide the United States Trustee with post-confirmation quarterly reports that include all of their respective disbursements for that quarter.

b. Priority Tax Claims (Unclassified)

Section 1.74 of the Plan defines a "**Priority Tax Claim**" as a Claim of a governmental unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

Section 5.2 of the Plan provides that Allowed Priority Tax Claims will be paid by the Liquidating Trustee in accordance with the Liquidating Trust Agreement (and in accordance with sections 507(a)(8) and 1129(a)(9)(C) of the Bankruptcy Code), either: (a) in full, in Cash, within forty-five (45) days of the Effective Date; or (b) over time in accordance with section 1129(a)(9)(C)(ii) of the Bankruptcy Code, in the Liquidating Trustee's discretion.

c. Class 1: Allowed Priority Claims

Section 1.73 of the Plan defines a "**Priority Claim"** as a Claim, other than an Administrative Claim or Priority Tax Claim, that is entitled to priority in payment under section 507(a) of the Bankruptcy Code. With respect to the Claims of employees or former employees of the Debtor, such Claims constitute Priority Claims only to the extent permissible under sections 507(a)(4) and (a)(5) of the Bankruptcy Code or prior order of the Bankruptcy Court.

Section 5.3.2 of the Plan provides that on the later of the date of any Distribution, or the date on which a Priority Claim becomes an Allowed Priority Claim or is otherwise payable, each Holder of an Allowed Priority Claim will receive (a) Cash in an amount equal to the unpaid portion of the Allowed Priority Claim, or (b) such other treatment as may be agreed to between the Holder of an Allowed Priority Claim and the Debtor.

d. Class 2: Allowed Infinity Claims

i. Treatment of Class 2 Claims

Section 1.48 of the Plan defines the "**Infinity Claims**" as all Claims and Causes of Action of Infinity that were asserted by, or that could have been asserted by, Infinity in the Case, including without limitation all Infinity Trust Claims.

Section 5.4.2 of the Plan provides that Infinity will have Allowed Infinity Claims in the aggregate amount of $10,580,272.00. Notwithstanding that the Debtor will not receive a discharge of its obligations under the Plan, Infinity shall be paid, and will be deemed to have accepted, in full satisfaction of the Allowed Infinity Claims, the following treatment:

(a) Infinity will receive Cash in the amount of $5,600,000 (collectively defined by the Plan as the "**Infinity Fixed Payment**"), payable as follows: (i) within five (5) business days of the Effective Date, an amount equal to $3,000,000; and (ii) upon the Initial Distribution to Allowed Holders of General Unsecured Claims in Class 4 (and if applicable, Class 3 Claims who receive "Treatment A" under section 5.5.3 of the Plan as part of such Initial Distribution), an amount equal to $2,600,000;

(b) Subject to and conditioned upon Infinity's receipt of the Infinity Fixed Payment, Infinity will be deemed to have a remaining Claim in the amount of $4,980,272 (defined as the "**Infinity Remaining Claim**"). On account of the Infinity Remaining Claim, Infinity will receive Cash at the time of any Distribution, solely on account of its Remaining Claim, payable as follows (collectively defined as the "**Infinity Contingent Payment"):** (i) subject to and expressly conditioned upon, and solely to the extent of, Class 3 Claims receiving "Treatment A" under section 5.5.3 of the Plan, Infinity will be entitled to participate in a Distribution limited to the extent of its Pro Rata share, *pari passu* with Holders of Allowed Class 3 Claims receiving such "Treatment A" and Holders of Allowed Class 4 Claims, relating and limited exclusively to any Cash comprising Erroneous Payment Claims receiving such "Treatment A" and becoming property of the Estate; and (ii) subject to and conditioned upon, and solely to the extent of, any Distribution of Victim Recovery Funds resulting from an Enforcement Proceeding, Infinity will be entitled to participate in such Distribution or payment, as the case may be, Pro Rata and *pari passu* with Holders of Allowed Class 3 Claims receiving "Treatment A" under section 5.5.3 of the Plan and Holders of Allowed Class 4 Claims, of any Victim Recovery Funds.[18]

(c) The calculation of Pro Rata shares as set forth in section 5.4.2(b) of the Plan will be based upon and take into account: (i) the amount of the Infinity Remaining Claim; (ii) any payments made to Holders of Allowed Class 3 Claims receiving "Treatment A" under section 5.5.3 of the Plan, or otherwise reserved for such payments; and (iii) any payments made to Holders of Allowed Class 4 Claims or otherwise reserved for such payments;

(d) Except for the treatment provided for in section 5.4.2 of the Plan, Infinity will irrevocably and unconditionally be deemed to have waived the Infinity Claim and the right to any further Distributions from the Estate or the Liquidating Trust, and shall in no event participate in any other Distributions, including but not limited to Distributions made on account of recoveries of Causes of Action.

Section 5.4.3 of the Plan provides for a release by Infinity. The language of the release is as follows:

> Notwithstanding anything contained in this Plan to the contrary, as of the Effective Date, and subject only to receipt by Infinity of the Infinity Fixed Payment and the other distributions and rights to which Infinity is entitled under this Plan, and to the fullest extent permitted by applicable law, for good and valuable consideration, the adequacy of which is hereby confirmed, the rights and payment to Infinity as set forth in this Plan constitute satisfaction in full of the Infinity Claims, and Infinity hereby releases the Debtor, its Estate, the Committee and its members, and the Released Parties from any and all Claims, obligations, suits, judgments, damages, demands, debts, remedies, Causes of Action, rights of setoff, and other rights and liabilities whatsoever, whether liquidated or unliquidated,

[18] No representations have been made by the Debtor, the Committee, or any Professional Persons to Infinity regarding the likelihood of an Infinity Contingent Payment, and Infinity acknowledges such payment may never occur, and in such event, there will be no Infinity Contingent Payment and the Plan will remain otherwise effective pursuant to its other terms and conditions.

> fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity, or otherwise, asserted or that could possibly have been asserted, based on, relating to, or arising from, the Infinity Claims, the Debtor or the Estate, the conduct of the Debtor's business, the business relationship between the Debtor and Infinity, the conduct of the Pre-Petition-Date Professionals, the formulation, preparation, solicitation, negotiation, filing, or pursuit of confirmation and consummation of the Plan and Disclosure Statement, or the filing and prosecution of the Case; provided, however, that the foregoing provisions of these releases shall not operate to waive or release any rights, including without limitation rights of payment, in favor of Infinity expressly set forth in and preserved by the Plan, *e.g.*, the right to participate in Claims receiving "Treatment A" under section 5.5.3 of the Plan and any right to participate in any Victim Recovery Funds. Infinity further acknowledges that any Person coming within the purview of this release may plead release and satisfaction, among other affirmative defenses, as a defense to any action brought by Infinity falling within the terms of this release. This provision does not release the Debtor, the Committee and its members, the Released Parties, or the Liquidating Trust from their respective obligations under this Plan.

Section 5.4.4 of the Plan provides for a release of Infinity by the Debtor, the Estate, the Committee and its members, and the Released Parties. The release provides as follows:

> Notwithstanding anything contained in this Plan to the contrary, as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtor, its Estate, the Committee and its members, and the Released Parties hereby release Infinity, its affiliates, subsidiaries, and its and their parents, officers, directors, employees, agents, and professionals, from any and all Claims, obligations, suits, judgments, damages, demands, debts, remedies, Causes of Action, rights of setoff, and other rights and liabilities whatsoever, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity, or otherwise, asserted or that could possibly have been asserted, based on, relating to, or arising from: the business and contractual relationship between the Debtor and Infinity; the Case; the conduct of Infinity pre- or post-petition vis-à-vis the Debtor, its Estate, the Committee and its members, or the Released Parties; or the filing or prosecution of the Infinity Claims and the Infinity Adversary Proceeding; including, without limitation, all Causes of Action and Avoidance Actions. This provision does not release Infinity from its obligations under the Plan.

Section 5.4.5 of the Plan provides that if, within five Business Days after the Confirmation Date, the *Infinity Lessors' Motion for Entry of an Order: Converting Debtor's Chapter 11 Case to Case Under Chapter 7; and (b) Approving Shortened Notice*, Docket No. 215, has not yet been denied or withdrawn, Infinity must file a notice of withdrawal of such motion on the docket of the Case.

Section 5.4.6 of the Plan provides that, within five Business Days after receipt of the Infinity Fixed Payment, Infinity must take all actions necessary to cause dismissal of the Infinity Adversary Proceeding, with prejudice, with all parties to the Infinity Adversary Proceeding to bear their own costs, expenses, and legal fees.

Section 5.4.7 of the Plan provides that, on the Effective Date, this Plan will constitute and satisfy the requirements of a written agreement between the Debtor, the "Infinity Lessors" (as defined in the Original Budget Order), and the Committee removing all restrictions and prohibitions precluding the Debtor from using or distributing the "Restricted Funds" (as defined in the Original Budget Order) without further act, deed, or order of the Bankruptcy Court.

Section 5.4.8 of the Plan provides that the treatment of Class 2 under the Plan is intended to constitute the compromise of a controversy, as set forth elsewhere in the Plan.

Section 5.4.9 of the Plan contains instructions for payment of the Infinity Fixed Payment and the Infinity Contingent Payment, and allows such payments to be made as lump sums, rather than allocating the payments among the various entities constituting Infinity.

Section 5.4.10 of the Plan provides that nothing contained in the Plan is intended to preclude Infinity from pursuing, enforcing, or collecting on account of its own rights in, an Enforcement Proceeding. Section 1.91 of the Plan, *i.e.*, the definition of "Victim Recovery Funds," includes a similar reservation of rights with respect to all other Holders of Claims.

ii. Release of the Preference Claims Against Infinity

As part of the settlement with Infinity, the Debtor is relinquishing its rights to initiate litigation against Infinity for potential liability for preferential transfers. The Debtor's SOFA and its books and records appear to indicate Infinity as: (a) having received potentially preferential payments directly from the Debtor in the approximate amount of $4.45 million; and (b) having benefitted from potentially preferential payments made by the Debtor to repair shops that worked on railcars owned by Infinity in the approximate amount of $11.067 million, for an aggregate of $15.5 million (the Debtor's investigation continues). The Debtor's business model is such that funds payable directly from the Debtor to Infinity are typically funds collected by the Debtor from lessees of Infinity as collections of rent and repair / maintenance obligations; funds payable to repair shops for the benefit of Infinity are typically sourced from Infinity itself. The intersection of the Debtor's business model and the Infinity Trust Claims present what is effectively an all-or-nothing outcome. If Infinity were to prevail in the Infinity Adversary Proceeding at trial (or after one or more appeals), the likely outcome is that pre-petition transfers directly to, or for the benefit of, Infinity would not comprise property of the Estate or an interest of the Debtor, and therefore not satisfy one of the required elements of a preference. Conversely, if the Estate were to prevail in the Infinity Adversary Proceeding, Infinity would still have the right to assert statutory defenses to alleged preferences and retain a claim in the approximate amount of $10.6 million, consuming a large pro rata portion of any preference recovery. And, as set forth in the Infinity Adversary Proceeding, Infinity remitted approximately $5.2 million within two weeks prior to the Case being filed, after which transfer the Debtor essentially froze all payments to or for the benefit of its Customers, thereby giving Infinity a potentially favorable statutory defense with one single transaction. Perhaps most importantly, given that the outcome of the Infinity Adversary Proceeding would likely dictate the ability (or inability) of the Debtor or Liquidating Trustee to bring preference litigation, it is logical to presume Infinity would expend significant resources litigating each of these matters and delaying Distributions to creditors in a material manner.

Ultimately, the complexity, expense, duration of the litigation, and material delay in distributions when weighed against the concessions being made by Infinity (such as reducing its Allowed Claim by several million dollars and agreeing not to share in Avoidance Action recoveries) lead the Plan Proponents to conclude that treatment of the Infinity Claim under the Plan are within the range of reasonable litigation outcomes and are in the best interest of the Estate.

e. Class 3: Allowed Erroneous Payment Claims

Section 1.33 of the Plan defines "**Erroneous Payment Claims**" as the Claims listed on Schedule 1.33 of the Plan.

Section 5.5.2 of the Plan provides that any Holder of an Erroneous Payment Claim seeking allowance of an Erroneous Payment Claim must file a motion with the Court on or before the Erroneous Payment Claims Bar Date. Said motion must: (a) provide proper service to all parties of record in the Case; (b) comply with applicable Bankruptcy Rules and local rules of the Bankruptcy Court; (c) attach as exhibits all documents supporting the Erroneous Payment Claim; and (d) explain in sufficient detail the legal and factual basis for why funds paid to or held by the Estate on account of such Erroneous Payment Claims are not property of the Estate or are otherwise subject to a constructive trust in favor of such Holder, and should receive "Treatment B" as set forth in section 5.5.3 of the Plan. At the initial hearing on such motion, the Bankruptcy Court will; set a briefing schedule thereon, and to the extent appropriate, schedule a trial on the matter. Any party in interest, including the Liquidating Trustee, may oppose such motion and may be heard at any hearings or trials on the matter. **Failure by a Holder of an Erroneous Payment Claim to file a motion in compliance with section 5.5.2 of the Plan will be deemed an unconditional and irrevocable waiver of such Holder's right to assert an Erroneous Payment Claim, with such Erroneous Payment Claim being provided "Treatment A" as set forth in section 5.5.3 of the Plan.**

Section 5.5.3 of the Plan provides that Cash in an amount equal to each of the Erroneous Payment Claims will constitute Reserved Cash until such time as a Final Order is entered adjudicating the rights of the applicable Holder pursuant to section 5.5.2 of the Plan, whereupon the applicable Holder's Erroneous Payment Claim will receive either "Treatment A" or "Treatment B," as follows:

> **Treatment A (Estate/Liquidating Trustee Prevails)**: To the extent funds alleged to have been paid erroneously to the Debtor in an Erroneous Payment Claim are deemed by a judgment and Final Order to be property of the Estate; not subject to a constructive trust for the benefit of the Holder of such Erroneous Payment Claim; or not otherwise payable to the Holder of such Erroneous Payment Claim, then in such event, the applicable amount of Reserved Cash shall be deemed property of the Estate without further act or deed, and the Holder of such Erroneous Payment Claim will be considered to have the equivalent of a General Unsecured Claim in the allowed amount of such Erroneous Payment Claim, if any, and receive Cash, in an amount equal to its Pro Rata share, *pari passu* with the Infinity Contingent Payment and Allowed Class 4 Claims, in accordance with the Plan, from the Net Trust Proceeds, after satisfaction of Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Class 1 Claims, and the Infinity Fixed Payment.

Treatment B (Holder(s) of Erroneous Payment Claims Prevail): To the extent funds alleged to have been paid erroneously to the Debtor in an Erroneous Payment Claim are deemed by a judgment and Final Order to be property of the Holder of such Erroneous Payment Claim and not property of the Estate in the Debtor's possession on or after the Petition Date, as applicable, or subject to a constructive trust for the benefit of the Holder of such Erroneous Payment Claim and such funds were in the Debtor's possession on or after the Petition Date, as applicable, the Holder of such Erroneous Payment Claim will receive Cash in the amount specified in such Final Order within ten (10) Business Days of such Final Order becoming a Final Order.

f. Class 4: Allowed General Unsecured Claims

Section 1.41 of the Plan defines a "**General Unsecured Claim**" as any Unsecured Claim, arising prior to the Petition Date, that is not a Professional Fee Claim, Other Administrative Claim, Priority Tax Claim, Priority Claim, Infinity Claim, Erroneous Payment Claim, or Interest.

Section 5.6.2 of the Plan provides that Allowed Class 4 Claims will be paid Pro Rata, *pari passu* with the Infinity Contingent Payment (if any) and Allowed Class 3 Claims receiving "Treatment A," from the Net Trust Proceeds, after satisfaction of Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Class 1 Claims, the Infinity Fixed Payment, and Allowed Class 3 Claims receiving "Treatment B." For the avoidance of doubt, the Infinity Remaining Claim is only included in Pro Rata Distributions of: (a) funds distributed as a result of Allowed Class 3 Claims receiving "Treatment A," or (b) Victim Recovery Funds.

g. Class 5: Interests

Section 1.54 of the Plan defines an "**Interest**" as the legal, equitable, contractual and other rights of the Holders of any Equity Security in the Debtor, including the rights of any entity to purchase or demand the issuance of any Equity Securities, including: (a) conversion, exchange, voting, participation and dividend rights; (b) liquidation preferences; (c) stock options, warrants and put rights; and (d) share-appreciation rights.

Section 5.7.2 of the Plan provides that Holders of Class 5 Interests will not receive a Distribution under the Plan, and their Equity Securities will be canceled and extinguished as of the Effective Date.

2. <u>Treatment of Executory Contracts and Unexpired Leases</u>

a. Rejection of Executory Contracts and Unexpired Leases

Section 6.1 of the Plan provides that, other than as explicitly set forth in the Plan, each Executory Contract of the Debtor that has not expired by its own terms or been assumed (or assumed and assigned to Buyer) prior to the Confirmation Date will be deemed rejected pursuant to section 365 of the Bankruptcy Code on the Confirmation Date.

The Plan establishes a bar date 21 days after the Confirmation Date, by which Persons must file proofs of Claim with respect to Claims arising from the rejection of Executory Contracts under section 6.1 of the Plan, unless the Bankruptcy Court establishes a different date. **Claims not asserted by the bar date, will be released, discharged and forever barred from assertion against the Debtor, its Estate or its property, the Liquidating Trust, or the Liquidating Trust Assets.**

One partial exception to the above treatment of Executory Contracts is contained in section 6.3 of the Plan, pursuant to which, notwithstanding anything in the contrary contained in the Plan or the Confirmation Order, unless any insurance policies have been expressly rejected, or assumed and assigned to Buyer, pursuant to a separate order of the Bankruptcy Court (or through the Confirmation Order), any insurance policies of the Debtor in which the Debtor is or was an insured party (including any policies covering directors' or officers' conduct), or any related insurance agreement issued prior to the Petition Date, will continue in effect after the Effective Date pursuant to the respective terms and conditions and will be treated as if assumed. All rights of the Debtor under any insurance policies will automatically become vested in the Liquidating Trust without necessity for further approvals or orders. To the extent that any insurance policies or related insurance agreements are deemed executory contracts, then, unless such policies have been rejected pursuant to a separate order of the Bankruptcy Court (or through the Confirmation Order), notwithstanding anything to the contrary in the Plan, the Plan will constitute a motion to assume, assume and assign, permit "ride through," or ratify such insurance policies or insurance agreements.

Section 6.3 of the Plan provides further that, subject to the occurrence of the Effective Date, the entry of the Confirmation Order will constitute both approval of such assumption pursuant to section 365 of the Bankruptcy Code and a finding by the Bankruptcy Court that such assumption is in the best interests of the Estate. Unless otherwise determined by the Bankruptcy Court pursuant to a Final Order or agreed upon by the parties prior to the Effective Date, no payments will be required to cure any defaults of the Debtor existing as of the Confirmation Date with respect to any insurance policy or insurance agreement assumed, or assumed and assigned, pursuant to section 6.3 of the Plan. Each insurance company is prohibited from, and the Confirmation Order is proposed to include an injunction against, denying, refusing, altering or delaying coverage on any basis regarding or related to this Case, the Plan, or any provision within the Plan, including the treatment or means of liquidation set out within the Plan for any insured Claims or Causes of Action. Without limiting the generality of the foregoing, section 6.3 provides that all directors' and officers' liability insurance policies in effect as of the Confirmation Date will be deemed assumed and will not be rejected.

3. Owner Trust Claims

Section 1.67 of the Plan defines an "**Owner Trust Claim**" as any Claim or Cause of Action asserted, or that could be asserted, by an Owner other than Infinity, that is substantially similar to the Infinity Trust Claims, including without limitation any Claim or Cause of Action contending that property is not property of the Estate, should be subject to a constructive trust, or should be entitled to a Distribution greater than that provided to Holders of Allowed Class 4 Claims, as a result of an MSA or the course of dealing thereunder.

Importantly, under the Plan, no Owner will be entitled to assert, retain, or receive any value on account of, an Owner Trust Claim.

Section 8.1 of the Plan provides that, upon the Confirmation Date, each Owner will absolutely, irrevocably, and unconditionally be forever barred from asserting, and deemed to have waived and forever relinquished its right to assert, an Owner Trust Claim (but not a General Unsecured Claim) on account of any Claim such Owner may have against the Debtor or its Estate, or the Liquidating Trust or Liquidating Trustee, together with any assertion of ownership over, or entitlement to, a constructive trust encompassing any property, including property of the Estate or Liquidating Trust. Funds held by the Debtor prepetition, and by the Estate or the Liquidating Trustee (as applicable) postpetition, are deemed to constitute, and to have constituted at all relevant times, property of the Debtor, the Estate, or the Liquidating Trustee (as applicable). Any Owner Trust Claims filed after the Confirmation Date will be deemed null and void and may be dismissed summarily by the Bankruptcy Court. Section 8.1 of the Plan shall have no preclusive effect upon Erroneous Payment Claims or Holders thereof.

Section 8.2 of the Plan provides that, in addition to, and without limiting, the bar and waiver set forth in section 8.1 of the Plan, any Holder of an Owner Trust Claim who accepts a distribution under the Plan is deemed to have acknowledged that: (a) any Owner Trust Claim it has asserted or could have asserted prior to the Confirmation Date, or it may subsequently seek to assert, whether through a proof of claim, motion, adversary proceeding, or otherwise, shall be deemed disallowed to the extent it asserts an Owner Trust Claim (without bearing upon its claim as a Class 4 General Unsecured Creditor); (b) it accepts a Pro Rata, *pari passu*, Distribution as treatment of its Claim as a Class 4 General Unsecured Claim under this Plan to the extent such Claim is allowed; and (c) it has irrevocably relinquished and waived any assertion of ownership over, or entitlement to, a constructive trust encompassing any property currently in the possession of the Debtor or to be transferred to the Liquidating Trust under the Plan.

Section 8.3 of the Plan provides that, in the event an Owner Trust Claim is filed (whether by proof of claim, motion, adversary proceeding, or otherwise) prior to the Confirmation Date, the Plan Proponents reserve all rights, but will not be obligated, to withdraw the Plan and, upon proper notice, seek confirmation of the original plan of liquidation filed by them as Docket No. 251, as it may be modified in whole or in part. In such case, all terms and conditions of the Plan, including but not limited to, the settlement with Infinity as set forth in section 5.4 of the Plan, shall be null and void, and Distributions under any subsequent plan of liquidation may be suspended for an unknown period of time subject to ongoing litigation and appeals.

4. <u>Implementation of the Plan</u>

a. Compromise and Settlement

Section 7.13 of the Plan provides that, pursuant to Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided under the Plan, the provisions of the Plan will constitute a good faith compromise of all Claims or controversies relating to the contractual, legal and subordination rights that a Holder of a Claim may have against the Debtor with respect to any Allowed Claim. The entry of the Confirmation Order will constitute the Bankruptcy Court’s approval of the compromise or settlement of all such Claims or controversies, and the Bankruptcy Court’s finding that such compromise or settlement is in the best interests of the Debtor, its Estate, the Liquidating Trust, and Holders of Claims and is fair, equitable and reasonable.

b. Cancellation of Notes, Instruments, and Debentures.

Section 9.15 of the Plan provides that upon the Effective Date, except to the extent provided otherwise in the Plan, all notes, instruments, debentures, certificates, and other documents evidencing Claims against the Debtor will be deemed canceled, terminated, and surrendered (regardless of whether such notes, instruments, debentures, certificates or other documents are in fact surrendered for cancellation to the appropriate indenture trustee or other such Person). On the Effective Date, any indentures to which the Debtor is a party will be deemed canceled as permitted by section 1123(a)(5) of the Bankruptcy Code.

c. Dissolution of the Debtor

Section 9.11 of the Plan provides that, upon the Effective Date, the Liquidating Trustee will be authorized and empowered, in his or her reasonable discretion, to file a certificate of dissolution or other documents, if any, memorializing the Debtor's dissolution with the office of the secretary of state of Illinois, or may allow the secretary of state to involuntarily dissolve the Debtor. In the event of a dissolution (whether voluntary or involuntary), the Liquidating Trustee will thereafter have and retain standing to assert claims or pursue matters on behalf of the Debtor to the extent necessary to preserve, protect and liquidate the Liquidating Trust Assets or otherwise necessary to administer the Liquidating Trust.

d. Officers and Directors of the Debtor

Section 9.10 of the Plan provides that, upon the Effective Date, all officers and directors of the Debtor, including the Independent Director and the Chief Restructuring Officer, will be automatically deemed to have resigned from such positions, without further act, notice, deed or court order. To the extent required under applicable non-bankruptcy law, the Liquidating Trustee will be deemed an officer and/or director of the Debtor.

e. Termination of the Committee

Section 9.12 of the Plan provides that Committee will terminate automatically upon the acceptance by the Liquidating Trustee of his or her appointment in accordance with the Plan and the Liquidating Trust Agreement following the Confirmation Date. Upon termination of the Committee, the Committee will be dissolved and its members will be deemed released of their duties and responsibilities in connection with the Case or the Plan and its implementation, and the retention or employment of the Committee's counsel will terminate, except for ministerial duties or any duties imposed pursuant to the Plan (including, without limitation, filing applications for allowance and payment of Professional Fee Claims).

f. Sources of Assets

Section 1.58 of the Plan provides that the Liquidating Trust Assets consist of the assets to be transferred to and vested in the Liquidating Trust pursuant to the Plan and the Confirmation Order, plus all proceeds, earnings and replacements arising from or relating to these assets and all other assets acquired by the Liquidating Trust at any time. The Liquidating Trust Assets include, without limitation: (i) all Cash held by the Debtor; (ii) the Debtor's remaining property, including accounts or any other tangible or intangible personal property and any and all proceeds thereof; (iii) the Debtor's right, title and interest in and to all Causes of Action and any proceeds therefrom, except those expressly released by this Plan or by Order of the Bankruptcy Court; and (iv) all books and records related to the Debtor or its Estate not otherwise sold to the Buyer.

i. Cash Held by the Debtor

As of March 31, 2026, the Debtor held Cash in the amount of $20,518,961, substantially all of which (less amounts expended between that date and the Confirmation Date) will be used to fund the Liquidating Trust upon the Confirmation Date. Of this amount, $9,493,158.35 is held as "restricted funds" pending a resolution of the Infinity Adversary Proceeding or agreement among the parties thereto, pursuant to the Bankruptcy Court's *Order Granting Motion of the Debtor to Use Funds to Pursue Sale and for Shortened Notice Thereof*, Docket No. 109, and will constitute Reserved Cash under the Plan. An additional $1,804,387.23 has been reserved for Erroneous Payment Claims (subject to the reconciliation procedures set forth in the Plan), and will also constitute Reserved Cash under the Plan.

ii. Causes of Action

Section 9.9.3 of the Plan provides that, unless any Causes of Action against a Person are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan, or by a Final Order, in accordance with section 1123(b) of the Bankruptcy Code, the Liquidating Trust: (a) will retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action of the Debtor or the Debtor's Estate, whether arising before or after the Petition Date, including, but not limited to, any Causes of Action specifically enumerated in ***Appendix A*** to this Disclosure Statement, and the Liquidating Trust's right to commence, prosecute, or settle such Causes of Action will be preserved notwithstanding the occurrence of the Effective Date; and (b) expressly reserves all Causes of Action for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, will apply to such Causes of Action as a consequence of the confirmation of the Plan or the occurrence of the Effective Date. The Liquidating Trust may pursue Causes of Action, as appropriate, in accordance with the best interests of the Liquidating Trust and its Beneficiaries.

Section 9.9.3 of the Plan further provides that no Person may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Cause of Action against such Entity as any indication that the Liquidating Trust will not pursue any and all available Causes of Action against such Person. Unless provided in the Plan or in a Bankruptcy Court order to the contrary, all rights to prosecute any and all Causes of Action are expressly reserved.

Following the Effective Date, the Liquidating Trust will have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any Causes of Action, or to decline to do any of the foregoing, without the consent or approval of any third party or any further notice to or action, order, or approval of the Bankruptcy Court; provided, however, that the Liquidating Trustee shall seek approval of the Bankruptcy Court to compromise any controversy in which a Claim, or Cause of Action asserted by the Liquidating Trustee, is equal to or greater than $500,000.

iii. Remaining Estate Assets

While the primary sources of funding for the Liquidating Trust consist of Cash held by the Debtor and the proceeds of Causes of Action, all other property of the Debtor or its Estate on the Confirmation Date will also be vested in the Liquidating Trust.

5. <u>The Liquidating Trust</u>

a. Liquidating Trust Agreement

Section 1.57 of the Plan defines the "**Liquidating Trust Agreement**" as the agreement to be executed by no later than the Effective Date among the Debtor, the Committee and the Liquidating Trustee, which will govern the obligations of the Liquidating Trustee with respect to oversight of the distribution of the Net Trust Proceeds of the Liquidating Trust Assets, as further set forth in the Liquidating Trust Agreement and the Plan. Under section 10.3.2 of the Plan, the Liquidating Trust Agreement must be acceptable in form and substance to the Plan Proponents, *i.e*., the Debtor and the Committee.

b. Vesting of Liquidating Trust Assets

Section 9.2 of the Plan provides that on the Effective Date, all assets of the Debtor and its Estate (including the Liquidating Trust Assets) will be transferred to and vest in the Liquidating Trust and be deemed contributed thereto, subject to the terms of the Plan. For the avoidance of doubt, all Liquidating Trust Assets will be held by the Liquidating Trust solely in trust for the benefit of the Beneficiaries and shall not be deemed property of the Debtor. Nothing in the Plan, however, shall preclude payment of: (i) UST Fees to the extent unpaid on the Confirmation Date; and (ii) the Liquidating Trustee's Expenses in accordance with the Plan and the Liquidating Trust Agreement from any other assets held by the Liquidating Trust.

c. Liquidating Trustee

Section 9.1 of the Plan proposes that John B. Pidcock be appointed as the Liquidating Trustee. Mr. Pidcock is the Senior Managing Director of Oxford Restructuring Advisors LLC, which has served as financial advisor to the Committee from September 2, 2025 to the present. Mr. Pidcock has over twenty years of experience in the restructuring community, including multiple engagements as a post-confirmation trustee. The Debtor and the Committee believe that Mr. Pidcock is an appropriate choice to serve as Liquidating Trustee, not only due to his extensive experience in similar roles, but also due to his existing familiarity with the Debtor, its assets, the Claims and Causes of Action, the Plan, and the Case generally. More information about Mr. Pidcock's experience and qualifications can be found at https://oxfordrestructuring.com/about-us/.

The Liquidating Trustee will owe a fiduciary duty, consistent with the duties of trustees under Illinois law, to the beneficiaries of the Liquidating Trust. Under section 9.4 of the Plan, the Liquidating Trustee, with advice and consultation from the Advisory Committee (*i.e.*, a group of up to three eligible Persons), will administer the Liquidating Trust Assets pursuant to the Plan and the Liquidating Trust Agreement from and after the Effective Date. As will be more fully set forth in the Liquidating Trust Agreement, the Liquidating Trustee will be responsible for, *inter alia*, liquidating the Liquidating Trust Assets, analyzing and reconciling Claims (including filing and pursuing objections to the extent required), pursuing the Causes of Action, making distributions of the Net Trust Proceeds to the Beneficiaries of the Liquidating Trust, maintaining and administering reserves for Disputed Claims and Claims of Holders that may be the subject of Avoidance Actions, paying Liquidating Trustee's Expenses, preparing and filing post-Effective Date operating reports, filing post-Effective Date tax returns (with all funding required for the preparation and filing of such returns to be pre-paid by the Debtor prior to the Effective Date), and all other activities typically related to trust administration.

Pursuant to section 9.5 of the Plan, from and after the Effective Date and continuing through the date that a final decree closing the Case is entered pursuant to section 350 of the Bankruptcy Code and Bankruptcy Rule 3022, the Liquidating Trustee will possess the rights of a party in interest pursuant to section 1109(b) of the Bankruptcy Code for all matters arising in, arising under or related to the Case. In addition to the foregoing, for all matters arising in, arising under or related to the Case, the Liquidating Trustee will: (i) have the right to appear and be heard on matters brought before the Bankruptcy Court or other courts of competent jurisdiction; (ii) have the right to obtain records of, or related to, the Debtor (including, without limitation, bank statements, cancelled checks, invoices, proofs of delivery, and other documents necessary to conduct due diligence on, and prosecute, Avoidance Actions); (iii) be entitled to notice and opportunity for hearing; (iv) be entitled to participate in all matters brought before the Bankruptcy Court, including, but not limited to, adversary proceedings; (v) have exclusive standing (including derivative standing to pursue Causes of Action on behalf of the Debtor) to commence Causes of Action, and to continue prosecuting and resolving, as successor-in-interest to the Debtor, any other Causes of Action that were pending as of the Effective Date, regardless of venue; (vi) be entitled to request the Bankruptcy Court to enter a final decree closing the Case; and (vii) be entitled to receive notice of all applications, motions and other papers and pleadings set before the Bankruptcy Court in the Case.

d. Liquidating Trustee's Professionals

Section 9.7 of the Plan provides that, upon the acceptance by the Liquidating Trustee of his or her appointment in accordance with the Plan and the Liquidating Trust Agreement, the Liquidating Trustee may, without the need for Bankruptcy Court approval, retain such law firms, accounting firms, experts, advisors, consultants, investigators or other Professionals as it may deem necessary, with advice and consultation with the Advisory Committee, in accordance with the Liquidating Trust Agreement, to aid in the performance of his or her responsibilities pursuant to the terms of the Plan and the Liquidating Trust Agreement, including, without limitation, the liquidation and distribution of assets of the Liquidating Trust. The Professionals retained by the Liquidating Trustee are not required to be "disinterested" as that term is defined in the Bankruptcy Code and may include, without limitation, counsel and financial advisors of any party in this Case, and the Liquidating Trustee will be permitted to retain any such Professional in light of the efficiencies implicit in continuity.

e. Liquidating Trustee's Expenses

Section 1.60 of the Plan defines the "**Liquidating Trustee's Expenses**" as the reasonable fees, costs and expenses incurred by the Liquidating Trustee and any Professionals retained by him or her in connection with the performance of his or her duties and responsibilities under the Plan and Liquidating Trust Agreement, as well as any other reasonable and necessary costs of administration of the Liquidating Trust, including UST Fees incurred during the post-Confirmation Date period and the reasonable fees, costs and expenses of Debtor and its Professionals for work performed at the direction of the Liquidating Trustee in furtherance of the Plan or to support the efforts of the Liquidating Trustee, all of which may be paid from the Liquidating Trust Assets.

f. Distributions by the Liquidating Trustee

The Liquidating Trustee will be responsible for making Distributions to Holders of Allowed Claims or Beneficiaries pursuant to the Plan and/or the Liquidating Trust Agreement. Under sections 7.1 and 7.2 of the Plan, the Liquidating Trustee will withhold Distributions to Holders and/or Beneficiaries: (a) whose Claims are subject to objection (provided, however, that such Distributions will be withheld only with respect to the amount actually in dispute); and (b) who are the subject of a filed or threatened, and unresolved, Avoidance Action.

Subject to the provisions of Bankruptcy Rule 2002(g), and except as otherwise provided in the Plan, Distributions and deliveries to Holders of Allowed Claims will be made at the address of each such Holder as set forth on the Schedules, unless superseded by the address set forth on a timely filed proof of Claim or some other writing filed with the Bankruptcy Court and served upon the Liquidating Trustee and/or the Debtor.

Section 7.6 of the Plan provides that, notwithstanding anything contained therein to the contrary, prior to making Distributions under the Plan, the Liquidating Trustee must require all Holders to furnish to him or her: (a) their Employer or Taxpayer Identification Number as assigned by the Internal Revenue Service on a Form W-9 and (b) a certification that the Holder is not a person or entity with whom it is illegal for a U.S. person to do business under Office of Foreign Assets Control ("**OFAC**") sanctions regulations and/or the list of Specially Designated Nationals and Blocked Persons (collectively, the "**Pre-Distribution Certifications**").

Pre-Distribution Certification forms will be mailed to the address for each Holder (and, if counsel has filed an appearance on behalf of a Holder in the Case, to the address of the Holder's counsel) prior to Distributions being made, and Holders will have thirty (30) days from the date of mailing to return the executed Pre-Distribution Certifications. **Any Holder that fails to return the executed Pre-Distribution Certifications within such thirty (30) day period will be deemed to have forfeited its right to receive Distributions and will be forever barred and enjoined from asserting any right to Distributions made prior to the Liquidating Trustee receiving its executed Pre-Distribution Certifications.** Any

Distributions that are forfeited pursuant to this provision will be returned to the Liquidating Trustee and become property of the Liquidating Trust, for redistribution pursuant to the Plan.

If any Distribution to any Holder of an Allowed Claim is returned to the Liquidating Trustee as undeliverable, no further Distributions will be made to such Holder unless and until the Liquidating Trustee is notified by such Holder, in writing, of such Holder's then-current address. Upon such an occurrence, the appropriate Distribution will be made as soon as reasonably practicable after such Distribution has become deliverable. All Holders ultimately receiving previously undeliverable Cash will not be entitled to any interest or other accruals of any kind. Nothing contained in the Plan requires the Debtor or the Liquidating Trustee to attempt to locate any Holder of an Allowed Claim.

Any Holder of an Allowed Claim entitled to an undeliverable or unclaimed Distribution that does not provide notice of such Holder's correct address to the Liquidating Trustee within ninety (90) days after the date of the initial Distribution made by the Liquidating Trustee to such Holder, **will be deemed to have forfeited its claim for such undeliverable or unclaimed Distribution and will be forever barred and enjoined from asserting any such claim for an undeliverable or unclaimed Distribution against the Debtor, its Estate or the Liquidating Trust**. If, after ninety days, Distributions remain unclaimed, unclaimed Distributions will become forfeited Distributions and such amounts will be made available for distribution to other Liquidating Trust Beneficiaries or for Liquidating Trustee's Expenses.

Checks issued by the Liquidating Trust on account of Allowed Claims will be null and void if not negotiated within forty-five (45) days from and after the date of issuance thereof. Requests for reissuance of any check that has become null and void will be made directly to the Liquidating Trustee by the Holder of the Allowed Claim within sixty (60) days of the check becoming null and void. **After such sixty (60) day period has elapsed, all Claims relating to such voided checks will be discharged and forever barred**. In the case of checks issued on account of Allowed Claims but not negotiated within forty-five (45) days of issuance and for which no request for reissuance is made before sixty (60) days after issuance, the amounts at issue will be considered to be a forfeited Distribution.

The Liquidating Trustee will not make any Distribution in an amount less than fifty dollars ($50.00) (defined by the Plan as a "**De Minimis Distribution**"), and reserves the right to reserve such De Minimis Distributions until such time as the Holder of such Claim is entitled to a Distribution of at least fifty dollars ($50.00).

g. Interest on Claims

Section 7.10 of the Plan provides that, unless otherwise required by applicable bankruptcy law, or specifically provided for in the Plan, postpetition interest will not accrue or be paid on any Claims, and no Holder of a Claim will be entitled to interest accruing on or after the Petition Date on any Claim in accordance with section 502(b)(2) of the Bankruptcy Code. The amount of all prepetition Unsecured Claims against the Debtor will be calculated as of the Petition Date. Except as otherwise explicitly provided in the Plan, in section 506(b) of the Bankruptcy Code, or by Final Order, no Holder of a prepetition Claim will be entitled to or receive interest or fees relating to such Claim.

6. Procedures for Resolving Disputed Claims

a. Objections to Claims

Section 7.1 of the Plan provides that the Liquidating Trustee will have standing to file objections to Claims, even if such Claims were scheduled by the Debtor as undisputed, liquidated, or non-contingent. If the Liquidating Trustee has objected to a Claim, Distributions to the affected Holder will be withheld only with respect to the amount actually in dispute, and such objection will not affect payments or distributions under the Plan on the undisputed portion of the Claim. Under section 1.5 of the Plan, Claims to which an objection or request for estimation has been filed do not constitute Allowed Claims.

b. Setoffs

Section 7.12 of the Plan provides that, consistent with applicable law, the Liquidating Trustee may, but will not be required to, set off against any Allowed Claim and the Distributions to be made pursuant to the Plan on account thereof (before any distribution is made on account of such Claim), the claims, rights and Causes of Action of any nature that the Debtor or its Estate may hold against the Holder of such Allowed Claim, regardless of whether the applicable Claim was designated in the Schedules as subject to setoff; provided, however, that neither the failure to effect such a setoff nor the allowance of any claim hereunder constitute a waiver or release by the Debtor, its Estate, or the Liquidating Trust of any such claims, rights, and Causes of Action that the Debtor, its Estate, or the Liquidating Trustee may possess against such Holder. Any setoff alleged by a Holder of a Claim that is opposed by the Debtor, Liquidating Trustee, or party in interest will be resolved upon objection to such Claim.

c. Estimation

Section 7.3 of the Plan provides that the Liquidating Trustee may at any time request that the Bankruptcy Court estimate any contingent or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtor, Committee, or the Liquidating Trustee previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. Subject to the provisions of section 502(j) of the Bankruptcy Code, in the event that the Bankruptcy Court estimates any contingent or Disputed Claim, the amount so estimated will constitute the maximum allowable amount of such Claim. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Liquidating Trustee may pursue supplementary proceedings to object to the allowance of such Claim. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

7. Conditions Precedent to Confirmation and Effective Dates of the Plan

a. Conditions Precedent to Confirmation Date of the Plan

Section 10.2 of the Plan provides that the occurrence of the Confirmation Date is subject to the satisfaction of the following conditions precedent: (i) the entry of the Confirmation Order in form and substance satisfactory to the Plan Proponents; and (ii) the Debtor being authorized to take all actions necessary and appropriate to enter into, implement, and consummate the Plan and other agreements or documents created in connection with the Plan.

b. Conditions Precedent to the Effective Date of the Plan

Section 10.3 of the Plan provides that the occurrence of the Effective Date and the consummation of the Plan are subject to the satisfaction of the following conditions precedent: (i) the Confirmation Order as entered by the Bankruptcy Court is a Final Order in full force and effect, in form and substance reasonably satisfactory to the Plan Proponents; (ii) the Liquidating Trust Agreement is acceptable to the Plan Proponents in form and substance, and has been executed by the Debtor, the Committee, and the Liquidating Trustee; (iii) all UST Fees owed to the U.S. Trustee through the Effective Date have either been paid in their entirety, or Cash sufficient to pay such UST Fees has been reserved and transferred to the Liquidating Trust; (iv) no Owner Trust Claims will have been filed in derogation of the Plan (provided, however, that the Plan Proponents may waive this condition); and (v) the Estate will have Reserved Cash in an amount sufficient to consummate the Plan.

8. Modification, Revocation, or Withdrawal of the Plan

a. Modification of the Plan

Section 12.1 of the Plan provides that the Plan Proponents reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, in their discretion, to amend or modify the Plan at any time prior to the entry of the Confirmation Order. Upon entry of the Confirmation Order, the Plan Proponents may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan. A Holder of a Claim that has accepted the Plan will be deemed to have accepted the Plan as modified if the proposed modification does not materially and adversely change the treatment of the Claim of such Holder and the votes of each Class for or against the Plan will be counted and used in connection with the modified Plan.

b. Revocation, Withdrawal, or Non-Consummation

Section 12.2 of the Plan provides that the Plan Proponents reserve the right to revoke or withdraw the Plan prior to the Confirmation Date and to file subsequent plans of liquidation. If the Plan Proponents revoke or withdraw the Plan, or if the Confirmation Order confirming the Plan will not be entered or become a Final Order, then (i) the Plan will be null and void in all respects, (ii) any settlement or compromise embodied in the Plan, assumption or rejection of Executory Contracts affected by the Plan, and any document or agreement executed pursuant to the Plan, will be deemed null and void, and (iii) nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, will (A) constitute a waiver or release of any Claims by or against, or any Interests in, the Debtor, (B) prejudice in any manner the rights of the Debtor or the Committee, (C) constitute an admission of any sort by the Debtor or the Committee, or (D) constitute a release of any Causes of Action possessed or maintained by the Debtor.

c. Vacatur of the Confirmation Order

Pursuant to section 10.4 of the Plan, if the Confirmation Order is vacated for whatever reason, the Plan will be null and void in all respects and nothing contained in the Plan or the Disclosure Statement will: (i) constitute a waiver or release of any Claims by or against, or any Interests in the Debtor; (ii) prejudice in any manner the rights of the Debtor; or (iii) constitute an admission, acknowledgment, offer or undertaking by the Debtor.

9. Effects of Confirmation of the Plan

a. Binding Effect

Section 11.1 of the Plan provides that, from and after the Confirmation Date, but subject to the occurrence of the Effective Date, the Plan will be binding and inure to the benefit of the Debtor, all present and former Holders of Claims and Interests, and their respective successors and assigns. The provisions of the Plan, the Confirmation Order, and any associated findings of fact or conclusions of law will bind the Debtor, any entity acquiring property under the Plan, and any Holder of a Claim, whether or not the Claim of such Holder is Impaired under the Plan and whether or not such Holder has accepted the Plan.

b. No Discharge of Claims

The Debtor will not receive a discharge under the Plan in accordance with sections 1141(d)(3)(A), 1141(d)(3)(B), and 1141(d)(3)(C) of the Bankruptcy Code

c. Permanent Injunction

Section 11.3 of the Plan provides that except as otherwise expressly provided in the Plan, all Persons that receive Distributions under the Plan or the Sale Order and that have held, hold, or may hold Claims against or Interests in the Debtor are permanently enjoined, from and after the Effective Date, from taking any of the following actions against any of the Debtor, its Estate, the Liquidating Trust, the Liquidating Trustee, or any of their respective property on account of any Claims or causes of action arising from events prior to the Effective Date in any manner, that does not comply with or is inconsistent with the provisions of the Plan:

(i) commencing or continuing in any manner any action or other proceeding of any kind, including any Owner Trust Claim;

(ii) enforcing, attaching, collecting or recovering by any manner or in any place or means any judgment, award, decree or order;

(iii) creating, perfecting, or enforcing any Lien or encumbrance of any kind; and

(iv) asserting any defense or right of setoff, subrogation, or recoupment of any kind against any obligation, debt or liability due to the Debtor (but in any event, no such

defense or right of setoff, subrogation, or recoupment of any kind may be asserted that would be deemed to constitute an Owner Trust Claim.

Section 11.3.2 of the Plan provides that, by accepting Distributions pursuant to the Plan or the Sale Order, each Holder of an Allowed Claim receiving Distributions pursuant to the Plan will be deemed to have specifically consented to the injunctions set forth in the Plan.

Section 11.3.3 of the Plan provides that, unless otherwise provided in the Plan or the Confirmation Order, all injunctions or stays provided for under the Plan and ordered in the Confirmation Order or pursuant to sections 105 or 362 of the Bankruptcy Code arising under or entered during the Case, or otherwise, and in existence on the Confirmation Date, will remain in full force and effect until the Case is closed.

d. Existing Injunctions and Stays

Section 11.4 of the Plan states that, unless otherwise provided, all injunctions or stays provided for in the Case pursuant to sections 105, 362, or 525 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, will remain in full force and effect until the Case has been closed. **The Confirmation Order will permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively or otherwise, of any Claims, Interests, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities released pursuant to the Plan.**

e. Exculpation

Section 11.5 of the Plan provides that no Exculpated Party will be subject to or incur, and each Exculpated Party is hereby released and exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, loss, or liability for any claim in connection with or arising out of the administration of the Case; the negotiation and pursuit of the transactions approved by the Sale Order, the Disclosure Statement, or the Plan, or the solicitation of votes for, or confirmation of, the Plan; the occurrence of the Effective Date; the administration of the Plan; the distribution of property under the Plan; any contract, instrument, release, or other agreement or document created or entered into in connection with the Plan or the Case; or the transactions in furtherance of any of the foregoing; provided, however, that no Exculpated Party will be released and exculpated for willful misconduct or gross negligence (but in all respects such entities will be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan). Notwithstanding the foregoing, no Exculpated Party will have liability for willful misconduct or gross negligence except as determined by a Final Order of a court of competent jurisdiction. The Exculpated Parties have acted in compliance with the applicable provisions of the Bankruptcy Code and orders of the Bankruptcy Court with regard to the solicitation of the Plan and, therefore, are not, and on account of such distributions will not be, liable at any time for the violation of any applicable law, rule, order, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan. Nothing in Section 11.5 of the Plan will be construed as a release of any Causes of Action against the Debtor's former or current Insiders for events occurring prior to the Petition Date.

Section 1.36 of the Plan defines "**Exculpated Party**" as, collectively, and in each case in its capacity as such: (a) the Debtor and its Estate; (b) the Committee and its individual members; (c) the Debtor's and the Committee's Professionals; (d) the Independent Director; (e) the Chief Restructuring Officer; (f) Livingstone Partners LLC; and (g) with respect to each of the foregoing entities in clauses (a) through (f) each such entity's current and former affiliates, direct and indirect subsidiaries, and direct and indirect equity Holders and/or partners, and each of their respective current and former directors, officers, equity Holders, employees, partners, managers, independent contractors, agents, representatives, principals, professionals, consultants, financial advisors, attorneys, accountants, trustees, investment bankers, and other professional advisors; provided, however, that Michael Calomino is expressly excluded from the definition of Exculpated Party and will not be deemed to be an Exculpated Party

f. Injunction Related to Exculpation.

Section 11.6 of the Plan provides that the Confirmation Order will permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action or liabilities enjoined, exculpated, or otherwise limited or prohibited pursuant to the Plan, including the claims, obligations, suits, judgments, damages, demands, debts, rights, and Causes of Action against any Exculpated Party that are described in Section 11.5 of the Plan.

g. Releases

Section 11.7 of the Plan provides that, notwithstanding anything contained in the Plan to the contrary, as of the Effective Date, and to the fullest extent authorized by applicable law, for good and valuable consideration, the adequacy of which is confirmed by the Plan, the Released Parties are deemed released and discharged by the Debtor and the Estate from any and all Claims, obligations, suits, judgments, damages, demands, debts, remedies, Causes of Action, rights of setoff, and other rights and liabilities whatsoever, whether for tort, contract, violations of federal or state securities laws, or avoidance claims, including any derivative claims, asserted, or that could possibly have been asserted, directly or indirectly or indirectly on behalf of, the Debtor or its Estate, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity, or otherwise, and any and all Causes of Action asserted or that could possibly have been asserted on behalf of the Debtor or the Estate or on behalf of the Holder of any Claim or Interest or other entity, based on or in any way relating to, or in any manner arising from, in whole or in part, the Debtor or the Estate, the conduct of the Debtor's business, the conduct of the Pre-Petition-Date Professionals, the formulation, preparation, solicitation, dissemination, negotiation, or filing of the Plan and Disclosure Statement or any contract, instrument, release, or other agreement or document created or entered into in connection with or pursuant to the Plan, the Disclosure Statement, the filing and prosecution of the Case, the pursuit of confirmation, the pursuit of consummation, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between the Debtor or the Estate, on the one hand, and any Released Party, on the other hand, or any other act

or omission, transaction, agreement, event, or other occurrence taking place before the Effective Date; provided, however, that the foregoing provisions of these releases will not operate to waive or release: (i) any Causes of Action expressly set forth in and preserved by the Plan and the Disclosure Statement; (ii) any Causes of Action against any person or entity that is not a Released Party; or (iii) the right of the Debtor or the Liquidating Trustee to enforce the Plan and the contracts, instruments, releases, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to a Final Order.

Section 11.7 of the Plan further provides that entry of the Confirmation Order will constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases set forth in such section 11.7, which includes by reference each of the related provisions and definitions contained in the Plan, and further, will constitute the Bankruptcy Court's finding that such releases are: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the Claims released by section 11.7; (iii) in the best interests of the Debtor and its Estate; (iv) fair, equitable, and reasonable; (v) given and made after due notice and opportunity for hearing; and (vi) a bar to any entity subject to such releases asserting any Claim or Cause of Action released by section 11.7.

Section 1.74 of the Plan defines "**Released Party**" as, collectively, and in each case in its capacity as such: (i) all Professionals; (ii) the Pre-Petition-Date Professionals; (iii) the Chief Restructuring Officer; (iv) the Independent Director; and (v) the Committee and its individual members.

10. <u>Retention of Jurisdiction</u>

Section 14.1 of the Plan provides that, notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, unless explicitly set forth in the Plan to the contrary, the Bankruptcy Court will retain and have exclusive jurisdiction after the Effective Date over any matter arising under the Bankruptcy Code, arising in or related to the Case, the Plan, or the Liquidating Trust, or that relates to the following, in each case to the greatest extent permitted by applicable law:

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

(b) to determine any and all motions, adversary proceedings, applications and contested or litigated matters that may be pending on the Effective Date or that, pursuant to the Plan, may be instituted by the Liquidating Trustee after the Effective Date; provided, however, that the Liquidating Trustee will reserve the right to commence collection actions, actions to recover receivables, adversary proceedings against any Holder of a Claim, and other similar actions in all appropriate jurisdictions, and the jurisdiction of the Bankruptcy Court over such matters will be nonexclusive;

(c) to hear and determine any timely objections to Administrative Claims, Priority Tax Claims, Priority Claims, Infinity Claims, Owner Trust Claims, Erroneous

Payment Claims, General Unsecured Claims, or to proofs of Claim and Interests filed, both before and after the Confirmation Date, including any objections to the classification of any Claim or Interest, and to allow, disallow, determine, liquidate, classify, estimate or establish the priority of or secured or unsecured status of any Claim, in whole or in part;

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

(e) to issue such orders in aid of execution of the Plan, to the extent authorized by section 1142 of the Bankruptcy Code;

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

(g) to hear and determine all applications for awards of Professional Fee Claims;

(h) to hear and determine disputes arising in connection with or relating to the Plan or the interpretation, implementation, or enforcement of the Plan, or the extent of any Person's obligations incurred in connection with or released or exculpated under the Plan;

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

(j) to determine any other matters that may arise in connection with or are related to the Plan, the Disclosure Statement, the Confirmation Order, the Liquidating Trust Agreement, or any other contract, instrument, release, or other agreement or document created in connection with the Plan or the Disclosure Statement to be executed in connection with the Plan;

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

(l) to hear any other matter or for any purpose specified in the Confirmation Order that is not inconsistent with the Bankruptcy Code; and

(m) to enter a final decree closing the Bankruptcy Case.

H. Risk Factors to Consider

Holders of Claims against the Debtor should read and consider carefully the information set forth below, as well as the other information set forth in this Disclosure Statement prior to voting to accept or reject the Plan. This information, however, should not be regarded as the only risks involved in connection with the Plan and/or its implementation.

1. Failure to Satisfy Vote Requirement

If the Plan does not receive the requisite votes according to the requirements of the Bankruptcy Code, the Debtor, and/or the Committee may be forced to pursue other alternatives in the Case that will result in lower creditor recoveries than estimated under the Plan, including but not limited to a conversion of the Case to a case under Chapter 7 of the Bankruptcy Code.

2. Non-Confirmation or Delay of Confirmation of the Plan

The Bankruptcy Court, which sits as a court of equity, may exercise substantial discretion. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation and requires, among other things, that the value of distributions to dissenting creditors and equity Holders not be less than the value of distributions such creditors and equity Holders would receive if Debtor were liquidated under Chapter 7 of the Bankruptcy Code. Although the Debtor and the Committee believe that the Plan will meet such tests, there can be no assurance that the Bankruptcy Court will reach the same conclusion. The Debtor and the Committee, however, reserve the right to amend the Plan in such a manner to as to cure any defects in the satisfaction of the requirements of section 1129 of the Bankruptcy Code.

3. Non-Consensual Confirmation

The Bankruptcy Court may confirm the Plan over the dissent of any Impaired Class if all of the requirements for consensual confirmation under section 1129(a) of the Bankruptcy Code, other than section 1129(a)(8), and for nonconsensual confirmation under section 1129(b) of the Bankruptcy Code, have been satisfied. Because Class 5, consisting of Interests, is Impaired and deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code, the Debtor and the Committee will request that the Bankruptcy Court confirm the Plan notwithstanding the deemed rejection of Class 5 according to section 1129(b)(2)(C) of the Bankruptcy Code.

Notwithstanding section 1129(b) of the Bankruptcy Code, the Bankruptcy Court may not confirm the Plan unless at least one Impaired Class has voted to accept the Plan, without regard to any acceptance of the Plan by any Insider. Class 2, Class 3, and Class 4 are the only Impaired Classes entitled to vote to accept or reject the Plan. Accordingly, if Class 2, Class 3, and Class 4 vote against the Plan, the Bankruptcy Court cannot confirm the Plan.

4. Risk of Non-Occurrence of the Effective Date

Although the Debtor and the Committee believe that the Effective Date will occur reasonably soon after the Confirmation Date, there can be no assurance as to such timing or as to whether it will occur.

5. Classification and Treatment of Claims and Interests

Section 1122 of the Bankruptcy Code requires that the Plan classify Claims against, and Interests in, the Debtor. 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 Debtor and the Committee believe that all Claims and Interests have been appropriately classified in the Plan, but there can be no assurance that the Bankruptcy Court will reach the same conclusion.

6. Claim Objections and Reconciliations

The Distributions to be received by Holders of Claims will depend on, among other things, the outcome of the Claims analysis and objection process, conducted pre-Effective-Date (to the extent applicable) by the Debtor and the Committee, and post-Effective-Date by the Liquidating Trustee. Therefore, Distributions may increase or decrease depending on the resolution of outstanding Claims. There is a risk that a creditor's Claim, as filed, could be technically classified as Allowed when the Plan is confirmed, but could subsequently become a Disputed Claim even though such creditor voted in favor of the Plan. The Debtor, the Committee, and the Liquidating Trustee reserve all rights to object to filed and scheduled Claims according to the provisions of the Plan, the Liquidating Trust Agreement, the Bankruptcy Code, and the Bankruptcy Rules.

7. Recoveries from Liquidating Trust's Causes of Action

All Causes of Action that have otherwise not been resolved or expressly released under the Plan will be transferred to the Liquidating Trust as of the Effective Date of the Plan. The Committee expects the Liquidating Trustee will conduct a thorough investigation of the Liquidating Trust's Causes of Action and will make a determination whether commencing litigation with respect to any of the Liquidating Trust's Causes of Action not yet pending will yield a material economic benefit to Beneficiaries. It is impossible at this time to determine whether the Liquidating Trustee will commence litigation to pursue Causes of Action and to predict the recoveries, if any, from such litigation.

8. Other Unliquidated Assets

Depending on the timing of the Effective Date, it is possible that the Liquidating Trust will receive other unliquidated assets, such as proceeds from the sale of miscellaneous assets or recoveries of accounts receivable. It is impossible at this time to determine the value of these unliquidated assets, which will affect the ultimate recovery to Holders of any Claims that receive Pro Rata distributions of Liquidating Trust Assets.

I. CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

In connection with the Plan, the Liquidating Trustee must comply with all applicable withholding and reporting requirements imposed by federal, state, local and foreign taxing authorities, and all distributions under the Plan will be subject to those withholding and reporting requirements. In conjunction with the Pre-Distribution Certifications, creditors will be required to provide certain tax information as a condition to receiving Distributions pursuant to the Plan, and the Liquidating Trustee, in the exercise of his or her discretion, may request further such information. Notwithstanding any other provision of the Plan, each Person receiving a Distribution thereunder will have sole, exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations, on account of that distribution.

The federal income tax consequences to any particular Holder of a Claim may also be affected by matters not discussed herein. For example, to the extent a creditor previously deducted a loss with respect to its claim, the receipt of money under the Plan may require such creditor to recognize income. Furthermore, certain Claim Holders, including foreign persons, life insurance companies, and tax-exempt organizations, may be subject to special rules not addressed herein. There also may be state, local, or foreign tax considerations applicable to each creditor. While the Debtor's status as an S-Corporation will likely minimize impacts of the Plan on Holders of Interests, such Holders are still advised to consult their tax advisors to better understand any potential consequences.

ACCORDINGLY, EACH HOLDER OF A CLAIM OR INTEREST IS URGED TO CONSULT ITS OWN TAX ADVISOR AS TO THE CONSEQUENCES OF THE PLAN TO IT UNDER FEDERAL AND APPLICABLE STATE, LOCAL AND FOREIGN TAX LAWS. NOTHING CONTAINED HEREIN SHOULD BE CONSIDERED A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED ON A HOLDER'S INDIVIDUAL CIRCUMSTANCE.

J. STATUTORY REQUIREMENTS FOR CONFIRMATION, FEASIBILITY, AND ACCEPTANCE OF THE PLAN, BEST INTERESTS TEST, AND CRAMDOWN

1. Statutory Requirements for Confirmation of the Plan

At the Combined Hearing, the Bankruptcy Court will determine whether the requirements of section 1129 of the Bankruptcy Code have been satisfied. The Debtor and the Committee believe that the Plan satisfies or will satisfy the applicable requirements, as follows:

- The Plan complies with the applicable provisions of the Bankruptcy Code.
- The Debtor and the Committee, as the proponents of the Plan, will have complied with the applicable provisions of the Bankruptcy Code.
- The Plan has been proposed in good faith and not by any means forbidden by law.
- Any payment made or promised under the Plan for services or for costs and expenses in, or in connection with, the Case, or in connection with the Plan and incident to the Case, has been disclosed to the Bankruptcy Court, and any such payment: (a) made before the confirmation of the Plan is reasonable; or (b) subject to the approval of the Bankruptcy Court is reasonable if it is to be fixed after the confirmation of the Plan.
- Either each Holder of an Impaired Claim or Interest will have accepted the Plan, or will receive or retain under the Plan on account of that Claim or Interest, property of a value, as of the Effective Date of the Plan, that is not less than the amount that

the Holder would receive or retain if Debtor\were liquidated on that date under Chapter 7 of the Bankruptcy Code.

- Each Class of Claims or Interests that is entitled to vote on the Plan will have either accepted the Plan or is not Impaired under the Plan, or the Plan can be confirmed without the approval of such voting Class pursuant to section 1129(b) of the Bankruptcy Code.
- At least one Class of Impaired Claims will accept the Plan, determined without including any acceptance of the Plan by any Insider holding a Claim of that Class.
- The Plan provides for the payment in full of Administrative Claims and certain Priority Claims according to section 1129(a)(9) of the Bankruptcy Code.
- Confirmation of the Plan is not likely to be followed by further liquidation or financial reorganization of the Debtor or any successor thereto under the Plan except to the extent such a liquidation is proposed in the Plan.
- All fees of the type described in 28 U.S.C. § 1930, including the fees of the United States Trustee if applicable, will be paid as of the Effective Date.

The Debtor and the Committee believe that: (a) the Plan satisfies or will satisfy all of the statutory requirements of Chapter 11 of the Bankruptcy Code; (b) they have complied or will have complied with all of the requirements of Chapter 11; and (c) the Plan has been proposed in good faith.

2. <u>Feasibility of the Plan</u>

Section 1129(a)(11) of the Bankruptcy Code requires that the Bankruptcy Court determine that confirmation of a Plan is not likely to be followed by liquidation or the need for further financial reorganization of the Debtor. The Plan already contemplates a liquidation, so the goals of the Plan are feasible, and the risk of further financial reorganization is not relevant.

3. <u>Acceptance of the Plan</u>

As a condition to confirmation, section 1129(a)(8) of the Bankruptcy Code requires that each Class of Impaired Claims vote to accept the Plan, except under certain circumstances. Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a class of impaired claims as acceptance by Holders of at least two thirds (2/3) in dollar amount and more than one half (1/2) in number of claims in that class, but for that purpose counts only those who actually vote to accept or to reject the Plan. Thus, for example, Class 4 votes to accept the Plan only if two-thirds (2/3) in amount and a majority in number actually voting in such Class cast their Ballots in favor of acceptance. Holders of Claims who fail to vote are not counted as either accepting or rejecting a plan.

4. <u>Best Interests Test</u>

Section 1129(a)(7) provides that before the Plan may be confirmed, the Bankruptcy Court must find (with certain exceptions) that the Plan provides, with respect to each Class, that each holder of a Claim or Interest in such Class either: (a) has accepted the Plan; or (b) will receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the amount that such person would receive or retain if the Debtor liquidated under Chapter 7 of the Bankruptcy Code.

In Chapter 7 liquidation cases, unsecured creditors and equity security holders of a debtor are paid from available assets generally in the following order, with no junior Class receiving any payments until all amounts due to senior Classes have been paid fully or any such payment is provided for:

- Secured creditors (to the extent of the value of their collateral);
- Priority unsecured creditors;
- General unsecured creditors;
- Debt expressly subordinated by its terms or by order of the Bankruptcy Court; and
- Equity security holders.

As described in more detail in the Hypothetical Liquidation Analysis discussed below, the Debtor and the Committee believe that the value of any distributions in a Chapter 7 case would be less than the value of distributions under the Plan because, among other reasons, distributions in a Chapter 7 case may not occur for a longer period of time, thereby reducing the present value of such distributions. In this regard, it is possible that distribution of the proceeds of a liquidation could be delayed for a period in order for a Chapter 7 trustee and its professionals to become knowledgeable about the Chapter 11 Cases and the Claims against the Debtor. It is also contemplated that, absent the resolution of the Infinity Adversary Proceeding embodied in the Plan, (a) the Infinity Adversary Proceeding may continue to be litigated, imposing greater cost and delay, and (b) parties other than Infinity may feel compelled to assert Owner Trust Claims in their own adversary proceedings, which will cause administrative expenses to multiply. Furthermore, proceeds received from the remaining assets in a Chapter 7 liquidation are likely to be significantly discounted due to the unfamiliarity of a Chapter 7 trustee with such assets, and the fees and expenses of a Chapter 7 trustee would likely exceed those of the professionals retained by the Debtor's Estate and the Liquidating Trust (thereby further reducing cash available for distribution). Consequently, Holders of Class 2, Class 3, and Class 4 Claims – *i.e.*, the voting Classes – will receive at least as much, if not more, under the Plan than they would receive in a liquidation.

5. <u>**Hypothetical Liquidation Analysis**</u>

Pursuant to section 1129(a)(7) of the Bankruptcy Code, unless there is a unanimous acceptance of a Chapter 11 plan by an impaired class, a debtor must demonstrate, and a bankruptcy court must determine, that with respect to such class, each holder of a claim will receive property of a value, as of the effective date of the plan, that is not less than the amount that such holder would receive if the debtor was liquidated under Chapter 7 of the Bankruptcy Code on the effective date of the plan. This requirement is commonly referred to as the "best interests of creditors test."

The Plan satisfies this test. The Plan provides equal or greater recovery to the Holders of all Impaired Classes of Claims than such Holders would receive in a liquidation under Chapter 7 for several reasons. First, while both a Chapter 7 trustee and the Liquidating Trustee would incur expenses attributable to the administration of the Chapter 7 estate or the Liquidating Trust, respectively, the Chapter 7 trustee would incur the additional expense and delay of obtaining Bankruptcy Court authority for virtually all decisions. In contrast, under the Plan, the Liquidating Trustee has the ability to exercise his or her reasonable judgment and discretion and take actions to implement the provisions of the Plan, largely without the need for further order of the Bankruptcy Court.

Second, a Chapter 11 allows for a single, binding, resolution of multiple similar Claims or Causes of Action. The Plan utilizes this power in its treatment of Owner Trust Claims, which will be extinguished as of the Confirmation Date. A Chapter 7 trustee cannot propose or implement a Chapter 11 plan, and no similar mechanism exists in Chapter 7 that would allow the Owner Trust Claims to be disposed of collectively. It is therefore likely that if the Case were converted to Chapter 7, each Owner desiring to assert an ownership interest in property of the Estate would need to file its own adversary proceeding similar to the Infinity Adversary Proceeding. The professional fees incurred by a Chapter 7 trustee in contesting such adversary proceedings would cause the administrative expenses borne by the Estate to multiply, thereby reducing the funds available for distribution to creditors. Furthermore, litigating multiple new adversary proceedings through trial and any appeals will substantially delay the payment of any distributions to creditors.

Third, in Chapter 7, the Chapter 7 trustee would also be entitled to seek a sliding-scale commission based upon the funds distributed by such trustee, even though the Debtor has already accumulated most of the funds and has already incurred many of the expenses associated with generating those funds. Almost all of the Debtor's assets have been liquidated and converted to cash. Accordingly, the primary consequence of liquidating the Debtor's assets under Chapter 7 of the Bankruptcy Code would be to incur additional administrative expenses and reduce the amounts payable to holders of allowed Claims. The Debtor and the Committee believe there is a reasonable likelihood that creditors would "pay again" for the funds accumulated by the Debtor, since the Chapter 7 trustee would be entitled to receive a commission in some amount for all funds distributed.

Finally, appointment of a Chapter 7 trustee would trigger a new bar date for filing claims that would be more than ninety (90) days following conversion of the Case to Chapter 7. Fed. R. Bankr. P. 3002(c). Hence, a Chapter 7 liquidation could not only delay distributions but also raise the prospect of additional claims that were not asserted in the Case.

Accordingly, the Debtor and the Committee believe that the "best interests test" of section 1129(a)(7) of the Bankruptcy Code is satisfied because the members of each Impaired Class will receive greater or equal value under the Plan than they would in a liquidation. Although the Debtor and the Committee believe that the Plan meets the "best interests test," there can be no assurance that the Bankruptcy Court will determine that the Plan meets this test.

6. <u>Confirmation Without Acceptance of All Impaired Classes: The "Cramdown" Alternative</u>

In view of the deemed rejection by Holders of Class 5 Interests, the Debtor and the Committee will seek confirmation of the Plan pursuant to the "cramdown" provisions of section 1129 of the Bankruptcy Code. Specifically, section 1129(b) of the Bankruptcy Code provides that a plan can be confirmed even if the plan is not accepted by all impaired classes, as long as at least one impaired class of claims has accepted it. The Bankruptcy Court may confirm the Plan at the request of the Plan Proponents if the Plan "does not discriminate unfairly" and is "fair and equitable" as to each Impaired Class that has not accepted the Plan. A plan does not discriminate unfairly within the meaning of the Bankruptcy Code if a dissenting class is treated equally with respect to other classes of equal rank.

A plan is fair and equitable as to a class of equity interests that rejects a plan if the plan provides: (a) that each holder of an interest included in the rejecting class receive or retain on account of that interest property that has a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such Holder is entitled, any fixed redemption price to which such Holder is entitled, or the value of such interest; or (b) that the Holder of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property at all.

The Debtor and the Committee believe that the Plan will meet the "fair and equitable" requirements of section 1129(b) of the Bankruptcy Code.

The Plan reserves the right of the Debtor and the Committee to seek confirmation of the Plan through cramdown with respect to any other Class that is determined to be Impaired or any creditor that has not accepted or is deemed not to have accepted the Plan pursuant to section 1126 of the Bankruptcy Code, including, to the extent necessary, Disputed Claims not entitled to vote under the Plan. However, notwithstanding section 1129(b) of the Bankruptcy Code, the Bankruptcy Court may not confirm the Plan unless at least one Impaired Class has voted to accept the Plan, without regard to any acceptance of the Plan by any Insider. Class 2, Class 3, and Class 4 are the only Impaired Classes entitled to vote to accept or reject the Plan. Accordingly, if Class 2, Class 3, and Class 4 do not vote to accept the Plan, the Bankruptcy Court cannot confirm the Plan.

K. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

The Debtor and the Committee believe that the Plan affords Holders of Claims the potential for the greatest recovery and, therefore, is in the best interests of such Holders.

If, however, the requisite acceptances are not received, or the Plan is not confirmed and consummated, the theoretical alternatives include: (1) formulation of an alternative plan of liquidation; or (2) liquidation of the Debtor under Chapter 7 of the Bankruptcy Code.

If the Plan is not confirmed, the Debtor or any other party in interest could attempt to formulate a different plan. Such a plan might involve an orderly liquidation of the Debtor's assets. With respect to an alternative plan, the Debtor and the Committee have explored various alternatives in connection with the formulation and development of the Plan. The Debtor and the Committee believe that the Plan, as described herein, enables creditors to realize the most value under the circumstances.

If no plan is confirmed, then the Debtor may be forced to liquidate under Chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be elected or appointed to liquidate the Debtor's assets for distribution to creditors according to the priorities established by the Bankruptcy Code. It is impossible to predict precisely how the proceeds of the liquidation would be distributed to the respective Holders of Claims against or Interests in the Debtor. As noted above, however, the Debtor and the Committee believe that in a liquidation under Chapter 7, before creditors receive any distribution, additional administrative expenses involved in the appointment of a trustee or trustees and attorneys, accountants, and other professionals to assist such trustees would cause a substantial diminution in the value of the Debtor's Estate. Such additional expenses would reduce the assets available for distribution to creditors.

Accordingly, the Debtor and the Committee believe that any alternative liquidation under Chapter 7 or 11 is a much less attractive alternative to creditors than the Plan because of the greater return the Debtor and the Committee believe is provided to creditors under the Plan.

L. Miscellaneous Provisions

1. Attachments; Entire Agreement

All attachments to the Disclosure Statement are incorporated herein by reference and are intended to be an integral part of this document as though fully set forth in the Disclosure Statement.

2. Plan Amendments

The Debtor and the Committee reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, in their discretion, to amend or modify the Plan at any time prior to the entry of the Confirmation Order. Upon entry of the Confirmation Order, the Debtor and the Committee may, upon order of the Bankruptcy Court, amend or modify the Plan, according to section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan. A Holder of a Claim that has accepted the Plan will be deemed to have accepted the Plan as modified if the proposed modification does not materially and adversely change the treatment of the Claim of such Holder and the votes of each Class for or against the Plan will be counted and used in connection with the modified Plan.

3. Governing Law

Except to the extent that the Bankruptcy Code or Bankruptcy Rules are applicable, the rights and obligations arising under this Disclosure Statement and the Plan will be governed by, and construed and enforced according to, the laws of the State of Illinois, without giving effect to any conflicts of law principles.

4. No Admissions

Notwithstanding anything here and to the contrary, nothing contained in this Disclosure Statement will be deemed as an admission by any Person with respect to any matter set forth herein.

M. CONCLUSION AND RECOMMENDATION

The Debtor and the Committee believe that confirmation and implementation of the Plan is preferable to any other alternative and recommend that creditors vote in favor of the Plan.

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One of Its Attorneys

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Appendix A[19]

Retained Causes of Action

Section 1.17 of the Plan defines "**Causes of Action**" as:

> any claim, cause of action, chose in action, action, suit, demand, and any other debt, obligation, right, damage, remedy, controversy, agreement, promise, lien, variance, trespass, power, privilege, license, franchise, judgment, third-party claim, subrogation claim, guaranty claim, contribution claim, reimbursement claim, indemnity claim, counterclaim, right of setoff or recoupment, crossclaim, claim objection, defense to claim, and liability whatsoever of any kind or character relating to any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, secured or unsecured, assertable directly or derivatively, existing or hereafter arising, in law, equity, or otherwise. Cause 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 belonging to the Estate; (b) any claim pursuant to sections 362, 502, and 510 of the Bankruptcy Code and any analogous provisions of applicable state law belonging to the Estate; (c) any claim, right or cause of action related to any and all Avoidance Actions; (d) any claim or defense including, but not limited to fraud, mistake, duress, and usury and any other defenses belonging to the Estate pursuant to section 558 of the Bankruptcy Code; and (e) any claim, right, or cause of action against any Insiders, officers, directors, recipient of a fraudulent transfer, and/or related entities.

Section 1.6 of the Plan defines "**Avoidance Actions**" as:

> Causes of Action against Persons arising under sections 502, 510, 541, 542, 544, 545, 547 through 551 and 553 of the Bankruptcy Code, or under related state or federal statutes and common law, including fraudulent transfer laws, whether or not litigation is commenced before or after the Confirmation Date to prosecute such Avoidance Actions. For clarity, Avoidance Actions consist of but are not limited to Causes of Action against Persons listed on questions 3 and 4 of the SOFA, or the parties who may be encompassed by the *Global Notes, Statement of Limitations and Specific Disclosures, and Reservation of Rights Regarding Debtor's Schedules and Statement of Financial Affairs*, filed concurrently therewith, as all such documents have been or may be supplemented or amended from time to time.

Section 1.59 of the Plan defines "**Liquidating Trust Assets**" as:

> those assets to be transferred to and vested in the Liquidating Trust pursuant to this Plan and the Confirmation Order, plus all proceeds, earnings and replacements

[19] Capitalized terms used in this Appendix A have the respective meanings ascribed to them in the Plan, into which this Appendix A is incorporated for all purposes.

> arising from or relating to these assets and all other assets acquired by the Liquidating Trust at any time. The Liquidating Trust Assets shall include (but not be limited to): (a) all Cash remaining in the Estate; (b) all Causes of Action, including the right to prosecute same and all proceeds thereof; (c) all pending litigation claims, regardless of venue, in which the Debtor is a plaintiff; (d) all other remaining tangible and intangible personal property of the Debtor; (e) all rights of the Debtor under the Plan, the Confirmation Order and all other orders entered by the Bankruptcy Court in the Case on or prior to the Confirmation Date; and (f) all books and records related to the Estate that are in the Debtor's possession, custody and control as of the Confirmation Date not otherwise sold to the Buyer.

Pursuant to Section 9.2 of the Plan, "On the Effective Date, all assets of the Debtor and its Estate (including the Liquidating Trust Assets) shall be transferred to and vest in the Liquidating Trust and be deemed contributed thereto, subject to the terms of the Plan." Further, Section 9.9.1 of the Plan states, in pertinent part, that "On the Effective Date, the Debtor shall transfer to the Liquidating Trust, and the Liquidating Trustee shall hold and retain, all rights of the Debtor to commence and pursue any and all Causes of Action (under any theory of law, including, without limitation, the Bankruptcy Code, and in any court or other tribunal including, without limitation, in an adversary proceeding filed in the Debtor's Case)."

Finally, Section 9.9.3 of the Plan states, in pertinent part: "Unless any Causes of Action against a Person are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan, or by a Final Order, in accordance with section 1123(b) of the Bankruptcy Code, the Liquidating Trust: (a) shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action of the Debtor or the Debtor's Estate, whether arising before or after the Petition Date, including, but not limited to, any Causes of Action specifically enumerated in Appendix A to the Disclosure Statement, and the Liquidating Trust's right to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date; and (b) expressly reserves all Causes of Action for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action as a consequence of the confirmation of the Plan or the occurrence of the Effective Date. The Liquidating Trust may pursue Causes of Action, as appropriate, in accordance with the best interests of the Liquidating Trust. No Person may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Cause of Action against such Entity as any indication that the Liquidating Trust will not pursue any and all available Causes of Action against such Person. The Liquidating Trust expressly reserves all rights to prosecute any and all Causes of Action against any Person, except as otherwise expressly provided in the Plan or in a Bankruptcy Court order. For the avoidance of doubt, the Plan does not release any Causes of Action that the Plan Proponents or the Liquidating Trust have or may have in the future against any Person, except as expressly provided in the Plan or the Confirmation Order."

Subject to and without limiting the foregoing, the Debtor expressly reserves all Causes of Action not expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or pursuant to a Final Order of the Bankruptcy Court, including, but not limited to, the following:

A. Avoidance Actions

Unless otherwise released by the Plan or a Final Order, the Debtor, on behalf of itself or the Liquidating Trust, as applicable, expressly reserves all Claims and Causes of Action held by the Estate for any state or federal or foreign law fraudulent transfer, preferential transfer, fraudulent conveyance, voidable transfer, or similar Claim. Such Claims and Causes of Action include, but are not limited to, Causes of Action against any Person identified in Part 2 or Part 6 of the *Statement of Financial Affairs* filed by the Debtor (as may be amended or modified from time to time, and which is incorporated herein by reference), or the parties who may be encompassed by the *Global Notes, Statement of Limitations and Specific Disclosures, and Reservation of Rights Regarding Debtor's Schedules and Statement of Financial Affairs*, filed concurrently therewith, as all such documents have been or may be supplemented or amended from time to time. Further, any Causes of Action against any Insider of the Debtor that received one or more preferential transfers in the one-year period prior to the Petition Date, or that received one or more fraudulent transfers during the lookback periods set forth in section 548 of the Bankruptcy Code or applicable state law (including without limitation the Uniform Fraudulent Transfer Act as adopted by Illinois, 740 ILCS 160/1 *et seq*.), are hereby reserved and preserved in their entirety.

For the avoidance of doubt, the Avoidance Actions being preserved under the Plan include not only Avoidance Actions for the avoidance and recovery of pre-petition transfers made by the Debtor directly to a Person, but also those Avoidance Actions for the avoidance and recovery of pre-petition transfers made by the Debtor for the benefit of a Person, as set forth in, *inter alia*, section 547(b)(1) of the Bankruptcy Code. The Debtor's books and records reflect that, at relevant times before the Petition Date, the Debtor made transfers of money to or for the benefit of the Persons identified on Exhibit 1 to this Appendix A. Any Avoidance Actions related to such transfers, and any similar transfers made to or for the benefit of any Person, are expressly preserved. *It is important to note, however*, that Exhibit 1 does not reflect, and neither the Debtor nor the Committee has comprehensively investigated, any defenses that may apply to such Avoidance Actions, under applicable statutes or otherwise, nor does it account for the effect, if any, on the assumption and assignment of executory contracts between the Debtor and a Person on such Avoidance Actions.

B. Causes of Action Related to Litigation and Possible Litigation

Unless otherwise released by the Plan or a Final Order, the Debtor, on behalf of itself or the Liquidating Trust, as applicable, expressly reserves all Causes of Action, including any Claims, defenses, counterclaims, and/or crossclaims against or related to all Persons that are party to or that may in the future become party to litigation, arbitration, or any other type of adversarial proceeding or dispute resolution proceeding involving the Debtor, whether formal or informal, judicial or non-judicial, including, without limitation, proceedings involving creditors, counterparties, customers, employees, consultants, contractors, subcontractors, utilities, suppliers, vendors, insurers, sureties, lenders, or any other parties whatsoever. For the avoidance of doubt, the reserved Causes of Action by the Debtor, on behalf of itself or the Liquidating Trust, as applicable, include any Causes of Action against any railcar owner that did business with the

Debtor before the Petition Date, including all such railcar owners holding Claims against the Debtor that have filed proofs of claim or are scheduled on the Debtor's Schedules.

Except to the extent any such reserved Claim or Cause of Action is specifically satisfied, settled, and/or released herein or in the Plan, in accordance with and subject to any applicable law, the Debtor's inclusion or failure to include any Claim or Cause of Action on this Schedule shall not be deemed an admission, denial, or waiver of any Claims, demands, rights, or Causes of Action that the Debtor or the Liquidating Trust may hold against any Person. For the avoidance of doubt, nothing herein shall be read as an admission as to the validity or allowance of any Claim against the Debtor or the Liquidating Trust. Any and all prepetition Claims against the Debtor that may be identified herein shall be treated in accordance with the Plan and the Bankruptcy Code.

C. Causes of Action Related to Tax Refunds or Credits

Unless otherwise released by the Plan or a Final Order, the Debtor, on behalf of itself or the Liquidating Trust, as applicable, expressly reserves all Causes of Action against or related to all Persons that owe or that may in the future owe money related to tax assets and refunds.

D. Causes of Action Related to Insurance Policies

Unless otherwise released by the Plan or a Final Order, the Debtor, on behalf of itself or the Liquidating Trust, as applicable, expressly preserves all Claims or Causes of Action against or related to all Persons based in whole or in part upon any and all insurance contracts and insurance policies to which the Debtor is a party or pursuant to which the Debtor has any rights whatsoever, regardless of whether such contract or policy is specifically identified in the Plan, the Disclosure Statement (including this Appendix A), the Schedules, or any amendments thereto, including, without limitation, Claims or Causes of Action against insurance carriers, reinsurance carriers, insurance brokers or underwriters related to coverage, indemnity, contribution, reimbursement, overpayment of premiums and/or fees, breach of contract, or any other matters. For the avoidance of doubt, any Claims that may be asserted against that certain Professional Liability Policy, issued on June 25, 2025, by Landmark American Insurance Company are hereby reserved in their entirety.

E. Causes of Action Related to Contracts and Leases

Unless otherwise released by the Plan or a Final Order, the Debtor, on behalf of itself or the Liquidating Trust, as applicable, expressly reserves all Claims or Causes of Action against or related to any and all contracts and/or leases and similar agreements to which the Debtor has any rights whatsoever. The Claims and Causes of Action reserved include, but are not limited to, Causes of Action against vendors, suppliers of goods and services, or any other parties for: (a) overpayments, back charges, duplicate payments, improper holdbacks, deductions owing or improper deductions taken, deposits, warranties, guarantees, indemnities, recoupment, or setoff; (b) wrongful or improper termination, suspension of services or supply of goods, or failure to meet other contractual or regulatory obligations; (c) failure to fully perform or to condition performance on additional requirements under contracts with the Debtor before the assumption or rejection, if applicable, of such contracts; (d) payments, deposits, holdbacks, reserves, or other amounts owed by any creditor, utility, supplier, vendor, insurer, surety, factor, lender, bondholder, lessor, or other party; (e) counterclaims and defenses related to any contractual obligations; (f) any turnover actions arising under section 542 or 543 of the Bankruptcy Code; or (g) unfair competition, interference with contract or potential business advantage, breach of contract, infringement of intellectual property, or any business tort claims.

F. Causes of Action Related to Deposits, Prepayments, Adequate Assurance Postings, and Other Collateral Postings

Unless otherwise released by the Plan or a Final Order, the Debtor, on behalf of itself or the Liquidating Trust, as applicable, expressly reserves all Claims or Causes of Action based in whole, or in part, upon any and all postings of a security deposit, adequate assurance payment, or any other type of deposit, prepayment, or collateral paid to, or owed by, any creditor, lessor, utility, supplier, vendor, landlord, sub-lessee, assignee, or any other Person. Such reserved Claims shall include, but not be limited to, Claims against any Person listed in Part 2 of the Debtor's Schedule A/B: Assets – Real and Personal Property filed in the Case, except those Persons receiving releases under the Plan.

G. Causes of Action Related to Accounts Receivable and Accounts Payable

Unless otherwise released by the Plan or a Final Order, the Debtor, on behalf of itself or the Liquidating Trust, as applicable, expressly reserves all Claims or Causes of Action against or related to all Persons that owe or that may in the future owe money to the Debtor or the Liquidating Trust, as applicable, regardless of whether such Person is expressly identified in the Plan, the Disclosure Statement (including this Appendix A), or any amendment thereto. Furthermore, the Debtor, on behalf of itself or the Liquidating Trust, as applicable, expressly reserves all Causes of Action against or related to all Persons who assert or may assert that the Debtor or the Liquidating Trust, as applicable, owes money to them.

H. Other Reserved Causes of Action

Unless otherwise expressly released or exculpated by the Plan, the Confirmation Order, or a Final Order, the Debtor, on behalf of itself or the Liquidating Trust, as applicable, expressly retains and preserves any and all potential Claims and Causes of Action held by the Debtor against (i) the Debtor's officers (including, but not limited to, Michael Calomino and Robert Gordon); (ii) the Debtor's directors (including Michael Calomino); or (iii) professional services firms, attorneys, consultants, or other advisors of the Debtor on any basis, including, but not limited to, breaches of fiduciary duties, fraud, or professional malpractice.

The Debtor reserves all rights to amend, revise, or supplement this Appendix A to the Disclosure Statement, and any of the documents and designations contained herein, at any time before the Effective Date of the Plan, or any such other date as may be provided for by the Plan or by order of the Bankruptcy Court.

Exhibit 1 to Appendix A:
Transfers to or for the Benefit of Creditors[20]

The following table identifies the amounts of transfers made to, or for the benefit of, certain creditors of the Debtor in the 90 days preceding the Petition Date, as reflected in the Debtor's books and records. ***The identification of these transfers is made for disclosure and preservation purposes only, and does not necessarily indicate that the Debtor, the Committee, or the Liquidating Trustee will pursue Avoidance Actions with respect to such transfers***. Importantly, this table does not reflect, and neither the Debtor nor the Committee has comprehensively investigated, any defenses that may apply to such Avoidance Actions, under applicable statutes or otherwise.

No.	Creditor	Total Amount Disbursed	Disbursed Directly to Creditor	Disbursed for the Benefit of Creditor	Executory Contract Assumed by Debtor?
1	CIT Rail	21,545,980.39	138,858.32	21,407,122.07	No
2	Infinity Rail	15,513,975.36	4,446,441.66	11,067,533.70	No
3	Marathon Petroleum	6,386,836.21	-	6,386,836.21	Yes
4	Progress Rail	4,578,642.56	-	4,578,642.56	Yes
5	INSTAR	4,550,455.54	-	4,550,455.54	Yes
6	Residco	3,306,411.24	-	3,306,411.24	Yes
7	Alliant	2,312,969.38	-	2,312,969.38	Yes
8	The David J. Joseph Company	2,296,515.53	556.17	2,295,959.36	Yes
9	To Be Determined[21]	2,105,843.04	-	2,105,843.04	N/A
10	Duke Energy	1,422,874.14	-	1,422,874.14	Yes
11	Primient	1,153,864.31	-	1,153,864.31	Yes
12	Atel Equipment Leasing	1,110,701.01	299,575.19	811,125.82	Yes

[20] The information contained in this table reflects the Debtor's books and records as of the filing of this Exhibit. As such, the Debtor, the Committee, and the Liquidating Trustee may ultimately determine that the information contained herein is inaccurate or incomplete, and reserve the right to make such a determination without the necessity of amending this Exhibit, which is intended only for disclosure and preservation purposes.

[21] As of the filing of this Exhibit, the Plan Proponents have not yet identified the creditor(s) for whose benefit approximately $2.1 million in transfers were made in the 90 days preceding the Petition Date. The Plan Proponents preserve any and all Avoidance Actions with respect to such transfers as if their recipients were explicitly identified herein.

No.	Creditor	Total Amount Disbursed	Disbursed Directly to Creditor	Disbursed for the Benefit of Creditor	Executory Contract Assumed by Debtor?
13	Modern Rail Capital	875,209.41	-	875,209.41	Yes
14	Ingredion	839,059.54	-	839,059.54	Yes
15	Browner Turnout	768,921.50	-	768,921.50	Yes
16	Evergy Inc.	692,494.94	-	692,494.94	Yes
17	Americas Styrenics	569,182.12	58,963.33	510,218.79	Yes
18	Everest Railcar Services, Inc.	515,780.05	-	515,780.05	Yes
19	Tennessee Valley Authority	477,622.99	-	477,622.99	No
20	Indiana Harbor Belt Railroad	450,400.86	358,432.13	91,968.73	Yes
21	American Industrial Transport	446,998.53	446,998.53	-	Yes
22	XCEL Energy	437,266.99	-	437,266.99	No
23	Wheeling & Lake Erie Railroad	436,541.13	436,541.13	-	Yes
24	LafargeHolcim	411,307.71	-	411,307.71	Yes
25	Indurante & Associates, Inc.	315,685.15	315,685.15	-	Yes
26	Ferrous Processing & Trading	270,099.22	-	270,099.22	Yes
27	Oklahoma Gas & Electric	266,176.21	-	266,176.21	Yes
28	Paducah & Louisville Railway	194,539.59	-	194,539.59	Yes
29	Ag Processing	180,266.11	180,266.11	-	Yes
30	Twin Cities & Western Railroad	150,167.64	-	150,167.64	Yes
31	International Paper	148,299.35	-	148,299.35	No
32	Lhoist North America	135,198.75	-	135,198.75	No

No.	Creditor	Total Amount Disbursed	Disbursed Directly to Creditor	Disbursed for the Benefit of Creditor	Executory Contract Assumed by Debtor?
33	Incobrasa Industries	118,933.69	-	118,933.69	Yes
34	Cleveland-Cliffs, Inc.	114,511.88	-	114,511.88	Yes
35	Buzzi-Unicem	113,229.99	-	113,229.99	Yes
36	Samson Funding	96,100.00	96,100.00	-	No
37	Southwest Rail Industries	90,864.60	90,864.60	-	Yes
38	Michael D. Calomino	87,620.94	87,620.94	-	No
39	Pershing LLC	79,048.09	79,048.09	-	Yes
40	FeT Logistics, LLC	70,100.18	-	70,100.18	Yes
41	JAIX Leasing	67,220.97	-	67,220.97	Yes
42	Sierra Northern Railroad	56,967.56	41,433.98	15,533.58	Yes
43	Enkay Leasing Corporation	51,284.50	51,284.50	-	Yes
44	CalPortland Company	44,678.27	-	44,678.27	No
45	Blue Cross Blue Shield of Illinois	30,466.00	30,466.00	-	No
46	Ralco	27,542.96	-	27,542.96	Yes
47	Nevada Gold	26,102.41	-	26,102.41	Yes
48	CBTS Technology Solutions	25,397.48	25,397.48	-	Yes
49	Kankakee Beaverville & Southern Railroad	22,769.00	22,769.00	-	No
50	MMJR. LLC	18,799.99	18,799.99	-	Yes
51	Holcim	18,100.08	-	18,100.08	Yes
52	Rail Connection, Inc.	14,358.66	14,358.66	-	Yes

No.	Creditor	Total Amount Disbursed	Disbursed Directly to Creditor	Disbursed for the Benefit of Creditor	Executory Contract Assumed by Debtor?
53	Railinc	12,000.48	12,000.48	-	Yes
54	MRXX Leasing	9,890.79	1,251.29	8,639.50	No
55	Agridyne, LLC.	9,273.24	-	9,273.24	Yes