

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:	:	
	:	CHAPTER 11
	:	
ENCOMPASS SERVICES CORPORATION,	:	Case No. 02-43582
<u>et al.</u>	:	
	:	
Debtors.	:	JOINTLY ADMINISTERED
	:	

**ENCOMPASS SERVICES CORPORATION  
AND ITS AFFILIATED DEBTORS' JOINT DISCLOSURE  
STATEMENT PURSUANT TO SECTION 1125 OF THE BANKRUPTCY CODE**

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Dated: Houston, Texas  
March 5, 2003

## **DISCLAIMER**

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS INCLUDED HEREIN FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE JOINT PLAN OF REORGANIZATION OF ENCOMPASS SERVICES CORPORATION AND ITS AFFILIATED DEBTORS UNDER CHAPTER 11, TITLE 11, UNITED STATES CODE (THE "PLAN"). THE INFORMATION MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN. NO PERSON MAY GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS, OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DISCLOSURE STATEMENT, REGARDING THE PLAN OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN. IN VOTING ON THE PLAN, HOLDERS OF CLAIMS ENTITLED TO VOTE SHOULD NOT RELY ON ANY INFORMATION RELATING TO THE DEBTORS AND THEIR BUSINESSES, OTHER THAN THAT CONTAINED IN THIS DISCLOSURE STATEMENT, THE PLAN AND ALL EXHIBITS HERETO AND THERETO.

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THIS DISCLOSURE STATEMENT, AND THE FINANCIAL PROJECTIONS CONTAINED HEREIN, INCLUDE "FORWARD-LOOKING STATEMENTS." ALL STATEMENTS OTHER THAN STATEMENTS OF HISTORICAL FACT INCLUDED IN THE DISCLOSURE STATEMENT ARE FORWARD-LOOKING STATEMENTS, INCLUDING, WITHOUT LIMITATION, THE STATEMENTS AND THE UNDERLYING ASSUMPTIONS REGARDING THE TIMING OF THE PLAN, THE PAYMENTS OF THE DEBTORS' CURRENT AND FUTURE INDEBTEDNESS AND THE CURRENT AND FUTURE CONDITIONS OF THE DEBTORS' INDUSTRY. THE FORWARD-LOOKING STATEMENTS ARE BASED UPON CURRENT INFORMATION AND EXPECTATIONS. ESTIMATES, FORECASTS AND OTHER STATEMENTS CONTAINED IN OR IMPLIED BY THE FORWARD-LOOKING STATEMENTS SPEAK ONLY AS OF THE DATE ON WHICH THEY ARE MADE, ARE NOT GUARANTEES OF FUTURE PERFORMANCE AND INVOLVE CERTAIN RISKS, UNCERTAINTIES AND ASSUMPTIONS THAT ARE DIFFICULT TO EVALUATE AND PREDICT. NO ASSURANCES CAN BE GIVEN THAT THE EXPECTATIONS REFLECTED IN THE FORWARD-LOOKING STATEMENTS WILL PROVE TO HAVE BEEN CORRECT. CERTAIN IMPORTANT FACTORS THAT COULD CAUSE ACTUAL RESULTS TO DIFFER MATERIALLY FROM THE DEBTORS' EXPECTATIONS OR WHAT IS EXPRESSED, IMPLIED OR FORECASTED BY OR IN THE FORWARD-LOOKING STATEMENTS INCLUDE DEVELOPMENTS IN THE CHAPTER 11 CASES, THE DEBTORS' ABILITY TO SELL CERTAIN ASSETS AND CHANGES IN THE RESIDENTIAL CONSTRUCTION MARKET.

AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON BANKRUPTCY PROCEEDING NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES OR OTHER LEGAL EFFECTS OF THE PLAN AS TO THE HOLDERS OF CLAIMS AGAINST OR EQUITY INTERESTS IN ENCOMPASS SERVICES CORPORATION OR ANY OF ITS AFFILIATED DEBTORS AND DEBTORS-IN-POSSESSION IN THE CHAPTER 11 CASES.

UNLESS OTHERWISE DEFINED IN THE GLOSSARY, WHICH IS ATTACHED HERETO AS ANNEX I, OR ELSEWHERE IN THIS DISCLOSURE STATEMENT, CAPITALIZED TERMS USED HEREIN HAVE THE MEANINGS ASCRIBED TO THEM IN THE PLAN.

FOR PURPOSES OF THIS DISCLOSURE STATEMENT, THE FOLLOWING RULES OF INTERPRETATION SHALL APPLY: (I) WHENEVER THE WORDS "INCLUDE", "INCLUDES" OR "INCLUDING" ARE USED THEY SHALL BE DEEMED TO BE FOLLOWED BY THE WORDS "WITHOUT LIMITATION;" (II) THE WORDS "HEREOF", "HEREIN", "HEREBY" AND "HEREUNDER" AND WORDS OF SIMILAR IMPORT SHALL REFER TO THIS DISCLOSURE STATEMENT AS A WHOLE AND NOT TO ANY PARTICULAR PROVISION, (III) SECTION AND EXHIBIT REFERENCES ARE TO THIS DISCLOSURE STATEMENT UNLESS OTHERWISE SPECIFIED, AND (IV) WITH RESPECT TO ANY DISTRIBUTION UNDER THE PLAN, "ON" A DATE MEANS ON OR AS SOON AS REASONABLY PRACTICABLE THEREAFTER.

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**DISCLOSURE STATEMENT WITH RESPECT TO JOINT PLAN OF REORGANIZATION OF  
ENCOMPASS SERVICES CORPORATION AND ITS AFFILIATED DEBTORS UNDER  
CHAPTER 11 OF THE BANKRUPTCY CODE**

**I. INTRODUCTION AND EXECUTIVE SUMMARY**

**A. General**

The Debtors submit this Disclosure Statement pursuant to section 1125 of the Bankruptcy Code, for use in the solicitation of votes on the Plan. A copy of the Plan is attached as Exhibit A to this Disclosure Statement. All initially capitalized terms not defined in this Disclosure Statement have the meanings ascribed to such terms in the Plan.

On \_\_\_\_\_, 2003, after notice and a hearing, the Bankruptcy Court approved this Disclosure Statement as containing information, in a kind and in sufficient detail, adequate to enable hypothetical, reasonable investors typical of the holders of Claims against and Equity Interests in the Debtors to make an informed judgment with respect to acceptance or rejection of the Plan. APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT, HOWEVER, CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT AS TO THE FAIRNESS OR MERITS OF THE PLAN. No solicitation of votes may be made except pursuant to this Disclosure Statement. In voting on the Plan, holders of Claims entitled to vote should not rely on any information relating to the Debtors and their businesses, other than that contained in this Disclosure Statement, the Plan and all exhibits hereto and thereto.

Pursuant to the provisions of the Bankruptcy Code, only classes of Claims or Equity Interests that are (i) “impaired” by the Plan and (ii) entitled to receive a distribution under the Plan are entitled to vote to accept or reject the Plan. In the Debtors’ cases, only holders of Claims in Classes 4, 5, 6, 7 and 8 are entitled to vote on the Plan because only Classes 4, 5, 6, 7 and 8 are impaired by and entitled to receive a distribution under the Plan. Holders of Claims in Classes 1, 2 and 3, which are unimpaired by the Plan, are conclusively presumed to have accepted the Plan, and holders of Claims or Equity Interests in Classes 9, 10 and 11, which receive nothing under the Plan, are conclusively presumed to have rejected the Plan.

Notwithstanding the foregoing, only holders of Allowed Claims in the voting Classes are entitled to vote on the Plan. A Claim that is unliquidated, contingent or disputed is not an Allowed Claim and is not entitled to vote unless and until the amount is estimated or determined, or the dispute is determined, resolved or adjudicated in the Bankruptcy Court or another court of competent jurisdiction, or pursuant to agreement with the Debtors. The holder of a Claim that is unliquidated, contingent or disputed may obtain an order of the Bankruptcy Court temporarily allowing the Claim for the purpose of voting on the Plan.

The following is a brief overview of the material provisions of the Plan and is qualified in its entirety by reference to the full text of the Plan. For a more detailed description of the terms and provisions of the Plan, see Article IV — “SUMMARY OF THE PLAN.”

For purposes of voting, confirmation and distribution, the Plan is premised upon the consolidation of all of the Debtors. Entry of the Confirmation Order will constitute the approval, effective as of the Effective Date, of the consolidation of the Chapter 11 Cases of the Debtors for all purposes related to the Plan, including, without limitation, for purposes of voting, confirmation and distribution, but excluding the transactions contemplated by the Purchase Agreement. Pursuant to such order, (i) except for the Residential Debtors, each Debtor’s assets and liabilities will be merged and pooled with the assets and liabilities of each of the other Debtors, (ii) no distributions will be made under the Plan on account of Intercompany Claims held by the Debtors, (iii) all guarantees of the Debtors of the obligations of any other Debtor will be deemed eliminated so that any Claim against any Debtor and any guarantee thereof executed by any other Debtor and any joint and several liability of any of the Debtors will be deemed to be one obligation of the consolidated Debtors and (iv) each and every Claim filed or to be filed in the Chapter 11 Case of any Debtor will be deemed filed against the consolidated Debtors, and will be deemed one Claim against, and obligation of, the consolidated Debtors. Such substantive consolidation will not (other than for purposes related to the Plan) affect (i) the legal and corporate structures of the Reorganized Debtors, (ii) pre- and post-Petition Date guarantees that are required to be maintained in connection with executory contracts or unexpired leases that were entered into during the Chapter 11 Cases or that have or will be assumed or pursuant to the Plan, or (iii) any term or provision of the Purchase Agreement (including, without limitation, any provision thereof limiting the post-Effective Date liabilities of the Reorganized Residential Debtors).

The Plan generally provides for the reorganization of the Debtors in two distinct groups: (i) the Reorganized Residential Debtors, as transferred and conveyed to the Buyer and (ii) the Reorganized Non-Residential Debtors, in respect of which Reorganized

Encompass will appoint, with the consent of the holders of Existing Credit Agreement Claims, the Disbursing Agent on the Effective Date. The Reorganized Non-Residential Debtors will consist of Reorganized Encompass and those Debtors whose assets have been largely sold prior to the Confirmation Date and who will generally cease operating their businesses on or before the Effective Date. The Reorganized Residential Debtors will consist of those Debtors who will generally continue operating their businesses on and after the Effective Date.

On the Effective Date, all of Encompass's Existing Common Stock, Existing Preferred Stock, Existing Other Equity Interests, Senior Subordinated Notes and Junior Subordinated Notes will be cancelled and of no further force and effect and the obligations of the Debtors under such securities and under Encompass's certificate of incorporation, any agreements, indentures or certificates of designations governing such securities will be terminated and discharged (other than permitting an indenture trustee, agent or servicer to maintain any rights it may have for fees, costs and expenses under an applicable indenture or agreement).

On the Effective Date, Reorganized Encompass will issue new shares of common stock to the Disbursing Agent and the Disbursing Agent shall hold such common stock in furtherance of its performance of its obligations in connection with its winding up of the businesses, assets, properties and affairs of the Non-Residential Debtors. Such shares of common stock of Reorganized Encompass will be held in trust by the Disbursing Agent for the benefit of holders of Claims against the Debtors.

On the Effective Date, Reorganized Encompass will continue to own the outstanding Equity Interests in each of the other Reorganized Non-Residential Debtors. Upon Confirmation and consummation of the Plan, the Reorganized Non-Residential Debtors will continue to exist for the limited purpose of winding up their affairs and assisting the Disbursing Agent in effectuating the duties and obligations set forth in the Plan. The Disbursing Agent will be appointed, with the consent of the holders of Existing Credit Agreement Claims, by Reorganized Encompass on the Effective Date. The Disbursing Agent will have the rights and powers of a debtor-in-possession under section 1107 of the Bankruptcy Code and such other rights, powers and duties incident to causing the performance of the Debtors' and the Reorganized Debtors' obligations under the Plan, including, without limitation, the duty to assess the merits of Claims and object to those Claims that the Disbursing Agent determines to be, in whole or in part, without merit, to prosecute such objections and defend Claims and counterclaims asserted in connection therewith, to prosecute causes of action, to liquidate Estate assets, to wind up the businesses, assets, properties and affairs of the Non-Residential Debtors, to make distributions under the Plan and such other duties as are necessary to effectuate the provisions of the Plan. The Disbursing Agent will continue to exist until entry of a Final Order by the Bankruptcy Court closing the Chapter 11 Cases. As soon as practicable after the final distribution is made and all Cash has been distributed or paid, the Disbursing Agent will seek entry of a Final Order closing the Chapter 11 Cases pursuant to section 350 of the Bankruptcy Code.

The property of each Non-Residential Debtor, together with any property of each Non-Residential Debtor that is not property of its Estate and that is not specifically disposed of pursuant to the Plan, will revert in the applicable Non-Residential Debtor on the Effective Date; *provided, however*, that the holders of the Existing Credit Agreement Claims will retain Liens on the property that reverts and such property will be treated in accordance with the terms of the Plan. Following the Effective Date, the Reorganized Non-Residential Debtors will continue to exist until such time as they are dissolved under applicable law. The Reorganized Non-Residential Debtors will not engage in any new business or incur new liabilities, except as is necessary to assist the Disbursing Agent in effectuating the duties and obligations set forth in the Plan.

As of the Effective Date, pursuant to the Plan and the Purchase Agreement, the equity interests of each Reorganized Residential Debtor will be transferred and conveyed to the Buyer, and, in exchange therefor, the Buyer will pay the Purchase Price in accordance with the terms of the Purchase Agreement. The Buyer shall be an entity (for purposes hereof, "Newco Holding LLC") formed by by Wellspring and the Management Group for the purpose of acquiring, directly or indirectly, all of the equity interests of the Reorganized Residential Debtors pursuant to the Purchase Agreement. The Purchase Price will comprise a portion of the Asset Sale Proceeds and will be distributed in accordance with the terms of the Plan. Confirmation of the Plan by the Bankruptcy Court will constitute approval of the proposed sale of the Reorganized Residential Debtors' Common Stock to the Buyer and, on and after the Effective Date, the Reorganized Residential Debtors' Common Stock and all assets of the Reorganized Residential Debtors, other than as specifically set forth in the Purchase Agreement, will be purchased by and vested in the Buyer free and clear of all Claims, Equity Interests, Liens, charges, encumbrances and all other rights arising on or before the Effective Date. The issuance, grant and reservation of the Reorganized Residential Debtors' Common Stock authorized under the Plan will not require any further act or action by or among other Persons, any shareholders or creditors of Encompass, under applicable law, regulation, order or rule.

On or after the Effective Date, Newco Holding LLC and/or one or more of the Reorganized Residential Debtors may enter into such other or further debt or equity financings as they deem necessary or appropriate for the Reorganized Residential Debtors' working capital and other general operating needs.

Notwithstanding anything in the Plan to the contrary, the property of each Residential Debtor's Estate, together with any property of each Residential Debtor that is not property of its Estate and that is not specifically disposed of pursuant to the Plan, will revert in the applicable Reorganized Residential Debtor on the Effective Date and the Reorganized Residential Debtors' Common Stock will be sold to Newco Holding LLC pursuant to the Purchase Agreement. Thereafter, the Reorganized Residential Debtors may operate their businesses and may use, acquire and dispose of property free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules and the Bankruptcy Court. As of the Effective Date, all property of the Reorganized Residential Debtors, including the Reorganized Residential Debtors' Common Stock held by Newco Holding LLC, will be free and clear of all Claims, encumbrances, Equity Interests, charges and Liens except as specifically provided in the Purchase Agreement.

This Disclosure Statement sets forth certain information regarding the Debtors' prepetition operating and financial history, their need to seek chapter 11 protection, significant events that have occurred during the Chapter 11 Cases and the anticipated organization of the Reorganized Debtors upon emergence from chapter 11. 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, the manner in which distributions will be made under the Plan and the Confirmation process and voting procedures that holders of Claims entitled to vote under the Plan must follow for their votes to be counted.

## **B. Summary of Classification and Treatment of Claims and Equity Interests Under the Plan**

Under the Plan, Claims against and Equity Interests in the Debtors are divided into Classes. Certain Claims, including Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims and Allowed Secured Tax Claims will receive payment in full in Cash on the Initial Distribution Date or as soon thereafter as reasonably practicable, as such Claims are liquidated, or in installments over time, as permitted by the Bankruptcy Code, or as agreed with the holders of such Claims. All other Allowed Claims and Equity Interests will receive the distributions and recoveries (if any) described in the table below.

The table below summarizes the classification and treatment of the prepetition Claims and Equity Interests under the Plan.

The amount of non-ordinary course Administrative Expense Claims that will be outstanding and remaining to be paid on or after the Effective Date (including professional fees which will be paid, in part, during the Chapter 11 Cases pursuant to Bankruptcy Court orders, but excluding normal postpetition trade payables) is estimated to be \$[\_\_\_\_\_] million.

For certain Classes of Claims, the actual amounts of Allowed Claims could materially exceed or could be materially less than the estimated amounts shown in the table that follows. The Debtors have not yet reviewed and analyzed all Proofs of Claim filed in the Chapter 11 Cases. Estimated Claim amounts for each Class set forth below are based upon the Debtors' review of their books and records and certain Proofs of Claim, and include estimates of a number of Claims that are contingent, disputed and/or unliquidated. With respect to Classes 5, 6, 7 and 8, if the aggregate amount of Surety Claims, Convenience Claims, General Unsecured Claims and/or Litigation Claims that are ultimately Allowed exceeds the Debtors' estimate, the estimated percentage recovery set forth below for holders of Claims in Classes 5, 6, 7 and 8 would be reduced. Accordingly, no representation can be or is being made with respect to whether the estimated percentage recoveries shown in the table for Classes 5, 6, 7 and 8 will actually be realized by the holders of Allowed Claims in those Classes.

The Plan assumes a range of after-tax net proceeds from the Buyer's investment in the Reorganized Residential Debtors and the divestiture of the Reorganized Non-Residential Debtors of between \$[\_\_\_\_\_] million and \$[\_\_\_\_\_] million, with a midpoint of \$[\_\_\_\_\_]. [The foregoing valuations and the estimated percentage recoveries set forth in the table below are based on numerous assumptions as discussed in Section VII.D— "CONFIRMATION OF THE PLAN — VALUATION OF THE REORGANIZED DEBTORS".]

The following tabular summary of classifications and treatments of Claims and Equity Interests under the Plan is qualified in its entirety by reference to the provisions of the Plan.

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<u>Class Description</u>	<u>Treatment Under the Plan</u>	<u>Recovery %</u>
Administrative Expense Claims	<p>On the latest of (i) the Effective Date, (ii) the date on which its Administrative Expense Claim becomes an Allowed Administrative Expense Claim, and (iii) the date on which its Administrative Expense Claim becomes payable under any agreement relating thereto, or, in each case, as soon as practicable thereafter, each holder of an Allowed Administrative Expense Claim will receive in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Administrative Expense Claim, Cash equal to the unpaid portion of its Allowed Administrative Expense Claim. Notwithstanding the foregoing, (a) any Allowed Administrative Expense Claim based on a liability incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases will be paid in the ordinary course of business, in accordance with the terms and conditions of any agreement relating thereto and (b) any Allowed Administrative Expense Claim may be paid on such other terms as may be agreed on between the holder of such Claim and the Debtors.</p> <p>Pursuant to section 1123(a)(1) of the Bankruptcy Code, <u>holders of Administrative Expense Claims are not entitled to vote.</u></p>	100%

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<u>Class Description</u>	<u>Treatment Under the Plan</u>	<u>Recovery %</u>
Priority Tax Claims	<p>On the later of (i) the Effective Date and (ii) the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, or, in each case, as soon as practicable thereafter, each holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Priority Tax Claim, in the sole discretion of the Debtors or the Reorganized Debtors, (a) Cash in an amount equal to such Allowed Priority Tax Claim, (b) deferred Cash payments over a period not exceeding six years after the date of assessment of such Allowed Priority Tax Claim, of a value, as of the Effective Date, equal to such Allowed Priority Tax Claim, or (c) such other treatment as to which the Debtors or the Reorganized Debtors and such holder will have agreed upon in writing; <i>provided, however</i>, that no holder of an Allowed Priority Tax Claim will be entitled to any payments on account of any pre-Effective Date interest accrued on or penalty arising after the Petition Date with respect to or in connection with such Allowed Priority Tax Claim.</p> <p>Pursuant to section 1123(a)(1) of the Bankruptcy Code, <u>holders of Priority Tax Claims are not entitled to vote.</u></p>	100%

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<u>Class Description</u>	<u>Treatment Under the Plan</u>	<u>Recovery %</u>
Class 1		100%
Other Priority Claims	<p>On the later of (i) the Effective Date and (ii) the date on which its Other Priority Claim becomes an Allowed Other Priority Claim, or, in each case, as soon as practicable thereafter, each holder of an Allowed Other Priority Claim will receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Other Priority Claim, Cash equal to the full amount of its Allowed Other Priority Claim.</p> <p>Holders of Other Priority Claims are unimpaired, are deemed to have accepted the Plan, and <u>are not entitled to vote.</u></p>	



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<u>Class Description</u>	<u>Treatment Under the Plan</u>	<u>Recovery %</u>
Class 2		100%
Secured Tax Claims	<p>Except to the extent that a holder of an Allowed Secured Tax Claim has been paid by the Debtors prior to the Effective Date or agrees to a different treatment, each holder of an Allowed Secured Tax Claim will receive, at the sole option of the Reorganized Debtors, (i) Cash in the amount of such Allowed Secured Tax Claim, including any interest required by section 506(b) of the Bankruptcy Code, on the later of the Effective Date or the date on which such Allowed Secured Tax Claim becomes an Allowed Secured Tax Claim, or, in each case, as soon thereafter as is practicable, or (ii) equal annual Cash payments in an aggregate amount equal to such Allowed Secured Tax Claim, together with interest at a fixed annual rate equal to 6.0% over a period through the sixth anniversary of the date of assessment of such Allowed Secured Tax Claim, or upon such other terms determined by the Bankruptcy Court to provide the holder of such Allowed Secured Tax Claim deferred Cash payments having a value, as of the Effective Date, equal to such Allowed Secured Tax Claim.</p> <p>Holders of Other Secured Claims are unimpaired, are deemed to have accepted the Plan, and <u>are not entitled to vote</u>.</p>	

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<u>Class Description</u>	<u>Treatment Under the Plan</u>	<u>Recovery %</u>
Class 3		100%
Other Secured Claims	<p>Except to the extent that a holder of an Allowed Other Secured Claim agrees to a different treatment, at the sole option of the Debtors or the Reorganized Debtors, (i) each Allowed Other Secured Claim will be reinstated and rendered unimpaired pursuant to section 1124 of the Bankruptcy Code, notwithstanding any contractual provision or applicable nonbankruptcy law that entitles the holder of an Allowed Other Secured Claim to demand or receive payment prior to the stated maturity of such Allowed Other Secured Claim from and after the occurrence of a default; (ii) each holder of an Allowed Other Secured Claim will receive Cash in an amount equal to such Allowed Other Secured Claim, including any interest on such Allowed Other Secured Claim required to be paid pursuant to section 506(b) of the Bankruptcy Code, on the later of the Effective Date and the date such Allowed Other Secured Claim becomes an Allowed Other Secured Claim or, in each case, as soon thereafter as is practicable, or (iii) the holder of an Allowed Other Secured Claim will receive possession of the Collateral securing its Allowed Other Secured Claim in full and complete satisfaction of such Allowed Other Secured Claim on the later of the Effective Date and the date such Allowed Other Secured Claim becomes an Allowed Other Secured Claim or, in each case, as soon thereafter as is practicable.</p> <p>Each holder of an Allowed Other Secured Claim receiving the treatment specified in clause (ii) or (iii) of the preceding paragraph will have a Deficiency Claim to the extent the value of the Collateral securing its Allowed Other Secured Claim is less than amount of its Allowed Other Secured Claim.</p> <p>Holders of Other Secured Claims are unimpaired, are deemed to have accepted the Plan, and <u>are not entitled to vote</u>.</p>	

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<u>Class Description</u>	<u>Treatment Under the Plan</u>	<u>Recovery %</u> [_____%]
Class 4	On the later of (i) the Effective Date and (ii) the date on which its Existing Credit Agreement Claim becomes an Allowed Existing Credit Agreement Claim, or, in each case, as soon as practicable thereafter, each holder of an Allowed Existing Credit Agreement Claim will receive, in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Existing Credit Agreement Claim a Pro Rata share of (i) the Asset Sale Proceeds, (ii) the proceeds of all Postpetition Collateral and (iii) the proceeds of the Prepetition Collateral, including the proceeds of the Prepetition Collateral that are collected after the Confirmation Date.	
Existing Credit Agreement Claims		
<i>Estimated Amount:</i> \$[578.4] million		
<i>Estimated Issued and Undrawn Letters of Credit:</i> \$[22.6] million		
	Each holder of an Allowed Existing Credit Agreement Claim receiving the treatment specified in the preceding paragraph will have a Deficiency Claim to the extent the value of the Collateral securing its Allowed Existing Credit Agreement Claim is less than the amount of its Allowed Existing Credit Agreement Claim.	
	Holders of Existing Credit Agreement Claims are <u>Impaired and entitled to vote.</u>	

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<u>Class Description</u>	<u>Treatment Under the Plan</u>	<u>Recovery %</u> [_____%]
Class 5	Except to the extent that the holder of an Allowed Surety Claim has been paid by the Debtors prior to the Effective Date, the holder of an Allowed Surety Claim will receive on account of such holder's Allowed Surety Claim and in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Surety Claim all equitable subrogation and other legal and equitable rights against the Debtors, the Reorganized Debtors and the Bonded Collateral arising under the Surety Agreements, the Bonded Contracts and applicable law; <i>provided, however</i> , that except for cross-indemnity obligations arising under a Bond under which a Residential Debtor is the principal and primary indemnitor, the Residential Debtors will be released from all Bonded Obligations, including all Claims related to cross-indemnities.	
Surety Claims		
<i>Estimated Amount:</i> \$[_____]		
	Holders of Surety Claims are <u>Impaired and entitled to vote.</u>	

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<u>Class Description</u>	<u>Treatment Under the Plan</u>	<u>Recovery %</u>
Class 6	Except to the extent that the holder of an Allowed Convenience Claim has been paid by the Debtors prior to the Effective Date pursuant to the Critical Vendor Order or otherwise or such holder agrees to a different treatment, the holder of an Allowed Convenience Claim will receive on account of such holder's Allowed Convenience Claim and in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Convenience Claim the lesser of (i) one-half of such holder's Allowed Convenience Claim and (ii) a Pro Rata share of the Convenience Class Distribution.	[_____%]
Convenience Claims		
<i>Estimated Amount:</i> \$[_____]		
	<p>Holders of Convenience Claims are <u>Impaired and entitled to vote</u>.</p>	

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<u>Class Description</u>	<u>Treatment Under the Plan</u>	<u>Recovery %</u>
Class 7	Except to the extent that the holder of an Allowed General Unsecured Claim has been paid by the Debtors prior to the Effective Date pursuant to the Critical Vendor Order or otherwise or such holder agrees to a different treatment, the holder of an Allowed General Unsecured Claim will receive on account of such holder's Allowed General Unsecured Claim and in full satisfaction, settlement, release and discharge of and in exchange for such Allowed General Unsecured Claim such holder's Pro Rata share of the Class 7 Distribution; <i>provided, however</i> , that the Pro Rata share of the Class 7 Distribution allocated to the holders of Allowed Junior Subordinated Note Claims and Allowed Senior Subordinated Note Claims will, prior to the distribution of any such property, be reallocated and distributed Pro Rata to the Senior Lenders holding Allowed General Unsecured Claims.	[_____%]
General Unsecured Claims		
<i>Estimated Amount:</i> \$[_____]		
	<p>Holders of General Unsecured Claims are <u>Impaired and entitled to vote</u>.</p>	

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<u>Class Description</u>	<u>Treatment Under the Plan</u>	<u>Recovery %</u>
Class 8		[_____%]
Litigation Claims	<p>If and when a Litigation Claim becomes an Allowed Litigation Claim, proceeds from any Insurance Policy which become payable as a consequence of such allowance will be disbursed by the insurer which is obligated to pay such insurance proceeds to the holder of such Allowed Litigation Claim. If the proceeds of an Insurance Policy become payable as a consequence of the allowance of a Litigation Claim, and the Insurance Policy (or Insurance Policies) providing coverage for the Allowed Litigation Claim contains a retention (deductible) that has not been paid by the Debtors on or before the Effective Date, then, and in such event, (i) the amount of Insurance Policy proceeds payable by an insurer to the holder of the Allowed Litigation Claim will be reduced by the amount of the unpaid retention and (ii) the holder of the Allowed Litigation Claim will hold an Allowed General Unsecured Claim in the amount of such unpaid retention. Notwithstanding any provision in the Plan to the contrary, if it is determined that all or any portion of an Allowed Litigation Claim is not an Allowed Insured Claim, then the holder of such Allowed Litigation Claim will hold an Allowed General Unsecured Claim for that portion of the Allowed Litigation Claim which is not an Allowed Insured Claim.</p> <p>Holders of Litigation Claims are <u>Impaired and entitled to vote</u>.</p>	

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<u>Class Description</u>	<u>Treatment Under the Plan</u>	<u>Recovery %</u>
Class 9		0%
Existing Preferred Stock	<p>On the Effective Date, all Existing Preferred Stock and the accrued and unpaid dividends thereon will be cancelled, and the holders of Existing Preferred Stock will not receive or retain any property on account of their Existing Preferred Stock.</p> <p>Holders of Existing Preferred Stock are Impaired, are deemed to have rejected the Plan, and <u>are not entitled to vote</u>.</p>	

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<u>Class Description</u>	<u>Treatment Under the Plan</u>	<u>Recovery %</u>
Class 10	On the Effective Date, all Existing Common Stock will be cancelled, and the holders of Existing Common Stock and Section 510(b) Claims will not receive or retain any property on account of their Existing Common Stock and/or Section 510(b) Claims.	0%
Existing Common Stock and Section 510(b) Claims	<p>Holders of Existing Common Stock and Section 510(b) Claims against the Debtors are Impaired, are deemed to have rejected the Plan, and <u>are not entitled to vote.</u></p>	

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<u>Class Description</u>	<u>Treatment Under the Plan</u>	<u>Recovery %</u>
Class 11	On the Effective Date, all Existing Other Equity Interests will be cancelled, and the holders of Existing Other Equity Interests will not receive or retain any property on account of their Existing Other Equity Interests.	0%
Existing Other Equity Interests	<p>Holders of Existing Other Equity Interests are Impaired, are deemed to have rejected the Plan, and <u>are not entitled to vote.</u></p>	

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### C. The Confirmation Hearing

Pursuant to section 1128 of the Bankruptcy Code, the Confirmation Hearing will be held on May 21, 2003 at \_\_:\_\_ .m., Central time, before the Honorable William R. Greendyke, United States Bankruptcy Judge, at the Bankruptcy Court. The Bankruptcy Court has directed that objections, if any, to Confirmation of the Plan be served and filed so that they are received on or before May 15, 2003 at \_\_:\_\_ .m., Central Time, in the manner described below in Article VII — “CONFIRMATION OF THE PLAN.” The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for the announcement of the adjournment date made at the Confirmation Hearing or at any subsequent adjourned Confirmation Hearing.

To become effective, the Plan must be accepted by the holders of certain classes of Claims, and it must be confirmed by order of the Bankruptcy Court. Under the Bankruptcy Code, a class of Claims has accepted a plan of reorganization if the holders of at least two-thirds in amount, and more than one-half in number, of the Claims of that class actually voting have voted to accept such plan. For a more detailed discussion of acceptance and confirmation of the Plan, see Article VII — “CONFIRMATION OF THE PLAN” and Article X — “VOTING PROCEDURES AND REQUIREMENTS.”

### D. Summary of Voting Procedures

If you are entitled to vote to accept or reject the Plan, a Ballot is enclosed for the purpose of voting on the Plan. If you hold Claims in more than one Class and are entitled to vote Claims in more than one Class, you will receive separate Ballots that must be used for each separate Class of Claims.

IN ORDER FOR YOUR VOTE TO BE COUNTED, YOUR BALLOT MUST BE PROPERLY COMPLETED AND RECEIVED NO LATER THAN \_\_:\_\_ P.M., EASTERN TIME, ON \_\_\_\_\_, 2003. BALLOTS THAT ARE RECEIVED BUT DO NOT CONTAIN AN ORIGINAL SIGNATURE WILL NOT BE COUNTED. BALLOTS THAT CONTAIN AN ORIGINAL SIGNATURE BUT DO NOT SPECIFY WHETHER THE HOLDER ACCEPTS OR REJECTS THE PLAN WILL BE COUNTED AS AN ACCEPTANCE.

If you are a holder of a Claim entitled to vote on the Plan and did not receive a Ballot, received a damaged Ballot or lost your Ballot, or if you have any questions concerning this Disclosure Statement, the Plan or the procedures for voting on the Plan, please contact the Solicitation Agent at [Innisfree M&A Incorporated, 501 Madison Avenue, 20th Floor, New York, New York 10022, Telephone: (877) 750-2689 (Banks and Brokers call (212) 750-5833)]. For further information on voting procedures, see Article X — “VOTING PROCEDURES AND REQUIREMENTS.”

## **E. Recommendation**

In light of the benefits to be attained by the holders of Eligible Claims pursuant to the transactions contemplated by the Plan, the Debtors recommend that such holders of Eligible Claims vote to accept the Plan. The Debtors have reached this decision after considering the alternatives to the Plan that are available to the Debtors and the likely effect on the Debtors’ business operations, creditors and shareholders of such alternatives. These alternatives include liquidation under chapter 7 of the Bankruptcy Code. The Debtors’ boards of directors determined, after consulting with financial and legal advisors, that the Plan would result in a distribution of greater values to creditors and shareholders than would a liquidation under chapter 7. For a comparison of estimated distributions under chapter 7 of the Bankruptcy Code and under the Plan, see Sections VIII.B.4 and VIII.C — “CONFIRMATION OF THE PLAN — BEST INTERESTS TEST” AND “— LIQUIDATION ANALYSIS.” For these reasons, the Debtors’ urge all holders of Eligible Claims to accept and support the Plan.

## **II. GENERAL INFORMATION REGARDING THE DEBTORS**

### **A. Background**

As of the Petition Date, Encompass, a Texas corporation formed in 1997, was one of the largest providers of facilities systems and solutions in the United States. With revenues of approximately \$3.8 billion in 2001 and revenues in excess of \$1.75 billion in 2002, Encompass provides electrical and mechanical services to commercial, industrial and residential customers nationwide, including construction, installation and maintenance. Prior to the commencement of the Chapter 11 Cases, Encompass had operations, through its subsidiary business units, in over 200 locations, serving customers in all 50 states and in each of the 100 largest cities in the United States. Encompass, through its Subsidiaries, provided services at such time primarily through three operating business segments: (i) Commercial/Industrial Services, (ii) Residential Services and (iii) Cleaning Systems.

Encompass was originally founded as Group Maintenance America Corp. On February 22, 2000, Building One Services Corporation merged with and into Group Maintenance America Corp. and the merged company then changed its name to Encompass Services Corporation. The merger with Building One Services Corporation was accounted for as a “reverse acquisition” under generally accepted accounting principles. Accordingly, the financial statements and other information provided herewith for periods prior to the merger reflect the historical results of Building One Services Corporation rather than Encompass as a stand-alone entity.

Encompass’s executive offices are located in leased office space at 3 Greenway Plaza, Suite 2000, Houston, Texas 77046. As of the date hereof, Encompass conducts its business from approximately 50 facilities, substantially all of which are leased under agreements with remaining terms up to 14 years from the date hereof. The number of facilities from which Encompass conducts its business continues to decrease during the pendency of the Chapter 11 Cases.

Encompass conducts its business operations through its Subsidiaries, all of which are directly or indirectly wholly owned by Encompass. Encompass and each of the Subsidiaries keep their books and records and accounts based on annual accounting periods ending on December 31 of each year. Accordingly, all references in this Disclosure Statement to a particular fiscal year refer to the 12-month period ending on December 31 of that year.

Additional information concerning the Debtors and their financial condition and results of operations on a consolidated basis, including information relating to critical accounting policies of the Debtors, is set forth in the Debtors’ recent periodic Securities and Exchange Commission filings attached hereto as Exhibits B-1, B-2, B-3 and B-4. Nevertheless, such information about the Debtors’ financial condition and results of operations is unreliable as an indication of current and future prospects in many important respects because such information does not include periods in which the Debtors have been operating during the pendency of the Chapter 11 Cases. Such information is helpful, however, to indicate the correlation between the historical results of operation between the Residential Debtors and Non-Residential Debtors.

## **B. Operating Structure**

As of the Petition Date, Encompass had three reportable segments: (i) Commercial/Industrial Services, (ii) Residential Services and (iii) Cleaning Systems. During the Chapter 11 Cases, Encompass divested itself of the Cleaning Systems group. The Cleaning Systems group was engaged in the provision of a wide variety of facility cleaning and maintenance management services nationwide.

Encompass's remaining reportable segments are strategic business units that generally offer products and services to distinct customer groups. They are managed separately because each segment requires different operating and marketing strategies.

The Commercial/Industrial Services group, which comprises the Non-Residential Debtors and is an aggregation of six operating segments organized geographically, provides installation, maintenance and repair services to the electrical, heating, ventilation and air conditioning ("HVAC"), plumbing, control and monitoring and process piping systems of commercial and industrial facilities. Prior to the Petition Date, the Commercial/Industrial Services group accounted for approximately 80% of Encompass revenues.

As part of the reorganization of the Debtors, the Plan contemplates the sale of all or substantially all of the assets relating to the Commercial/Industrial Services group and the winding up of the Commercial/Industrial Services group as operated by Encompass.

The Plan contemplates the Buyer's acquisition of each operating entity of the Residential Services group, the Residential Debtors, under the terms of the Purchase Agreement. The Residential Services group provides mechanical, plumbing and other contracting services primarily in single family and low-rise multifamily housing units and small commercial buildings. The Residential Services group's services includes both maintenance, repair and replacement work and work relating to new construction. In 2002, work relating to new construction represented approximately 80% of the Residential Services group's revenues.

The following table sets forth in a comparative format certain financial information and results of operations for each of the three reportable segments as of September 30, 2002 (compared against information and results as of September 30, 2001) and sets forth additional information to show the relationship of such information and results for the applicable reportable segment to the information and results of Encompass as a whole.



(Unaudited)

	Commercial/ Industrial Services	Residential Services	Cleaning Systems (in thousands)	Corporate	Total
THREE MONTHS ENDED SEPTEMBER 30, 2002:					
Total revenues.....	\$ 679,605	\$ 87,386	\$ 71,612	\$ --	\$ 838,603
Operating costs.....	<u>678,961</u>	<u>78,401</u>	<u>69,761</u>	<u>5,018</u>	<u>832,141</u>
Segment operating earnings.....	<u>\$ 644</u>	<u>\$ 8,985</u>	<u>\$ 1,851</u>	<u>\$ (5,018)</u>	6,462
Goodwill impairment.....					690,853
Restructuring and other charges.....					<u>8,701</u>
Operating loss.....					<u>\$ (693,092)</u>
Capital expenditures.....	\$ 1,039	\$ 106	\$ 689	\$ 609	\$ 2,443
Depreciation and amortization.....	5,402	503	2,002	1,463	9,370
THREE MONTHS ENDED SEPTEMBER 30, 2001:					
Total revenues.....	\$ 749,252	\$ 85,457	\$ 77,609	\$ --	\$ 912,318
Operating costs.....	<u>748,140</u>	<u>77,706</u>	<u>72,909</u>	<u>\$ 1,513</u>	<u>\$ 900,268</u>
Segment operating earnings.....	<u>\$ 1,112</u>	<u>\$ 7,751</u>	<u>\$ 4,700</u>	<u>\$ (1,513)</u>	12,050
Amortization of goodwill.....					<u>8,985</u>
Operating income.....					<u>\$ 3,065</u>
Capital expenditures.....	\$ 4,629	\$ 1,956	\$ 6,024	\$ 3,041	\$ 15,650
Depreciation and other amortization ....	6,056	568	1,293	901	8,818
NINE MONTHS ENDED SEPTEMBER 30, 2002:					
Total revenues.....	\$ 2,083,820	\$ 250,352	\$ 220,315	\$ --	\$ 2,554,487
Operating costs.....	<u>2,061,102</u>	<u>225,710</u>	<u>220,577</u>	<u>8,728</u>	<u>2,516,117</u>
Segment operating earnings.....	<u>\$ 22,718</u>	<u>\$ 24,642</u>	<u>\$ (262)</u>	<u>\$ (8,728)</u>	38,370
Goodwill impairment.....					690,853
Restructuring and other charges.....					<u>8,701</u>
Operating loss.....					<u>\$ (661,184)</u>
Capital expenditures.....	\$ 2,879	\$ 2,947	\$ 3,243	\$ 1,169	\$ 10,238
Depreciation and amortization.....	17,167	1,607	4,923	4,320	28,017
NINE MONTHS ENDED SEPTEMBER 30, 2001:					
Total revenues.....	\$ 2,419,505	\$ 246,826	\$ 216,485	\$ --	\$ 2,882,816
Operating costs.....	<u>2,318,644</u>	<u>224,699</u>	<u>204,618</u>	<u>8,378</u>	<u>2,756,339</u>
Segment operating earnings.....	<u>\$ 100,861</u>	<u>\$ 22,127</u>	<u>\$ 11,867</u>	<u>\$ (8,378)</u>	126,477
Amortization of goodwill.....					<u>26,976</u>
Operating income.....					<u>\$ 99,501</u>
Capital expenditures.....	\$ 16,576	\$ 2,755	\$ 8,273	\$ 4,325	\$ 31,929
Depreciation and other amortization ....	18,326	1,734	3,714	2,282	26,056
TOTAL ASSETS:					
As of September 30, 2002.....	\$ 791,376	\$ 148,626	\$ 53,711	\$ 240,421	\$ 1,234,134
As of December 31, 2001 .....	1,980,868	148,394	148,740	123,324	2,401,326

## C. Management and Employees

### 1. The Board of Directors

The board of directors of Encompass oversees Encompass's management, reviews its long-term strategic plans and exercises direct decision making authority in key areas. As of the date hereof, the following individuals comprise the board of directors.

*Michael F. Gries.* Mr. Gries, age 48, has been a director and Chairman of the board of directors of Encompass since 2002. He was appointed the Chief Restructuring Officer of Encompass in October 2002. He is the one of the founders of the financial advisory firm of Conway, Del Genio, Gries & Co., LLC and has, for over 20 years, specialized in providing business and financial advice to companies, investors and other parties in both distressed and turnaround situations in diverse domestic and international businesses, including in industries such as heavy industrial products, light manufacturing, construction, retail, advertising, newspaper publishing and broadcasting.

*Andrew Africk.* Mr. Africk, age 36, became a director of Encompass upon the merger of Building One Services Corporation into Encompass on February 22, 2000. He was previously a director of Building One Services Corporation from April 1999 until February 2000. Mr. Africk has been a principal of Apollo Advisors, L.P. for more than five years and of Lion Advisors, L.P., a financial advisor to, and representative of, institutional investors with respect to securities investments. Mr. Africk is also a director of Rare Medium Group, Inc. and several private venture companies.

*Jonathan P. Carroll.* Mr. Carroll, age 41, has been a director of Encompass since 2002. He is a private investor and also currently serves as the Chairman of the Stanford University Athletics Board. Until November 1995, Mr. Carroll was President of ENSERCH Energy Services. He joined ENSERCH Energy Services as part of its acquisition of DGS Corp., of which he was Chairman of the Board, Chief Executive Officer, President and majority owner. Mr. Carroll had acquired DGS Corp. in February 1991.

*Vincent W. Eades.* Mr. Eades, age 43, became a director of Encompass upon the merger of Building One Services Corporation into Encompass on February 22, 2000. He was previously a director of Building One Services Corporation from November 1997 until February 2000. Since January 2002, Mr. Eades has served as President of Miline USA, L.L.C., an importer of leather apparel for motorcycle enthusiasts. Previously, between May 1998 and October 2002, Mr. Eades served as the Chairman and Chief Executive Officer of Powerride Motorsports, Inc., a consolidator of the motorcycle and leisure sports dealership industry. Between May 1995 and May 1998, he served as the Senior Vice President of sales and marketing for Starbucks Coffee Co., Inc. From November 1985 through May 1995, Mr. Eades was employed by Hallmark Cards, Inc., most recently as a general manager.

*Donald L. Luke.* Mr. Luke, age 66, has been a director of Encompass since 1997. He has served as Chairman of the Board of American Fire Protection Group, Inc., a fire protection and life safety corporation, since December 2001 and as Chief Executive Officer since November 2000. He previously served as Executive Vice President and Chief Operating Officer of Encompass from March 2000 to August 2000. From August 1997 until the merger of Building One Services Corporation into Encompass in February 2000, he served as President and Chief Operating Officer of Encompass. Mr. Luke is also a director of MicroPower Electronics, Inc.

*J. Patrick Millinor.* Mr. Millinor, age 57, has been a director of Encompass since 1997. He served as the Chairman of the board of directors of Encompass from February 2000 until November 2002. He previously served as Chief Executive Officer of Encompass from October 1996 to February 2000 and also served as President from April 1997 until June 1997. He currently also serves as a director of Agennix Incorporated and ADViSYS, Inc.

*Lucian L. Morrison.* Mr. Morrison, age 66, has been a director of Encompass since 1997. He has been engaged as a trustee and consultant with respect to trust, estate, probate and qualified plan matters since 1992. From 1990 through 1992, he served as Chief Fiduciary Officer of Northern Trust Bank of Texas and from 1979 until 1990 he served as Chief Executive Officer of Heritage Trust Company.

*William M. Mounger II.* Mr. Mounger, age 46, has been a director of Encompass since 2000. He currently serves as Chairman of the Board, President and Chief Operating Officer of Genesis Resources LLC and Chairman of the Board, President and Chief Executive Officer of Tristar Technologies, LLC. He previously served as Chairman of the Board of TeleCorp PCS, Inc. from November 2000 until it was acquired by ATT Wireless Services, Inc. in February 2002. Mr. Mounger co-founded and served as Chief Executive Officer and Chairman of the Board of Tritel, Inc. from January 1999 to November 2000. He also co-founded and served as

Chief Executive Officer and Chairman of the Board of Mercury Communications Company from June 1990 to January 1999. Mr. Mounger also serves as a director on the Mississippi Advisory Board of AmSouth Bank.

*John M. Sullivan.* Mr. Sullivan, age 66, has been a director of Encompass since 1997. He has been President of Beta Consulting, Inc., which provides management services for family enterprises, since 1994. From 1992 through 1994, he was an International Tax Director for General Motors Corporation. Prior to 1992, Mr. Sullivan was a tax partner with Arthur Andersen LLP. He currently also serves as a director of Atlantic Coast Airlines Holdings, Inc.

The directors of Encompass are elected annually. For so long as Apollo Management IV, L.P. and certain of its affiliates hold, in the aggregate, Existing Common Stock and any security representing the right to receive Existing Common Stock ("common stock equivalents") equal to a specified percentage of the number of shares of Existing Common Stock issuable upon conversion of all shares of the Existing Preferred Stock, the holders of the Existing Preferred Stock are entitled to elect a portion of the board of directors of Encompass. Thus, the number of directors the holders of Existing Preferred Stock may elect decreases as Apollo's ownership of common stock equivalents decreases, and once a decrease has occurred the number of directors the holders of Existing Preferred Stock may elect shall not thereafter increase notwithstanding any subsequent increase in Apollo's ownership of common stock equivalents. Apollo sold approximately 90% of its of Existing Preferred Stock pursuant to a privately negotiated transaction on December 19, 2002, and thereby decreased its ownership of common stock equivalents to a level representing the right to receive slightly in excess of 12.5% of the Existing Common Stock issuable upon conversion of all shares of Existing Preferred Stock. As a result of this decrease, the numbers of directors the holders of Existing Preferred Stock may elect was decreased from three to a number representing 15% of the board of directors, rounded up to the nearest whole director. Immediately prior to the sale, Michael Gross and Scott Kleinman, who had previously been elected to the board of directors by Apollo, as the holder of all of the shares of Existing Preferred Stock, resigned, and Jonathan P. Carroll was elected to the board of directors by Apollo as the holders of the Existing Preferred Stock. Andrew Africk, who had also previously been elected to the board of directors by Apollo, remained as a director. If Apollo's ownership of common stock equivalents shall decrease to a level representing the right to receive less than 12.5% of the Existing Common Stock issuable upon conversion of all of the shares of Existing Preferred Stock, the specific right of holders of Existing Preferred Stock separately to elect directors to the board of directors of Encompass shall be eliminated under the terms of the Existing Preferred Stock.

Directors of Encompass who are not receiving compensation as officers, employees or consultants of Encompass are entitled to receive an annual retainer fee of \$25,000. Additionally, each director who is not receiving compensation as an officer, employee or consultant of Encompass receives \$1,000 for each regular board of directors meeting attended and \$500 for each committee meeting attended on a day other than the day upon which a meeting of the entire board of directors has been called. Each non-employee director who serves as Chairman of the Board or of any regular Committee of the Board receives an additional fee of \$1,000 per annum. Encompass's non-employee directors have in the past also received options to purchase shares of Existing Common Stock upon their initial election and each reelection to the board of directors.

During the period preceding the Petition Date, a number of board of directors meetings were convened for which certain members of the board of directors of Encompass were not paid prior to the commencement of the Chapter 11 Cases. As a consequence, certain of the Debtors' directors may hold Claims against the Estates relating to such unpaid compensation.

The board of directors of Encompass has various standing committees to help carry out its duties, including a Compensation Committee and an Audit Committee. Generally speaking, the board of directors committees work on key issues in greater detail than would be possible at full board of directors meetings.

The Compensation Committee is comprised of the following non-employee directors: Vincent W. Eades, Chair, Andrew Africk, Lucian L. Morrison and William M. Mounger. The Compensation Committee is responsible for overseeing the development and implementation of the executive compensation philosophy, plans and programs of Encompass.

The Audit Committee is comprised of John M. Sullivan, Chair, and Donald L. Luke. The Audit Committee oversees Encompass's financial reporting process on behalf of the board of directors of Encompass. The Audit Committee recommends the appointment of the independent auditors to the board of directors, meets with the auditors to review their report on the financial statements of the business and approves the audit and other services to be provided by the auditors. In addition, the Audit Committee reviews Encompass's Form 10-K and Form 10-Q reports and the practices in preparing published financial statements.

Certain officers of Encompass serve as directors of the corporate Subsidiaries, including each of the Residential Debtors and the Non-Residential Debtors.

## 2. Executive Officers

As of the date hereof, the executive officers of Encompass are as follows:

Name	Position
Michael F. Gries .....	Chairman of the Board, Chief Restructuring Officer
Henry P. Holland .....	Interim President and Chief Operating Officer
Darren B. Miller.....	Senior Vice President, Chief Financial Officer
Daniel W. Kipp .....	Senior Vice President, Chief Information and Administrative Officer
Gray H. Muzzy.....	Senior Vice President, General Counsel and Secretary
James L. Cocca .....	Senior Vice President—Operations
Patrick L. McMahon .....	Senior Vice President—Operations
James L. Phillips.....	Senior Vice President—Operations
Steven A. Bate.....	Vice President—Operations
Todd Matherne.....	Vice President, Treasurer
James D. McCoy.....	Vice President and Chief Accounting Officer

*Michael F. Gries*, age 48, became Chief Restructuring Officer of Encompass in October 2002. He has also been a director and Chairman of the board of directors of Encompass since November 2002. He is the one of the founders of CDG and has, for over 20 years, specialized in providing business and financial advice to companies, investors and other parties in both distressed and turnaround situations in diverse domestic and international businesses, including in industries such as heavy industrial products, light manufacturing, construction, retail, advertising, newspaper publishing and broadcasting.

*Henry P. Holland*, age 54, became Executive Vice President and Chief Operating Officer of Encompass in October 2000. Previously, he served as President and Chief Operating Officer of Metamor Worldwide (now PSINet Consulting Solutions) from June 1999 to June 2000, when the company was sold to PSI Net. Prior to joining Metamor, Mr. Holland served as Executive Vice President of Landmark Graphics, a leading supplier of decision-making software and services for the oil and gas industry, from 1994 to 1999.

*Darren B. Miller*, age 43, became Senior Vice President of Encompass in February 2000. From July 1998 to February 2000, he served as Executive Vice President of Encompass and from October 1996 until July 1998 as Senior Vice President. He has also served as Chief Financial Officer of Encompass since October 1996. From 1989 to 1996, Mr. Miller served in several capacities at Allwaste, Inc., an industrial service company, including Vice President, Treasurer and Controller from 1995 to 1996.

*Daniel W. Kipp*, age 43, became Senior Vice President, Chief Information and Administrative Officer of Encompass in January 2001. From February 2000 to January 2001, he served as Senior Vice President, Treasurer and Chief Information Officer of Encompass. From July 1998 to February 2000, he served as Senior Vice President and Chief Accounting Officer of Encompass and as Vice President and Corporate Controller from February 1997 to July 1998. From February 1994 until February 1997, Mr. Kipp was a sales executive with American Sterling, a provider of hazard insurance outsourcing services to the mortgage banking industry.

*Gray H. Muzzy*, age 49, became Senior Vice President, General Counsel and Secretary of Encompass in April 2000. From January 1989 to April 2000, Mr. Muzzy was a partner with the Houston-based law firm of Bracewell & Patterson, L.L.P. Mr. Muzzy provided legal representation to a variety of industries, including real estate, oil and gas, software, chemical, banking and insurance.

*James L. Cocca*, age 47, became Senior Vice President-Operations of Encompass in October 2001. Mr. Cocca was Chief Operating Officer of Encompass's Electrical Technologies Group from November 2000 to October 2001. He held the position of President of Schindler Elevator Corporation (formerly Westinghouse Elevator) from January 1996 to November 2000 with responsibility for North American Operations.

*Patrick L. McMahon*, age 54, became Senior Vice President-Operations of Encompass in October 2001. Mr. McMahon was Chief Operating Officer-Mechanical Services Group of Encompass from August 2001 to October 2001. He served as President-Industrial Services Group of Encompass from February 2000 to August 2001. From July 1999 to February 2000, he was Executive Vice President and Chief Operating Officer of the Industrial Business Unit of Building One Services Corporation's Mechanical and Electrical Group. From October 1998 to July 1999, Mr. McMahon was a management consultant with respect to outsourcing

maintenance operations and served as President and Chief Operating Officer of Professional Services Group, a subsidiary of Air & Water Technologies, between May 1995 and October 1998.

*James L. Phillips*, age 41, became Senior Vice President-Operations of Encompass in October 2001. Previously, Mr. Phillips served as Vice President of Operations of NetVersant Solutions from May 2000 to October 2001. From November 1998 to May 2000, he was Co-Founder and Executive Vice President of East Coast Concepts, a system integration alliance partner to GE Capital Corporation. From 1996 to November 1998, he was Executive Vice President of GE Capital Leverage Procurement Program.

*Steven A. Bate*, age 40, became Vice President-Operations in March 2002. Mr. Bate was Vice President-Integration of Encompass from November 2000 to March 2002. Previously, Mr. Bate served as an operations finance consultant to NetVersant Solutions from July 2000 to October 2000. From October 1999 to April 2000, he served as Vice President-Operations of Metamorph Worldwide (now PSINet Consulting Solutions). From September 1998 to October 1999, Mr. Bate served as Chief Financial Officer of Insource Management Group, a private consulting services firm. Previously, he served as Vice President-Independent Business Units for Landmark Graphics.

*Todd Matherne*, age 48, became Vice President and Treasurer of Encompass in January 2001. During 2000, he was co-founder and advisor to US Farm and Ranch Supply Company, Inc. From April 1995 to December 1999, Mr. Matherne served in senior financial and operations roles with Service Corporation International, most recently as Senior Vice President, Treasurer and Interim Chief Financial Officer.

*James D. McCoy*, age 41, became Vice President and Chief Accounting Officer of Encompass in November 2002. From April 2002 to November 2002, he served as an operational and financial consultant to International Trading Company, a wholly owned subsidiary of Tyson Foods, Inc. From March 2000 to March 2002, Mr. McCoy served as the Executive Vice President of International Trading Company. From June 1997 to February 2000, he served as Senior Vice President, Finance and Chief Financial Officer of Corporate Brand Foods American, Inc. Mr. McCoy is a Certified Public Accountant.

The base salaries for Encompass's executive officers have generally been set at levels designed to approach the median salary of executive officers at companies that were either competitors of Encompass or were consolidating an industry in a manner similar to Encompass. Except for Mr. Gries, each of the foregoing executive officers are parties to written employment agreements with Encompass, which agreements generally provide commensurate benefits and severance payment arrangements. Nevertheless, each of these executive officers, except for Mr. Gries, is eligible to receive payment under the Key Employee Retention Program or the Incentive Collections Program, which payments would be in lieu of any amounts that would otherwise be payable to such employees in respect of claims he or she has or may have against the Debtors, including severance payments and rejection damages to which such executive officer would otherwise be entitled upon termination or his or her employment; *provided, however*, that receipt of such a payment shall not, in any way, limit such officer from receiving the benefit of the provisions of Section 13.15 of the Plan.

### **3. Employees**

As of the Petition Date, Encompass and its Subsidiaries had approximately 25,000 full and part-time employees. As of February 19, 2003, through its various business units, Encompass had approximately 10,500 full and part-time employees remaining. In the course of performing installation work, Encompass also utilizes the services of subcontractors.

The Debtors retain approximately 600 unionized employees as of February 19, 2003, all of which are employed in respect of operations that will be divested prior to the Effective Date pursuant to the Plan.

As of February 19, 2003, the Debtors had approximately 50 employees with employment agreements, including the executive officers who have employment agreements as discussed above. The Debtors expect that they will reject all of such employment agreements as part of the Chapter 11 Cases. Other than the employment agreements for the Debtors' most senior executive officers, the employment agreements of the Debtor generally provide severance pay ranging from three to 12 months of an employee's base salary. Employees under approximately 16 of such employment agreements are eligible for payments under the Key Employee Retention Program. Additionally, approximately 8 of such employees are eligible for distributions under the Incentive Collections Program. Any payments to an employee under the Key Employee Retention Program and the Incentive Collections Program will be in lieu of any amounts that would otherwise be payable to such employee in respect of claims that he or she has or may have against the Debtors, including severance payments and rejection damages to which such employee would be otherwise entitled upon

termination of his or her employment; *provided, however*, that receipt of such a payment shall not, in any way, limit such employee from receiving the benefit of the provisions of Section 13.15 of the Plan.

#### **4. Benefits**

Encompass and its Subsidiaries have provided and maintained, both before and after the Petition Date, the following benefit or payment plans: vacation and sick leave; medical, health, dental and vision insurance; life, disability and workers' compensation insurance and employee counseling and assistance; severance; incentive; 401(k) matching contributions; and other miscellaneous benefits.

During the Chapter 11 Cases, the Debtors obtained authority from the Bankruptcy Court to pay all prepetition accrued but unpaid amounts due for such benefit and payment programs in the ordinary course of the Debtors' businesses and to maintain and pay all prepetition accrued but unpaid amounts owed to the Debtors' payroll and employee benefits administrators. The order of the Bankruptcy Court authorized the Debtors to maintain an agreement with Aon Consulting ("Aon"), pursuant to which the Debtors have obtained Aon's assistance in, among other things, designing the Debtors' group health program for 2003, marketing the program to vendors, implementing an outsourced benefits administration program with selected vendors and paying all amounts accrued thereunder. As part of the arrangement with Aon, the Debtors' outsourced all of the administration of its non-union employee benefit programs as of January 1, 2003.

The following are general descriptions of benefits provided by the Debtors' to its employees.

*Health Benefits* — The Debtors provide medical, dental and vision plans on behalf of their employees. Because such plans are self-insured, the Debtors also carry stop-gap insurance for claims in excess of \$350,000 and aggregate stop-gap coverage of 125% of expected claims liability at the beginning of the plan year. As of February 19, 2003, the Debtors cover approximately 8,000 employees pursuant to such plans at a cost of approximately \$2.4 million per month.

*Insurance and Assistance Benefits* — The Debtors provide life insurance, long-term disability insurance, workers' compensation benefits and counseling services pursuant to an employee assistance program. Based on employment levels existing as of February 19, 2003, such programs cost the Debtors approximately \$1 million per month.

*Severance Benefits* — The Debtors maintain a formal severance program for its corporate employees that has also been adopted by certain of their operating businesses for their employees. For employees with a written employment contract, the severance payment provisions of such contract govern the employee's entitlement to severance benefits. Approximately 50 of the Debtors' current employees are parties to written employment agreements, with the agreements for the Debtors' most senior executives generally providing for severance pay of an amount equal to two times (i) current yearly base salary *plus* (ii) the amount of such executive's current year targeted bonus or the preceding year's actual bonus. All other employees with employment agreements are generally entitled to severance pay ranging from three to 12 months of such employee's base salary. For employees without a written employment contract, severance benefits are payable to full-time employees as follows: (i) for employees to whom the Debtors' are required to pay overtime, one week of pay for each year of service with a minimum benefit of two weeks pay, (ii) for employees to whom the Debtors' are not required to pay overtime, one and one-half weeks of pay for each year of service with a minimum benefit of two weeks pay, and (iii) for supervisory-level employees, two weeks pay for each year of service with a minimum benefit of three weeks pay. In all instances, for employees without a written employment contract, the maximum benefit is 26-weeks pay. The Debtors estimate that as of February 19, 2003 there were approximately 2,000 employees eligible for severance under their severance policies and programs. As previously noted, any payments to an employee under the Key Employee Retention Program and the Incentive Collections Program will be in lieu of any amounts that would otherwise be payable to such employee in respect of claims that he or she has or may have against the Debtors, including with respect to claims for severance payments.

*Incentive Benefits* — In addition to the Key Employee Retention Program and the Incentive Collections Program, for which the Debtors have obtained authority from the Bankruptcy Court during the Chapter 11 Cases, the Debtors have previously maintained two primary incentive programs, the Encompass Services Corporation 2002 Incentive Compensation Plan for Eligible Corporate Employees and the Encompass Services Corporation 2002 Incentive Compensation Plan for Business Group Management, Regional Presidents, Regional Support Staff and Business Unit Leaders, as well as additional incentive programs at the operating level designed to incentivize project managers, sales personnel, service personnel and general administrative staff. Incentive compensation continues to be paid in the ordinary course of business.

*401(k) Benefits* — Under the Debtors' 401(k) plan, the Debtors match employees' contributions to their 401(k) plan accounts at the rate of 50%, up to a maximum payment for each respective employee of 3% of such employee's salary. Based on employment levels existing as of February 19, 2003, the estimated monthly amount of such matching obligations is approximately \$525,000.

#### **D. Restructuring Professionals**

Due to their financial difficulties, Encompass and its Subsidiaries engaged CDG as of October 2, 2002 as restructuring manager and designated Michael F. Gries of such firm to act as CRO. The CRO and CDG are assisting the Debtors in their Chapter 11 Cases by overseeing the development of financial projections, disseminating appropriate information to stakeholders, overseeing the asset disposition process, managing the Chapter 11 process and filings and assisting in corporate communications, all on behalf of Encompass and its Subsidiaries. Encompass has agreed to pay CDG a monthly fee of \$300,000. In addition, CDG will be paid a base bonus fee (the "Base Bonus") of \$1.25 million upon achieving \$150 million in: (i) gross cash proceeds from asset sales and (ii) gross tax refunds associated with asset sales, as evidenced by tax returns to be filed by the Debtors (collectively, the "Aggregate Proceeds"). In the event Aggregate Proceeds exceeds \$150 million, an incremental bonus fee (the "Incremental Bonus") will be earned by CDG and will be calculated as: (i) one percent of Aggregate Proceeds in excess of \$150 million up to \$200 million and (ii) one and one-half percent of Aggregate Proceeds in excess of \$200 million up to a maximum of \$400 million. If Aggregate Proceeds exceed \$225 million, the Base Bonus and the Incremental Bonus will be either upwardly adjusted (up to 17%) or downwardly adjusted (to – 15%) based on the timing of the asset sales.

In November 2002, Mr. Gries was elected to the board of directors of Encompass and was chosen to serve as Chairman of such board of directors.

#### **E. Capital Structure of Encompass as of the Petition Date**

##### **1. Equity**

On the Petition Date, Encompass had 256,191 shares of Existing Preferred Stock outstanding. The Existing Preferred Stock provides that such shares bear a preferred cumulative dividend at the rate of 7.25% per annum, payable quarterly or accumulated at Encompass's option until February 22, 2003. The accrued and unpaid dividends on the Existing Preferred Stock was approximately \$55.8 million as of the Petition Date.

The Existing Preferred Stock provides that, upon maturity in February 2012, Encompass redeem all shares of Existing Preferred Stock then outstanding at the redemption price per share equal to the "liquidation amount", defined as an amount equal to the original cost of \$1,000 per share plus all accrued and accumulated and unpaid dividends thereon. As of the Petition Date, the aggregate "liquidation amount" for the Existing Preferred Stock was approximately \$312 million.

Apollo was the holder of all of the shares of Existing Preferred Stock on the Petition Date. Apollo sold 230,530 shares of the Existing Preferred Stock pursuant to a privately negotiated transaction on December 19, 2002.

For purposes of the Plan, the Existing Preferred Stock is treated in Class 10.

In addition, on the Petition Date, Encompass had approximately 64,998,639 shares of Existing Common Stock outstanding. Encompass has never paid a dividend on its Existing Common Stock. The Existing Common Stock was traded on the over-the-counter market as of such date and quoted on the "pink sheets". The closing price for the Existing Common Stock on November 18, 2002 was \$.006.

For purposes of the Plan, the Existing Common Stock is treated in Class 11.

## 2. Material Debt Obligations

The following table sets forth Encompass's material obligations for funded indebtedness as of the Petition Date.

	(Millions)
Revolver*	\$ 183.7
Tranche A Term Loan	125.2
Tranche B Term Loan	163.7
Tranche C Term Loan	<u>96.5</u>
Total Existing Bank Debt	\$ 569.1
Other Secured Debt	<u>0.5</u>
Total Secured Debt	\$ 589.1
Senior Subordinated Notes**	335.0
Junior Subordinated Notes***	<u>4.1</u>
Total Debt	\$ 928.2

\* Excludes accrued interest thereon and \$22.6 million of issued and undrawn letters of credit. Also excludes approximately \$5.1 million of current marked-to-market exposure on interest rate swaps.

\*\* Excludes \$19.3 million of accrued interest as of Petition Date.

\*\*\* Excludes \$76,000 of accrued interest as of Petition Date.

Encompass is the borrower, and its Subsidiaries are guarantors, under the Existing Credit Agreement. The Existing Bank Debt outstanding under the Existing Credit Agreement is comprised of revolving loans in an aggregate principal amount of approximately \$183.7 million and term loans in the aggregate principal amount of approximately \$385.4 million. The foregoing amounts do not include, however, additional Existing Bank Debt amounts of approximately \$4.2 million of accrued and unpaid interest as of the Petition Date, as well as approximately \$5.1 million of current marked-to-market exposure on interest rate swaps.

In connection with the Debtors' agreement to the Fifth Amendment of the Existing Credit Agreement, dated as of June 26, 2002, the Debtors' granted their Senior Lenders security interests in substantially all of their property. Prior to such amendment, the indebtedness under the Existing Credit Agreement was primarily secured by the Senior Lenders' security interests in the Debtors' accounts receivable, fixtures and inventory.

Encompass is the obligor, and its Subsidiaries are guarantors, under the Senior Subordinated Notes in the aggregate amount of \$354.3 million, which includes an aggregate principal amount of such Senior Subordinated Notes of \$335 million and accrued interest thereon as of Petition Date of approximately \$19.3 million.

Encompass is the obligor under the Junior Subordinated Notes in the aggregate amount of \$4.2 million, which includes an aggregate principal amount of such Junior Subordinated Notes of \$4.1 million and accrued interest thereon as of Petition Date of approximately \$.1 million.

Borrowings outstanding under the Senior Subordinated Notes and the Junior Subordinated Notes are subordinated in all material respects to the amounts outstanding under the Existing Credit Agreement. Therefore, the Debtors believe that no payments may be made to the holders of Junior Subordinated Note Claims and Senior Subordinated Note Claims prior to the full satisfaction of the Existing Credit Agreement Claims. Because the Debtors anticipate that the Senior Lenders will have a Deficiency Claim that will not be fully satisfied under the Plan, the holders of Junior Subordinated Note Claims and Senior Subordinated Note Claims will not receive a distribution under the Plan.

## 3. Litigation Claims

The Debtors have approximately 1,000 suits pending against them, involving at least as many plaintiffs. Such suits have arisen out of the Debtors' business operations and have been filed by plaintiffs residing in California, Colorado, Florida, Illinois, Massachusetts, Maryland, Michigan, Minnesota, Missouri, Mississippi, North Carolina, New Jersey, Oklahoma, South Carolina,



Tennessee, Texas, Utah, Virginia, Vermont, Wisconsin and elsewhere. The Debtors believe that a substantial portion of the Litigation Claims are Insured Claims.

## **F. Events Leading to Chapter 11 Cases**

As of September 30, 2002, Encompass had \$1,261.3 million of debt and mandatorily redeemable convertible preferred stock obligations (including accrued interest and dividends). During the 1999-2000 period, Encompass paid in excess of \$700 million to repurchase shares of its common stock. The funds used to make such repurchases were obtained through the issuance of debt and shares of its Existing Preferred Stock. Beginning in 2001 and continuing through 2002, the Debtors experienced financial difficulties due to a number of factors which made it increasingly difficult for Encompass to comply with the financial covenants in its financing agreements relating to its debt. Encompass experienced cost overruns in various projects resulting in losses in certain regional operations. Most notably, Encompass's electrical operations in California and its mechanical operations in Texas had significant losses in the 2000-2002 period caused by poor project performance, thereby adversely impacting earnings during this period. According to the U.S. Department of Commerce construction reports, private non-residential construction declined approximately 20% (seasonally adjusted annual rate) from June 2001 to June 2002, with the largest declines in the industrial, office building and hotel sectors. Overcapacity in the industry resulted in a very competitive pricing environment in many markets, resulting in downward pressure on profit margins. Such depressed conditions resulted in a substantial decline in non-residential construction services for 2002, which, in turn, resulted in slower sales, lower margins and weaker cash flows than the Debtors expected. In addition, revenue from higher margin telecommunications and technology customers (which represented 12% of 2000 consolidated revenues) were dramatically reduced as funding for such projects largely evaporated. Encompass provided allowances totaling approximately \$45.5 million in 2001 for uncollectible receivables from telecommunications and technology customers.

As a result of the financial challenges posed by these factors, during the second half of 2001 the Debtors began evaluating their options for solving their liquidity problems. In the third quarter of 2001, Encompass announced its decision to cease operations of its Global Technologies segment effective September 30, 2001 due to significant reduction in capital spending in the telecommunications and technology industries. Encompass also began to consider financing alternatives with a view to resolving its tight financial situation under its outstanding indebtedness for borrowed money. Effective November 9, 2001, the Existing Credit Agreement was amended to grant Encompass certain temporary covenant modification.

In the first quarter of 2002, Encompass engaged a financial advisor to solicit indications of interest from third parties with respect to an investment in Encompass, or a possible sale or merger of Encompass. Encompass's advisor sought indications of interest for such transactions, but was unsuccessful at finding third parties willing to engage in discussions regarding any of these transactions. Separate from the activities of such advisor, in the first quarter of 2002 Encompass's management met with a third party concerning the possible acquisition of Encompass. However, this meeting did not progress beyond preliminary discussions due to the lack of interest expressed by the potential acquiror.

On March 12, 2002, Apollo, certain funds of which were holders of the Existing Preferred Stock, proposed that Encompass attempt to raise equity capital through a common stock rights offering to all of its shareholders, and to use the proceeds from the rights offering to reduce long term debt and obtain long term covenant relief under Encompass's Existing Credit Agreement. In order to support the success of the rights offering, Apollo offered to purchase up to \$35 million of Existing Common Stock in the rights offering. Because of Apollo's ownership position in Encompass and its representation on Encompass's Board, the board of directors of Encompass formed the Special Committee to evaluate the merits of any transaction between Encompass and Apollo.

Additionally, beginning in the second quarter of 2002, Encompass management began new initiatives to reduce operating costs and capital expenditures and manage its working capital, including by making numerous management changes.

Between March 12 and June 27, 2002, the Special Committee evaluated proposals made by Apollo, negotiated improved terms and considered the availability of alternative transactions.

At a meeting held on June 25, 2002, the board of directors of Encompass, following the recommendation of the Special Committee, approved a rights offering and authorized Encompass to enter into an agreement with Apollo or its affiliates, pursuant to which Apollo would agree, subject to certain closing conditions, to purchase \$35 million of equity securities of Encompass, and recommended that the action be adopted by Encompass's board of directors.

On June 26, 2002, Encompass entered into an amendment to its Existing Credit Agreement which provided financial covenant modifications through February 2005. Pursuant to the amended Existing Credit Agreement, Encompass was required to sell \$35 million of its voting stock to Apollo and to apply \$31 million of proceeds of such investment to the permanent reduction of the amounts outstanding under the Existing Credit Agreement by October 15, 2002. The primary reason for authorizing the rights offering and Apollo's investment was to induce Encompass's lenders to grant covenant relief without which Encompass would likely have breached its second quarter covenants. Effective as of June 27, 2002, Encompass and Apollo entered into the Securities Purchase Agreement.

In July of 2002, Encompass identified cost overruns and other issues related to two large construction projects located in California and Colorado which caused Encompass to book losses on these projects, resulting in lower than projected revenue and EBITDA for the second quarter of 2002. Encompass also continued to suffer financial difficulties arising from the continued depression of the construction industry, including the financial problems experienced by sectors of the economy in which several significant customers of Encompass and its Subsidiaries operate, such as the telecommunications and technology sectors.

On July 17, 2002 Standard & Poor's announced it was downgrading Encompass's credit rating. On August 13, 2002, Encompass made public its second quarter results, reporting revenue and EBITDA lower than previously projected, and reduced its forecast for revenue and EBITDA for the 2002 fiscal year.

The share price for Existing Common Stock continuously declined from a closing per share price of \$0.61 on June 21, 2002 to a closing per share price of \$0.14 on September 30, 2002. On July 22, 2002, the New York Stock Exchange notified Encompass that unless the Existing Common Stock achieved a \$1.00 sales price and an average share price of \$1.00 over the 30-trading-day period preceding January 22, 2003, it would commence suspension and delisting procedures for the Existing Common Stock.

During the period following the announcement of Encompass's second quarter results, Encompass's customers increasingly began to demand bid and performance bonds for new and existing construction contracts. In early October, Encompass began experiencing increased difficulty securing new construction contracts and bid and performance bonds for its commercial activity. In addition, Encompass's sureties began notifying Encompass of new and increased collateral requirements, based upon their concern for Encompass's creditworthiness, demanding that Encompass and its Subsidiaries post letters of credit in order to obtain the necessary bonding, which further exacerbated Encompass's liquidity problems. As a result of such developments, Encompass retained Houlihan Lokey, as financial advisor, and Weil, Gotshal, as legal counsel, for the purpose of assisting it in addressing its financial difficulties.

In late September, Encompass received revenue and EBITDA results for the month of August 2002 from its regional operations. Because its internal forecasts showed that Encompass would only be in compliance with its third quarter financial covenants under the Existing Credit Agreement if Encompass closed the sale of several operating entities prior to October 1, 2002 (which were scheduled to close prior to that time) and used all its cash reserves to reduce the amount of its revolving loan under the Existing Credit Agreement, Encompass became increasingly concerned that it would not be able to continue to access its revolver.

On September 24, 2002, Encompass met with a steering committee representing the Senior Lenders in order to discuss obtaining a waiver of financial covenants under its Existing Credit Agreement. Encompass was increasingly concerned that the closing of the rights offering would not give sufficient liquidity to satisfy Encompass's needs. Encompass informed the steering committee that it had engaged advisors to assist in evaluating alternate transactions to the rights offering, which alternate transactions could include a prepackaged reorganization of Encompass under Chapter 11 of the Bankruptcy Code.

On September 30, 2002, Encompass obtained a waiver through October 15, 2002 of certain financial covenants under its Existing Credit Agreement. Encompass did not obtain a waiver of financial covenant defaults under its Existing Credit Agreement for any period after October 15, 2002. Because Encompass was in default under the terms of its Existing Credit Agreement after October 15, 2002, it was prohibited from paying any amounts on its Senior Subordinated Notes or any other subordinated indebtedness.

On October 1, 2002, the New York Stock Exchange notified Encompass that it had permanently halted trading in the Existing Common Stock and was immediately delisting the Existing Common Stock. Thereafter, the Existing Common Stock began trading on the over-the-counter market and began being quoted on the "pink sheets".

After October 1, 2002, Encompass experienced even further operational issues. In light of Encompass's announced financial difficulties, customers for existing projects increasingly requested bonds, or requested increased coverage amounts of bonds, on continuing projects, and threatened to terminate Encompass from such projects if such requests were not satisfied. Bonding

requirements for new projects significantly increased in frequency, and Encompass was entirely excluded from bidding on a number of projects. Encompass's sureties imposed increasingly stringent requirements to the issuance of bonds, including requiring full cash collateral for the face amount of new bonds issued.

As of October 2, 2002, Encompass retained CDG in contemplation of a potential restructuring of Encompass. Michael F. Gries of CDG was designated to act as CRO.

At a meeting held on October 13, 2002, the board of directors approved the principal terms of a proposed prepackaged plan of reorganization that contemplated a solicitation of acceptance of such plan and the subsequent commencement of proceedings under Chapter 11 to effect the proposed plan. The board of directors further voted at such meeting to terminate the rights offering and cancel the stockholders meeting scheduled to be held on October 15, 2002.

On October 16, 2002, Apollo notified Encompass that it was terminating the Securities Purchase Agreement.

Encompass and its Subsidiaries launched the solicitation of acceptances from its holders of indebtedness under its Existing Credit Agreement and the holders of its Senior Subordinated Notes of its proposed prepackaged plan of reorganization on October 18, 2002. Encompass set a voting deadline for its solicitation of such prepackaged plan of 5:00 p.m., Eastern time, on November 18, 2002. Encompass discussed the terms of such prepackaged plan with the Existing Credit Agreement steering committee representatives and representatives of the holders of Senior Subordinated Notes during the time prior to such voting deadline. Prior to the voting deadline for the offered plan, the holders of indebtedness under the Existing Credit Agreement and the holders of the Senior Subordinated Notes separately proposed alternative reorganization plans, which varied from the terms and conditions set forth in the prepackaged plan proposed by Encompass.

On November 1, 2002, the holders of indebtedness under the Existing Credit Agreement delivered to the trustee under the indenture for the Senior Subordinated Notes a payment blockage notice prohibiting the payment of any kind or character with respect to the Senior Subordinated Notes. Thus, Encompass did not make the scheduled payment of \$17,587,500 due November 1, 2002 on the Senior Subordinated Notes.

At a board of directors meeting on November 17, 2002, the Board determined, based upon its business judgment and verbal indications that the holders of indebtedness under the Existing Credit Agreement were not going to accept the proposed prepackaged plan of reorganization, that it was in the best interest of Encompass and its Subsidiaries to file proceedings under Chapter 11 of the Bankruptcy Code as soon as possible due to the worsening liquidity situation that faced Encompass and its Subsidiaries. The Board determined to institute such Chapter 11 proceedings on November 19, 2002, which coincided with the expiration of the solicitation of the prepackaged plan of reorganization.

Moreover, at the board of directors meeting on November 17, 2002, Michael F. Gries, CRO of Encompass, was elected as a director of Encompass and was elected as Chairman of the Board in replacement of J. Patrick Millinor, who remained on the board of directors of Encompass.

On November 18, 2002, the Solicitation Agent reported to Encompass that the proposed prepackaged plan of reorganization had been rejected.

### **III. EVENTS DURING THE CHAPTER 11 CASES**

On November 19, 2002, the Debtors filed petitions for relief under chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors have continued to operate as debtors-in-possession subject to the supervision of the Bankruptcy Court and in accordance with the Bankruptcy Code. The Debtors are authorized to operate their businesses and manage their properties in the ordinary course as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

An immediate effect of the filing of the Debtors' bankruptcy petitions is the imposition of the automatic stay under the Bankruptcy Code which, with limited exceptions, enjoins the commencement or continuation of all collection efforts by creditors and the continuation of litigation against the Debtors. The automatic stay remains in effect unless modified by the Bankruptcy Court, until consummation of a plan of reorganization.

The following is a brief description of some of the major events up to the date hereof during the Chapter 11 Cases.

## **A. First Day Orders**

To expedite their emergence from Chapter 11, the Debtors sought on the Petition Date, among other things, the “first day orders” described below from the Bankruptcy Court. First day orders are generally intended to facilitate the transition between a debtor’s prepetition and postpetition business operations by approving certain regular business practices that may not be specifically authorized under the Bankruptcy Code or as to which the Bankruptcy Code requires prior approval by the Bankruptcy Court. The first day orders obtained in the Chapter 11 Cases are typical of orders entered in complex Chapter 11 cases across the country.

### **1. Designation as Complex Chapter 11 Cases**

The Debtors obtained authority from the Bankruptcy Court, under General Order 2000-2 of the Local Rules for the Southern District of Texas, to qualify their Chapter 11 Cases as complex Chapter 11 bankruptcy cases. Such authority allows the Chapter 11 Cases to be governed in accordance with rules which are designed to efficiently manage large and/or complex chapter 11 cases by establishing, inter alia, weekly omnibus hearing dates, limited notice procedures, provisions for expedited consideration of emergency matters, and other procedural matters designed to facilitate efficient case administration.

### **2. Joint Administration**

The Debtors obtained authority from the Bankruptcy Court to consolidate all filings under a single case name, in a single docket, for administrative purposes and generally to reduce costs that would otherwise result if the Bankruptcy Court maintained entirely separate dockets for each of the cases.

### **3. Interim Postpetition Financing**

The Debtors obtained authority from the Bankruptcy Court to enter into and receive funding under (i) the Surety Agreements and (ii) the DIP Facility, and to use cash collateral and grant adequate protection in respect of such postpetition financing arrangements. The Surety Agreements and the DIP Facility are further described below.

### **4. Cash Management System**

The Debtors obtained authority from the Bankruptcy Court to continue using their prepetition cash management system, bank accounts and business forms. Absent the Bankruptcy Court’s authorization of the continued use of the cash management system, the Debtors would have been required to close all of their existing bank accounts and to establish new “debtor-in-possession” accounts. Such a result would have imposed substantial administrative hardship on the Debtors and it would have severely impeded their cash flow, to the detriment of the Debtors’ Estates and their creditors.

### **5. Payment of Prepetition Employee Wages, Compensation and Employee Benefits**

The Debtors obtained authority from the Bankruptcy Court to pay all prepetition accrued but unpaid amounts due for employee wages, salaries and benefit programs in the ordinary course of the Debtors’ businesses. Such employee benefit plans and policies include: (i) medical, health, dental and vision insurance, (ii) life, disability, workers’ compensation and employee counseling and assistance, (iii) severance benefits, (iv) incentive benefits, and (v) 401(k) matching plan benefits. The Debtors also obtained permission (a) to pay all prepetition accrued but unpaid expense reimbursements, vacation benefits, employee payroll deductions associated with the Debtors’ payroll and other employee benefit obligations, and (b) to maintain and pay all prepetition accrued but unpaid amounts owed to the Debtors’ payroll and employee benefits administrators.

### **6. Honoring Prepetition Warranty Claims and Customer Programs**

The Debtors obtained authority from the Bankruptcy Court to honor, in the ordinary course of their businesses, the various warranty programs and other practices designed to ensure customer and vendor satisfaction.

### **7. Adequate Assurance to Utility Companies**

The Debtors obtained authority from the Bankruptcy Court: (a) prohibiting any utility companies which provided them with prepetition utility services from altering, refusing or discontinuing any such utility services postpetition, (b) determining that the utility

companies have “adequate assurance of payment” within the meaning of section 366 of the Bankruptcy Code without the need for payment of additional deposits or security, and (c) establishing procedures for determining requests by utility companies for additional assurances of future payment.

#### **8. Payment of Prepetition Insurance Charges and Other Charges**

The Debtors obtained authority from the Bankruptcy Court to maintain certain insurance policies that existed prepetition and to pay any amounts due on account of any loss fund and premium finance payments accrued and unpaid for such policies on and as of the Petition Date.

#### **9. Administrative Expense Status to Postpetition Undisputed Obligations**

The Debtors obtained authority from the Bankruptcy Court to grant various vendors and suppliers administrative expense priority status under section 503(b) of the Bankruptcy Code for undisputed obligations arising from outstanding prepetition purchase orders that were delivered to the Debtors subsequent to the Petition Date. Such relief permitted the Debtors, in the exercise of their business judgment and in accordance with their customary business practices, to satisfy such undisputed obligations to vendors in the ordinary course of business.

#### **10. Authority to Pay Prepetition Claims of Critical Vendors**

The Debtors obtained authority to pay up to the amount of \$160 million for prepetition fixed, liquidated and undisputed Claims of certain suppliers of materials, equipment, goods and services with whom the Debtors continued to do business and whose materials, equipment, goods and services were essential and critical to the Debtors’ reorganization. The Debtors believed this relief was absolutely critical for numerous reasons, including the fact that certain vendors had: (i) the right to impose statutory liens on the Debtors’ property or their work projects; (ii) the ability to delay completion of projects that the Debtors were contractually obligated to complete; (iii) reclamation rights; and (iv) the ability to prevent the Debtors from being paid on a project due to the existence of a contractual provision requiring the Debtors to pay for all goods and services prior to being entitled to payment.

#### **11. Payment of Prepetition Sales and Use Taxes**

The Debtors obtained authority from the Bankruptcy Court to pay all prepetition sales and use tax, and regulatory and licensing, obligations owed to any taxing authority or other entity, including all sales and use tax obligations that are subsequently determined upon audit to have accrued during the period prior to the Petition Date.

#### **12. Retention of Professionals Utilized in Ordinary Course of Business**

The Debtors obtained authority from the Bankruptcy Court, pursuant to sections 105 and 327 of the Bankruptcy Code, to retain Professionals utilized in the ordinary course of their businesses.

#### **13. Interim Compensation and Reimbursement of Expenses of Professionals**

The Debtors obtained authority from the Bankruptcy Court to establish procedures which would require each Professional (except CDG) retained by the Debtors, and subject to a formal retention application, to present to the Debtors, the Committee and the United States Trustee a detailed statement of services rendered and expenses incurred for the month preceding the rendering of such services. Such procedures provide that if no party timely objects to the Professional’s monthly statement, the Debtors would be authorized to pay each of the Professionals eighty percent (80%) of the amount of fees incurred for the month, with a twenty percent (20%) holdback, and ninety percent (90%) of expense disbursements for the month, with a ten percent (10%) holdback. The payments remain subject to the Bankruptcy Court’s subsequent final approval as part of the normal interim fee application process.

#### **14. Schedules and Statements of Financial Affairs**

The Debtors obtained a 90-day extension, to March 4, 2003, from the Bankruptcy Court of the applicable deadline to file their Schedules and statements of financial affairs as required under Section 521 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 1007, which direct that, unless otherwise ordered by the court, the Debtors must prepare and file Schedules of Claims,

executory contracts and unexpired leases and related information and a statement of financial affairs within 15 Business Days of the commencement of their Chapter 11 Cases.

## **B. Retention of Professionals**

Since the Petition Date, the Bankruptcy Court has entered orders authorizing the Debtors to retain the following Professionals: (i) Weil, Gotshal as bankruptcy counsel, (ii) CDG as crisis managers, (iii) Deloitte & Touche LLP as tax consultants, (iv) KPMG LLP as accountants, (v) each of Houlihan Lokey, Apex Partners, LLC, and Hunt, Patton & Brazeal, Inc. as financial advisors and investment bankers, (vi) FMI Corporation as management consultants, (vii) Bracewell & Patterson L.L.P. as special corporate, litigation and employment counsel, (viii) Spriggs & Hollingsworth as special counsel, (ix) Bankruptcy Services LLC as claims and noticing agent, (x) Herman Mousel Sexton, P.C. as income tax compliance and tax return preparation professional, (xi) Andrews & Kurth L.L.P. as bankruptcy counsel for the Committee, and (xii) Chanin Capital Partners, L.L.C. as financial advisors to the Committee.

## **C. Official Appointment of Statutory Creditors' Committee**

On November 25, 2002, the United States Trustee appointed, pursuant to section 1102(a) of the Bankruptcy Code, the Committee. The members of the Committee are: Wells Fargo Bank Capital Markets, Harbert Management Corporation, Hughes Supply, Inc., D. Reynolds Co., Inc., Rexel, Inc., Crescent Electric Supply Company and Purple International, Inc. The Committee is represented by the law firm of Andrews & Kurth L.L.P. and has obtained financial advisory services from Chanin Capital Partners, L.L.C. The expenses of members of the Committee and the fees and expenses of the Professionals serving on behalf of the Committee are entitled to be paid by the Debtors, subject to approval by the Bankruptcy Court.

## **D. Postpetition Financing**

### **1. DIP Facility**

To ensure that they would have sufficient liquidity to conduct their businesses during the Chapter 11 Cases, the Debtors sought approval from the Bankruptcy Court of debtor-in-possession financing. Such financing was needed to assure continued access to sufficient working capital during the pendency of the Chapter 11 Cases and to instill confidence in the Debtors' customers, critical vendors and employees that the Debtors would continue as a going concern.

With interim authorization granted by the Bankruptcy Court on November 20, 2002, the Debtors entered into the DIP Facility effective as of November 20, 2002. The terms of the DIP Facility provide for two cash-collateralized tranches of revolving commitments, for a total lending capacity of up to \$60 million in debtor-in-possession financing. The DIP Facility is secured by substantially all of the assets of the Debtors. Subject to customary funding obligations, additional borrowings under the DIP Facility have been used to fund the Debtors' postpetition obligations throughout the reorganization process. The DIP Facility has been granted super-priority Administrative Expense Claim status and is secured by liens superior to those of the Senior Lenders. Subject to certain carve-outs, The DIP Lenders will be entitled to be paid before any other Claims against the Debtors are paid. The DIP Facility is also fully collateralized by Cash proceeds from the sale of assets.

On January 24, 2003, the Debtors received a Final Order from the Bankruptcy Court approving the DIP Facility. The Final Order provided for certain changes from the previous terms of the DIP Facility. First, up to \$15 million of the commitment under tranche A of the DIP Facility was permitted to be used for letters of credit. Second, the total commitment under the DIP Facility was reduced to \$45 million for the period from February 1, 2003 through March 15, 2003 and to \$35 million for the period from March 16, 2003 through the maturity of the DIP Facility.

The scheduled termination date for the DIP Facility is May 20, 2003.

### **2. Surety Agreements**

At the outset of the Chapter 11 cases, the continued viability of a substantial portion of the Debtors' business depended significantly upon their ability to attract, prosecute and complete various construction-related projects. The Debtors' ability to procure, and then perform under, such construction contracts was, in turn, dependent upon their ability to secure payment, performance and other bonds for the benefit of their customers, including the project owners and the general contractors that engaged

them as subcontractors. In addition, governing statutes and regulations often require payment and performance bonds in connection with projects being constructed on behalf of governmental or quasi-governmental entities.

In the weeks prior to the Petition Date, the Debtors were unable to secure additional bonding capacity due to their financial distress. As a result, the Debtors entered into a prepetition pledge agreement with one of their surety providers, Federal Insurance Company, which required cash collateral to secure the issuance of additional bonds.

On November 20, 2002, the Bankruptcy Court granted interim authorization for the Debtors to obtain postpetition bonding capacity from Liberty Mutual Life Insurance Company ("Liberty") and Federal Insurance Company ("Federal"). On January 24, 2003, the Bankruptcy Court entered a Final Order approving the Surety Agreements. The Surety Agreements provide for the issuance of additional bonds, which are partially collateralized by \$1 million in postpetition cash collateral paid by the Debtors to Liberty and \$4 million in postpetition cash collateral paid by the Debtors to Federal. All losses which may be incurred by Federal are secured by its postpetition cash collateral and by the \$15 million in cash collateral that it received pursuant to a prepetition pledge agreement. All losses which may be incurred by Liberty are secured by its postpetition cash collateral and by a \$22 million letter of credit that was issued in its favor prepetition. The collateral held by Liberty and Federal may be applied to any losses which may be incurred by each respective Surety on either a prepetition or a postpetition Bonded Contract. In addition, the postpetition bonds issued by both Federal and Liberty are secured by each Surety's respective postpetition Bonded Collateral and the prepetition bonds issued by both Federal and Liberty are secured by the respective prepetition Bonded Collateral. Because the Surety Agreements have been assumed pursuant to orders of the Bankruptcy Court as part of the Chapter 11 Cases, any Claims arising under the Surety Agreements have been accorded Administrative Expense Claim status.

### **3. Post-Confirmation Funding**

The Debtors expect that the Disbursing Agent will incur costs, fees and expenses, in an aggregate maximum amount of \$[\_\_\_\_\_], in carrying out its obligations under the provisions of the Plan and that such costs, fees and expenses will be funded from the Wind Up Fund.

The Debtors expect that amounts outstanding under the DIP Facility at the termination thereof will be paid from the Cash collateralizing such facility.

### **E. Other Material Matters During the Chapter 11 Cases**

In addition to the first day relief sought in the Chapter 11 Cases, the Debtors have sought authority with respect to a multitude of matters designed to assist in the administration of the Chapter 11 Cases, to maximize the value of the Debtors' Estates and to provide the foundation for the Debtors' emergence from Chapter 11. Set forth below is a brief summary of certain of the principal motions the Debtors have filed during the pendency of the Chapter 11 Cases.

#### **1. Key Employee Retention Program**

By order dated November 20, 2002, the Bankruptcy Court authorized the Debtors to continue existing retention and severance programs for their employees. The authorization was granted to assist the Debtors in combating negative employee morale and turnover problems that result from the uncertainties and increased burdens of an employer's debtor-in-possession status.

By order dated January 23, 2003, the Bankruptcy Court authorized the Debtors to implement the Key Employee Retention Program, which also covered the Debtors' remaining corporate staff after prior reductions in the Debtors' work force in early January 2003. The Debtors sought the authority to implement the Key Employee Retention Program pursuant to sections 363(b) and 105(a) of the Bankruptcy Code for the purpose of retaining the knowledge, experience and skills of its key employees in the effort to stabilize their core businesses and to aid in the divestiture of non-core businesses. The Key Employee Retention Program authorizes the payment of retention amounts based upon a subject employee's level in the Debtors and expected required length of service, with an aggregate amount of \$3.2 million available for distribution. Employees will receive amounts under the Key Employee Retention Program in lieu of any incentive bonus for 2003 and of any other amounts that would otherwise be payable to such employees in respect of claims they have or may have against the Debtors, including any severance payments and rejection damages to which such employees would otherwise be entitled upon termination of their respective employment; *provided, however*, that receipt of such payments shall not, in any way, limit such employees from receiving the benefit of the provisions of Section 13.15 of the Plan. Payments to an eligible employee under the Key Employee Retention Program are to be made upon the earlier to occur of (i) the date

of confirmation of a chapter 11 plan for the Debtors or (ii) the date that such employee is released from employment by the Debtors due to completion of his or her assignments as determined by the executive officers and approved by the board of directors of Encompass.

## **2. Incentive Collections Program**

By Final Order dated January 30, 2003, the Bankruptcy Court authorized the Debtors to implement the Incentive Collections Program. The Debtors sought the authority to implement the Incentive Collections Program pursuant to sections 363(b) and 105(a) of the Bankruptcy Code for the purpose of facilitating the effective collections of the Debtors' outstanding accounts receivable in the face of ongoing employee terminations and the consequent decline of employee morale. The Incentive Collections Program authorizes the payment of funds to certain persons based upon the success of increasing collections of the Debtors' accounts receivables. The program provides for incentive compensation to be paid to personnel of the Debtors' ESR Collections Task Force, the Debtors' regional operating vice presidents and designated key regional finance personnel. The program is structured in two parts. Part A, relating to the collections of Debtors' accounts receivable that are under 90 days past due, is effective from January 10, 2003 through April 11, 2003 and provides that, for every 5% of collections made on such accounts receivable above the amounts forecasted at January 10, 2003 pursuant to the Debtors' approved 13-week cash flow forecast, \$100,000 will be added to a pool of funds to be distributed pursuant to the Incentive Collections Program. The maximum amount that may be pooled and distributed pursuant to Part A is \$500,000. Part B, relating to the collections of Debtors' accounts receivable that are more than 90 days past due, is effective from January 1, 2003 through April 30, 2003 and provides that, for every dollar collected on such accounts receivable, 10% thereof will be added to a pool of funds to be distributed pursuant to the Incentive Collections Program. The maximum amount that may be pooled and distributed pursuant to Part B is \$2,000,000. As for the Key Employee Retention Program, employees will receive amounts under the Incentive Collections Program in lieu of any other amounts that would otherwise be payable to such employees in respect of claims they have or may have against the Debtors, including any severance payments and rejection damages to which such employees would otherwise be entitled upon termination of their respective employment; *provided, however*, that receipt of such payments shall not, in any way, limit such employees from receiving the benefit of the provisions of Section 13.15 of the Plan.

## **3. Pending Litigation and Automatic Stay**

The nature of the Debtors' businesses is such that they are routinely involved in litigation. As a result of the commencement of the Chapter 11 Cases, pursuant to section 362 of the Bankruptcy Code, all litigation pending against the Debtors has been stayed. A number of motions seeking to lift the automatic stay have been filed. Except in certain situations, the Debtors have opposed the motions and the Bankruptcy Court has agreed to maintain the stay. The Debtors have generally not opposed motions where the claimants seek to proceed only against the Debtor's insurance coverage, the Debtors have satisfied any risk retention or deductible obligations under such coverage and the claimants waive any claims against the Debtors.

On February 19, 2003, the Debtors obtained an extension, until May 18, 2003, from the Bankruptcy Court for the deadline for removing to the Bankruptcy Court any claim or cause of action in a civil action that is pending in a state or federal court. The Debtors have not had a full opportunity to investigate their involvement in the prepetition actions.

## **4. Claims Process**

In Chapter 11, claims against a debtor are established either as a result of being listed in the debtor's schedules of liabilities or through assertion by the creditor in a timely filed proof of claim form. If allowed, the claim will be recognized and treated pursuant to a plan of reorganization. If disallowed, the creditor will have no right to obtain any recovery on or to otherwise enforce the claim against the Debtor.

### **a. Schedules and Statements**

The Debtors filed their Schedules on or before February 21, 2003. The Schedules set forth the Claims of known creditors against each of the Debtors as of the Petition Date, based upon the Debtors' books and records. The Debtors reserve the right to amend their Schedules during the remaining pendency of the Chapter 11 Cases.



b. Claims Bar Date

By order dated February 26, 2003, the Bankruptcy Court established April 15, 2003 as the deadline for filing Proofs of Claim against the Debtors by those creditors required to do so, other than governmental units. It established May 19, 2003 as the deadline applicable to governmental units. In compliance with procedures approved by the Bankruptcy Court, the Debtors, through the Solicitation Agent, acting as the claims agent, provided timely notice of the Bar Date by mail. In addition, the Debtors published notice of the Bar Date in the *Houston Chronicle* and the *Wall Street Journal* (National Edition).

c. Claims Objection Process

The Debtors intend to evaluate the Proofs of Claim to determine whether objections seeking the disallowance of certain asserted Claims should be filed. The Debtors anticipate that numerous objections will be filed, and that many of the Claims subject to such objections will be disallowed. If the Debtors do not object to a Proof of Claim by the deadline established in the Plan, the Claim asserted therein will be deemed Allowed and will be treated pursuant to the Plan. As appropriate, the Debtors may seek to negotiate and settle disputes as to Proofs of Claims as an alternative to filing objections to the Proofs of Claim.

The Debtors believe that General Unsecured Claims in Class 7 are likely to become Allowed Claims in the approximate aggregate amount of \$\_\_\_\_\_. However, the Debtors have not yet completed the review, reconciliation and objection process. In addition, rejection damages claims associated with executory contracts and unexpired leases that are pending rejection have not yet been asserted. Therefore, it is possible that when such process is completed, including resolution of rejection damages Claims, the amount of Allowed General Unsecured Claims could exceed such projected amount.

**5. Extension of Time to Assume or Reject Unexpired Leases**

Given the size and complexity of the Chapter 11 Cases, the Debtors were unable to complete their analysis of all nonresidential real property leases during the time limitation prescribed by section 365(d)(4) of the Bankruptcy Code. By order dated January 8, 2003, the Bankruptcy Court extended the time by which the Debtors must assume or reject leases of nonresidential property through and including April 21, 2003

**6. Disposition of Executory Contracts**

Pursuant to section 365 of the Bankruptcy Code, the Debtors may choose to assume, assume and assign or reject executory contracts and unexpired leases of real and personal property, subject to approval of the Bankruptcy Court. As a condition to assumption, or assumption and assignment, unless otherwise agreed by the non-Debtor party, the Debtors must cure all existing defaults under the contract or lease, and must provide adequate assurance of future performance of the contract or lease. If the contract or lease is rejected, any resulting rejection damages are treated as prepetition unsecured claims. Generally, and with certain exceptions, postpetition obligations arising under a contract or lease must be paid in full in the ordinary course of business. The Debtors have rejected a number of real and personal property leases, but they have generally either deferred any assumption decisions to the time of Confirmation of the Plan or have assumed and assigned contracts and leases pursuant to asset sales conducted under section 363 of the Bankruptcy Code. The Debtors are currently negotiating with parties to significant executory contracts for modified terms and/or reductions of Cure amounts as a condition to assumption. Any agreements reached are subject to approval by the Bankruptcy Court.

**F. Asset Sales**

During the fourth quarter of 2002, including both before and after the Petition Date, the Debtors have engaged in and continued a program of asset sales to divest of certain unprofitable operations. During the fourth quarter, Encompass sold the operations associated with 33 of its Subsidiaries for proceeds, before expenses, of approximately \$156.5 million. Together with net operating losses experienced by Encompass and its Subsidiaries, the sale of these operations is expected to generate a tax refund in the aggregate amount of approximately \$127 million. Until the registrant prepares and files its 2002 Federal income tax return, the Debtors cannot predict when they will receive the refund associated with these losses. The divested operations had a net book value of approximately \$260 million at September 30, 2002 and contributed, in the aggregate, approximately \$1,230 million of revenues and \$8 million of earnings before interest, taxes, amortization and impairment for the nine-month period ended September 30, 2002.

In January 2003, the Debtors sold assets associated with 6 of its subsidiaries for proceeds, before expenses, of approximately \$20 million. These operations had a net book value of approximately \$25 million at September 30, 2002 and contributed, in the aggregate, approximately \$250 million of revenues and \$5 million of earnings before interest, taxes, amortization and impairment for the nine-month period ended September 30, 2002.

The assets sold in these transactions included substantially all of the properties associated with the Debtors' Cleaning Systems group, certain properties associated with the Debtors' Commercial/Industrial Services group and certain identified non-core properties of the Residential Services group. Since the Petition Date, the sales have been consummated after Debtors have sought the Bankruptcy Court's approval of certain bid procedures designed to produce the highest and best bid with respect a targeted divestitures and approval to sell certain assets free and clear of liens, claims, encumbrances and other interests subject to higher and better offers. During the first quarter of 2003, the Debtors intend to continue to divest of substantially all of the assets associated with its commercial/industrial services operations.

The following chart summarizes asset sales completed by the Debtors during the Chapter 11 Cases as of the date hereof:

<u>Operating Subsidiary of Assets Sold</u> <sup>1</sup>	<u>Date of Sale</u>	<u>Buyer</u>	<u>Purchase Price</u> <sup>2</sup>
1. Central Carolina Air Conditioning Company	December 20, 2002	CCACC Acquisition Company, LLC	\$ [_____]
2. Costner Brothers, Inc.	December 27, 2002	Brothers Air & Heat, Inc.	[_____]
3. Gilbert Mechanical Contractors, Inc.	December 18, 2002	GGD Mechanical Contractors, Inc.	[_____]
4. Laney's, Inc.	December 18, 2002	Cedric, Inc.	[_____]
5. Merritt Island Heat & Air, Inc.	December 18, 2002	RB Acquisitions, Inc.	[_____]
6. Yale Incorporated	December 18, 2002	Yale Mechanical, Inc.	[_____]
7. Building One Service Solutions, Inc./Building One Commercial, Inc.	December 31, 2002	Horizon National Services, LLC	[_____]
8. Encompass Design Group, Inc./ Encompass Power Services, Inc.	December 31, 2002	Sterling-EDG, Inc.	[_____]
9. Encompass Electrical Technologies, Inc. and Encompass Central Plains, Inc.	December 31, 2002	Trojan Properties, L.L.C.	[_____]
10. Encompass Ind./Mech. of Texas, Inc.	December 31, 2002	Ken Polk Investments, LLC	[_____]
11. Birmingham assets of Encompass Mechanical Services Southeast, Inc.	December 31, 2002	LT Mechanical, LLC	[_____]
12. MacDonald-Miller Industries, Inc./ MacDonald-Miller Co., Inc./ MacDonald-Miller Service, Inc./ MacDonald-Miller of Oregon, Inc./ Encompass Facility Services, Inc.	December 31, 2002	MacDonald-Miller Facility Services, Inc.	[_____]

13. Oakleaf Waste Management LLC	December 31, 2002	James R. Barnes	[_____]
14. Omni Mechanical Company	December 31, 2002	Crawford -Beeson Companies, Inc.	[_____]
15. Pacific Rim Mechanical Contractors, Inc.	December 31, 2002	blue sky mechanical, inc.	[_____]
16. Sequoyah Corporation	December 31, 2002	Jamestown Electric, LLC	[_____]
17. Stephen C. Pomeroy, Inc.	December 31, 2002	Pomeroy Electric Incorporated	[_____]
18. Wilson Electric Company, Inc.	December 31, 2002	Wilson Electric Services Corporation	[_____]
19. Encompass Industrial Services Southwest, Inc.	January 31, 2003	GSI Acquisition, Inc.	[_____]
20. Mechanical Services of Orlando, Inc.	January 31, 2003	Succession Capital and Services, LLC	[_____]
21. Aircon Energy Incorporated	January 31, 2003	Vidortx, Inc.	[_____]
22. Sun Plumbing, Inc.	January 31, 2003	Steven W. Rutherford	[_____]
23. Encompass Mechanical Services Southeast, Inc.	January 31, 2003	L T Mechanical, LLC	[_____]
24. L.T. Mechanical, Inc.	January 31, 2003	Larry W. Oehler and Thomas M. Almond	[_____]
25. Gamewell Mechanical, Inc.	February 4, 2003	EMC Company	[_____]
26. Garfield-Indecon Electrical Services, Inc.	February 5, 2003	Gerald C. Converse	[_____]
27. Michigan assets of Airtron, Inc.	February 6, 2003	Robert R. Strang	[_____]
28. Encompass Electrical Technologies – Florida, LLC	February 27, 2003	New Tri-City Electrical Contractors, Inc.	[_____]
29. Encompass Electrical Technologies – Rocky Mountain, Inc.	February 27, 2003	IES ENC, Inc.	[_____]
30. Encompass Constructors, Inc.	February 28, 2003	Atlantic Constructors, Inc.	[_____]

31. Encompass Electrical Technologies Southeast, Inc./ Encompass Electrical Technologies North Florida, Inc./ Encompass Electrical Technologies Georgia, Inc./ Encompass Electrical Technologies Western Tennessee, Inc./ Encompass Electrical Technologies Projects Group, Inc.	February 28, 2003	Regency Acquisition I Corp.	[_____]
32. Watson Electrical Construction Co.	February 28, 2003	Watson Electrical Acquisition Co., LLC	[_____]
33. Encompass Capital, Inc.	March 3, 2003	M/A Electric, LLC	[_____]
<b>Total:</b>			\$ [_____]

<sup>1</sup> Such sales were generally conducted as sales of all or substantially all of the assets of certain operating Subsidiary Debtors. However, in certain cases the sales only included operating segments or certain assets of a Subsidiary.

<sup>2</sup> Includes cash and other forms of consideration received pursuant to such sales, including, without limitation, promissory notes. Amounts remain subject, in many instances, to substantial post-closing and working capital adjustments and do not include reductions for fees and expenses that are to be paid from the consideration from the respective transaction. Such amounts do not include amounts relating to asset purchasers' assumption of liabilities, including trade accounts payable and other accruals.

The amounts reflected are gross purchase price consideration that remain subject, in many instances, to substantial post-closing and working capital adjustments and other contingencies, such as collectibility of accounts receivable transferred as part of a sale. Such amounts also do not reflect deductions of the fees and expenses for the respective transaction. The foregoing-described proceeds also do not include amounts relating to asset purchasers' assumption of liabilities, including obligations to make payment on trade accounts payable, and other accruals as part of the consideration for the sales.

In addition to completing such asset divestitures, the Debtors intend to shut down, rather than divest, four of their operating entities in order to minimize operating losses and to maximize value for the Estates.

## G. Plan Formulation

In response to the rejection of the proposed prepackaged plan of reorganization that Encompass offered in October and November of 2002, see Section II.F — “GENERAL INFORMATION REGARDING THE DEBTORS — EVENTS LEADING TO THE CHAPTER 11 CASES”, the Debtors continued to formulate a plan of reorganization that they believed would be accepted by the holders of Claims against them while also continuing to complete the asset divestitures described in the immediately preceding section hereof. The Debtors focused upon a reorganization around the Residential Debtors due to the concerns about the Debtors' future abilities to obtain sufficient surety bonding capacity because the Residential Debtors' operations generally have substantially lower bonding capacity requirements. After the Debtors' had conducted discussions with the DIP Lenders and the Senior Lenders concerning a general plan relating to a reorganization around the Residential Debtors, the Debtors believed that it was necessary to solicit alternative competing offers for the equity interests in and associated assets of the Residential Debtors.

The Debtors approached potential counterparties that they believed might have an interest in investing in, and the wherewithal in conjunction with the Management Group to operate, the Residential Debtors. The Debtors received bids from three of such parties and, after consideration of whether the proposal set forth in the Purchase Agreement would maximize the value of the Estates by procuring the highest and best offer for an investment in the Residential Debtors, determined that the offer set forth in the Purchase Agreement represented the highest and best offer for such investment.

The Purchase Agreement will form a part of the Plan Supplement.

#### **IV. SUMMARY OF THE PLAN**

THIS SECTION PROVIDES A SUMMARY OF THE STRUCTURE AND IMPLEMENTATION OF THE PLAN AND THE CLASSIFICATION AND TREATMENT OF CLAIMS UNDER THE PLAN AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN, WHICH ACCOMPANIES THIS DISCLOSURE STATEMENT, AND TO THE EXHIBITS ATTACHED THERETO.

THE PLAN ITSELF AND THE DOCUMENTS REFERRED TO THEREIN WILL CONTROL THE TREATMENT OF CREDITORS AND EQUITY INTEREST HOLDERS UNDER THE PLAN AND WILL, UPON THE EFFECTIVE DATE, BE BINDING UPON HOLDERS OF CLAIMS AGAINST, OR EQUITY INTERESTS IN, THE DEBTORS, THE REORGANIZED DEBTORS AND OTHER PARTIES IN INTEREST.

##### **A. Overall Structure of the Plan**

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. Under chapter 11, a debtor is authorized to reorganize its business for the benefit of its creditors and shareholders. Upon the filing of a petition for relief under chapter 11, section 362 of the Bankruptcy Code provides for an automatic stay of substantially all acts and proceedings against the debtor and its property, including all attempts to collect claims or enforce liens that arose prior to the commencement of the chapter 11 case.

The consummation of a plan of reorganization is the principal objective of a chapter 11 case. A plan of reorganization sets forth the means for satisfying claims against and interests in a debtor. Confirmation of a plan of reorganization by the Bankruptcy Court makes the plan binding upon the debtor, any issuer of securities under the plan, any Person acquiring property under the plan and any creditor of or equity interest holder in the debtor, whether or not such creditor or equity interest holder (i) is Impaired under or has accepted the plan or (ii) receives or retains any property under the plan. Subject to certain limited exceptions, and other than as provided in the plan itself or the confirmation order, the confirmation order discharges the debtor from any debt that arose prior to the date of confirmation of the plan and substitutes for such debt the obligations specified under the confirmed plan, and terminates all equity interests.

The terms of the Debtors' Plan are based upon, among other things, the Debtors' assessment of their ability to make the distributions contemplated under the Plan and pay their continuing obligations in the ordinary course of their businesses. Under the Plan, Claims against and Equity Interests in the Debtors are divided into Classes according to their relative seniority and other criteria.

If the Plan is confirmed by the Bankruptcy Court and consummated, (i) the Claims in certain Classes will be reinstated or modified and receive distributions equal to the full amount of such Claims, (ii) the Claims of certain other Classes will be modified and receive distributions constituting a partial recovery on such Claims and (iii) the Claims and Equity Interests in certain other Classes will receive no recovery on such Claims or Equity Interests. On the Effective Date and at certain times thereafter, Reorganized Encompass will distribute Cash and other property in respect of certain Classes of Claims as provided in the Plan. The Classes of Claims against and Equity Interests in the Debtors created under the Plan, the treatment of those Classes under the Plan and the property to be distributed under the Plan are described below.

##### **B. Acquisition of the Residential Debtors**

###### **1. The Proposed Sale Transaction**

Generally, the equity interests in each of the Reorganized Residential Debtors will be transferred and conveyed to the Buyer and, in exchange, the Buyer will pay the Purchase Price in accordance with the terms of the Purchase Agreement. The Purchase Price will comprise a portion of the Asset Sale Proceeds and will be distributed in accordance with the terms of the Plan.

###### **2. Approval of Sale**

As permitted by sections 1123(a)(5), 1123(b)(4), 1129(a)(11) and 363(l) of the Bankruptcy Code, the Debtors seek approval of the sale of the Reorganized Residential Debtors' Common Stock in accordance with the terms of the Plan and the Purchase Agreement. Confirmation of the Plan by the Bankruptcy Court will constitute approval of the proposed sale of the Reorganized

Residential Debtors' Common Stock to the Buyer and the Confirmation Order will contain express findings and conclusions approving the sale on the terms and conditions set forth in the Purchase Agreement and the Plan. The Purchase Agreement will be filed as part of the Plan Supplement.

### 3. Sale Free and Clear

On and after the Effective Date, pursuant to Section 2.3 of the Plan and the Purchase Agreement, the Reorganized Residential Debtors' Common Stock and all assets of the Reorganized Residential Debtors, other than as specifically set forth in the Purchase Agreement, will be purchased by and vested in the Buyer free and clear of all Claims, Equity Interests, Liens, charges, encumbrances and all other rights arising on or before the Effective Date.

### C. Treatment of Unclassified Claims

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims are not classified and the holders of such Claims are not entitled to vote on the Plan.

#### 1. Administrative Expense Claims

On the latest of (i) the Effective Date, (ii) the date on which its Administrative Expense Claim becomes an Allowed Administrative Expense Claim or (iii) the date on which its Administrative Expense Claim becomes payable under any agreement relating thereto, or as soon as practicable thereafter, each holder of an Allowed Administrative Expense Claim will receive in full satisfaction settlement, release, and discharge of and in exchange for such Allowed Administrative Expense Claim, Cash equal to the unpaid portion of its Allowed Administrative Expense Claim. Notwithstanding the foregoing, (a) any Allowed Administrative Expense Claim based on a liability incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases will be paid in the ordinary course of business, in accordance with the terms and conditions of any agreement relating thereto and (b) any Allowed Administrative Expense Claim may be paid on such other terms as may be agreed on between the holder of such Claim and the Debtors.

#### 2. Priority Tax Claims

On the later of (i) the Effective Date or (ii) the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, or as soon as practicable thereafter, each holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Tax Claim, in the sole discretion of the Debtors or the Reorganized Debtors, (a) Cash in an amount equal to such Allowed Priority Tax Claim, (b) deferred Cash payments over a period not exceeding six years after the date of assessment of such Allowed Priority Tax Claim, of a value, as of the Effective Date, equal to such Allowed Priority Tax Claim, or (c) such other treatment as to which the Debtors or the Reorganized Debtors and such holder will have agreed upon in writing; *provided, however*, that no holder of an Allowed Priority Tax Claim will be entitled to any payments on account of any pre-Effective Date interest accrued on or penalty arising after the Petition Date with respect to or in connection with such Allowed Priority Tax Claim.

### D. Summary of Classes

The Plan places all Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, in the classes listed below. A Claim or Equity Interest is placed in a particular Class only to the extent that it falls within the description of that Class, and is classified in any other Class to the extent that any portion thereof falls within the description of such other Class.

Class	Impaired/Unimpaired, Entitlement to Vote
Class 1 — Other Priority Claims	Unimpaired — Deemed to have accepted and not entitled to vote
Class 2 — Secured Tax Claims	Unimpaired — Deemed to have accepted and not entitled to vote
Class 3 — Other Secured Claims	Unimpaired — Deemed to have accepted and not entitled to vote

<b>Class</b>	<b>Impaired/Unimpaired, Entitlement to Vote</b>
Class 4 — Existing Credit Agreement Claims	Impaired — Entitled to vote
Class 5 — Surety Claims	Impaired — Entitled to vote
Class 6 — Convenience Claims	Impaired — Entitled to vote
Class 7 — General Unsecured Claims	Impaired — Entitled to vote
Class 8 — Litigation Claims	Impaired — Entitled to vote
Class 9 — Existing Preferred Stock	Impaired — Deemed to have rejected and not entitled to vote
Class 10 — Existing Common Stock and Section 510(b) Claims	Impaired — Deemed to have rejected and not entitled to vote
Class 11 — Existing Other Equity Interests	Impaired — Deemed to have rejected and not entitled to vote

## **E. Treatment of Classified Claims and Equity Interests**

### **1. Class 1 — Other Priority Claims**

a. Claims in Class: Class 1 consists of all Other Priority Claims.

b. Treatment: On the later of (i) the Effective Date or (ii) the date on which its Other Priority Claim becomes an Allowed Other Priority Claim, or, in each case, as soon as practicable thereafter, each holder of an Allowed Other Priority Claim will receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Other Priority Claim, Cash equal to the full amount of its Allowed Other Priority Claim.

### **2. Class 2 — Secured Tax Claims**

a. Claims in Class: Class 2 consists of all Secured Tax Claims.

b. Treatment: Except to the extent that a holder of an Allowed Secured Tax Claim has been paid by the Debtors prior to the Effective Date or agrees to a different treatment, each holder of an Allowed Secured Tax Claim will receive, at the sole option of the Reorganized Debtors, (i) Cash in the amount of such Allowed Secured Tax Claim, including any interest required by section 506(b) of the Bankruptcy Code, on the later of the Effective Date or the date on which such Allowed Secured Tax Claim becomes an Allowed Secured Tax Claim, or as soon thereafter as is practicable, or (ii) equal annual Cash payments in an aggregate amount equal to such Allowed Secured Tax Claim, together with interest at a fixed annual rate equal to 6.0% over a period through the sixth anniversary of the date of assessment of such Allowed Secured Tax Claim, or upon such other terms determined by the Bankruptcy Court to provide the holder of such Allowed Secured Tax Claim deferred Cash payments having a value, as of the Effective Date, equal to such Allowed Secured Tax Claim.

### **3. Class 3 — Other Secured Claims**

a. Claims in Class: Class 3 consists of all Other Secured Claims.

b. Treatment: Except to the extent that a holder of an Allowed Other Secured Claim agrees to a different treatment, at the sole option of the Debtors or the Reorganized Debtors, (i) each Allowed Other Secured Claim will be reinstated and rendered unimpaired pursuant to section 1124 of the Bankruptcy Code, notwithstanding any contractual provision or applicable nonbankruptcy law that entitles the holder of an Allowed Other Secured Claim to demand or receive payment prior to the stated maturity of such Allowed Other Secured Claim from and after the occurrence of a default; (ii) each holder of an Allowed Other Secured Claim will receive Cash in an amount equal to such Allowed Other Secured Claim, including any interest on such Allowed Other Secured Claim required to be paid pursuant to section 506(b) of the

Bankruptcy Code, on the later of the Effective Date or the date such Allowed Other Secured Claim becomes an Allowed Other Secured Claim or as soon thereafter as is practicable, or (iii) the holder of an Allowed Other Secured Claim will receive possession of the Collateral securing its Allowed Other Secured Claim in full and complete satisfaction of such Allowed Other Secured Claim on the later of the Effective Date or the date such Allowed Other Secured Claim becomes an Allowed Other Secured Claim or as soon thereafter as is practicable.

c. Deficiency Claims: Each holder of an Allowed Other Secured Claim receiving the treatment specified in clause (ii) or (iii) of the preceding paragraph will have a Deficiency Claim to the extent the value of the Collateral securing its Allowed Other Secured Claim is less than amount of its Allowed Other Secured Claim.

#### **4. Class 4 — Existing Credit Agreement Claims**

a. Claims in Class: Class 4 consists of all Existing Credit Agreement Claims.

b. Treatment: On the later of (i) the Effective Date or (ii) the date on which its Existing Credit Agreement Claim becomes an Allowed Existing Credit Agreement Claim, or, in each case, as soon as practicable thereafter, each holder of an Allowed Existing Credit Agreement Claim will receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Existing Credit Agreement Claim a Pro Rata share of (i) the Asset Sale Proceeds, (ii) the proceeds of all Postpetition Collateral and (iii) the proceeds of the Prepetition Collateral, including the proceeds of the Prepetition Collateral that are collected after the Confirmation Date.

c. Deficiency Claims: Each holder of an Allowed Existing Credit Agreement Claim receiving the treatment specified in the preceding paragraph will have a Deficiency Claim to the extent the value of the Collateral securing its Allowed Existing Credit Agreement Claim is less than the amount of its Allowed Existing Credit Agreement Claim.

#### **5. Class 5 — Surety Claims**

a. Claims in Class: Class 5 consists of all Surety Claims.

b. Treatment: Except to the extent that the holder of an Allowed Surety Claim has been paid by the Debtors prior to the Effective Date, the holder of an Allowed Surety Claim will receive on account of such holder's Allowed Surety Claim and in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Surety Claim all equitable subrogation and other legal and equitable rights against the Debtors, the Reorganized Debtors and the Bonded Collateral arising under the Surety Agreements, the Bonded Contracts and applicable law; *provided, however*, that except for cross-indemnity obligations arising under a Bond under which a Residential Debtor is the principal and primary indemnitor, the Residential Debtors shall be released from all Bonded Obligations, including all Claims related to cross-indemnities.

#### **6. Class 6 — Convenience Claims**

a. Claims in Class: Class 6 consists of all Convenience Claims.

b. Treatment: Except to the extent that the holder of an Allowed Convenience Claim has been paid by the Debtors prior to the Effective Date pursuant to the Critical Vendor Order or otherwise or such holder agrees to a different treatment, the holder of an Allowed Convenience Claim will receive on account of such holder's Allowed Convenience Claim and in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Convenience Claim the lesser of (i) one-half of such holder's Allowed Convenience Claim or (ii) a Pro Rata share of the Convenience Class Distribution.



## **7. Class 7 — General Unsecured Claims**

a. Claims in Class: Class 7 consists of all General Unsecured Claims.

b. Treatment: Except to the extent that the holder of an Allowed General Unsecured Claim has been paid by the Debtors prior to the Effective Date pursuant to the Critical Vendor Order or otherwise or such holder agrees to a different treatment, the holder of an Allowed General Unsecured Claim will receive on account of such holder's Allowed General Unsecured Claim and in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed General Unsecured Claim such holder's Pro Rata share of the Class 7 Distribution; *provided, however*, that the Pro Rata share of the Class 7 Distribution allocated to the holders of Allowed Junior Subordinated Note Claims and Allowed Senior Subordinated Note Claims will, prior to the distribution of any such property, be reallocated and distributed Pro Rata to the Senior Lenders holding Allowed General Unsecured Claims.

## **8. Class 8 — Litigation Claims**

a. Claims in Class: Class 8 consists of all Litigation Claims.

b. Treatment: If and when a Litigation Claim becomes an Allowed Litigation Claim, proceeds from any Insurance Policy which become payable as a consequence of such allowance will be disbursed by the insurer which is obligated to pay such insurance proceeds to the holder of such Allowed Litigation Claim. If the proceeds of an Insurance Policy become payable as a consequence of the allowance of a Litigation Claim, and the Insurance Policy (or Insurance Policies) providing coverage for the Allowed Litigation Claim contains a retention (deductible) that has not been paid by the Debtors on or before the Effective Date, then, and in such event, (i) the amount of Insurance Policy proceeds payable by an insurer to the holder of the Allowed Litigation Claim will be reduced by the amount of the unpaid retention, and (ii) the holder of the Allowed Litigation Claim will hold an Allowed General Unsecured Claim in the amount of such unpaid retention. Notwithstanding any provision in the Plan to the contrary, if it is determined that all or any portion of an Allowed Litigation Claim is not an Allowed Insured Claim, then the holder of such Allowed Litigation Claim will hold an Allowed General Unsecured Claim for that portion of the Allowed Litigation Claim which is not an Allowed Insured Claim.

c. Reservation of Rights: The insurers under all Insurance Policies affected by the preceding paragraph will retain all rights (including, but not limited to, rights to defend Claims, settle Claims, and retain and pay defense counsel), remedies, defenses, discretions, and corresponding obligations provided in each Insurance Policy and any related agreements. No insurer will be required to make a disbursement to the holder of an Allowed Litigation Claim unless the holder of such Allowed Litigation Claim executes and delivers to the insurer a release of all Claims in such form and containing such provisions as may be reasonably required by the insurer.

## **9. Class 9 — Existing Preferred Stock**

a. Equity Interests in Class: Class 9 consists of the Existing Preferred Stock.

b. Treatment: On the Effective Date, all Existing Preferred Stock and the accrued and unpaid dividends thereon will be cancelled, and the holders of Existing Preferred Stock will not receive or retain any property on account of their Existing Preferred Stock.

## **10. Class 10 — Existing Common Stock and Section 510(b) Claims**

a. Equity Interests and Claims in Class: Class 10 consists of all Existing Common Stock and Section 510(b) Claims.

b. Treatment: On the Effective Date, all Existing Common Stock will be cancelled, and the holders of Existing Common Stock and Section 510(b) Claims will not receive or retain any property on account of their Existing Common Stock and/or Section 510(b) Claims.

## **11. Class 11 — Existing Other Equity Interests**

a. Equity Interests in Class: Class 11 consists of all Existing Other Equity Interests.

b. Treatment: On the Effective Date, all Existing Other Equity Interests will be cancelled, and the holders of Existing Other Equity Interests will not receive or retain any property on account of their Existing Other Equity Interests.

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

### **1. Continued Corporate Existence of Debtors; Authorized Capital Stock**

a. Reorganized Residential Debtors.

Each of the Reorganized Residential Debtors will be wholly owned, directly or indirectly, by Newco Holding LLC and will continue to exist after the Effective Date as a separate entity in accordance with the applicable law in the applicable jurisdiction in which it is incorporated, formed or organized under its respective certificate of incorporation and bylaws, partnership agreement, membership agreement or other organizational documents in effect before the Effective Date except as its organizational documents may be amended pursuant to the Plan. On the Effective Date, the organizational documents of each Reorganized Residential Debtor will be amended as necessary to satisfy the provisions of the Plan and the Bankruptcy Code and will include, pursuant to section 1123(a)(6) of the Bankruptcy Code, a provision prohibiting the issuance of non-voting equity securities.

b. Reorganized Non-Residential Debtors.

The Reorganized Non-Residential Debtors will continue to be wholly owned by Reorganized Encompass and will continue to exist after the Effective Date for the limited purpose of winding up their affairs and assisting the Disbursing Agent in carrying out the duties and responsibilities set forth in the Plan.

### **2. Restructuring Transactions**

Notwithstanding any provision in the Plan to the contrary, and in accordance with the provisions of section 1123 of the Bankruptcy Code, the Residential Debtors may enter into any transactions or take any actions appropriate or necessary to effect a corporate restructuring of their respective businesses, including, without limitation, any action necessary to effect a change in the organizational form of any Residential Debtor. Any such proposed corporate restructuring will be described in the documents and papers contained in the Plan Supplement. In addition to such pre-Confirmation Date transactions, the applicable Reorganized Residential Debtors may enter into such transactions, on and after the Confirmation Date, which are necessary or appropriate to effect a corporate restructuring of their respective businesses, including, without limitation, simplifying the overall corporate structure of the Reorganized Residential Debtors, or reincorporating certain of the Reorganized Residential Debtors under the laws of jurisdictions other than the laws under which the applicable Reorganized Residential Debtor is presently incorporated or reforming some or all of the Reorganized Residential Debtors as limited liability companies or limited partnerships in such jurisdictions. Such restructuring may include one or more mergers, consolidations, dispositions, liquidations, or dissolutions, as may be determined by Newco Holding LLC or the Reorganized Residential Debtors to be necessary or appropriate. In each case in which the surviving, resulting, or acquiring corporation in any such transaction is a successor to a Reorganized Residential Debtor, such surviving, resulting, or acquiring corporation will perform the obligations (if any) of the applicable Reorganized Residential Debtor pursuant to the Purchase Agreement or the Plan to pay or otherwise satisfy the Allowed Claims against such Reorganized Residential Debtor specifically identified in the Purchase Agreement, except as provided in any contract, instrument or other agreement or document effecting a disposition to such surviving, resulting, or acquiring corporation, which may provide that another Reorganized Residential Debtor will perform such obligations.

### **3. Treatment of Claims for Purposes of Voting, Confirmation and Distribution**

For purposes of voting, confirmation and distribution, the Plan is premised upon the substantive consolidation of all of the Debtors. Entry of the Confirmation Order will constitute the approval, pursuant to section 105(a) of the Bankruptcy Code, effective as of the Effective Date, of the consolidation of the Chapter 11 Cases of the Debtors for all purposes related to the Plan, including, without limitation, for purposes of voting, confirmation and distribution, but excluding the transactions contemplated by the Purchase Agreement. Pursuant to such order, (i) except for the Residential Debtors, each Debtor's assets and liabilities will be merged and

pooled with the assets and liabilities of each of the other Debtors, (ii) no distributions will be made under the Plan on account of Intercompany Claims held by the Debtors, (iii) all guarantees of the Debtors of the obligations of any other Debtor will be deemed eliminated so that any Claim against any Debtor and any guarantee thereof executed by any other Debtor and any joint or several liability of any of the Debtors will be deemed to be one obligation of the consolidated Debtors, and (iv) each and every Claim filed or to be filed in the Chapter 11 Case of any Debtor will be deemed filed against the consolidated Debtors, and will be deemed one Claim against, and obligation of, the consolidated Debtors. Such substantive consolidation will not (other than for purposes related to the Plan) affect (i) the legal and corporate structures of the Reorganized Debtors, (ii) pre- and post-Petition Date guarantees that are required to be maintained (a) in connection with executory contracts or unexpired leases that were entered into during the Chapter 11 Cases or that have been or will be assumed or (b) pursuant to the Plan or (iii) any term or provision of the Purchase Agreement (including, without limitation, any provision thereof limiting the post-Effective Date liabilities of the Reorganized Residential Debtors).

#### **4. Corporate Action; Cancellation of Securities**

On the Effective Date, except as otherwise provided for herein, (i) the Extinguished Securities, to the extent not already cancelled, will be deemed cancelled and of no further force or effect without any further action on the part of the Bankruptcy Court or any other Person and (ii) the obligations of the Debtors under the Extinguished Securities and under the Debtors' certificate of incorporation, any agreements, indentures, or certificates of designations governing the Extinguished Securities will be terminated and discharged; *provided, however*, that each indenture or other agreement that governs the rights of the holder of a Claim based on the Extinguished Securities and that is administered by an indenture trustee, agent, or servicer will continue in effect solely for the purposes of permitting such indenture trustee, agent, or servicer to maintain any rights it may have for fees, costs, and expenses under such indenture or other agreement. Additionally, the cancellation of any indenture will not impair the rights and duties under such indenture as between the indenture trustee thereunder and the beneficiaries of the trust created thereby. Additionally, as of the Effective Date, all Equity Interests, to the extent not already cancelled, will be cancelled.

#### **5. Directors and Executive Officers**

a. Board of Directors of Reorganized Encompass.

On the Effective Date, the term of each member of the current board of directors of Encompass will automatically expire. The initial board of directors of Reorganized Encompass on and after the Effective Date will consist of one member, who will be designated by the Disbursing Agent. The Reorganized Encompass board of directors will have the responsibility for the management, control, and operation of Reorganized Encompass on and after the Effective Date.

b. Officers of Reorganized Encompass.

The officers of Reorganized Encompass on and after the Effective Date will be those officers identified in the Plan Supplement.

c. Board of Directors of Reorganized Residential Debtors.

The initial boards of directors of the Reorganized Residential Debtors will be designated by the Buyer and identified in the Plan Supplement.

d. Officers of Reorganized Residential Debtors.

The officers of the Reorganized Residential Debtors on and after the Effective Date will be designated by the Buyer and identified in the Plan Supplement.

#### **6. New Securities**

On the Effective Date, Reorganized Encompass will issue new shares of common stock to the Disbursing Agent and the Disbursing Agent shall hold such common stock in furtherance of its performance of its obligations in connection with its winding up of the businesses, assets, properties and affairs of the Non-Residential Debtors. Such shares of common stock of Reorganized Encompass will be held in trust by the Disbursing Agent for the benefit of holders of Claims against the Debtors.

On the Effective Date, the Reorganized Residential Debtors will issue the Reorganized Residential Debtors' Common Stock, which shall be sold to Buyer pursuant to the Purchase Agreement. The issuance, grant, and reservation of the Reorganized Residential Debtors' Common Stock authorized in Section 5.6 of the Plan shall not require any further act or action by or among other Persons, any shareholders or creditors of Encompass, under applicable law, regulation, order or rule.

## **7. New Credit Agreement**

On or after the Effective Date, Newco Holding LLC and/or one or more of the Reorganized Residential Debtors may enter into such other or further debt or equity financings as they deem necessary or appropriate for the Reorganized Residential Debtors' working capital and other general corporate needs.

## **8. Revesting of Assets**

### **a. Revesting of Assets of the Residential Debtors.**

Notwithstanding anything in the Plan to the contrary, the property of each Residential Debtor's Estate, together with any property of each Residential Debtor that is not property of its Estate and that is not specifically disposed of pursuant to the Plan, will revert in the applicable Reorganized Residential Debtor on the Effective Date and the Reorganized Residential Debtors' Common Stock will be sold to Newco Holding LLC pursuant to the Purchase Agreement. Thereafter, the Reorganized Residential Debtors may operate their businesses and may use, acquire, and dispose of property free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Court. As of the Effective Date, all property of the Reorganized Residential Debtors, including the Reorganized Residential Debtors' Common Stock held by Newco Holding LLC, will be free and clear of all Claims, encumbrances, Equity Interests, charges and Liens except as specifically provided in the Purchase Agreement. Without limiting the generality of the foregoing, the Reorganized Residential Debtors may, without application to or approval by the Bankruptcy Court, pay professional fees and expenses incurred after the Effective Date.

### **b. Revesting of Assets of the Non-Residential Debtors.**

The property of each Non-Residential Debtor, together with any property of each Non-Residential Debtor that is not property of its Estate and that is not specifically disposed of pursuant to the Plan, will revert in the applicable Non-Residential Debtor on the Effective Date. Following the Effective Date, the Reorganized Non-Residential Debtors will continue to exist until such time as they are dissolved under applicable law. The Reorganized Non-Residential Debtors will not engage in any new business or incur new liabilities, except as is necessary to assist the Disbursing Agent in effectuating the duties and obligations set forth in the Plan; *provided further* that the holders of the Existing Credit Agreement Claims will retain Liens on the property that reverts in the Non-Residential Debtors and such property will be treated in accordance with the terms of the Plan.

## **9. Preservation of Rights of Action; Settlement of Litigation Claims**

### **a. Preservation of Rights of Residential Debtors.**

Except as otherwise provided in the Plan, the Confirmation Order, the DIP Order or in any contract, instrument, release, indenture or other agreement entered into in connection with the Plan, in accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Residential Debtors will retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all claims, rights or causes of action, suits, and proceedings, whether in law or in equity, whether known or unknown, that the Residential Debtors or their Estates may hold against any Person or entity without the approval of the Bankruptcy Court. The Reorganized Residential Debtors or their successor(s) may pursue such retained claims, rights or causes of action, suits, or proceedings as appropriate, in accordance with the best interests of the Reorganized Residential Debtors or their successor(s) who hold such rights.

### **b. Preservation of Rights of Non-Residential Debtors.**

Except as otherwise provided, in the Plan, the Confirmation Order, the DIP Order or in any contract, instrument, release, indenture or other agreement entered into in connection with the Plan, in accordance with section 1123(b) of the Bankruptcy Code, the Disbursing Agent will retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all claims, rights or causes of action, suits, and proceedings, whether in law or in equity, whether known or unknown, that the Non-Residential Debtors or their Estates may hold against any Person or entity without the approval of the Bankruptcy Court. The Reorganized Non-

Residential Debtors or their successor(s) may pursue such retained claims, rights or causes of action, suits, or proceedings as appropriate, in accordance with the best interests of the Reorganized Non-Residential Debtors or their successor(s) who hold such rights.

#### **10. Effectuating Documents; Further Transactions**

The chairman of the board of directors, president, chief financial officer, any executive vice-president or senior vice-president, or any other appropriate officer of each Debtor will be authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents, and take such other actions, as may be necessary or appropriate, to effectuate and further evidence the terms and conditions of the Plan. The secretary or assistant secretary of the appropriate Debtor will be authorized to certify or attest to any of the foregoing actions.

#### **11. Exemption from Certain Transfer Taxes**

Pursuant to section 1146(c) of the Bankruptcy Code, any transfers from a Debtor to a Reorganized Debtor or any other Person or entity pursuant to the Plan will not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment, and the Confirmation Order will direct the appropriate state or local governmental officials or agents to forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

### **G. Provisions Governing Distributions**

#### **1. Obligations to Make Distributions**

All distributions to be made to the holders of Allowed Claims pursuant to the Plan (including Allowed Claims against the Residential Debtors) will receive such distributions from the Disbursing Agent (as agent for Reorganized Encompass and the Reorganized Non-Residential Debtors), which will have sole liability with respect thereto. Neither Newco Holding LLC nor any Reorganized Residential Debtor will (a) have any liability on account of any Allowed Claim, or (b) have any obligation to any Person to make distributions to any holder of an Allowed Claim pursuant to the Plan, except as may be specifically set forth in the Purchase Agreement.

#### **2. Postpetition Interest**

In accordance with section 502(b)(2) of the Bankruptcy Code, the amount of all Unsecured Claims against the Debtors 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 order of the Bankruptcy Court, no holder of a Claim will be entitled to or will receive Postpetition Interest.

#### **3. Alternative Treatment**

Notwithstanding any provision in the Plan to the contrary, any holder of an Allowed Claim may receive, instead of the distribution or treatment to which it is entitled under the Plan, any other distribution or treatment to which it and the Debtors, Reorganized Debtors or Disbursing Agent may agree to in writing, *provided, however*, that such other distribution or treatment will not provide a return having a present value in excess of the present value of the distribution or treatment that otherwise would be given such holder pursuant to the Plan.

#### **4. Method of Distributions Under the Plan**

##### **a. In General.**

Subject to Bankruptcy Rule 9010, and except as otherwise provided in the Plan, all distributions under the Plan will be made by the Disbursing Agent to the holder of each Allowed Claim at the address of such holder as listed on the Schedules unless the Debtor or the Disbursing Agent has been notified in writing of a change of address, including, without limitation, by the filing of a proof of Claim by such holder that provides an address for such holder different from the address reflected on the Schedules; *provided, however*, with respect to the Existing Credit Agreement Claims and the Senior Lenders' General Unsecured Claims, on the Initial

Distribution Date and each Subsequent Distribution Date, the Disbursing Agent will distribute to the Administrative Agent the Pro Rata distribution of each holder of an Existing Credit Agreement Claim and the Pro Rata distribution of each Senior Lender's General Unsecured Claim.

b. Distributions of Cash.

Any payment of Cash made by the Disbursing Agent pursuant to the Plan will be made by check drawn on a domestic bank, by electronic wire, or by other form of wire transfer.

c. Timing of Distributions.

Any payment or distribution required to be made under the Plan on a day other than a Business Day will be made on the next succeeding Business Day.

d. Minimum Distributions.

No payment of Cash less than one hundred dollars (\$100.00) will be made by the Disbursing Agent to any holder of a Claim unless a request therefor is made in writing to the Disbursing Agent.

## **5. Unclaimed Distributions**

Except with respect to distributions under the Plan to holders of Allowed General Unsecured Claims, any distributions under the Plan that are unclaimed for a period of one year after distribution thereof will be revested in the Disbursing Agent and any entitlement of any holder of any Claim to such distributions will be extinguished and forever barred. Distributions under the Plan to holders of Allowed General Unsecured Claims that are unclaimed for a period of one year after distribution thereof will be added to the Reserve and any entitlement of such holders of Allowed General Unsecured Claims to such distributions will be extinguished and forever barred.

## **6. Distributions Withheld for Disputed General Unsecured Claims**

a. Establishment and Maintenance of Reserve.

On the Initial Distribution Date and each Subsequent Distribution Date, the Disbursing Agent will reserve from the distributions to be made on such dates to the holders of Allowed General Unsecured Claims, an amount of Cash equal to one hundred percent (100%) of the distributions to which the holders of Disputed General Unsecured Claims would be entitled under the Plan as of such dates if such Disputed General Unsecured Claims were Allowed Claims in their Disputed Claim Amounts.

b. Property Held in Reserve.

Cash held in the Reserve will be held in trust by the Disbursing Agent for the benefit of the potential claimants of such Cash and will not constitute property of the Disbursing Agent or the Reorganized Residential Debtors.

## **7. Distributions Upon Allowance of Disputed General Unsecured Claims**

The holder of a Disputed General Unsecured Claim that becomes an Allowed Claim subsequent to the Initial Distribution Date will receive distributions of Cash from the Reserve on the next Subsequent Distribution Date following the Quarter during which such Disputed General Unsecured Claim becomes an Allowed Claim pursuant to a Final Order. Such distribution will be made in accordance with the Plan based upon the distributions that would have been made to such holder under the Plan if the Disputed General Unsecured Claim had been an Allowed Claim on or prior to the Effective Date. To the extent that a Disputed General Unsecured Claim is not Allowed or becomes an Allowed Claim in an amount less than the Disputed Claim Amount, the excess of the amount of Cash in the Reserve over the amount of Cash actually distributed on account of such Disputed General Unsecured Claim will be distributed Pro Rata to the holders of the Allowed General Unsecured Claims on the next following Subsequent Distribution Date.

## **8. Litigation Claims**

All Litigation Claims are Disputed Claims. Any Litigation Claim as to which a Proof of Claim was timely filed in the Chapter 11 Cases will be determined and liquidated, in the sole discretion of the Disbursing Agent, (i) in the administrative or judicial tribunal(s) in which it is pending on the Effective Date, or, if no action was pending on the Effective Date, in any administrative or judicial tribunal of appropriate jurisdiction, or (ii) in the Bankruptcy Court in accordance with the bankruptcy claims process and/or any alternative dispute resolution or similar proceeding as same may be approved by Order of the Bankruptcy Court. Any Litigation Claim determined and liquidated pursuant to a judgment or order obtained in accordance with the foregoing and applicable law which is no longer appealable or subject to review will be deemed an Allowed Claim in such liquidated amount and satisfied in accordance with the Plan. Nothing contained in the Plan will impair the Debtors' right to seek estimation of any and all Litigation Claims in a court or courts of competent jurisdiction or constitute or be deemed a waiver of any Claim or cause of action that the Debtors may hold against any Person, including, without limitation, in connection with or arising out of any Litigation Claim. Moreover, nothing in the Plan will impair the Debtors' right to seek removal and transfer of any Litigation Claim pursuant to 28 U.S.C. § § 1412, 1441 and 1452.

## **9. Withholding and Reporting Requirements**

In connection with the Plan and all distributions thereunder, the Disbursing Agent will, to the extent applicable as determined in its sole discretion, comply with all tax withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all distributions under the Plan will be subject to any such withholding and reporting requirements. The Disbursing Agent will be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements.

## **10. Setoff and Recoupment**

Other than in respect of any Existing Credit Agreement Claim, a Reorganized Debtor may, but will not be required to, setoff against any Claim, and the payments or other distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever that the applicable Debtor or Reorganized Debtor may have against the Claim's holder; *provided, however*, that neither the failure to do so nor the allowance of any Claim under the Plan will constitute a waiver or release by the Reorganized Debtors of any claim that the applicable Debtor or Reorganized Debtor may have against such holder. Nothing in the Plan will be deemed to expand rights to setoff under applicable non-bankruptcy law. Notwithstanding the foregoing, the Reorganized Debtors will be deemed to waive and will have no right of setoff or recoupment against any Existing Credit Agreement Claim.

## **11. Objections to and Resolution of Administrative Expense Claims, Claims and Equity Interests**

Except as to applications for allowances of compensation and reimbursement of expenses under sections 330 and 503 of the Bankruptcy Code, the Disbursing Agent will have the exclusive right to make and file objections to Administrative Expense Claims, and Claims and Equity Interests subsequent to the Effective Date. All objections will be litigated to Final Order; *provided, however*, that the Disbursing Agent will have the authority to compromise, settle, otherwise resolve or withdraw any objections, without approval of the Bankruptcy Court. Unless otherwise ordered by the Bankruptcy Court, the Disbursing Agent will file all objections to Administrative Expense Claims that are the subject of proofs of Claim or requests for payment filed with the Bankruptcy Court (other than applications for allowances of compensation and reimbursement of expenses), Claims and Equity Interests and serve such objections upon the holder of the Administrative Expense Claim, Claim or Equity Interest as to which the objection is made as soon as is practicable, but in no event later than ninety (90) days after the Effective Date or such later date as may be approved by the Bankruptcy Court. In addition, any Debtor may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the Bankruptcy Code or other applicable law regardless of whether such Debtor has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtors may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim. All of the aforementioned Claims objection, estimation, and resolution procedures are cumulative and are not necessarily exclusive of one another. Claims may be estimated and thereafter resolved by any permitted mechanism.

## **12. No Distribution Pending Allowance**

Notwithstanding any other provision in the Plan, if any portion of a Claim is a Disputed Claim, no payment or distribution provided under the Plan will be made on account of or in exchange for such Claim unless and until such Disputed Claim becomes an Allowed Claim.

## **13. Distributions After Allowance**

To the extent that a Disputed Claim or Disputed Equity Interest ultimately becomes an Allowed Claim, a distribution will be made to the holder of such Allowed Claim in accordance with the provisions of the Plan. After the date that the order or judgment of the Bankruptcy Court or other applicable court of competent jurisdiction allowing any Disputed Claim becomes a Final Order, the Disbursing Agent will provide to the holder of such Claim the distribution to which such holder is entitled under the Plan on account of or in exchange for such Allowed Claim.

## **H. Treatment of Executory Contracts and Unexpired Leases**

### **1. Assumed Contracts and Leases of Residential Debtors**

Except as otherwise provided in the Plan, or in any contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan, as of the Effective Date, each Reorganized Residential Debtor will be deemed to have assumed each executory contract and unexpired lease to which it is a party, unless such contract or lease (i) was previously assumed, assumed and assigned or rejected by such Residential Debtor, (ii) previously expired or terminated pursuant to its own terms, (iii) is the subject of a motion to reject filed on or before the Confirmation Date or (iv) is being rejected pursuant to the Plan as set forth in Schedule 7.1(a), which Schedule will be filed as part of the Plan Supplement. The Confirmation Order will constitute an order of the Bankruptcy Court under section 365 of the Bankruptcy Code approving the contract and lease assumptions or rejections described above, as of the Effective Date.

### **2. Rejected Contracts and Leases of Non-Residential Debtors**

Except as otherwise provided in the Plan, or in any contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan, all executory contracts and unexpired leases that exist between the Non-Residential Debtors and any Person will be deemed rejected by the Reorganized Non-Residential Debtors as of the Effective Date, except for any executory contract or unexpired lease (i) which has been assumed pursuant to an order of the Bankruptcy Court entered prior to the Confirmation Date, (ii) which has been assumed and assigned to a Person pursuant to an asset purchase agreement under which such Non-Residential Debtor's assets have been sold, or which has been assumed and assigned to any Person other than a buyer of a Non-Residential Debtor's assets, and (iii) which is being assumed by the Non-Residential Debtor pursuant to the Plan as set forth in Schedule 7.1(b), which Schedule will be included in the Plan Supplement.

### **3. Right to Modify Schedules**

Notwithstanding any provision of the Plan to the contrary, the Debtors (in the case of the Residential Debtors, with the consent of the Buyer) reserve the right, on or prior to the Confirmation Date, to amend Schedules 7.1(a) and 7.1(b) to delete any executory contract or unexpired lease therefrom or to add any executory contract or unexpired lease thereto, in which event such executory contract(s) or unexpired lease(s) will be deemed to be, as appropriate, either rejected or assumed. The Debtors will provide notice of any amendments to Schedules 7.1(a) and 7.1(b) to the parties to the executory contracts and unexpired leases affected thereby. The listing of a document on Schedules 7.1(a) and/or 7.1(b) will not constitute an admission by the Debtors or the Reorganized Debtors that such document is an executory contract or an unexpired lease or that the Debtors or Reorganized Debtors have any liability thereunder.

### **4. Inclusiveness of Assumed Executory Contracts and Unexpired Leases**

Each executory contract and unexpired lease to be assumed or rejected pursuant to the Plan will include all modifications, amendments, supplements, restatements, or other agreements made directly or indirectly by any agreement, instrument, or other document that in any manner affects such executory contract or unexpired lease.



## **5. Insurance Policies**

Except to the extent specific notice to the contrary is provided by the Debtors no later than five (5) Business Days prior to the Confirmation Hearing, the Debtors' insurance policies and any agreements, documents or instruments relating thereto will be assumed under the Plan. Notwithstanding the foregoing, however, nothing contained in the Plan will constitute or be deemed a waiver of any claim or cause of action that the Debtors, the Reorganized Debtors or any entity claiming by or through the Debtors may hold against any entity, including, without limitation, an insurer under any of the Debtors' Insurance Policies.

## **6. Cure of Defaults**

Except as may otherwise be agreed to by the parties, within sixty (60) days after the Effective Date, the Disbursing Agent will Cure any and all undisputed defaults under any executory contract or unexpired lease assumed or assumed and assigned by the Debtors or Reorganized Debtors pursuant to the Plan in accordance with section 365(b)(1) of the Bankruptcy Code. All disputed defaults or any disputed matter concerning a Cure will be cured either within thirty (30) days of the entry of a Final Order determining the amount, if any, of the Debtors' or Reorganized Debtors' liability with respect thereto, or as may otherwise be agreed to by the parties.

## **7. Bar Date for Filing Proofs of Claim Relating to Executory Contracts and Unexpired Leases Rejected Pursuant to the Plan**

Claims arising out of the rejection of an executory contract or unexpired lease pursuant to the Plan must be filed with the Bankruptcy Court and served upon the Debtors or the Reorganized Debtors or as otherwise may be provided in the Confirmation Order, by no later than sixty (60) days after notice of entry of the Confirmation Order. Any Claims not filed within such time will be forever barred from assertion against the Debtors and the Reorganized Debtors. All Allowed Claims arising from the rejection of executory contracts and unexpired leases will be treated as General Unsecured Claims under the Plan.

## **I. Acceptance or Rejection of the Plan**

### **1. Classes Entitled To Vote**

Each Impaired Class of Claims that will (or may) receive or retain property or any interest in property under the Plan is entitled to vote to accept or reject the Plan. By operation of law, each unimpaired Class of Claims or Equity Interests is deemed to have accepted the Plan and, therefore, is not entitled to vote. Because holders of Claims and Equity Interests in Classes that are not entitled to receive or retain any property under the Plan are presumed to have rejected the Plan, they are not entitled to vote.

### **2. Acceptance by Impaired Classes**

An Impaired Class of Claims will have accepted the Plan if the holders of at least two-thirds in amount and more than one-half in number of the Allowed Claims in the Class actually voting have voted to accept the Plan, in each case not counting the vote of any holder designated under section 1126(e) of the Bankruptcy Code.

### **3. Elimination of Classes**

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

### **4. Nonconsensual Confirmation**

The Bankruptcy Court may confirm the Plan over the dissent of any Impaired Class if all of the requirements for consensual confirmation under subsection 1129(a), other than subsection 1129(a)(8), of the Bankruptcy Code and for nonconsensual confirmation under of subsection 1129(b) of the Bankruptcy Code have been satisfied.

To obtain confirmation notwithstanding the nonacceptance of a Class, the Debtors must demonstrate to the Court that the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to any dissenting Impaired Classes. A plan does not discriminate unfairly if the legal rights of a dissenting Class are treated in a manner consistent with the treatment of other Classes whose legal rights are substantially similar to those of the dissenting Class and if no Class receives more than it is entitled to for its Claims or Equity Interests. If required, the Debtors will show at the Confirmation Hearing that the Plan does not discriminate unfairly.

To the extent necessary, the Debtors will request confirmation of the Plan, as the Plan may be modified from time to time, under section 1129(b) of the Bankruptcy Code.

## **J. Provisions Governing the Disbursing Agent**

### **1. Appointment.**

On the Effective Date, Reorganized Encompass, with the consent of the holders of Existing Credit Agreement Claims, will appoint the Disbursing Agent under the Plan. The Disbursing Agent, with the consent of the holders of Existing Credit Agreement Claims, will appoint any successor(s) to the Disbursing Agent.

### **2. Powers and Duties.**

The Disbursing Agent will have the rights and powers of a debtor-in-possession under section 1107 of the Bankruptcy Code, and such other rights, powers and duties incident to causing the performance of the Debtors’ obligations under the Plan, including, without limitation, the duty to assess the merits of Claims and object to those Claims that the Disbursing Agent determines to be, in whole or in part, without merit, to prosecute such objections and defend Claims and counterclaims asserted in connection therewith, to prosecute causes of action, to liquidate Estate assets, to wind up the businesses, assets, properties and affairs of the Non-Residential Debtors, to make distributions under the Plan and such other duties as are necessary to effectuate the terms and provisions of the Plan.

### **3. Fees and Expenses.**

Fair and reasonable compensation will be paid to the Disbursing Agent and any and all Professionals and professionals retained by the Disbursing Agent, with the consent of the holders of Existing Credit Agreement Claims, and such compensation will generally comport with the customary and reasonable professional compensation payable under section 330 of the Bankruptcy Code. The payment of fees and expenses to the Disbursing Agent and its professionals will not require the approval of the Bankruptcy Court. The payment of the Disbursing Agent’s fees and expenses, the unpaid fees and expenses of any Professional or professional, and the indemnification of the Disbursing Agent, where applicable, will be funded from the Wind Up Fund.

### **4. Liability.**

The Disbursing Agent will serve without bond and will have no liability so long as the Disbursing Agent performs its duties in good faith. The Disbursing Agent will not be liable for any action taken or omitted in good faith and believed by it to be authorized within the discretion or rights or powers conferred by the Plan. The Disbursing Agent will be indemnified by the Estates and the Reorganized Debtors for any Claims or causes of action arising from or relating to the good faith exercise of its duties. In performing its duties under the Plan, the Disbursing Agent may consult with counsel and will have no liability for any action taken upon the advice of such counsel. None of the provisions of the Plan will require the Disbursing Agent to incur financial liability in the performance of any of its duties thereunder or in the exercise of any rights and powers. The Disbursing Agent may rely without inquiry upon any writing delivered under the Plan which it believes in good faith to be genuine and to have been given by a proper Person.

### **5. Duration of Existence.**

The Disbursing Agent under the Plan will continue to exist until entry of a Final Order by the Bankruptcy Court closing the Chapter 11 Cases pursuant to section 350(a) of the Bankruptcy Code. As soon as practicable after the final distribution is made and all Cash has been distributed or paid, the Disbursing Agent will seek entry of a Final Order closing the Chapter 11 Cases pursuant to section 350 of the Bankruptcy Code.

## **K. Conditions Precedent to the Plan's Confirmation and Consummation**

### **1. Conditions to Confirmation**

The Confirmation of the Plan is subject to the satisfaction or due waiver of the following conditions precedent:

- a. The Confirmation Order shall be in a form and of a substance reasonably acceptable to the Debtors, the Buyer and the Senior Lenders, and the Confirmation Order shall become a Final Order.
- b. All Plan Documents shall be in a form and of a substance satisfactory to the Debtors and the Senior Lenders, and, to the extent related to the Residential Debtors, the Buyer.
- c. The Purchase Agreement shall have been executed by the parties thereto and consummation of the Purchase Agreement and the transactions contemplated thereby shall have been approved in the Confirmation Order.

### **2. Conditions to Effective Date**

The following are conditions precedent to the occurrence of the Effective Date, each of which must be satisfied or waived in accordance with the Plan:

- a. The Confirmation Order shall have been entered by the Bankruptcy Court and that order must provide, among other things, that:
  - (i) the Debtors and Reorganized Debtors are authorized and directed to take all actions necessary or appropriate to enter into, implement, and consummate the contracts, instruments, releases, leases, indentures, and other agreements or documents created in connection with the Plan (including, without limitation, the Purchase Agreement and a transition services agreement in form and substance acceptable to the Debtors, the Senior Lenders and the Buyer);
  - (ii) the provisions of the Confirmation Order are non-severable and mutually dependent;
  - (iii) all executory contracts or unexpired leases assumed or assumed and assigned by the Debtors during the Chapter 11 Cases or under the Plan shall remain in full force and effect for the benefit of the Reorganized Debtors or their assignees notwithstanding any provision in such contract or lease (including those described in sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibits such assignment or transfer or that enables, permits, or requires termination of such contract or lease;
  - (iv) the transfers of property by the Debtors (i) to the Reorganized Residential Debtors and the Disbursing Agent (A) are or shall be legal, valid, and effective transfers of property, (B) vest or shall vest the Reorganized Residential Debtors and the Disbursing Agent with good title to such property free and clear of all Liens, charges, Claims, encumbrances, or Equity Interests, except as expressly provided in the Plan or Confirmation Order, (C) do not and shall not constitute avoidable transfers under the Bankruptcy Code or under applicable bankruptcy or nonbankruptcy law, and (D) do not and shall not subject the Reorganized Residential Debtors or the Disbursing Agent to any liability by reason of such transfer under the Bankruptcy Code or under applicable nonbankruptcy law, including any laws affecting successor, transferee or stamp or recording tax liability and (ii) to holders of Claims or Equity Interests under the Plan are for good consideration and value;

(v) except as expressly provided in the Plan (or in any order of the Bankruptcy Court), upon the effectiveness of all transactions incident to and part of the Plan, the Debtors are discharged effective upon the Confirmation Date from any “debt” (as that term is defined in section 101(12) of the Bankruptcy Code), and the Debtors’ liability in respect thereof is extinguished completely, whether reduced to judgment or not, liquidated or unliquidated, contingent or noncontingent, asserted or unasserted, fixed or unfixed, matured or unmatured, disputed or undisputed, legal or equitable, or known or unknown, or that arose from any agreement of the Debtors that has either been assumed or rejected in the Chapter 11 Cases or pursuant to the Plan, or obligation of the Debtors incurred before the Confirmation Date, or from any conduct of the Debtors prior to the Confirmation Date, or that otherwise arose before the Confirmation Date, including all interest, if any, on any such debts, whether such interest accrued before or after the Petition Date;

(vi) all Existing Preferred Stock, Existing Common Stock, and Existing Other Equity Interests in Encompass shall be cancelled effective upon the Effective Date;

(vii) the Debtors have acted in good faith with respect to the formulation, the solicitation, and Confirmation of the Plan, pursuant to section 1125(e) of the Bankruptcy Code.

b. All authorizations, consents, and regulatory approvals required, if any, in connection with the consummation of the Plan shall have been obtained.

c. The Debtors shall have executed and delivered all documents necessary to effectuate the Purchase Agreement, and all conditions to the consummation of the transactions contemplated thereby shall have been satisfied or waived as provided in the Purchase Agreement.

d. All other actions, documents and agreements necessary to implement the Plan shall have been effected or executed.

e. No stay of the Confirmation Order and/or consummation of the Plan is in effect.

f. All definitive documentation relating to the Plan and the Purchase Agreement and the transactions contemplated thereby shall be consistent in all material respects with the terms of the Plan and all definitive documentation relating to the Plan and Purchase Agreement and all other documents material to the consummation of the transactions contemplated under the Plan and the Purchase Agreement shall be in form and substance reasonably acceptable to each of the Senior Lenders and the Buyer.

### **3. Waiver of Conditions**

Each of the conditions to the Effective Date set forth in Section IV.K.2 above, other than as set forth in subsection (a)(iv) thereof, may be waived in whole or in part by the Debtors, with the consent of the Senior Lenders and the Buyer (which consent will not be unreasonably withheld), without any notice to other parties in interest or the Bankruptcy Court and without a hearing. The conditions set forth in Sections IV.K.1(a) and (b) above may not be waived without the consent of the Senior Lenders and the Buyer (which consents will not be unreasonably withheld). The failure to satisfy or waive any condition to Confirmation on the Effective Date may be asserted by the Debtors regardless of the circumstances giving rise to the failure of such condition to be satisfied (including any action or inaction by the Debtors). The failure of the Debtors to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each such right will be deemed an ongoing right that may be asserted at any time.

### **L. Modifications and Amendments; Withdrawal**

The Debtors (in the case of the Residential Debtors, with the consent of the Buyer) may alter, amend, or modify the Plan or any exhibits thereto under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date. The Debtors (in the case of the Residential Debtors, with the consent of the Buyer) reserve the right to include any amended exhibits in the Plan Supplement, whereupon each such amended exhibit will be deemed substituted for the original of such exhibit. After the Confirmation Date, the Debtors or Reorganized Debtors (in the case of the Residential Debtors or the Reorganized Residential Debtors, with the consent of the Buyer) may, under section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan, the Disclosure Statement, and the Confirmation Order, and to accomplish such

matters as may be necessary to carry out the purposes and extent of the Plan so long as such proceedings do not materially and adversely affect the treatment of holders of Claims or Equity Interests thereunder.

#### **M. Retention of Jurisdiction**

Under sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding the Plan's Confirmation and the occurrence of the Effective Date, the Bankruptcy Court will retain exclusive jurisdiction (except with respect to the purposes described under clauses (i) and (xiv) below, with respect to which jurisdiction will not be exclusive) over all matters arising out of or related to the Chapter 11 Cases and the Plan, to the fullest extent permitted by law, including jurisdiction to:

- (i) determine any and all objections to the allowance of Claims or Equity Interests;
- (ii) determine any and all motions to estimate Claims at any time, regardless of whether the Claim to be estimated is the subject of a pending objection, a pending appeal, or otherwise;
- (iii) determine any and all motions to subordinate Claims or Equity Interests at any time and on any basis permitted by applicable law;
- (iv) hear and determine all Professional Fee Claims and other Administrative Expense Claims;
- (v) hear and determine all matters with respect to the assumption or rejection of any executory contract or unexpired lease to which a Debtor is a party or with respect to which a Debtor may be liable, including, if necessary, the nature or amount of any required Cure or the liquidation of any Claims arising therefrom;
- (vi) hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters arising out of, under, or related to, the Chapter 11 Cases;
- (vii) enter such orders as may be necessary or appropriate in aid of the consummation of the Plan and to execute, implement, or consummate the provisions thereof and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan, the Disclosure Statement and/or the Confirmation Order;
- (viii) hear and determine disputes arising in connection with the interpretation, implementation, consummation, or enforcement of the Plan and all contracts, instruments, and other agreements executed in connection with the Plan;
- (ix) hear and determine any request to modify the Plan or to cure any defect or omission or reconcile any inconsistency therein or any order of the Bankruptcy Court;
- (x) issue and enforce injunctions or other orders, or take any other action that may be necessary or appropriate to restrain any interference with or compel action for the implementation, consummation, or enforcement of the Plan or the Confirmation Order;
- (xi) enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified, or vacated;
- (xii) hear and determine any matters arising in connection with or relating to the Plan, the Confirmation Order or any contract, instrument, release, or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order;

(xiii) enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Chapter 11 Cases;

(xiv) recover all assets of the Debtors and property of the Debtors' Estates, wherever located;

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

(xvi) hear and determine all disputes involving the existence, nature, or scope of the Debtors' discharge;

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

(xviii) enter a final decree closing the Chapter 11 Cases; *provided, however*, that the Bankruptcy Court shall not have jurisdiction over any claim, cause of action or other matter relating to Newco Holding LLC or any Reorganized Residential Debtor arising at any time from and after the Effective Date.

## **N. Miscellaneous Provisions**

### **1. Bar Dates for Certain Claims**

#### **a. Administrative Expense Claims.**

The Confirmation Order will establish an Administrative Expense Claims Bar Date for the filing of all Administrative Expense Claims (other than Professional Fee Claims or Claims for the expenses of the members of the Committee), which date will be 60 days after the Confirmation Date. Holders of asserted Administrative Expense Claims, other than Professional Fee Claims or Claims for United States Trustee fees or the expenses of the members of the Committee, not paid and not arising out of transactions in the ordinary course of business prior to the Confirmation Date must submit proofs of Administrative Expense Claim on or before such Administrative Expense Claims Bar Date or be forever barred from doing so. The notice of Confirmation to be delivered pursuant to Bankruptcy Rules 3020(c) and 2002(f) will set forth such date and constitute notice of this Administrative Expense Claims Bar Date. The Debtors, or the Reorganized Debtors, as the case may be, will have 90 days (or such longer period as may be allowed by order of the Bankruptcy Court) following the Administrative Expense Claims Bar Date to review and object to such Administrative Expense Claims before a hearing for determination of allowance of such Administrative Expense Claim.

#### **b. Professional Fee Claims.**

All final requests for compensation or reimbursement of Professional Fee Claims pursuant to sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code for services rendered to the Debtors or the Committee prior to the Effective Date must be filed and served on the Reorganized Debtors and their counsel no later than 60 days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to applications of such Professionals or other entities for compensation or reimbursement of expenses must be filed and served on the Reorganized Debtors and their counsel and the requesting Professional or other entity no later than 90 days (or such longer period as may be allowed by order of the Bankruptcy Court) after the date on which the applicable application for compensation or reimbursement was served. If the Debtors or the Reorganized Debtors and any such Professional cannot agree on the amount of fees and expenses to be paid to such party, or if the United States Trustee objects to such Professional Fee Claim, the amount of fees and expenses will be determined by the Bankruptcy Court.

### **2. Payment of Statutory Fees**

All fees payable under section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, will be paid on or before the Effective Date. All such fees that arise after the Effective Date but before the closing of the Chapter 11 Cases will be paid by the Disbursing Agent.

### **3. Severability of Plan Provisions**

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtors, will have the power to alter and interpret such term or provision, to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such alteration or interpretation, with respect to the terms and provisions of the Plan, the terms thereof will remain in full force and effect and will in no way be affected, impaired, or invalidated by such alteration or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of the Plan, as it may have been altered, interpreted or adjusted in accordance with the foregoing, is valid and enforceable pursuant to its terms. Notwithstanding the foregoing, no provision of the Plan may be severed if it relates to Wellspring, the Buyer, the Residential Debtors or the Reorganized Residential Debtors, or the Purchase Agreement, without the prior written consent of the Buyer.

### **4. Successors and Assigns**

The rights, benefits and obligations of all Persons named or referred to in the Plan will be binding on, and will inure to the benefit of, their respective heirs, executors, administrators, personal representatives, successors or assigns.

### **5. Discharge of the Debtors and Injunction**

Except as specifically provided for in the Plan, all consideration distributed under the Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims against and Equity Interests in the Debtors of any nature whatsoever or against any of the Debtors' assets or properties. Except as otherwise expressly provided in the Plan, entry of the Confirmation Order (subject to the occurrence of the Effective Date) will act as a discharge of all Claims against and debts of, Liens on, and Equity Interests in each of the Debtors (save and except for the Subsidiary Interests), the Debtors' assets, and their properties, arising at any time before the entry of the Confirmation Order, regardless of whether a proof of Claim or proof of Equity Interest therefor was filed, whether the Claim or Equity Interest is Allowed, or whether the holder thereof votes to accept the Plan or is entitled to receive a distribution thereunder, subject to the occurrence of the Effective Date. Upon entry of the Confirmation Order, and subject to the occurrence of the Effective Date, any holder of such discharged Claim or Equity Interest will be precluded from asserting against the Debtors or any of their assets or properties any other or further Claim or Equity Interest based upon any document, instrument, act, omission, transaction, or other activity of any kind or nature that occurred before the date of entry of the Confirmation Order, except as otherwise expressly provided in the Plan. The Confirmation Order will be a judicial determination of discharge of all liabilities of the Debtors, subject to the occurrence of the Effective Date.

In accordance with section 524 of the Bankruptcy Code, the discharge provided by this section and section 1141 of the Bankruptcy Code will act as an injunction against the commencement or continuation of any action, employment of process, or act to collect, offset, or recover the Claims and Equity Interests discharged by the Plan. Except as otherwise expressly provided in the Plan and/or the Confirmation Order, all Persons who have held, hold, or may hold Claims against, or Equity Interests in, the Debtors will be permanently enjoined, on and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim or Equity Interest, (ii) the enforcement, attachment, collection, or recovery by any manner or means of any judgment, award, decree, or order against the Debtors on account of any such Claim or Equity Interest, (iii) creating, perfecting, or enforcing any encumbrance of any kind against the Debtors or against the property or interests in property of the Debtors on account of any such Claim or Equity Interest, and (iv) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from the Debtors or against the property or interests in property of the Debtors on account of any such Claim or Equity Interest. The foregoing injunction will extend to successors of the Debtors (including, without limitation, the Reorganized Debtors) and their respective properties and interests in property.

### **6. Releases By the Debtors**

On the Effective Date, effective as of the Confirmation Date, the Debtors and the Reorganized Debtors will waive and release and be permanently enjoined from any prosecution or attempted prosecution of any and all claims, obligations, rights, causes of action or liabilities, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, which the Debtors or the Reorganized Debtors have or may have against any present or former director, officer, or employee of the Debtors and their respective attorneys, agents, and property; *provided, however*, that the foregoing will not operate as a waiver of, or release from, any causes of action arising out of (i) any express contractual obligation owing by any such director, officer, or employee to the Debtors or (ii) the willful misconduct or gross negligence of such director, officer, or employee in connection with, related to, or arising out of the

administration of the Chapter 11 Cases, the pursuit of Confirmation of the Plan, the consummation of the Plan, the administration of the Plan, or the property to be distributed under the Plan.

As set forth in the DIP Order, the Debtors have released and are enjoined from prosecuting or attempting to prosecute any and all claims and causes of action, including any claims or causes of action under chapter 5 of the Bankruptcy Code, which they have or may have against the DIP Lenders, and the Senior Lenders and their members, officers, directors, agents, financial advisors, attorneys, employees, equity holders, partners, affiliates and representatives and their respective property in connection with (i) actions taken as or in their capacities as Senior Lenders, and DIP Lenders and (ii) the Chapter 11 Cases.

## **7. Other Releases**

On the Effective Date, effective as of the Confirmation Date, and except as otherwise provided in the Plan, the Purchase Agreement or in Confirmation Order, the Debtors, the Reorganized Debtors, each Senior Lender, DIP Lender, the Administrative Agent, the Committee, the Buyer, Wellspring and the indenture trustee, and each of their respective present or former members, officers, directors, agents, financial advisors, attorneys, employees, partners, and representatives and their respective property will be released from any and all claims, obligations, rights, causes of action, and liabilities which the Debtors, the Reorganized Debtors, or any holder of a Claim against or Equity Interest in any Debtor may be entitled to assert, whether for tort, fraud, contract, violations of federal or state securities laws, or otherwise, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, based in whole or in part upon any act or omission, transaction, or other occurrence taking place on or before the Confirmation Date, in any way relating to the Chapter 11 Cases or the Plan, or otherwise; *provided, however*, that nothing will release any Person from any claims, obligations, rights, causes of action, or liabilities arising under or relating to the Purchase Agreement, or based upon any act or omission in connection with, relating to, or arising out of, the administration of the Chapter 11 Cases, the solicitation of acceptances of the Plan, the pursuit of Confirmation of the Plan, the consummation of the Plan, the administration of the Plan, or the property to be distributed under the Plan arising out of such Person's willful misconduct or gross negligence.

## **8. Exculpation and Limitation of Liability**

The Reorganized Debtors, the Senior Lenders, the DIP Lenders, the Administrative Agent, the Committee, the Buyer, Wellspring and any and all of their respective present or former members, officers, directors, employees, partners, advisors, attorneys, or agents, or any of their successors or assigns, will not have or incur any liability to any holder of a Claim or an Equity Interest, or any other party-in-interest, or any of their respective agents, employees, equity holders, partners, members, representatives, financial advisors, attorneys, or affiliates, or any of their successors or assigns, for any act or omission in connection with, relating to, or arising out of the administration of the Chapter 11 Cases, the solicitation of acceptances of the Plan, the pursuit of Confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for their willful misconduct or gross negligence and in all respects will be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

Notwithstanding any other provision of the Plan, no holder of a Claim or Equity Interest, no other party-in-interest, none of their respective agents, employees, equity holders, partners, members, representatives, financial advisors, attorneys, or affiliates, and no successors or assigns of the foregoing, will have any right of action against the Debtors, the Reorganized Debtors, the Estates, the Committee, the Buyer, Wellspring, the Senior Lenders, the DIP Lenders or any of their respective present or former members, officers, directors, employees, or partners, or any of their successors or assigns, for any act or omission in connection with, relating to, or arising out of, the administration of the Chapter 11 Cases, the solicitation of acceptances of the Plan, the pursuit of Confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for their willful misconduct or gross negligence.

## **9. Term of Injunctions or Stays**

Unless otherwise provided in the Plan or the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), will remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order will remain in full force and effect in accordance with their terms.



## **10. Binding Effect**

The Plan will be binding upon and inure to the benefit of the Debtors, all present and former holders of Claims against and Equity Interests in the Debtors, their respective successors and assigns, including the Reorganized Debtors, and all other parties-in-interest in the Chapter 11 Cases.

## **11. Revocation, Withdrawal, or Non-Consummation**

The Debtors reserve the right to revoke or withdraw the Plan at any time prior to the Confirmation Date and to file other plans of reorganization. If the Debtors revoke or withdraw the Plan, or if Confirmation or consummation of the Plan does not occur, then (i) the Plan will be null and void in all respects, (ii) any settlement or compromise embodied therein (including the fixing or limiting to an amount any Claim or Class of Claims), assumption or rejection of executory contracts or leases effected 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 thereof, will (a) constitute or be deemed to constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtors or any other Person, (b) prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors, or (c) constitute an admission of any sort by the Debtors or any other Person.

## **12. Committees**

On the Effective Date, the duties of the Committee will terminate and the Committee will dissolve.

## **13. Plan Supplement**

Any and all exhibits, lists, or schedules referred to in the Plan but not filed with the Plan will be contained in the Plan Supplement and filed with the Clerk of the Bankruptcy Court at least five Business Days prior to the date of the commencement of the Confirmation Hearing. Thereafter, any Person may examine the Plan Supplement in the office of the Clerk of the Bankruptcy Court during normal court hours or by visiting the Encompass bankruptcy website at <http://bank.elaw.com/Encompassdefault.asp>. Holders of Claims against or Equity Interests in the Debtors may also obtain a copy of the Plan Supplement upon written request to the Debtors in accordance with Section 13.14 of the Plan.

## **14. Indemnification Obligations**

Any and all obligations, liabilities or rights of the Debtors or Reorganized Debtors to defend, indemnify, reimburse, or limit the liability of the Debtors' present or former directors, officers or employees (the "Covered Persons") pursuant to applicable state law or the Debtors' or Reorganized Debtors' certificates of incorporation, bylaws, policy of providing employee indemnification, or specific agreement in respect of any claims, demands, suits, causes of action, or proceedings, whether existing or hereafter arising, against any such Covered Persons, based upon any act or omission related to any such Covered Persons' service with, for, or on behalf of the Debtors prior to the Effective Date will be deemed executory contracts assumed by the Reorganized Debtors under the Plan and will, in any event, and notwithstanding any contrary provision in the Plan, survive Confirmation thereof and remain unaffected thereby, and will not be discharged or rejected, irrespective of whether such defense, indemnification, reimbursement, or limitation of liability accrued or is owed in connection with a transaction, occurrence or omission before or after the Petition Date.

## **15. Governing Law**

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), the laws of (i) the State of Texas will govern the construction and implementation of the Plan and any agreements, documents, and instruments executed in connection with the Plan and (ii) the laws of the state of incorporation, formation or organization, as applicable, of each Debtor will govern corporate governance matters with respect to each such Debtor, in either case without giving effect to the principles of conflicts of law thereof.

## **16. Prepayment**

Except as otherwise provided in the Plan or the Confirmation Order, the Debtors will have the right to prepay, without penalty, all or any portion of an Allowed Claim at any time; *provided, however*, that any such prepayment will not be violative of, or otherwise prejudice, the relative priorities and parities among the Classes of Claims.

## **17. Section 1125(e) of the Bankruptcy Code**

As of the Confirmation Date, the Debtors and Reorganized Debtors will be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code. As of the Confirmation Date, the Debtors, and their respective affiliates, agents, directors, officers, employees, investment bankers, financial advisors, attorneys, and other professionals will be deemed to have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer and issuance of the New Securities under the Plan, and therefore are not, and on account of such offer, issuance and solicitation will not be, liable at any time for the violation of any applicable law, rule or regulation governing the solicitation of acceptances or rejections of the Plan or the offer and issuance of securities thereunder.

### **V. THE REORGANIZED DEBTORS**

For purposes of voting, confirmation and distribution, the Plan is premised upon the consolidation of all of the Debtors. Entry of the Confirmation Order will constitute the approval, effective as of the Effective Date, of the consolidation of the Chapter 11 Cases of the Debtors for all purposes related to the Plan, including, without limitation, for purposes of voting, confirmation and distribution, but excluding the transactions contemplated by the Purchase Agreement. Pursuant to such order, (i) except for the Residential Debtors, each Debtor's assets and liabilities will be merged and pooled with the assets and liabilities of each of the other Debtors, (ii) no distributions will be made under the Plan on account of Intercompany Claims held by the Debtors, (iii) all guarantees of the Debtors of the obligations of any other Debtor will be deemed eliminated so that any Claim against any Debtor and any guarantee thereof executed by any other Debtor and any joint and several liability of any of the Debtors will be deemed to be one obligation of the consolidated Debtors and (iv) each and every Claim filed or to be filed in the Chapter 11 Case of any Debtor will be deemed filed against the consolidated Debtors, and will be deemed one Claim against, and obligation of, the consolidated Debtors. Such substantive consolidation will not (other than for purposes related to the Plan) affect (i) the legal and corporate structures of the Reorganized Debtors, (ii) pre- and post-Petition Date guarantees that are required to be maintained in connection with executory contracts or unexpired leases that were entered into during the Chapter 11 Cases or that have or will be assumed or pursuant to the Plan, or (iii) any term or provision of the Purchase Agreement (including, without limitation, any provision thereof limiting the post-Effective Date liabilities of the Reorganized Residential Debtors).

However, after the Effective Date, the Plan generally provides for the reorganization of the Debtors in two distinct groups: (i) the Reorganized Residential Debtors, as transferred and conveyed to the Buyer and (ii) the Reorganized Non-Residential Debtors, in respect of which Reorganized Encompass will appoint, with the consent of the holders of Existing Credit Agreement Claims, the Disbursing Agent on the Effective Date. The Reorganized Non-Residential Debtors will consist of Reorganized Encompass and those Debtors whose assets have been largely sold prior to the Confirmation Date and who will generally cease operating their businesses on or before the Effective Date. The Reorganized Residential Debtors will consist of those Debtors who will generally continue operating their businesses on and after the Effective Date. The following generally describes certain structural and operational information for the Reorganized Debtors.

#### **A. Reorganized Residential Debtors**

##### **1. Corporate and Capital Structure**

The following discussions does not purport to be complete and is qualified in its entirety by reference to the full text of the Plan, the Purchase Agreement and the Newco Holding LLC organizational documents.

As of the Effective Date, pursuant to the Plan and the Purchase Agreement, the Reorganized Residential Debtors will issue all of the Reorganized Residential Debtors' Common Stock to Newco Holding LLC. Confirmation of the Plan by the Bankruptcy Court will constitute approval of the proposed sale of the Reorganized Residential Debtors' Common Stock to Newco Holding LLC and, on and after the Effective Date, the Reorganized Residential Debtors' Common Stock and all assets of the Reorganized Residential Debtors, other than as specifically set forth in the Purchase Agreement, will be purchased by and vested in Newco Holding LLC free and clear of all Claims, Equity Interests, Liens, charges, encumbrances and all other rights arising on or before the Effective Date. The issuance, grant and reservation of the Reorganized Residential Debtors' Common Stock authorized under the Plan shall not require any further act or action by or among other Persons, any shareholders or creditors of Encompass, under applicable law, regulation, order or rule. On or after the Effective Date, Newco Holding LLC and/or one or more of the Reorganized Residential Debtors may enter into such other or further debt or equity financings as they deem necessary or appropriate for the Reorganized Residential Debtors' working capital and other general corporate needs.

Each of the Reorganized Residential Debtors will be wholly owned, directly or indirectly, by Newco Holding LLC and will continue to exist on and after the Effective Date as separate entities in accordance with the applicable law of the applicable jurisdiction in which they are incorporated, formed or organized under their respective certificates of incorporation and bylaws, partnership agreement, limited liability company agreement or other organizational documents in effect before the Effective Date except as their organizational documents may be amended pursuant to the Plan. On the Effective Date, the organizational documents of each Reorganized Residential Debtor will be amended as necessary to satisfy the provisions of the Plan and the Bankruptcy Code and will include, pursuant to section 1126(a)(6) of the Bankruptcy Code, a provision prohibiting the issuance of non-voting equity securities.

Notwithstanding the foregoing, In accordance with the provisions of section 1123 of the Bankruptcy Code, the Residential Debtors may enter into any transactions or take any actions appropriate or necessary to effect a corporate restructuring of their respective businesses, including, without limitation, any action necessary to effect a change in the organizational form of any Residential Debtor. Any such proposed corporate restructuring will be described in the documents and papers contained in the Plan Supplement. In addition to such pre-Confirmation Date transactions, the applicable Reorganized Residential Debtors may enter into such transactions, on and after the Confirmation Date, which are necessary or appropriate to effect a corporate restructuring of their respective businesses, including, without limitation, simplifying the overall corporate structure of the Reorganized Residential Debtors, or reincorporating certain of the Reorganized Residential Debtors under the laws of jurisdictions other than the laws under which the applicable Reorganized Residential Debtor is presently incorporated or reforming some or all of the Reorganized Residential Debtors as limited liability companies or limited partnerships in such jurisdictions. Such restructuring may include one or more mergers, consolidations, dispositions, liquidations, or dissolutions, as may be determined by Newco Holding LLC or the Reorganized Residential Debtors to be necessary or appropriate. In each case in which the surviving, resulting or acquiring corporation in any such transaction is a successor to a Reorganized Residential Debtor, such surviving, resulting or acquiring corporation will perform the obligations (if any) of the applicable Reorganized Residential Debtor pursuant to the Purchase Agreement or the Plan to pay or otherwise satisfy the Allowed Claims against such Reorganized Residential Debtor specifically identified in the Purchase Agreement, except as provided in any contract, instrument or other agreement or document effecting a disposition to such surviving, resulting, or acquiring corporation, which may provide that another Reorganized Residential Debtor will perform such obligations.

Notwithstanding anything in the Plan to the contrary, the property of each Residential Debtor's Estate, together with any property of each Residential Debtor that is not property of its Estate and that is not specifically disposed of pursuant to the Plan, will revert in the applicable Reorganized Residential Debtor on the Effective Date and the Reorganized Residential Debtors' Common Stock will be sold to Newco Holding LLC pursuant to the Purchase Agreement. Thereafter, the Reorganized Residential Debtors may operate their businesses and may use, acquire and dispose of property free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules and the Bankruptcy Court. As of the Effective Date, all property of the Reorganized Residential Debtors, including the Reorganized Residential Debtors' Common Stock held by Newco Holding LLC, will be free and clear of all Claims, encumbrances, Equity Interests, charges and Liens except as specifically provided in the Purchase Agreement.

## **2. Directors and Executive Officers**

The term of each member of the board of directors of each Residential Debtor will expire as of the Effective Date and the board of directors of Newco Holding LLC will elect the board of directors of each of the Reorganized Residential Debtors. The directors of each of the Reorganized Residential Debtors will be identified in the Plan Supplement.

The board of directors of each Reorganized Residential Debtor will have the responsibility for the management, control and operation of the respective Reorganized Residential Debtor after the Effective Date.

The officers of the Reorganized Residential Debtors on and after the Effective Date will be identified in the Plan Supplement.

## **3. Employees and Benefits**

In general, employees relating to the operations of the Reorganized Residential Debtors will be employed directly by the applicable operating Reorganized Residential Debtor subsidiary rather than by Newco Holding LLC. However, Newco Holding LLC may have a few employees at the holding company level with the duties of overseeing the consolidated operations of the Reorganized Residential Debtors.

As of the Effective Date, it is expected that Newco Holding LLC and the Reorganized Residential Debtors will collectively employ approximately 2,300 full and part-time employees and that they will continue to utilize the services of subcontractors in the course of performing certain services.

## **B. The Reorganized Non-Residential Debtors**

### **1. Corporate and Capital Structure**

The Reorganized Non-Residential Debtors will consist of Reorganized Encompass and those Debtors whose assets have been largely sold prior to the Confirmation Date and who will generally cease operating their businesses on or before the Effective Date.

On the Effective Date, with respect to Reorganized Encompass, except as otherwise provided in the Plan, (i) the Extinguished Securities, to the extent not already cancelled, will be deemed cancelled and of no further force or effect without any further action on the part of the Bankruptcy Court or any other Person and (ii) the obligations of the Debtors under the Extinguished Securities and under any Debtors' certificate of incorporation, any agreements, indentures, or certificates of designations governing the Extinguished Securities will be terminated and discharged; *provided, however*, that each indenture or other agreement that governs the rights of the holder of a Claim based on the Extinguished Securities and that is administered by an indenture trustee, agent, or servicer will continue in effect solely for the purposes of permitting such indenture trustee, agent, or servicer to maintain any rights it may have for fees, costs, and expenses under such indenture or other agreement. Additionally, the cancellation of any indenture will not impair the rights and duties under such indenture as between the indenture trustee thereunder and the beneficiaries of the trust created thereby.

On the Effective Date, Reorganized Encompass will issue new common stock to the Disbursing Agent and the Disbursing Agent shall hold such common stock in furtherance of its performance of its obligations in connection with its winding up of the businesses, assets, properties and affairs of the Non-Residential Debtors. Such shares of common stock of Reorganized Encompass will be held in trust by the Disbursing Agent for the benefit of holders of Claims against the Debtors.

On the Effective Date, Reorganized Encompass will continue to own the outstanding Equity Interests in each of the other Reorganized Non-Residential Debtors. The Reorganized Non-Residential Debtors will continue to exist after the Effective Date for the limited purpose of winding up their affairs and assisting the Disbursing Agent, which Reorganized Encompass will appoint, with the consent of the holders of Existing Credit Agreement Claims, on the Effective Date. The property of each Non-Residential Debtor, together with any property of each Non-Residential Debtor that is not property of the Estate and that is not specifically disposed of pursuant to the Plan, will revert in the applicable Non-Residential Debtor on the Effective Date; *provided, however*, that the holders of the Existing Credit Agreement Claims will retain Liens on the property that reverts and such property will be treated in accordance with the terms of the Plan. Following the Effective Date, the Reorganized Non-Residential Debtors will continue to exist until such time as they are dissolved under applicable law.

The Reorganized Non-Residential Debtors will not engage in any new business or incur new liabilities, except as is necessary to assist the Disbursing Agent in effectuating the duties and obligations set forth in the Plan.

The Disbursing Agent, with the consent of the holders of Existing Credit Agreement Claims, may appoint any successor or successors to serve as Disbursing Agent. The Disbursing Agent will have the rights and powers of a debtor-in-possession under section 1107 of the Bankruptcy Code, and such other rights, powers and duties incident to causing the performance of the Debtors' obligations under the Plan, including, without limitation, the duty to assess the merits of Claims and object to those Claims that the Disbursing Agent determines to be, in whole or in part, without merit, to prosecute such objections and defend Claims and counterclaims asserted in connection therewith, to prosecute such causes of action, to liquidate assets of the Debtors' Estates, to wind up the businesses, assets, properties and affairs of the Non-Residential Debtors, to make distributions under the Plan and such other duties as are necessary to effectuate the terms and provisions of the Plan. The Disbursing Agent shall continue to exist until entry of a Final Order by the Bankruptcy Court closing the Chapter 11 Cases pursuant to section 350(a) of the Bankruptcy Code.

### **2. Directors and Executive Officers**

On the Effective Date, the term of each member of the current board of directors of Encompass will automatically expire. The initial board of directors of Reorganized Encompass on and after the Effective Date will consist of one member, who will be designated by the Disbursing Agent.

On the Effective Date, the term of each member of the board of directors of each Non-Residential Debtor will expire and the board of directors of Reorganized Encompass will elect the board of directors of each of the other Reorganized Non-Residential Debtors. The board of directors of each Reorganized Non-Residential Debtor, including Reorganized Encompass, will have the responsibility for the management, control and operation of the respective Reorganized Non-Residential Debtor after the Effective Date; *provided, however*, that such management, control and operation will be for the limited purpose of winding up the Reorganized Non-Residential Debtor's affairs and of carrying out the duties and responsibilities of the Disbursing Agent set forth in the Plan.

The Disbursing Agent and the directors of Reorganized Encompass and each of the Reorganized Non-Residential Debtors will be identified in the Plan Supplement.

The officers of each of the Reorganized Non-Residential Debtors after the Effective Date will be identified in the Plan Supplement.

### **3. Employees and Benefits**

The Disbursing Agent may, with the consent of the holders of Existing Credit Agreement Claims, obtain the services of persons, including, without limitation, current employees of the Non-Residential Debtors, for purposes of assisting it in the winding up of the businesses, assets, properties and affairs of the Non-Residential Debtors and of making distributions under the Plan. Such persons shall receive the compensation and benefits in respect of such services as to be agreed by the Disbursing Agent. Amounts relating to such compensation and benefits will be "Wind Up Costs" under the Plan, and such amounts will be paid from the Wind Up Fund.

## **VI. CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

### **A. Introduction**

THE FOLLOWING DISCUSSION IS A SUMMARY OF CERTAIN OF THE SIGNIFICANT FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN TO THE DEBTORS, TO HOLDERS OF CLAIMS WHO ACQUIRED SUCH CLAIMS ON ORIGINAL ISSUE AND TO HOLDERS OF EQUITY INTERESTS, AND IS BASED ON THE INTERNAL REVENUE CODE OF 1986, AS AMENDED TO THE DATE HEREOF (THE "TAX CODE"), TREASURY REGULATIONS PROMULGATED AND PROPOSED THEREUNDER ("TREASURY REGULATIONS"), JUDICIAL DECISIONS AND PUBLISHED ADMINISTRATIVE RULES AND PRONOUNCEMENTS OF THE INTERNAL REVENUE SERVICE ("IRS") AS IN EFFECT ON THE DATE HEREOF. CHANGES IN SUCH RULES OR NEW INTERPRETATIONS THEREOF COULD SIGNIFICANTLY AFFECT THE TAX CONSEQUENCES DESCRIBED BELOW. NO RULINGS HAVE BEEN REQUESTED FROM THE IRS. MOREOVER, NO LEGAL OPINIONS HAVE BEEN REQUESTED FROM COUNSEL WITH RESPECT TO ANY OF THE TAX ASPECTS OF THE PLAN.

THE FEDERAL, STATE, LOCAL AND OTHER TAX CONSEQUENCES OF THE PLAN TO THE HOLDERS OF CLAIMS AND EQUITY INTERESTS MAY VARY BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER. IN ADDITION, THIS DISCUSSION DOES NOT COVER ALL ASPECTS OF FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO THE DEBTORS OR TO HOLDERS OF ALLOWED CLAIMS OR EQUITY INTERESTS, NOR DOES THE DISCUSSION DEAL WITH TAX ISSUES PECULIAR TO CERTAIN TYPES OF TAXPAYERS (SUCH AS DEALERS IN SECURITIES, S CORPORATIONS, LIFE INSURANCE COMPANIES, FINANCIAL INSTITUTIONS, TAX-EXEMPT ORGANIZATIONS AND FOREIGN TAXPAYERS). NO ASPECT OF FOREIGN, STATE, LOCAL OR ESTATE AND GIFT TAXATION IS ADDRESSED.

THE FOLLOWING SUMMARY IS, THEREFORE, NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER OF A CLAIM OR EQUITY INTEREST. HOLDERS OF CLAIMS OR EQUITY INTERESTS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS FOR THE FEDERAL, STATE, LOCAL AND OTHER TAX CONSEQUENCES PECULIAR TO THEM UNDER THE PLAN.

## **B. Consequences to Holders of Claims or Equity Interests**

### **1. Realization and Recognition of Gain or Loss in General**

The federal income tax consequences of the implementation of the Plan to a holder of a Claim will depend, among other things, upon the origin of the holder's Claim, when the holder's Claim becomes an Allowed Claim, when the holder receives payment in respect of such Claim, whether the holder reports income using the accrual or cash method of accounting, whether the holder has taken a bad debt deduction or worthless security deduction with respect to such Claim and whether the holder's Claim constitutes a "security" for federal income tax purposes.

Generally, a holder of an Allowed Claim will realize gain or loss on the exchange under the Plan of its Allowed Claim for Cash or other property, in an amount equal to the difference between (i) the sum of the amount of any Cash and the fair market value on the date of the exchange of any other property received by the holder (other than any consideration attributable to a Claim for accrued but unpaid interest) and (ii) the adjusted tax basis of the Allowed Claim exchanged therefor (other than basis attributable to accrued but unpaid interest previously included in the holder's taxable income). With respect to the treatment of accrued but unpaid interest and amounts allocable thereto, see Section VI.B.10 — "CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN – CONSEQUENCES TO HOLDERS OF CLAIMS OR INTERESTS – ALLOCATION OF CONSIDERATION TO INTEREST."

When gain or loss is recognized as set forth below, such gain or loss may be long-term capital gain or loss if the Claim or Equity Interest disposed of is a capital asset in the hands of the holder and is held for more than one year. Each holder of an Allowed Claim or Equity Interest should consult its own tax advisor to determine whether gain or loss recognized by such holder will be long-term capital gain or loss and the specific tax effect thereof on such holder.

### **2. Holders of Allowed Administrative Expense Claims (Unclassified) and Allowed Other Priority Claims (Class 1)**

Holders of Allowed Administrative Expense Claims and Allowed Other Priority Claims generally will be paid in full in Cash on, or subsequent to, the Initial Distribution Date. Such holders must include amounts received in excess of their adjusted tax basis in their Claim (if any) in gross income in the taxable year in which such amounts are actually or constructively received by them. Where appropriate, income tax and employment tax will be withheld from such payments as required by law. With respect to the treatment of accrued but unpaid interest (if any) and amounts allocable thereto, see Section VI.B.10 — "CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN – CONSEQUENCES TO HOLDERS OF CLAIMS OR INTERESTS – ALLOCATION OF CONSIDERATION TO INTEREST."

### **3. Holders of Allowed Other Secured Claims (Class 3)**

In general, a holder of an Allowed Other Secured Claim will (i) have its Allowed Other Secured Claim reinstated, (ii) receive Cash in an amount equal to such Allowed Other Secured Claim, or (iii) receive the collateral securing such holder's Allowed Other Secured Claim. If a holder has its Claim reinstated, such holder will not realize any gain or loss for federal income tax purposes because the transaction will not give rise to a significant modification of the Allowed Other Secured Claim within the meaning of the Treasury Regulations.

If a holder of an Allowed Other Secured Claim receives Cash or collateral in satisfaction of such claim in whole or in part, such holder will realize gain or loss in an amount equal to the difference between (a) the holder's basis in the Claim and (b) the amount of Cash and the fair market value of the collateral received in the exchange in excess of amounts allocable to accrued but unpaid interest. The amount of Cash or the portion of the collateral received in respect of claims for accrued but unpaid interest will be taxed as ordinary income, except to the extent previously included in income by a holder under its method of accounting. See Section VI.B.10 — "CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN – CONSEQUENCES TO HOLDERS OF CLAIMS OR INTERESTS – ALLOCATION OF CONSIDERATION TO INTEREST."

### **4. Holders of Allowed Existing Credit Agreement Claims (Class 4)**

Each holder of an Allowed Existing Credit Agreement Claim will receive a Pro Rata share of (i) the Asset Sale Proceeds, (ii) the proceeds of all Postpetition Collateral and (iii) the proceeds of all Prepetition Collateral, including the proceeds of the Prepetition Collateral that are collected after the Confirmation Date.

A holder of an Allowed Existing Credit Agreement Claim will realize gain or loss in an amount equal to the difference between (a) the holder's basis in the Claim and (b) the amount of Cash and the fair market value of the collateral received in the exchange in excess of amounts allocable to accrued but unpaid interest. The amount of Cash or the portion of the collateral received in respect of claims for accrued but unpaid interest will be taxed as ordinary income, except to the extent previously included in income by a holder under its method of accounting. See Section VI.B.10 — "CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN—CONSEQUENCES TO HOLDERS OF CLAIMS OR INTERESTS—ALLOCATION OF CONSIDERATION TO INTEREST."

#### **5. Holders of Allowed Surety Claims (Class 5)**

Except to the extent that the holder of an Allowed Surety Claim has been paid by the Debtors prior to the Effective Date, the holder of an Allowed Surety Claim will receive in exchange for such Claim all equitable subrogation and other legal and equitable rights against the Debtors, the Reorganized Debtors and the Bonded Collateral arising under the Surety Agreements, the Bonded Contracts and applicable law; *provided, however*, that except for cross-indemnity obligations arising under a Bond under which a Residential Debtor is the principal and primary indemnitor, the Residential Debtors shall be released from all Bonded Obligations, including all Claims related to cross-indemnities. In the event that the holder of an Allowed Surety Claim realizes a loss on such Claim, such holder should consult its own tax advisor as to the federal, state, local and other tax consequences pertaining thereto.

#### **6. Holders of Allowed Convenience Claims (Class 6)**

Except to the extent that the holder of an Allowed Convenience Claim has been paid by the Debtors prior to the Effective Date, the holder of an Allowed Convenience Claim will receive in exchange for such Claim the lesser of (i) one-half of such holder's Allowed Convenience Claim or (ii) a Pro Rata share of the Convenience Class Distribution. Such holder will realize gain or loss in an amount equal to the difference between (a) the holder's basis in the Claim and (b) the amount of Cash and the fair market value of any property received in the exchange in excess of amounts allocable to accrued but unpaid interest. The amount of Cash or the portion of property received in respect of claims for accrued but unpaid interest will be taxed as ordinary income, except to the extent previously included in income by a holder under his method of accounting. See Section VI.B.10 — "CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN – CONSEQUENCES TO HOLDERS OF CLAIMS OR INTERESTS – ALLOCATION OF CONSIDERATION TO INTEREST."

#### **7. Holders of Allowed General Unsecured Claims (Class 7)**

Except to the extent that the holder of an Allowed General Unsecured Claim has been paid by the Debtors prior to the Effective Date, the holder of an Allowed General Unsecured Claim will receive in exchange for such Claim the holder's Pro Rata share of the Class 7 Distribution; *provided, however*, that holders of Allowed Junior Subordinated Note Claims and Allowed Senior Subordinated Note Claims will not receive a distribution under the Plan because amounts otherwise distributable to them will be reallocated and distributed to the Senior Lenders holding Allowed General Unsecured Claims. The holder of an Allowed General Unsecured Claim, other than a holder of an Allowed Junior Subordinated Note Claim or an Allowed Senior Subordinated Note Claim, will realize gain or loss in an amount equal to the difference between (a) the holder's basis in the Claim and (b) the amount of Cash and the fair market value of any property received in the exchange in excess of amounts allocable to accrued but unpaid interest. The amount of Cash or the portion of property received in respect of claims for accrued but unpaid interest will be taxed as ordinary income, except to the extent previously included in income by a holder under his method of accounting. See Section VI.B.10 — "CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN – CONSEQUENCES TO HOLDERS OF CLAIMS OR INTERESTS – ALLOCATION OF CONSIDERATION TO INTEREST." Each holder of an Allowed Junior Subordinated Note Claim or an Allowed Senior Subordinated Note Claim will realize a loss equal to its adjusted tax basis in its Claim upon implementation of the Plan, except to the extent that such holder has properly claimed a deduction for worthlessness in a prior taxable year.

#### **8. Holders of Allowed Litigation Claims (Class 8)**

Each holder of an Allowed Litigation Claim that is treated as an Allowed General Unsecured Claim in whole or in part, as described in Section IV.D.8 — "SUMMARY OF THE PLAN – TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS – CLASS 8 – LITIGATION CLAIMS," will receive in exchange for such Allowed General Unsecured Claim the holder's Pro Rata share of the Class 7/Class 8 Distribution. Such holder will realize gain or loss in an amount equal to the difference between (a) the holder's basis in the Claim and (b) the amount of Cash and the fair market value of any property received in the exchange in excess of amounts allocable to accrued but unpaid interest. The amount of Cash or the portion of property received in

respect of claims for accrued but unpaid interest will be taxed as ordinary income, except to the extent previously included in income by a holder under his method of accounting. See Section VI.B.10 — “CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN – CONSEQUENCES TO HOLDERS OF CLAIMS OR INTERESTS – ALLOCATION OF CONSIDERATION TO INTEREST.” The characterization of any gain or loss realized by the holder of an Allowed Litigation Claim and the extent to which such a holder must recognize such gain or loss, depends on the nature of the Claim. Holders of Allowed Litigation Claims are urged to consult their own tax advisors as to the federal, state, local and other tax consequences peculiar to them under the Plan.

#### **9. Holders of Existing Preferred Stock (Class 9), Existing Common Stock and Section 510(b) Claims (Class 10), and Existing Other Equity Interests (Class 11)**

On the Effective Date, all Existing Preferred Stock, Existing Common Stock, Section 510(b) Claims and Existing Other Equity Interests will be cancelled. Accordingly, each holder of such a Claim or Equity Interest will realize a loss equal to its adjusted tax basis in its Claim or Equity Interest upon implementation of the Plan, except to the extent such holder has properly claimed deduction for worthlessness in a prior taxable year.

#### **10. Allocation of Consideration to Interest**

Pursuant to the Plan, all distributions in respect of Allowed Claims will be allocated first to the principal amount of the Allowed Claim, with any excess allocated to accrued but unpaid interest. However, there is no assurance that such allocation would be respected by the IRS for federal income tax purposes. In general, to the extent any amount received (whether stock, Cash or other property) by a holder of a debt is received in satisfaction of accrued interest during its holding period, such amount will be taxable to the holder as interest income (if not previously included in the holder’s gross income). Conversely, a holder generally recognizes a deductible loss to the extent any accrued interest claimed was previously included in its gross income and is not paid in full. Each holder of an Allowed Claim is urged to consult its own tax advisor regarding the allocation of consideration and the deductibility of unpaid interest for tax purposes.

#### **11. Withholding**

All distributions under the Plan are subject to any applicable withholding. Under federal income tax law, interest, dividends, and other reportable payments may, under certain circumstances, be subject to “backup withholding” at the fourth-lowest tax rate applicable to unmarried individuals. That rate is currently 30 percent. Backup withholding generally applies if the holder (a) fails to furnish its social security number or other taxpayer identification number (“TIN”), (b) furnishes an incorrect TIN, (c) fails to properly report interest or dividends, or (d) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is its correct number and that it is not subject to backup withholding. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax. Certain persons are exempt from backup withholding, including, in certain circumstances, corporations and financial institutions.

#### **C. Consequences to Debtors or Reorganized Debtors**

##### **1. Discharge-of-Indebtedness Income Generally**

In general, the discharge of a debt obligation by a debtor for an amount less than the adjusted issue price (generally, the amount received upon incurring the obligation plus the amount of any previously amortized original issue discount and less the amount of any previously amortized bond issue premium) gives rise to cancellation-of-indebtedness (“COD”) income which must be included in a debtor’s income for federal income tax purposes, unless, in accordance with section 108(e)(2) of the Tax Code, payment of the liability would have given rise to a deduction. A corporate debtor that issues its own stock or its own debt in satisfaction of its debt is treated as realizing COD income to the extent the fair market value of the stock or the issue price of new debt issued is less than the adjusted issue price of the old debt. COD income is not recognized by a taxpayer that is a debtor in a title 11 (bankruptcy) case if a discharge is granted by the court or pursuant to a plan approved by the court (the “bankruptcy exclusion rules”).

Pursuant to the Plan, Administrative Expense Claims, Priority Tax Claims, Other Priority Claims, Secured Tax Claims and Other Secured Claims generally will be paid in full and, therefore, the treatment of such Claims should not give rise to COD income. With respect to other Claims, there could be COD income if such Claims are not satisfied in full. Based upon current estimates of value, the Debtors believe that consummation of the Plan will give rise to approximately \$[\_\_\_\_\_] million of COD income that will be excluded from gross income as described above, but will reduce attributes as described below.



## **2. Attribute Reduction**

The relief accorded to COD income by the bankruptcy exclusion rules is not without cost. If a taxpayer excludes COD income because of the bankruptcy exclusion rules, it is required to reduce prescribed tax attributes, including NOL carryovers, in the manner set forth in the Tax Code.

In general, a taxpayer determines its tax liability for the year of discharge without regard to the attribute reduction rules, which are applied as of the beginning of the following taxable year.

It is not settled whether, in the case of affiliated corporations filing a consolidated return (such as the Debtors or Reorganized Debtors), the attribute reduction rules apply separately to the particular corporation whose debt is being discharged, or to the tax attributes of the entire group without regard to the identity of the debtor. Although the IRS has informally taken the position that NOLs are reduced on a consolidated basis, there is also support for a separate entity approach. The Debtors do not believe that the resolution of this issue would have a material impact on them.

## **3. Utilization of Net Operating Loss Carryovers**

In general, whenever there is a 50% ownership change of a debtor corporation during a three-year period, the ownership change rules in section 382 of the Tax Code limit the utilization of NOLs on an annual basis. Because substantially all of the assets of the Debtors will be disposed of before, or in connection with the Plan, section 382 of the Tax Code should not have any material effect on the tax liabilities of the Debtors.

## **4. Consolidated Return Items**

The confirmation of the Plan may result in the recognition of income or loss attributable to the existence of deferred intercompany transactions, excess loss accounts or similar items. The Debtors, however, do not believe that the consequence of such items (if any) would have a material effect on them.

## **5. Disposition of Assets; Alternative Minimum Tax**

If the proposed Newco Holding LLC investment transaction is approved, the equity interests of each of the Residential Debtors will be transferred and conveyed to Buyer and, in exchange, the Buyer will pay the Purchase Price in accordance with the terms of the Purchase Agreement. The sale of equity interests of the Residential Debtors will constitute a taxable disposition of such equity interests. Nevertheless, due to other losses expected to be realized in the current taxable year and the Debtors' available net operating loss ("NOL") carryforward for federal income tax purposes, the Debtors do not expect the sale of the equity interests of the Residential Debtors to result in any significant regular tax liability to the Debtors.

A corporation is required to pay alternative minimum tax to the extent that 20% of "alternative minimum taxable income" ("AMTI") exceeds the corporation's regular tax liability for the year. AMTI is generally equal to regular taxable income with certain adjustments. For purposes of computing AMTI, a corporation is entitled to offset no more than 90% of its AMTI with NOLs, as computed for alternative minimum tax purposes ("AMT NOLs"). Thus, if the Reorganized Debtors' consolidated group is subject to the alternative minimum tax in future years, a federal tax of not less than 2% (20% of the 10% of AMTI not offset by AMT NOLs) will apply to any net taxable income earned by the Reorganized Debtors' consolidated group in future years that would otherwise be offset by NOLs.

The Job Creation and Worker Assistance Act of 2002 temporarily waived the AMTI limitation for AMT NOL carrybacks arising in taxable years ending in 2001 and 2002, as well as for AMT NOL carryforwards to those years.

On February 3, 2003, the Treasury Department released an explanation of the revenue proposals in the current administration's fiscal 2004 budget. The explanation provides that the current administration proposes to extend the waiver of the AMTI limitation for AMT NOL carrybacks and carryforwards to taxable years ending in 2003, 2004, and 2005. Thus, if enacted, the proposed legislation would forestall application of the AMTI limitation for AMT NOLs for an additional three years. If the legislation is not enacted, Debtors could have alternative minimum tax liability arising from the disposition of the of the equity interests of the Residential Debtors, but the amount, if any, is not expected to be material.

## **VII. CONFIRMATION OF THE PLAN**

### **A. Confirmation Hearing**

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on Confirmation of the Plan. Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to the Confirmation of a plan of reorganization.

The Confirmation Hearing in respect of the Plan has been scheduled for May 21, 2003 at \_\_: \_\_ .m., Central time, before the Honorable William R. Greendyke, United States Bankruptcy Judge at the United States Bankruptcy Court, 515 Rusk Avenue, Courtroom 403, Houston, Texas 77002. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement of the adjourned date made at the Confirmation Hearing. Any objection to confirmation must be made in writing and must specify in detail the name and address of the objector, all grounds for the objection and the amount of the objector's Claim. Any such objection must be filed with the Bankruptcy Court and served so that it is received by the Bankruptcy Court and (i) the Debtors, (ii) the United States Trustee and (iii) the Committee on or before May 15, 2003 at \_\_: \_\_ .m., Central Time. Objections to Confirmation of the Plan are governed by Bankruptcy Rule 9014 and any local rules of the Bankruptcy Court. **UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.**

### **B. Confirmation**

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the requirements of section 1129 of the Bankruptcy Code are met. Among the requirements for Confirmation of a plan of reorganization are that the plan is (i) accepted by all Impaired Classes of Claims and Equity Interests or, if rejected by an Impaired Class, that the plan "does not discriminate unfairly" and is "fair and equitable" as to such Class, (ii) feasible and (iii) in the best interests of creditors and shareholders that are Impaired under the plan.

#### **1. Acceptance**

Classes 4, 5, 6, 7 and 8 are Impaired under the Plan and are entitled to vote to accept or reject the Plan. A Class of Claims will have accepted the Plan if the holders of at least two-thirds in amount, and more than one-half in number, of the Allowed Claims in the Class actually voting have voted to accept the Plan. The Debtors reserve the right to amend the Plan and/or seek nonconsensual confirmation of the Plan under section 1129(b) of the Bankruptcy Code with respect to any Class of Claims that is entitled to vote to accept or reject the Plan if such Class rejects the Plan. The Debtors will seek nonconsensual confirmation of the Plan under section 1129(b) of the Bankruptcy Code if an Impaired Class votes to reject the Plan.

#### **2. Unfair Discrimination and Fair and Equitable Tests**

To obtain nonconsensual confirmation of the Plan, it must be demonstrated to the Bankruptcy Court that the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to each Impaired, non-accepting Class. The Bankruptcy Code provides a non-exclusive definition of the phrase "fair and equitable." The Bankruptcy Code establishes "cram down" tests for secured creditors, unsecured creditors and equity holders, as follows:

a. Secured Creditors. Either (i) each Impaired secured creditor retains liens securing its secured claim and receives on account of its secured claim deferred cash payments having a present value equal to the amount of its allowed secured claim, (ii) each impaired secured creditor realizes the “indubitable equivalent” of its allowed secured claim or (iii) the property securing the claim is sold free and clear of liens with such liens attaching to the proceeds of the sale and the liens on such proceeds are treated in accordance with clause (i) or (ii) of this subparagraph.

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

c. Equity Interests. Either (i) each holder of an equity interest receives or retains under the plan property of a value equal to the greatest of the fixed liquidation preference to which such holder is entitled, the fixed redemption price to which such holder is entitled or the value of the interest or (ii) the holders of interests that are junior to the interests of the dissenting class will not receive or retain any property under the plan.

### **3. Feasibility of the Plan**

In connection with Confirmation of the Plan, section 1129(a)(11) of the Bankruptcy Code requires that the Bankruptcy Court find that Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors. This is the so-called “feasibility” test. [To support their belief in the feasibility of the Plan, the Debtors, with the assistance of their financial advisors, have prepared the Financial Projections attached hereto as Exhibit D.]

[The Financial Projections indicate that the Reorganized Debtors should have sufficient cash flow to make the payments required under the Plan on the Effective Date and that the Reorganized Residential Debtors should be capable of maintaining operations on a going-forward basis. Accordingly, the Debtors believe that the Plan complies with the standard of section 1129(a)(11) of the Bankruptcy Code. As noted in the Financial Projections, however, the Debtors caution that no representations can be made as to the accuracy of the Financial Projections or as to the Reorganized Debtors’ ability to achieve the projected results. Many of the assumptions upon which the Financial Projections are based are subject to uncertainties outside the control of the Debtors. Some assumptions inevitably will not materialize, and events and circumstances occurring after the date on which the Financial Projections were prepared may be different from those assumed or may be unanticipated, and may adversely affect the Debtors’ financial results. See Article IX — “CERTAIN RISK FACTORS TO BE CONSIDERED” for a discussion of certain risk factors that could affect financial feasibility of the Plan.

THE FINANCIAL PROJECTIONS WERE NOT PREPARED WITH A VIEW TOWARD COMPLIANCE WITH THE GUIDELINES ESTABLISHED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OR THE RULES AND REGULATIONS OF THE SECURITIES AND EXCHANGE COMMISSION REGARDING FINANCIAL PROJECTIONS. FURTHERMORE, THE FINANCIAL PROJECTIONS HAVE NOT BEEN AUDITED BY ENCOMPASS’S INDEPENDENT CERTIFIED ACCOUNTANTS.

ALTHOUGH PRESENTED WITH NUMERICAL SPECIFICITY, THE FINANCIAL PROJECTIONS ARE BASED UPON A VARIETY OF ASSUMPTIONS, SOME OF WHICH MAY NOT BE REALIZED IN THE FUTURE, AND ARE SUBJECT TO SIGNIFICANT BUSINESS, LITIGATION, ECONOMIC, AND COMPETITIVE UNCERTAINTIES AND CONTINGENCIES, MANY, IF NOT ALL, OF WHICH ARE BEYOND THE CONTROL OF THE DEBTORS. CONSEQUENTLY, THE FINANCIAL PROJECTIONS SHOULD NOT BE REGARDED AS A REPRESENTATION OR WARRANTY BY THE DEBTORS, OR ANY OTHER PERSON, THAT THE FINANCIAL PROJECTIONS WILL BE REALIZED. ACTUAL RESULTS MAY VARY MATERIALLY FROM THOSE PRESENTED IN THE FINANCIAL PROJECTIONS. IN LIGHT OF THE FOREGOING, THE FINANCIAL PROJECTIONS SHOULD BE READ TOGETHER WITH THE INFORMATION IN ARTICLE IX — “CERTAIN RISK FACTORS TO BE CONSIDERED”, WHICH SETS FORTH IMPORTANT FACTORS THAT COULD CAUSE ACTUAL RESULTS TO DIFFER FROM THOSE IN THE FINANCIAL PROJECTIONS.]

### **4. Best Interests Test**

Even if the Plan is accepted by all holders of Claims entitled to vote on the Plan, the Bankruptcy Code requires that the Bankruptcy Court, as a condition to confirming the Plan, find that the Plan is in the best interests of all holders of Claims and Equity Interests that are Impaired by the Plan and that have not accepted the Plan. The “best interests” test, as set forth in section 1129(a)(7)

of the Bankruptcy Code, requires the Bankruptcy Court to find either that all members of an Impaired Class of Claims or Equity Interests have accepted the Plan or that the Plan will provide a member who has not accepted the Plan with a recovery of property of a value, as of the Effective Date of the Plan, that is not less than the amount that such holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code on such date.

To calculate the probable distribution to members of each Impaired Class of Claims and Equity Interests if the Debtors were liquidated under chapter 7, the Bankruptcy Court must first determine the aggregate dollar amount that would be generated from the disposition of the Debtors' assets if their Chapter 11 Cases were converted to chapter 7 cases under the Bankruptcy Code. This "liquidation value" would consist primarily of the proceeds from liquidating the Debtors' assets by a chapter 7 trustee.

The amount of liquidation value available to holders of Unsecured Claims against the Debtors would be reduced by, first, the Claims of secured creditors (to the extent of the value of their Collateral), and second, by the costs and expenses of liquidation, as well as by other administrative expenses and costs of both the Chapter 7 cases and the Chapter 11 Cases. Costs of a liquidation of the Debtors under chapter 7 of the Bankruptcy Code would include the compensation of a chapter 7 trustee, as well as of counsel and other professionals retained by the trustee, asset disposition expenses, all unpaid expenses incurred by the Debtors in the Chapter 11 Cases (such as compensation of attorneys, financial advisors, and accountants) that are allowed in the chapter 7 cases, litigation costs and Claims arising from the operations of the Debtors during the pendency of the Chapter 11 Cases. The liquidation itself would trigger certain priority payments that otherwise would be due in the ordinary course of business. Those priority Claims would be paid in full from the liquidation proceeds before the balance would be made available to pay Unsecured Claims or to make any distribution in respect of Equity Interests. The liquidation under chapter 7 would also prompt the rejection of executory contracts and unexpired leases and thereby create a significantly greater amount of Unsecured Claims.

In a chapter 7 liquidation, no junior class of Claims or Equity Interests may be paid unless all classes of Claims or Equity Interests senior to such junior class are paid in full. Section 510(a) of the Bankruptcy Code provides that subordination agreements are enforceable in a bankruptcy case to the same extent that such subordination agreements are enforceable under applicable non-bankruptcy law. Therefore, no class of Claims or Equity Interests that is contractually subordinated to another class would receive any payment on account of its Claims or Equity Interests, unless and until such senior class were paid in full.

Once the Bankruptcy Court ascertains the recoveries in liquidation of the Debtors' secured and priority creditors, it would then determine the probable distribution to unsecured creditors from the remaining available proceeds of the liquidation. If this probable distribution has a value greater than the value of distributions to be received by the unsecured creditors under the Plan, then the Plan is not in the best interests of creditors and cannot be confirmed by the Bankruptcy Court. [As shown in the liquidation analysis attached hereto as Exhibit C (the "Liquidation Analysis"), the Debtors believe that each member of each Class of Impaired Claims and Equity Interests will receive at least as much under the Plan as they would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.]

### **C. Liquidation Analysis**

[As noted above, the Debtors believe that under the Plan all holders of Impaired Claims and Equity Interests will receive property with a value not less than the value such holder would receive in a liquidation of the Debtors under chapter 7 of the Bankruptcy Code.] The Debtors' belief is based primarily on (i) consideration of the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to holders of Impaired Claims and Equity Interests, including (a) the increased costs and expenses of a liquidation under chapter 7 arising from fees payable to a chapter 7 trustee and professional advisors to the trustee, (b) the erosion in value of assets in a chapter 7 case in the context of the liquidation required under chapter 7, (c) the adverse effects on the Debtors' businesses as a result of the likely departure of key employees and the probable loss of customers, (d) the substantial increases in Claims, such as estimated contingent Claims, which would be satisfied on a priority basis or on parity with the holders of Impaired Claims and Equity Interests of the Chapter 11 Cases, (e) the reduction of value associated with a chapter 7 trustee's operation of the Debtors' businesses and (f) the potentially substantial delay in distributions to the holders of Impaired Claims and Equity Interests that would likely ensue in a chapter 7 liquidation[ and (ii) the Liquidation Analysis ].

ALTHOUGH THE PLAN CONTEMPLATES A LIQUIDATION OF THE HOLDINGS OF ENCOMPASS IN THE REORGANIZED DEBTORS, THE DEBTORS BELIEVE THAT SUCH LIQUIDATION PURSUANT TO THE PLAN AS PART OF THE CHAPTER 11 CASES WILL NOT HAVE AS GREAT OF AN EFFECT ON THE VALUE THAT HOLDERS OF IMPAIRED CLAIMS AND EQUITY INTERESTS RECEIVE AS WOULD BE APPLICABLE IN A CHAPTER 7 LIQUIDATION.

The Debtors believe that any liquidation analysis is speculative, as such an analysis necessarily is premised on assumptions and estimates which are inherently subject to significant uncertainties and contingencies, many of which would be beyond the control of the Debtors. Thus, there can be no assurance as to values that would actually be realized in a chapter 7 liquidation, nor can there be any assurance that a Bankruptcy Court would accept the Debtors' conclusions or concur with such assumptions in making its determinations under section 1129(a)(7) of the Bankruptcy Code.

[For example, the Liquidation Analysis necessarily contains an estimate of the amount of Claims which will ultimately become Allowed Claims. This estimate is based solely upon the Debtors' review of their books and records and the Debtors' estimates as to additional Claims that may be filed in the Chapter 11 Cases or that would arise in the event of a conversion of the cases from chapter 11 to chapter 7. No order or finding has been entered by the Bankruptcy Court or any other court estimating or otherwise fixing the amount of Claims at the projected amounts of Allowed Claims set forth in the Liquidation Analysis. In preparing the Liquidation Analysis, the Debtors have projected an amount of Allowed Claims that is at the lower end of a range of reasonableness such that, for purposes of the Liquidation Analysis, the largest possible liquidation dividend to holders of Allowed Claims can be assessed. The estimate of the amount of Allowed Claims set forth in the Liquidation Analysis should not be relied on for any other purpose, including any determination of the value of any distribution to be made on account of Allowed Claims under the Plan.]

To the extent that Confirmation of the Plan requires the establishment of amounts for the chapter 7 liquidation value of the Debtors, funds available to pay Claims, and the reorganization value of the Debtors, the Bankruptcy Court will determine those amounts at the Confirmation Hearing. [Accordingly, the annexed Liquidation Analysis is provided solely to disclose to holders the effects of a hypothetical chapter 7 liquidation of the Debtors, subject to the assumptions set forth therein.]

#### **D. Valuation of the Reorganized Debtors**

[TO COME]

### **VIII. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

The Debtors believe that the Plan affords holders of Eligible Claims the potential for the greatest realization on the Debtors' assets and, therefore, is in the best interests of such holders. If, however, the Requisite Acceptances are not received, or the Requisite Acceptances are received but the Plan is not subsequently confirmed and consummated, the theoretical alternatives include: (i) formulation of an alternative plan or plans of reorganization or (ii) liquidation of all of the Debtors, including the Residential Debtors, under chapter 7 of the Bankruptcy Code.

#### **A. Alternative Plan(s)**

If the Requisite Acceptances are not received or if the Plan is not confirmed, the Debtors (or, if the Debtors' exclusive periods in which to file and solicit acceptances of a plan of reorganization have expired, any other party-in-interest) could attempt to formulate and propose a different plan or plans of reorganization. Such a plan or plans might involve either a reorganization and continuation of the Debtors' businesses or an orderly liquidation of assets.

With respect to an alternative plan, the Debtors have explored various other alternatives in connection with the extensive negotiation process involved in the formulation and development of the Plan. The Debtors believe that the Plan, as described herein, enables holders of Eligible Claims to realize the greatest possible value under the circumstances, and that, as compared to any alternative plan of reorganization, the Plan has the greatest chance to be confirmed and consummated.

#### **B. Liquidation under Chapter 7**

If no plan is confirmed, the Chapter 11 Cases may be converted to cases under chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be elected or appointed to liquidate all of the Debtors' assets, including the Residential Debtors, for distribution to creditors in accordance with 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 Equity Interests in the Debtors.

The Debtors believe that in liquidation under chapter 7, before creditors received 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 Debtors' assets. The assets available for distribution to creditors would be

reduced by such additional expenses and by Claims, some of which would be entitled to priority, which would arise by reason of the liquidation and from the rejection of leases and other executory contracts in connection with the cessation of operations and the failure to realize the greater concern value of the Debtors' assets.

In a liquidation under chapter 11, the Debtors' assets could be sold in an orderly fashion over a more extended period of time than in a liquidation under chapter 7. Thus, Debtors believe that a chapter 11 liquidation is likely to result in greater recoveries than in a chapter 7 liquidation, but the delay in distributions could result in lower present values received and higher administrative costs. However, the Debtors believe that the Plan provides for distributions from the liquidation of the Debtors that could be made in a time frame that would be similar to any such distributions that could be made in a liquidation of such Debtors under chapter 7. Because a trustee is not required in a chapter 11 case, Debtors expect that expenses for professional fees would likely be lower than in a chapter 7 case, in which a trustee must be appointed. Notwithstanding the foregoing, any distribution to the holders of Claims and Equity Interests under a chapter 11 liquidation plan may be substantially delayed.

THE DEBTORS BELIEVE THAT THE PLAN AFFORDS SUBSTANTIALLY GREATER BENEFITS TO HOLDERS OF IMPAIRED CLAIMS THAN WOULD ANY OTHER REASONABLY CONFIRMABLE REORGANIZATION PLAN OR LIQUIDATION UNDER ANY CHAPTER OF THE BANKRUPTCY CODE.

[The Liquidation Analysis, prepared by the Debtors with their financial advisors and attached hereto as Exhibit C, is premised upon a liquidation in a chapter 7 case. In the analysis, the Debtors have taken into account the nature, status, and underlying value of the assets of the Debtors, the ultimate realizable value of such assets, and the extent to which the assets are subject to liens and security interests.]

IN THE OPINION OF THE DEBTORS, THE RECOVERIES PROJECTED TO BE AVAILABLE IN LIQUIDATION ARE NOT LIKELY TO AFFORD HOLDERS OF CLAIMS AS GREAT A REALIZATION POTENTIAL AS DOES THE PLAN.

## **IX. CERTAIN RISK FACTORS TO BE CONSIDERED**

The holders of Claims in Classes eligible to vote on the Plan should read and consider carefully the risks and uncertainties below, as well as the other information set forth in this Disclosure Statement (and the documents delivered together herewith and/or incorporated by reference herein), before making their decisions regarding whether to vote to accept the Plan. The risks and uncertainties described below should not be regarded as constituting the only risks involved in connection with the Plan and its implementation. Additional risks and uncertainties not presently known to the Debtors or that they currently deem immaterial may also harm their businesses.

### **A. Bankruptcy Risks**

It is not possible to predict with certainty the amount of time that the Debtors might spend in chapter 11 or to assure that the Plan will be confirmed. Even if all voting Classes vote in favor of the Plan and the requirements for "cramdown" are met with respect to any Class deemed to have rejected the Plan, the Bankruptcy Court, which may exercise substantial discretion as a court of equity, may choose not to confirm the Plan. As discussed in Section VII.B.3 — "CONFIRMATION OF THE PLAN — CONFIRMATION — FEASIBILITY OF THE PLAN", section 1129 of the Bankruptcy Code requires, among other things, a showing that Confirmation of the Plan will not be followed by liquidation or the need for further financial reorganization of the Debtors and a showing that the value of distributions to dissenting holders of Claims and Equity Interests will not be less than the value such holders would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. Although the Debtors believe that the Plan will meet such tests, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

Even if the Plan is confirmed, the continued prolongation of the Chapter 11 Cases may have an adverse effect on the Debtors' businesses. Among other things, the continued chapter 11 proceedings may adversely affect relationships with employees, customers and key suppliers. Key suppliers may eliminate pricing discounts and increase prices, which will result in higher operations costs for the Debtors. A prolonged chapter 11 proceeding will also result in the Debtors' incurrence of substantial additional Administrative Expense Claims and Professional Fee Claims and will require the Debtors' management to continue to devote substantial time and energy which could otherwise be directed at improving the operation of the Debtors' businesses and at marketing of the Debtors' assets to augment the value of the Debtors' Estates.

The extent to which the Chapter 11 Cases disrupt the Debtors' businesses will likely be directly related to the length of time it takes to complete the proceeding. If the Debtors are unable to obtain Confirmation of the Plan on a timely basis, they may be forced to operate in chapter 11 for an extended period while they try to develop an alternative reorganization plan that can be confirmed. Such a circumstance would increase both the probability and the magnitude of the adverse effects described above.

## **B. Conditions Precedent to Consummation of the Plan**

The Plan provides for certain conditions that must be satisfied (or waived) prior to Confirmation of the Plan and for certain other conditions that must be satisfied (or waived) prior to the Effective Date. As of the date of this Disclosure Statement, there can be no assurance that any or all of the conditions in the Plan will be satisfied (or waived). Accordingly, there can be no assurance that the Plan will be confirmed by the Bankruptcy Court, and if the Plan is confirmed, there can be no assurance that the Plan will be consummated and the restructuring completed. In particular, it is a condition to the occurrence of the Effective Date that the Debtors shall have executed and delivered all documents to effectuate the Purchase Agreement, and all conditions to the consummation of the transactions contemplated by the Purchase Agreement shall have been satisfied or waived as provided in the Purchase Agreement. The Purchase Agreement will form a part of the Plan Supplement.

## **C. Asset Sales**

Under the Plan, distributions to holders of Existing Credit Agreement Claims will be funded substantially by the liquidation of the Debtors' assets. Although the Debtors will seek to maximize the price they receive for their assets, it is impossible to predict with certainty the value that the Debtors will receive and the resulting distribution to holders of Existing Credit Agreement Claims. Moreover, the consideration the Debtors receive in return for such assets may be in the form of financial instruments or other obligations that will only generate Cash proceeds over time and, therefore, delay any distributions to be made to holders of Existing Credit Agreement Claims.

## **D. Claims Estimations**

There can be no assurance that the estimated amounts of Claims set forth in the Plan Supplement are correct, and the actual Allowed amounts of Claims may differ from estimates. Because the estimated amounts are based solely upon (i) a review of the Debtors' books and records and (ii) the Debtors' estimates as to additional Claims that may be filed in the Chapter 11 Cases or that would arise in the event of a conversion of the cases from chapter 11 to chapter 7, such estimated amounts are subject to certain risks, uncertainties and assumptions. Should one or more of these risks or uncertainties materialize or should underlying assumptions prove incorrect, the actual Allowed amounts of Claims may vary from those estimated therein.

## **E. Certain Tax Considerations**

There are a number of material income tax considerations, risks and uncertainties associated with consummation of the Plan. Holders of Eligible Claims and other interested parties should read carefully the discussion set forth in Section VI — "CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN" for a discussion of certain federal income tax consequences of the transactions contemplated under the Plan both to Encompass and to holders of Claims that are Impaired under the Plan.

## **F. Inherent Uncertainty of Financial Projections**

[The Financial Projections are based on numerous assumptions that are an integral part of such Financial Projections, including Confirmation and consummation of the Plan in accordance with its terms, absence of material contingent or unliquidated litigation or indemnity claims, and other matters, many of which are beyond the control of the Reorganized Debtors and some or all of which may not materialize. In addition, unanticipated events and circumstances occurring subsequent to the date of this Disclosure Statement may affect the actual results of Reorganized Debtors' operations and/or the amount of Wind Up Costs required to consummate the Plan. These variations may be material and may adversely affect the ability of the Reorganized Debtors to pay the obligations owing to certain holders of Claims entitled to distributions under the Plan. Because the actual results achieved throughout the periods covered by the Financial Projections may vary from the projected results, the Financial Projections should not be relied upon as a guaranty, representation or other assurance of the actual results that will occur.]

## **X. VOTING PROCEDURES AND REQUIREMENTS**

### **A. Ballots and Voting Deadline**

A ballot to be used for voting to accept or reject the Plan, together with a postage-paid return envelope, is enclosed with all copies of this Disclosure Statement. BEFORE COMPLETING YOUR BALLOT, PLEASE READ CAREFULLY THE VOTING INSTRUCTION SHEET THAT ACCOMPANIES THE BALLOT.

The Bankruptcy Court has directed that, in order to be counted for voting purposes, ballots for the acceptance or rejection of the Plan must be received by Debtors' Solicitation Agent no later than 5:00 p.m., Eastern time, on \_\_\_\_\_, 2003, at the following address:

[Innisfree M&A Incorporated  
Attention Encompass Ballot Tabulation  
501 Madison Avenue, 20th Floor  
New York, NY 10022]

Except to the extent permitted by the Bankruptcy Court, Ballots that are received after the Voting Deadline will not be counted or otherwise used by the Debtors in connection with the Debtors' request for Confirmation of the Plan (or any permitted modification thereof).

YOU WILL NOTE THAT YOUR BALLOT SETS FORTH A CLAIM AMOUNT THAT IS BASED EITHER ON YOUR PROOF OF CLAIM OR DEBTORS' SCHEDULES OF LIABILITIES. BY INCLUDING SUCH CLAIM AMOUNT, DEBTORS ARE NOT ADMITTING THAT YOU HAVE A CLAIM IN THE STATED AMOUNT AND ARE NOT WAIVING ANY RIGHTS THEY MAY HAVE TO OBJECT TO YOUR VOTING OF THE CLAIM IN SUCH AMOUNT OR YOUR RECOVERY UNDER THE PLAN BASED ON SUCH AMOUNT.

### **B. Voting Procedures**

Under the Bankruptcy Code, for purposes of determining whether the Requisite Acceptances have been received, only holders of Impaired Claims who actually vote will be counted. The failure of a holder to deliver a duly executed Ballot will be deemed to constitute an abstention by such holder with respect to voting on the Plan and such abstentions will not be counted as votes for or against the Plan.

The Debtors are providing the Solicitation Package to holders of Eligible Claims whose names (or the names of whose Nominees) appear as of the Voting Record Date in the records maintained by the Debtors, the securityholders list maintained by the indenture trustee and the list of participants provided by the Depository Trust Company. Nominees should provide copies of the Solicitation Package to the beneficial owners of the Eligible Claims. Any beneficial owner of Eligible Claims who has not received a Ballot should contact his/her or its Nominee or the Solicitation Agent.

Holders of Eligible Claims should provide all of the information requested by the Ballots they receive. Holders of Eligible Claims should complete and return all Ballots that they receive in the return envelope provided with each such Ballot.

### **C. Special Note for Holders of Senior Subordinated Notes**

For purposes of the Senior Subordinated Notes, only holders of Senior Subordinated Notes as of the Voting Record Date are entitled to vote on the Plan. The indenture trustee will not vote on behalf of the holders of such notes. Holders must submit their own Ballots.

#### **1. Beneficial Owners**

A beneficial owner holding Senior Subordinated Notes as record holder in its own name should vote on the Plan by completing and signing the enclosed Ballot and returning it directly to the Solicitation Agent on or before the Voting Deadline using the enclosed self-addressed, postage-paid envelope.



Any beneficial owner holding Senior Subordinated Notes in “street name” through a Nominee may vote on the Plan by one of the following two methods (as selected by such beneficial owner’s Nominee).

- Complete and sign the enclosed beneficial owner Ballot. Return the Ballot to your Nominee as promptly as possible and in sufficient time to allow such Nominee to process the Ballot and return it to the Solicitation Agent by the Voting Deadline. If no self-addressed, postage-paid envelope was enclosed for this purpose, contact the Solicitation Agent for instructions.
- Complete and sign the pre-validated Ballot (as described below) provided to you by your Nominee. Return the pre-validated Ballot to the Solicitation Agent by the Voting Deadline using the enclosed self-addressed, postage-paid envelope.

Any Ballot returned to a Nominee by a beneficial owner will not be counted for purposes of acceptance or rejection of the Plan until such Nominee properly completes and delivers to the Solicitation Agent that Ballot or a Master Ballot that reflects the vote of such beneficial owner.

## 2. Nominees

A Nominee that is the registered holder of Senior Subordinated Notes for a beneficial owner on the Voting Record Date should obtain the votes of the beneficial owners of such Senior Subordinated Notes, consistent with customary practices for obtaining the votes of securities held in “street name,” in one of the following two ways:

### a. Pre-Validated Ballots

A Nominee may pre-validate a Ballot by: (i) signing the Ballot; (ii) indicating on the Ballot the name of the registered holder and the amount of Senior Subordinated Notes held by the Nominee; and (iii) forwarding such Ballot together with the Solicitation Package and other materials requested to be forwarded, to the beneficial owner for voting. The beneficial owner must then complete the information requested in the Ballot, review the certifications contained in the Ballot, and return the Ballot directly to the Solicitation Agent in the pre-addressed, postage paid envelope so that it is received by the Solicitation Agent before the Voting Deadline. A list of the beneficial owners to whom “pre-validated” Ballots were delivered should be maintained by the Nominee for inspection for at least one year from the Voting Deadline.

### b. Master Ballots

A Nominee may obtain the votes of beneficial owners by forwarding to the beneficial owners the unsigned Ballots, together with the Disclosure Statement, a return envelope provided by, and addressed to, the Nominee, and other materials requested to be forwarded. Each such beneficial owner must then indicate his/her or its vote on the Ballot, complete the information requested in the Ballot, review the certifications contained in the Ballot, execute the Ballot, and return the Ballot to the Nominee. After collecting the Ballots, the Nominee should, in turn, complete a Master Ballot compiling the votes and other information from the Ballot, execute the Master Ballot, and deliver the Master Ballot to the Solicitation Agent so that it is received by the Solicitation Agent before the Voting Deadline. All Ballots returned by beneficial owners should either be forwarded to the Solicitation Agent (along with the Master Ballot) or retained by Nominees for inspection for at least one year from the Voting Deadline.

**EACH NOMINEE SHOULD ADVISE ITS BENEFICIAL OWNERS TO RETURN THEIR BALLOTS TO THE NOMINEE BY A DATE CALCULATED BY THE NOMINEE TO ALLOW IT TO PREPARE AND RETURN THE MASTER BALLOT TO THE SOLICITATION AGENT SO THAT IT IS RECEIVED BY THE SOLICITATION AGENT BEFORE THE VOTING DEADLINE.**

## 3. Securities Clearing Agencies

The Debtors expect that The Depository Trust Company, as a Nominee holder of Senior Subordinated Notes, will arrange for its participants to vote by providing a record date listing of participants entitled to vote. Such participants will be authorized to vote their Voting Record Date positions held in the name of such securities clearing agencies.

#### **4. Miscellaneous**

For purposes of voting to accept or reject the Plan, the beneficial owners of Senior Subordinated Notes will be deemed to be the “holders” of the Claims represented by such Senior Subordinated Notes. Unless otherwise ordered by the Bankruptcy Court, Ballots that are signed, dated and timely received, but on which a vote to accept or reject the Plan has not been indicated, will not be counted. The Debtors, in their sole discretion, may request that the Solicitation Agent attempt to contact such voters to cure any such defects in the Ballots.

Except as provided below, unless the Ballot is timely submitted to the Solicitation Agent before the Voting Deadline together with any other documents required by such Ballot, the Debtors may, in their sole discretion, reject such Ballot as invalid, and therefore decline to utilize it in connection with seeking Confirmation of the Plan.

In the event of a dispute with respect to any Senior Subordinated Note Claim, any vote to accept or reject the Plan cast with respect to such Claim will not be counted for purposes of determining whether the Plan has been accepted or rejected, unless the Bankruptcy Court orders otherwise.

#### **D. Fiduciaries and other Representatives**

If a Ballot is signed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation or another acting in a fiduciary or representative capacity, such Person should indicate such capacity when signing and, unless otherwise determined by the Debtors, must submit proper evidence satisfactory to the Debtors of authority to so act. Authorized signatories should submit the separate Ballot of each beneficial owner for whom they are voting.

UNLESS THE BALLOT BEING FURNISHED IS TIMELY SUBMITTED TO THE SOLICITATION AGENT ON OR PRIOR TO THE VOTING DEADLINE, SUCH BALLOT WILL BE REJECTED AS INVALID AND WILL NOT BE COUNTED AS AN ACCEPTANCE OR REJECTION OF THE PLAN; *PROVIDED, HOWEVER*, THAT THE DEBTORS RESERVE THE RIGHT, IN THEIR SOLE DISCRETION, TO REQUEST OF THE BANKRUPTCY COURT THAT ANY SUCH BALLOT BE COUNTED. IN NO CASE SHOULD A BALLOT BE DELIVERED TO ANY ENTITY OTHER THAN THE NOMINEE OR THE SOLICITATION AGENT.

#### **E. Parties Entitled to Vote**

Generally, any holder of an Allowed Claim against or Equity Interest in any of the Debtors at the date on which the order approving this Disclosure Statement is entered by the clerk of the Bankruptcy Court whose Claim or Equity Interest has not previously been disallowed by the Bankruptcy Court is entitled to vote to accept or reject the Plan if such Claim or Equity Interest is Impaired under the Plan. Under section 1124 of the Bankruptcy Code, a class of Claims or Equity Interests is deemed to be “Impaired” under a plan unless (i) the plan leaves unaltered the legal, equitable and contractual rights to which such Claim or Equity Interest entitles the holder thereof or (ii) notwithstanding any legal right to an accelerated payment of such Claim or Equity Interest, the plan cures all existing defaults (other than defaults resulting from the occurrence of events of bankruptcy) and reinstates the maturity of such Claim or Equity Interest as it existed before the default.

A holder of a Claim or Equity Interest may vote to accept or reject a plan if the Claim or Equity Interest is “allowed”, which means generally that no party-in-interest has objected to such Claim or Equity Interest, and the Claim or Equity Interest is Impaired by the plan. If, however, the holder of an Impaired Claim or Equity Interest will not receive or retain any property under the plan on account of such Claim or Equity Interest, the Bankruptcy Code deems such holder to have rejected the plan, and, accordingly, holders of such Claims and Equity Interests do not actually vote on the plan. If a Claim or Equity Interest is not Impaired by the plan, the Bankruptcy Code deems the holder of such Claim or Equity Interest to have accepted the plan and, accordingly, holders of such Claims and Equity Interests are not entitled to vote on the plan.

Classes 1, 2 and 3 of the Plan are not Impaired. Accordingly, under section 1126(f) of the Bankruptcy Code, all such Classes of Claims and Equity Interests are deemed to have accepted the Plan and are not entitled to vote in respect of the Plan.

Classes 9, 10 and 11 are Impaired but will not receive or retain any property under the Plan on account of their Claims and Equity Interests. Accordingly, under section 1126(g) of the Bankruptcy Code, Classes 9, 10 and 11 are deemed to have rejected the Plan and are not entitled to vote in respect of the Plan.

Therefore, in accordance with sections 1126 and 1129 of the Bankruptcy Code, the Debtors are soliciting acceptances only from holders of Claims in Classes 4, 5, 6, 7 and 8.

Any Claim or Equity Interest as to which an objection has been filed is not entitled to vote, unless the Bankruptcy Court, upon application of the holder to whose Claim or Equity Interest an objection has been made temporarily allows such Claim or Equity Interest to the extent that it deems proper for the purpose of accepting or rejecting the Plan.

A vote may be disregarded if the Bankruptcy Court determines, pursuant to section 1126(e) of the Bankruptcy Code, that it was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

#### **F. Agreements Upon Furnishing Ballots**

The delivery of an accepting Ballot to the Solicitation Agent by a holder of Eligible Claims pursuant to one of the procedures set forth above will constitute the agreement of such holder to accept (i) all of the terms of, and conditions to the Solicitation and (ii) the terms of the Plan; *provided, however*, all parties in interest retain their right to object to Confirmation of the Plan pursuant to section 1128 of the Bankruptcy Code.

#### **G. Waivers of Defects, Irregularities, Etc.**

Unless otherwise directed by the Bankruptcy Court, all questions as to the validity, form, eligibility (including time of receipt), acceptance and revocation or withdrawal of Ballots will be determined by the Solicitation Agent and the Debtors in their sole discretion, which determination will be final and binding. As indicated in Section X.H — “VOTING PROCEDURES AND REQUIREMENTS -- WITHDRAWAL OF BALLOTS; REVOCATION”, effective withdrawals of Ballots must be delivered to the Solicitation Agent prior to the Voting Deadline. The Debtors reserve the absolute right to contest the validity of any such withdrawal. The Debtors also reserve the right to reject any and all Ballots not in proper form, the acceptance of which would, in the opinion of the Debtors or their counsel, be unlawful. The Debtors further reserve the right to waive any defects or irregularities or conditions of delivery as to any particular Ballot. The interpretation (including the Ballot and the respective instructions thereto) by the Debtors, unless otherwise directed by the Bankruptcy Court, will be final and binding on all parties. Unless waived, any defects or irregularities in connection with deliveries of Ballots must be cured within such time as the Debtors (or the Bankruptcy Court) determine. Neither the Debtors nor any other Person will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots nor will any of them incur any liabilities for failure to provide such notification. Unless otherwise directed by the Bankruptcy Court, delivery of such Ballots will not be deemed to have been made until such irregularities have been cured or waived. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will be invalidated.

#### **H. Withdrawal of Ballots; Revocation**

Any party who has delivered a valid Ballot for the acceptance or rejection of the Plan may withdraw such acceptance or rejection by delivering a written notice of withdrawal to the Solicitation Agent at any time prior to the Voting Deadline. A notice of withdrawal, to be valid, must (i) contain the description of the Claim(s) to which it relates and the aggregate principal amount represented by such Claim(s), (ii) be signed by the withdrawing party in the same manner as the Ballot being withdrawn, (iii) contain a certification that the withdrawing party owns the Claim(s) and possesses the right to withdraw the vote sought to be withdrawn and (iv) be received by the Solicitation Agent in a timely manner at the address set forth in Section X.J — “VOTING PROCEDURES AND REQUIREMENTS -- FURTHER INFORMATION; ADDITIONAL COPIES”. Prior to the filing of the Plan, the Debtors intend to consult with the Solicitation Agent to determine whether any withdrawals of Ballots were received and whether the Requisite Acceptances of the Plan have been received. As stated above, the Debtors expressly reserve the absolute right to contest the validity of any such withdrawals of Ballots.

Unless otherwise directed by the Bankruptcy Court, a purported notice of withdrawal of Ballots which is not received in a timely manner by the Solicitation Agent will not be effective to withdraw a previously cast Ballot.

Any party who has previously submitted to the Solicitation Agent prior to the Voting Deadline a properly completed Ballot may revoke such Ballot and change his or its vote by submitting to the Solicitation Agent prior to the Voting Deadline a subsequent properly completed Ballot for acceptance or rejection of the Plan. In the case where more than one timely, properly completed Ballot

is received, only the Ballot which bears the latest date will be counted for purposes of determining whether the Requisite Acceptances have been received.

The Debtors will pay all costs, fees and expenses relating to the Solicitation.

**I. Delivery of Extinguished Securities**

The Debtors are not at this time requesting the delivery of, and neither the Debtors nor the Solicitation Agent will accept, certificates representing any securities which will, on and after the Effective Date, be Extinguished Securities. In connection with the Effective Date, the Debtors will furnish all record holders of Extinguished Securities with appropriate letters of transmittal to be used to remit their Extinguished Securities in exchange for the distribution under the Plan. Information regarding such remittance procedure (together with all appropriate materials) will be distributed by the Reorganized Debtors after the Confirmation Date.

**J. Further Information; Additional Copies**

If you have any questions or require further information about the voting procedure for voting your Claim or about the Solicitation Package, or if you wish to obtain an additional copy of the Plan, this Disclosure Statement, or any exhibits to such documents (at your own expense, unless otherwise specifically required by Federal Rule of Bankruptcy Procedure 3017(d)), please contact the Solicitation Agent:

[Innisfree M&A Incorporated  
501 Madison Avenue  
20th Floor  
New York, New York 10022  
Telephone: (877) 750-2689  
Banks and Brokers call (212) 750-5833]

## **XI. RECOMMENDATION AND CONCLUSION**

For all of the reasons set forth in this Disclosure Statement, the Debtors believe that Confirmation and implementation of the Plan is preferable to all other alternatives described above because it will provide the greatest recoveries to holders of Claims. Consequently, the Debtors urge all holders of Eligible Claims to vote to accept the Plan, and to evidence such acceptance by completing and returning their ballots in accordance with the instructions accompanying this Disclosure Statement not later than 5:00 p.m., Eastern time, on \_\_\_\_\_, 2003.

Dated: March 5, 2003

WEIL, GOTSHAL & MANGES LLP  
Attorneys for Encompass Services Corporation, et. al.

\_\_\_\_\_  
/s/ Alfredo R. Pérez  
By: Alfredo R. Pérez  
700 Louisiana, Suite 1600  
Houston, Texas 77002  
(713) 546-5000

# ANNEX I

## Glossary

Adequate Protection Liens .....	The Liens and security interests granted by the DIP Order in all the Postpetition Collateral to secure the Adequate Protection Obligations.
Adequate Protection Obligations .....	Obligations that arise from any decrease in the value of the Prepetition Collateral resulting from (i) the stay, use, sale or lease of such property under section 363 of the Bankruptcy Code or (ii) the grant of a Lien under section 364 of the Bankruptcy Code.
Administrative Agent.....	Bank of America, N.A.
Administrative Expense Claim.....	A Claim for payment of an administrative expense of a kind specified in section 503(b) or 1114(e)(2) of the Bankruptcy Code and entitled to priority under section 507(a)(1) of the Bankruptcy Code, including (a) actual, necessary costs and expenses, incurred after the Petition Date, of preserving the Debtors' Estates and operating their businesses, including wages, salaries, or commissions for services rendered after the Petition Date, (b) Professional Fee Claims, (c) all fees and charges assessed against the Estates under chapter 123 of title 28, United States Code, (d) all Allowed Claims that are entitled to be treated as Administrative Expense Claims by virtue of a Final Order entered under section 546(c)(2)(A) of the Bankruptcy Code, (e) the reasonable postpetition fees and expenses of indenture trustees, including successors thereto, and the reasonable attorney's fees and expenses of such indenture trustees, (f) the Adequate Protection Obligations, (g) any obligations under the DIP Facility, (h) any obligations under the Key Employee Retention Program and the Incentive Collections Program, and (i) any obligations which have been accorded administrative expense status by Final Order of the Bankruptcy Court.
Administrative Expense Claims	
Bar Date .....	The date, if any, designated by the Bankruptcy Court as the last date for filing proofs of Administrative Expense Claims against the Debtors.
Affiliate or affiliate.....	Any entity that directly, or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity; for purposes of the definition of "Affiliate" or "affiliate," any entity that own, controls, or holds with power to vote 20% or more of the outstanding voting securities of, or controls or directs the management of, the entity specified shall be deemed to be an Affiliate of such entity.
Allowed .....	With respect to a Claim or Equity Interest within a particular Class, an Allowed Claim or Allowed Equity Interest of the type described in such Class.
Allowed Claim/Allowed Equity Interest.....	With reference any Claim or Equity Interest, (a) a Claim or Equity Interest which is listed by any Debtor in its books and records as liquidated in amount and not disputed or contingent; (b) any Claim or Equity Interest which has been, or is hereafter, listed by a Debtor in its Schedules (as such Schedules may be amended by any such Debtor from time to time in accordance with Bankruptcy Rule 1009), as liquidated in amount and not disputed or contingent and for which no contrary proof of claim or interest has been filed; (c) any Claim or Equity Interest which is not Disputed; or (d) any Claim or Equity Interest, if Disputed, (i) as to which the liability of the Debtor and the amount thereof are determined by a final order of a court of competent jurisdiction other than the Bankruptcy Court, or (ii) which has been Allowed by Final Order; <i>provided, however</i> , that to the extent that a Claim or Equity Interest is a Disputed Claim or Disputed Equity Interest, the determination of whether such Claim or Equity Interest will be an Allowed Claim or an Allowed Equity Interest and/or the amount of any such Claim or Equity Interest will be determined in accordance with the terms of the

Apollo .....	Plan. An “Allowed Claim” or an “Allowed Equity Interest” will not, for purposes of distributions under the Plan, include (a) for prepetition Claims, interest on such Claim or Claims accruing from or after the Petition Date, (b) punitive or exemplary damages, or (c) any fine, penalty or forfeiture. Collectively, (i) Apollo Investment Fund IV, L.P. and Apollo Overseas Partners IV, L.P., collectively the sole holders of Existing Preferred Stock as of the Petition Date, (ii) Apollo Advisors IV, L.P. and (iii) Apollo Management IV, L.P.
Asset Sale Proceeds.....	(a) The Purchase Price and (b) the gross Cash proceeds (including any Cash received by way of deferred payment pursuant to a promissory note, receivable or otherwise), received from any sale of the Debtors’ assets consummated after the Petition Date, net of (i) reasonable transaction costs (including, without limitation, any underwriting, brokerage, or other customary selling commissions, title and recording expenses and reasonable legal, advisory and other fees and expenses) and payments and unassumed liabilities relating to the assets sold, (ii) the amount of such gross Cash proceeds required to be used to pay any indebtedness (other than indebtedness owing by the Debtors to the Senior Lenders) which is secured by the respective assets which were sold; and (iii) the Wind Up Costs; <i>provided, however</i> , that such Asset Sale Proceeds shall not include: (i) any gross sale proceeds (including the Purchase Price) which are not proceeds (as contemplated by section 552(b)(1) of the Bankruptcy Code) of the DIP Lenders’ or the Senior Lenders’ Collateral, (ii) Asset Sale Proceeds that are solely Collateral for the DIP Facility but that are not used to satisfy a DIP Facility Claim or an Adequate Protection Obligation, and (iii) any portion of gross Cash proceeds which the Debtors determine in good faith should be reserved for post-closing adjustments (including indemnification payments), and <i>provided, further, however</i> , that on the day all post-closing adjustments have been determined (which date shall not be later than three months following the closing of the respective asset sale unless such period is extended by agreement of the Debtors and the Senior Lenders), the amount, if any, by which the reserved amount in respect of such asset sale exceeds the actual post-closing adjustment payable by the Debtors, shall constitute Asset Sale Proceeds as of such date of determination.
Ballots.....	Each of the ballot forms (including Master Ballots) distributed with this Disclosure Statement to each holder of an Eligible Claim on which the holder is to indicate acceptance or rejection of the Plan.
Bankruptcy Code .....	The Bankruptcy Reform Act of 1978, as codified in title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as now in effect or hereafter amended.
Bankruptcy Court .....	The United States Bankruptcy Court for the Southern District of Texas, Houston Division, or any other court with jurisdiction over the Chapter 11 Cases.
Bankruptcy Rules .....	Collectively, the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, the Federal Rules of Civil Procedure, as applicable to the Chapter 11 Cases or proceedings therein, and the Local Rules of the Bankruptcy Court, all as now in effect or hereafter amended.
Bar Date .....	The date(s) designated by the Bankruptcy Court as the last date(s) for filing Proof of Claims against the Debtors.
Bond.....	Any prepetition or postpetition payment, performance, bid or miscellaneous bond or any other instrument or guarantee issued by a Surety under which one or more Debtors is named as a principal and/or under which one or more Debtors is an indemnitor or is otherwise liable.
Bonded Collateral .....	The Collateral securing a Bonded Obligation.
Bonded Contract.....	Any prepetition or postpetition contract under which a Debtor has contracted to provide goods, services, materials or equipment, and for which a Surety has provided a Bond.
Bonded Obligation .....	Any Claim, obligation or debt arising under a Bonded Contract.
Business Day .....	Any day, excluding Saturdays, Sundays or “legal holidays” as defined in Bankruptcy Rule 9006(a)), on which commercial banks are open for business in New York, New York and Houston, Texas.

Buyer .....	Newco Holding LLC, the purchaser of the equity interests in the Residential Debtors and the Reorganized Residential Debtors.
Cash .....	Legal tender of the United States of America.
CDG.....	Conway, Del Genio, Gries & Co., LLC, employer of the CRO and crisis managers of the Debtors.
Certificate.....	Any certificate, instrument or other document evidencing an Extinguished Security.
Chapter 11 Cases .....	Case No. 02-43582, the jointly administered Chapter 11 cases of the Debtors in the Bankruptcy Court.
Claim .....	A claim, as defined in section 101(5) of the Bankruptcy Code, against any Debtor.
Class.....	One of the classes of Claims or Equity Interests described in Article IV of the Plan.
Class 7 Distribution.....	Cash and other property allocated by the Disbursing Agent to the holders of Claims in Class 7 and Cash and other property distributed by the Disbursing Agent to the holders of Claims in Class 7. The source of funding for the Class 7 Distribution will be from the liquidation of the Debtors' Unencumbered Assets.
Collateral.....	Any property or interest in property of the Estates subject to a Lien to secure the payment or performance of a Claim, which Lien is not subject to avoidance under the Bankruptcy Code or otherwise invalid under the Bankruptcy Code, or applicable state or other law.
Committee.....	The official committee of unsecured creditors appointed in the Chapter 11 Cases on November 25, 2002, as such committee may be constituted from time to time.
Confirmation .....	The Bankruptcy Court's confirmation of the Plan.
Confirmation Date .....	The date of entry of the Confirmation Order on the docket of the Bankruptcy Court.
Confirmation Hearing .....	The Bankruptcy Court's hearing to consider Confirmation of the Plan, as it may be adjourned or continued from time to time.
Confirmation Order .....	The Bankruptcy Court's order confirming the Plan under section 1129 of the Bankruptcy Code.
Convenience Claim .....	Any Unsecured Claim other than a Deficiency Claim, an Insured Claim, an Intercompany Claim, a Junior Subordinated Note Claim, a Litigation Claim, a Senior Subordinated Note Claim, or a Claim resulting from the failure of a Person who has purchased assets from a Debtor to honor its agreement to pay the indebtedness of the Debtor or Debtors from which it has purchased assets, in the amount of \$25,000 or less and any Unsecured Claim other than a Deficiency Claim, an Insured Claim, an Intercompany Claim, a Junior Subordinated Note Claim, a Litigation Claim, a Senior Subordinated Note Claim or a Claim resulting from the failure of a Person who has purchased assets from a Debtor to honor its agreement to pay the indebtedness of the Debtor or Debtors from which it has purchased assets, that is reduced to \$25,000 by the election of the holder thereof on such holder's Ballot.
Convenience Class Distribution.....	Cash and other property distributed by the Disbursing Agent to the holders of Convenience Claims. The source of funding for the Convenience Class Distribution will be first, from the liquidation of Unencumbered Assets and, if the Unencumbered Assets are insufficient to fund such distribution, next from the Asset Sale Proceeds, but in no case shall the Convenience Class Distribution exceed \$1,000,000.
Critical Vendor Order.....	Either or both of the Bankruptcy Court's November 20, 2002 Interim Order and the December 5, 2002 Final Order approving the Debtors' Expedited Motion For Authority To Pay Prepetition Claims Of Critical Vendors.
CRO .....	Chief Restructuring Officer, Michael F. Gries (or his successor).
Cure .....	The payment of Cash by a Debtor, or the distribution of other property (as the parties may agree or the Bankruptcy Court may order), as necessary to cure a default by a Debtor under an executory contract or unexpired lease of a Debtor and to permit a Debtor to assume that contract or lease under section 365(a) of the Bankruptcy Code.
Debtor.....	Each of Encompass and its Subsidiaries and "Debtors" means all of them



	collectively, and when the context so requires, in their capacity as debtors and debtors-in-possession under sections 1107 and 1108 of the Bankruptcy Code.
Deficiency .....	The extent to which the value of Collateral is less than the amount of a Secured Claim.
Deficiency Claim.....	Any Unsecured Claim resulting from a Deficiency.
DIP Facility .....	The postpetition credit facility provided for by the Postpetition Credit Agreement, dated as of November 20, 2002, by and among Encompass, the Subsidiaries and the DIP Lenders, as amended and restated under the Amended and Restated Postpetition Credit Agreement, dated as of January 21, 2003, by and among Encompass, the Subsidiaries and the DIP Lenders and the DIP Order.
DIP Facility Claim .....	Any Claim arising under the DIP Facility held by the DIP Lenders.
DIP Lenders .....	Bank of America, N.A., as administrative agent, JPMorgan Chase Bank, as syndication agent, General Electric Capital Corporation, as documentation agent, and the lenders party to the DIP Facility.
DIP Order .....	The Bankruptcy Court's January 24, 2002 Final Order (i) Authorizing Debtors-in-Possession to (A) Enter Into Postpetition Financing Agreement and Obtain Postpetition Financing Pursuant to Sections 105, 361, 362 and 364 of the Bankruptcy Code and (B) Utilize Cash Collateral Pursuant to Section 363 of the Bankruptcy Code and (ii) Providing Adequate Protection and Granting Liens, Security Interests and Superpriority Claims .
Disallowed Claim.....	Any Claim that has been disallowed, in whole or in part, by Final Order, or by final order of a court of competent jurisdiction, or any Claim that has been withdrawn, in whole or in part, by the holder thereof.
Disallowed Equity Interest.....	Any Equity Interest that has been disallowed, in whole or in part, by Final Order, or by final order of a court of competent jurisdiction or any Claim that has been withdrawn, in whole or in part, by the holder thereof.
Disbursing Agent.....	Any party designated, with the consent of the holders of Existing Credit Agreement Claims, by Reorganized Encompass, to serve as a disbursing agent under the Plan.
Disclosure Statement .....	This disclosure statement as distributed to holders of Eligible Claims pursuant to section 1126(b) of the Bankruptcy Code.
Disputed Claim.....	Any Claim, or any portion thereof, that is not an Allowed Claim or a Disallowed Claim.
Disputed Equity Interest.....	Every Equity Interest that is not an Allowed Equity Interest or a Disallowed Equity Interest.
Effective Date.....	The first Business Day (i) on which all conditions to the Plan's consummation in Section 10.2 thereof have been satisfied or waived and (ii) that is the date on which the Plan is consummated.
Eligible Claims .....	Collectively, the Existing Credit Agreement Claims, Surety Claims, Convenience Claims, General Unsecured Claims and Litigation Claims, holders of which are entitled to vote under Article VIII of the Plan and section 1126 of the Bankruptcy Code to accept or reject the Plan.
Encompass .....	Encompass Services Corporation, a Texas corporation.
Equity Interest.....	The legal, equitable, contractual and other rights of any Person with respect to any capital stock or other ownership interest in any Debtor, whether or not transferable, and any option, warrant or right to purchase, sell or subscribe for an ownership interest or other equity security in any Debtor, <i>provided, however</i> , that a Subsidiary Interest is not an Equity Interest.
Estate .....	The estate of any of the Debtors in the Chapter 11 Cases, and "Estates" means, collectively, the estates of all of the Debtors in the Chapter 11 Cases, as created under section 541 of the Bankruptcy Code.
Exchange Act.....	The Securities Exchange Act of 1934, as now in effect or hereafter amended.
Existing Bank Debt .....	Indebtedness under the Existing Credit Agreement.
Existing Common Stock.....	Encompass common stock, par value \$.001 per share, issued and outstanding immediately before the Petition Date.
Existing Credit Agreement .....	That certain Credit Agreement, dated as of February 22, 2000, as amended by the First Amendment dated as of March 23, 2000, the Second Amendment dated as of May 10, 2000, the Third Amendment dated as of

June 8, 2001, the Fourth Amendment dated as of November 9, 2001 and the Fifth Amendment dated as of June 26, 2002, as it may be further amended from time to time, among Encompass, the Subsidiaries, as guarantors, the several banks and other financial institutions from time to time parties thereto, Bank of America, N.A., as the administrative agent, JPMorgan Chase Bank, as the syndication agent, Wachovia Bank National Association, as the documentation agent, ABN-Amro Bank NV, The Bank of Nova Scotia, Bank One, N.A., Credit Lyonnais, New York Branch, GMAC Commercial Credit LLC, Mercantile Bank National Association and Union Bank of California, N.A., all as co-managing agents.

Existing Credit Agreement Claim .....	Any claim arising under the Existing Credit Agreement held by the Senior Lenders.
Existing Other Equity Interests .....	Collectively, (i) all incentive stock options, non-qualified stock options, and stock appreciation rights granted under any Debtor-sponsored stock option plan and (ii) any other options, warrants, or rights, contractual or otherwise, if any, to acquire or receive an Equity Interest existing immediately before the Petition Date, <i>provided, however</i> , that Existing Other Equity Interests shall not include the Subsidiary Interests.
Existing Preferred Stock.....	Encompass's 7.25% convertible participating preferred stock, par value \$.001 per share, issued and outstanding immediately prior to the Petition Date.
Existing Stock .....	Collectively, the Existing Common Stock and the Existing Preferred Stock.
Extinguished Securities .....	All Existing Common Stock, Existing Preferred Stock, Existing Other Equity Interests, Senior Subordinated Notes and Junior Subordinated Notes.
Face Amount .....	When used in reference to (i) a Disputed Claim, the full stated amount claimed by the holder thereof in any Proof of Claim timely filed with the Bankruptcy Court, (ii) an Allowed Claim, the Allowed amount thereof, and (iii) an Equity Interest, the number of shares evidencing such Equity Interests.
Final Order.....	An order or judgment, entered by the Bankruptcy Court, that has not been amended, modified, or reversed, and as to which (i) no stay is in effect, (ii) the time to seek rehearing, review, modification, or amendment or to file a notice of appeal has expired, and (iii) no appeal or request for modification, amendment, a stay, rehearing or other review is pending.
Financial Projections.....	[The projected financial information attached hereto as Exhibit D which projects the financial performance of the Reorganized Debtors through December 31, 2005 and is based upon information available as of December 31, 2002.]
General Unsecured Claim.....	An Unsecured Claim that is not a Convenience Claim, an Intercompany Claim or a Litigation Claim that is an Insured Claim. General Unsecured Claims include, without limitation, Deficiency Claims, damages resulting from a Debtor's rejection of an unexpired lease or executory contract, Junior Subordinated Note Claims, Senior Subordinated Note Claims and Claims resulting from the failure of a Person who has purchased assets from a Debtor to honor its agreement to pay indebtedness of the Debtor or Debtors from which it has purchased assets.
Houlihan Lokey .....	Houlihan Lokey Howard & Zukin Capital.
Impaired .....	When used with reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.
Incentive Collections Program.....	The incentive collections program described in the January 24, 2003 Expedited Motion of Debtors for an Order Pursuant to Sections 363(b) and 105(a) of the Bankruptcy Code Approving Collections Program, which motion was approved by the Bankruptcy Court by order entered on January 30, 2003.
Initial Distribution Date.....	The date, occurring as soon as practicable after the Effective Date, on which the Disbursing Agent first makes distributions to holders of Allowed Claims as provided in Article VI of the Plan.

Insurance Policy.....	Any policy of insurance provided by a Person under which any Debtor is insured, and which policy may provide coverage for a Litigation Claim, including, without limitation, policies relating to workers' compensation, property and marine, aviation/aircraft non-ownership liability, business auto liability, business auto physical damage coverage, casualty (foreign) package, commercial crime, commercial general liability, contractors professional and pollution liability, directors and officers liability, employment practices liability, executive risk coverage (special risk), fiduciary liability, flood coverage, marine cargo coverage, owners and contractors protective liability, pollution and remediation (air systems), railroad protective liability, stop gap coverage, temporary disability, umbrella coverage and exposure buyback.
Insured Claim.....	Any Claim for which there is either partial or full coverage under an Insurance Policy.
Intercompany Claim.....	Any claim held by a Debtor against another Debtor on account of intercompany indebtedness.
Junior Subordinated Note Claim ...	Any Claim under the Junior Subordinated Notes.
Junior Subordinated Notes .....	Collectively, the (i) 7.50% Subordinated Notes due July 15, 2004 in the aggregate principal amount of \$1,250,000, payable to Deborah K. Dillard Revocable Trust; (ii) 7.50% Subordinated Notes due July 15, 2004 in the aggregate principal amount of \$1,250,000, payable to William Mason Dillard Revocable Trust; (iii) Subordinated Note due 2003, dated January 14, 1999, in the principal amount of \$242,118.19, payable to Randall A. Foco & Jan Marie Foco, Trustees; (iv) Subordinated Note due 2003, dated January 14, 1999, in the principal amount of \$534,899.70, payable to Theodore Keenan; and (v) Subordinated Note due 2003, dated January 14, 1999, in the principal amount of \$836,099.36, payable to James T. Broyles.
Key Employee Retention Program.....	The key employee retention program described in the Debtors' January 13, 2003 Expedited Motion to Approve Key Employee Retention Program, which motion was approved by the Bankruptcy Court by order entered on January 23, 2003.
Lien .....	A lien, as defined in section 101(37) of the Bankruptcy Code.
Litigation Claim .....	Without limitation, any Claim asserted in litigation pending on or as of the Petition Date, and any Insured Claim that could have been asserted by any Person or that arose on or prior to the Petition Date against any Debtor, whether known or unknown, whether asserted directly, derivatively, by way of subrogation or otherwise, whether the subject of litigation which has been or could have been certified as a class action under applicable law, and whether grounded in contract, tort, statute, the common law, equity or other law, and including, without limitation, Claims for personal injury, property damage, wrongful death, products liability, unfair labor and/or hiring practices, civil rights violations, employment discrimination, breach of contract, preferential or other avoidable transfers, indemnity, reimbursement, contribution, fraud, environmental damage and/or release, and claims related to toxic mold. The Litigation Claims are Disputed Claims.
M&M Lien Claimant .....	A Person who furnishes services, labor, equipment and/or material for the purpose of erecting, repairing, improving or altering a building, structure or other improvement and whose claim for such services, labor, equipment and/or material is secured by a valid and enforceable Lien on property of the Debtors created by local, state or other law.
M&M Lien Secured Claim.....	A Secured Claim held by an M&M Lien Claimant.
Management Group.....	Eric Salzer, Timothy Johnston and such other Persons as may be designated in the Plan Supplement.
Master Ballot.....	Each of the ballot forms distributed with this Disclosure Statement to a Nominee.
Newco Holding LLC.....	The limited liability company formed by Wellspring and the Management Group for the purpose of acquiring, directly or indirectly, all of the equity interests of the Reorganized Residential Debtors pursuant to the Purchase Agreement.

Nominee .....	A bank, brokerage firm or other nominee holding Eligible Claims in its own name on behalf of a beneficial owner, or any agent thereof.
Non-Residential Debtors .....	The Debtors other than the Residential Debtors.
Other Priority Claim .....	A Claim entitled to priority under section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Expense Claim.
Other Secured Claim.....	Any Secured Claim, including an M&M Lien Secured Claims, other than a Secured Tax Claim, <i>provided, however</i> , that the Adequate Protection Obligations, the DIP Facility Claims and the Existing Credit Agreement Claims are not Other Secured Claims .
Person.....	An individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, limited liability partnership, trust, estate, unincorporated organization or other entity.
Petition Date .....	November 19, 2002, the date on which the Debtors filed their petitions for relief commencing the Chapter 11 Cases.
Plan .....	The Debtors' Joint Plan of Reorganization under chapter 11 of the Bankruptcy Code, in substantially the form attached hereto as <u>Exhibit A</u> , as it may be amended, modified or supplemented fromtime to time, including all exhibits and schedules to the Plan.
Plan Supplement .....	The compilation of documents, including any exhibits to the Plan not included therewith, that the Debtors may file with the Bankruptcy Court on or before the date that is five (5) Business Days prior to the Confirmation Hearing.
Postpetition Collateral.....	All of the following property acquired by the Debtors on or after the Petition Date that is subject to a Lien and secures the Existing Credit Agreement Claims or the DIP Facility Claims: all currently owned or hereafter acquired property and assets of the Debtors, of any kind or nature, whether real or personal, tangible or intangible, wherever located, now owned or hereafter acquired or arising and all proceeds, products, rents and profits thereof, including, without limitation, all cash, goods, accounts receivable, inventory, cash-in-advance deposits, general intangibles, deposit accounts, real estate, machinery, equipment, vehicles, trademarks, trade names, licenses, causes of action, rights to payment including tax refund claims, insurance proceeds and tort claims and the proceeds, products, rents and profits of all of the foregoing excluding recoveries from avoidance actions, the \$5 million of cash collateral delivered to the Sureties pursuant to the Surety Agreements.
Postpetition Interest.....	Interest, accruing after the Petition Date, on a Claim.
Prepetition Collateral .....	All property of the Debtors on the Petition Date that is subject to a Lien and secures the Existing Credit Agreement Claims , including the Debtors' right, title and interest in and to the following assets: (i) all accounts; (ii) all chattel paper; (iii) all instruments; (iv) all general intangibles; (v) all documents; (vi) all equipment; (vii) all inventory in all of its forms ; (viii) all financial assets and investment property; (ix) all of the Debtors' deposit accounts and all funds, certificates, documents, instruments, pledged deposits, checks, drafts, wire transfer receipts, and other earnings, profits, or other proceeds from time to time representing, evidencing, deposited into, or held in the deposit accounts; (x) all goods; (xi) all commercial tort claims; (xii) all letters of credit and letter-of-credit rights; (xiii) all payment intangibles; (xiv ) all software and intellectual property; (xv) all supporting obligations; (xvi) all stock rights; (xvii) all permits and (xviii) all products and proceeds, in Cash or otherwise, of any of the property described in the foregoing.
Prepetition Letters of Credit .....	Any letter of credit paid for or procured by any Debtor on behalf of itself or another Debtor on or before the Petition Date.
Priority Tax Claim.....	A Claim that is entitled to priority under section 507(a)(8) of the Bankruptcy Code.
Professional .....	A professional Person, as that term is used in sections 327 and 1103 of the Bankruptcy Code, and CDG.
Professional Fee Claim.....	A Professional's Claim and the Claims of CDG for compensation and reimbursement of costs and expenses relating to services performed on and after the Petition Date and before and including the Effective Date.

Proof of Claim.....	A Proof of Claim filed with the Bankruptcy Court in connection with the Chapter 11 Cases.
Pro Rata.....	At any time, the proportion that the Face Amount of an Allowed Claim or Allowed Equity Interest in a particular Class bears to the aggregate Face Amount of all Claims or Equity Interests (including Disputed Claims or Disputed Equity Interests, but excluding Disallowed Claims or Disallowed Equity Interests) in that Class, unless the Plan provides otherwise.
Purchase Agreement .....	The Purchase Agreement by and among the Debtors and the Buyer pursuant to which the Reorganized Residential Debtors' Common Stock will be sold to the Buyer. The Purchase Agreement will form part of the Plan Supplement.
Purchase Price .....	The purchase price paid in the amount of \$[_____] pursuant to the terms of the Purchase Agreement.
Quarter.....	The period beginning on the Effective Date and ending on the next of July 31, October 31, January 31 and April 30, and each three month period thereafter.
Reorganized Debtor .....	Each of Reorganized Encompass and the Reorganized Subsidiaries, and "Reorganized Debtors" means all of them collectively.
Reorganized Encompass.....	Encompass on and after the Effective Date.
Reorganized Non-Residential Debtors .....	The Non-Residential Debtors on and after the Effective Date.
Reorganized Residential Debtors .....	The Residential Debtors on and after the Effective Date.
Reorganized Residential Debtors' Common Stock.....	The new equity interests to be issued by the Reorganized Residential Debtors pursuant to the Plan as of the Effective Date.
Reorganized Subsidiaries .....	Collectively, the Subsidiaries on and after the Effective Date.
Requisite Acceptances .....	With respect to each Impaired Class of Claims, acceptance of the Plan by (i) holders of at least two-thirds in amount of Allowed Claims in such Impaired Class of Claims actually voting and (ii) the holders of more than one-half in number of Allowed Claims in such Impaired Class of Claims actually voting, in each case not counting the vote of any holder designated under section 1126(e) of the Bankruptcy Code.
Reserve .....	The "Reserve" as defined in Section 6.6(a) of the Plan.
Residential Debtors .....	Collectively, AA Jarl, Inc., A-ABC Appliance, Inc., A-ABC Services, Inc., Airtron of Central Florida, Inc., Airtron, Inc., Encompass Residential Services of Houston, Inc., Evans Services, Inc., Hallmark Air Conditioning, Inc., K&N Plumbing, Heating and Air Conditioning, Inc., Masters, Inc., Paul E. Smith Co., Inc., Van's Comfortemp Air Conditioning, Inc., Wade's Heating & Cooling, Inc., Wiegold & Sons, Inc. and Willis Refrigeration, Air Conditioning & Heating, Inc., together with such assets (whether owned by a Residential Debtor or any other Debtor) used as necessary exclusively for the operation of the businesses of the Residential Debtors, consistent with past practice.
Schedules .....	The schedules of assets and liabilities, statements of financial affairs, and lists of holders of Claims and Equity Interests filed by the Debtors pursuant to section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, including any amendments and supplements thereto.
Section 510(b) Claims .....	Any Claim against the Debtors, under applicable federal or state law, whether or not such Claim is listed on the Schedules or evidenced by a filed proof of claim, and whether or not the subject of a lawsuit, arising from or seeking the rescission of a purchase or sale of equity of any Debtor or any Affiliate of a Debtor, for damages arising from the purchase or sale of such a security, or for reimbursement, indemnification or contribution allowed under section 502 of the Bankruptcy Code on account of such a claim as provided in section 510(b) of the Bankruptcy Code.
Secured Claim.....	A Claim that is secured by a Lien that is valid, perfected and enforceable, and not avoidable, upon property in which a Debtor has an interest, to the extent of the value, as of the Effective Date, of such interest or Lien as determined by a Final Order pursuant to section 506 of the Bankruptcy

	Court, or as otherwise agreed to in writing by a Debtor or Reorganized Debtor and the holder of such Claim.
Secured Tax Claim.....	Any Secured Claim which, absent its secured status, would be entitled to priority in right of payment under Section 507(a)(8) of the Bankruptcy Code.
Securities Act .....	The Securities Act of 1933, as now in effect or hereafter amended
Securities Purchase Agreement.....	The Securities Purchase Agreement between Encompass and Apollo, dated as of June 27, 2002, under which Apollo agreed to purchase \$35 million of Existing Common Stock in the rights offering.
Senior Lender .....	A holder of a Claim under the Existing Credit Agreement.
Senior Subordinated Note Claim...	Any Claim under the Senior Subordinated Notes.
Senior Subordinated Notes .....	The 10-1/2% senior subordinated notes due 2009 of Encompass in the aggregate principal amount of \$335 million (i) issued under the Indenture, dated as of April 30, 1999, among Building One Services Corporation, the predecessor-in-interest to Encompass, the guarantors named therein, and IBJ Whitehall Bank & Trust Company, as trustee, (ii) as amended by the First Supplemental Indenture, dated as of November 12, 1999, the Second Supplemental Indenture, dated as of January 31, 2000, the Third Supplemental Indenture, dated as of February 22, 2000, (iii) as amended and assumed by Encompass and guaranteed by its Subsidiaries by the Fourth Supplemental Indenture, dated as of June 28, 2001, among Encompass, the guarantors named therein and the Bank of New York, as successor trustee, and (iv) as further supplemented, amended and modified from time to time .
Solicitation.....	The solicitation by the Debtors from holders of Eligible Claims of acceptances of the Plan pursuant to section 1126(b) of the Bankruptcy Code.
Solicitation Agent.....	[Innisfree M&A Incorporated or any other Person that the Debtors shall retain, under authority granted by the Bankruptcy Court, for purposes of assisting the Debtors in conducting the Solicitation.]
Solicitation Package.....	The package provided by the Debtors that includes this Disclosure Statement and related materials and, where appropriate, Ballots.
Special Committee .....	The special committee established by Encompass's board of directors to evaluate recapitalization and/or reorganization structures for the Debtors.
Subsequent Distribution Date.....	The twentieth day after the end of the second Quarter following the Quarter in which the Initial Distribution Date occurs and every second Quarter thereafter.
Subsidiary .....	A direct or indirect subsidiary of Encompass and "Subsidiaries" means all of them collectively, as listed on the schedule attached hereto as Exhibit E.
Subsidiary Interests.....	Collectively, the issued and outstanding shares of stock of the Debtors which were directly or indirectly owned by Encompass on the Petition Date.
Surety.....	Either Chubb Group of Insurance Companies and its respective Affiliates, co-sureties and reinsurers ("Chubb") or Liberty Mutual Insurance Company and its respective Affiliates, co-sureties and reinsurers ("Liberty"), and "Sureties" means both Chubb and Liberty together.
Surety Agreements .....	The (i) the General Agreement of Indemnity by and between the Debtors and Chubb dated February 23, 2000; (ii) the General Agreement of Indemnity, as amended, by and among the Debtors and Liberty on behalf of itself and LM Insurance Corporation, the First Liberty Insurance Corporation, Liberty Mutual Fire Insurance Company, Liberty Insurance Corporation, and any other company that is part of or added to the Liberty Mutual Group for which surety business is underwritten by Liberty Bond Services, dated October 30, 1998; (iii) the Indemnity and Security Agreement by and among The Farfield Company (a Debtor herein), Encompass Services Corporation, other Debtors and Liberty, dated April 19, 2002; (iv) the Addendum to Indemnity and Security Agreement by and between Liberty and Sequoyah Corporation (a Debtor herein), dated May 19, 2002; (v) the First Amendment to Indemnity and Security Agreement by and among The Farfield Company, Encompass Services Corporation, other Debtors and Liberty dated June 2002; (vi) the Pledge Agreement dated October 14, 2002, by and between Encompass Services Corporation and Chubb, the October 18, 2002 Addendum to the Pledge Agreement, the November 1, 2002 Second Addendum to the Pledge Agreement and the November 12, 2002 Third Addendum to the Pledge

	Agreement; (vii) any and all agreements executed by and among the Sureties and any Debtor on or before the Effective Date.
Surety Claims .....	Claims held by the Sureties.
Unencumbered Assets .....	Any property of the Debtors that is not subject to an Adequate Protection Lien, a Lien securing a DIP Facility Claim, an Existing Credit Agreement Claim, an Other Secured Claim or a Secured Tax Claim.
United States Trustee.....	The United States trustee appointed by the United States Attorney General pursuant to 28 U.S.C. section 581(a)(7).
Unsecured Claim .....	Any Claim that is not an Administrative Expense Claim, an Other Priority Claim or a Secured Claim.
Voting Deadline .....	5:00 p.m., Eastern time on _____, 2003.
Voting Record Date.....	_____, 2003; the date for the determination of holders of record of Eligible Claims entitled to receive the Solicitation Package.
Weil, Gotshal.....	Weil, Gotshal & Manges LLP.
Wellspring.....	Wellspring Capital Management LLC or its designee.
Wind Up Costs .....	The costs, fees and expenses of the Disbursing Agent in carrying out the provisions of the Plan in the aggregate maximum amount of \$[_____]. The Wind Up Costs shall not include the costs of funding any Administrative Expense Claims, Priority Tax Claims and/or Claims in Classes 1 through 8 of the Plan which were incurred on or before the later of the Effective Date and the Administrative Expense Claims Bar Date provided for in Section 13.1 of the Plan.
Wind Up Fund.....	The fund established from the Asset Sale Proceeds on the Effective Date from which the Wind Up Costs will be paid.

# **EXHIBIT A**

## **The Plan**



## **EXHIBIT B-1**

Encompass Services Corporation's Form 10-K for the year ended December 31, 2001

## **EXHIBIT B-2**

Encompass Services Corporation's Form 10-K/A for the year ended December 31, 2001,  
as filed on April 30, 2002

## **EXHIBIT B-3**

Encompass Services Corporation's Form 10-K/A for the year ended December 31, 2001,  
as filed on July 1, 2002

## **EXHIBIT B-4**

Encompass Services Corporation's Form 10-Q for the quarter ended September 30, 2002

# **EXHIBIT C**

Liquidation Analysis

**TO BE SUBMITTED AT A LATER DATE**

# **EXHIBIT D**

Financial Projections

**TO BE SUBMITTED AT A LATER DATE**

# EXHIBIT E

## List of Subsidiaries

A-1 Mechanical of Lansing, Inc.  
AA Advance Air, Inc.  
AA Jarl, Inc.  
A-ABC Appliance, Inc.  
A-ABC Services, Inc.  
Air Conditioning, Plumbing & Heating Service Co., Inc.  
Air Systems, Inc.  
Aircon Energy Incorporated  
Airtron, Inc.  
Airtron of Central Florida, Inc.  
American Air Company, Inc.  
AMS Arkansas, Inc.  
B&R Electrical Services, Inc.  
Building One Commercial, Inc.  
Building One Service Solutions, Inc.  
BUYR, Inc.  
Callahan Roach Products & Publications, Inc.  
Cardinal Contracting Corporation  
Central Carolina Air Conditioning Company  
Chapel Electric Co.  
Charlie Crawford, Inc.  
ChiP Corp.  
Colonial Air Conditioning Company  
Commercial Air Holding Company  
CONCH Republic Corp.  
Costner Brothers, Inc.  
Delta Innovations, Ltd.  
Divco, Inc.  
Dynalink Corporation  
EET Holdings, Inc.  
Electrical Contracting, Inc.  
Encompass Capital, Inc. (fka Commercial Air, Power & Cable, Inc.)  
Encompass Capital, L.P. (fka The Lewis Companies, Inc.)  
Encompass Central Plains, Inc.  
Encompass Constructors, Inc. (fka Atlantic Industrial Constructors, Inc.)  
Encompass Design Group, Inc. (fka Engineering Design Group, Inc.)  
Encompass Electrical Technologies, Inc. (fka Oil Capital Electric, Inc.) (OK Corp.)  
Encompass Electrical Technologies, Inc. (fka Continental Electrical Construction Co.) (DE Corp.)  
Encompass Electrical Technologies Central Tennessee, Inc.  
Encompass Electrical Technologies Eastern Tennessee, Inc.  
Encompass Electrical Technologies – Florida, LLC  
Encompass Electrical Technologies Georgia, Inc.  
Encompass Electrical Technologies – Midwest, Inc. (fka Town & Country Electric, Inc.)  
Encompass Electrical Technologies of Nevada, Inc.  
Encompass Electrical Technologies of New England, Inc.  
Encompass Electrical Technologies North Carolina, Inc.  
Encompass Electrical Technologies North Florida, Inc.  
Encompass Electrical Technologies Projects Group, Inc.  
Encompass Electrical Technologies – Rocky Mountains, Inc.  
Encompass Electrical Technologies Southeast, Inc. (fka Regency Electric Company, Inc.)  
Encompass Electrical Technologies South Carolina, Inc.  
Encompass Electrical Technologies of Texas, Inc.  
Encompass Electrical Technologies Western Tennessee, Inc.  
Encompass Facility Services, Inc.  
Encompass Global Technologies, Inc.  
Encompass Ind./Mech. of Texas, Inc.  
Encompass Industrial Services Southwest, Inc. (fka Gulf States, Inc.)  
Encompass Management Co.  
Encompass Mechanical Services of Elko, Inc. (fka Snyder Mechanical)  
Encompass Mechanical Services – Rocky Mountains, Inc. (fka Robinson Mechanical Company)  
Encompass Mechanical Services Southeast, Inc.  
Encompass Power Services, Inc. (fka EDG Power Services, Inc.)  
Encompass Residential Services of Houston, Inc. (fka Sterling Air Conditioning)  
Encompass Services Holding Corp.  
Encompass Services Indiana, L.L.C.  
ESR PC, L.P.  
Evans Services, Inc.  
EWG Holdings, Inc.  
FacilityDirect.com, LLC  
Ferguson Electric Corporation  
Fred Clark Electrical Contractor, Inc.  
Gamewell Mechanical, Inc.  
Garfield-Indecon Electrical Services, Inc.  
Gilbert Mechanical Contractors, Inc.  
GroupMAC Texas L.P.  
Hallmark Air Conditioning, Inc.  
HPS Plumbing Services, Inc.  
HVAC Services, Inc.  
Interstate Building Services, L.L.C.  
Isla Morada, LLC  
Ivey Mechanical Services, L.L.C.  
K&N Plumbing, Heating and Air Conditioning, Inc.  
Laney's, Inc.  
L.T. Mechanical, Inc.  
MacDonald-Miller Industries, Inc.  
MacDonald-Miller Co., Inc.

MacDonald-Miller Service, Inc.  
MacDonald-Miller of Oregon, Inc.  
Masters, Inc.  
Mechanical Services of Orlando, Inc.  
Merritt Island Air & Heat, Inc.  
National Network Services, Inc.  
National Network Services Northwest, LLC  
Omni Mechanical Company  
Omni Mechanical Services  
Pacific Rim Mechanical Contractors, Inc.  
Paul E. Smith Co., Inc.  
Phoenix Electric Company  
Ray's Plumbing Contractors, Inc.  
Regency Electric Company, LLC  
Regency Electric Company South Florida Office, Inc.  
Riviera Electric of California, Inc.  
Romanoff Electric Corp.  
Roth Companies Incorporated  
Sanders Bros., Inc.  
Sequoyah Corporation  
S. L. Page Corporation

Southeast Mechanical Service, Inc.  
Stephen C. Pomeroy, Inc.  
Sun Plumbing, Inc.  
Taylor-Hunt Electric, Inc.  
Team Mechanical, Inc.  
The Farfield Company  
Tri-City Electrical Contractors, Inc.  
Tri-M Corporation  
Tri-State Acquisition Corp.  
United Acquisition Corp.  
United Service Alliance, Inc.  
Van's Comfortemp Air Conditioning, Inc.  
Vantage Mechanical Contractors, Inc.  
Vermont Mechanical, Inc.  
Wade's Heating & Cooling, Inc.  
Watson Electrical Construction Co.  
Wayzata, Inc.  
Weigold & Sons, Inc.  
Willis Refrigeration, Air Conditioning & Heating, Inc.  
Wilson Electric Company, Inc.  
Yale Incorporated