

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

In re:

Yellow Cab Affiliation, Inc.,

Debtor.

Chapter 11

Case No. 15-09539

Hon. Carol A. Doyle

**DISCLOSURE STATEMENT FOR UNSECURED CREDITORS'  
COMMITTEE'S CHAPTER 11 PLAN OF LIQUIDATION**

August 30, 2016

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**THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED BY THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF ILLINOIS UNDER SECTION 1125(b) OF THE BANKRUPTCY CODE FOR USE IN THE SOLICITATION OF ACCEPTANCES OF THE PLAN DESCRIBED HEREIN. ACCORDINGLY, THE FILING AND DISTRIBUTION OF THIS DISCLOSURE STATEMENT IS NOT INTENDED, AND SHOULD NOT BE CONSTRUED, AS A SOLICITATION OF ACCEPTANCES OF SUCH PLAN. THE INFORMATION CONTAINED HEREIN SHOULD NOT BE RELIED UPON FOR ANY PURPOSE BEFORE A DETERMINATION BY THE BANKRUPTCY COURT THAT THIS DISCLOSURE STATEMENT CONTAINS "ADEQUATE INFORMATION" WITHIN THE MEANING OF SECTION 1125(a) OF THE BANKRUPTCY CODE.**

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## I. PREFATORY STATEMENT AND DEFINITIONS.

Pursuant to chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the “Bankruptcy Code”), the Official Committee of Unsecured Creditors of Yellow Cab Affiliation, Inc. (the “**Committee**”) hereby submits this disclosure statement (the “**Disclosure Statement**”) in support of the Unsecured Creditors’ Committee’s Chapter 11 Plan of Liquidation (as may be amended, supplemented, or modified, the “**Committee’s Plan**”) in the bankruptcy case of of Yellow Cab Affiliation, Inc. (the “**Debtor**”). The definitions contained in the Bankruptcy Code are incorporated herein by this reference. The definitions set forth in Article I of the Committee’s Plan will also apply to capitalized terms used herein that are not otherwise defined.

## II. INTRODUCTION AND OVERVIEW.

### A. Introduction.

This Disclosure Statement, submitted in accordance with section 1125 of the Bankruptcy Code, contains information regarding the Committee’s Plan proposed by the Committee. A copy of the Committee’s Plan is attached hereto as **Exhibit A**. This Disclosure Statement is being distributed to you for the purpose of enabling you to make an informed judgment about the Committee’s Plan. The Disclosure Statement contains information concerning, among other matters: (1) the Debtor’s background; (2) the assets available for distribution under the Committee’s Plan; and (3) a summary of the Plan, including the proposed treatment of claims and interests under the Committee’s Plan. The Committee strongly urges you to review carefully the contents of this Disclosure Statement and the Committee’s Plan (including the exhibits to each) before deciding whether to accept or reject the Committee’s Plan. Particular attention should be paid to the provisions affecting or impairing your rights as a Creditor or Interest Holder.

Following a hearing on [\_\_\_\_], 2016, the Bankruptcy Court approved this Disclosure Statement as containing “adequate information” to enable a hypothetical reasonable investor to make an informed judgment about the Committee’s Plan. A copy of the Order approving the Disclosure Statement is attached hereto as **Exhibit B** (the “**Disclosure Statement Order**”). Under section 1125 of the Bankruptcy Code, this approval authorized the Committee to send you this Disclosure Statement and solicit your acceptance of the Committee’s Plan. The Bankruptcy Court has not considered for approval the Committee’s Plan itself or conducted a detailed investigation into the contents of this Disclosure Statement.

Your vote on the Committee’s Plan is important. Absent acceptance of the Committee’s Plan, there may be protracted delays or a chapter 7 liquidation, which may cause additional administrative expenses. These alternatives may not provide for distribution of as much value to Holders of Allowed Claims or Interests as does the Committee’s Plan. Accordingly, the Committee urges you to accept the Plan by completing and returning the enclosed ballot(s) no later than [\_\_\_\_], 2016.

**B. Disclaimers.**

The information contained in this Disclosure Statement has been obtained from the pleadings filed in the Debtor's bankruptcy case, and the Committee has made every reasonable effort to present accurate information and such information is believed to be correct as of the date hereof. Any value given as to the Assets is based upon the Debtor's estimation of such value. You are strongly urged to consult with your financial, legal and tax advisors to understand fully the Committee's Plan and Disclosure Statement.

The financial information contained in this Disclosure Statement is given as of the date hereof, unless otherwise specified. The delivery of this Disclosure Statement does not, under any circumstance, imply that there has been no change in the facts set forth herein since such date. This Disclosure Statement is intended, among other things, to summarize the Plan and must be read in conjunction with the Plan and its exhibits, if any. If any conflicts exist between the Plan and Disclosure Statement, the terms of the Plan shall control.

THIS DISCLOSURE STATEMENT CONTAINS INFORMATION THAT MAY BEAR UPON YOUR DECISION TO ACCEPT OR REJECT THE COMMITTEE'S PLAN. PLEASE READ THIS DOCUMENT WITH CARE. THE PURPOSE OF THE DISCLOSURE STATEMENT IS TO PROVIDE "ADEQUATE INFORMATION" OF A KIND, AND IN SUFFICIENT DETAIL, AS FAR AS IS REASONABLY PRACTICABLE IN LIGHT OF THE NATURE AND HISTORY OF THE DEBTOR AND THE DEBTOR'S BOOKS AND RECORDS, THAT WOULD ENABLE A HYPOTHETICAL REASONABLE INVESTOR TYPICAL OF HOLDERS OF CLAIMS OR INTERESTS OF THE RELEVANT CLASS TO MAKE AN INFORMED JUDGMENT CONCERNING THE PLAN.

FOR THE CONVENIENCE OF CREDITORS AND INTEREST HOLDERS, THIS DISCLOSURE STATEMENT SUMMARIZES THE TERMS OF THE COMMITTEE'S PLAN, BUT THE COMMITTEE'S PLAN ITSELF QUALIFIES ANY SUMMARY. IF ANY INCONSISTENCY EXISTS BETWEEN THE PLAN AND THE DISCLOSURE STATEMENT, THE TERMS OF THE COMMITTEE'S PLAN ARE CONTROLLING.

NO REPRESENTATIONS CONCERNING THE DEBTOR'S FINANCIAL CONDITION OR ANY ASPECT OF THE COMMITTEE'S PLAN ARE AUTHORIZED BY THE DEBTOR OR THE COMMITTEE, OTHER THAN AS EXPRESSLY SET FORTH IN THIS DISCLOSURE STATEMENT.

YOU SHOULD NOT RELY UPON ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE OR REJECTION THAT THOSE CONTAINED IN OR INCLUDED WITH THIS DISCLOSURE STATEMENT IN ARRIVING AT YOUR DECISION.

THE COMMITTEE DOES NOT HAVE DIRECT ACCESS TO THE DEBTOR'S BOOKS AND RECORDS. THE FINANCIAL INFORMATION CONTAINED HEREIN, UNLESS OTHERWISE INDICATED, IS UNAUDITED AND BASED SOLELY UPON PLEADINGS FILED IN THE DEBTOR'S BANKRUPTCY CASE. THE COMMITTEE HAS MADE ALL REASONABLE EFFORTS TO ENSURE THAT ALL INFORMATION CONTAINED IN THE DISCLOSURE STATEMENT IS FAIRLY PRESENTED, HOWEVER

THE COMMITTEE CANNOT GUARANTEE THAT FINANCIAL INFORMATION IS COMPLETE OR ACCURATE.

THE CONTENTS OF THIS DISCLOSURE STATEMENT SHOULD NOT BE CONSTRUED AS LEGAL, BUSINESS OR TAX ADVICE. EACH CREDITOR AND INTEREST HOLDER SHOULD CONSULT HIS OR HER OWN LEGAL COUNSEL AND ACCOUNTANT WITH RESPECT TO ALL LEGAL, TAX AND CONSEQUENCES CONCERNING HIS OR HER CLAIM OR INTEREST.

### **C. Plan Overview.**

As more fully described below, on the Petition Date, Yellow Cab Affiliation, Inc. (the “**Debtor**”) filed a voluntary bankruptcy petition by and through which it sought chapter 11 bankruptcy protection. The purpose of a chapter 11 bankruptcy case is to resolve the affairs of a debtor and distribute the proceeds of the debtor’s estate pursuant to a confirmed chapter 11 plan. To that end, on August 30, 2016, the Official Committee of Unsecured Creditors (the “**Committee**” or “**Proponent**”) filed a Plan of Liquidation (as amended, modified or supplemented, the “**Committee’s Plan**”) for the resolution of the outstanding claims against and interests in the Debtor pursuant to the provisions of Chapter 11 of the Bankruptcy Code, and requests confirmation of the Committee’s Plan pursuant to Section 1129 of the Bankruptcy Code.

Pursuant to the Committee’s Plan, on the Effective Date, all of the Debtor’s Assets, including but not limited to the Debtor’s Business and all Causes of Action, will automatically be transferred to, and vest in, a creditor trust (the “**Creditor Trust**”). Patrick O’Malley of Development Specialists, Inc., the financial advisor to the Committee, will be appointed as the creditor trustee (the “**Creditor Trustee**”) for the Creditor Trust. The Creditor Trustee will be generally responsible for (1) liquidating all Creditor Trust assets, including, without limitation, the Debtor’s Business and Causes of Action against the Debtor’s affiliates, and. (2) administering and paying all allowed claims (“**Claims**”) against the Estate.

The Committee’s Plan authorizes the Creditor Trustee to operate the Debtor’s Business for such period of time as the Creditor Trustee deems appropriate in the exercise of his sole discretion prior to conducting a sale of the Debtor’s Business, and to hire such persons (including, without limitation, employees of the Debtor) as the Creditor Trustee deems necessary for operation of the Debtor’s Business). The Creditor Trustee anticipates hiring Jeffrey Feldman, who served as President of Yellow Cab Affiliation and its predecessor-in-interest from 1983 to 2000, and served as President of Taxi Medallion Management, LLC from 2006 to 2012, to assist the Trustee in operating the Debtor’s business.

The Committee believes that Confirmation of the Committee Plan will avoid the potential disruption of the Debtor’s Business, lengthy delay, and significant cost of liquidation under chapter 7 of the Bankruptcy Code by a chapter 7 trustee unfamiliar with the Debtor’s Business or the Debtor’s Bankruptcy Case. Further, the Committee believes that (1) the limited operation of the Debtor’s Business by the Creditor Trustee and others who are intimately familiar with the Debtor’s Business and its operations, (2) the marketing, auction and sale of the Debtor’s Business and all other Creditor Trust Assets of the Debtor by the Creditor Trustee at arm’s length, free of the Debtor’s entanglements with its owners, affiliates and sister companies, and (3) the preservation, retention and prosecution by the Creditor Trustee of the potentially valuable Causes of Action against the Debtor’s owners, officers, directors and/or affiliates, all of which



are provided in the Committee's Plan, will maximize the value of recoveries to all Holders of Allowed Claims and Allowed Interests. (A summary of the Causes of Action identified by the Committee is attached hereto as **Exhibit C** to the Disclosure Statement.)

The Committee's Plan designates six (6) Classes of Claims and one (1) Class of Interests. These Classes take into account the differing nature and priority of the various Claims and Interests under the Bankruptcy Code. Under the Committee's Plan, Claims are treated generally in accordance with the priorities established under the Bankruptcy Code. Claims that have priority status under the Bankruptcy Code or that are secured by valid Liens on Collateral are to be paid in full, reinstated or otherwise treated as provided in the Plan

The following chart briefly summarizes the classification and treatment of the Claims and Interests under the Committee's Plan. Amounts listed below are estimated. Estimated Claim amounts are calculated as of the Bar Date, i.e., the date set by the Bankruptcy Court as the last day for filing a Proof of Claim against the Debtor in the Bankruptcy Case, excluding (a) an Administrative Expense Claim, for which a request for payment of an Administrative Expense must be filed with the Bankruptcy Court by the Administrative Expense Claim Bar Date, and (b) a Claim with respect to an executory contract or unexpired lease that is assumed or rejected pursuant to the Committee's Plan (as to which the bar date shall be as set forth in Section 6.3 of the Committee's Plan).<sup>1</sup> Estimated percentage recoveries are also set forth below for certain Classes of Claims. Estimated percentage for the Unsecured Portion of an Allowed Class 5 Claim and the Holder of an Allowed Class 6 Claim will be impacted by a number of indeterminate variables, including but not limited to (a) whether the Creditor Trustee will successfully generate a sale of the operating assets of the Debtor as a going concern or whether such assets will be liquidated piecemeal,<sup>2</sup> (b) whether the Jacobs Judgment will be affirmed,<sup>3</sup> (c) the amount of outstanding Allowed Administrative Claims as of the Effective Date, which will have priority over all Allowed Class 5 and 6 claims, and (d) the amount that may be recovered from prosecuting the Causes of Action conveyed to the Creditor Trust.<sup>4</sup>

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 Debtor have not yet fully reviewed and analyzed all Claims and Interests. Estimated Claim amounts for each Class set forth below are based upon the Debtor' review of their books and records and Filed Proofs of Claim, and include estimates of a number of Claims that are contingent, disputed, and/or unliquidated.

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<sup>1</sup> The "Bar Date" was October 9, 2015.

<sup>2</sup> The Debtor has not had an appraisal done of its operating assets.

<sup>3</sup> The "Jacobs Judgment" means that the judgment of the Circuit Court of Cook County, Illinois, County Department, Law Division, in a lawsuit entitled *Marc M. Jacobs and Deborah M. Jacobs v. Cornelius C. Ezeagu, and Yellow Cab Affiliation, Inc.*, Case Number 05 L 10138, currently under appeal before the Appellate Court of Illinois, First Judicial District.

<sup>4</sup> While the Debtor and the Committee have not yet fully investigated, reviewed and analyzed the Causes of Action, the Committee's investigation has revealed certain potential Causes of Action which are summarized in **Exhibit C** hereto.

Description and Amount of Claims or Interests	Summary of Treatment
<p>Unclassified: Administrative Claims<sup>5</sup></p> <p>Estimated Aggregate Allowed amount of Administrative Claims exclusive of Professional Fee Claims and post-petition operating expenses paid in the ordinary course of business: Approximately \$967,000</p>	<ul style="list-style-type: none"> <li>• Each Holder of an Allowed Administrative Claim (including Allowed Administrative Claims of Professionals other than Bankruptcy Counsel, who shall be paid by Messrs. Patton Corrigan and Michael Levine in the manner that those individuals paid Bankruptcy Counsel during the Case) shall be paid (a) on the Effective Date, an amount, in Cash, by the Creditor Trustee equal to the Allowed amount of such Holder's Administrative Claim, in accordance with Section 1129(a)(9)(A) of the Bankruptcy Code, (b) on such other terms as may be mutually agreed upon by both the Holder of such Allowed Administrative Claim and the Creditor Trustee, in accordance with Section 1129(a)(9)(A) of the Bankruptcy Code, or (c) as otherwise ordered by a Final Order of the Bankruptcy Court.</li> <li>• Notwithstanding the foregoing, all Allowed Administrative Claims with respect to liabilities incurred by the Debtor in the <i>ordinary course of business</i> during the Bankruptcy Case shall be paid by the Creditor Trustee (a) in the ordinary course of business in accordance with contract terms, (b) on such other terms as may be mutually agreed upon by the Holder of such Allowed Administrative Claim and the Creditor Trustee, as the case may be, or (c) as otherwise ordered by a Final Order of the Bankruptcy Court</li> <li>• Administrative Claims are Unimpaired and are therefore not entitled to vote on the Committee's Plan.</li> <li>• Estimated Recovery 100%</li> </ul>
<p>Unclassified: Priority Tax Claims</p> <p>Estimated Aggregate Allowed amount of Priority Tax Claims: \$0 - \$136,857<sup>6</sup></p>	<ul style="list-style-type: none"> <li>• Each Holder of an Allowed Priority Tax Claim shall receive from the Creditor Trustee, on account of such Allowed Priority Tax Claim, at the election of the Creditor Trustee, either payment on the Effective Date, or regular installment payments in Cash beginning on the Effective Date in accordance with Section</li> </ul>

<sup>5</sup> This estimate does not include Professional Fee Claims.

<sup>6</sup> The Committee expressly reserves the right to context any Priority Tax Claims filed, scheduled and/or asserted in the Bankruptcy Case.

Description and Amount of Claims or Interests	Summary of Treatment
	<p>1129(a)(9)(C) of the Bankruptcy Code. If the distribution is made through regular installment payments, Holders of Allowed Priority Tax Claims shall receive interest on account of their Allowed Priority Tax Claims at the rate established for delinquent tax obligations pursuant to 26 U.S.C. §6621; provided, however, that if the Holder of such Allowed Priority Tax Claim is a city, county or state, such Holder shall receive interest on account of its Allowed Priority Tax Claim at the applicable statutory rate under state law. Notwithstanding the above, each Holder of an Allowed Priority Tax Claim may be paid (a) on such other terms as may be mutually agreed upon by both the Holder of such Allowed Priority Tax Claim and the Creditor Trustee, or (b) as otherwise ordered by a Final Order of the Bankruptcy Court..</p> <ul style="list-style-type: none"> <li>• Priority Tax Claims are Unimpaired and are therefore not entitled to vote on the Committee’s Plan.</li> <li>• Estimated Recovery 100%</li> </ul>
<p>Classes 1 Priority Claims –  Estimated Aggregate amount of Class 1 Claims: \$0<sup>7</sup></p>	<ul style="list-style-type: none"> <li>• Unimpaired</li> <li>• Class 1 consists of Priority Claims against the Debtor entitled to a priority in payment pursuant to Sections 507(a)(4) and (5) of the Bankruptcy Code and that is not an Administrative Expense Claim, a Priority Tax Claim, a Secured Claim, or an Unsecured Claim.</li> <li>• Each Holder of an Allowed Priority Claim shall be paid (a) on the Distribution Date, an amount, in Cash, by the Creditor Trustee equal to the Allowed Amount of such holder’s Priority Claim in accordance with Section 1129(a)(9)(B) of the Bankruptcy Code, (b) as otherwise agreed to by the Creditor Trustee and the Holder of an Allowed Priority Claim, or (c) as otherwise ordered by a Final Order of the Bankruptcy Court. Class 1 is Unimpaired by the Committee’s Plan. Each Holder of a Priority Claim in Class 1 is conclusively presumed to have accepted the Committee’s Plan and is not entitled</li> </ul>

<sup>7</sup> The Committee expressly reserves the right to context any Priority Claims filed, scheduled and/or asserted in the Bankruptcy Case.

Description and Amount of Claims or Interests	Summary of Treatment
	<p>to vote to accept or reject the Committee’s Plan.</p> <ul style="list-style-type: none"> <li>• Class 1 is Unimpaired and therefore Holders of Allowed Class 1 Claims are not entitled to vote on the Committee’s Plan.</li> <li>• Estimated Recovery: 100%</li> </ul>
<p>Classes 2: Secured Claim of New York Marine and General Insurance Company</p> <p>Estimated Aggregate Allowed amount of Class 2 Claims: \$0 - \$400,000<sup>8</sup></p>	<ul style="list-style-type: none"> <li>• Unimpaired</li> <li>• Class 2 consists of the Secured Claim of New York Marine and General Insurance Company against the Debtor.</li> <li>• The legal, equitable and contractual rights of New York Marine and General Insurance Company under its contract with the Debtor shall remain unaltered under the Committee’s Plan.</li> <li>• Class 2 is Unimpaired, and therefore Holders of Allowed Class 2 Claims are not entitled to vote on the Committee’s Plan.</li> <li>• Estimated Recovery: 100%</li> </ul>
<p>Classes 3: The prepetition Secured Claims of American United Taxi Affiliation, Inc., Metro Cabs 1 LLC, TAS, Taxi Works LLC, and Wolley Cab Association d/b/a Checker Taxi Affiliation.</p> <p>Estimated Aggregate Allowed amount of Class 3 Claims: \$0 - \$52,517<sup>9</sup></p>	<ul style="list-style-type: none"> <li>• Unimpaired</li> <li>• Class 3 consists of the prepetition Secured Claims of American United Taxi Affiliation, Inc., Metro Cabs 1 LLC, TAS, Taxi Works LLC, and Wolley Cab Association d/b/a Checker Taxi Affiliation, to the extent secured by rights of offset or recoupment or by counterclaim rights.</li> <li>• The legal, equitable and contractual rights of the Holders of Allowed Class 3 Claims shall remain unaltered under the Committee’s Plan.</li> <li>• The Class 3 Secured Claims of the Affiliates are deemed unimpaired by the Committee’s Plan and, therefore, these Claimants are not entitled to vote to</li> </ul>

<sup>8</sup> The Committee expressly reserves the right to context any Secured Claims filed, scheduled and/or asserted in the Bankruptcy Case.

<sup>9</sup> The Committee expressly reserves the right to context any Secured Claims filed, scheduled and/or asserted in the Bankruptcy Case.

Description and Amount of Claims or Interests	Summary of Treatment
	<p>accept or reject the Committee’s Plan.</p> <ul style="list-style-type: none"> <li>Estimated Recovery: 100%</li> </ul>
<p>Classes 4: Damage Claimants who have waived deficiency rights</p> <p>Estimated Aggregate amount of Class 4 Claims: \$5,746,104</p>	<ul style="list-style-type: none"> <li>Impaired</li> <li>Class 4 consists of the Claims of those individuals or entities who (i) have asserted Damage Claims, and (ii) have elected, either in the Damage Claim Ballot or under the terms of a prior order of the Bankruptcy Court, to waive any and all deficiency Claims against the Debtor and to be paid solely from the proceeds of any applicable Insurance Policy with respect to the Insured Portion of the Claim.</li> <li>On the Effective Date, the automatic stay and any applicable injunctions will be modified to allow the Holders of these Damage Claims to litigate and liquidate their Claims against the Debtor and to seek payment of those Claims solely under any applicable Insurance Policy. For these purposes only, Section 10.4 of the Committee’s Plan will not apply with respect to Holders of Class 4 Claims. All Allowed Class 4 Damage Claim shall be paid solely by the applicable insurer(s) under any applicable Insurance Policy and solely to the extent of the Insured Portion of each such Claim from proceeds of such applicable Insurance Policy and any other Claims of Holders of Class 4 Claims against the Debtor in excess of the applicable insurance policy are waived as of the Effective Date.</li> <li>Class 4 is Impaired, and Holders of Allowed Class 4 Claims will be entitled to vote to accept or reject the Committee’s Plan.</li> <li>Estimated Recovery: An amount up to the limits of applicable insurance coverage.</li> </ul>
<p>Classes 5: Damage Claimants who elect to preserve their deficiency rights</p> <p>Estimated Aggregate amount of</p>	<ul style="list-style-type: none"> <li>Impaired</li> <li>Class 5 consists of the Claims of those individuals or entities who (i) have asserted Damage Claims, and (ii) have not opted into Class 4 on the Damage Claim</li> </ul>

<p><b>Description and Amount of Claims or Interests</b></p>	<p><b>Summary of Treatment</b></p>
<p>Class 5 Claims: \$9,686,291</p>	<p>Ballot and in accordance with the Voting Instructions.</p> <ul style="list-style-type: none"> <li>• Given the nature and extent of these Class 5 Damage Claims, the Committee believes that ADR Procedures will greatly expedite the resolution of the Class 5 Damage Claims while saving the Estate and the Holders of Class 5 Claims substantial litigation costs. The ADR Procedures will apply to all Class 5 Claims. A Class 5 Claim will be subject to the ADR Procedures upon service by the Creditor Trustee of an ADR Notice (as defined below) on a Holder of a Class 5 Claim or its counsel, if such counsel is known. The automatic stay and any applicable injunctions shall be modified, following the filing of a stipulation with the Court, which notes that both (i) the Holder of the Class 5 Claim fully participated in good faith in the ADR Procedure, and (ii) the Class 5 Damage Claim has not been resolved through the ADR Procedure. Upon the modification of the ADR Injunction and any automatic stay, the Class 5 Damage Claim may then be liquidated in the non-bankruptcy court where it was originally filed or, if a lawsuit against the Debtor had not been filed before the Petition Date, in any court of competent jurisdiction. Any resulting Allowed Class 5 Damage Claim shall first be paid by the applicable insurer(s) under any applicable Insurance Policy to the extent of the Insured Portion of each such Claim from the proceeds of such applicable Insurance Policy. To the extent of the amount of any Allowed Class 5 Claim in excess of the Insured Portion, except to the extent that a Holder of the Uninsured Portion of an Allowed Class 5 Claim agrees to less favorable treatment, the Uninsured Portion of each Allowed Class 5 Damage Claim shall receive, in full and final satisfaction, settlement, release and discharge of said claim, a beneficial interest in the Creditor Trust, entitling such Holder of an Allowed Class 5 Claim to a Pro Rata share of the distributions from the Creditor Trust equal to such Allowed Class 5 Claim divided by the combined amount of the Uninsured Portion of all Allowed Class 5 Claims and all Class 6 Claims.</li> <li>• Holders of Allowed Class 5 Claims are impaired and will be entitled to vote to accept or reject the</li> </ul>

Description and Amount of Claims or Interests	Summary of Treatment
	<p>Committee's Plan.</p> <ul style="list-style-type: none"> <li>Estimated Recovery: __ %</li> </ul>
<p>Class 6: Unsecured Claims (Unsecured Claims Not Otherwise Classified) Class 6 consists of all Unsecured Claims not otherwise classified in the Committee's Plan.</p> <p>Estimated Aggregate amount of Class 6 Claims: \$31,455,429</p>	<ul style="list-style-type: none"> <li>Impaired.</li> <li>Class 6 consists of all Unsecured Claims not otherwise classified in the Committee's Plan.</li> <li>In lieu of a cash payment and in full and final satisfaction, settlement, release and discharge of said claim, except to the extent that a Holder of an Allowed Class 6 Claim agrees to less favorable treatment, each Holder of an Allowed Class 6 Claim shall receive a beneficial interest in the Creditor Trust, entitling such Holder of an Allowed Class 6 Claim to a Pro Rata share of the distribution from the Creditor Trust equal to such Allowed Class 6 claim divided by the combined amount of the Uninsured Portion of all Allowed Class 5 Claims and all Class 6 Claims.</li> <li>Class 6 is Impaired by the Committee's Plan. Each Holder of a Class 6 Unsecured Claim is entitled to vote to accept or reject the Committee's Plan.</li> <li>Estimated Recovery: __%</li> </ul>
<p>Class 7: Interests in the Debtor.</p>	<ul style="list-style-type: none"> <li>Impaired</li> <li>Class 7 consists of Interests in the Debtor.</li> <li>All Equity Interests in the Debtors will be cancelled as of the Effective Date. Holders of Class 7 Equity Interests are deemed to have rejected the Committee's Plan</li> <li>Class 7 is Impaired by the Committee's Plan and Holders of Class 7 Equity Interests are deemed to have rejected the the Committee's Plan.</li> <li>Estimated Recovery: 0%</li> </ul>

NOTHING IN THE DISCLOSURE STATEMENT SHALL AFFECT RIGHTS AND DEFENSES, BOTH LEGAL AND EQUITABLE, OF THE DEBTOR, THE COMMITTEE, AND/OR THE CREDITOR TRUSTEE WITH RESPECT TO ANY CLAIMS OR EQUITY

INTERESTS, INCLUDING, BUT NOT LIMITED TO, ALL RIGHTS WITH RESPECT TO LEGAL AND EQUITABLE DEFENSES TO ALLEGED RIGHTS OF SETOFF OR RECOUPMENT.

**D. IMPORTANT DATES.**

- Date and time by which Ballots must be received: [\_\_\_\_], 2016 at [\_\_\_\_] (Prevailing Central Time)
- Date and time by which objections to Confirmation of the Committee's Plan must be filed and served: [\_\_\_\_], 2016 at [\_\_\_\_] (Prevailing Central Time)
- Hearing on Confirmation of the Committee's Plan: [\_\_\_\_], 2016 at [\_\_\_\_] (Prevailing Central Time)
- Voting Record Date: [\_\_\_\_], 2016
- Date and time by which Estimation Motions must be Filed: [\_\_\_\_], 2016 at [\_\_\_\_] (Prevailing Central Time)

**E. Purpose of Disclosure Statement.**

The Disclosure Statement is generally provided to all Holders of Claims and Equity Interests entitled to vote upon the Committee's Plan pursuant to section 1125 of the Bankruptcy Code to enable such Holders to make an informed decision concerning the Debtor's solicitation of acceptances of the Committee's Plan.

**F. Disclosure Statement Exhibits.**

The Committee's Plan is attached as **Exhibit A** to this Disclosure Statement.

**G. Voting on the Committee's Plan.**

**1. Only Impaired Classes Receiving a Distribution Vote.**

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

Under the Committee's Plan, Holders of Claims in Classes 1, 2 and 3 are Unimpaired and therefore deemed to accept the Committee's Plan. Holders of Claims in Classes 2, 4, 5 and 6 impaired and are entitled to vote on the Committee's Plan. Holders of Equity Interests in Class 7 are Impaired but are not entitled to vote as they have been deemed to have rejected the Committee's Plan.



**ACCORDINGLY, A BALLOT FOR ACCEPTANCE OR REJECTION OF THE COMMITTEE'S PLAN IS BEING PROVIDED TO HOLDERS OF CLAIMS IN CLASSES 4, 5 AND 6.**

Holders of Claims or Equity Interests may obtain copies of the Committee's Plan Supplement that will be filed with the Bankruptcy Court at least fourteen (14) days prior to the Voting Deadline by: (a) accessing the website of the Debtor's claims, noticing and balloting agent, Epiq Bankruptcy Solutions, LLC at <http://dm.epiq11.com/YCA>; (b) requesting the Committee's Plan Supplement by e-mail to counsel for the Committee, Dykema Gossett PLLC who shall serve as voting agent (the "**Voting Agent**") at [jaberman@dykema.com](mailto:jaberman@dykema.com); (c) calling the Voting Agent at (312) 627-2515; or (d) sending a request to the Voting Agent by first-class mail, hand delivery, courier service or overnight mail at Dykema Gossett PLLC, Attn: Jonathan Aberman, 10 S. Wacker Dr., Ste. 2300, Chicago, Illinois, 60606.

For a summary of the treatment of each Class of Claims and Equity Interests, see Article V of this Disclosure Statement, "Summary of the Committee's Plan of Liquidation" below.

**2. Voting Procedures/Deadlines.**

If you are entitled to vote to accept or reject the Committee's Plan, a Ballot for the acceptance or rejection of the Committee's Plan is enclosed for the purpose of voting on the Committee's Plan. If you hold Claims in more than one Class and you are entitled to vote Claims in more than one Class, you will receive separate Ballots that must be used to vote in each separate Class. Please vote and return your Ballot(s) to the Voting Agent at the addresses set forth below by first-class mail, hand delivery, courier service or overnight mail at:

Dykema Gossett PLLC  
10 S. Wacker Dr., Ste. 2300  
Chicago, IL 60606  
Attn: Jonathan Aberman

**TO BE COUNTED, YOUR BALLOT WITH ORIGINAL SIGNATURE INDICATING ACCEPTANCE OR REJECTION OF THE COMMITTEE'S PLAN MUST BE RECEIVED BY THE VOTING AGENT NO LATER THAN 4:00 P.M. (PREVAILING CENTRAL TIME) ON [\_\_\_\_], 2016 (the "**Voting Deadline**").**

If you are a Holder of a Claim entitled to vote on the Committee's Plan and you did not receive a Ballot, received a damaged Ballot or lost your Ballot, or if you have any questions concerning this Disclosure Statement, the Committee's Plan or the procedures for voting on the Committee's Plan, please contact the Voting Agent by e-mail [jaberman@dykema.com](mailto:jaberman@dykema.com), by phone at (312) 627-2515, by first-class mail, hand delivery, courier service or overnight mail to Dykema Gossett PLLC, Attn: Jonathan Aberman, 10 S. Wacker Dr., Ste. 2300, Chicago, Illinois, 60606.

Votes cannot be transmitted orally, by facsimile or by electronic mail (e-mail). Accordingly, you are urged to return your signed and completed Ballot promptly. Any executed Ballot that does not indicate either an acceptance or a rejection of the Committee's Plan, or that indicates both an acceptance and a rejection of the Committee's Plan, will not be counted as a vote to either accept or reject the Committee's Plan.

Consistent with the provisions of Rule 3018(b) of the Bankruptcy Rules, the Bankruptcy Court has fixed [\_\_\_\_], 2016 as the “**Voting Record Date**” for the determination of the Holders of Claims and Equity Interests entitled to vote to accept or reject the Committee’s Plan.

Once you have delivered your Ballot to the Voting Agent, you may change your vote by submitting to the Voting Agent a valid subsequent Ballot to be received by the Voting Deadline. You may not, however, change your vote after the Voting Deadline, except upon cause shown to the Bankruptcy Court after notice and a hearing or upon the agreement of the Debtor.

You are urged to timely complete, date, sign and promptly return the enclosed Ballot by mail, overnight mail, courier service or hand delivery.

Please be sure to complete the Ballot properly and legibly, identifying the exact amount of your Claim, the Class or Classes in which the Claim(s) or Equity Interest(s) is/are classified under the Committee’s Plan and the name of the Creditor or Equity Interest Holder.

THE COMMITTEE RESERVES THE RIGHT TO SEEK TO SATISFY THE REQUIREMENTS FOR CONFIRMATION OF THE COMMITTEE’S PLAN UNDER THE CRAMDOWN PROVISIONS OF SECTION 1129(b) OF THE BANKRUPTCY CODE IN THE EVENT ANY OF THE VOTING CLASSES VOTE TO REJECT THE COMMITTEE’S PLAN, AND, IF REQUIRED, MAY AMEND THE COMMITTEE’S PLAN TO CONFORM TO THE STANDARDS OF SUCH SECTION.

SUBJECT TO THE TERMS AND CONDITIONS OF THE COMMITTEE’S PLAN, THE DEBTOR RESERVES THE RIGHT TO AMEND THE COMMITTEE’S PLAN EITHER BEFORE OR AFTER THE PETITION DATE.

AMENDMENTS TO THE COMMITTEE’S PLAN THAT DO NOT MATERIALLY AND ADVERSELY AFFECT THE TREATMENT OF CLAIMS OR EQUITY INTERESTS MAY BE APPROVED BY THE BANKRUPTCY COURT AT THE CONFIRMATION HEARING WITHOUT THE NECESSITY OF RESOLICITING VOTES. IN THE EVENT RESOLICITATION IS REQUIRED, THE DEBTOR WILL FURNISH NEW BALLOTS TO BE USED TO VOTE TO ACCEPT OR REJECT THE COMMITTEE’S PLAN, AS AMENDED.

### **3. Eligibility.**

In order to vote to accept or reject the Committee’s Plan, a Holder of an Allowed Claim must have timely Filed or been assigned a timely Filed proof of claim, unless its Claim is listed on the Debtor’s Schedules and is not identified therein as disputed, unliquidated or contingent or has not been objected to prior to the Confirmation Hearing. The Voting Record Date will be used for determining (a) the Holders of Claims and Equity Interests in the Voting Classes, who are entitled to receive Solicitation Packages and vote to accept or reject the Committee’s Plan, and (b) the Holders of Claims in the Non-Voting Classes, who will receive a Non-Voting Package. Creditors or Holders of Equity Interests having an Allowed Claim or Allowed Equity Interest in more than one Class may vote in each Class in which they hold a separate Claim or Equity Interest by casting a Ballot in each Class.

**4. Binding Effect.**

Whether a Holder of an Allowed Claim or Allowed Equity Interest votes on the Committee's Plan or not, such Holder shall be bound by the terms of the Committee's Plan if the Committee's Plan is confirmed by the Bankruptcy Court. Unless a Ballot is completed and returned in accordance with approved Bankruptcy Court procedures, a Holder of an Allowed Claim or Allowed Equity Interest that submits a vote on the Committee's Plan shall not be counted for purposes of determining the amount and number of Creditors and Holders of Equity Interests voting on the Committee's Plan.

**5. Objections to Confirmation and Confirmation Hearing.**

The Bankruptcy Court has scheduled a hearing to consider confirmation of the Committee's Plan for [ at \_\_\_ a.m.] (prevailing Central Time) in the Bankruptcy Court, Everett McKinley Dirksen Building, U.S. Courthouse, 219 South Dearborn Street, Courtroom 742, Chicago, Illinois 60604 (the "Confirmation Hearing"). The Bankruptcy Court has directed that objections, if any, to confirmation of the Committee's Plan be served and Filed on or before [\_\_\_\_\_, 2016], at 4:00 p.m. (prevailing Central Time) (the "Confirmation Objection Deadline").

Objections to confirmation must be Filed with the Bankruptcy Court electronically or at the following address:

**UNITED STATES BANKRUPTCY COURT**  
Northern District of Illinois  
Everett McKinley Dirksen Building  
219 South Dearborn Street  
Room []  
Chicago, Illinois 60604

with a copy simultaneously served upon the attorneys for the Debtor at the addresses below:

**DALE & GENSBURG, P.C.**  
200 West Adams Street, Suite 2425  
Chicago, Illinois 60606  
Attn: Matthew T. Gensburg

-and-

**GREENBERG TRAURIG, LLP**  
77 West Wacker Drive  
Suite 3100  
Chicago, Illinois 60601  
Attn: Nancy A. Peterman and Martin S. Kedziora

and a copy simultaneously served upon the attorneys for the Committee at the addresses below:

**DYKEMA GOSSETT PLLC**  
10 South Wacker Drive, Suite 2300  
Chicago, Illinois 60606  
Attn: Richard M. Bendix, Jr.

and a copy simultaneously served upon the Office of the United States Trustee at the address below:

**OFFICE OF THE UNITED STATES TRUSTEE**  
Everett McKinley Dirksen Building  
219 South Dearborn Street  
Room 873  
Chicago, Illinois 60604  
Attn: Kathryn M. Gleason

The date of the Confirmation Hearing may be adjourned from time to time without further notice except for an in-court announcement at the Confirmation Hearing of the date and time as to which the Confirmation Hearing has been adjourned or an appropriate Filing on the Bankruptcy Court's docket.

**THE COMMITTEE URGES ALL HOLDERS OF CLAIMS IN CLASSES 4, 5 AND 6 TO VOTE IN FAVOR OF THE COMMITTEE'S PLAN.**

The classification and treatment of Claims and Equity Interests under the Committee's Plan are described in detail below. Because the Committee's Plan provides the greatest likelihood of recovery to all Holders of Allowed Claims and Allowed Equity Interests in this Chapter 11 Case, the Committee strongly encourages all Holders of Claims and Equity Interests entitled to vote on the Committee's Plan to vote to accept the Committee's Plan.

### **III. GENERAL INFORMATION CONCERNING THE DEBTOR<sup>10</sup>.**

#### **A. Overview of the Debtor and Its Business Operations.**

##### **1. Generally.**

The Debtor is a City of Chicago licensed taxicab affiliation (one of approximately fifteen taxicab affiliations licensed under the Municipal Code in the City of Chicago), formed in May 23, 1996, to offer to independent taxi license holders those services required by Chicago ordinance and regulations. Chicago ordinance and regulations require taxi license holders to join a licensed taxicab affiliation, such as the Debtor, unless the taxi license holder is a single-vehicle owner-operator. The Debtor asserts that it has approximately 1,581 members (the "**Members**")

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<sup>10</sup> The information contained in this Section III is based largely on information provided by the Debtor in Debtor's Third Amended Disclosure Statement For the Third Amended Chapter 11 Plan of Liquidation. By incorporating that information in this Disclosure Statement, the Committee is not admitting, and reserves the right to challenge, the accuracy of that information.

who operate taxicabs, driven by approximately 5,000 independently operating drivers, and is the largest affiliation in the City of Chicago, representing nearly twenty-five percent (25%) of the entire taxicab market. Taxicab affiliations such as the Debtor do not own or operate the medallions or the taxicabs. Rather, such affiliations are simply entities organized to provide their medallion owners/affiliates with (1) a Chicago business address, (2) registered telephone number, (3) uniform color scheme, (4) trade name or emblem, (5) a dispatch system, (6) insurance<sup>11</sup>, and (7) a designated authorized registered agent, among other services. The Debtor is a sublicensee from Taxi Affiliation Services, LLC (“**TAS**”) and sublicensee to its Members of the trademarks, trade dress, and goodwill associated with the operation of the Yellow taxi service in the City of Chicago.

The Debtor and each of its Members are parties to a “Taxicab Affiliation Agreement”. Pursuant to the Taxicab Affiliation Agreements, in exchange for weekly affiliation dues, the Debtor sublicenses its trademarks and trade dress to the Members and provides certain other services to its Members. These services include (i) radio dispatch services; (ii) cashier window services; (iii) assistance with securing cab-top and/or other exterior/interior taxicab advertising programs; (iv) assistance with securing insurance programs, including collision and comprehensive fire/theft damage insurance and workers’ compensation insurance at additional cost; (v) services to qualified charge account customers; (v) services related to cab coupons, vouchers, and credit and debit cards as approved and designated by the affiliation and the City of Chicago; and (vi) the ability to process the aforementioned credit and debit cards with equipment provided by the affiliation.

The Debtor’s sole source of recurring revenue is affiliation dues and related late fees collected from medallion owners. Specifically, in exchange for its benefits, the Debtor currently charges \$195.00 weekly for basic membership. The Debtor currently serves 1,581 members through approximately 24 employees with a total annual salary of \$537,400.00. Conversely, the primary expenses of the Debtor are liability and workers compensation expenses, a limited payroll, and general operating expenses, though as noted in more detail below, most operating expenses are incurred by TAS pursuant to a Services Agreement and reimbursed by the Debtor.

The Debtor’s business office is located at 3351 West Addison Street, Chicago, Illinois, but the Debtor does not have a lease for office space at that location. Rather, the building is owned by TMM Realty LLC, an entity owned by Michael Levine and Patton Corrigan. TAS and Taxi Works, LLC (“**Taxi Works**”) are the formal tenants of this building, having entered into a joint lease. The Debtor’s related taxi affiliations, i.e., Blue Diamond Taxi Affiliation, Inc., (“**Blue Diamond**”) Wolley Cab Association d/b/a Checker Taxi Affiliation, Inc. (“**Wolley**”), American United Taxi Affiliation, Inc. (“**American United**”) are also located in the same building.<sup>12</sup> The Debtor, Blue Diamond, Wolley and American United pay rent for this space indirectly through the Services Agreement fees (2013 and prior) or through the costs allocation (2014 and later). The Debtor, through TAS, maintains two small alternative locations to house cashiers at 3167 North Clybourn, Chicago, Illinois and 5105 Pearl Street, Schiller Park, Illinois, near O’Hare airport.

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<sup>11</sup> Premiums due for liability and workers compensation coverage are paid directly by the Debtor. The liability insurance must be at least \$350,000 in combined single limit coverage.

<sup>12</sup> Unlike the Debtor, Blue Diamond and Wolley, which are all subsidiaries of Yellow Group LLC, American United is not a subsidiary of Yellow Group LLC, but is directly owned by Yellow Cab Partners LLC and People Mover Inc.

In order to facilitate Debtor's operations and to provide certain services required under the Taxicab Affiliation Agreement in a cost effective manner, the Debtor outsources most of its daily back-office operations to TAS, a Delaware limited liability company and an affiliate of the Debtor. Prior to the Petition Date, this relationship was documented and evidenced in a certain Services Agreement dated January 1, 2010, (including the subsequent month-to-month agreement described below, the "**Services Agreement**") which was renewed annually until October 29, 2015, at which time TAS elected not to renew the agreement. The Committee has asserted that TAS' non-renewal of the Services Agreement violated the Bankruptcy Code's automatic stay. TAS thereafter agreed that it would continue to provide services on a month-to-month basis. Pursuant to the Services Agreement, TAS provides back-office, administrative and cashiering services to the Debtor. TAS provides personnel and systems to assist the Debtor with its accounting functions, maintenance of books and records, and IT support and services. TAS also provides the Debtor with cashier window services (for both driver and medallion owner transactions), assistance in purchasing and supplying radio and communication equipment to the affiliation members, assistance with securing advertising programs, assistance with securing insurance programs, as well as a number of other services which facilitate Debtor's operations. Further, the Services Agreement provides the Debtor its right and license to use the "Yellow Cab" trade name, service mark, related trade dress, logos, and the telephone number "312-TAXICAB." TAS itself licenses the tradename, service mark, trade dress, logo for the Debtor's website and telephone from Yellow Group, the Debtor's parent. Given that all back office and administrative functions are handled by TAS and paid by the Debtor through the Services Agreement, other than Tony Middleton, its affiliation manager, the Debtor has no employees performing these functions, but rather employs dispatch personnel.<sup>13</sup>

Under the Services Agreement, TAS charged the Debtor a monthly fee determined in part by the number of members in the Association. This fee included both a base fee of \$2,500.00 per month and, with respect to each member in excess of twenty, a fee of \$45.00 per affiliate member per week, based on the average number of affiliate members in the association for each respective month subject to reconciliation. Accordingly, if the Debtor has 1,500 members in a given month, the monthly fee would total \$268,900.00, subject to an annual reconciliation and true-up based on actual membership count. In addition, under the terms of the Services Agreement, the Debtor is required, among other things, to pay TAS for the direct and allocated expenses incurred by TAS in providing those services. These expenses include direct costs TAS incurs on behalf of the Debtor for any selling, general and administrative costs (including accounting, bookkeeping, executive management, travel, telephone, data processing, and other overhead expenses) reasonably allocated by TAS to services provided or performed on behalf of the Debtor. Expenses were to be reimbursed promptly and were subject to reconciliation and adjustment.

TAS has entered also entered into service agreements with other taxi affiliations related to the Debtor, i.e., Blue Diamond, Wolley and American United. These service agreements largely mirror each other and contain similar policies and procedures. In addition, TAS performs cashiering for most entities within the wider organization besides the Debtor. For example, the Debtor alleges that payments typically are received for vehicle lease dues, affiliation dues,

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<sup>13</sup> Each affiliation including the Debtor allegedly maintains a separate payroll consisting of dispatchers and supervisors, with calls being assigned first to dispatchers on a particular affiliation's payroll before being assigned to other dispatchers.

insurance payments and City of Chicago fines and, therefore, may be collected on behalf of numerous entities including the Debtor. At its cashier window, transaction receipts are issued specifying what charges were paid by the medallion owner or driver, and unless the full weekly amount due is collected for all obligations, TAS does not prioritize one entity's collections over another entity's and instead places the funds into a "savings" account pending receipt of the balance of the weekly payment. Prior to the Petition Date, funds received by TAS were deposited in one bank account and later segregated by entity via journal entry.

By having TAS provide the back office and administrative services for the Debtor, Blue Diamond, Wolley, American United and other unrelated affiliations, significant efficiencies and cost savings have been recognized by all of the affiliations, which have enabled them to keep their dues down and attract members. Therefore, all expenses that can be readily shared among entities are generally incurred and paid by TAS and expenses that can be directly attributable to a particular entity exclusively are incurred and paid by that entity with funds transferred from TAS. This has also required the allocation of expenses incurred among the affiliations using metrics tied to the expenses incurred. In a supplement to the Debtor's Statement of Financial Affairs [Docket No. 526], the allocation methodologies used by TAS are described, with detail tied to TAS' general ledger.

In anticipation of Debtor's Chapter 11 petition, certain aspects of the parties' historic course of dealings under the Services Agreement were modified. In particular, counsel for the Debtor believed that the United States Trustee's Operating Instructions for the Northern District of Illinois and the State of Wisconsin (the "**Operating Guidelines**") would not allow the Debtor's revenue to be maintained in TAS' operating account over the course of a year. The Debtor was required to close its previous bank accounts and open debtor-in-possession accounts, from which all disbursements made by the Debtor are cut. The Operating Guidelines also provide that post-petition earnings from services performed by individual debtors should be deposited in the DIP account, and the Debtor believed that the same requirement existed for corporate debtors. Therefore, TAS was directed as soon as the Debtor opened its DIP account to start forwarding on a daily basis the revenue collected for the Debtor at TAS' cashier window.

Due to this modification, TAS no longer has the Debtor's funds for payment of the operating expenses incurred on behalf of the Debtor in performing under the Services Agreement, as it had historically. Without the working capital necessary to provide meaningful trade credit, TAS is now required to invoice the Debtor weekly. As additional consideration to the Debtor, and in order to reduce the Debtor's costs and expenses under the Services Agreement, TAS agreed temporarily, over the course of the Chapter 11 case, to waive the \$45.00 per member per week fee otherwise due from the Debtor, in return for the Debtor paying the actual costs and expenses of certain services normally covered by that fee.

The Debtor also conducts business with certain other affiliates. For example, Taxi Works provides paint and body fender repair to taxi owners and operators, livery owners and operators, and taxi affiliations such as the Debtor, with an emphasis on the initial conversion and maintenance of a vehicle into a taxicab. Taxi Works also installs and removes taximeters and video cameras, dispatch equipment and other technology required by Chicago ordinance, and provides services for virtually every taxi affiliation in the City of Chicago, including the Debtor.

The Debtor also does business with Transit General Insurance Company (“**Transit General**”), a wholly owned subsidiary of Transit Financial LLC. Transit General is a licensed insurance company regulated by the State of Illinois. Since its inception in 2009, Transit General has provided physical damage coverage for independently owned taxicabs through insurance agencies that specialize in the public transportation business. Further, commencing in April of 2013, Transit General started providing statutory liability coverage to the membership of the Debtor via a retrospective rated policy. As of 2016, all of the commercial auto liability insurance policies in place for the members of the Debtor were underwritten by Transit General. Management of the insurance policies acquired by the Debtor or its members, such as modifying coverage or reconciling activity to member requests, has been handled by TAS or Transit General.

The Debtor has also transacted business with Taxi Medallion Management LLC (“**TMM**”). TMM is a licensed manager for 679 medallions, only a few of which are owned by individuals or entities affiliated with the Debtor. As a licensed manager, TMM is obligated to pay affiliation membership dues on behalf of its clients, including those dues owed to the Debtor (or other affiliations their clients are associated with). As noted, with respect to the Debtor, TAS has been retained to collect all of the Debtor’s affiliation membership dues, including those due from TMM.

## **2. Corporate Structure.**

The Debtor is a wholly owned subsidiary of Yellow Group, LLC, (“**Yellow Group**”) a holding company established in January 5, 2005. Yellow Group allegedly owns the Yellow trademark and provides, through contract, the use of yellow taxi colors and insignia together with a telephone number to TAS for remarketing. People Mover Inc. and Yellow Cab Partners LLC, respectively hold a 55% and 45% interest in Yellow Group. Michael Levine and Jason Kahan, respectively hold 85% and 15% of the equity of People Mover Inc. Patton Corrigan holds 100 % equity of Yellow Cab Partners LLC.

## **3. Management and Board of Directors.**

The Debtor’s Board of Directors is currently comprised of two directors: Michael Levine, the Chairman of the Board and the President, and Evan Tessler. Patton Corrigan is the Vice-President of the Debtor. Gary Sakata is the Secretary and Treasurer of the Debtor.

### **B. The Debtor’s Capital and Debt Structure.**

#### **1. Prepetition Capital and Debt Structure.**

Six creditors have asserted security interests against the Debtor. First, New York Marine and General Insurance Company holds a cash deposit securing the Debtor’s deductible reimbursement obligations under its insurance policy. On information and belief, as of the Petition Date, this cash deposit totaled \$400,000.00. In addition, five affiliates of the Debtor filed proofs of claim asserting rights of offset or recoupment or counterclaim rights against the Debtor. These companies are (i) American United in the amount of \$1,282,985.62; (ii) Metro Cabs 1, Inc. in the amount of \$100,000.00; (iii) TAS in the amount of \$96,379.34; (iv) Taxi Works in the amount of \$321,845.38; and (v) Wolley in the amount of \$280,436.41.



The Debtor also has general unsecured creditors, which include, among others, trade claimants, car accident claimants involving the Debtor's affiliation members and the Jacobs Judgment.. Aside from the proofs of claim referenced above, eighty-nine (89) proofs of claim have been filed against the Debtor, asserting claims totaling \$729,720,846.15. However, one of those claims was filed by Peter Enger, a purported class representative, for \$623,235,000.00 and represents approximately 85% of dollar amount of claims filed. However, the United States District Court for the Northern District of Illinois has dismissed Peter Enger's claim. The Seventh Circuit Court of Appeals has affirmed the District Court's ruling. The Debtor disputes its liability with respect to claims seeking to recover for personal injury and/or property damage arising from taxicab accidents. The Debtor believes that these claims, too, will be disallowed or amicably settled within insurance policy limits. Detail with respect to some of the larger claims filed against the Debtor is as follows:

(a) ***Marc M. Jacobs et. al. v. Yellow Cab Affiliation, Inc. et. al., Case No. 05 L 10138 (the "Jacobs Action")***: Marc Jacobs has filed two duplicate proofs of claim for \$21,989,291 and his wife, Deborah Jacobs, has filed two duplicate proofs of claim for \$3,960,000. These claims arises out of a motor vehicle accident in which plaintiff, Marc Jacobs, was riding as a rear-seat passenger in a taxicab driven by Cornelus Ezeagu ("Ezeagu"), which was involved in a one-vehicle accident on I-294 on August 31, 2005. The original complaint at law was filed on September 15, 2005, in Circuit Court of Cook County, Illinois, County Department, Law Division (the "**Circuit Court**") and named the owner of the taxicab, Zegus, Inc. and Ezeagu as defendants. The complaint was amended on two occasions, with YCA subsequently added as a defendant on or about August 30, 2007.

The trial in the Jacobs Action started on March 3, 2015 and concluded. At the conclusion of the trial on March 17, 2015, the jury returned a verdict in favor of the Jacobs's and against the Debtor and Ezeagu, award \$21,989,291.00 to Marc Jacobs, and \$3,960,000.00 to Deborah Jacobs, for a total award of \$25,949,291.00.

The Debtor appealed the judgment against it in the Jacobs Action. Oral arguments in the appeal were heard on March 3, 2016. The parties are waiting for the Appellate Court to issue its opinion.

(b) ***Luciane Cimino v. Ike Ehireme, Yellow Cab Affiliation, Inc, and YC 8 LLC. Case No. 2009 L 008252 (the "Cimino Action")***: Luciane Cimino ("**Cimino**") filed a proof of claim for \$23,820,000.00. This claim arises out of an alleged accident on July 16, 2007 between a leased cab operated by Ike Ehireme and Cimino, a pedestrian.

Following a mandatory arbitration hearing, Cimino's case was dismissed based on a finding by that plaintiff failed to properly follow the procedures for rejecting the mandatory arbitration award and as a sanction for repeated abuse of motion practice. Cimino appealed, but has not attempted to lift the bankruptcy stay in order to proceed with her appeals.

(c) ***Sharon Kwon v. Kakajon Islamov and Yellow Cab Affiliation, et. al., Case No. 15 L 4996(the "Kwon Action")***: Sharon Kwon ("**Kwon**") filed a proof of claim for \$1,500,000.00. This claim arose out of an alleged auto accident involving a cab within the Debtor affiliation. On December 22, 2015, the Debtor's motion for summary

judgment was granted against Kwon, and the circuit court dismissed the Debtor from the Kwon Action with prejudice. As a result, Kwon no longer has a valid claim against the Debtor.

**(d) *Other Personal Injury and Accident Claims:*** Other than the Enger Claim, the Jacobs Action, the Cimino Action and the Kwon Action, approximately, seventy-one (71) other personal injury and accident claimants have filed proofs of claim against the Debtor, seeking a recovery of approximately \$19,454,000.00. The Debtor believes that these claims will be denied. Moreover, the Debtor, medallion owners and drivers are covered by insurance required by the City of Chicago Municipal Code in the amount of a combined single limit of \$350,000.00 for personal injury and property damage. Most of the foregoing accident and personal injury claims filed against the Debtor fall within these policy limits.

## **2. The Debtor's Assets.**

As noted, the Debtor does not own or lease the taxicabs or taxi medallions which operate within the affiliation. Nor does the Debtor employ the drivers who operate the taxicabs. Rather, the Debtor and each of its members are parties to a "Taxicab Affiliation Agreement." Pursuant to the Taxicab Affiliation Agreements, in exchange for weekly affiliation dues, the Debtor sublicenses its alleged trademarks and trade dress to the members and provides certain of services described above. The weekly affiliation dues are the Debtor's only source of income. As of April 30, 2016, the Debtor held cash and had payments in transit to it totaling \$49,190.89. However, the Debtor also allegedly has corresponding post-petition accounts payable of \$64,982.00.

The Debtor has an interest in various insurance policies. As noted on Schedule B of the Debtor's schedules of assets and liabilities, most of these policies have no surrender or refund value. However, the Debtor believes that the Liberty Mutual Group, Inc. Workers' Compensation Insurance for the terms January 1, 2007 through December 31, 2008 might have a refund value of \$100,000.00.

The Debtor allegedly also has various contingent and unliquidated claims against third parties, including, (i) a contingent and unliquidated claim in the amount of \$755,264.23, as of April 14, 2015, against TAS with respect to member deposits; (ii) a contingent and unliquidated claim against Dispatch Taxi Affiliation, LLC and Evgeny Freidman reflected in a lawsuit pending in the Circuit Court of Cook County, Illinois, County Department, Law Division under Case No. 2013 L 014142 with a unliquidated value in excess of \$1,000,000.00; (iii) a contingent and unliquidated claim against the City of Chicago reflected in a lawsuit pending in the United States District Court for the Northern District of Illinois under civil action no. 14-cv-00827 ; and (iv) an unliquidated claim against QBE/Clarendon National Insurance Company and QBE/Praetorian concerning deductible amounts associated with insurance policies for the years 2006, 2007 and 2010.

The Debtor owns (a) approximately 1,600 mobile data terminals installed in taxis of the Debtor's members with a current book value as of the Petition Date of \$535,530.00; (b) approximately 1,600 mobile dispatch radios installed in taxis of the Debtor's members; and (c) approximately 50 air cards with a current book value as of the Petition Date of \$320,506.81. The

Debtor is also a sublicensor from TAS of the alleged Yellow trademark and trade dress under the Services Agreement of indeterminate value. Finally, as of the Petition Date, the Debtor had prepaid expenses of \$18,241.11.

**C. Events Leading up to the Chapter 11 Filing.**

The Debtor asserts that its business has been adversely affected by the rise of on-demand app-based private transportation networks, increased competition, and the public's increased use of transportation networks. Consequently, the costs of doing business as a taxicab driver and as a rideshare participant are dramatically different, inducing some drivers to abandon the traditional taxi industry for what might be perceived as better opportunities with companies such as Uber and Lyft. Given that affiliation revenue is dependent on their membership size and dues, what harms licensed cab drivers has a corresponding negative impact on the affiliations, such as the Debtor. Additionally, the judgment entered on behalf of both Marc and Deborah Jacobs in the Jacobs Action caused the this chapter 11 case, as the Debtor lacked either insurance or other assets with which to satisfy the Jacobs Judgment.

**IV. EVENTS DURING THE CHAPTER 11 CASE.**

**A. Continuation of Business After the Petition Date.**

**1. First and Second Day Motions.**

Shortly after the Petition Date, the Debtor filed a number of motions with the Bankruptcy Court seeking various forms of relief, including, without limitation, the following motions, all of which were approved by the Bankruptcy Court:

**(a) Cash Management Motion.**

*Motion of the Debtor for Entry of an Order (A) Authorizing the Continued Use of Existing Business Forms (B) Waiving Any Requirement for a Specific Account For Tax Payments and (C) Granting Related Relief.* [Motion: Docket No. 10; Order: Docket No. 28].

**(b) Insurance Motion.**

*Motion of The Debtor for Entry of An Order Authorizing Debtor to Maintain Existing Insurance Policies, Pay All Policy Premiums Arising Thereunder, and Renew or Enter Into New Policies* [Motion: Docket No. 9; Order: Docket No. 29]. By this motion, the Debtor sought to (a) maintain existing insurance policies, (b) pay all policy premiums and brokers' fees arising thereunder, whether prepetition or postpetition, and (c) renew or enter into new policies of insurance as needed, without further order of the Court. In the motion, the Debtor noted that, as required by law, and pursuant to its affiliation agreements with its members, the Debtor provided its members with general commercial automobile liability coverage for all taxicabs owned by Debtor's members. To provide this mandatory benefit to its members, the Debtor maintained three separate policies with (i) Transit General, (ii) New York Marine and General Insurance Company, and (iii) First Chicago Insurance Company.

The Debtor also noted that, as required by law, it maintained a workers' compensation insurance program to provide its members with workers' compensation insurance coverage for

claims arising from or related to their employment of individual drivers who operate taxicabs. Separately from the auto liability policies and the so-called Taxi Workers' Compensation Program, which provide coverage primarily for the Debtor's members, the Debtor was an additional named insured on several other policies maintained by TAS, which provided coverage for, among other things, general liability and casualty. None of these policies provide excess or umbrella insurance.

(c) **Employee Motion.**

*Motion of the Debtor for Entry of An Order (A) Authorizing Debtor to Pay (I) Priority Prepetition Employee Obligations, And (II) Prepetition Withholding Obligations, and (B) Directing Banks to Honor Related Transfers* [Motion: Docket No. 8; Order: Docket No. 30]. In this motion, the Debtor noted that it employed approximately twenty-five (25) employees. Out of this total, approximately three were part time workers, while twenty-two (22) were full time workers. One of the employees was salaried and the remaining employees were compensated on an hourly basis. The Debtor sought authority to pay and honor, as the case may be all, prepetition claims of its employees, including, but not limited to, claims for wages and salaries, vacation days, paid personal time off, and certain costs and disbursements related to the foregoing up to the statutory priority cap of \$12,475.00 per employee.

In addition, the Debtor sought authority to pay or honor, as the case may be, all claims or payments pursuant to the various employee benefit plans and policies which provided employees with medical and dental insurance, and other benefits as noted in the motion. Finally, the motion sought leave to pay all employee federal and state withholding and payroll-related taxes relating to prepetition periods, including, but not limited to, social security taxes, unemployment taxes, medicare taxes, and garnishments, as well as all other withholdings such as contributions to savings, retirement or pension plans, insurance contributions, and charitable contributions.

**2. Professional Retention.**

Shortly after the Petition Date, the Debtor also requested authorization to retain the following professionals, which retentions were approved by the Bankruptcy Court:

(a) **Debtor's Professionals:** (i) Dale & Gensburg, P.C.: As general bankruptcy co-counsel to the Debtor [Application: Docket No. 70; Order: Docket No. 178]; (ii) Greenberg Traurig, LLP: As general bankruptcy co-counsel to the Debtor [Application: Docket No. 71; Order: Docket No. 179]; (iii) Kirkland & Ellis LLP and Kirkland and Ellis International LLP: As special litigation counsel to the Debtor [Application: Docket No. 86; Order: Docket No. 185]; (iv) Epiq Bankruptcy Solutions, LLC: As claims and noticing agent. [Application: Docket No. 128; Order: Docket No. 168]; (v) Epiq eDiscovery Solutions, Inc.: As eDiscovery consultant to the Debtor [Application: Docket No. 208].

By letter dated April 20, 2015, with a subject line reading "Backstop of Chapter 11 Legal Fees" (the "**Backstop Letter**"), Michael Levine (Debtor's chairman, president, and indirect owner) and Patton Corrigan (Debtor's indirect owner) agreed to pay the legal fees and expenses of the Debtor's Professionals if estate funds were unavailable, as follows:

“Patton Corrigan and Michael Levine hereby agree that they are jointly and severally liable for any and all Post-Petition Legal Fees and Expenses *to the extent that [the Debtor’s estate] does not have sufficient cash available to pay* such Post-Petition Legal Fees and Expenses at the time such Post-Petition Legal Fees and Expenses become due and payable pursuant to any monthly compensation procedures order or any interim or final order allowing such fees and expenses.”

(Backstop Letter, p. 2.) In contravention of the Backstop Letter, Debtor’s Professionals have received full payment of their fees and expenses in this case without regard to whether the Debtor’s estate has had sufficient cash.

**(b) Committee:** On April 2, 2015, the United States Trustee appointed the Committee to represent the interests of unsecured creditors of the Debtor. Initially, the Committee was composed of two members: Marc Jacobs and Kwon. On April 14, 2014, the U.S. Trustee added Deborah Jacobs to the Committee. [Docket Nos. 33 and 54]. The circuit court dismissed the Debtor from the Kwon Action, and Ms. Kwon thenb withdrew as a member of the Committee . As of this date, the members of the Committee are Marc Jacobs and Deborah Jacobs. The Bankruptcy Court entered an order approving the Committee’s retention of Dykema Gossett PLLC as its counsel on April 22, 2015. [Application: Docket No. 48; Order: Docket No.77]. The Bankruptcy Court also approved the Committee’s application for authorization to retain (i) Development Specialists, Inc. as the financial advisor to the Committee, and (ii) D4 LLC as eDiscovery computer forensics consultant to the Committee. [Applications: Docket Nos. 48 and 84; Orders: Docket Nos.78 and 165].

**(c) Interim Compensation Procedures:** On June 4, 2015, the Bankruptcy Court entered an order establishing procedures for final, interim, and monthly compensation and reimbursement of expenses of professionals [Docket No. 193] (the “**Compensation Order**”). The Compensation Order delineates a procedure for: (i) submitting monthly statements and filing interim and final fee applications by all Professionals retained in this Chapter 11 Case; (ii) filing of objections to monthly fee statements and final fee applications; and (iii) payment by the Debtor of fees and reimbursement of expenses to Professionals. The Debtor’s and the Committee’s various professionals have submitted monthly statements and filed interim fee applications in accordance with the Compensation Order throughout this Chapter 11 Case.

## **B. The Debtor’s Schedules and SOFAs.**

On April 15, 2015, the Debtor filed its Schedules and SOFA. [Docket Nos. 59-63]. On April 20, 2015, the Debtor filed an Amendment and Addendum to SOFA, amending its Petition-date schedules and SOFA for the first time, including a representation (not in the Debtor’s original SOFA) that in calendar year 2014, the Debtor paid TAS the sum of \$5,377,450.05 pursuant to the Services Agreement. The Amended SOFA did not identify, as required, the amount Debtor paid to TAS for the period January 1, 2015 through March 17, 2015. The Debtor also noted payments related to debt counseling made by Patrick Corrigan and Michael Levine in the aggregate amount of \$100,000.00 [Docket No. 69]. On May 11, 2015, the Debtor filed a second Amendment to SOFA, amending statement 21(B) listing officers and directors of the Debtor and each stockholder who directly or indirectly owns, controls, or holds 5% or more of the voting or equity securities of the Debtor. [Docket No. 145].

On June 22, 2015, the Debtor filed a Supplement to Statement 4(A) of the SOFA relating to suits and administrative proceedings, executions, garnishments and attachments, amending its Petition-date schedules and SOFA for the second time. With this supplement, the Debtor noted that, as of the Petition Date, the Debtor was a party to certain listed proceedings pending before the Illinois Workers' Compensation Commission. The Debtor noted that the information attached to the Supplement was provided to the Debtor by the Debtor's insurance carriers, and that the Debtor did not get information from its insurance carriers when particular matters before the Illinois Workers' Compensation Commission were resolved. Therefore, the Debtor could not determine whether other proceedings before the Illinois Workers' Compensation Commission were resolved within one year immediately preceding the filing of this bankruptcy case. [Docket No. 217].

On June 22, 2015, the Debtor filed an Amendment its Summary of Schedules [Docket No. 212], amending its Petition-date schedules and SOFA for the third time, and amending item 16 of Schedule B, increasing its accounts receivable from \$1,596,656.01 to \$10,639,385.74, reflecting (i) dues collected by TAS in the amount of \$140,761.08 subject to its rights of setoff, (ii) past membership dues of Chicago Taxi Medallion Management, Inc. which were \$857.22 less than originally scheduled and (iii) past membership dues in the approximate amount of \$8,876,420.88 owed by TMM. [Docket No 214]. On June 22, 2015, the Debtor also amended Schedule D to list TAS as a secured creditor with a setoff claim of \$140,761.08. Further, the Debtor amended Schedule F to (i) list an unsecured claim of \$6,283,371.52 due to TAS, (ii) change the unsecured claim of TaxiWorks, LLC from \$4,034.33 to \$321,845.38, (iii) list an unsecured claim of \$1,276,435.12 due to American United, (iv) list an unsecured claim of \$280,436.41 due to Wolley, (v) list an unsecured claim of \$100,000.00 due to Metro Cabs 1 LLC, and (vi) list an unsecured claim of \$16,565.30 due to Blue Diamond (collectively, the "**June Amendments**"). As noted above, the Committee does not admit that the Debtor's characterizations of the above-described debts are accurate.

On November 12, 2015, the Debtor filed a Supplement to its SOFA, amending its Petition-date schedules and SOFA for the fourth time, supplementing statements 3(B) and 3(C) related to payments made to creditors. With this supplement, the Debtor noted that under the terms of the Services Agreement with TAS, the Debtor is required, among other things, to pay TAS for the direct and allocated expenses incurred by TAS in providing those services. This supplement purported to provide supplemental information detailing payments made by TAS in calendar year 2014 and during the time period from January 1, 2015 through March 17, 2015, respectively, and charged to the Debtor pursuant to the terms of the Services Agreement. The Debtor identified two additional direct payments made to TAS. The first payment occurred on June 27, 2015 in the amount of \$450,000 representing repayment of an advance made on June 25, 2015. The second payment occurred on January 26, 2015 in the amount of \$220,000 reversing an erroneous wire transfer made from TAS to the Debtor.

On April 21, 2016 the Debtor amended its Petition-date schedules and SOFA for the fifth time, to correct information which it indicated it discovered to be inaccurate as reflected in the amendments made on June 22, 2015 (the "**April 21 Amendment**") [Docket No.772]. The April 21 Amendment modified item 16 of Schedule B, reducing its accounts receivable from \$10,639,385.74 to \$1,622,203.78,. Additionally, TAS was removed as a creditor in Schedule D. Further, Schedule F was amended to (i) reduce TAS's unsecured claim from \$6,283,371.52 to \$45,967.20; (ii) remove the unsecured claims of Blue Diamond, Metro Cab 1, LLC, Taxi Works

and Wolley; and (iii) reduced the unsecured claim of American United from \$1,276,435.12 to \$6,550.50.

**C. Motion to Extend the Time to Remove Civil Actions.**

On July 11, 2015, the Bankruptcy Court granted Debtor's motion to extend the time within which the Debtor may file notices of removal of civil actions and proceedings in state and federal courts to which the Debtor is a party ("**Civil Actions**") and extended the time to and including December 14, 2015, within which the Debtor may file notices of removal of Civil Actions. [Docket No. 204]. On December 10, 2015, the Bankruptcy Court granted Debtor's second such motion, extending the time to and including June 13, 2016, within which the Debtor may file notices of removal of Civil Actions. [Docket No. 585]. On June 9, 2016 the Bankruptcy Court granted the Debtor's third such motion, extending the time to and including October 11, 2016, within which the Debtor may file notices of removal of Civil Actions. [Docket No. 864].

**D. Appointment of the Examiner and the Examiner's Report.**

On August 23, 2015, the Committee filed a motion seeking entry of an order appointing an examiner pursuant to section 1104(c) of the Bankruptcy Code to investigate, among other things, the relationships between the Debtor, its Affiliates (defined therein) and other entities.

On September 10, 2015, the Bankruptcy Court entered an Agreed Order Appointing the Examiner. [Docket No. 408]. Thereafter, on October 1, 2015, the Court entered an Order approving the appointment of Daniel F. Dooley as the examiner (the "**Examiner**"). [Docket. No. 437].

The "Report of the Examiner" (the "**Report**") was filed on December 7, 2015 and can be found on the bankruptcy docket maintained by the Clerk of the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, as well as on the online docket maintained by Epiq Systems Docket on behalf of Yellow Cab Affiliation, Inc., in both cases under Docket Number 572.

Among other things, the Examiner found that:

- (1) The Debtor commingles its cash with TAS, other taxi affiliation and other affiliates of Yellow Group (Examiner Report, pp. 27, 31);
- (2) The Debtor performs accounting services "significantly after the fact due to shortages in skills, manpower and priority" (Id. at p.5);
- (3) The Debtor has incomplete accounting records for 2015 that are "unusually delinquent even for distressed companies, with additional corrections yet to be identified and entered" (Id.);
- (4) The Debtor will need to correct bankruptcy reporting due to its deficient accounting records (Id.);
- (5) The Debtor has unidentifiable intercompany balances with its affiliated companies (Id. at p. 33);

(6) The Debtor makes “correcting entries” at year end that are “significant in magnitude, thus making it difficult to accurately identify actual balances owed to individual entities” (Id.);

(7) The Debtor maintains records that do not agree with TAS’s records (Id. at p. 69);

(8) TAS paid \$3 million in “Management fees” to entities affiliated with Messrs. Levine and Corrigan, (who are the Debtor’s Board Chairman/President and Vice-President, respectively) over the course of the two-year period preceding the Debtor’s bankruptcy petition, when TAS was retaining all of the dues from Debtor’s members. (Id.);

(9) The Debtor and TAS orally modified the Services Agreement—in contravention of its no-oral-modification provision—shortly after the Debtor filed its Chapter 11 petition: “In April 2015, the Services Agreement was materially modified retroactively to January 1, 2014 to waive the collection and recognition of the base fee and additional fee, and to expand the scope of the expenses for which YCA would reimburse TAS; this modification was oral and not documented in contravention to the requirements of the Service Agreement that all modification be agreed to in writing.” (Examiner’s Report, p. 42); and

(10) The Debtor paid \$7.5 million post-petition to Transit General, an insider affiliate of the Debtor sharing offices with TAS and the Debtor, whose officers include Michael Levine and Patton Corrigan. (see Examiner Report, p. 20)

#### **E. Examination Pursuant to Bankruptcy Rule 2004.**

On May 14, 2015, the Bankruptcy Court granted the Committee’s Motion for Order Directing Examination of the Debtor and Certain of the Debtor’s Affiliates Pursuant to Bankruptcy Rule 2004 (the “**Rule 2004 Motion**”), authorizing the Committee to take Bankruptcy Rule 2004(a) examinations, through subpoenas for depositions and/or documents, of the Debtor and its affiliates. [Docket No. 164].

#### **F. Trustee Motions.**

On July 30, 2015, the Bankruptcy Court denied the motion filed by the Clifford Law Offices to appoint a Chapter 11 Trustee [Docket No. 297].

On July 7, 2016, the Bankruptcy Court denied the Committee’s motion to appoint a Chapter 11 trustee in this case. [Docket No. 916].

#### **G. Motion for Derivative Standing and Substantive Consolidation.**

On February 8, 2016, the Committee filed a motion seeking permission from the Court to file a complaint requesting that the Court substantively consolidate TAS with the Debtor, attaching the proposed complaint to the motion (the “**Derivative Standing Motion**”). [Docket No. 643] The Debtor filed an objection to the Derivative Standing Motion on April 22, 2016. [Docket No. 774] By an order dated April 28, 2016, the Bankruptcy Court stayed further briefing on the Derivative Standing Motion. [Docket No. 800].



**H. Monthly and Quarterly Professional Fee Applications.**

On June 4, 2015, the Bankruptcy Court entered its “Administrative Order Establishing Procedures for Final, Interim, and Monthly Compensation and Reimbursement of Expenses of Professionals Retained in this Chapter 11 Case and Reimbursement of Expenses of Committee Members Appointed in this Chapter 11 Case.” [Docket No. 193].

Dykema Gossett PLLC (“**Dykema**”), as counsel for the Committee, and Dale & Gensburg, P.C. (“**D&G**”) and Greenberg Traurig, LLP (“**Greenberg**”), as co-counsel for the Debtor, filed quarterly fee applications as follows:

<b>Quarterly Fee Applications of Dale &amp; Gensburg, P.C.</b>			
<b>Application Period</b>	<b>Application Amount</b>	<b>Amount Granted by Court</b>	<b>Docket No.</b>
1st Quarterly Application April 2015 – May 2015	\$100,642.11	\$100,276.61	322
2d Quarterly Application June 2016 – August 2015	\$153,921.94	\$153,766.47	528
3d Quarterly Application September 2015 – November 2015	\$140,008.10	\$140,008.10	823
4th Quarterly Application December 2015 – February 2016	\$94,038.19	\$94,038.19	866
5th Quarterly Application March 2016 – May 2016	\$112,948		925

<b>Quarterly Fee Applications of Greenburg Traurig, LLP</b>			
<b>Application Period</b>	<b>Application Amount</b>	<b>Amount Granted by Court</b>	<b>Docket No.</b>
1st Quarterly Application April 2015 – May 2015	\$143,903.70	\$124,135.70	324
2d Quarterly Application June 2016 – August 2015	\$83,572.89	\$83,572.89	527
3d Quarterly Application September 2015 – November 2015	\$94,647.97	\$94,647.97	824
4th Quarterly Application December 2015 – February 2016	\$49,959.79	\$49,959.79	865
5th Quarterly Application March 2016 – May 2016	\$13,889.20US		922

<b>Quarterly Fee Applications of Dykema Gossett PLLC</b>			
<b>Application Period</b>	<b>Application Amount</b>	<b>Amount Granted by Court</b>	<b>Docket No.</b>
1st Quarterly Application April 2015 – May 2015	\$166,784.20	\$133,337.00	323
2d Quarterly Application June 2016 – August 2015	\$292,909.63	\$183,401.93	544
3d Quarterly Application September 2015 – November 2015	\$228,521.81	\$175,212.31	826
4th Quarterly Application December 2015 – February 2016	\$284,218.75	\$239,048.75	867
5th Quarterly Application March 2016 – May 2016	\$257,679.50		924

**I. Monthly Operating Reports.**

Section 586(a)(3) of Title 28 of the United States Code, directs the Office of the United States Trustee to supervise the administration of all Chapter 11 cases. To comply with this charge, the Office of the United States Trustee has established operating guidelines and reporting requirements for chapter 11 debtors and trustees. One of the requirements is that Chapter 11 debtors must file monthly operating reports with the clerk of the Bankruptcy Court, and serve a paper copy upon the Office of the United States Trustee. Monthly Operating Reports are due by the 21st day of the following month. Throughout this case, the Debtor has not complied with its obligation to file timely Monthly Operating Reports. Monthly Operating Reports include an income statement, balance sheet, and cash receipts and disbursements activity detail. Monthly Operating Reports also include select operating and financial data including, among others: accounts receivable detail and/or aging's; accounts payable detail and/or aging's; taxes paid and payable detail.

**J. TAS Services Agreement.**

As noted in Article III, Section A.1. above, the Debtor and TAS entered into the Services Agreement. The Examiner found that the Agreement was materially modified in April of 2015 "in contravention [of] the requirements of the Service Agreement that all modification be in writing. Section 3 of the Services Agreement provides that the agreement has a term of one (1) year and would expire on December 31, 2010, provided, however, that it would be automatically renewed for successive one-year terms unless either party, within sixty (60) days prior to the scheduled renewal date, notified the other of its intent to terminate the Services Agreement

On October 29, 2015, TAS provided the Debtor with written notice of its election not to renew and to terminate the Services Agreement effective on its next scheduled expiration date of December 31, 2015. (the "Alleged TAS Notice") However, the Alleged TAS Notice went on to provide that "Notwithstanding the foregoing, [TAS is] prepared to continue to provide services to [the Debtor] after the expiration of the [Services] Agreement on a month-to-month basis terminable by either party at any time upon not less than thirty (30) days written notice and otherwise upon mutually agreeable terms and conditions." The Alleged TAS Notice is addressed to Gary Sakata at the Debtor. Mr. Sakata is also the Chief Financial Officer of TAS. The signature block on the Alleged TAS Notice references [www.yellowcabchicago.com](http://www.yellowcabchicago.com), the website of the Debtor, and shows the Yellow Cab Affiliation emblem in its title. The Debtor alleges that it is currently considering its alternatives, including whether to negotiate the terms of a new agreement with TAS. Assuming that the Alleged TAS Notice was proper, if the Debtor does not enter into a new or continued agreement with TAS, it may need to find alternative providers.

**K. The Mediation and Identification of Causes of Action.**

On April 1, 2016, the Debtor and the Committee engaged in a mediation which did not result in a settlement. In connection with the mediation, the Committee submitted a "Mediation Statement" which outlined certain Causes of Action which the Committee believes are valuable assets of the Debtor's Estate. A redacted version of the Committee's Mediation Statement, which summarizes such causes of action, is attached to the Disclosure Statement as **Exhibit C.**

## **L. The Debtor's Second Amended Plan.**

On June 18, 2016, the Debtor filed its *Second Amended Chapter 11 Plan of Liquidation of Yellow Cab Affiliation, Inc.* [Docket No. 884] (the “**Debtor's Plan**”) (for a complete description of the terms of the Debtor's Plan, please refer to the Debtor's Plan and the Disclosure Statement for the Debtor's Plan). Like the Committee's Plan, the Debtor's Plan designates six (6) Classes of Claims and one (1) Class of Interests, and it provides for a liquidation of the Debtor's Assets, the creation of a Creditor Trust, the appointment of a Creditor Trustee, and distributions from the Creditor Trust to the Holders of Allowed Creditors and Interests according to the Bankruptcy Code priority scheme. However, the Debtor's Plan differs from the Committee's Plan in several key respects, including:

First, the Debtor's Plan provides for the sale of the Debtor's Business to the highest bidder under an Asset Purchase Agreement prior to the Effective Date of the Debtor's Plan, and before the vesting of the Debtor's assets into the Creditor Trust or the appointment of the Creditor Trustee. In other words, the Debtor will remain in control of the Debtor's Business, and the sale process for the disposition of the Debtor's Business, even after the confirmation of the Debtor's Plan. Under the Debtor's Plan, the Creditor Trust will only receive the net proceeds of the sale of the Debtor's Business Assets, whatever they may ultimately be, for potential distribution by the Creditor Trustee to Creditors.

Second, YCA Acquisition, LLC, (the “**Optionor**”) a limited liability company affiliated with the Debtor, will grant to the Debtor the right and option to require Optionor to purchase either all of the Debtor's operating assets, or alternatively, at Optionor's election, issue to Optionor the newly issued stock in the Reorganized Debtor free and clear of all liens, claims, encumbrances and interests, of any nature (the “**Put Option**”) at a price of \$600,000.00 (the “**Put Price**”), pursuant to the terms of a Put Agreement which will be attached to the Plan Supplement. The Put Option can only be exercised by the Debtor (as the Creditor Trustee will not be appointed until after any such sale) if as of the Auction Date established in the Bid Procedures proposed by the Debtor the Investment Banker retained by the Debtor has not obtained a qualified bid that is higher and better than the Put Price. The Committee asserts that the \$600,000 Put Price not only will not generate enough proceeds for the Debtor to satisfy its obligations to Holders of Allowed Administrative Claims, but also that the Put Option represents an unreasonably low offer for the purchase of the Debtor's Assets, especially when considered as an offer by an insider/affiliate of the Debtor.

Third, Yellow Group agreed to enter into something called the “Yellow Group Options” with the Debtor, under which, if accepted by the Creditor Trustee, the Yellow Group Options will grant to the purchaser of all of the Debtor's operating assets an option to purchase for the exercise price of one dollar (\$1.00) (i) a license to the “Yellow Cab” trade name, service mark, related trade dress, logos, and the telephone number “312-TAXICAB”, on the same terms and conditions provided to TAS, and (ii) the membership interests in TAS, in exchange for which the Debtor, Reorganized Debtor, Creditor Trust and TAS would provide releases to (i) Michael Levine, (ii) Patton Corrigan, (iii) all officers, directors and employees of the Debtor, (iv) all entities related to or affiliated with Levine, Corrigan, the Debtor and TAS (collectively, the “Debtor/TAS Affiliates”), and (v) all officers, directors and employees of the Debtor/TAS Affiliates (collectively, the “YG Released Parties”), from any and all claims, obligations, suits, judgments, damages, losses, rights, remedies, causes of action, charges, costs, debts,

indebtedness, or liabilities whatsoever, including Avoidance Actions, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, that the Debtor, Reorganized Debtor, Creditor Trust, or TAS may have against the YG Released Parties. The Committee believes (1) that the license granted by the Yellow Group Options is highly problematic, , and (2) in any event the Debtor's Causes of Action which would be released in exchange for the Yellow Group Options have value which far exceed the value of the Yellow Group Options.

**M. The Sakata Deposition and Rule 30(b)(6) Deposition of the Debtor.**

On August 18, 2016, the Committee took the deposition of Gary Sakata, the Debtor's Secretary and Treasurer ("Mr. Sakata"), under Bankruptcy Rule 2004 (the "Sakata Deposition"). During the deposition, Mr. Sakata admitted, among other things, that (i) his "boss" is TAS' President, John Moberg, (ii) the Debtor has no plan in place if TAS terminates its contract with the Debtor, and (iii) the Debtor has not investigated other vendors to replace TAS.

In addition, through Mr. Sakata's deposition testimony, the Debtor for the first time provided details for the amounts being paid by the Debtor to TAS. Prior to the Sakata Deposition, the Debtor had alleged that "the weekly charges from TAS are for a fixed sum of approximately \$101,000."<sup>14</sup> In contrast to that statement, during the Sakata Deposition, Mr. Sakata informed the Committee that:

- TAS charged the Debtor \$101,187.00 per week for expense reimbursement through July 2015 after which it was retroactively reduced to \$79,812.16 per week.
- A reconciliation of TAS expenses for the second half of 2015 indicated a weekly reimbursement rate of \$74,638.98.
- A reconciliation of TAS expenses for the first quarter of 2016 indicated a weekly reimbursement rate of \$72,952.97.
- In May 2016, TAS charged the Debtor for "bankruptcy fees" in the amount of \$31,099.13 but to-date has not provided any details of these expenses.

Based upon this information, the Committee believes that TAS has been overcharging the Debtor for services during the Bankruptcy Case.

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<sup>14</sup> See Objection of Yellow Cab Affiliation, Inc. To Motion of the Official Committee of Unsecured Creditors to Compel Payment of the Allowed Fees and Expenses of Committee Professionals filed on June 10, 2016 [Docket No. 869].

## V. SUMMARY OF THE COMMITTEE'S PLAN OF LIQUIDATION.

The following sections summarize the salient provisions of the Committee's Plan. This summary refers to, and is qualified in its entirety by, reference to the Committee's Plan, a copy of which is attached hereto as **Exhibit A**. **THE TERMS OF THE COMMITTEE'S PLAN WILL GOVERN IN THE EVENT ANY INCONSISTENCY ARISES BETWEEN THIS SUMMARY AND THE COMMITTEE'S PLAN.** Therefore, parties are encouraged to review the Committee's Plan in its entirety for a full understanding of its provisions and its impact on Creditors and Holders of Equity Interests.

The Court has not yet confirmed the Committee's Plan described in this Disclosure Statement. In other words, the terms of the Committee's Plan do not yet bind any person or entity. **HOWEVER, IF THE BANKRUPTCY COURT CONFIRMS THE COMMITTEE'S PLAN AND THE COMMITTEE'S PLAN BECOMES EFFECTIVE, THE COMMITTEE'S PLAN WILL BIND ALL HOLDERS OF CLAIMS OR INTERESTS.**

### A. Treatment of Unclassified Claims Under the Committee's Plan.

Unclassified Claims are Unimpaired by the Committee's Plan. The following are the unclassified Claims: Administrative Claims and Priority Tax Claims.

#### 1. Administrative Claims.

Administrative Claims are (a) any cost or expense of administration of the Bankruptcy Case under Section 503(b) or 507(a)(1) of the Bankruptcy Code, to the extent the party claiming any such cost or expense files an application, motion, request or other Bankruptcy Court-approved pleading seeking such expense in the Bankruptcy Case on or before the applicable Administrative Expense Claim Bar Date, including (i) any actual and necessary costs and expenses of preserving the Estate or operating the business of the Debtor (including wages, salaries, or commissions for services rendered) incurred on or after the Petition Date, (ii) any Postpetition cost, indebtedness or contractual obligation duly and validly incurred or assumed by the Debtor-in-Possession in the ordinary course of its businesses, (iii) any Claim granted administrative priority status by a Final Order of the Bankruptcy Court, (iv) any Claim by a Governmental Unit for taxes (and for interest and/or penalties related to such taxes) due from the Debtor for any Postpetition tax year or period, and (v) compensation or reimbursement of expenses of Professionals (other than Bankruptcy Counsel, who shall be paid by Messrs. Patton Corrigan and Michael Levine in the manner that those individuals paid Bankruptcy Counsel during the Case) awarded or allowed pursuant to an order of the Bankruptcy Court under Section 330(a) or 331 of the Bankruptcy Code (including any amounts held back pursuant to an order of the Bankruptcy Court); (b) all fees and charges assessed against the Estate under Chapter 123 of Title 28, United States Code, 28 U.S.C. §§ 1911-1930; and (c) any and all other costs or expenses of administration of the Bankruptcy Case that are allowed by a Final Order of the Bankruptcy Court; provided, however, that the term "Administrative Expense" does not include any Priority Tax Claim, any Cure Claim, any Disallowed Claim, or, unless otherwise expressly provided in the Committee's Plan, any of the Claims in Classes 1 through 7. In no event shall any Claim set out in a Proof of Claim be deemed to be an Administrative Expense (except for

any Claim by a Governmental Unit for taxes, as well as for interest and/or penalties related to such taxes, due from the Debtor for any Postpetition tax year or period).

The Bankruptcy Code does not require that administrative expense claims be classified under a plan. It does require, however, that allowed administrative expense claims be paid in full in cash in order for a plan to be confirmed, unless the holder of such claim consents to different treatment.

Treatment: Except as provided in Sections 2.1.2, 2.1.3 and 8.1 of the Committee's Plan, each Holder of an Allowed Administrative Claim (including Allowed Administrative Claims of Professionals other than Bankruptcy Counsel, who shall be paid by Messrs. Patton Corrigan and Michael Levine in the manner that those individuals paid Bankruptcy Counsel during the Case) shall be paid (a) on the Effective Date, an amount, in Cash, by the Creditor Trustee equal to the Allowed amount of such Holder's Administrative Claim, in accordance with Section 1129(a)(9)(A) of the Bankruptcy Code, or (b) on such other terms as may be mutually agreed upon by both the Holder of such Allowed Administrative Claim and the Creditor Trustee, in accordance with Section 1129(a)(9)(A) of the Bankruptcy Code, or (c) as otherwise ordered by a Final Order of the Bankruptcy Court. All unpaid fees and charges assessed against the Estate under Chapter 123 of Title 28, United States Code, 28 U.S.C. §§ 1911-1930, for any calendar quarter (or portion thereof) ending prior to the Effective Date shall be paid to the United States Trustee by the Creditor Trustee as soon as practicable after the Effective Date. Following the Effective Date, any fees required to be paid to the United States Trustee, pursuant to 28 U.S.C. §1930(a)(6), with respect to the Bankruptcy Case, shall be paid by the Creditor Trust until the earlier of (i) the closing of the Bankruptcy Case by the issuance of a Final Decree by the Bankruptcy Court, or (ii) the entry of an order by the Bankruptcy Court dismissing the Bankruptcy Case or converting the Bankruptcy Case to a case under another chapter under the Bankruptcy Code. Any such payment to the United States Trustee shall be in the appropriate sum required pursuant to 28 U.S.C. §1930(a)(6) based upon the applicable disbursements for the relevant period and shall be made within the time period set forth in 28 U.S.C. §1930(a)(6).

Notwithstanding the foregoing, all Allowed Administrative Claims with respect to liabilities incurred by the Debtor in the ordinary course of business during the Bankruptcy Case, other than fees and expenses of Professionals, shall be paid by the Creditor Trustee (a) in the ordinary course of business in accordance with contract terms, (b) on such other terms as may be mutually agreed upon by the Holder of such Allowed Administrative Claim and the Creditor Trustee, as the case may be, or (c) as otherwise ordered by a Final Order of the Bankruptcy Court.

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

Holders of Administrative Claims, except Professionals, shall file requests for payment, in writing, together with supporting documents, substantially complying with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, **so as to actually be received on or before the Administrative Claim Bar Date.** Professionals' final requests for payment of fees and reimbursement of expenses shall be filed with the Court on or before the 60th day after the Effective Date. Any such Claim not filed by the Administrative Claim Bar Date shall be deemed waived and the Holder of such Claim shall be forever barred from receiving payment on account thereof. For purposes of the Committee's Plan, "Administrative Expense Claim Bar Date"

means the date(s) established by one or more orders of the Bankruptcy Court as the deadline for the filing by any Creditor or other party in interest (including any Professional) of an application, motion, request or other Bankruptcy Court-approved pleading for allowance of any Administrative Expense Claim, including as established in the Disclosure Statement Approval Order. Any Holder of an Administrative Expense Claim (including a Holder of a Claim for Postpetition federal, state or local taxes) that does not file an application, motion, request or other Bankruptcy Court-approved pleading by the applicable Administrative Expense Claim Bar Date shall be forever barred, estopped and enjoined from ever asserting such Administrative Expense Claim against the Debtor, the Creditor Trust, or any of their Properties or against the Estate, and such Holder shall not be entitled to participate in any Distribution under the Committee's Plan on account of any such Administrative Expense Claim.

Administrative Expense Claims for any fees and charges assessed against the Estate pursuant to Section 1930 of Title 28 of the United States Code and any fees, costs and expenses incurred by the Debtor in administering the provisions of this Committee's Plan prior to the Effective Date, shall be exempt from the Administrative Expense Claim Bar Date.

### **3. Priority Tax Claims.**

Priority Tax Claims refers to a Claim of a Governmental Unit that is entitled to a priority in payment pursuant to Section 507(a)(8) of the Bankruptcy Code and that is not an Administrative Expense Claim, a Priority Claim, a Secured Claim, or an Unsecured Claim.

The taxes entitled to priority are: (a) taxes on income or gross receipts that meet the requirements of Section 507(a)(8)(A); (b) property taxes meeting the requirements of Section 507(a)(8)(B); (c) taxes that were required to be collected or withheld by the Debtor and for which the Debtor is liable in any capacity as described in section 507(a)(8)(C); (d) employment taxes on wages, salaries, or commissions that are entitled to priority pursuant to section 507(a)(4), to the extent such taxes also meet the requirements of section 507(a)(8)(D); (e) excise taxes of the kind specified in section 507(a)(8)(E); (f) customs duties arising out of the importation of merchandise that meet the requirements of section 507(a)(8)(F); and (g) prepetition penalties relating to any of the foregoing taxes to the extent such penalties are in compensation for actual pecuniary loss as provided in section 507(a)(8)(G).

The Bankruptcy Code does not require that Priority Tax Claims be classified under a plan. It does require, however, that such claims receive the treatment described below in order for a plan to be confirmed unless the holder of such claims consents to different treatment.

Treatment: Under the Committee's Plan, each Holder of an Allowed Priority Tax Claim shall receive from the Creditor Trustee, on account of such Allowed Priority Tax Claim, at the election of the Creditor Trustee, either payment on the Effective Date, or regular installment payments in Cash beginning on the Effective Date in accordance with Section 1129(a)(9)(C) of the Bankruptcy Code. If the distribution is made through regular installment payments, Holders of Allowed Priority Tax Claims shall receive interest on account of their Allowed Priority Tax Claims at the rate established for delinquent tax obligations pursuant to 26 U.S.C. §6621; provided, however, that if the Holder of such Allowed Priority Tax Claim is a city, county or state, such Holder shall receive interest on account of its Allowed Priority Tax Claim at the applicable statutory rate under state law. Notwithstanding the above, each Holder of an Allowed



Priority Tax Claim may be paid (a) on such other terms as may be mutually agreed upon by both the Holder of such Allowed Priority Tax Claim and the Creditor Trustee, or (b) as otherwise ordered by a Final Order of the Bankruptcy Court.

**B. Treatment of Classified Claims and Equity Interests Under the Committee’s Plan.**

The treatment of Claims against and Equity Interests in the Debtor is set forth in detail in Article 4 of the Committee’s Plan. Claims and Equity Interests are classified for all purposes, including voting (if applicable), confirmation and distribution pursuant to the Committee’s Plan as follows:

Class 1 – Priority Claims	Class 1 consists of all Priority Claims.
Class 2 – Prepetition Secured Claim of New York Marine and General Insurance Company	Class 2 consists of the Prepetition Secured Claim of New York Marine and General Insurance Company.
Class 3 – Prepetition Secured Claims of Affiliates of the Debtor	Class 3 consists of the Prepetition Secured Claims of Affiliates of the Debtor
Class 4: Damage Claims (Deficiency Rights Waived)	Class 4 consists of all Holders of Damage Claims who have waived any and all deficiency claims against the Debtor and have agreed to seek recovery only from Debtor’s insurance policies.
Class 5: Damage Claims (Deficiency Rights Preserved)	Class 5 consists of all Holders of Damage Claims who have not waived any and all deficiency claims against the Debtor and have not agreed to seek recovery only from Debtor’s insurance policies.
Class 6: Unsecured Claims (Unsecured Claims Not Otherwise Classified)	Class 6 consists of all Unsecured Claims not otherwise classified in the Committee’s Plan.
Class 7: Equity Interests	Class 7 consists of all Equity Interests.

Unless the Holder of an Allowed Claim or Allowed Equity Interest and the Debtor, or the Creditor Trustee, as applicable, agree to a different treatment, each Holder of an Allowed Claim or Allowed Equity Interest shall receive the following treatment in accordance with Article 4 of the Committee’s Plan:

**1. Class 1: Priority Claims.**

Under the Committee’s Plan, “Priority Claim” is a Claim entitled to a priority in payment pursuant to Sections 507(a)(4) and (5) of the Bankruptcy Code and that is not an Administrative Expense Claim, a Priority Tax Claim, a Secured Claim, or an Unsecured Claim. Each Holder of

an Allowed Priority Claim shall be paid (a) on the Distribution Date, an amount, in Cash, by the Creditor Trustee equal to the Allowed Amount of such holder's Priority Claim in accordance with Section 1129(a)(9)(B) of the Bankruptcy Code, (b) as otherwise agreed to by the Creditor Trustee and the Holder of an Allowed Priority Claim, or (c) as otherwise ordered by a Final Order of the Bankruptcy Court. Class 1 is Unimpaired by the Committee's Plan. Each Holder of a Priority Claim in Class 1 is conclusively presumed to have accepted the Committee's Plan and is not entitled to vote to accept or reject the Committee's Plan.

**2. Class 2: Secured Claim New York Marine and General Insurance Company.**

Under the Committee's Plan, "Secured Claim" is a Claim of a Creditor that is (a) secured in whole or in part, as of the Petition Date, by a Lien (i) on Collateral and (ii) which is valid, perfected and enforceable under applicable law and is not subject to avoidance under the Bankruptcy Code or applicable non-bankruptcy law, or (b) subject to setoff under Section 553 of the Bankruptcy Code, but, with respect to both (a) and (b) above, only to the extent of the value of such Creditor's interest in the Estate's interest in such Collateral or the amount subject to setoff, as the case may be. Except as otherwise provided in the Committee's Plan, if the value of a Creditor's interest in the Estate's interest in such Collateral or the amount subject to setoff is less than the amount of the Allowed Claim, then such deficiency shall constitute an Unsecured Claim.

Class 2 consists of the Pre-Petition Secured Claim of New York Marine and General Insurance Company, which consists of a Cash Deposit of approximately \$400,000.00. The legal, equitable and contractual rights of New York Marine and General Insurance Company under its contract with the Debtor shall remain unaltered under the Committee's Plan.

The Class 2 Claim of New York Marine and General Insurance Company is Unimpaired by the Committee's Plan and, therefore, is not entitled to vote to accept or reject the Committee's Plan.

**3. Class 3: Prepetition Secured Claims of Affiliates of the Debtor.**

Class 3 consists of the alleged prepetition Secured Claims of American United, Metro Cabs 1 LLC, TAS, Taxi Works, and Wolley, to the extent secured by rights of offset or recoupment or by counterclaim rights. American United has filed a proof of claim asserting a right of set off or recoupment in the amount of \$1,282,985.62. Metro Cabs 1, Inc. has filed a proof of claim asserting a right of set off or recoupment in the amount of \$100,000.00. TAS has filed a proof of claim asserting a right of set off or recoupment in the amount of \$96,379.34. Taxi Works has filed a proof of claim asserting a right of set off or recoupment in the amount of \$321,845.38, and Wolley has filed a proof of claim asserting a right of set off or recoupment in the amount of \$280,436.41. Under the Committee's Plan, the legal, equitable and contractual rights of the Holders of Allowed Class 3 Claims shall be unaltered.

The Class 3 Secured Claims of the Affiliates are deemed unimpaired by the Committee's Plan and, therefore, these Claimants are not entitled to vote to accept or reject the Committee's Plan.

**4. Class 4: Damage Claimants (Deficiency Rights Waived).**

Class 4 consists of those individuals or entities who (i) have asserted Damage Claims, and (ii) have elected, in the Damage Claim Ballot, to waive any and all deficiency claims against the Debtor, that is, agreed to be paid solely from the proceeds of any applicable Insurance Policy with respect to the Insured Portion of the Claim. Under the Committee's Plan, a "Damage Claim" is defined as an unliquidated pre-petition Claim which was initiated (whether or not an actual lawsuit was commenced) prior to or after the Petition Date in which allegations of personal injury, wrongful death, property damage, or bodily injury and other similar Claims that accrued prior to the Petition Date are asserted against the Debtor, the Debtor's current or former employees, or entities indemnified by the Debtor for which the Debtor may have ultimate liability. A "Damage Claim Ballot" is a Ballot, accompanying the Disclosure Statement and the Committee's Plan, on which Holders of Damage Claims entitled to vote on the Committee's Plan may indicate their acceptance or rejection of the Committee's Plan and elect to waive or preserve their right, if any, to pursue a deficiency claim against the Debtor, all in accordance with the Voting Instructions.

On the Effective Date, the automatic stay and any applicable injunctions will be modified to allow the Holders of these Damage Claims to litigate and liquidate their Claims against the Debtor and to seek payment of those Claims solely under any applicable Insurance Policy. For these purposes only, Section 10.3 of the Committee's Plan will not apply with respect to Holders of Class 4 Claims. All Allowed Class 4 Damage Claim shall be paid solely by the applicable insurer(s) under any applicable Insurance Policy and solely to the extent of the Insured Portion of each such Claim from proceeds of such applicable Insurance Policy and any other Claims of Holders of Class 4 Claims against the Debtor in excess of the applicable insurance policy are waived as of the Effective Date.

Class 4 is Impaired by the Committee's Plan. Each Holder of a Class 4 Damage Claim is entitled to vote to accept or reject the Committee's Plan.

**5. Class 5: Damage Claims (Deficiency Rights Preserved).**

Class 5 consists of the Claims of those individuals or entities who (i) have asserted Damage Claims; and (ii) have elected, in the Damage Claim Ballot, to preserve their right to pursue recoveries from any applicable Insurance Policy and the Creditor Trust to the extent that the proceeds of such Insurance Policies do not satisfy the Claim in full, and who have not elected to opt into Class 4.

Given the nature and extent of Class 5 Damage Claims, the Committee believes that ADR Procedures will greatly expedite the resolution of the Class 5 Damage Claims while saving the Estate and the Holders of Class 5 Claims substantial litigation costs. The ADR Procedures will apply to all Class 5 Claims. A Class 5 Claim will be subject to the ADR Procedures upon service by the Creditor Trustee of an ADR Notice (as defined below) on a Holder of a Class 5 Claim or its counsel, if such counsel is known. The automatic stay and any applicable injunctions shall be modified, following the filing of a stipulation with the Court, which notes that both (i) the Holder of the Class 5 Claim fully participated in good faith in the ADR Procedure, and (ii) the Class 5 Damage Claim has not been resolved through the ADR Procedure.

Upon the modification of the ADR Injunction and any automatic stay, the Class 5 Damage Claim may then be liquidated in the non-bankruptcy court where it was originally filed or, if a lawsuit against the Debtor had not been filed before the Petition Date, in any court of competent jurisdiction. Any resulting Allowed Class 5 Damage Claim shall first be paid by the applicable insurer(s) under any applicable Insurance Policy to the extent of the Insured Portion of each such Claim from the proceeds of such applicable Insurance Policy. To the extent of the amount of any Allowed Class 5 Claim in excess of the Insured Portion, except to the extent that a Holder of the Uninsured Portion of an Allowed Class 5 Claim agrees to less favorable treatment, the Uninsured Portion of each Allowed Class 5 Damage Claim shall receive, in full and final satisfaction, settlement, release and discharge of said claim, a beneficial interest in the Creditor Trust, entitling such Holder of an Allowed Class 5 Claim to a Pro Rata share of the distributions from the Creditor Trust equal to such Allowed Class 5 Claim divided by the combined amount of the Uninsured Portion of all Allowed Class 5 Claims and all Class 6 Claims.

Class 5 is Impaired by the Plan. Each Holder of a Class 5 Damage Claim will receive a Class 5 Ballot that will become a Class 4 ballot if the Holder opts into Class 4, in which case the Holder's claim will be treated as a Class 4 claim.

**6. Class 6: Unsecured Claims (Unsecured Claims Not Otherwise Classified).**

Class 6 consists of all Unsecured Claims not otherwise classified in the Committee's Plan, including, without limitation, the Jacobs Judgment. Proofs of claims totaling approximately \$31,544,376.28, which are not Damage Claims, have been filed against the Debtor. Under the Committee's Plan, an "Unsecured Claim" is defined as any Claim which is not an Administrative Expense Claim, Priority Tax Claim, Priority Claim, Secured Claim, or Cure Claim, including (a) any Claim arising from the rejection of an executory contract or unexpired lease under Section 365 of the Bankruptcy Code, (b) except as otherwise provided in the Committee's Plan, any portion of a Claim to the extent the value of the Creditor's interest in the Estate's interest in the Collateral securing such Claim is less than the amount of the Allowed Claim, or to the extent that the amount of the Claim subject to setoff is less than the amount of the Allowed Claim, as determined pursuant to Section 506(a) of the Bankruptcy Code, (c) any Claim arising from the provision of goods or services to the Debtor prior to the Petition Date, and (d) any Claim designated as an Unsecured Claim elsewhere in the Committee's Plan.

In lieu of a cash payment and in full and final satisfaction, settlement, release and discharge of said claim, except to the extent that a Holder of an Allowed Class 6 Claim agrees to less favorable treatment, each Holder of an Allowed Class 6 Claim shall receive a beneficial interest in the Creditor Trust, entitling such Holder of an Allowed Class 6 Claim to a Pro Rata share of the distribution from the Creditor Trust equal to such Allowed Class 6 claim divided by the combined amount of the Uninsured Portion of all Allowed Class 5 Claims and all Class 6 Claims.

Class 6 is Impaired by the Committee's Plan. Each Allowed Holder of a Class 6 Damage Claim is entitled to vote to accept or reject the Committee's Plan.

**7. Class 7: Equity Interests.**

Class 7 consists of all of the Equity Interests. Under the Committee's Plan, the term "Equity Interests" references the interests in the Debtor represented by the stock of the Debtor issued on and outstanding on the Petition Date. On the Effective Date, all Equity Interests in the Debtors will be cancelled as of the Effective Date. Holders of Class 7 Equity Interests are deemed to have rejected the Committee's Plan.

**C. Means of Implementation of the Committee's Plan.**

**1. Establishment of the Creditor Trust.**

On the Effective Date, all of the Debtor's Assets shall automatically be transferred to and vest in the Creditor Trust. The Creditor Trustee shall operate the Debtor's Business and then liquidate the Creditor Trust Assets as soon as the Creditor Trustee deems appropriate in the exercise of his sole discretion. The Creditor Trust will have exclusive access to all bank accounts of the Debtor. Immediately after the Effective Date, the Debtor shall execute the Creditor Trust Agreement and shall take all other steps necessary to establish the Creditor Trust pursuant to the Creditor Trust Agreement. The Creditor Trust is established under this Plan to administer all Assets (including Causes of Action) of, and Claims against, the Debtor's Estate.

**2. Appointment of the Creditor Trustee.**

Patrick O'Malley of Development Specialist, Inc. shall become the Creditor Trustee on the Effective Date in accordance with the Creditor Trust Agreement, and shall have the powers and responsibilities set forth in the Committee's Plan and in the Creditor Trust Agreement.

The Creditor Trustee shall serve as the successor in interest to the Debtor's Estate pursuant to section 1123(b)(3) of the Bankruptcy Code and, as such, shall have all rights and authority to operate the Debtor's Business, administer Claims, liquidate the Creditor Trust Assets, pursue Causes of Action and distribute the Proceeds of said liquidation for the benefit of Creditors and Equity Security Holders as provided in the Committee's Plan. Accordingly, the Creditor Trustee shall hold and administer the Creditor Trust Assets pursuant to the terms of the Committee's Plan and the Creditor Trust Agreement by engaging in the following activities: (a) operating the Debtor's Business, (b) conducting a sale, transfer, lease or other disposition of the Creditor Trust Assets; (c) pursuing the Causes of Action assigned to the Creditor Trust; (d) making all required Distributions to the beneficiaries of the Creditor Trust as provided for in the Committee's Plan and in the Creditor Trust Agreement; and (e) taking any other actions as may be necessary or appropriate to effectuate any of the foregoing.

The Creditor Trustee will serve from and after the Effective Date for as long as the Creditor Trust remains in existence, or until a successor is appointed.

Unless expressly required in the Committee's Plan, the Creditor Trustee shall have the authority to take all actions necessary or appropriate to implement the Committee's Plan without further order or approval from the Bankruptcy Court

Notwithstanding anything to the contrary in the Committee's Plan, any disclosure or examination of any document which is privileged from disclosure or discovery under state or

federal law (a “**Privileged Document**”) shall be limited to the Creditor Trustee and the attorneys whom the Creditor Trustee has retained on behalf of the Creditor Trust for the purpose of pursuing Causes of Action, those attorneys’ administrative support personnel, and any experts (both testifying and consulting, non-testifying) retained by the Creditor Trustee on behalf of the Creditor Trust for the purpose of assisting the Creditor Trustee in pursuing Causes of Action or claims. Nothing in the Committee’s Plan shall constitute a waiver of any privilege claims over any of the documents, including the Privileged Documents that are produced to or received by the Creditor Trust or Creditor Trustee. For the avoidance of doubt, the Creditor Trust is a successor-in-interest to the Debtor, and thus, the transfer of the Privileged Documents as provided herein does not impair or waive any privilege.

Subject to the approval of the Bankruptcy Court and the satisfaction or waiver of the conditions precedent to the occurrence of the Effective Date contained in Section 9.2 of the Committee’s Plan, on, as of, or as soon as practicable after the Effective Date, as the case may be, the following actions shall occur:

- All Assets will be automatically transferred and conveyed to, and vested in, the Creditor Trust;
- The Creditor Trust shall make the Initial Distribution, if any, as provided in Section 8.1 of the Committee’s Plan;
- The Creditor Trustee shall initiate the ADR Procedures;
- The Creditor Trustee shall be automatically substituted for the Debtor as a party in in the Bankruptcy Case and in all contested matters, adversary proceedings, administrative proceedings and lawsuits, both within and outside of the Bankruptcy Court, involving the Debtor’s Assets, and the Causes of Action; and
- The Creditor Trust shall carry out its other Effective Date responsibilities under the Committee’s Plan, including, without limitation, the execution and delivery of all documentation contemplated by the Committee’s Plan and the Committee’s Plan Documents.

In implementing the Committee’s Plan, the Creditor Trustee shall have the authority to exercise the following powers and perform the following acts, pursuant to the terms of the Creditor Trust Agreement.

- Operate the Debtor’s Business for such period of time as the Creditor Trustee deems appropriate in the exercise of his sole discretion prior to conducting a sale of the Debtor’s Business, and hire such persons (including, without limitation, employees of the Debtor) as the Creditor Trustee deems necessary for operation of the Debtor’s Business). The Creditor Trustee anticipates hiring Jeffrey Feldman to assist the Trustee in operating the Debtor’s business. Mr. Feldman served as President of Yellow Cab Affiliation and its predecessor-in-interest from 1983 to 2000, and served as President of Taxi Medallion Management, LLC from 2006 to 2012;

- Retain an investment banker or such other professionals the Creditor Trustee deems necessary, to market and sell the Debtor's Business;
- Establish bidding procedures and conduct an auction for the sale of the Debtor's Business and other Creditor Trust Assets;
- Borrow funds necessary to administer the Creditor Trust;
- Administer and monetize the Creditor Trust Assets;
- Collect all accounts receivable of the Debtor;
- Object to Claims and resolve Disputed Claims;
- Investigate, pursue, litigate, settle or abandon any Causes of Action;
- Implement the ADR Procedures described in Section 7.15 of the Committee's Plan;
- Make Distributions in accordance with the terms of the Committee's Plan and the Creditor Trust Agreement;
- Prepare and file post-Effective Date operating reports;
- Prepare and file appropriate tax returns in the exercise of its fiduciary obligations;
- Perfect and secure all rights, titles and interests in and to any and all Creditor Trust Assets;
- Conserve, protect, collect and liquidate or otherwise convert all Creditor Trust Assets into Cash;
- Make Distributions to the appropriate beneficiaries from the Creditor Trust, as specified in this Plan and the Creditor Trust Agreement;
- Release, convey, subordinate or assign any right, title or interest in or to the Creditor Trust Assets, to the extent provided for in the Committee's Plan;
- Establish and maintain reserves as the Creditor Trustee deems necessary or appropriate;
- Pay and discharge any costs, expenses, fees or obligations deemed necessary to preserve and maximize the value of the Creditor Trust Assets, and to protect the Creditor Trust and the Creditor Trustee from liability;
- Deposit Creditor Trust funds and draw checks and make Distributions thereof;

- Employ such attorneys, accountants, engineers, agents, tax specialists, other professionals, and clerical assistance as the Creditor Trustee may deem necessary or appropriate;
- Pay reasonable fees and expenses of all such professionals of the Creditor Trust on such terms as the Creditor Trustee and said professionals agree;
- Exercise any and all powers granted the Creditor Trustee by any agreements or by Illinois common law or any statute that serves to increase the extent of the powers granted to the Creditor Trustee hereunder;
- Take any action required or permitted by the Committee's Plan or the Creditor Trust Agreement;
- Assert Claims, Objections, Litigation Claims and/or Causes of Action in federal or state court or any other tribunal with competent jurisdiction and authority to adjudicate such actions;
- Settle, compromise or adjust by arbitration, or otherwise, any disputes or controversies in favor or against the Creditor Trust;
- Waive or release rights of any kind;
- Appoint, remove and act through agents, managers and employees and confer upon them such power and authority as may be necessary or appropriate;
- Negotiate, renegotiate or enter into any contract or agreements binding the Creditor Trust, and to execute, acknowledge and deliver any and all investments that are necessary, required or deemed by the Creditor Trustee to be necessary or appropriate in connection with the performance of his/her duties;
- Designate one or more successor Creditor Trustees; and
- In general, without in any manner limiting any of the foregoing, deal with the Trust Assets or any part or parts thereof in all other ways as would be lawful for any Person owing the same to deal therewith, whether similar to or different from the ways above specified, at any time or times hereafter. In connection with the handling of Trust Assets, the Creditor Trustee shall comply with all provisions of the Internal Revenue Code by, among other things, filing Creditor Trust tax returns as required by applicable law and by paying any and all taxes incurred by the Creditor Trust as such taxes come due.

### **3. Treatment of Creditor Trust for Federal Income Tax Purposes.**

The Creditor Trust is intended to qualify as a creditor trust pursuant to Treasury Regulation Section 301.7701-4(d) and as a grantor trust pursuant to Treasury Regulation Section 1.671-4(a), with no objective to continue or engage in the conduct of a trade or business except to the extent reasonably necessary to, and consistent with, the purpose of the Creditor Trust. In the event the Creditor Trust shall fail or cease to qualify as a creditor trust in accordance with



Treasury Regulations Section 301.7701-4(d), the parties to the Creditor Trust Agreement intend that the Creditor Trustee take such action as it shall deem appropriate to have the Creditor Trust classified as a partnership for federal tax purposes under Treasury Regulations Section 301.7701-3 (but not a publicly traded partnership under Code Section 7704), including, if necessary, creating or converting it into a Illinois limited liability company.

For all United States federal income tax purposes, all parties (including, without limitation, the Debtor, the Creditor Trustee, and the beneficiaries) shall treat the transfer of the Creditor Trust Assets to the Creditor Trust as (1) a transfer by the Debtor of the Creditor Trust Assets (subject to any obligations relating to those assets) directly to the beneficiaries in full satisfaction of the beneficiaries' claims against the Debtor and, to the extent Creditor Trust Assets are allocable to Disputed Claims, to the Distribution Reserve Account (as defined in the Creditor Trust Agreement), followed by (2) the transfer by such beneficiaries to the Creditor Trust of the Creditor Trust Assets in exchange for such beneficiaries interest in the Creditor Trust Assets. Accordingly, the Creditor Trust beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Creditor Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for all state, provincial, territorial and local income tax purposes

The Creditor Trust shall file returns for the Creditor Trust, except with respect to the Disputed Claims Reserve, as a grantor trust pursuant to Treasury Regulation Section 1.671-4(a) and in accordance with Section 7.3.3 of the Committee's Plan. The Creditor Trust's taxable income, gain, loss, deduction or credit will be allocated to each holder in accordance with their relative beneficial interests in the Creditor Trust. As soon as possible after the Effective Date, the Creditor Trust shall make a good faith valuation of assets of the Creditor Trust, and such valuation shall be used consistently by all parties for all federal income tax purposes. The Creditor Trust also shall file (or cause to be filed) any other statements, returns, or disclosures relating to the Creditor Trust that are required by any Governmental Unit for taxing purposes. The Creditor Trust shall file all income tax returns with respect to any income attributable to the Creditor Trust Assets and shall pay any federal, state and local income taxes attributable to the Creditor Trust Assets, based on the items of income, deduction, credit or loss allocable thereto.

The Creditor Trust may request an expedited determination of Taxes of the Debtor or of the Creditor Trust, including the Distribution Reserve Account, under Bankruptcy Code Section 505(b) for all returns filed for, or on behalf of, the Debtor and the Creditor Trust for all taxable periods through the dissolution of the Creditor Trust. The Creditor Trustee shall be responsible for filing all federal, state, local and foreign tax returns for the Debtor and the Creditor Trust. The Creditor Trust shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all Distributions made by the Creditor Trust shall be subject to any such withholding and reporting requirements.

#### **4. Costs and Expenses of the Creditor Trust.**

Following payment of allowed Administrative expenses of professionals retained by the Committee in the Case on such terms as the Creditor Trustee and those professionals may agree, the expenses of the Creditor Trust and the Creditor Trustee shall be reimbursed from the first dollars held by the Creditor Trust before making any Distribution to the beneficiaries of the

Creditor Trust; provided, however, the Creditor Trust expenses shall be subject to the procedures and review set forth in the Creditor Trust Agreement.

**5. Bonding of Creditor Trustee.**

The Creditor Trustee shall not be obligated to obtain a bond but may do so, in its sole discretion, in which case the expense incurred by such bonding shall be paid by the Creditor Trust.

**6. Fiduciary Duties of the Creditor Trustee.**

Pursuant to the Committee's Plan and the Creditor Trust Agreement, the Creditor Trustee shall act in a fiduciary capacity on behalf of the interests of the beneficiaries of the Creditor Trust.

**7. Sale Free and Clear of Liens.**

The Sale or other disposition of any Creditor Trust Assets by the Creditor Trustee in accordance with this Plan and the Creditor Trust Agreement shall be free and clear of any and all liens, claims, interests and encumbrances pursuant to section 363(f) of the Bankruptcy Code, after notice and an opportunity for hearing.

**8. Dissolution of the Creditor Trust.**

The Creditor Trust shall continue for a term ending on the earlier to occur of (a) distribution of all of the Creditor Trust Assets pursuant to the terms of the Committee's Plan and the Creditor Trust Agreement, and (b) the Creditor Trustee's determination, in its sole discretion, that the administration of any remaining Creditor Trust Assets or retained Causes of Action are not likely to yield sufficient additional proceeds to justify further pursuit; provided, however, in no event shall the Creditor Trust be dissolved later than ten (10) years from the Effective Date unless the Bankruptcy Court, upon motion within the six-month period prior to the tenth (10th) anniversary (or within the six-month period prior to the end of an extension period), determines that an extension of the existence of the Creditor Trust is necessary to facilitate or complete the recovery and liquidation of the Creditor Trust Assets. If at any time the Creditor Trustee determines, in the exercise of his sole discretion, that the expense of administering the Creditor Trust to make a final distribution to the Creditor Trust's beneficiaries is likely to exceed the value of the remaining Creditor Trust Assets, the Creditor Trustee may dissolve the Creditor Trust and abandon or otherwise dispose of any remaining Trust Assets. Notwithstanding the foregoing, after the termination of the Creditor Trust, the Creditor Trustee shall exercise all of the powers, authorities and discretions herein conferred solely for the purpose of winding up the affairs of the Creditor Trust. The Creditor Trustee shall retain the books, records and files that shall have been delivered to or created by the Creditor Trustee; provided, however that in the Creditor Trustee's discretion, all of such records and documents may be destroyed at any time after two (2) years from the date the Creditor Trust terminates.

**9. Corporate Action.**

Upon the Effective Date, by virtue of the solicitation of votes in favor of the Committee's Plan and entry of the Confirmation Order, all actions contemplated by the Committee's Plan shall be deemed authorized, approved and, to the extent taken prior to the Effective Date, ratified without any requirement for further action by Holders of Claims or Equity Interests, the Debtor, or any other Entity or Person or further Order of the Bankruptcy Court. All matters provided for in the Committee's Plan involving the corporate structure of the Debtor, and any corporate action required by the Debtor in connection therewith, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Debtor or the Estate.

**10. Corporate Existence.**

Except as otherwise provided in Sections 7.13 of the Committee's Plan, as of the Effective Date, members of the board of directors of the Debtor shall be deemed to have resigned without any further action required on the part of the Debtor or the Debtor's officers, directors, and shareholders and any and all remaining officers, managers, or directors of the Debtor shall be dismissed without any further action required on the part of the Debtor, or the shareholders of the Debtor, or the officers and directors of the Debtor. On and after the Effective Date, operation of the Debtor's Business and administration of the Creditor Trust Assets shall be the responsibility of the Creditor Trustee.

**11. Pursuit of Causes of Action.**

The Debtor reserves and, as of the Effective Date, assigns to the Creditor Trust, any and all Causes of Action. On and after the Effective Date, the Creditor Trustee may pursue such Causes of Action in accordance with the Creditor Trust Agreement.

No Entity may rely on the absence of a specific reference in either the Committee's Plan or in the Committee's Disclosure Statement to any Cause of Action against them as any indication that the Creditor Trustee will not pursue any and all available Causes of Action against them. No preclusion doctrine, including the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion (judicial, equitable, or otherwise) or laches shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or consummation of the Committee's Plan.

The Debtor reserves and assigns to the Creditor Trust the Causes of Action notwithstanding the rejection of any executory contract or unexpired lease during this Bankruptcy Case or pursuant to the Committee's Plan. Except as otherwise provided by the Creditor Trust Agreement, on and after the Effective Date, the Creditor Trustee, shall retain and shall have, including through its authorized agents or representatives, the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, provided however, that any settlement shall be subject to Bankruptcy Court approval pursuant to Bankruptcy Rule 9019. Notwithstanding anything contained herein to the contrary, the settlement of Claims and Causes of Action which are expressly to be settled by confirmation of the Plan shall be resolved only by Confirmation of the Plan itself.

In addition, by marking the Ballot accordingly, creditors may assign any personal cause of action it may have against the Debtor's officers, directors, shareholders and/or affiliates to the Creditor Trust, and the Creditor Trustee may pursue such causes of action on behalf of the Estate.

**12. Dissolution of the Committee.**

Upon Execution of the Creditor Trust Agreement, the Committee shall be deemed dissolved and subject to Section 10.2 of the Committee's Plan, its members shall be deemed released of their duties, responsibilities and obligations, provided, however, that the Committee shall remain in existence with respect to (a) final fee applications of the Committee's professionals, and (b) any appeals of the Confirmation Order.

**13. Effectuating Documents; Further Transactions.**

Section 7.10 of the Committee's Plan to the contrary notwithstanding, in accordance with section 1142(b) of the Bankruptcy Code, after the Effective Date, each of the chief executive officer, president, chief financial officer, or secretary of the Debtor is authorized and directed to execute, deliver, file, or record such contracts, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate, to effectuate and further evidence the terms and conditions of the Committee's Plan and the Creditor Trust or to otherwise comply with applicable law.

**14. Exculpation; Indemnification.**

The Creditor Trustee and his professionals shall not be personally liable to the Creditor Trust or to any beneficiary of the Creditor Trust except for such of his, her or its own acts as shall constitute fraudulent or willful misconduct or gross negligence. The Creditor Trustee and his professionals, shall be and hereby are exculpated by all persons and entities, including, without limitation, beneficiaries of the Creditor Trust and other parties-in-interest, from any and all claims, causes of action and other assertions of liability arising out of any act or omission of the Creditor Trustee or his professionals, except for claims of fraudulent or willful misconduct or gross negligence. No beneficiary or other party-in-interest will have or be permitted to pursue any claim or cause of action against the Creditor Trustee or his professionals for making payments in accordance with the Committee's Plan, the Confirmation Order, or the Creditor Trust. Any act taken or not taken by the Creditor Trustee, or his professionals with the approval of the Bankruptcy Court will be conclusively deemed not to constitute fraudulent or willful misconduct or gross negligence; provided, however, that such approval of the Bankruptcy Court is not subsequently reversed on appeal. Except as aforesaid, the Creditor Trustee and his professionals shall be defended, held harmless and indemnified from time to time from the Creditor Trust Assets as a Trust Administrative Claim against any and all losses, claims, costs, expenses and liabilities (including legal costs and expenses), and any costs of defending any action to which the Creditor Trustee may be subject by reason of the Creditor Trustee's execution in good faith of his or her duties under the Creditor Trust Agreement. The Creditor Trustee's officers, employees, attorneys, agents, and professionals of the or Trust Committee members shall be likewise defended, held harmless and indemnified. The Creditor Trustee may obtain for his or her benefit and the benefit of his or her officers, agents, attorneys, accountants

and employees and the benefit of the Creditor Trust, at the expense of the Trust, as a Trust Administrative Claim insurance against claims of liability, damage awards and settlement

## **15. Alternative Dispute Resolution Procedures.**

The Committee's Plan provides that at the election of the Debtor and upon service of an ADR Notice on the Class 5 Damage Claimant or its counsel, if its counsel is known, the Class 5 Damage Claimant will be subject to the ADR Procedures described in the Committee's Plan Supplement. A summary of the primary terms of the ADR Procedures are as follows:

(a) **Stage I: Demand/Offer:** The first stage of the ADR Procedure will be a demand/offer procedure, providing the parties with an opportunity to exchange settlement offers and, if possible, resolve a Class 5 Damage Claim on a consensual basis (the "Demand/Offer Stage"). The Demand/Offer Stage includes the following:

(i) **ADR Notice:** Upon entry of the Confirmation Order, the Creditor Trustee will serve on each Class 5 Damage Claimant who has not returned an Opt-In Notice the ADR Notice. The ADR Notice will request that the Class 5 Damage Claimant verify certain information regarding its Class 5 Damage Claim, attach relevant documents, designate whether binding arbitration is acceptable, and return the ADR Notice to the Debtor, along with a settlement demand (the "**Demand**") within 30 days of receipt of the ADR Notice. Failure to provide the required information and documents within this time period will result in the disallowance of the Class 5 Damage Claim.

(ii) **Demand:** The Demand may not exceed the amount or improve the priority set forth in the Class 5 Damage Claimant's proof of claim, amended proof of claim or scheduled claim, if any. The Class 5 Damage Claimant may not make a Demand with an unknown, unliquidated, indefinite or similar amount. If such a Demand or no Demand is received, the Class 5 Damage Claim will be deemed disallowed, waived and discharged without further order of the Court, if not cured within 5 business days after written notice from the Creditor Trustee.

(iii) **Debtor's Response to Demand:** The Creditor Trustee, in collaboration with an appropriate insurance representative, must respond in writing to all timely filed Demands through a "Response Statement" within 30 days from the date of the Debtor's receipt of the Demand (the "**Response Period**") by: (i) accepting the Demand; (ii) denying any liability on account of the Class 5 Damage Claim and proceeding to the next stage of the ADR Procedure; (iii) making a counteroffer; or (iv) requesting additional documentation or information to enable Creditor Trustee to respond in good faith to the Demand. If the Creditor Trustee fails to respond to the Demand within the Response Period, and such failure is not cured within 5 business days after written notice from the Class 5 Damage Claimant, that portion of the Demand which is not covered by the applicable insurance policy will constitute an allowed general unsecured claim against the estate of the Creditor Trust, and any amount that is covered by the applicable insurance policy can be recovered from the appropriate insurance carrier.

(iv) **Counteroffer Procedure:** If the Creditor Trustee makes a counteroffer (the "**Counteroffer**"), the Class 5 Damage Claimant must respond within 15

days of the date of the Counteroffer by either accepting the Counteroffer or rejecting the Counteroffer. If the Class 5 Damage Claimant fails to respond to the Counteroffer within the required time frame, the Class 5 Damage Claimant's Class 5 Damage Claim will be allowed in the amount of the Counteroffer and the Class 5 Damage Claimant can recover the insured portion of the claim from the insurance policy and the uninsured portion of the claim will be an allowed general uninsured claim against the Creditor Trust. If the Counteroffer is rejected, the Class 5 Damage Claimant shall proceed to the next stage of the ADR Procedure

(b) **Stage II: Mediation.** Class 5 Damage Claims that are not resolved through the Demand/Offer Stage will proceed to mediation. The mediators will be selected by the appropriate insurance carrier of the Debtor, in consultation with the Creditor Trustee and the mediator's fee will be shared by the appropriate insurance carrier and the Class 5 Damage Claimant. Notices of Mediation will be sent out in a form substantially in conformance with the attachment to the ADR Procedures found in the Committee's Plan Supplement. At least 30 days prior to the scheduled mediation, the Creditor Trustee and the Class 5 Damage Claimant will exchange comprehensive mediation briefs as more fully described in the ADR Procedures.

(c) **Stage III: Relief from Automatic Stay.** The ADR Injunction referenced in (d) below shall be modified by the filing of stipulation with the Court substantially in the form of attached to the ADR Procedures found in the Plan Supplement, only to the extent of such stipulation and to permit the liquidation of any Class 5 Damage Claim that is not resolved through the ADR Procedure. The pending action may be liquidated in the court where it was originally filed or, if no law suit has yet been filed, in any court of competent jurisdiction.

(d) **Injunction:** Commencing on the date of service of the ADR Notice, Holders of Class 5 Damage Claims will be enjoined from, among other things, commencing or continuing any action or proceeding in any manner or any place to collect or otherwise enforce their claims against the Debtor or its property other than through the ADR Procedures (the "**ADR Injunction**"). The ADR Injunction includes, without limitation, an injunction against proceeding against non-debtor defendants who are current or former employees of the Debtor, are affiliated with or indemnified by the Debtor for whom the Debtor will have ultimate liability, and any direct action against the Debtor's insurance carriers. The ADR Injunction will expire with respect to any Class 5 Damage Claimant who receives an ADR Notice only when the ADR Procedures have been completed or the parties have entered into a stipulation to modify the ADR Injunction.

**D. Treatment of Executory Contracts and Unexpired Leases.**

**1. Assumption or Rejection of Executory Contracts and Unexpired Leases.**

On the Effective Date, except as otherwise provided herein, each Executory Contract and Unexpired Lease not previously assumed or assumed and assigned shall be deemed automatically rejected pursuant to Sections 365(a) and 1123 of the Bankruptcy Code, unless such Executory Contract and Unexpired Lease: (1) is specifically scheduled to be assumed or assumed and assigned pursuant to the Plan or the Plan Supplement; (2) is subject to a pending motion to assume such Executory Contract or Unexpired Lease as of the Effective Date; (3) is a contract,

instrument, release, or other agreement or document entered into in connection with the Plan; (4) is a D&O Policy or an insurance policy; and (5) is a Taxicab Affiliation Agreement.

Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such assumptions, assignments, and rejections, including the assumptions of the Executory Contracts or Unexpired Leases as provided in the Committee's Plan Supplement pursuant to Sections 365(a), 365(b)(2) and 1123(b)(2) of the Bankruptcy Code. Any motions to assume Executory Contracts or Unexpired Leases pending on the Effective Date shall be subject to approval by the Bankruptcy Court on or after the Effective Date by a Final Order. Notwithstanding anything to the contrary in the Committee's Plan, the Committee, reserves the right to alter, amend, modify, or supplement the schedules of Executory Contracts and Unexpired Leases identified in the Committee's Plan Supplement at any time through the Effective Date, and the Creditor Trustee may alter, amend, or modify schedules of Executory Contracts and Unexpired Leases identified in the Committee's Plan Supplement any time within 30 days after the Effective Date (or such later date as the Creditor Trustee chooses in the exercise of his sole discretion) to reject Executory Contracts or Unexpired Leases previously scheduled for assumption, in the event of any objection by a counterparty to an Executory Contract or Unexpired Lease to the amount of any Cure Obligation or other matter relating to the proposed assumption and assignment.

**2. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases.**

Any Cure Claim under each Executory Contract and Unexpired Lease to be assumed pursuant to the Committee's Plan shall be satisfied, pursuant to Section 365(b)(1) of the Bankruptcy Code, by payment of the Cure Claim in Cash as soon as practicable after the Effective Date, subject to the limitation described below, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute regarding (1) the amount of the Cure Claim, (2) the ability of any assignee to provide "adequate assurance of future performance" (within the meaning of Section 365(b)(1)(C) of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or (3) any other matter pertaining to assumption, the Cure Claim required by Section 365(b)(1) of the Bankruptcy Code shall be satisfied following the entry of a Final Order or orders resolving the dispute and approving the assumption; provided that prior to the Effective Date, the Debtor or the Committee may settle any dispute regarding the amount of any Cure Claim without any further notice to any party or any action, order, or approval of the Bankruptcy Court.

Except as added to the Plan Supplement through an alteration, amendment or modification of the same as provided in Section 6.1.2 above, at least fourteen (14) days before the Confirmation Hearing, the Committee shall cause notice of proposed assumption and proposed Cure Claims to be sent to applicable counterparties. Any objection by such counterparty must be filed, served and actually received by Committee Counsel not later than ten (10) days after service of notice of the Committee's proposed assumption and associated Cure Claim. Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed assumption or cure amount will be deemed to have assented to such assumption or Cure Claim.

Subject to satisfaction of the Cure Claims, the assumption of any Executory Contract or Unexpired Lease pursuant to the Committee's Plan, or otherwise, shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time before the effective date of assumption and/or assignment. Any debt identified in the Schedules and any Proofs of Claim filed with respect to an Executory Contract or Unexpired Lease that has been assumed and assigned shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

**3. Claims Based on Rejection of Executory Contracts and Unexpired Leases.**

Unless otherwise provided by an order of the Bankruptcy Court, any Proofs of Claim based on the rejection of the Debtor's Executory Contracts or Unexpired Leases pursuant to the Committee's Plan or otherwise, must be filed with the Bankruptcy Court and served on the Creditor Trustee no later than fourteen (14) days after the later of the Effective Date or the effective date of rejection of such Executory Contract or Unexpired Lease. In addition, any objection to the rejection of an Executory Contract or Unexpired Lease must be filed with the Bankruptcy Court and served on the Creditor Trustee no later than fourteen (14) days after the later of the Effective Date or the effective date of rejection of such Executory Contract or Unexpired Lease.

Any Holders of a Claim arising from the rejection of an Executory Contract or Unexpired Lease for which a Proof of Claim was not timely filed as set forth in the Section 6.3.1 of the Committee's Plan shall not (1) be treated as a Creditor with respect to such Claim, (2) be permitted to vote to accept or reject the Plan on account of any Claim arising from such rejection, or (3) participate in any distribution in the Chapter 11 Case on account of such Claim, and any Claim arising from the rejection of an Executory Contract or Unexpired Lease not filed with the Bankruptcy Court within such time will be automatically disallowed, forever barred from assertion, and shall not be enforceable against either the Debtor's Estate or the Creditor Trust without the need for any objection by the Creditor Trustee or further notice to, or action, order, or approval of the Bankruptcy Court, and any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully satisfied, released, and discharged, notwithstanding anything in the Schedules or a Proof of Claim to the contrary. All Allowed Claims arising from the rejection of the Debtor's Executory Contracts or Unexpired Leases shall be classified as Class 6 General Unsecured Claims, except as otherwise provided by order of the Bankruptcy Court.

**4. Preexisting Obligations Under Executory Contracts and Unexpired Leases.**

Rejection of any Executory Contract or Unexpired Lease pursuant to the Committee's Plan or otherwise shall not constitute a termination of preexisting obligations owed to the Debtor's Estate under such contracts or leases. In particular, notwithstanding any non-bankruptcy law to the contrary, both the Committee and the Creditor Trustee expressly reserve, and do not waive, any right to receive, or any continuing obligation of a counterparty to provide, warranties or continued maintenance obligations on goods previously purchased, or services



previously received, by the Debtor from counterparties to rejected or repudiated Executory Contracts or Unexpired Leases.

**5. Modifications, Amendments, Supplements, Restatements, or Other Agreements.**

Unless otherwise provided in the Committee's Plan, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and all Executory Contracts and Unexpired Leases related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated or is rejected or repudiated under the Committee's Plan.

**6. Insurance Policies.**

All of the Debtor's insurance policies and any agreements, documents, or instruments relating thereto are treated as executory contracts under the Committee's Plan. Nothing contained in the Committee's Plan shall constitute or be deemed a waiver of any Cause of Action that the Debtor or the Creditor Trustee may hold against any Person or Entity.

**7. Reservation of Rights.**

Neither the exclusion nor inclusion of any contract or lease in the Committee's Plan Supplement, nor anything contained in the Committee's Plan, shall constitute an admission by either the Debtor, the Committee or the Creditor Trustee that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that either the Debtor's Estate or the Creditor Trustee has any liability thereunder. In the event of a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Creditor Trustee shall have 90 days following entry of a Final Order resolving such dispute to alter the treatment of such contract or lease as otherwise provided herein.

**E. Distributions.**

**1. Initial Distribution.**

Except as the holder of an Allowed Administrative Claim may otherwise agree, on the Effective Date, or as soon as reasonably practicable (as determined by the Creditor Trustee in the exercise of his sole discretion) after the Effective Date, the Creditor Trustee shall make the Distributions, if any, required under the Plan to the Holders of Allowed Administrative Claims (including Allowed Administrative Claims of Professionals other than Bankruptcy Counsel) and Allowed Claims in Classes 1, 2, 3 and 4; provided that, however, absent agreement otherwise, the Distributions as to Allowed Administrative Claims of Professionals shall be made no more than ten (10) days after the Determination Date. Thereafter, the Creditor Trust shall make additional Distributions to Holders of Allowed Claims as and when required by the terms of the Plan.

## **2. Determination of Claims.**

From and after the Effective Date, the Creditor Trustee shall have sole authority to object to Claims, settle, compromise, withdraw, or litigate objections to all Disputed Claims and Claims filed against the Debtor. Except as to any late-filed Claims, Claims resulting from the rejection of executory contracts or unexpired leases, if any, all objections to Claims shall be filed with the Bankruptcy Court by no later than one hundred and twenty (120) days following the Effective Date (unless such period is extended by the Bankruptcy Court upon motion of the Creditor Trustee), and the Confirmation Order shall contain appropriate language to that effect. Objections to Claims resulting from the rejection of executory contracts or unexpired leases shall be filed on the later of (a) one hundred and twenty (120) days following the Effective Date or (b) the date sixty (60) days after Creditor Trustee receives actual notice of the filing of such Claim.

Notwithstanding any authority to the contrary, an objection to a Claim shall be deemed properly served on the Holder of the Claim if the Creditor Trustee effects service in any of the following manners: (a) in accordance with Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004, (b) to the extent counsel for the Holder of a Claim is unknown, by first class mail, postage prepaid, on the signatory on the Proof of Claim or other representative identified on the Proof of Claim or any attachment thereto, or (c) by first class mail, postage prepaid, on any counsel that has filed a notice of appearance in the Bankruptcy Case on behalf of the Holder of a Claim.

Except for Damage Claims, which may be liquidated pursuant to the ADR Procedures and, thereafter, in the courts in which they were pending on the Petition Date or, if not yet in suit, in any court of competent jurisdiction, Disputed Claims shall be fixed or liquidated in the Bankruptcy Court as core proceedings within the meaning of 28 U.S.C. §157(b)(2)(B) unless the Bankruptcy Court orders otherwise. If the fixing or liquidation of a contingent or unliquidated Claim would cause undue delay in the administration of the Bankruptcy Case, such Claim shall be estimated by the Bankruptcy Court for purposes of allowance and Distribution. The Creditor Trustee may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to Section 502(c) of the Bankruptcy Code regardless of whether the Debtor or the Creditor Trust previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. The determination of Claims in Estimation Hearings shall be binding for purposes of establishing the maximum amount of the Claim for purposes of allowance and Distribution. All of the aforementioned Claim objections, estimation and resolution procedures are cumulative and not exclusive of one another. Procedures for specific Estimation Hearings, including provisions for discovery, shall be set by the Bankruptcy Court giving due consideration to applicable Bankruptcy Rules and the need for prompt determination of the Disputed Claim.

## **3. Distributions as to Allowed Claims in Classes 5 and 6.**

Notwithstanding any provision herein to the contrary, no Distribution shall be made to the Holder of a Disputed Claim in Class 5 or 6 unless and until such Disputed Claim becomes an Allowed Claim. If, on the Distribution Date, any Disputed Claims in Classes 5 or 6 remain, then the Creditor Trustee shall withhold from any such Distribution the amount of Cash that would be

necessary to make the same proportionate distribution to the Holders of all Class 5 or 6 Claims which are Disputed Claims as if each such Disputed Claim were an Allowed Class 5 or 6 Claim. At such time that such Disputed Claim becomes an Allowed Class 5 or 6 Claim, the Holder of such Allowed Class 5 or 6 Claim shall receive the Distribution to which such Holder is then entitled under the Committee's Plan.

Notwithstanding any provision herein to the contrary, if, on any applicable Distribution Date, the Holder of a Class 5 or 6 Claim is subject to a proceeding against it by the Creditor Trustee or the Debtor, as applicable, under Section 502(d) of the Bankruptcy Code, or otherwise, then the Creditor Trust (in its sole discretion) may withhold a Distribution to such Holder until the final resolution of such proceeding.

Distributions to a Holder of an Allowed Claim in Class 5 or 6 shall be made at the address of such Holder set forth in the Schedules or on the books and records of the Creditor Trust at the time of the Distribution, unless the Debtor or the Creditor Trustee, as the case may be, has been notified in writing of a change of address, including by the filing of a Proof of Claim or statement pursuant to Bankruptcy Rule 3003 by such Holder that contains an address for such Holder different than the address for such Holder as set forth in the Schedules. The Creditor Trust shall not be liable for any Distribution sent to the address of record of a Holder in the absence of the written change thereof as provided herein.

To avoid the disproportionate expense and inconvenience associated with making de minimis distributions, the Creditor Trustee will not be required to make, and will be excused from making, distributions in amounts of less than twenty-five dollars (\$25.00) each to Holders of Allowed Unsecured Claims.

#### **4. Unclaimed Distributions.**

If the Holder of an Allowed Claim fails to negotiate a check for a Distribution issued to such Holder within one-hundred and twenty (120) days of the date such check was issued, then the amount of Cash attributable to such check shall be deemed to be unclaimed, such Holder shall be deemed to have no further Claim in respect of such check, such Holder's Allowed Claim shall no longer be deemed to be Allowed, and such Holder shall not be entitled to participate in any further Distributions under the Committee's Plan in respect of such Claim.

If a check for a Distribution made pursuant to the Committee's Plan to any Holder of an Allowed Claim is returned to the Creditor Trust due to an incorrect or incomplete address for the Holder of such Allowed Claim, and no claim is made in writing to the Creditor Trust or the Creditor Trustee, as applicable, as to such check within one-hundred and twenty (120) days of the date such Distribution was made, then the amount of Cash attributable to such check shall be deemed to be unclaimed, payment on such check shall be stopped, such Holder shall be deemed to have no further Claim in respect of such check, such Holder's Allowed Claim shall no longer be deemed to be Allowed, and such Holder shall not be entitled to participate in any further Distributions under the Plan in respect of such Claim.

Following the Final Distribution, and after payment in full of the fees and expenses incurred by the Creditor Trustee and his professionals in accordance with the terms of the Committee's Plan, the Creditor Trustee shall distribute any remaining Unsecured Creditors' Distribution Amount to the Chicago Bar Foundation.

**5. Transfer of Claim.**

In the event that the Holder of any Claim shall transfer such Claim on and after the Effective Date, such Holder shall immediately give notice in writing to the Creditor Trustee regarding such transfer and shall provide written evidence of such transfer acceptable to the Creditor Trustee in the exercise of his sole discretion. The Creditor Trustee shall be entitled to assume that no transfer of any Claim has been made by any Holder unless and until the Creditor Trust shall have received written notice to the contrary. Each transferee of any Claim shall take such Claim subject to the provisions of the Committee's Plan and to any request made, waiver or consent given or other action taken hereunder and, except as otherwise expressly provided in such notice, the Creditor Trustee shall be entitled to assume conclusively that the transferee named in such notice shall thereafter be vested with all rights and powers of the transferor under the Committee's Plan.

**6. One Distribution Per Holder.**

If the Holder of a Claim holds more than one Claim in any one Class, all Claims of such Holder in such Class shall be aggregated and deemed to be one Claim for purposes of Distribution hereunder, and only one Distribution shall be made with respect to the single aggregated Claim.

**7. Effect of Pre-Confirmation Distributions.**

Nothing in the Committee's Plan shall be deemed to entitle the Holder of a Claim that received, prior to the Effective Date, full or partial payment of such Holder's Claim, by way of settlement or otherwise, pursuant to an order of the Bankruptcy Court, provision of the Bankruptcy Code, or other means, to receive a duplicate payment in full or in part pursuant to the Plan; and all such full or partial payments shall be deemed to be payments made under the Committee's Plan for purposes of satisfying the Creditor Trustee's to such Holder under the Committee's Plan.

**8. No Interest on Claims.**

Except as otherwise Allowed by a Final Order of the Bankruptcy Court, no Holder of an Allowed Unsecured Claim shall be entitled to the accrual of post-petition interest or the payment of post-petition interest, penalties, or late charges on account of such Allowed Unsecured Claim for any purpose. Additionally, and without limiting the foregoing, interest shall not accrue or be paid on any Disputed Unsecured Claim in respect of the period from the Effective Date to the date a Disputed Unsecured Claim becomes an Allowed Unsecured Claim.

**9. Compliance with Tax Requirements.**

In connection with the Committee's Plan, the Debtor and the Creditor Trust shall comply with all tax withholding and reporting requirements imposed by federal, state, local and foreign taxing authorities, and all Distributions hereunder shall be subject to such withholding and reporting requirements. Notwithstanding the above, each Holder of an Allowed Claim that is to receive a Distribution under the Committee's Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any

Governmental Unit, including income, withholding, and other tax obligations, on account of such Distribution.

**F. Conditions Precedent to Confirmation of the Committee's Plan and the Effective Date.**

**1. Conditions Precedent to Confirmation of the Committee's Plan.**

The following is a condition precedent to the occurrence of the Confirmation of the Committee's Plan, which may be waived by the Committee: (a) the Confirmation Order shall have been entered in form and substance satisfactory to the Committee; and (b) the Bankruptcy Court shall have made such findings and determinations regarding the Committee's Plan as shall enable the entry of the Confirmation Order in a manner consistent with the provisions of the Committee's Plan.

**2. Conditions Precedent to the Effective Date.**

The Committee's Plan shall not be consummated and the Effective Date shall not occur unless each of the following conditions has been satisfied following the Confirmation Date or waived by the Committee: (a) the Confirmation Order shall be a Final Order; (b) the Creditor Trust Agreement shall have been executed and become effective; and (c) the Creditor Trustee shall have been appointed and shall be acting.

**G. Exculpation From Liability, Release, and General Injunction.**

**1. Binding Effect.**

Except as expressly stated in the Committee's Plan, the terms and conditions of the Committee's Plan shall be binding upon and inure to the benefit of the Debtor, all present and former holders of Claims and Interests, and their respective successors and assigns. Unless otherwise provided in the Committee Plan or the Confirmation Order, all injunctions and stays provided for in the Chapter 11 Case pursuant to sections 105 and 362 of the Bankruptcy Code or otherwise in effect on the Confirmation Date, will remain in full force and effect until the Effective Date. From and after the Effective Date, all Persons are permanently enjoined from, and restrained against, commencing or continuing in any court any suit, action or other proceeding, or otherwise asserting any claim or interest, seeking to hold (i) the Creditor Trustee or the Debtor's Estate, or (ii) the property of the Debtor or its Estate, liable for any Claim, obligation, right, interest, debt or liability that has been released pursuant to the Committee's Plan.

**2. Exculpation from Liability.**

The Debtor and its postpetition officers and directors, the Committee and the Professionals for the Debtor and the Committee (acting in such capacity) (collectively, the "**Exculpated Parties**") shall neither have nor incur any liability whatsoever to any Person or Entity for any act taken or omitted to be taken in good faith in connection with or related to the formulation, preparation, dissemination, confirmation or consummation of the Committee's Plan, the Committee's Disclosure Statement, any Committee Plan Document, or any contract, instrument, release, or other agreement or document created or entered into, or any other act

taken or omitted to be taken, in connection with the Committee's Plan or the Bankruptcy Case, in each case for the period on and after the Petition Date and through the Effective Date; provided, however, that this exculpation from liability provision shall not be applicable to any liability found by a court of competent jurisdiction to have resulted from fraud or the willful misconduct or gross negligence of any such party. With respect to the Debtor's Professionals and the Committee's Professionals, the foregoing exculpation from liability provision shall also include claims of professional negligence arising from the services provided by such Professionals during the Bankruptcy Case. The rights granted under Section 10.2 of the Committee's Plan are cumulative with (and not restrictive of) any and all rights, remedies, and benefits that the Exculpated Parties have or obtain pursuant to any provision of the Bankruptcy Code or other applicable law. In furtherance of the foregoing, the Exculpated Parties shall have the fullest protection afforded under Section 1125(e) of the Bankruptcy Code and all applicable law from liability for violation of any applicable law, rule or regulation governing the solicitation of acceptance or rejection of a plan or the offer, issuance, sale or purchase of securities. This exculpation from liability provision is an integral part of the Committee's Plan and is essential to its implementation. Notwithstanding anything to the contrary contained herein, the provisions of Section 10.2 of the Committee's Plan shall not release, or be deemed a release of, any of the Causes of Action.

### **3. General Injunction.**

Pursuant to Sections 105, 1123, 1129 and 1141 of the Bankruptcy Code, in order to preserve and implement the various transactions contemplated by and provided for in the Committee's Plan, as of the Effective Date, except as otherwise expressly provided in the Committee's Plan or in the Confirmation Order, all Persons or Entities that have held, currently hold or may hold a Claim, Debt, Liability, or Equity Interest that is treated pursuant to the terms of the Committee's Plan are and shall be permanently enjoined and forever barred to the fullest extent permitted by law from taking any of the following actions on account of any such Claims, Debts, Liabilities, or Equity Interests other than actions brought to enforce any rights or obligations under the Committee's Plan or the Committee's Plan Documents: (a) commencing or continuing in any manner any action or other proceeding against the Debtor or its respective Properties; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Debtor or its Properties; (c) creating, perfecting or enforcing any Lien or encumbrance against the Debtor or the Creditor Trust or their Properties; (d) asserting a setoff, right of subrogation or recoupment of any kind not provided for in the Committee's Plan against any debt, liability or obligation due to the Debtor; (e) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order; or (f) interfering with or in any manner whatsoever disturbing the rights and remedies of the Debtor or the Creditor Trust under the Committee's Plan and the Committee's Plan Documents and the other documents executed in connection therewith. The Debtor and the Creditor Trust shall have the right to independently seek enforcement of this general injunction provision. This general injunction provision is an integral part of the Committee's Plan and is essential to its implementation. Notwithstanding anything to the contrary contained herein, the provisions of Section 10.3 of the Committee's Plan shall not release, or be deemed a release of, any of the Causes of Action.

**4. Term of Certain Injunctions and Automatic Stay.**

All injunctions for the benefit of the Debtor pursuant to Section 105 or other applicable provisions of the Bankruptcy Code, or otherwise provided for in the Bankruptcy Case, and in existence on the Confirmation Date, shall remain in full force and effect following the Confirmation Date, and the automatic stay pursuant to Section 362 of the Bankruptcy Code shall remain in full force and effect following the Confirmation Date and until the Final Decree Date, unless otherwise ordered by the Bankruptcy Court.

**5. No Liability for Tax Claims.**

Unless a taxing Governmental Unit has asserted a Claim against the Debtor before the Governmental Unit Bar Date or Administrative Claim Bar Date established therefore, no Claim of such Governmental Unit shall be Allowed against the Debtor, the Creditor Trust or their respective directors, officers, employees or agents for taxes, penalties, interest, additions to tax or other charges arising out of (i) the failure, if any, of the Debtor, any of its Affiliates, or any other Person or Entity to have paid tax or to have filed any tax return (including any income tax return or franchise tax return) in or for any prior year or period, or (ii) an audit of any return for a period before the Petition Date.

**6. Regulatory or Enforcement Actions.**

Notwithstanding anything to the contrary set forth herein, nothing in the Committee's Plan or the Confirmation Order shall restrict any federal government regulatory agency, from pursuing any regulatory or police enforcement action, including for performing its statutory duties against any Person or Entity in any forum, but only to the extent not prohibited by the automatic stay of Section 362 of the Bankruptcy Code or discharged or enjoined pursuant to Section 524 or 1141(d) of the Bankruptcy Code. Nothing contained in Section 10.6 of the Committee's Plan is intended to, nor shall it, supersede or alter any applicable provisions of the Bankruptcy Code.

**VI. CONFIRMATION OF THE COMMITTEE'S PLAN.**

The requirements for confirmation of the Committee's Plan are set forth in detail in Section 1129 of the Bankruptcy Code. The following summarizes some of the pertinent requirements:

**A. Acceptance by All Impaired Classes.**

Except as noted below, each Impaired Class of Claims must vote to either accept the Committee's Plan. "Impaired" is defined in Section 1124 of the Bankruptcy Code. A Claim is Impaired unless the Committee's Plan leaves unaltered the legal, equitable, or contractual rights of the Holder. Under the Committee's Plan, Claims in Class 4 and Class 5, Class 6 and Equity Interests in Class 7 are Impaired. Holders of Claims in Claims in Class 4 and Class 5, Class 6 are entitled to vote, separately, to accept or reject the Committee's Plan.

As a voting Creditor or Equity Interest Holder, your acceptance of the Committee's Plan is important. In order for the Committee's Plan to be accepted by an Impaired Class of Claims,

Creditors holding a majority in number and two-thirds in dollar amount of the Claims voting (of each Impaired Class of Claims) must vote to accept the Committee's Plan. At least one Impaired Class of Creditors, excluding the votes of Insiders (if any), must actually vote to accept the Committee's Plan.

**B. Feasibility.**

Pursuant to Section 1129(a)(11) of the Bankruptcy Code, the Bankruptcy Court must determine, among other things, that confirmation of the Committee's Plan is not likely to be followed by the liquidation or need for further financial reorganization of the Debtor or any successors to the Debtor under the Committee's Plan (unless such liquidation or reorganization is proposed in the Committee's Plan). In addition, Section 1129(a)(13) requires that all fees payable under Section 1930 of title 28, as determined by the court at the hearing on confirmation of the Committee's Plan, have been paid or the Committee's Plan provides for the payment of all such fees on the Effective Date of the Committee's Plan. These conditions are often referred to as the "feasibility" of the Committee's Plan. The Committee's Plan is a liquidating plan and, accordingly, all of the Debtor's remaining assets, including without limitation the Causes of Action, will be transferred and assigned to the Creditor Trust. The Creditors will receive the net proceeds, if any, from the liquidation of the Creditor Trust Assets pursuant to the terms of the Committee's Plan. Provided the Committee's Plan is confirmed and consummated, the Estate will no longer exist to be subject to future reorganization or liquidation. As a result, the Committee's Plan satisfies the feasibility test. Moreover, the Committee's Plan provides for payment of all statutory fees due and owing to the United States Trustee. Accordingly, the Debtor believes that the Committee's Plan satisfies the requirements of feasibility under Section 1129(a) of the Bankruptcy Code.

**C. "Best Interests" Test.**

Pursuant to Section 1129(a)(7) of the Bankruptcy Code, the Bankruptcy Court must find that the Committee's Plan is in the best interests of Creditors (commonly referred to as the "**Best Interests**" test). To satisfy the "Best Interests" test, the Bankruptcy Court must determine that each Holder in an Impaired Class of Claims either: (i) has accepted the Committee's Plan; or (ii) will receive or retain under the Committee's Plan money or other property which, as of the Effective Date, has a value not less than the amount such Holder would receive if the Debtor's property was liquidated under Chapter 7 of the Bankruptcy Code on that date.

**D. Costs and Expenses of Liquidation.**

In Chapter 7 liquidation, a trustee in bankruptcy would be appointed. The Debtor's business likely would not be operated by the Chapter 7 trustee, and the trustee would likely liquidate the Debtor's assets on a piecemeal basis after a period of delay. From the net amount generated from the liquidation of the Debtor's remaining assets, the fees and expenses of the chapter 7 trustee and its professionals and other costs of administration of the chapter 7 case would be paid first. Then, if there were additional proceeds, all chapter 11 administrative costs, including the fees and expenses of all Professionals (other than Debtor's Counsel who is paid by Corrigan and Levine directly under (but in contravention of) the Backstop Letter) would be paid before any distributions could be made to Creditors.



After the payment of all costs of administering the chapter 7 case and the chapter 11 case, any remaining net cash would be allocated to creditors and stockholders in strict accordance with the priorities set forth in Section 726 of the Bankruptcy Code. The present value of such allocation of the hypothetical liquidation proceeds (after deducting the amounts described above) is then compared with the present value of the proposed Distributions under the Committee's Plan to each of the Classes of Claims and Equity Interests to determine if the Committee's Plan is in the best interests of each Creditor or Holder of an Equity Interest. If the present value of the Distributions available to unsecured creditors under the hypothetical liquidation is less than or equal to the present value of the Distributions available to unsecured creditors under the Committee's Plan, then the Committee's Plan is in the best interests of creditors and can be considered in the "best interests of creditors" by the Bankruptcy Court.

**E. The Committee's Plan Meets the Best Interests Test.**

The Committee's Plan provides for the creation of a Creditor Trust and the transfer of all of the Debtor's Assets, including the Debtor's Business and Causes of Action, to the Creditor Trust on the Effective Date of the Committee's Plan. The Creditor Trustee of the Creditor Trust will be authorized, among other things, to operate the Debtor's Business for a limited period of time in order to facilitate an arms' length auction sale of the Debtor's Business as a going concern to the highest bidder. Additionally, the Creditor Trustee will have the authority to sell all other Creditor Trust Assets and the ability to pursue Causes of Action assigned to the Creditor Trust which will not be released by the Debtor or the Estate, in an effort to generate additional cash for distributions to the creditors, and after payment in full of all Creditors Claims, equity holders. Ultimately, under the Committee's Plan, the Creditor Trustee will make Distributions of cash to Holders of Allowed Claims and, if those Claims are paid in full, to the Holders Allowed Equity Interests in accordance with the Committee's Plan. The Committee believes that the Holders of Allowed Claims and Allowed Equity Interests will receive at least the same, if not a better, recovery under the Committee's Plan, as compared to their recoveries in a Chapter 7 case, given that the additional administrative costs of a Chapter 7 case will be avoided under the Committee's Plan.

The liquidation of the Debtor's assets under Chapter 7 would entail the appointment of a Chapter 7 trustee who would not be familiar with the case or the Debtor's Business, and would be less likely to facilitate a going concern sale. Moreover, a Chapter 7 liquidation would likely result in an increase in Administrative Claims, because there would be an additional tier of Administrative Claims by the Chapter 7 trustee and his or her professionals. The Chapter 7 trustee's professionals, including legal counsel and accountants, will generate additional administrative expenses that would be entitled to be paid ahead of Allowed Claims against the Debtor. In addition, the cash to be distributed to Creditors and Holders of Equity Interests would be reduced by the Chapter 7 trustee's statutory fee, which is calculated on a sliding scale from which the maximum compensation is determined based on the total amount of moneys disbursed or turned over by the Chapter 7 trustee. While the Creditor Trustee will be paid a fee for administering the Creditor Trust, the Creditor Trustee will not be paid a percentage of Distributions as a Chapter 7 trustee may be paid. In addition, the Creditor Trust will likely retain counsel currently representing the Committee in this case, which should result in a further cost savings given their familiarity with the Bankruptcy Case.

For all of these reasons, the Debtor believes that the Committee's Plan provides a recovery at least equal to, if not better than, the recovery in a Chapter 7 case for Holders of Claims and Equity Interests, and, therefore, meets the requirements of the Best Interest Test.

**F. "Cramdown" Provisions.**

Pursuant to Section 1129(b) of the Bankruptcy Code, the Bankruptcy Court may confirm a plan even though a class of claims or equity interests has not voted to accept the plan, as long as one impaired class of claims has accepted the plan (excluding the votes of Insiders, if any) and the plan is "fair and equitable" and "does not discriminate unfairly" against the non-accepting classes.

The Committee's Plan only impairs certain Classes of Claims and Equity Interests. Therefore, the Debtor may, if applicable, pursue confirmation through a "cramdown" provision only under Section 1129(b)(2)(B), which states, in pertinent part, that a plan is "fair and equitable" to a class if, among other things, the plan provides, with respect to unsecured claims and equity interests, that the holder of any such claim or equity interest that is junior to the claims or equity interests of such class, will not receive or retain, on account of such junior claim or equity interest, any property unless the senior class is paid in full.

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 similar to those of the dissenting class and if no class receives more than it is entitled to receive on account of its claim or interest. The Committee will invoke the "cramdown" provisions of Section 1129(b)(2)(B) of the Bankruptcy Code should any voting Class fail to accept the Committee's Plan.

**VII. RISK FACTORS.**

ALL IMPAIRED HOLDERS OF CLAIMS OR INTERESTS SHOULD READ AND CAREFULLY CONSIDER THE FACTORS SET FORTH BELOW, AS WELL AS THE OTHER INFORMATION SET FORTH OR OTHERWISE REFERENCED IN THIS DISCLOSURE STATEMENT, PRIOR TO VOTING TO ACCEPT OR REJECT THE COMMITTEE'S PLAN.

There is a risk under the Plan that Allowed Administrative Expenses and Priority Claims will materially exceed the Debtor's estimates. The process of reconciling all such Claims has not been completed and outstanding disputes remain that will need to be litigated or otherwise resolved. Accordingly, even if the Committee's Plan is confirmed by the Bankruptcy Court, there can be no assurance that funds will be available for distribution to Creditors in Class 5 and Class 6 under the Committee's Plan. Further, there is a risk that the Committee's Plan may not be confirmed by the Bankruptcy Court, either because the requisite votes in favor of the Committee's Plan are not received or the Bankruptcy Court decides not to confirm the Committee's Plan on some other basis.

Further, the Committee makes no guarantees that as to the value of the Debtor's assets. Notwithstanding the risks, however, the Committee believes that the same risks described herein are present in and greater to Creditors and Interest Holders in a chapter 7 case. Although the

Committee believes that the Committee's Plan will satisfy all requirements necessary for confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will reach the same conclusion. Finally, there can be no assurance that modifications to the Committee's Plan will not be required for continuation or that such modifications would not necessitate the resolicitation of votes.

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

The following discussion is a summary of certain material United States federal income tax aspects of the Committee's Plan, is for general information purposes only, and should not be relied upon for purposes of determining the specific tax consequences of the Committee's Plan with respect to a particular holder of a Claim or Equity Interest. This discussion does not purport to be a complete analysis or listing of all potential tax considerations.

This discussion is based on provisions of the Internal Revenue Code of 1986, as amended (the "**IRC**"), proposed Treasury Regulations promulgated thereunder, and administrative rulings and court decisions, all as in effect on the date hereof. Legislative, judicial, or administrative changes or interpretations enacted or promulgated after the date hereof could alter or modify the analyses set forth below with respect to the United States federal income tax consequences of the Committee's Plan. Any such changes or interpretations may be retroactive and could significantly affect the United States federal income tax consequences of the Committee's Plan. To the extent that the following discussion relates to the consequences to Holders of Allowed Claims or Equity Interests, it is limited to Holders that are United States persons within in the meaning of the IRC. For purposes of the following discussion, a "**United States person**" is any of the following:

- An individual who is a citizen or resident of the United States;
- A corporation created or organized under the laws of the United States or any state or political subdivision thereof;
- An estate, the income of which is subject to federal income taxation regardless of its source; or
- A trust that (a) is subject to the primary supervision of a United States court and which has one or more United States fiduciaries who have the authority to control all substantial decisions of the trust, or (b) has a valid election in effect under applicable United States Treasury regulations to be treated as a United States person.

The federal income tax consequences of the Committee's Plan are complex and are subject to significant uncertainties. No ruling has been requested or obtained from the Internal Revenue Service (the "**IRS**") with respect to any tax aspects of the Committee's Plan and no opinion of counsel has been sought or obtained with respect thereto. Thus, no assurance can be given as to whether the IRS will agree with the assertions and conditions discussed herein. No representations or assurances are being made to the Holders of Claims or Equity Interests with respect to the United States federal income tax consequences described herein.

This summary is limited to those Holders of Claims or Equity Interests who have held such Claims and Equity Interest as capital assets. Certain Holders (including, among others, insurance companies, banks, tax exempt organizations, financial institutions, broker-dealers, small business investment companies, regulated business companies, investors in pass-through entities, foreign companies, persons who are not citizens or residents of the United States, dealers in securities or foreign currency, and persons holding Claims that are a hedge against, or that are hedged against, currency risk or that are part of a straddle, constructive sale or conversion transaction) may be subject to special rules and are not discussed below. In addition, this summary does not address federal taxes other than income taxes or the foreign, state, or local tax consequences of the Committee's Plan.

**A. Certain U.S. Federal Income Tax Consequences to the Debtor.**

Under the IRC, a taxpayer generally must include in gross income the amount of any cancellation of indebtedness income ("**COD Income**") realized during the taxable year. Section 108 of the IRC provides an exception to this general rule, however, if the cancellation occurs in a case under the Bankruptcy Code, but only if the taxpayer is under the jurisdiction of the bankruptcy court and the cancellation is granted by the court or is pursuant to a plan approved by the court.

Section 108 of the IRC requires the amount of COD Income so excluded from gross income to be applied to reduce certain tax attributes of the taxpayer. The tax attributes that may be subject to reduction include the taxpayer's net operating losses and net operating loss carryovers (collectively, "**NOLs**"), certain tax credits and most tax credit carryovers, capital losses and capital loss carryovers, tax bases in assets, and foreign tax credit carryovers. Attribute reduction is calculated only after the tax for the year of the discharge has been determined. Section 108 of the IRC further provides that a taxpayer does not realize COD Income from cancellation of indebtedness to the extent that payment of such indebtedness would have given rise to a deduction.

Under the Committee's Plan, Holders of Allowed General Unsecured Claims or Allowed Equity Interests are expected to receive less than full payment on their Claims or Equity Interests. The Debtor's liability to the Holders of Allowed General Unsecured Claims or Allowed Equity Interests in excess of the amount satisfied by Distributions under the Committee's Plan will be canceled and therefore, will result in COD Income to the Debtor. The Debtor should not realize any COD Income, however, to the extent that payment of such Allowed General Unsecured Claims or Allowed Equity Interests would have given rise to a deduction to the Debtor had such amounts been paid. In addition, any COD Income that the Debtor realizes should be excluded from the Debtor's gross income pursuant to the bankruptcy exception to section 108 of the IRC described above, because the cancellation will occur in a case under the Bankruptcy Code, while the taxpayer is under the jurisdiction of the bankruptcy court, and the cancellation is granted by the court or is pursuant to a plan approved by the court.

The exclusion of the COD Income, however, will result in a reduction of certain tax attributes of the Debtor, such as the NOLs, as described above. Because attribute reduction is calculated only after the tax for the year of discharge has been determined, the COD Income realized by the Debtor under the Committee's Plan should not diminish the NOLs and other tax attributes that may be available to offset any income and gains recognized by the Debtor in the taxable year that includes the Effective Date.

**B. Certain U.S. Federal Income Tax Consequences to Holders of Allowed Claims or Equity Interests.**

**1. Exchange of Allowed Claims and Allowed Equity Interests for Creditor Trust Assets.**

For all federal income tax purposes, the transfer of the Creditor Trust Assets by the Debtor to the Creditor Trust, as set forth in the Creditor Trust Agreement, will be treated as a transfer of such assets by the Debtor to the Holders of Allowed Claims and Allowed Equity Interests of Creditor Trust beneficiaries entitled to distributions from the Creditor Trust Assets, followed by a transfer by such Holders to the Creditor Trust. As a result, the fair market value of such assets will be added to the amount realized by such Holders of Allowed Claims or and Allowed Equity Interests in calculating their gain or loss as described herein.

A Holder of an Allowed Claim or Equity Interest will generally recognize ordinary income to the extent that the amount realized on the exchange is attributable to interest that accrued on a Claim or Equity Interest but was not previously paid by the Debtor or included in income by the Holder of the Allowed Claim or Equity Interest, and will generally recognize gain or loss on the exchange equal to the difference between the Holder's adjusted basis in the Claim or Equity Interest and the amount realized by the Holder that is not attributable to accrued but unpaid interest. The amount realized on the exchange will be the fair market value of the Creditor Trust Assets deemed received by such Holder in the exchange.

If the amount realized by a Holder of an Allowed Claim that is not attributable to accrued but unpaid interest is less than its tax basis in such Claim or Equity Interest, such Holder may be entitled to a bad debt deduction in the year of receipt or in an earlier or later year if either: (i) the Holder is a corporation; or (ii) the Claim constituted (a) a debt created or acquired (as the case may be) in connection with a trade or business of the Holder or (b) a debt the loss from the worthlessness of which is incurred in the Holder's trade or business. The rule governing the character, timing and amount of bad debt deductions place considerable emphasis on the facts and circumstances of the holder, the obligor and the instrument with respect to which a deduction is claimed. Holders of Allowed Claims, therefore, are urged to consult their tax advisor with respect to their ability to take such a deduction.

The character of any gain or loss that is recognized by a Holder of an Allowed Claim or Equity Interest will depend upon a number of factors, including the status of the Creditor or Holder of an Equity Interest, the nature of the Claim or Equity Interest in the Creditor's or Equity Interest Holder's hands, whether the Claim or Equity Interest was purchased at a discount, whether and to what extent the Creditor or Holder of Equity Interests has previously claimed a bad debt deduction with respect to the Claim or Equity Interest, and the Creditor's or Equity Interest Holder's holding period of the Claim or Equity Interest. If the Claim or Equity Interest in the Creditor's or Equity Interest Holder's hands is a capital asset, the gain or loss realized will generally be characterized as a capital gain or loss. Such gain or loss will constitute long-term capital gain or loss if the Creditor or Holder of Equity Interests held such Claim or Equity Interest for longer than one year, or short-term capital gain or loss if the Creditor or Holder of Equity Interests held such Claim or Equity Interest for less than one year. If the Holder realizes a capital loss, the Holder's deduction of the loss may be subject to limitations.

Holders previously required to include in their gross income any accrued but unpaid interest with respect to a Claim or Equity Interest may be entitled to recognize a deductible loss to the extent the amount realized on the exchange of the Claim or Equity Interest for Creditor Trust Assets is less than the amount of such interest.

Holders of a Claim or Equity Interest constituting any installment obligation for tax purposes may be required to currently recognize any gain remaining with respect to such obligation if, pursuant to the exchange of the Claim or Equity Interest for Creditor Trust Assets, the obligation is considered to be satisfied at other than its face value, distributed, transmitted, sold or otherwise disposed of within the meaning of section 453B of the IRC.

The Holders of Claims in Class 5 and Class 6 are expected to receive Creditor Trust Assets that have a value equal to only a part of their Allowed Claims. Whether the Holder of such Claims will recognize a loss, a deduction for worthless securities or any other tax treatment will depend upon facts and circumstances that are specific to the nature of each Holder and its Claims. Accordingly, the Holders of Claims in Class 4, Class 5 and Class 6 and Holders of Equity Interests in Class 7 should consult their own tax advisors.

## **2. Taxation of Interests in Creditor Trust.**

It is believed that the Liquidation Trust will qualify as a "Creditor Trust," as defined in Treasury Regulation §301.7701-4(d), and as a "grantor trust" within the meaning of Internal Revenue Code §§ 671 – 679 and would, therefore, be taxed as a grantor trust, of which the beneficiaries will be treated as the grantors. The Creditor Trust will not be subject to U.S. federal income tax on its income. However, the Creditor Trust is required to file a trust information tax return each year, including Schedule K-1's which will report the share of the items of income, gain, loss and deductions of each Creditor Trust beneficiary. Each Creditor Trust Beneficiary will be required to take into account, in computing the Creditor Trust Beneficiary's income tax liability, its share (as determined by the Creditor Trust Agreement) of all items of income, gain deduction, loss, credits and tax preferences for each taxable year without regard to whether the Creditor Trust beneficiary has received or will receive any distributions from the Creditor Trust in such taxable year. The character of the income, gain deduction, or loss allocable to the Creditor Trust beneficiaries for such taxable year will be the same as the character of such income or loss in the hands of the Creditor Trust.

## **3. Information Reporting and Withholding.**

Under the Internal Revenue Code's backup withholding rules, the holder of an Allowed Claim may be subject to backup withholding with respect to Distributions or payments made pursuant to the Committee's Plan unless the holder comes within certain exempt categories (which generally include corporations) and, when required, demonstrates that fact, or provides a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the holder is not subject to backup withholding because of a failure to report all dividend and interest income. Backup withholding is not an additional tax, but merely an advance payment that may be refunded to the extent it results in an overpayment of tax. Holders of Allowed Claims may be required to establish exemption from backup withholding or to make arrangements with respect to the payment of backup withholding.

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

THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN INCOME TAX CONSEQUENCES OF THE COMMITTEE'S PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE FOREGOING DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ARE UNCERTAIN IN MANY CASES AND MAY VARY DEPENDING ON A CLAIM HOLDER'S OR INTEREST HOLDER'S PARTICULAR CIRCUMSTANCES. ACCORDINGLY, CLAIM HOLDERS AND INTEREST HOLDERS ARE URGED TO CONSULT THEIR TAX ADVISORS ABOUT THE UNITED STATES FEDERAL, STATE AND LOCAL, AND APPLICABLE FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE COMMITTEE'S PLAN.

**IX. ALTERNATIVES TO THE COMMITTEE'S PLAN.**

The Committee believes that if the Plan is not confirmed, or is not confirmable, the alternatives to the Committee's Plan include: (a) conversion of the Chapter 11 Case to chapter 7; (b) dismissal of the Debtor's case; or (c) confirmation of the Debtor's Plan or some other alternative plan of reorganization or liquidation which, in the Committee's view, would offer less favorable treatment to creditors than that proposed under the Committee's Plan.

**A. Liquidation under Chapter 7.**

If a plan cannot be confirmed, the Debtor's Chapter 11 Case may be converted to a case under Chapter 7 of the Bankruptcy Code, pursuant to which a Chapter 7 trustee would be appointed to liquidate the Debtor's assets for distribution to Creditors in accordance with the priorities established by the Bankruptcy Code. For the reasons previously discussed above, the Committee believes that Confirmation of the Committee's Plan will provide Creditors with a recovery that is expected to be greater than would be achieved in a liquidation under Chapter 7 of the Bankruptcy Code. Attached hereto as **Exhibit D** is a liquidation analysis based upon the Debtor's values of assets set forth in the Schedules and the expected costs.

If a chapter 7 liquidation was pursued, the amount of liquidation value available to unsecured creditors would likely be reduced for several reasons. First, a chapter 7 trustee will not have any familiarity with the Debtor's Business, which is likely to lead to initial inefficiencies, additional costs, and a strong likelihood of business interruptions and the corresponding loss of day-to-day cash flow and long term "going concern" value. Second, the conversion to chapter 7 will include an additional layer of administrative expenses and costs which will come ahead of Creditors. Third, a conversion to chapter 7 will add additional procedural hurdles, such as the requirement to hold a new first meeting of creditors pursuant to 11 U.S.C. § 341. Additionally, creditors would have ninety (90) days from the date of the creditors' meeting to file new claims, which is likely to result in duplicative claims and require the chapter 7 trustee to undertake a more complicated, expensive and time consuming claims reconciliation process before any distributions could be made to creditors. Further, the chapter 7 trustee would be required to resort to the Bankruptcy Court to a far greater extent for its administration of the Bankruptcy Case, which would also increase costs and delay.

The appointment of the Creditor Trustee under the Committee's Plan has several advantages over the conversion to chapter 7 and the appointment of a chapter 7 trustee. Patrick O'Malley has been involved in this Bankruptcy Case, as the Committee's financial advisor, and has familiarity with the Debtor's Business, its contractual obligations, and its finances. He will be better suited to step in, hire the right people to assist him (such as Jeff Feldman) and operate the Debtor's business for a short period in order to preserve going concern value and market the Debtor's Business and other assets for sale in an orderly fashion. He can also utilize the services of other professionals already involved in, and familiar with, this Bankruptcy Case. The Creditor Trustee will also be authorized to exercise certain powers, as set forth in the Committee's Plan, without resort to the Bankruptcy Court. Not only will the appointment of the Creditor Trustee help to maximize the value of the Debtor's Assets, the Debtor's Estate will incur less costs and expense in the process, which makes a disposition of the Debtor's Assets under the Committee's Plan preferable to liquidation under chapter 7.

**B. Dismissal.**

Dismissal of the Bankruptcy Case would result in each individual creditor having to protect its own rights through legal action, likely resulting in, among other things, numerous suits and other proceedings being commenced and actions being taken by secured creditors to protect or foreclose upon their collateral, requiring the Debtor to expend substantial time and resources to respond to and address such matters. The Committee believes that dismissal of the Bankruptcy Case would result in disparate, delayed and potentially smaller recoveries by creditors.

**C. The Debtor's Plan.**

The Debtor's Plan as an alternative to the Committee's Plan. However, the Committee believes that the Committee's Plan provides several of key advantages to Creditors over the Debtor's Plan.

First, under the Committee's Plan, the Creditor Trustee, and not the Debtor, will operate the Debtor's Business on a temporary basis post-confirmation while it markets the Debtor's Business for sale as a going concern. Patrick O'Malley, as the Committee's financial advisor, has familiarity with the Debtor's Business and its financials and will hire Jeffrey Feldman, who has extensive experience in the taxicab industry, having served as President of Yellow Cab Affiliation before. Mr. O'Malley and Mr. Feldman are not affiliated with the Debtor, and will be able to deal with the Debtor's contract counterparties and service providers, and market and sell the Debtor's Business and other assets, at arms' length, without being tied to insiders, sister companies and other affiliates or suffering from the inherent conflicts of interest plaguing the Debtor's current regime (who would be charged with selling their own business under the Debtor's Plan). Further, they will not be bound to accept the "low-ball" Put Option, the illusory Yellow Group Options or the other insufficient consideration offered by the Debtor's insiders, or be hamstrung to exchange valuable releases for such insufficient consideration prior to any such sale, and will be free to pursue the highest and best offers for the Debtor's Assets.

Second, under the Committee's Plan, the Creditor Trustee will be able to pursue the potentially valuable Causes of Action preserved for the Creditor Trust through the Committee's Plan, which could potentially be released by the Debtor in connection with the proposed sale process set forth in the Debtor's Plan.



Under Bankruptcy Code Section 1129(c), the court may confirm only one plan, unless the order of confirmation in the case has been revoked under Bankruptcy Code Section 1144. If two plans satisfy the standards for confirmation under the Bankruptcy Code, the Bankruptcy Court shall consider the preferences of creditors and equity security holders in determining which plan to confirm. For the foregoing reasons, the Committee believes that the Committee's Plan will maximize the value of recoveries to all Holders of Allowed Claims and Allowed Interests.

**X. RECOMMENDATIONS.**

The Committee believes that the Committee's Plan is substantially preferable to any other plan, preferable to liquidation under Chapter 7 of the Bankruptcy Code, and preferable to a dismissal of this Chapter 11 Case. Therefore, the Debtor strongly recommends that you vote in favor of the Committee's Plan.

**XI. CONCLUSION.**

It is important that you exercise your right to vote on the Committee's Plan. The Committee believes that the Committee's Plan fairly and equitably provides for the treatment of all Claims against, and Equity Interests in, the Debtor and recommends that you cast your Ballot in favor of the Committee's Plan.

Dated: August 30, 2016

**THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS OF YELLOW  
CAB AFFILIATION, INC.**

/s/ Richard M. Bendix, Jr.\_\_\_\_\_

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**EXHIBITS**

- Exhibit A** The Committee's Plan
- Exhibit B** Disclosure Statement Order
- Exhibit C** Summary of Certain Causes of Action
- Exhibit D** Liquidation Analysis