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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re: § **Chapter 11**
§
VALUEPART, INCORPORATED § **Case No.: 16-34169-hdh**
§
Debtor. §

**FIRST AMENDED DISCLOSURE STATEMENT PURSUANT TO 11 U.S.C. § 1125
IN SUPPORT OF DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION**

Marcus A. Helt (TX 24052187)
Thomas C. Scannell (TX 24070559)
GARDERE WYNNE SEWELL LLP
2021 McKinney Avenue, Suite 1600
Dallas, TX 75201
Telephone: (214) 999-3000
Facsimile: (214) 999-4667
mhelt@gardere.com
tscannell@gardere.com

COUNSEL TO THE DEBTOR AND DEBTOR-IN-POSSESSION

Dated: July 1, 2017

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- Exhibit A:** FAQs
- Exhibit B:** Liquidation Analysis
- Exhibit C:** Projections
- Exhibit D:** Sources & Uses
- Exhibit E:** Causes of Action
- Exhibit F:** Schedule of Affiliates
- Exhibit G:** First Amended Plan and Exhibits

I.
INTRODUCTION AND OVERVIEW

A. Overview

On October 27, 2016 (the “**Petition Date**”), ValuePart, Incorporated¹ (the “**Debtor**”) filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “**Bankruptcy Court**”), Case No. 16-34169 (the “**Chapter 11 Case**”).

On November 30, 2016, the United States Trustee for Region 6 (the “**UST**”) filed a notice of its appointment of the Official Committee of Unsecured Creditors and on December 6, 2016, the UST filed its notice of First Amended Appointment of the Official Unsecured Creditors’ Committee (the “**Committee**”).

The Debtor continues to operate and manage its estate (the “**Estate**”) as a “debtor-in-possession” pursuant to §§ 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Chapter 11 Case pursuant to § 1104 of the Bankruptcy Code.

The Debtor submits this first amended disclosure statement (“**Disclosure Statement**”) pursuant to § 1125 of the Bankruptcy Code for use in the solicitation of votes on the Debtor’s First Amended Chapter 11 Plan of Reorganization (the “**Plan**”). The Plan² was filed with the Bankruptcy Court on July 1, 2017. The following summary is a general overview only and is qualified in its entirety by, and should be read in conjunction with, the more detailed discussions, information, and financial statements appearing elsewhere in this Disclosure Statement and the Plan. All capitalized terms not defined in this Disclosure Statement have the meaning given to them in the Plan. A copy of the Plan, separately filed in the Chapter 11 Case, is attached as **Exhibit “G.”**

This Disclosure Statement contains a brief history of the Debtor, a summary of its chapter 11 case, summary of material provisions of the Plan, including provisions relating to the Plan’s treatment of Claims against and Interests in the Debtor, a discussion of the Plan’s feasibility, administration of Estate and its Assets and the means of implementation of the Plan, and a liquidation analysis setting forth what Holders of a Claim against or Interest in the Debtor would recover if the Debtor were liquidated on the projected effective date under chapter 7 of the Bankruptcy Code. The Disclosure Statement also summarizes certain financial information concerning the Debtor and the Claims asserted against the Debtor in the Chapter 11 Case. While the Debtor believes that the Disclosure Statement contains adequate information about the documents and information summarized, Holders of Claims and Holders of Interests should

¹ The debtor in this chapter 11 case (the “**Debtor**”) and the last four digits of the Debtor’s federal tax identification number are as follows: ValuePart, Incorporated (3880). The Debtor’s principal assets in this district are located at 9804 Chartwell Drive, Dallas, Texas 75243.

² Capitalized terms contained herein shall have the meaning ascribed to them in the Plan and the definitions of the Plan are hereby incorporated. To the extent a conflict exists between a definition herein and a definition in the Plan, the definition in the Plan shall control.

review the entire Plan and each document referenced therein and herein, and should seek the advice of their own counsel and other advisors before voting on the plan. Certain provisions of the Plan – and, therefore, descriptions and summaries contained in this Disclosure Statement – may be the subject of continuing negotiations among the Debtor and various parties, may not have been finally agreed, and may be modified. However, such modifications will not have a material effect on the distributions contemplated by the Plan.

The Debtor is a proponent of the Plan within the meaning of § 1129 of the Bankruptcy Code. The Plan contains separate Classes and proposes recoveries for Holders of Claims against and Interests in the Debtor. After careful review of the Debtor's current business operations, estimated recoveries in a liquidation scenario, and the prospects of ongoing business, the Debtor has concluded that the recovery to Creditors will be maximized by the reorganization of the Debtor as contemplated by the Plan. Specifically, the Debtor believes that its business and assets have significant going-concern value that would not be realized through liquidation, either in whole or in substantial part.

EXCEPT FOR THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT AND THE EXHIBITS ATTACHED, NO REPRESENTATIONS CONCERNING THE DEBTOR, THE DEBTOR'S ASSETS AND LIABILITIES, THE PAST OR FUTURE OPERATIONS OF THE DEBTOR, THE PLAN AND ITS TERMS, OR ALTERNATIVES TO THE PLAN ARE AUTHORIZED, NOR ARE ANY SUCH REPRESENTATIONS TO BE RELIED ON IN ARRIVING AT A DECISION WITH RESPECT TO THE PLAN. ANY INFORMATION REGARDING SUCH TOPIC AREAS THAT IS PROVIDED TO SECURE ACCEPTANCE OR REJECTION OF THE PLAN AND THAT IS NOT CONTAINED IN THIS DISCLOSURE STATEMENT AND THE EXHIBITS ATTACHED IS UNAUTHORIZED AND SHOULD BE REPORTED IMMEDIATELY TO THE DEBTOR'S COUNSEL.

STATEMENTS AND FINANCIAL INFORMATION HEREIN CONCERNING THE DEBTOR, INCLUDING, WITHOUT LIMITATION, HISTORICAL INFORMATION, INFORMATION REGARDING THE DEBTOR'S ASSETS AND LIABILITIES, AND INFORMATION REGARDING CLAIMS AND INTERESTS ASSERTED OR OTHERWISE EVIDENCED IN THE DEBTOR'S CHAPTER 11 CASE, HAVE BEEN DERIVED FROM NUMEROUS SOURCES, INCLUDING, WITHOUT LIMITATION, THE DEBTOR, THE DEBTOR'S BOOKS AND RECORDS, THE DEBTOR'S SCHEDULES AND STATEMENT OF FINANCIAL AFFAIRS, AND COURT RECORDS. ALTHOUGH THE DEBTOR REASONABLY BELIEVES THAT THE HISTORICAL AND FINANCIAL INFORMATION SET FORTH HEREIN IS ACCURATE, COMPLETE AND RELIABLE, THE DEBTOR AND ITS PROFESSIONALS HAVE NOT TAKEN ANY INDEPENDENT ACTION TO VERIFY THE ACCURACY, COMPLETENESS OR RELIABILITY OF SUCH HISTORICAL INFORMATION, AND THERE HAS BEEN NO INDEPENDENT AUDIT OF THE FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT. THEREFORE, NEITHER THE DEBTOR NOR ITS PROFESSIONALS WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS COMPLETE, ACCURATE, OR RELIABLE. HOWEVER, THE DEBTOR HAS REVIEWED THE INFORMATION SET FORTH HEREIN AND, BASED ON THE SOURCES OF INFORMATION AVAILABLE, GENERALLY BELIEVES SUCH INFORMATION TO BE COMPLETE.

THE PLAN IS THE GOVERNING DOCUMENT. IF ANY INCONSISTENCY EXISTS BETWEEN THE PLAN AND THE DISCLOSURE STATEMENT, THE TERMS OF THE PLAN CONTROL.

UPON BANKRUPTCY COURT APPROVAL OF THE PLAN, THE PLAN WILL BE BINDING ON ALL HOLDERS OF CLAIMS – THAT IS, CREDITORS – AND HOLDERS OF EQUITY – THAT IS, INTERESTS.

B. Notice to Holders of Claims and Interests

The purpose of this Disclosure Statement is to enable you, as a creditor whose Claim is impaired under the Plan, to make an informed decision in exercising your right to accept or reject the Plan. A list of Frequently Asked Questions (“FAQs”) and answers to those FAQs are attached to this Disclosure Statement as **Exhibit “A.”**

THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT INFORMATION THAT MAY BEAR ON YOUR DECISION TO ACCEPT OR REJECT THE PLAN. PLEASE READ THE DOCUMENT WITH CARE.

PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN AND THE EXHIBITS TO THE PLAN AND TO THE EXHIBITS AND SCHEDULES TO THIS DISCLOSURE STATEMENT. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER THE DATE HEREOF. IF A CONFLICT EXISTS BETWEEN THE DESCRIPTION SET FORTH IN THIS DISCLOSURE STATEMENT AND THE TERMS OF THE PLAN, THE TERMS OF THE PLAN SHALL GOVERN.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH § 1125 OF THE BANKRUPTCY CODE AND RULE 3016 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE (THE “BANKRUPTCY RULES”) AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAW OR OTHER NON-BANKRUPTCY LAW. THIS DISCLOSURE STATEMENT HAS BEEN NEITHER APPROVED NOR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION (THE “SEC”), NOR HAS THE SEC PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.

NOTHING CONTAINED IN THIS DISCLOSURE STATEMENT, EXPRESS OR IMPLIED, IS INTENDED TO GIVE RISE TO ANY COMMITMENT OR OBLIGATION OF THE DEBTOR, THE COMMITTEE, OR ANY OTHER PARTY, NOR SHALL IT BE CONSTRUED AS CONFERRING ON ANY PERSON ANY RIGHTS, BENEFITS, OR REMEDIES OF ANY NATURE WHATSOEVER. THE DISCLOSURE STATEMENT IS INFORMATIONAL ONLY. ADDITIONALLY, HOLDERS OF CLAIMS AND HOLDERS OF INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL,

OR TAX ADVICE. EACH CLAIMANT AND INTEREST HOLDER SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL, AND TAX ADVISORS AS TO ANY MATTER CONCERNING THE PLAN, THE EFFECTS OF IMPLEMENTATION OF THE PLAN, AND THE VOTING PROCEDURES APPLICABLE TO THE PLAN.

AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS, AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT WILL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS AND IS, THEREFORE, PROTECTED UNDER RULE 408 OF THE FEDERAL RULES OF EVIDENCE. THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST OR INTERESTS IN THE DEBTOR.

On June 28, 2017, after notice and a hearing, the Bankruptcy Court entered the Disclosure Statement Order pursuant to § 1125 of the Bankruptcy Code, finding that the Disclosure Statement contains information of a kind, and in sufficient detail, adequate to enable a hypothetical, reasonable investor typical of the solicited classes of Claims of the Debtors to make an informed judgment about whether to accept or reject the Plan. **APPROVAL OF THIS DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT OF THE FAIRNESS OR MERITS OF THE PLAN OR OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT.**

Each Holder of a Claim entitled to vote to accept or reject the Plan should read this Disclosure Statement and the Plan in their entirety before voting. No solicitation of votes to accept or reject the Plan may be made except pursuant to this Disclosure Statement and § 1125 of the Bankruptcy Code. Except for the Debtor and certain of the professionals they have retained, no person is authorized to use or promulgate any information concerning the Debtor, its business, or the Plan other than the information contained in this Disclosure Statement, and if other information is given or made, such information may not be relied on as having been authorized by the Debtor. You should not rely on any information relating to the Debtor, its business, or the Plan other than that contained in this Disclosure Statement and the Schedules and Exhibits.

After carefully reviewing this Disclosure Statement, including the attached Exhibits, please indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the enclosed ballot, and return the same to the address set forth on the ballot, in the enclosed, postage-prepaid return-requested envelope so that it will be actually received by JND Corporate Restructuring (the “**Solicitation Agent**” or “**Claims Agent**,” as applicable), no later than the Voting Deadline. All votes to accept or reject the Plan must be cast by using the appropriate ballot. Votes that are cast in any other manner will not be counted.

All ballots must be actually received by the Solicitation and Tabulation Agent no later than

August 1, 2017, at 5:00 p.m., Prevailing Central Time (the “**Voting Deadline**”). Therefore, for a Ballot to be counted, the completed and signed Ballot must be received at the address specified below by no later than such Voting Deadline:

VALUEPART, INC. BALLOT PROCESSING
C/O JND CORPORATE RESTRUCTURING
8269 E. 23rd AVENUE, SUITE 275
DENVER, CO 80238

DO NOT RETURN ANY OTHER DOCUMENTS WITH YOUR BALLOT.

You will be bound by the Plan if it is accepted by the requisite Holders of Claims and confirmed by the Bankruptcy Court, even if you do not vote to accept the Plan or if you are the Holder of an Unimpaired Claim.

II.
EXPLANATION OF CHAPTER 11

A. Overview of Chapter 11

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code pursuant to which a debtor may reorganize its business for the benefit of its creditors, equity holders, and other parties-in-interest. The commencement of a chapter 11 case creates an estate comprising all the legal and equitable interests of a debtor as of the date the petition is filed. §§ 1101, 1107, and 1108 of the Bankruptcy Code provide that a debtor may continue to operate its business and remain in possession of its property as a “debtor-in-possession,” unless the bankruptcy court orders the appointment of a trustee. In the Chapter 11 Case, the Debtor remains in possession of its property and continues to operate its business as a debtor-in-possession.

The filing of a chapter 11 petition triggers the automatic-stay provisions of the Bankruptcy Code. § 362 of the Bankruptcy Code provides, among other things, for an automatic stay of all attempts by creditors or other third parties to collect prepetition claims from the debtor or otherwise interfere with its property or business. Exempted from the automatic stay are governmental authorities seeking to exercise regulatory or policing powers. Except as otherwise ordered by the bankruptcy court, the automatic stay remains in full force and effect until the effective date of a confirmed plan of reorganization.

The formulation of a plan of reorganization is the principal purpose of a chapter 11 case. The plan sets forth the means for satisfying claims against and interests in a debtor’s estate. Unless a trustee is appointed, only a debtor may file a plan during the first 120 days of a chapter 11 case (the “**Filing Period**”), and the debtor will have 180 days to solicit acceptance of such plan (the “**Solicitation Period**”). However, § 1121(d) of the Bankruptcy Code permits the bankruptcy court to extend or reduce the Filing Period and Solicitation Period after a showing of “cause.” The Filing Period and Solicitation Period may not be extended beyond 18 months and 20 months, respectively, from the Petition Date. As set forth below, the Debtor’s Filing Period and Solicitation Period were extended to May 25, 2017, and August 10, 2017, respectively, and the Debtor filed the Plan within the applicable Filing Period. Because the Debtor filed the Plan during the Filing Period, no other creditor or party in interest may file a plan until the expiration

of the Solicitation Period.

B. Plan of Reorganization

Although referred to as a plan of reorganization, a plan may provide anything from a complex restructuring of a debtor's business and its related obligations to a simple liquidation of a debtor's assets. In either event, upon confirmation of the plan, the plan becomes binding on a debtor and all of its creditors and equity holders, and the prior obligations owed by the debtor to such parties are compromised and exchanged for the obligations specified in the plan. For a description of key components of the Plan, see the Summary of the Plan found before Article I of the Plan.

After a plan of reorganization has been filed, the holders of impaired claims against and interests in a debtor are permitted to vote to accept or reject the plan. Before soliciting acceptances of the proposed plan, § 1125 of the Bankruptcy Code requires the debtor to prepare and file a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment about the plan. **This Disclosure Statement is presented to Holders of Claims against the Debtor to satisfy the requirements of § 1125 of the Bankruptcy Code in connection with the Debtor's solicitation of votes on the Plan.**

III.
VOTING PROCEDURES AND REQUIREMENTS

A. Ballots and Voting Deadline

Each Holder of a Claim in an impaired Class is entitled to vote on the Plan and shall be provided a Ballot along with this Disclosure Statement. If a Claimant holds Claims in more than one Impaired Class, such Claimant has been provided a separate Ballot for each such Class. The Ballot is to be used by the Claimant to accept or reject the Plan.

To ensure that its Ballot is deemed timely and considered by the Balloting Agent, each Claimant must (i) carefully review the Ballot and the instructions set forth thereon, (ii) provide all of the information requested on the Ballot, (iii) sign the Ballot, and (iv) return the completed and signed Ballot to the Balloting Agent by the Voting Deadline.

By Order of the Bankruptcy Court, the Voting Deadline is **August 1, 2017, at 5:00 p.m. (prevailing Central Time)**. Therefore, for a Ballot to be counted, the completed and signed Ballot must be **received** at the address specified below by no later than such Voting Deadline:

VALUEPART, INC. BALLOT PROCESSING
C/O JND CORPORATE RESTRUCTURING
8269 E. 23rd AVENUE, SUITE 275
DENVER, CO 80238

B. Claimants Solicited to Vote

Each Claimant holding a Claim in an impaired Class under the Plan is being solicited to

vote on the Plan, other than those in Class 9 who are deemed to have rejected the Plan. However, unless otherwise provided in the Plan, as to any Claim for which a proof of Claim was filed and as to which an objection has been lodged, if such objection is still pending as of the Voting Deadline, the Claimant's vote associated with such Claim will not be counted to the extent of the objection to the Claim, unless the Claimant files a motion and obtains an Order of the Bankruptcy Court temporarily allowing the Claim in an amount that the Bankruptcy Court deems proper for the purpose of voting on the Plan. **Such motion must be heard and determined by the Bankruptcy Court at least ten (10) days prior to the Confirmation Hearing.** In addition, a Claimant's vote may be disregarded if the Bankruptcy Court determines that the Claimant's acceptance or rejection of the Plan was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code, or that the Claimant is an insider of a Debtor within the meaning of § 101(31) of the Bankruptcy Code.

C. Definition of Impairment

Pursuant to § 1124 of the Bankruptcy Code, except to the extent that a Holder of a particular Claim or Interest within a class agrees to less-favorable treatment of the Holder's Claim or Interest, a Class of Claims or Interests is Impaired under a plan unless, with each Claim or Interest of Such class, the Plan does at least one of the following two (2) things:

1. The plan leaves unaltered the legal, equitable, and contractual rights to which such Claim or Interest entitles the Holder of such Claim or Interest or
2. Notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Interest to demand or receive accelerated payment of such Claim or Interest after the occurrence of a default, the plan:
 - a. cures any such default that occurred before or after the commencement of the case under the Bankruptcy Code, other than a default of a kind specified in § 365(b)(2) of the Bankruptcy Code or of a kind that § 365(b)(2) expressly does not require to be cured;
 - b. reinstates the maturity of such Claim or Interest as such maturity existed before such default;
 - c. compensates the Holder of such Claim or Interest for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law;
 - d. if such Claim or such Interest arises from a failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real-property lease subject to § 365(b)(1)(A) of the Bankruptcy Code, compensates the holder of such Claim or Interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such Holder as a result of such failure; and

- e. does not otherwise alter the legal, equitable, or contractual rights to which such Claim or Interest entitles the Holder of such Claim or Interest.

D. Classes Impaired Under the Plan

Classes 2 through 8 are Impaired Classes under the Plan. All Holders of Claims in Classes 2 through 7 are scheduled to receive on account of such Claims at least some property interest having potential value under the Plan. Accordingly, Holders of Claims within Classes 2 through 7 are being solicited to vote on the Plan. In addition, the Plan contemplates that no distribution shall be received on account of Equity Interests in Class 8 under the Plan; accordingly, Holders of Claims in Class 8 are conclusively presumed to reject the Plan. Because Class 1 Claims are Unimpaired under the Plan, pursuant to § 1126(f) of the Bankruptcy Code, Holders of Claims in Class 1 are conclusively presumed to accept the Plan. Although votes will not be solicited from Class 1 and Class 8 Holders of Claims, Holders of Claims will receive a ballot for purposes of consenting to or opting out of certain releases contained in the Plan and described in this Disclosure Statement.

With respect to the foregoing, the Debtor specifically reserves the right to determine and contest, if necessary, (a) the Impaired or Unimpaired status of a Class under the Plan, and (b) whether any Ballots cast by Claimants holding Claims within such a Class should be counted for purposes of confirmation of the Plan.

E. Vote Required for Class Acceptance

Pursuant to § 1126(c) of the Bankruptcy Code, a Class of Claims under the Plan shall be deemed to have accepted the Plan if the Plan is accepted by Claimants holding at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the Allowed Claims within such Class that voted on the Plan.

Pursuant to § 1126(e) of the Bankruptcy Code, on request of a party in interest in the Chapter 11 Case, and after notice and a hearing, the Bankruptcy Court may designate the vote of any Claimant whose acceptance or rejection of the Plan was not: (i) in good faith; (ii) solicited or procured in good faith; or (iii) made in accordance with the provisions of the Bankruptcy Code.

IV. CONFIRMATION OF THE PLAN

A. Confirmation Hearing

If all classes of claims and equity interests accept a plan of reorganization, the bankruptcy court may confirm the plan if the bankruptcy court independently determines that the requirements of § 1129(a) of the Bankruptcy Code have been satisfied. **The Debtor believes that the Plan satisfies all the applicable requirements of § 1129(a) of the Bankruptcy Code.**

Chapter 11 of the Bankruptcy Code does not require that each holder of a claim or interest in a particular class vote in favor of a plan for the bankruptcy court to determine that the class has accepted the plan.

In addition, classes of claims or equity interests that are not “impaired” under a plan of reorganization are conclusively presumed to have accepted the plan and thus are not entitled to vote. Furthermore, classes that are to receive no distribution under the plan are conclusively deemed to have rejected the plan. Accordingly, acceptances of a plan will generally be solicited only from those persons who hold claims or equity interests in an impaired class. **Except for Class 1 – Allowed Priority Non-Tax Claims, which are unimpaired under the Plan, and Class 8 – Equity Interests, which will not receive a distribution under the Plan, all classes of Claims are entitled to vote on the Plan. Class 1 and Class 8 of the Plan, however, will receive a ballot for purposes of consenting or opting out of certain releases described in the Plan and below.**

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

Pursuant to § 1128 of the Bankruptcy Code, the Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan (the “**Confirmation Hearing**”) on August 8, 2017, at 9:00 a.m. (prevailing Central Time), before the Honorable Harlin D. Hale, United States Bankruptcy Judge for the Northern District of Texas, 1100 Commerce Street, 14th Floor, Dallas, Texas 75242. Any objection to confirmation of the Plan must be made in writing, and such written objection must be filed with the Bankruptcy Court and served on the following parties by not later than August 1, 2017, at 5:00 p.m. (prevailing Central Time):

Debtor’s Counsel:

Marcus A. Helt
Gardere Wynne Sewell LLP
2021 McKinney Avenue, Suite 1600
Dallas, Texas 75201

Debtor:

ValuePart, Inc.
c/o Greg Baracato, CRO
9804 Chartwell Drive
Dallas, Texas 75243

**Counsel for the Official Committee
of Unsecured Creditors**

Joseph M. Coleman
Kane Russell Coleman & Logan PC
3700 Thanksgiving Tower
1601 Elm Street
Dallas, Texas 75201

United States Trustee:

Nancy Sue Resnick
Office of United States Trustee
1100 Commerce Street, Room 976
Dallas, Texas 75242

**UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY FILED AND SERVED, IT
WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.**

**THE DEBTOR URGES ALL HOLDERS OF IMPAIRED CLAIMS TO ACCEPT THE
PLAN.**

B. Requirements for Confirmation of the Plan

At the Confirmation Hearing, the Bankruptcy Court will determine whether the confirmation requirements of § 1129(a) of the Bankruptcy Code have been satisfied. Only if all such requirements are satisfied, and all other conditions to confirmation set forth in the Plan are met, will the Bankruptcy Court enter an Order confirming the Plan under § 1129(a). The requirements of § 1129(a) applicable to a corporate debtor are as follows:

1. The Plan complies with the applicable provisions of the Bankruptcy Code.
2. The Debtor complies with the applicable provisions of the Bankruptcy Code.
3. The Plan has been proposed in good faith and not by any means forbidden by law.
4. Any payment made or to be made by the Debtor, or by a person issuing securities or acquiring property under the Plan, for services or for costs and expenses in or in connection with the case, or in connection with the Plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable.
5. The Debtor has disclosed:
 - a. the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer or voting trustee of the debtor, an affiliate of the Debtor participating in a joint plan with the Debtor, or a successor to the Debtor under the plan, and the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity interest holders and with public policy; and
 - b. the identity of any insider that will be employed or retained by the Reorganized Debtor, and the nature of any compensation for such insider.
6. Any governmental regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the debtor has approved any rate change provided for in the Plan, or such rate change is expressly conditioned on such approval.
7. With respect to each impaired class of claims or interests:
 - a. each holder of a claim or equity interest of such class has accepted the plan or will receive or retain under the plan on account of such claim or equity interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under Chapter 7 of the Bankruptcy Code on such date; or
 - b. if § 1111(b)(2) of the Bankruptcy Code applies to the claims of such class, each holder of a claim of such class will receive or retain under the plan on account of such claim property of a value, as of the effective date of the plan, that is not less than the value of such holder's interest in the estate's interest in the property that secures such claims.

8. With respect to each class of claims or interests, such class has accepted the plan or such class is not impaired under the plan.

9. Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that:

a. with respect to a claim of a kind specified in § 507(a)(2) or 507(a)(3) of the Bankruptcy Code, on the effective date of the Plan, the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim;

b. with respect to a class of claims of a kind specified in § 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of the Bankruptcy Code, each holder of a claim of such class will receive (i) if such class has accepted the Plan, deferred cash payments of a value, as of the Effective Date of the Plan, equal to the allowed amount of such claim, or (ii) if such class has not accepted the Plan, cash on the Effective Date of the plan equal to the allowed amount of such claim;

c. with respect to a claim of a kind specified in § 507(a)(8) of the Bankruptcy Code, the holder of such claim will receive on account of such claim regular installment payments in cash (i) of a total value, as of the Effective Date of the Plan, equal to the allowed amount of such claim, (ii) over a period ending not later than 5 years after the date of the order for relief under § 301, 302, or 303 of the Bankruptcy Code, and (iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under § 1122(b) of the Bankruptcy Code); and

d. with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under § 507(a)(8) of the Bankruptcy Code, but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in paragraph 9(c) above.

10. If a class of claims is impaired under the Plan, at least one class of claims that is impaired under the Plan has accepted the Plan, determined without including any acceptance of the plan by any insider.

11. Confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the Plan.

12. All fees payable under section 1930 of Title 28, as determined by the court at the hearing on confirmation of the Plan, have been paid or the plan provides for the payment of all such fees on the effective date of the Plan.

13. The Plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in § 1114 of the Bankruptcy Code, at the level established pursuant to subsection (e)(1)(B) or (g) of § 1114 of the Bankruptcy Code, at any time prior to

confirmation of the plan, for the duration of the period the Debtor has obligated itself to provide such benefits.

14. All transfers of property under the Plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.

If a sufficient number of Claimants and amounts of Claims in Impaired Classes under the Plan vote to accept the Plan, the Debtor believes that the Plan will satisfy all of the applicable statutory requirements of § 1129(a) of the Bankruptcy Code. However, as discussed below, the Debtor believes that the Plan may otherwise be confirmed under the “cramdown” provisions of § 1129(b) of the Bankruptcy Code, which are summarized below.

C. Cramdown

Pursuant to § 1129(b) of the Bankruptcy Code, the Bankruptcy Court may confirm the Plan at the request of the Proponents if: (i) all requirements of § 1129(a) of the Bankruptcy Code, with the exception of § 1129(a)(8) (set out in paragraph 8 above), are met with respect to the Plan; (ii) at least one Class of Claims that is impaired under the Plan has accepted the Plan (excluding the votes of insiders); and (iii) with respect to each impaired Class that has not accepted the Plan, the Plan does not “discriminate unfairly” and is “fair and equitable.”

A plan does not “discriminate unfairly” within the meaning of the Bankruptcy Code if the classification of claims under the plan complies with the Bankruptcy Code and no particular class will receive more than it is legally entitled to receive for its claims or interests.

On the other hand, “fair and equitable” has a different meaning for classes of secured claims, classes of unsecured claims, and classes of equity interests, as described below:

1. With respect to a class of secured claims that rejects the plan, to be “fair and equitable” the plan must, among other things, provide:

- a. that the holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims, and that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the effective date of the plan, of at least the value of such holder’s interest in the estate’s interest in such property;
- b. for the realization of such holders of the indubitable equivalent of such claims; or
- c. for the sale, subject to § 363(k) of the Bankruptcy Code, of any property that is subject to the liens securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under (a) or (b) above.

2. With respect to a class of unsecured claims that rejects the plan, to be “fair and equitable” the plan must, among other things, provide:

- a. that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or
 - b. that the holder of any claim or equity interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or equity interest any property.
3. With respect to a class of equity interests that rejects the plan, to be “fair and equitable” the plan must, among other things, provide:
- a. that each holder of an equity interest of such class receive or retain on account of such equity interest property of a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the value of such equity interest; or
 - b. that the holder of any equity interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior equity interest any property.

In the event that at least one impaired Class of Claims under the Plan accepts the Plan, the Debtor may request the Bankruptcy Court confirm the Plan in accordance with the cramdown provisions of § 1129(b) of the Bankruptcy Code. The Debtor believes that all of the requirements of § 1129(a) of the Bankruptcy Code (with the exception of § 1129(a)(8)) satisfied, that at least one Class of impaired Claims will accept the Plan (excluding the votes of insiders)), and that the Plan does not unfairly discriminate against and is fair and equitable in relation to each of the Classes that may vote to reject the Plan.

V. PLAN OVERVIEW

In January 2016, the Debtor retained corporate consultants to assist with evaluating and implementing strategic and tactical options to restructure the Debtor’s business operations and distressed secured indebtedness. In August 2016, the Debtor refinanced the secured indebtedness with new financing. On October 27, 2016, the Debtor filed its voluntary petition under chapter 11 of the Bankruptcy Code. The Plan is designed to accomplish the further restructuring of the Debtor’s business and balance sheet and provide a mechanism for distributions to creditors.

This Section provides a summary of the Plan and of how Claims against and Interests in the Debtor are classified and treated under the Plan. The descriptions set forth below are merely summaries and, if an inconsistency with the Plan exists, the Plan’s terms will govern. The information set forth within the table is qualified in its entirety by the more detailed information regarding the Plan set forth in this Disclosure Statement, the attached exhibits (including the Plan itself) and the additional disclosures that follow the table.

The Plan is made possible in large part by the sacrifice of the people and entities who,

indirectly or directly, founded and made successful Valuepart. In addition to the people whose tireless labor has brought Valuepart to this point, a number of entities are now making a financial sacrifice to carry forward the Debtor as a going-concern business. As described below, Valuepart owes no less than \$4.2 million to its junior secured lender and insider/affiliate, Skokie Investrade, Inc., and no less than \$10 million to an unsecured lender and insider/affiliate, FinPa Trading S.r.l. These two entities have agreed to subordinate their notes to both the claims and liens of a new exit-financing lender and the trust created for the benefit of the unsecured creditors. FinPa has further agreed to reduce the balance owed to it by the Debtor from \$10.4 million to \$3.5 million. Green Oak will own Reorganized VPI. Green Oak will be owned 50% by Skokie and 50% by Jemco SDN BHD.

Green Oak will contribute \$7 million into the Reorganized Debtor - \$4 million in equity and \$3 million as a loan. This \$7 million will help fund the Plan and operate the Reorganized Debtor, together with Exit Financing, revenue, existing cash accounts, and recovery from causes of action.

TO THE EXTENT THERE ANY INCONSISTENCIES OR AMBIGUITIES BETWEEN THE DISCLOSURE STATEMENT AND THE PLAN, THE TERMS AND PROVISIONS IN THE PLAN SHALL CONTROL. ACCORDINGLY, PLEASE READ THE PLAN CAREFULLY.

Summary of the Terms of the Plan.

The Plan is built around the following key elements:

- a) Reorganized VPI will continue to operate its business and retain its operating assets and most of its causes of action.
- b) Ivano Passini will be Reorganized VPI's president. Isa Passini will be the Executive Vice-President of Operations, and Nate Stupka will report to her as the Debtor's Chief Operating Officer. Jemco will appoint the Executive Vice-President of Finance, and Greg Miyake will report to that individual as the Chief Accounting Officer.³
- c) Reorganized VPI's initial post-bankruptcy board of directors will be Ivano Passini, Isa Passini, and two individuals appointed by Jemco and identified in the Plan Supplement Documents.
- d) Reorganized VPI will receive new first-priority lender financing from an Exit Lender.
- e) Reorganized VPI will use the proceeds from the Exit Financing to, among other things, (i) fund an escrow used to pay the

³ Any pre-Confirmation changes made to officer roles will be noted in a Plan Supplement Document.

Allowed amount, if any, of the Ares claim asserted against the Estate, as determined by the Bankruptcy Court at a later date, and (ii) run the business on a post-bankruptcy basis.

- f) Reorganized VPI will be owned 100% by Green Oak.
- g) Green Oak will contribute \$7 million to Reorganized VPI. This \$7 million will be used to run the business on a post-bankruptcy basis.
- h) \$4 million of that \$7 million will be equity financing.
- i) \$3 million of that \$7 million will be fully-subordinated, interest-free secured-debt financing. This \$3 million note will be subordinated to the Creditor Note.
- j) Green Oak will be owned 50% each, indirectly or directly, by Skokie and Jemco.
- k) Allowed Administrative Expenses will be paid at or before the Effective Date.
- l) General Unsecured Creditors will receive a \$6.35 million "Creditor Note," payable to a Creditor Trust, over a 4.5-year period.
- m) The Official Creditors Committee will be terminated on the Effective Date of the Plan.
- n) The "Creditors' Trust" will be established, and it will be administered by a Creditor Trustee.
- o) The Creditor Trustee will be identified in the Plan Supplement Document and approved by the Bankruptcy Court.
- p) The Creditor Trust will make distributions to all Allowed General Unsecured Claims, as set forth in Class 5 and determined by the Bankruptcy Court, pursuant to the terms and conditions of a Creditor Trust Agreement, which is a Plan Supplement Document. It is estimated that the value of the Creditor Note will cause a dividend to General Unsecured Claims, exclusive of costs and fees of the Creditor Trust, in an amount between 30% and 35% of total Allowed General Unsecured Claims.
- q) In addition to the Creditor Note, the Creditor Trust will (i) receive a share of litigation proceeds received by Reorganized VPI on certain non-avoidance causes of action and (ii)

prosecute certain § 547(b) causes of action and receive the proceeds from this prosecution. These § 547(b) causes of action will be identified and transferred to the Creditor Trust by the Reorganized Debtor within sixty (60) days after the Effective Date.

- r) Holders of General Unsecured Claims will receive a release of all causes of action under § 547(b) of the Bankruptcy Code if they (i) vote in favor of the Plan and (ii) provide credit terms and limits acceptable to the Reorganized VPI.
- s) Creditors holding Allowed Claims shall receive the following treatment under the Plan:

CLASS	CLAIMANT	TREATMENT
1.	ALLOWED PRIORITY NON-TAX CLAIMS (Est. Amt. of Claims: \$.010 million)	Shall receive (i) Cash in an amount equal to the Allowed amount of such Priority Non-Tax Claim on the Effective Date or (ii) other treatment consistent with the provisions of § 1129(a)(9) of the Bankruptcy Code; <i>provided, however</i> , that Priority Non-Tax Claims that arise in the ordinary course of the Debtor's business shall be paid by the Debtor or the Reorganized Debtor, as applicable, in the ordinary course of business. (Est. Recovery: 100%)
2.	ALLOWED SENIOR SECURED CLAIMS OF ACF FINCO I LP (ARES) (Est. Amt. of Claims: \$0.00)	If the Holder of a Class 2 Claim votes in favor of the Plan, in full and final satisfaction, settlement, release, and discharge of such Class 2 Claim, the Reorganized Debtor will pay \$12.6 million or such other amount agreed by the Reorganized Debtor and the Holder of such Class 2 Claim to the Holder of such Class 2 Claim on the Effective Date. If the Holder of a Class 2 Claim votes against the Plan, the Class 2 Claim will be satisfied in full and final satisfaction, settlement, release, and discharge of such Class 2 Claim by payment of \$16.1 million into Escrow or such other amount as the Court deems necessary to secure the Class 2 Claim. The Class 2 Claim shall accrue payment-in-kind interest at the rate of 6.5% interest per annum, compounded daily. All liens and security interests of the Holder of the Class 2 Claim, if any, shall transfer immediately on the Effective Date to the funds held in Escrow in the same priority, validity, and amount as such liens and security interests existed on the Petition Date, subject to determination by the Court; and all such liens and security interests shall be deemed perfected on entry of the Confirmation Order. The Allowed Class 2 Claim will be paid to the Holder of such Claim on the later of (a) 30 days after and to the extent the Class 2 Claim is Allowed, and (b) September 4, 2019, unless

CLASS	CLAIMANT	TREATMENT
		<p>otherwise agreed by the Reorganized Debtor and the Holder of such Class 2 Claim. The amount, validity, extent, value, and priority, of the Class 2 Claim under § 506 of the Bankruptcy Code will be determined by the Bankruptcy Court after the Effective Date or pursuant to an agreement between the Reorganized Debtor and the Holder of the Class 2 Claim. Any Deficiency Claim or other unsecured claim of the Holder of the Class 2 Claim shall be included as a Class 5 General Unsecured Claim.</p> <p>(Est. Recovery: 100%)</p>
3.	<p>ALLOWED JUNIOR SECURED CLAIM OF SKOKIE</p> <p>(Est. Amt. of Claim: \$4.5 million plus post-petition fees and expenses to the extent allowed under §506(b) of the Bankruptcy Code)⁴</p>	<p>Shall be satisfied by execution of the Restated Skokie Note and Security Agreement, the First Subordination Agreement, and the Second Subordination Agreement.</p> <p>(Est. Recovery: 100%)</p>
4.	<p>OTHER SECURED CLAIMS</p> <p>(Est. Amt. of Claims: \$0.00)</p>	<p>Shall be satisfied at the Reorganized Debtor's option by (i) payment of such Allowed Other Secured Claim in full in Cash, including interest required under § 506(b) of the Bankruptcy Code; (ii) delivery of the Collateral securing such Allowed Other Secured Claim; or (iii) other treatment in a manner such that the Class 4 Claim is rendered Unimpaired.</p> <p>(Est. Recovery: 100%)</p>
5.	<p>GENERAL UNSECURED CLAIMS</p> <p>(Est. Amt. of Claims: \$20 million)</p>	<p>Shall be satisfied by Pro Rata Share of Distributions from Creditor Trust Assets.</p> <p>(Est. Recovery: 30% to 35%)⁵</p>

⁴ This claim is held by an Insider Entity. As part of this Plan, the holder of this Class 3 Claim has agreed to subordinate payment and the exercise of any remedies of this Class 3 Claim to payment of the Creditor Note and the full satisfaction of the Reorganized Debtor's obligations to pay Class 5 Claims.

⁵ Percentage Distribution to Holders of Allowed Class 5 Claims is dependent on a variety of risks and factors, including the Reorganized Debtor's success, recovery, and value of the Creditor Trust Assets, and the administration costs of the Creditor Trust.

CLASS	CLAIMANT	TREATMENT
6.	UNSECURED CLAIM OF FINPA (Est. Amt. of Claims: \$10.4 million) ⁶	Shall be satisfied by execution of the FinPa Restated Note, the First Subordination Agreement, and the Second Subordination Agreement. (Est. Recovery: 33%)
7.	SUBORDINATED CLAIMS (Est. Amt. of Claims: Unknown) ⁷	There will be no Distributions to Claims in Class 7. (Est. Recovery: 0%)
8.	INTERESTS IN THE DEBTOR (Est. Amt. of Claims: Unknown)	All Interests will be cancelled and discharged on the Effective Date, and no holder of an Interest shall receive a Distribution on account of such Interest. (Est. Recovery: 0%)

Factors and Assumptions Applied in Arriving at Estimates

The estimated Claims per Class in the foregoing table have been derived from the Schedules for the Estate prepared by the Debtor and its Professionals using information from the Debtor's books and records and other information available to them, as well as proofs of Claims filed by Claimants in the Chapter 11 Case and Orders entered by the Bankruptcy Court.

The deadline to file a proof of claim in the Chapter 11 Case was March 7, 2017. Two hundred and eleven (211) Proofs of Claim have been filed in the Chapter 11 Case, which, after excluding duplicates, collectively assert:

- Unsecured Claims in the approximate amount of \$41,443,417.88;
- Secured Claims in the approximate amount of \$20,999,333.33;

⁶ This claim is held by an Insider Entity. The asserted amount of this claim is \$10,396,666.00. As part of this Plan, the Holder of this Class 6 Claim has agreed to reduce this \$10.4 million claim to \$3.5 million. This Holder has also agreed to subordinate this \$3.5 million to the other \$20.0 million of unsecured claims in Class 5 Claim. This reduced amount of \$3.5 million will be paid in full but not until the Creditor Note is paid in full.

⁷ On May 15, 2017, the Estate sued Ares in the United States Bankruptcy Court for the Northern District of Texas, Case No. 17-03044, asserting many causes of action including equitable subordination. Ares asserts a \$16.1 million claim against the Estate. As can be seen in this lawsuit, the Debtor disputes Ares's asserted claim against the Estate. If the Debtor is successful in Case No. 17-03044, then the amount of Subordinated Claims in Class 8 will include the amount of Ares's claim subordinated by the Bankruptcy Court.

- Priority Claims in the approximate amount of \$834,563.72;
- Administrative Claims in the approximate amount of \$1,043,505.78; and
- § 503(b)(9) Claims in the approximate amount of \$905,424.65.

The Debtor has objected to no less than \$6 million in Unsecured Claims and no less than \$16.1 million in Secured Claims at this stage. The Debtor has also objected to no less than \$.500 million of § 503(b)(9) Claims.

For those Claimants listed on the Schedules who have also filed proofs of Claim in the Chapter 11 Case, the Bankruptcy Rules provide that their proofs of Claim have superseded any amounts reflected in the Schedules. To the extent Claims scheduled by the Debtor have not been superseded by proofs of Claim, the estimates in the foregoing table take into account Claims scheduled in a liquidated, non-contingent, and undisputed amount. Where duplicative or amended Claims appear to have been filed, including Scheduled Claims, the foregoing estimates assume that duplicates and superseded Claims will be Disallowed in favor of, at most, a single surviving Claim. The estimates also include application of merit-based objections known to the Debtor and its counsel as of the date of this Disclosure Statement and, therefore, constitute their best estimate, as of the date of Filing of this Disclosure Statement, of the ultimate allowable amount of Claims in each such Class.

The ultimate resolution of Claims is inherently uncertain. Moreover, the Debtor has not completed its evaluation of all Claims and cannot presume the validity of merit-based disputes or objections. Any Claim that is a Disputed Claim may be Disallowed or reduced in amount if an objection has been or is timely hereafter filed and sustained by the Bankruptcy Court. Because the resolution of Disputed Claims involves many factual and legal issues that may or may not be resolved as anticipated, no assurance can be given that the anticipated amount of Allowable Claims in each Class would be achieved were these assumptions included in the foregoing estimates. The Debtor believes that the ultimate universe of Allowed Claims will be substantially lower than the face amount of the filed proofs of Claims, and that the current estimates of Allowable Claims shown herein in each Class are reasonably precise given the particular circumstances.

Notwithstanding, the foregoing estimates contained herein shall not be deemed as any admission on the part of the Debtor, the Estate, or any other party to the validity of any Claim. Similarly, the projected recovery levels reflected in the table are estimates only, and there is no guaranty that such levels of recovery will be achieved. Such estimates shall not constitute an admission on the Debtor's part to the validity of any Disputed Claims. Any Claim that is not Allowed by an Order of the Bankruptcy Court or pursuant to a settlement approved by an Order of the Bankruptcy Court may be Disallowed or reduced in amount if an objection has been, or is timely hereafter, filed and sustained by the Bankruptcy Court. Except as otherwise provided in the Plan, all objections and other defenses to Disputed Claims are preserved under the Plan.

VI.
HISTORICAL AND BACKGROUND INFORMATION

A. Organizational Information

Valuepart is owned 100% by Lakeview Int'l Ltd, which is owned indirectly by the Passini family. Valuepart has no subsidiaries.

The Debtor's Business and Operations

The Debtor is a Chicago-based distributor of high-quality, competitively-priced, aftermarket replacement parts for off-highway earthmoving equipment manufacturers such as Caterpillar, Case, Komatsu, Deere, International, Bobcat and Hitachi, along with many others. The Debtor's product range includes undercarriage, GET, engine parts, rubber tracks, track frames, hydraulic components, drivetrain and transmission items, as well as a wide range of other popular replacement parts. The Debtor operates from 8 locations in Illinois, Texas, Nevada, Washington, Ohio, Georgia, Vancouver, and Toronto, and employs approximately 70 employees. Although headquartered in Vernon Hills, Illinois, the Debtor's largest distribution center is located in Dallas, Texas.

Organized under the laws of the State of Delaware, the Debtor was founded in 1995 with the goal of providing its customers with fast availability of quality undercarriage and repair parts inventory. As of the Petition Date, the Debtor maintained one of the largest North American networks of depots and warehouse facilities in the industry.

B. Capital Structure

As of October 27, 2016, ValuePart's consolidated balance sheet reflected total assets of approximately \$51,727,534.54. Of this amount, approximately \$1,123,897.42 was comprised of cash and cash equivalents, \$24,754,337.35 was comprised of inventory, \$706,364.34 was comprised of equipment, \$14,770,898.47 was comprised of receivables, and approximately \$10,372,036.96 was comprised of other assets. ValuePart's consolidated balance sheet also reflected total liabilities of approximately \$47,472,147.66.

Senior Lender. On August 4, 2016, the Debtor entered into that certain *Loan and Security Agreement* (as may be amended, extended, and/or modified, the "**Loan Agreement**") with its Senior Lender, ACF Finco I LP ("**Ares**"), providing the Debtor a revolving line of credit with a maximum revolving loan limit not to exceed \$35,000,000.00. Under the terms of the Loan Agreement, the Debtor granted Ares a security interest in certain of the Debtor's personal property, specifically including, without limitation, accounts, inventory and proceeds thereof.

As of the Petition Date, Ares asserted a lien on substantially all of the Debtor's assets and cash proceeds arising therefrom acquired by the Debtor after the Petition Date. The Debtor paid all monetary obligations due under that *Loan and Security Agreement* as of the Petition Date. Ares disputes this assertion, and Ares asserts that the Debtor also has existing non-monetary defaults in the form of breached financial covenants under the terms of the Loan Agreement.

Junior Lender. Prior to the Petition Date, the Debtor entered into the following debt

instruments with Skokie Investrade, Inc. the Junior Lender and an insider/affiliate of the Debtor (as may be amended, restated, extended, and/or modified, the “**Subordinated Notes**”).

- Promissory Note dated June 24, 2016, and restated August 4, 2016 in the principal amount of \$50,000.00.
- Promissory Note dated August 4, 2016, in the principal amount of \$3,000,000.00.
- Promissory Note dated August 4, 2016, in the principal amount of \$50,000.00.
- Promissory Note dated February 29, 2016, and restated August 4, 2016 in the principal amount of \$450,000.00.
- Promissory Note dated March 31, 2016, and restated August 4, 2016 in the principal amount of \$450,000.00.
- Promissory Note dated April 29, 2016, and restated August 4, 2016 in the principal amount of \$225,000.00.

The Subordinated Notes provided the Debtor with term-loan financing in the aggregate principal amount of \$4,265,000.00, the balance on which is approximately \$4.2 million. The Subordinated Notes are secured by junior security interests in substantially all of the Debtor’s assets, including, without limitation, accounts, inventory and proceeds thereof. The Debtor has complied with all obligations arising under the Subordinated Notes. The Debtor is not in default under the Subordinated Notes.

FinPa Unsecured Note.

On May 31, 2002, the Debtor entered into that *Promissory Note* in favor of FinPa Trading S.r.l. (“**FinPa**”) in the amount of \$10,000,000 with interest accruing at an annual rate of 4%. The Debtor and FinPa entered into an *Amended and Restated Promissory Note* on August 4, 2016, on substantially the same terms, although accrued but unpaid interest at that time amounted to approximately \$331,000 (the “**FinPa Unsecured Note**”). FinPa was an insider/affiliate of the Debtor.

Other Unsecured Debt

According to the Debtor’s claims register maintained by the Debtor’s claims agent, (JND Law), and the Debtor’s schedules, the Debtor owed an alleged \$35,443,417.88 in unsecured debt on the Petition Date. Of that \$35,443,417.88, approximately \$12,018,633.10 is owed to the Passini family. This \$12,018,633.10 includes \$10,396,666.00 owed under the FinPa Unsecured Note and \$1,624,633.10 owed to insider/other affiliates of the Debtor, including Isa Passini, Ivano Passini, Passini Holdings, Valuepart Machinery Production, and Valuepart Turkey.

C. Certain Affiliate and Insider Transactions - Affiliate Insiders

Transactions with affiliates and/or insiders of Valuepart in the one year prior to the Bankruptcy Case can be summarized as follows:

American Express Corporate Card for Directors ISA AND IVANO PASSINI	\$201,296.73
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BARBARA NEUMANN, Former Chief Financial Officer	\$40,387.83
ISA PASSINI, Chief Executive Officer and Director	\$43,500.00
IVANO PASSINI, Director	\$8,500.00
KARI BLANKENSHIP, Former Chief Financial Officer	\$186,385.09
LEN LOCASCIO, Former Chief Financial Officer	\$7,500.00
PASSINI HOLDING SLR, Technical Services Provider	\$233,333.31
RON HESSEL, Former Chief Executive Officer	\$217,535.77
TAHA ELGHAWABY CPA, Financial Advisor	\$19,200.00
TAHA FINANCIAL & TAX CONSULTING, LTD, Tax Consultant	\$26,000.00
VALUEPART CHANGTAI MACHINERY PRODUCTION, Affiliate	<u>\$3,590,687.25</u>
Total	\$4,574,325.98

Other than Valuepart Changtai Machinery Production (“**Changtai**”), all payments above relate to compensation for services provided and/or reimbursement for actual expenses incurred in providing those services. Payments made to Changtai were made for the purchase of supplies.

Further detail of affiliate and insider transactions is provided in Attachment 4 to Valuepart’s Statement of Financial Affairs filed in the Bankruptcy Case [Docket No. 134] and a Schedule of Non-Debtor Affiliates is attached as Exhibit F to this Disclosure Statement. In addition, the Debtor’s books and records reflect (a) accounts receivables owed by alleged non-debtor affiliated entities in the approximate amount of \$5,800,000 and (b) notes receivables owed by alleged non-debtor affiliated entities in the approximate amount of \$3,000,000. These receivables are not transferred to the Creditor Trust and will be further evaluated by the Debtor for collection. At this time, the Debtor does not expect much of such receivables to be collectible.

Transactions with Passini Holdings for technical services continued throughout the Bankruptcy case, pursuant to an order from the Bankruptcy Court authorizing the same [Docket No. 157]. In addition, compensation to Ivano Passini and Isa Passini for director fees, expense-reimbursement, and apartment stipends continued throughout the Bankruptcy Case, pursuant to an order from the Bankruptcy Court authorizing the same [Docket No. 158].

D. Events Leading to Chapter 11 Filing

The Debtor filed this bankruptcy case after experiencing a brief period of lower-than-expected performance that was caused by its Senior Lender’s delay in closing a long-anticipated refinance of the Debtor’s secured debt. Although sales and EBITDA rebounded prior to the Petition Date, the Senior Lender refused to (i) waive a technical non-monetary default that it called while awaiting and then relying on an appraisal performed at the Senior Lender’s direction shortly after closure of the refinanced loan and (ii) allow the Debtor to pay expenses necessary to run its business. Ares disputes the accuracy of these allegations, which have been asserted in an adversary proceeding; and Ares reserves all of its rights with respect thereto. So, on October 27, 2016, the Debtor filed bankruptcy to get relief from its Senior Lender and restructure its indebtedness to the Senior Lender and to preserve value for all unsecured creditors and other stakeholders. In addition, as part of the bankruptcy, the Debtor sought to (i) stabilize operations, and (ii) prove to its vendors that it could still (x) be profitable selling their products and (y) maximize the payback on their existing credit exposure.

E. Management of the Debtor

It is anticipated that the members of the board of directors after the effective date of the Plan will be Isa Passini, Ivano Passini, and two other Directors appointed by Jemco, a 50% owner of Green Oak. It is anticipated that the officers of the Debtor who are serving as of the Confirmation Date will continue to serve in such capacities until the Effective Date. After the Effective Date, Ivano Passini will be Reorganized VPI's President. Isa Passini will be the Executive Vice-President of Operations and Nate Stupka will report to her as Chief Operating Officer. Jemco will appoint the Executive Vice-President of Finance, and Greg Miyake will report to that individual as the Chief Accounting Officer.

The Confirmation Order shall ratify and approve all actions taken by the board of directors and the officers of the Debtor from the Petition Date through and until the Effective Date. Below is a list of current and future, known executive officers of ValuePart, along with a brief biography of each officer.

Greg Baracato. Mr. Baracato has served as the Debtor's Chief Restructuring Officer since January 2016 (excluding the period of August 4, 2016 through October 21, 2016). He is responsible for managing the Debtor's reorganization through the chapter 11 process. Mr. Baracato received his bachelor of science degree in Industrial Management from Louisiana Tech University and his master of science degree in business administration from Louisiana Tech University. Mr. Baracato will continue to serve as Chief Restructuring Officer until and through the Effective Date.

Ivano Passini. Mr. Passini serves as the Debtor's President and Chair of its Board of Directors. Mr. Passini will continue to serve on the Board of Directors and as Reorganized VPI's President going forward. Mr. Passini founded Valuepart as a joint venture with John Deere in 1995 and then purchased John Deere's ownership interest in 2002. With over 45 years of entrepreneurship in the OEM industry, Mr. Passini now serves as an advisor to Valuepart in his role on the Board of Directors. Mr. Passini has a degree in Mechanical Engineering from the University of Modena in Italy.

Antonio DiBartolomeo. Mr. Bartolomeo serves on the Debtor's Board of Directors and will serve as Reorganized VPI's Secretary, although he will not initially serve on the Reorganized VPI's Board of Directors. Mr. Bartolomeo has served as an advisor to Valuepart for years and has a background in accounting and economics.

Isa Passini. Ms. Passini serves as the Debtor's Executive Vice President and its Board of Directors. Going forward, Ms. Passini will serve on the Reorganized VPI's Board of Directors and as Reorganized VPI's Executive Vice-President of Operations. Ms. Passini has more than 15 years of experience in the aftermarket-parts industry in both managerial and financial roles. Ms. Passini now serves as both an advisor to and Chief Executive Officer of the Debtor, overseeing and directing the Debtor's management and vision. Ms. Passini has a degree from the Accounting School of Saint Gallen in Switzerland and a law degree from the Law University of Bologna in Italy.

Nate Stupka. Mr. Stupka serves as the Debtor's Chief Operating Officer. For the

Reorganized Debtor, Mr. Stupka will be the Chief Operating Officer and report to Ms. Passini. Mr. Stupka has over 20 years of experience in sales and operations in the earthmoving industry. Prior to joining Valuepart in 2016, Mr. Stupka served as Intertractor's commercial director. As Chief Operating Officer, Mr. Stupka now oversees operations and implements strategic change-to-drive sales and profit.

Greg Miyake. Mr. Miyake serves as the Debtor's Chief Accounting Officer. Going forward, Mr. Miyake will be the Reorganized Debtor's Chief Accounting Officer and report to the Executive Vice-President of Finance, who has not been identified. Mr. Miyake brings more than 20 years of accounting experience to Valuepart. Mr. Miyake is a CPA and has a bachelor's degree in accounting from the Keller Graduate School of Management.

VII.

FINANCIAL INFORMATION, PROJECTIONS, AND ASSUMPTIONS

A. Annual Financial Information for ValuePart

For the year ended October 29, 2016, ValuePart reported a \$(4,064,007.00) net loss on a consolidated basis. On a consolidated basis, the total cash and cash equivalents of ValuePart was approximately \$1,123,897.42 on October 29, 2016.

For the year ended October 31, 2015, ValuePart reported a \$(4,533,561.00) net loss on a consolidated basis. On a consolidated basis, the total cash and cash equivalents of ValuePart was approximately \$241,634.00 on October 31, 2015.

B. Purpose and Objectives

The value of the equity to be issued pursuant to the Plan and the estimated recoveries by Holders of Allowed Claims who receive distributions depend, in part, on the Debtor's ability to achieve the financial results projected.

To maximize creditor recoveries, the Debtor must seek to maximize the value of its business. In addition, for the Plan to meet the feasibility test of § 1129(a)(11) of the Bankruptcy Code, the Bankruptcy Court must conclude that confirmation of the Plan is not reasonably likely to lead to the liquidation or further reorganization of the Debtor.

With these considerations in mind, the Debtor formulated its projections and assumptions, which then formed the basis of the Plan. The Debtor believes that these assumptions are reasonable under the circumstances and that achieving the projections in this Disclosure Statement will maximize the value of the Debtor's business for the creditors.

C. Projected Financial Statements

The Debtor has prepared the projected operating and financial results (the "**Projections**") for the Debtor through the period ending December 31, 2021 (the "**Projection Period**"). The Projections are attached to this Disclosure Statement as **Exhibit "C."**

The Projections should be read in conjunction with the assumptions, qualifications, and

risk factors set forth in this Disclosure Statement.

THE PROJECTIONS ARE PRESENTED SOLELY FOR THE PURPOSE OF PROVIDING “ADEQUATE INFORMATION” UNDER § 1125 OF THE BANKRUPTCY CODE TO ENABLE THE HOLDERS OF CLAIMS ENTITLED TO VOTE UNDER THE PLAN TO MAKE AN INFORMED JUDGMENT ABOUT THE PLAN AND SHOULD NOT BE USED OR RELIED ON FOR ANY OTHER PURPOSE, INCLUDING THE PURCHASE OF CLAIMS AGAINST OR EQUITY INTERESTS IN, THE DEBTOR.

THE ASSUMPTIONS AND RESULTANT PROJECTIONS AND SUBSEQUENTLY IDENTIFIED VARIANCES CONTAIN CERTAIN STATEMENTS THAT MAY BE CONSIDERED “FORWARD-LOOKING STATEMENTS” WITHIN THE MEANING OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995. THE PROJECTIONS HAVE BEEN PREPARED BY THE DEBTOR’S MANAGEMENT AND PROFESSIONALS. THESE PROJECTIONS AND SUBSEQUENTLY IDENTIFIED VARIANCES, WHILE PRESENTED WITH NUMERICAL SPECIFICITY, ARE BASED ON A VARIETY OF ESTIMATES AND ASSUMPTIONS THAT, THOUGH CONSIDERED REASONABLE BY MANAGEMENT, MAY NOT BE REALIZED OR MAY BE UNDERSTATED AND ARE INHERENTLY SUBJECT TO SIGNIFICANT BUSINESS, ECONOMIC, AND COMPETITIVE UNCERTAINTIES AND CONTINGENCIES, MANY OF WHICH ARE BEYOND THE DEBTOR’S CONTROL. THE DEBTOR CAUTIONS THAT NO ASSURANCES CAN BE MADE AS TO THE ACCURACY OF THE ASSUMPTIONS AND RESULTANT PROJECTIONS OR THE DEBTOR’S ABILITY TO ACHIEVE THE PROJECTED RESULTS FOLLOWING THE EFFECTIVE DATE. SOME ASSUMPTIONS INEVITABLY WILL NOT MATERIALIZE, AND EVENTS AND CIRCUMSTANCES OCCURRING SUBSEQUENT TO THE DATE ON WHICH THE PROJECTIONS WERE PREPARED MAY BE DIFFERENT FROM THOSE ASSUMED OR MAY BE UNANTICIPATED; THUS, THEY MAY AFFECT FINANCIAL RESULTS IN A MATERIAL AND POSSIBLY ADVERSE MANNER. THEREFORE, THE PROJECTIONS MAY NOT BE RELIED ON AS GUARANTY OR OTHER ASSURANCE OF THE ACTUAL RESULTS THAT WILL OCCUR.

THE PROJECTIONS WERE NOT PREPARED WITH A VIEW TO COMPLYING WITH THE GUIDELINES FOR PROSPECTIVE FINANCIAL STATEMENTS PUBLISHED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS NOR IN ACCORDANCE WITH U.S. GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. THE DEBTOR’S INDEPENDENT ACCOUNTANTS HAVE NEITHER EXAMINED NOR COMPILED THE PROJECTIONS; ACCORDINGLY, THEY DO NOT EXPRESS AN OPINION OR ANY OTHER FORM OF ASSURANCE WITH RESPECT TO SUCH PROJECTIONS.

AS A MATTER OF COURSE, THE DEBTOR DOES NOT PUBLISH ITS BUSINESS PLAN AND STRATEGY OR PROJECTIONS OF ITS ANTICIPATED FINANCIAL POSITION OR RESULTS OF OPERATIONS. ACCORDINGLY, THE DEBTOR DOES NOT INTEND, AND DISCLAIMS ANY OBLIGATION, TO FURNISH UPDATED BUSINESS PLANS OR PROJECTIONS TO HOLDERS OF CLAIMS OR INTERESTS PRIOR TO THE EFFECTIVE DATE, OR ANY OTHER PARTY AFTER THE EFFECTIVE DATE. HOWEVER, FROM

TIME TO TIME, THE DEBTOR MAY PREPARE UPDATED PROJECTIONS IN CONNECTION WITH PURSUING FINANCING (INCLUDING THE EXIT FINANCING), CREDIT RATINGS, AND OTHER PURPOSES. SUCH PROJECTIONS MAY DIFFER MATERIALLY FROM THE PROJECTIONS PRESENTED HEREIN.

D. Sources & Uses

The Debtor and its professionals have estimated the Debtor's Sources & Uses, based on information available as of the date of this Disclosure Statement. This Sources & Uses information is attached to this Disclosure Statement as **Exhibit "D."**

THE SOURCES & USES EXHIBIT IS PRESENTED SOLELY FOR PURPOSES OF PROVIDING "ADEQUATE INFORMATION" UNDER § 1125 OF THE BANKRUPTCY CODE TO ENABLE HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN TO MAKE AN INFORMED JUDGMENT ABOUT THE PLAN. THAT EXHIBIT SHOULD NOT BE USED OR RELIED ON FOR ANY OTHER PURPOSE, INCLUDING THE PURCHASE OR SALE OF CLAIMS AGAINST OR INTERESTS IN, THE DEBTOR.

VIII. SIGNIFICANT PLEADINGS FILED IN THE CHAPTER 11 CASE

During the course of the Chapter 11 Case, various pleadings have been filed with the Bankruptcy Court. The following is a description of the more significant pleadings filed during the pendency of the Chapter 11 Case to the extent not discussed elsewhere in this Disclosure Statement. For a comprehensive listing of the pleadings that have been filed in the Chapter 11 Case, the docket for the Chapter 11 Case should be reviewed, and relevant pleadings referenced therein may be obtained from the Clerk's Office of the Bankruptcy Court, via the online PACER system or at <http://www.jndla.com/cases/valuepart>.

A. Employment of Professionals

1. Debtor's Counsel

On November 23, 2016, the Debtor filed its *Application for Authority to Employ Gardere Wynne Sewell LLP as Counsel to the Debtor and the Debtor-in-Possession as of the Petition Date* [Docket No. 94], pursuant to which the Debtor sought authority to employ Gardere Wynne Sewell LLP as its general bankruptcy counsel, effective as of the Petition Date. This application was approved by Order of the Bankruptcy Court [Docket No. 159] entered on December 27, 2016.

2. Other Professionals of the Debtor

On November 23, 2016, the Debtor filed its *Application Pursuant to Sections 363(b) and 105(a) of the Bankruptcy Code Authorizing the Debtors to (i) Employ and Retain CR3 Partners, LLC to Provide the Debtor a Chief Restructuring Officer and Additional Personnel and (ii) Designate Greg Baracato as the Chief Restructuring Officer for the Debtor as of the Petition Date* [Docket No. 95], pursuant to which the Debtor sought authority to employ CR3 to provide management and restructuring services and to appoint Greg Baracato as the Debtor's Chief

Restructuring Officer. This application was approved by Order of the Bankruptcy Court [Docket No. 160] entered on December 27, 2016.

On November 23, 2016, the Debtor filed its *Application for Order Authorizing Retention and Employment of UpShot Services LLC as Noticing, Claims, and Balloting Agent as of the Petition Date* [Docket No. 96] pursuant to which the Debtor sought authority to employ UpShot Services LLC to provide noticing, claims, and balloting services. This application was approved by Order of the Bankruptcy Court [Docket No. 161] entered on December 28, 2016, thereby authorizing the Debtor to employ UpShot Services, LLC and to compensate UpShot Services, LLC, pursuant to § 156(c) of the Bankruptcy Code, without need for the filing of any interim or final fee application. In March 2017, Upshot Services, LLC changed its name to JND Corporate Restructuring.

On December 14, 2016, the Debtor filed its *Application for Authority to Employ FocalPoint Securities, LLC as Investment Banker as of November 16, 2016* [Docket No. 144], pursuant to which the Debtor sought authority to employ FocalPoint Securities, LLC to provide investment-banking services to the Debtor. This application was approved by Order of the Bankruptcy Court [Docket No. 253] entered on February 9, 2017.

On December 29, 2016, the Debtor filed its *Application for an Order Authorizing and Approving Retention of Nixon Peabody, LLP as Special Counsel for the Debtor* [Docket No. 163], pursuant to which the Debtor sought authority to continue retention of Nixon Peabody as special counsel in the Farquhar Litigation. This application was approved by Order of the Bankruptcy Court [Docket No. 361] on March 29, 2017.

On February 21, 2017, the Debtor filed its *Application for Authority to Employ Gordon Brothers Asset Advisors LLC as Valuation Professional Nunc Pro Tunc to November 21, 2016* [Docket No. 274], pursuant to which the Debtor sought authority to employ Gordon Brothers Asset Advisors LLC to assist the Debtor in the Chapter 11 case by providing valuation services to the Debtor. This application is set for hearing on June 21, 2017, at 9:00 am (CST) [Docket No. 466].

On April 26, 2017, the Debtor filed its *Application of the Debtor to Employ and Retain Tax Advisors Group, Inc. as Property Tax Consultants* [Docket No. 421]. On May 23, 2017, the Debtor certified that it had received no objection to this Application [Docket No. 470]. Now it awaits an order from the Bankruptcy Court approving that application.

On May 23, 2017, the Debtor filed its *Application to Employ Plante & Moran, PLLC as Tax Advisor and for Tax Preparation Services* [Docket No. 471], which is currently pending approval.

3. Professionals for the Committee

On November 30, 2016, the UST filed a notice of its appointment of the Committee [Docket Nos. 101, 112 and 113]. On December 15, 2016, the Committee filed its *Application to Employ Kane Russell Coleman & Logan PC as Counsel for the Official First Amended Unsecured Creditors' Committee* [Docket No. 146], pursuant to which it sought authority to employ, effective as of December 7, 2016, Kane Russell Coleman & Logan PC as counsel for

the Committee. This application was approved by Order of the Bankruptcy Court [Docket No. 204] entered on January 20, 2017.

On December 22, 2016, the Committee filed its *Application to Employ Lain Faulkner & Co., P.C. as Financial Advisor to the Official Committee of Unsecured Creditors* [Docket No. 153], pursuant to which it sought authority to employ Lain Faulkner & Co., P.C. as financial advisor to the Committee. This application was approved by Order of the Bankruptcy Court [Docket No. 232] entered on January 30, 2017.

B. Financing of Operations and Administration of the Estate

1. Commencement of the Chapter 11 Case

On October 27, 2016, the Debtor filed a *Voluntary Petition* for relief under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court, the Honorable Harlin D. Hale presiding.

2. Interim Compensation and Reimbursement of Professional Persons

To enable all parties to monitor the costs of administration, enable the maintenance of a more level cash-flow availability and implement efficient cash management, the Debtor developed procedures for interim compensation and reimbursement of expenses of Professionals. On November 2, 2016, the Bankruptcy Court issued an order [Docket No. 39] establishing certain procedures with which all Professionals must follow when seeking payment of compensation and reimbursement expenses.

3. Employee Compensation and Benefits

On October 27, 2016, the Debtor filed its *Motion for Entry of Interim and Final Orders Authorizing the Debtor to Pay Prepetition Wages and Other Employee-Benefit Claims* [Docket No. 9], pursuant to which the Debtor sought authority to, among other things, pay certain prepetition wages and benefits and to continue prepetition health insurance and vacation benefits through the pendency of the Chapter 11 Case. This motion was granted by Order of the Bankruptcy Court [Docket No. 38] entered on November 2, 2016.

4. Cash Collateral

Since the Petition Date, the Debtor has continued to operate its business as debtor-in-possession. The Debtor has sought Bankruptcy Court approval for all transactions that were outside the ordinary course of its business. As discussed in this section, during the period immediately following the Petition Date, the Debtor sought and obtained authority from the Bankruptcy Court on a number of matters deemed by the Debtor to be essential to its smooth and efficient transition into chapter 11 and the stabilization of its operations.

As described above, as of the Petition Date, the Debtor had granted security interests and liens in substantially all of its assets, including cash (“**Cash Collateral**”) to the Senior Lender. Given the purported encumbrances on substantially all of the Debtor’s assets under the prepetition credit facilities, the Debtor would have been unable to continue its business operations, absent some form of immediate relief provided by the Bankruptcy Court. Simply

put, approval of the Debtor's use of its assets, including Cash Collateral, was required to fund the Debtor's day-to-day operations and preserve the going-concern value of the Debtor's assets.

On November 1, 2016, the Bankruptcy Court issued the *First Interim Order Authorizing Debtor's Use of Cash Collateral and Granting Adequate Protection and Related Relief* [Docket No. 32], authorizing the Debtor's immediate use of Cash Collateral on an emergency and interim basis, subject to certain limitations such as a set Cash Collateral budget. The Bankruptcy Court further found that the prepetition lenders' interests were adequately protected based on: (a) periodic cash payments of current interest at the non-default rate under the respective prepetition credit facilities (only applicable to the Senior Lender), (b) replacement liens on and security interests in all of the Debtor's assets, whether existing on the Petition Date or acquired or arising thereafter, equal to the aggregate net diminution in the value of such interest in their collateral, and (c) granting such lenders superpriority administrative claims pursuant to § 507(b) of the Bankruptcy Code, which are, with limited exceptions, senior to all other administrative claims. Subsequently, the Court entered seven more interim orders extending the Debtor's use of cash collateral through the week of August 26, 2017. *See* Docket Nos. 98, 110, 172, 248, 310, and 550.

An interim hearing to consider further use of cash collateral is scheduled for August 22, 2017, at 9:00 a.m. (CST).

5. Cash Management

As described in greater detail above, as is typical with most corporate enterprises, as of the Petition Date, the Debtor had in place a cash-management system for the collection of receipts and the disbursement of funds. On November 1, 2016, the Bankruptcy Court authorized the Debtor to continue to use its existing cash management system, bank accounts, and business forms [Docket No. 31].

6. Maintenance of Warranty Programs

Prior to the Petition Date and in the ordinary course of its business, the Debtor provided its customers with limited warranties by offering its direct customers and those purchasing for resale to replace a defective or somehow deficient part at no cost to the customer. Upon the timely filing of a claim and verification that such claim is a valid claim under the warranty program, the Debtor will honor its obligations. On October 27, 2016, the Debtor filed the *Amended Motion for Entry of an Order Authorizing the Debtor to Maintain and Administer Warranty Programs and Honor Prepetition Obligations Related Thereto* [Docket No. 12], seeking authority to honor and maintain the Warranty Program. On March 29, 2017, the Bankruptcy Court entered an Order granting the amended motion to honor and maintain the Warranty Program [Docket No. 360].

C. Assumption and Rejection of Unexpired Leases

On January 16, 2017, the Debtor filed its *Motion to Extend Time by which the Debtor must Assume or Reject Unexpired Leases of Non-Residential Real Property* [Docket No. 193], pursuant to which the Debtor sought an extension of ninety days beyond February 24, 2017, to assume or reject unexpired leases of non-residential real property. On February 24, 2017, the

Bankruptcy Court entered an Order [Docket No. 288] granting the motion and providing the Debtor until May 25, 2017 to assume or reject unexpired leases of non-residential real property.

D. Bar Dates

On November 4, 2016, the Debtor filed the *Notice of Chapter 11 Bankruptcy Filing*, which advised parties, among other things, that the last date on which Claimants and Holders of Interests could timely file proofs of Claims or Interests in the Chapter 11 Case was March 7, 2017 (the “**Bar Date**”). The Bar Date applies to all Holders of Claims and Holders of Interests, but does NOT include Governmental Units. On February 23, 2017, then-UpShot Services LLC served the Notice on the service list.

On November 4, 2016, the Debtor filed its *Motion Pursuant to 11 U.S.C. §§ 105(a) and 503 for an Order Establishing the Deadline for Filing Administrative Claims and Approving the Form and Manner of Notice Thereof* [Docket No. 46], seeking to establish an administrative-expense claim bar date. On December 6, 2016, the Bankruptcy Court entered an Order [Docket No. 109] granting that motion and setting a bar date for administrative claims of January 15, 2017. On the same day as the entry of the Order, the Debtor filed the *Notice of Entry of Bar Date Order Establishing Deadline for Filing Application for Payment of Administrative Claims Against the Debtor* [Docket No. 111].

E. Extension of Exclusivity

On January 14, 2017, the Debtor filed its *Motion for Order Extending the Exclusive Periods in Which Only the Debtor May File and Confirm a Plan* [Docket No. 192], pursuant to which the Debtor sought a 90-day extension to the exclusive periods provided to the Debtor under § 1121(b) and (c)(3) of the Bankruptcy Code. On February 27, 2017, the Bankruptcy Court entered an Order granting that motion and extending the exclusive period to file the plan to May 1, 2017, and the exclusive period to solicit acceptances of the plan to July 1, 2017 [Docket No. 296]. On May 8, 2017, the Bankruptcy Court entered a second Order extending the exclusive filing period to May 25, 2017, and the exclusive solicitation period to August 8, 2017 [Docket No. 452].

F. Material Claims and Litigation

On May 15, 2017, the Debtor commenced litigation against its Senior Lender, Ares, in Adversary Proceeding No. 17-03044, which is pending in the Bankruptcy Court for the Northern District of Texas. In this lawsuit the Debtor, joined by the Committee of Unsecured Creditors, is pursuing claims in contract, tort, and at equity and also an objection to Ares’ claim. A copy of the *Original Complaint* is found on the Court’s docket, Case No. 17-03044, at docket item 1.

These claims are based on Ares’ alleged actions and omissions in unjustifiably causing a delay in closing of the loan in order to demand additional concessions and egregious terms. One of these terms was an eleventh-hour change in appraisers, which allowed Ares to manufacture an appraisal that it intended and knew would cause the Debtor to default. From that point forward, Ares then took control of the Debtor’s business, interfered with its relations, set-itself up to benefit from a liquidation of the assets, and ultimately precipitated this bankruptcy case.

Based on the above allegations, as described in further detail in the Debtor's Complaint in the Adversary Proceeding, the Debtor is pursuing causes of action against Ares based on contract, tort, and in equity, including, without limitation, fraud, negligence, tortious interference with business relations, breach of contract, and equitable subordination of a portion, if not all, of Ares' Allowed Class 2 Claim. These claims could result in Ares' claim being equitably subordinated to the claims of general unsecured creditors, disallowed in part or in full, and/or monetary compensation. The Debtor believes in its litigation against Ares and looks forward to its day in Court to prove its case. Ares disputes that the Debtor is entitled to the relief sought in the Complaint.

In addition, the Debtor has been in litigation against its former Chief Executive Officer, Richard Farquhar, since 2014 on causes of action related to Mr. Farquhar's fraud, breach of fiduciary duty, and tortious interference with Valuepart's business. This lawsuit was commenced in the District Court for the Northern District of Illinois, and it has now been sent to arbitration for a determination of arbitrability. The arbitration has been abated due to the Bankruptcy Case.

The Debtor's claims against Mr. Farquhar include breach of his fiduciary duties owed to the Debtor as its former President, breach of contract, fraudulent inducement and tortious interference with contract. These claims are based on, among other things, Mr. Farquhar's covert, self-dealing transactions that not only benefitted Mr. Farquhar, but also gave great advantage to competitors of the Debtor. At the same time that Mr. Farquhar was defrauding the Debtor, he was also neglecting his duties as the Debtor's President.

As a direct result of Mr. Farquhar's conduct, the Debtor was irreparably harmed prior to the bankruptcy by the loss of business and enterprise value, among other things. To recover from the losses that the Debtor incurred as a result of Mr. Farquhar's actions and omissions as President, the Debtor is seeking injunctive relief and monetary damages. Mr. Farquhar has counterclaimed against the Debtor for breach of contract and seeks monetary damages. The Debtor believes in its case against Mr. Farquhar and looks forward to its day in Court to prove its case. Despite this lawsuit, Mr. Farquhar filed a proof of Claim against the Estate, proof of Claim No. 35. The Debtor disputes Mr. Farquhar's asserted claim against the Estate. As a result, the Debtor filed *Debtor's Objection to Claim of Richard M. Farquhar, Claim No. 35, filed March 2, 2017*. A copy of the Debtor's *Objection to Claim of Richard M. Farquhar, Claim No. 35, filed March 2, 2017*, is found on this Court's docket at docket item 345.

The Debtor is also involved in active litigation with one of its largest competitors, USCO, S.P.A., in defense of a patent-infringement lawsuit pending in the District Court for the Western District of Tennessee. The Debtor is joined by two other defendants who are South Korean entities that manufacture products distributed by the Debtor. In this lawsuit, USCO alleges that these two South Korean manufacturers use a process that infringes on USCO's Patent No. 6,412,267. USCO has not quantified the damages it seeks. The Debtor has sought counterclaims against USCO seeking declarations of non-infringement and invalidity, and an award of attorneys' fees as an exception case. Additionally, the Debtor has brought cross-claims against the other two defendants for indemnification of any judgment obtained against the Debtor by USCO on account of their manufactured product. In response to this lawsuit, the Debtor filed an *ex parte* reexamination request in the United States Patent and Trademark Office in April 2015,

challenging USCO's patent claims. In January 2016, the United States Patent and Trademark Office agreed with the Debtor and rejected USCO's assertion that the claims of its 267 Patent were valid.

USCO appealed that decision, the United States Patent and Trademark Office set a final hearing for May 3, 2017. USCO also filed a proof of Claim against the Estate, proof of Claim No. 124. For a number of reasons, including the United States Patent and Trademark Office's rejection of USCO's alleged infringement claims, the Debtor disputes USCO's asserted claim against the Estate. As a result, the Debtor filed its *Debtor's Objection to Claim of USCO S.P.A., Claim No. 124, filed January 23, 2017*. A copy of the Debtor's *Objection to Claim of USCO S.P.A., Claim No. 124, filed January 23, 2017, filed January 23, 2017*, is found on this Court's docket at docket item 328.

The Debtor attended the May 3, 2017, final hearing and based on that hearing, expects the appellate panel to affirm the United States Patent and Trademark Office's rejection of the USCO's patent claims, holding that USCO's alleged patent claims are invalid.

Just prior to the Petition Date, the Debtor commenced a collection action in the Pulaski County District Court in Little Rock, Arkansas against *Westrock, Inc.* and *Jon Teague*. This is a collection action for unpaid goods. The Debtor believes in this litigation and looks forward to its day in court.

The Debtor is also engaged in active litigation or has potential causes of action against certain former employees and/or professionals.

In July of 2014, the Debtor commenced a lawsuit against its former customer-service representative, Christopher Tanner, in the Court of Common Pleas in Ashland County, Ohio. The Debtor has asserted claims for breach of contract, unjust enrichment, and quantum meruit. Mr. Tanner has counter-claimed for unpaid commissions. The Debtor is seeking monetary damages as well as reimbursement of legal fees.

In October 2014, the Debtor discovered potential claims that it might have against its former auditors, Warady & Davis, LLP. The Debtor has given notice of these potential claims for breach of fiduciary duty, negligence, and violation of professional standards, but has not yet filed litigation.

Also in October 2014, the Debtor discovered potential claims that it might have against its former attorney, James Mozingo. The Debtor has given notice of these potential claims for breach of fiduciary duty, negligence, and violation of professional standards, but has not yet filed litigation.

The Debtor otherwise has claims against certain suppliers and vendors for unpaid goods including, without limitation, Midwest Equipment Sales, LLC, American Crane and Tractor Parts, Inc., Florida Engines & Machinery Corporation, MG Parts, S.A. DE C.V./Claudio Macias, Burgess Machinery, LLC.

Further detail regarding the material claims and litigation of Valuepart commenced prior to the Bankruptcy Case are identified on Exhibit 7 to Valuepart's Statement of Financial Affairs

filed in the Bankruptcy Case [Docket No. 134].

IX.
SUMMARY OF THE CLAIMS, CLASSIFICATION AND TREATMENT
UNDER THE PLAN

A. Introduction

A summary of the principal provisions of the Plan relating to the treatment of Classes of Claims and Interests is set out herein. The summary is qualified in its entirety by the Plan itself, which is controlling in the event of any conflict. Additionally, the estimated amount of allowable Claims in the various Classes is an estimates only and is not intended to include exact determinations. While the Debtor has made every effort to reasonably estimate such amounts, there is no guarantee of such estimates; therefore, they do not constitute an admission on Debtor's part to the validity of any Disputed Claims. Any Claim that is not Allowed by an Order of the Bankruptcy Court or pursuant to a settlement approved by an Order of the Bankruptcy Court may be Disallowed or reduced in amount if an objection has been, or is timely hereafter, filed and sustained by the Bankruptcy Court.

B. Classification of Claims and Interests

The Plan provides for the division of Claims against and Interests in the Debtor (except Administrative Claims and Priority Tax Claims) into Classes. A Claim is classified within a particular Class only to the extent that the Claim qualifies under the description of that Class. A proof of Claim asserting a Claim that is properly includable in more than one Class is only entitled to inclusion within a particular Class if qualifies under the description of such Class, and shall be included within a different Class(es) if it qualifies under the description of such different Class(es). The Plan classifies Claims and Interests as follows:

Unclassified Claims

Allowed Administrative Claims
Allowed Priority Tax Claims

Classified Claims and Equity Interests

Class 1: Allowed Priority Non-Tax Claims
Class 2: Allowed Senior Secured Claims of ACF Finco I LP (Ares)
Class 3: Allowed Junior Secured Claim of Skokie
Class 4: Other Secured Claims
Class 5: General Unsecured Claims
Class 6: Unsecured Claim of Finpa
Class 7: Subordinated Claims
Class 8: Interests in the Debtor

C. Treatment of Unclassified Claims Under the Plan

As provided by § 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Tax Claims shall not be classified under the Plan, and shall instead be treated separately as

unclassified Claims and in accordance with §§ 1129(a)(9)(A) and 1129(a)(9)(C) of the Bankruptcy Code, respectively. Such claims are not designated as classes of Claims for the purposes of the Plan or for the purposes of §§ 1123, 1124, 1125, 1126, or 1129 of the Bankruptcy Code.

1. Treatment of Allowed Administrative Claims

All Administrative Claims shall be treated as follows:

An Administrative Claim that has been incurred, accrued, or in existence prior to January 15, 2017, must have been filed in the Bankruptcy Court by the First Administrative Claim Bar Date. Any such Administrative Claim for which an application or request was not filed by the First Administrative Claim Bar Date is released and forever barred and discharged.

For any Administrative Claim incurred, accrued, or in existence after January 14, 2017, other than (i) a Professional Fee Claim, (ii) a liability incurred and payable in the ordinary course of business by the Debtor, or (iii) an Administrative Claim that has been Allowed on or before the Effective Date, an application or request for payment must be filed with the Bankruptcy Court and served on the Reorganized Debtor, the Creditor Trustee, the Office of the United States Trustee, by the Second Administrative Bar Date, unless an earlier date was established by the Bankruptcy Court. **Failure to file and serve such notice timely and properly shall result in the Administrative Claim being forever barred and discharged.**

Each Professional who holds or asserts an Administrative Claim that is a Fee Claim for compensation for services rendered and reimbursement of expenses incurred prior to the Effective Date shall be required to file with the Bankruptcy Court and serve on all parties required to receive such notice a fee application within sixty (60) days after the Effective Date. Failure to timely and properly file and serve a fee application as required under this Section shall result in the Fee Claim being forever barred and discharged. No Fee Claim will be deemed Allowed until an order allowing the Fee Claim becomes a Final Order. Any party in interest may file an objection to a Fee Claim, but any objection must be filed within twenty (20) days after the date the fee application is filed with the Bankruptcy Court. No hearing may be held until the twenty (20) day objection period has terminated.

Pursuant to the Plan, except to the extent that any Person entitled to payment of an Administrative Claim agrees otherwise, each Holder of an Allowed Administrative Claim (other than Fee Claims) shall, in full and final satisfaction of any Administrative Claim, receive Cash from the Reorganized Debtor in an amount equal to such Allowed Administrative Claim on or as soon as reasonably practicable following the later to occur of: (a) the Effective Date and (b) the date on which such Administrative Claim becomes an Allowed Administrative Claim; provided, however, Allowed Administrative Claims representing liabilities incurred in the ordinary course of business by the Debtor may be paid in full in the ordinary course of business in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to such transactions, provided that either (x) such Allowed Administrative Claims were included in the cash-collateral budgets previously approved by the Bankruptcy Court, or (y) the Bankruptcy Court approves such payments in

writing. In accordance with Section 4.1(c) of the Plan, on the Effective Date, the Debtor shall pay in a trust account an amount sufficient to pay reasonably estimated Fee Claims.

Post-Confirmation Date Fees and Expenses shall be paid in the ordinary course of business pursuant to Sections 4.1 and 4.2 of the Plan.

2. Treatment of Allowed Priority Tax Claims

At the Debtor's election, each Holder of an Allowed Tax Claim will receive from the Reorganized Debtor in full satisfaction of such Allowed Tax Claim (a) payments in Cash, in regular installments over a period ending not later than five (5) years after the Petition Date, of a total value, as of the Effective Date, equal to the Allowed amount of such Claim; (b) a lesser amount in one Cash payment as may be agreed in writing by such Holder; or (c) such other treatment as may be agreed in writing by such Holder; provided, that such agreed treatment may not provide such holder with a return having a present value as of the Effective Date that is greater than the amount of such holder's Allowed Tax Claim or that is less favorable than the treatment provided to the most favored nonpriority Unsecured Claims under the Plan. The Confirmation Order shall enjoin any Holder of an Allowed Tax Claim from commencing or continuing any action or proceeding against any responsible person, officer, or director of the Debtor that otherwise would be liable to such Holder for payment of a Tax Claim so long as the Debtor is in compliance with this Section. So long as the Holder of an Allowed Tax Claim is enjoined from commencing or continuing any action or proceeding against any responsible person, officer, or director of the Reorganized Debtor under this Section or pursuant to the Confirmation Order, the statute of limitations for commencing or continuing any such action or proceeding shall be tolled. To the extent interest is required to be paid on any Allowed Priority Tax Claim, the rate of such interest shall be the rate provided in § 511 of the Bankruptcy Code. Notwithstanding the foregoing, any penalty arising with respect to or in connection with an Allowed Priority Tax Claim shall be treated as a Class 5 General Unsecured Claim.

In accordance with Section 4.4 of the Plan, Statutory Fees shall be paid on or before the Effective Date and shall continue to be paid as due thereafter until entry of the final decree in the Bankruptcy Case.

D. Treatment of Classified Claims and Interests Under the Plan

The classes of Claims against the Debtor and Interests in the Debtor shall be treated under the Plan as follows:

1. Class 1 – Allowed Priority Non-Tax Claims

a. **Treatment.** Except to the extent that a Holder of an Allowed Priority Non-Tax Claim agrees to less-favorable treatment, in exchange for full and final satisfaction, settlement, release, and discharge of each Allowed Priority Non-Tax Claim, each Holder of such Allowed Priority Non-Tax Claim shall be paid in full in Cash from the Reorganized Debtor on or as reasonably practicable after (i) the Effective Date, (ii) the date on which such Priority Non-Tax Claim against the Debtor becomes an Allowed Priority Non-Tax Claim, or (iii) such other date as may be agreed by the parties or ordered by the Bankruptcy Court.

b. **Impairment and Voting.** Class 1 is Unimpaired. In accordance with § 1126(f) of the Bankruptcy Code, each Holder of a Class 1 Claim is presumed to accept this Plan; therefore, no such Holder is entitled to vote to accept or reject this Plan.

2. **Class 2 – Allowed Senior Claim of Ares**

a. **Claim and Lien Determination.** On the Effective Date, each Lien and Security Interest in the Assets will (a) be released and forever discharged and (b) immediately attach to the Escrow in the same validity, priority, and extent that existed on the Petition Date. The amount, validity, extent, value, and priority of the Class 2 Claim will be subject to determination by the Bankruptcy Court or pursuant to an agreement between the Reorganized Debtor and Holder of the Class 2 Claim.

b. **Treatment.** (i) If the Holder of a Class 2 Claim votes in favor of the Plan, in full and final satisfaction, settlement, release, and discharge of such Class 2 Claim, the Reorganized Debtor will pay \$12.6 million or such other amount agreed by the Reorganized Debtor and the Holder of such Class 2 Claim to the Holder of such Class 2 Claim on the Effective Date, and (ii) if the Holder of a Class 2 Claim votes against the Plan, the Class 2 Claim will be satisfied in full and final satisfaction, settlement, release, and discharge of such Class 2 Claim by payment of \$16.1 million into Escrow or such other amount as the Court deems necessary to secure the Class 2 Claim. The Class 2 Claim shall accrue payment-in-kind interest at the rate of 6.5% interest per annum, compounded daily. All liens and security interests of the Holder of the Class 2 Claim, if any, shall transfer immediately on the Effective Date to the funds held in Escrow in the same priority, validity, and amount as such liens and security interests existed on the Petition Date, subject to determination by the Court; and all such liens and security interests shall be deemed perfected on entry of the Confirmation Order.

c. The Allowed Class 2 Claim will be paid to the Holder of such Claim on the later of (a) 30 days after and to the extent the Class 2 Claim is Allowed, and (b) September 4, 2019, unless otherwise agreed by the Reorganized Debtor and the Holder of such Class 2 Claim. The amount, validity, extent, value, and priority of the Class 2 Claim under § 506 of the Bankruptcy Code will be determined by the Bankruptcy Court after the Effective Date or pursuant to an agreement between the Reorganized Debtor and the Holder of the Class 2 Claim. Any Deficiency Claim or other unsecured claim of the Holder of the Class 2 Claim shall be included as a Class 5 General Unsecured Claim. Any Allowed unsecured claim of the Holder of the Class 2 Claim shall be entitled to (a) receive catch-up payments in first-priority from subsequent Distributions made after allowance of such claim as a Class 5 Claim, and (b) participate thereafter on a Pro Rata basis. The Creditor Trustee shall not be obligated to reserve any amounts from any Distributions to provide for the potential of an Allowed Class 5 Claim for Ares.

d. **Impairment and Voting.** Class 2 is Impaired under the Plan. Class 2 includes only the Secured Claim of Ares. The Holder of a Class 2 Claim is entitled to vote to accept or reject the Plan.

3. **Class 3 - Allowed Junior Secured Claim of Skokie**

a. **Claim and Lien Determination.** On the Effective Date, the Holder of the Junior Secured Claim of Skokie shall have an Allowed Class 3 Claim in the amount of \$4,255,529.16, plus post-petition interest and fees to the extent Allowed under § 506(b) of the Bankruptcy Code. Each Lien and Security Interest that secured the Class 3 Claim immediately prior to the Effective Date will attach to the Reorganized Debtor's assets owned on the Effective Date and acquired thereafter pursuant to the Restated Skokie Note and Security Agreement, the First Subordination Agreement, and the Second Subordination Agreement.

b. **Treatment.** On the Effective Date, the Holder of the Class 3 Junior Secured Claim of Skokie will receive the Restated Skokie Note and Security Agreement in full and final satisfaction of the Junior Secured Claim of Skokie. Payments to the Holder of the Allowed Class 3 Claim will be governed by the Restated Skokie Note and Security Agreement, the First Subordination Agreement, and the Second Subordination Agreement; provided, however, no payments shall be made to the Holder of the Allowed Class 3 Claim until the Reorganized Debtor has paid or otherwise satisfied in full all amounts due under the Creditor Note and other obligations owed to the Creditor Trust under the Plan and the Plan Supplement Documents.

c. **Impairment and Voting.** Class 3 is Impaired under the Plan. Class 3 includes only the Junior Secured Claim of Skokie. The Holder of a Class 3 Claim is entitled to vote to accept or reject the Plan.

4. **Class 4 – Allowed Other Secured Claims**

a. **Claim and Lien Determination.** Each Holder of a Class 4 Claim shall retain its Lien and Security Interest in the Collateral that secured the Class 4 Claim on the Effective Date in the same priority at that time. The amount, validity, extent, value, and priority of each Class 4 Claim will be determined by the Bankruptcy Court or an agreement between the Reorganized Debtor and the Holder of each Class 4 Claim.

b. **Treatment.** Except to the extent that a Holder of an Other Secured Claim agrees to less-favorable treatment, in exchange for full and final satisfaction, settlement, release, and discharge of each Allowed Other Secured Claim, each Holder of such Allowed Other Secured Claim shall receive, at the Reorganized Debtor's sole and absolute option, one of the following treatments: (i) the Debtor or the Reorganized Debtor will pay such Allowed Other Secured Claim in full in Cash, including any interest required under § 506(b) of the Bankruptcy Code, within sixty (60) days after the Effective Date, (ii) the Debtor or Reorganized Debtor shall deliver the Collateral securing such Allowed Other Secured Claim within sixty (60) days after the Effective Date, or (iii) the Debtor or the Reorganized Debtor shall otherwise treat such Allowed Other Secured Claim in any other manner such that the Class 4 Claim shall be rendered not Impaired. Any Deficiency Claim of the Holder of the Class 2 Claim shall be included as a Class 5 General Unsecured Claim.

c. **Impairment and Voting.** Class 4 is Impaired under the Plan. Class 4 includes only Other Secured Claims. Each Holder of a Class 4 Claim is entitled to vote to accept or reject the Plan.

5. **Class 5 – Allowed General Unsecured Claims**

a. **Treatment.** Except to the extent that a Holder of an Allowed General Unsecured Claim in Class 5 has been paid prior to the Effective Date, or agrees to a less-favorable treatment, each Holder of such Claim shall receive, on the Effective Date, a Pro Rata Share of Distributions from the Creditor Trust Assets, in full and final satisfaction, settlement, release, and discharge of each Class 5 Claim. The Creditor Trustee may make multiple Distributions to Holders of Allowed Class 5 Claims. The Creditor Trustee shall determine the amount and timing of such Distributions.

b. **Preference Release.** If the Debtor holds a Preference Claim against a Holder of a Class 5 Claim, each Holder of a Class 5 Claim may settle/resolve/be released from the Preference Claim by both (i) electing on the Ballot to vote in favor of the Plan and (ii) provide the Reorganized Debtor with goods and services for twelve (12) months after the Effective Date on terms and credit limits acceptable to the Reorganized Debtor, in its sole and absolute discretion. Holders of Class 5 Claims satisfying both (i) and (ii) above shall be deemed to have made a “Preference Election.” The Preference Claim for each Holder of a Class 5 Claim will be listed on **Exhibit A** to the Plan. The Preference Election is subject to entry of the Confirmation Order and the occurrence of the Effective Date. The sole method of exercising this Preference Election is to vote in favor of the Plan by checking the box titled “Accept the Plan and Exercise the Preference Election” on the Ballot for General Unsecured Creditors – Class 5 and to reach an agreement with the Debtor as set forth in 5.5(d)(ii) above. For the avoidance of doubt, if the Plan is not confirmed, the Preference Election is null and void, and the Debtor may prosecute all Preference Claims. Notwithstanding anything to the contrary in this Plan, the Confirmation Order, or otherwise (i) the total gross Transferred Preference Claims assigned by the Reorganized Debtor to the Creditor Trust within sixty (60) days after the Confirmation Date for the benefit of the Allowed General Unsecured Creditors, shall be no less than \$1.25 million, exclusive of any Preference Claims against prepetition Professionals; and (ii) the Creditor Trust shall split equally the net proceeds (recovery less all fees and costs related to such recovery) of the Transferred Preference Claims in excess of \$500,000 with the Reorganized Debtor. The first \$500,000 of net proceeds of Transferred Preference Claims shall be retained solely by the Creditor Trust.

c. **Impairment and Voting.** Class 5 is Impaired under the Plan. Class 5 includes only General Unsecured Claims and General Unsecured Insider Claims. Each Holder of a Class 5 Claim is entitled to vote to accept or reject the Plan.

d. **Creditor Note.**

(i) On the Effective Date, the Creditor Trust will receive the Confirmation Payment, proceeds of which will be used to fund a reserve account to pay (x) first, the Creditor Trust’s administration costs, and (y) second, to extent

funds are available, Distributions to Allowed General Unsecured Claims, exclusive of the General Unsecured Insider Claims.

(ii) The Creditor Note shall be in the original principal amount of \$6.35 million, unsecured, and non-interest bearing.

(iii) In addition to the Confirmation Payment, there shall be forty-eight (48) monthly payments of \$124,479.17 (the “**Creditor-Note Payment(s)**”) owed by the Reorganized Debtor to the Creditor Trust under the Creditor Note. The Creditor-Note Payments shall be due on the fifteenth (15th) day of each month, beginning the fifteenth (15th) day of the month that is at least 180 days after the Effective Date (the “**Initial Monthly Payment Date**”).

(iv) Notwithstanding the Reorganized Debtor’s obligation to pay the Creditor-Note Payments, the Reorganized Debtor may elect to defer a monthly payment (the “**Deferred Monthly Payment**”) two times during a twelve-month period, beginning on the Initial Monthly Payment Date; provided, however, the Reorganized Debtor may not exercise a Deferred Monthly Payment (x) on consecutive months or (y) if any uncured default exists. To exercise its right to a Deferred Monthly Payment, the Reorganized Debtor must notify the Creditor Trustee in writing on or before the due date of the applicable Creditor-Note Payment. No later than thirty (30) days after the due date of the Deferred Monthly Payment, the Reorganized Debtor must pay the Creditor Trustee both (1) the applicable Creditor-Note Payment and (2) the Deferred Monthly Payment.

(v) In addition to remedies at law or in equity, remedies under the Creditor Note also include the following:

(i) All prospective Distributions to be made by the Creditor Trustee to the General Unsecured Insider Claims shall be withheld until thirty (30) days after such default has been cured. Any withheld Distributions to the General Unsecured Insider Claims shall be paid to the Holders of GUC Insider Claims as part of the Creditor Trustee’s Final Distribution (the “**GUC Insider Holdback**”); and

(ii) In addition to Section 5.5(c)(v)(i), for each default, regardless of whether that default is cured, the Creditor Trustee’s right to receive the Litigation Recovery Share shall increase by ten (10%) percent upon notice of such default. For example, upon notice of the first default under the Creditor Note, Holders of Allowed Class 5 Claims will then be entitled to receive a Litigation Recovery Share of thirty-five (35%) percent, and this percentage shall be increased an additional ten (10%) percent for each additional default.

(vi) The Maturity Date of the Creditor Note shall be the fifteenth (15th) day of the month that is fifty-four (54) months from the Effective

Date (the "**Creditor Note Maturity Date**"). At the Creditor Note Maturity Date, the Reorganized Debtor shall pay the final monthly Creditor-Note Payment, plus/minus the amount necessary to effectuate the GUC Payment Collar Reconciliation.

6. Class 6 – Allowed Unsecured Claim of FinPa

a. **Treatment.** FinPa asserts a \$10,396,666.00 Claim against the Estate. Despite that assertion, the Holder of the Class 6 Claim has agreed to an Allowed Claim of \$3,500,000.00. On the Effective Date, the Holder of the Class 6 Unsecured Claim of FinPa shall have an allowed Class 6 Claim in the amount of \$3,500,000.00, and that claim shall be paid in full and final satisfaction by the FinPa Restated Note. Payments shall be made pursuant to the FinPa Restated Note, and the First and Second Subordination Agreements; provided, however, no payments shall be made to the Holder of the Allowed Class 6 Claim until the Reorganized Debtor has paid or otherwise satisfied in full all amounts due under the Creditor Note and other obligations owed to the Creditor Trust under the Plan and the Plan Supplement Documents.

b. **Impairment and Voting.** Class 6 is Impaired under the Plan. Class 6 includes only the Unsecured Claim of FinPa. The Holder of the Class 6 Claim is entitled to vote to accept or reject the Plan.

7. Class 7 – Allowed Subordinated Claims

a. **Treatment.** There will be no Distributions to any Holder of a Class 7 Claim.

b. **Impairment and Voting.** Class 7 is Impaired under the Plan. Holders in Class 7 are not entitled to a Distribution under the Plan. Therefore, they are deemed to have rejected the Plan under § 1126(g) of the Bankruptcy Code.

8. Class 8 – Holders of Allowed Interests in the Debtor

a. **Treatment.** On the Effective Date, all Interests shall be cancelled and discharged.

b. **Impairment and Voting.** Class 8 consists of all Interests. Holders in Class 8 are not entitled to a Distribution under the Plan. Therefore, they are deemed to have rejected the Plan under § 1126(g) of the Bankruptcy Code.

X.

MEANS FOR IMPLEMENTATION OF THE PLAN

A. Plan Funding

The execution and consummation of this Plan will be facilitated through the Exit Financing, the \$7 million contributed by Green Oak, the transfer of Creditor Trust Assets to the Creditor Trust, and the appointment of the Creditor Trustee to monetize and administer the

Creditor Trust Assets, other payments made under the Plan by the Reorganized Debtor. Distributions to be made pursuant to the Plan will be funded from the Exit Financing; operations of the Reorganized Debtor's business, liquidation of the Creditor Trust Assets, and recovery from other pursued causes of action.

B. Exit Financing

On the Effective Date, the Reorganized Debtor is authorized to execute and deliver to the Exit Lender the Exit Financing Documents. It is expected that the Exit Lender will provide the Reorganized Debtor with a revolving credit facility in the amount of, at least, \$16.1 million. Exit Lender agrees that proceeds from the Exit Financing can be used to fund the Escrow as discussed in Section 5.2(c). Without limiting the generality of the foregoing, the obligations of the Reorganized Debtor under the Exit Financing Documents shall be secured by a first-priority lien in and on substantially all of the Reorganized Debtor's assets, subject only to certain customary permitted liens.

C. Issuance of Equity Securities

On the Effective Date, the Interests in the Debtor shall be cancelled and discharged, and the Reorganized Debtor is authorized to issue or cause to be issued New Equity to Green Oak in exchange for the contribution of at least \$7,000,000 of Cash. \$4,000,000.00 of that \$7,000,000.00 will be considered equity. \$3,000,000.00 will be considered debt pursuant to the Green Oak Secured Subordinated Note, subject to the Subordination Agreements. Upon such issuance, Green Oak will own 100% of the New Equity on the Effective Date. The issuance of the New Equity and the Distribution thereof shall be exempt from registration under applicable securities laws pursuant to § 1145(a) of the Bankruptcy Code.

D. Issuance of Notes and Subordination Agreements

1. Issuance of Notes. On the Effective Date, the Reorganized Debtor shall execute and deliver to the Exit Lender, the Creditor Trust, the Holder of the Allowed Junior Secured Claim of Skokie, the Holder of the Allowed Unsecured Claim of FinPa, and Green Oak documents necessary to implement the Plan, including, without limitation, (i) the Exit Financing Documents, (ii) the Creditor Note, (iii) the Restated Skokie Note and Security Agreement, (iv) the FinPa Restated Note, and (v) Green Oak Secured Subordinated Note. Without limiting the generality of the foregoing, these documents shall provide that (i) the obligations of Reorganized Debtor to the Exit Lender shall be secured by a first-priority lien in and on substantially all of the Reorganized Debtor's assets, (ii) the obligations of the Reorganized Debtor to the Holder of the Restated Skokie Note and Security Agreement shall be secured by a second-priority lien in and on substantially all of the Reorganized Debtor's assets but no payments shall be made under the Restated Skokie Note and Security Agreement until the Subordinate Obligations are fully satisfied, (iii) the obligations of the Reorganized Debtor under the Creditor Note shall be unsecured, (iv) the obligations of the Reorganized Debtor under the FinPa Restated Note shall be unsecured but no payments shall be made or remedies exercised under this FinPa Restated Note until the Subordinate Obligations are fully satisfied, and (v) the obligations of the Reorganized Debtor under the Green Oak Secured Subordinated Note shall be unsecured but no payments shall be made or remedies exercised under the Green Oak Secured Subordinated Note until the

Subordinate Obligations are fully satisfied. The issuance of these documents shall be exempt from registration under applicable securities laws pursuant to § 1145(a) of the Bankruptcy Code.

2. Subordination Agreements. On the Effective Date, the Reorganized Debtor shall execute and deliver the Subordination Agreements to the Exit Lender, Creditor Trust, the Holder of the Allowed Junior Secured Claim of Skokie, the Holder of the Allowed Unsecured Claim of FinPa, and Green Oak. The First Subordination Agreement shall be by and between: (i) Skokie; (ii) FinPa; (iii) Green Oak; and (iv) the Creditor Trust, on one hand, and the Exit Lender on the other hand. The Second Subordination Agreement shall be by and among: (i) Skokie; (ii) Green Oak; (iii) FinPa on one hand, and the Creditor Trust, on the other hand.

E. The Creditor Trust

1. Creation and Purpose of the Creditor Trust

On the Effective Date, the Creditor Trust will be created pursuant to the Creditor Trust Agreement. The Creditor Trust shall be administered by the Creditor Trustee who shall be selected by the Creditors' Committee and identified no later than five (5) days prior to the Voting Deadline and notice of same shall be filed and served via ECF. The appointment of the initial Creditor Trustee and the terms of its compensation shall be subject to the approval of the Bankruptcy Court at the Confirmation Hearing.

On the Effective Date, all of the Creditor Trust Assets shall transfer to and vest in the Creditor Trust free and clear of all Claims, Liens, interests, rights, and encumbrances without the need for any action by the Debtor or the Bankruptcy Court.

Compensation owed to the Creditor Trustee and the Creditor Trust's counsel shall be paid from the Creditor Trust Assets – and not from the Reorganized Debtor.

2. Transfer of Creditor Trust Assets to the Creditor Trust

On the Effective Date, the Creditor Trust shall have all rights to and shall have the sole authority on behalf of the Creditor Trust Beneficiaries to enforce or exercise (a) the Creditor Note, (b) the Litigation Recovery Share, (c) the Litigation Put, (d) the GUC Payment Collar, (e) the GUC Payment Collar reconciliation and (f) the Transferred Preference Claims and all rights and remedies related to any and all of the foregoing.. Further, notwithstanding any prohibition of assignability under applicable law, on the Effective Date, the Reorganized Debtor shall be deemed to have automatically transferred to the Creditor Trust all of its right, title, and interest in and to the Transferred Preference Claims and other Creditor Trust Assets and the right to object to any Class Claims, unless otherwise agreed. By and through the Creditor Trustee, the Creditor Trust shall be authorized and is granted standing for all purposes, including to (a) prosecute, resolve, and otherwise take steps, in its discretion, to monetize and otherwise maximize the value of the Transferred Preference Claims and (b) object to any and all Class 5 Claims. The Reorganized Debtor shall reasonably cooperate with the Creditor Trust to provide necessary accounting information and documentation to enable the Creditor Trustee to efficiently and timely perform the functions of this Plan, including as set forth in the preceding sentence.

3. Powers of the Creditor Trustee

The Creditor Trustee shall have the power to administer the assets of the Creditor Trust in a manner consistent with the Creditor Trust Agreement and the Creditor Trustee shall be the estate representative designated to prosecute the Transferred Preference Claims transferred to the Creditor Trust as a representative of the Estate pursuant to § 1123(b)(3)(B) and otherwise. Without limiting the generality of the foregoing, the Creditor Trustee shall (a) hold, administer, and prosecute the assets of the Creditor Trust and any proceeds thereof; (b) analyze and object, as appropriate, all Class 5 Claims, and otherwise resolve same, (c) have the power and authority to retain, as an expense of the Creditor Trust, attorneys, advisors, other professionals and employees as may be appropriate to perform the duties required of the Creditor Trustee hereunder or in the Creditor Trust Agreement; (d) make distributions to Holders of Allowed Class 5 Claims, including General Unsecured Claims and General Unsecured Insider Claims, as provided in the Creditor Trust Agreement; and (e) provide periodic reports and updates regarding the status of the administration of the Creditor Trust. The Creditor Trustee shall step into the shoes of the Reorganized Debtor under the Plan when making Distributions to Creditor Trust Beneficiaries pursuant to the Creditor Trust Agreement. The Bankruptcy Court shall retain jurisdiction to resolve any disputes, hearing the Transferred Preference Actions and Class 5 General Unsecured Claim objections and otherwise hearing such additional matters brought by the Creditor Trustee in the fulfillment of his/her duties pursuant to the Plan and the Creditor Trust Agreement.

4. Creditor Trust Advisory Board

On the Effective Date, the Creditor Trust Advisory Board shall be created pursuant to the Creditor Trust Agreement. The Creditor Trust Advisory Board shall consist of at least two (2) members, selected by the Creditors' Committee, who shall be identified in the Plan Supplement Documents. The Creditor Trustee shall consult with and obtain consent from the Creditor Trust Advisory Board as more fully set forth in the Creditor Trust Agreement, including the settlement of significant General Unsecured Claims, the settlement of significant Transferred Preference Claims, and the making of distributions to the beneficiaries of the Creditor Trust.

5. Termination of the Creditor Trust

The Creditor Trust shall continue to exist until the earlier of the (a) fifth (5th) year anniversary of the Effective Date (as such date may be extended by Order of the Bankruptcy Court) and (b) the time the Creditor Trustee has (i) administered all Creditor Trust Assets and made a final Distribution to Holders of Allowed Claims not previously paid and after all Allowed Claims are paid in full in accordance with the terms of the Plan, and (ii) performed all other duties required by the Plan and the Creditor Trust Agreement. Multiple extensions of the termination of the Creditor Trust may be obtained so long as Bankruptcy Court approval is obtained prior to the expiration of each extended term. As soon as reasonably practicable after the Final Distribution, the Creditor Trustee shall dissolve the Creditor Trust pursuant to the Creditor Trust Agreement. Upon dissolution, the Creditor Trustee's duties under the Trust Agreement and the Plan shall terminate.

F. Plan-Distribution Provisions

1. Plan Distributions

Distributions by the Creditor Trust will only be made to Holders of Allowed Claims in Classes 5 in accordance with the terms of this Plan, the Plan Documents, and the Plan Supplement Documents. Distribution by the Reorganized Debtor will be made to Holders of Allowed Claims in Classes 1,2,3,4, and 6. A Claim or Interest is “Allowed” under the Plan: (i) to the extent that it is listed in the Schedules in a liquidated, non-contingent and undisputed amount, but only if no proof of Claim or proof of Interest is Filed with the Bankruptcy Court to evidence such Claim or Interest on or before the Bar Date and no objection thereto has been timely Filed, but only if no objection to the allowance of the Claim or Interest is Filed; (ii) as evidenced by a proof of Claim or proof of Interest Filed on or before the Bar Date, but only to the extent asserted in a liquidated amount, and only if no objection to the allowance of the Claim or Interest or no motion to expunge the proof of Claim or Interest has been timely Filed; or (iii) to the extent allowed by a Final Order of the Bankruptcy Court.

The Creditor Trustee shall make Distributions to Holders of Allowed Claims in Class 5 on the terms set forth herein or otherwise set forth in the Creditor Trust Agreement. The Reorganized Debtor shall make Distributions to all other Classes pursuant to the Plan, the Plan Documents, and the Plan Supplement Documents. Any Holder of an Allowed Claim may receive, instead of the Distribution or treatment to which it is entitled under this Plan, any other Distribution or treatment that it and the Creditor Trustee (as it applies to Classes 5) or the Reorganized Debtor (as to other classes) may agree to in writing, so long as such alternative treatment is (a) substantially the same or less favorable to the Claimant than the treatment otherwise prescribed herein and (b) does not violate any term of this Plan, the Plan Documents, or the Plan Supplement Documents.

Neither the Reorganized Debtor nor the Creditor Trustee, as the case may be, may distribute proceeds to claimants in any classes unless and until such claimant’s claim becomes Allowed pursuant to further order of the Bankruptcy Court or as otherwise set forth herein.

2. Timing of Plan Distributions

No payment or Distribution provided under this Plan shall be made on account of a Claim unless and until (and only to the extent that) such Claim becomes an Allowed Claim.

3. No Post-Petition Interest on Claims

Except as otherwise specifically provided in the Plan or Confirmation Order, post-petition interest shall not accrue or be paid on any Claim, and no Holder of a Claim shall be entitled to interest accruing on such Claim on or after the Petition Date.

4. Address for Delivery of Plan Distributions/Unclaimed Plan Distributions

As applicable, the Reorganized Debtor or the Creditor Trustee will issue or cause to be issued, the applicable consideration under this Plan and, subject to Bankruptcy Rule 9010, will make Distributions to any Holder of an Allowed Claim as and when required by this Plan at (i)

the address of such Holder on the books and records of the Debtor; (ii) the address set forth in any timely-filed proof of Claim; or (iii) the address listed in any “address-change” notice delivered to the Debtor, including any addresses included on any transfers of Claim Filed pursuant to Bankruptcy Rule 3001 prior to the Effective Date. If any Distribution to any Holder is returned as undeliverable, no Distribution or payment to such shall be made unless and until the Reorganized Debtor or the Creditor Trustee, as applicable, has been notified of the then-current address of such Holder; at which time or as soon as reasonably practicable, such Distribution shall be made to such Holder without interest.

5. De Minimis Plan Distributions

Ratable Distributions to holders of Allowed Claims will not be made if such Distribution will a in a Distribution amount of less than \$150.00, unless a request therefore is made in writing to the Reorganized Debtor.

6. Time Bar to Cash Payments

Any Entity that is entitled to receive a Cash Distribution under the Plan but that fails to cash a check within 120 days of its issuance shall be entitled to receive a reissued check from the Creditor Trust for the amount of the original check, without any interest, if such Entity requests the Creditor Trust to reissue such check and provides such documentation as may be requested to verify that such Entity is entitled to such check prior to the later of (a) the first anniversary of the Effective Date and (b) six (6) months after such Entity’s Claim becomes an Allowed Claim. If an Entity fails to cash a check within 120 days of its issuance and fails to request reissuance of such check prior to the later to occur of (a) the first anniversary of the Effective Date, (b) six (6) months following the date such Entity’s Claim becomes an Allowed Claim, and (c) for any distribution issued more than two years after the Effective date, 180 days following the date of issuance, such Entity shall not be entitled to receive any distribution under the Plan with respect to the amount of such check.

7. Manner of Payment Under the Plan

Cash payments made pursuant to the Plan will be in U.S. funds, by the means agreed to by the payor and the payee, including by check or wire transfer, or, in the absence of an agreement, by a commercially reasonable manner as the payor will determine in its sole discretion.

8. Disputed Claims Reserves

Disputed Claim Reserve Account. In addition to as provided otherwise in the Plan, the Creditor Trust shall, as it applies to Class 5 Claims only, reserve for the account of each Holder of a Disputed Claim in the Disputed Claim Reserve Account (x) Creditor Trust Assets that would otherwise be distributable to such Holder on such date in accordance with the Plan were such Disputed Claim an Allowed Claim on such date or (y) such other property as may be agreed between Creditor Trustee, the Holder of the Disputed Claim, and the Reorganized Debtor.

If a Disputed Claim becomes an Allowed Claim, property of the Creditor Trust reserved for the Holder thereof shall be distributed by the Creditor Trustee to such Holder as soon as

practicable after such Claim becomes an Allowed Claim pursuant to, and to the extent provided for in, the Plan. To the extent an objection to a Disputed Claim is upheld or a Claim is withdrawn or reduced, the reserves held on account of such Disputed or withdrawn Claim shall be reallocated to the Allowed Claimants in the applicable Class pursuant to their respective Pro Rata Share.

Disputed Administrative Claim Reserve Account. As to Priority Claims, Administrative Claims, and Other Secured Claims, the Reorganized Debtor shall reserve in the Disputed Administrative Claim Reserve Account on account of the Holder of a Disputed Claim (a) Assets of the Reorganized Debtor that would otherwise be distributable to such Holder on such date in accordance with the Plan were such Disputed Claim an Allowed Claim on such date or (b) such other property as may be agreed between the Reorganized Debtor and the Holder of the Disputed Claim.

If a Disputed Claim becomes an Allowed Claim, property of the Reorganized Debtor reserved for the Holder thereof shall be distributed by the Reorganized Debtor to such Holder as soon as practicable after such Claim becomes an Allowed Claim pursuant to (i) and to the extent provided for in the Plan; (ii) an agreement between the Holder of the Disputed Claim and the Reorganized Debtor; or (iii) to a final and non-appealable order of the Bankruptcy Court. To the extent an objection to a Disputed Claim is upheld or a Claim is withdrawn or reduced, the reserves held on account of such Disputed or withdrawn Claim shall be reallocated to the Reorganized Debtor.

9. **Objections to Claims**

All objections to Claims must be Filed on or before the Claims Objection Deadline, which is two hundred seventy (270) days after the Effective Date, unless extended by the Bankruptcy Court for cause shown. Any Disputed Claim to which an objection is not Filed on or before the Claims Objection Deadline will be deemed to constitute an Allowed Claim following the Claims Objection Deadline. Only the Reorganized Debtor may File objections to Claims, except for Class 5 Claims, which such standing and authority shall rest in the Creditor Trust and the Reorganized Debtor consistent with the next sentence. But the Reorganized Debtor may, on or before the Claims Objection Deadline, File a motion with the Bankruptcy Court requesting standing to object to a Class 5 Claim so long as the Reorganized Debtor has made a prior written demand to the Creditor Trust to object to the Claim and the Creditor Trust has unjustifiably refused or failed to respond to such demand. Any such motion Filed by the Claims Objection Deadline shall, if granted, toll the Claims Objection Deadline solely with respect to the Claim that is the subject of the motion, until and including the date that is ten (10) business days following the date of entry of the Order granting the motion.

Until a Contingent Claim becomes an Allowed Claim or is Disallowed, the Claim will be treated as a Disputed Claim. The Holder of a Contingent Claim will be entitled to a Distribution under the Plan only when the Contingent Claim becomes an Allowed Claim. Any Contingent Claim for reimbursement or contribution held by a Person that may be liable with the Debtor on a Claim of a Claimant is Disallowed as of the Effective Date if: (a) that Claimant's Claim is Disallowed; (b) the Claim for reimbursement or contribution is contingent as of the Effective

Date; or (c) that Person asserts a right of subrogation to the rights of the Claimant under § 509 of the Bankruptcy Code.

To facilitate the timely and effective administration of Claims, except as otherwise expressly stated herein, following the later of the Effective Date and the applicable Bar Date, no original or amended proof of Claim may be Filed in the Chapter 11 Case to assert a Claim against the Debtor or the Estate without prior authorization of the Bankruptcy Court, and any such proof of Claim which is Filed without such authorization shall be deemed null, void and of no force or effect; provided, however, that the Holder of a Claim that has been evidenced in the Chapter 11 Case by the filing of a proof of Claim on or before the Bar Date shall be permitted to File an amended proof of Claim in relation to such Claim at any time if the sole purpose of the amendment is to reduce the amount of the Claim asserted.

The Creditor Trustee shall be allowed to object to Class 5 Claims. The Reorganized Debtor shall also be allowed to object to Class 5 Claims, consistent with the terms of the Plan. But only the Reorganized Debtor is allowed to object to Claims other than Class 5 Claims. The Reorganized Debtor shall reasonably cooperate with the Creditor Trust on Class 5 Claims, including providing all necessary and helpful financial, payment, shipping, proof of receipt, account balances, debt amounts, and books and records, to aid and support the Creditor Trust's Class 5 Objections.

10. **Release of Liens**

Upon full payment or other satisfaction of Secured Claims pursuant to this Plan (including payment into the Escrow described in Section 5.2(c)), the Holder of such Secured Claims shall deliver to the Debtor or the Reorganized Debtor, as applicable, any Collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to Allowed Secured Claims that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory liens, or *lis pendens*, or similar interests or documents. The Reorganized Debtor is authorized to file any such UCC-3 termination statement as may be necessary to fulfill the terms of this Section.

XI. **PRESERVED CAUSES OF ACTION**

Pursuant to § 1123(b) of the Bankruptcy Code, all Causes of Action (including Chapter 5 Causes of Action and Transferred Preference Actions) are hereby preserved by this Plan, notwithstanding the occurrence of the Effective Date. The Reorganized Debtor shall retain the exclusive authority and all rights to enforce, commence, and pursue, as appropriate, any and all Causes of Action other than Transferred Preference Actions, whether arising before or after the Petition Date, including any actions specifically enumerated in the Plan Supplement Document, and the Reorganized Debtor's rights to commence, prosecute, or settle such Causes of Action shall be preserved. For the avoidance of doubt, the preservation of Causes of Action herein includes, without limitation, the Debtor's right to object to all Secured Claims, Administrative Claims, Priority Claims, and General Unsecured Claims, and the Creditor Trustee's right to object to Class 5 General Unsecured Claims. The Reorganized Debtor may pursue such Causes

of Action other than the Transferred Preference Actions, as appropriate, in accordance with the Reorganized Debtor's best interests in its discretion. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement Documents, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtor or the Reorganized Debtor will not pursue any and all available Causes of Action against them. The Debtor and the Reorganized Debtor expressly reserve all rights to prosecute any and all Causes of Action other than the Transferred Preference Actions for such Transferred Preference Actions the Creditor Trustee is granted standing to prosecute against any Entity, except as otherwise expressly provided in the Plan. For the avoidance of doubt, the Reorganized Debtor reserves and shall retain the applicable Causes of Action notwithstanding the rejection or repudiation of any Executory Contract or Unexpired Lease during the Chapter 11 Case or pursuant to the Plan. The Reorganized Debtor through its authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action other than the Transferred Preference Actions. The Reorganized Debtor shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action other than the Transferred Preference Actions and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court.

With regard to the Transferred Preference Actions, the Creditor Trust (as a successor to the Debtor and as a representative of the Estate pursuant to § 1123(b) of the Bankruptcy Code) shall retain the exclusive authority and all rights to file, enforce, commence, and pursue, as appropriate, any and all Transferred Preference Actions, whether enumerated in the Plan Supplement Document or not, and the Creditor Trust's sole and exclusive right to commence, prosecute, settle, or otherwise resolve such Causes of Action shall also be preserved for all purposes. For the avoidance of doubt, the transfer of the right to prosecute the Transferred Preference Actions to the Creditor Trust shall not affect the Debtor's or Reorganized Debtor's right to object to all Administrative Claims and Priority Claims. The Creditor Trust shall have the sole authority to prosecute, settle, and otherwise pursue such Transferred Preference Actions, and any objections to any Class 5 General Unsecured Claim, as appropriate, in its sole discretion. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement Documents, or the Disclosure Statement to any Transferred Preference Action against them as any indication that the Creditor Trust will not pursue any and all available Transferred Preference Action against them.

The Debtor has not investigated any potential Causes of Action against any Persons or Entities other than Ares and that associated with the Farquhar Litigation and the USCO Litigation. Therefore, on the Effective Date, all Causes of Action, other than the Transferred Preference Claims, shall remain with the Debtor or Reorganized Debtor, which shall hold all rights on behalf of the Debtor or its Estate, to commence and pursue any and all Causes of Action (under any theory of law, including, without limitation, the Bankruptcy Code, and in any court or other tribunal). The Reorganized Debtor shall pursue such Causes of Action as set forth herein, including all Causes of Action asserted against Ares in Case No. 17-03044 in its sole and absolute discretion. The failure to list or describe any unknown Cause of Action herein is not intended to limit the rights of the Reorganized Debtor to pursue any unknown Cause of Action. Unless Causes of Action against a Person or Entity are expressly waived, relinquished, released, compromised or settled herein or any Final Order, the Debtor or its Estate (before the Effective

Date) and the Reorganized Debtor (post-Effective Date), expressly reserve all Causes of Action (including the unknown Causes of Action) for later adjudication and therefore, no preclusion doctrine or other rule of law, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches, shall apply to such Causes of Action upon, after, or as a result of the confirmation or Effective Date of the Plan, or the Confirmation Order. In addition, the Debtor or its Estate and the Reorganized Debtor expressly reserve the right to pursue or adopt any Claims not so waived, relinquished, released, compromised or settled that are alleged in any lawsuit in which the Debtor or its Estate is a defendant or an interested party, against any Person or Entity, including, without limitation, the plaintiffs and co-defendants in such lawsuits. Such retained potential causes of action include, without limitation, (i) any potential Cause of Action arising from or related to any transfer or other actions or omissions referenced in the Debtor's Schedules or Statement of Financial Affairs, which were filed in Case No. 16-34169 (Docket No. 134) on December 2, 2016, as amended (ii) any potential Causes of Action against any past or present insider of the Debtor, (iii) any causes of action related to the extent, validity and priority of any liens, (iv) any actions for breach of contract, and (v) any actions arising in tort. The Reorganized Debtor shall have the right to identify any additional Causes of Action prior to the Effective Date of the Plan.

Except as related to the Transferred Preference Actions and Class 5 General Unsecured Claims, the Reorganized Debtor shall also retain and may prosecute and enforce all defenses, counterclaims, and rights that have been asserted or could be on behalf of the Debtor against or with respect to all Claims asserted against the Debtor or property of the Estate. No claim, right, Cause of Action, or other asset shall be deemed waived or otherwise forfeited by virtue of the Debtor's failure to identify such property in the Debtor's Schedules or the Disclosure Statement accompanying the Plan unless otherwise ordered by the Bankruptcy Court.

In this connection, the Reorganized Debtor will continue to review payments made by and transactions involving the Debtor prior to the Petition Date to determine whether preference and other actions to avoid such payments and transactions should be brought. Failure to specifically identify potential actions herein shall not be deemed a waiver of any such action by the Debtor or any other party.

PLEASE TAKE NOTICE: EXCEPT AS OTHERWISE ORDERED BY THE BANKRUPTCY COURT OR AS SPECIFICALLY AND EXPLICITLY PROVIDED IN THE PLAN, ALL CAUSES OF ACTION SHALL BE PRESERVED BY THE DEBTOR UNDER THE PLAN.

THE CREDITOR TRUSTEE SHALL HAVE THE AUTHORITY AND STANDING TO PROSECUTE, ENFORCE, PURSUE, SUE ON, SETTLE OR COMPROMISE CAUSES OF ACTION TRANSFERRED TO THE CREDITOR TRUST UNDER THE PLAN, IN ACCORDANCE WITH § 1123(B)(3) OF THE BANKRUPTCY CODE, AND NO DOCTRINE OF RES JUDICATA OR PRECLUSION SHALL OPERATE TO ADVERSELY IMPACT SUCH STANDING TO PROSECUTE CAUSES OF ACTION TRANSFERRED UNDER THE PLAN. ALL PARTIES SHOULD READ

**ARTICLE XI OF THE DISCLOSURE STATEMENT AND SECTION 7.10
OF THE PLAN CONCERNING PRESERVED CAUSES OF ACTION.**

**XII.
OTHER SIGNIFICANT PLAN PROVISIONS**

A. Treatment of Executory Contracts and Unexpired Leases

Except as otherwise provided herein or in any order of the Bankruptcy Court, on the Effective Date or no later than thirty (30) days after the Effective Date, every Executory Contract shall be deemed rejected unless it is identified on the Schedule of Assumed Executory Contracts and Unexpired Leases attached as **Exhibit “B”** and **Exhibit “C”** to the Plan. The Debtor/Reorganized Debtor reserves the right to modify the treatment of an Executory Contract pursuant to this Plan. Each Executory Contract on the Schedule of Assumed Executory Contracts and Unexpired Leases shall be assumed only to the extent that it constitutes an executory contract or unexpired lease as contemplated by § 365 of the Bankruptcy Code. Nothing contained in this Plan constitutes an admission by the Debtor that any such contracts or leases are “executory” or that the Debtor has any liability thereunder. Further, such assumption is subject to the same rights that the Debtor held or holds on or after the Petition Date to modify or terminate such agreement(s) under applicable non-bankruptcy law. If the Bankruptcy Court or any other court of competent jurisdiction determines before, on, or after the Effective Date, that any agreement in the form of a lease of real or personal property identified for assumption on the Schedule of Assumed Executory Contracts and Unexpired Leases is, in fact, a secured transaction, the resulting secured indebtedness arising from such determination shall be treated as a Class 4 Claim. Each Executory Contract assumed pursuant to this section shall be fully enforceable by the Reorganized Debtor in accordance with its terms, except as modified by the provisions of the Plan, any order of the Bankruptcy Court authorizing and providing for its assumption or applicable federal law.

Any Entity objecting to the proposed assumption of an Executory Contract based on any ground, including a lack of adequate assurance of future performance or the adequacy of the cure amount listed in the Schedule of Assumed Contracts and Unexpired Leases, shall File and serve a written objection to the proposed assumption of such Executory Contract by the same deadline and in the same manner established for filing objections to Confirmation.

Failure to File an objection within the time period set forth above shall constitute consent to the assumption of those Executory Contracts in the Reorganized Debtor, including an acknowledgment that the proposed assumption provides adequate assurance of future performance. If any Entity files an objection to the proposed assumption of an Executory Contract by the Debtor based on any ground other than the adequacy of the cure amount set forth in the Schedule of Assumed Contracts and Unexpired Leases, and the Bankruptcy Court ultimately determines that the Debtor cannot assume such contract or lease or that the Debtor cannot provide adequate assurance of future performance as proposed or in any modified proposal submitted by the Debtor, then the Executory Contract shall automatically be deemed to have been rejected pursuant to this Article.

B. Setoffs

Except as otherwise expressly provided herein, pursuant to §§ 502(d) or 553 of the Bankruptcy Code or any applicable non-bankruptcy law, agreements entered into in connection with the Plan, the Confirmation Order, or in agreements previously approved by Final Order of the Bankruptcy Court, the Debtor, the Creditor Trustee, and the Reorganized Debtor may, but will not be required to, setoff against any Claim and the Distributions made with respect to the Claim, before any Distribution is made on account of such Claim, any and all of the claims, rights and Causes of Action of any nature that the Debtor may hold against the Holder of such Claim; provided, however, that neither the failure to effect such a setoff, the allowance of any Claim hereunder, any other action or omission of the Debtor, nor any provision of the Plan shall constitute a waiver or release by the Debtor or the Creditor Trustee of any such claims, rights and Causes of Action that the Debtor may possess against such holder. If the Debtor fails to setoff against a Holder of a Claim and seeks to collect a claim from the Holder of such Claim after a Distribution to the Holder of such Claim pursuant to the Plan, the Reorganized Debtor or Creditor Trustee, as applicable, shall be entitled to full recovery on its claim, if any, against the Holder of such Claim or Interest.

C. Conditions to Confirmation and Effectiveness of the Plan

The following are conditions precedent to the occurrence of the Effective Date:

- (a) The Exit Financing has become effective and all conditions to the effectiveness thereof shall have been satisfied or waived;
- (b) All documents effectuating the Plan and the transactions thereunder have been executed and delivered by the parties thereto including the Creditor Note and the second Subordination Agreement, and all conditions to the effectiveness of such documents have been satisfied or waived as provided therein;
- (c) Payment of the Confirmation Payment by the Debtor to the Creditor Trust;
- (d) The Confirmation Order has become a Final Order, and it authorizes and directs the Debtor and the Reorganized Debtor to take all actions necessary or appropriate to implement and consummate the provisions of, and transactions described or contemplated in, the Plan;
- (e) The Creditor Trust has been created; and
- (f) The New Equity has been issued.
- (g) The Debtor may waive any one or more of the conditions set forth in Sections 9.1 or 9.2 in the Plan in a writing executed by the Debtor without notice or order of the Bankruptcy Court and without notice to any parties in interest; provided, however, the Debtor may not waive the conditions set forth in 9.1(a) or (c) or 9.2(b), (c), (d), or (e) in the Plan without the written consent of the Committee, which shall not be unreasonably withheld.

D. Effect of Non-Occurrence of the Effective Date

If the Effective Date does not occur, the Plan shall be null and void and nothing contained therein shall: (a) constitute a waiver or release of any Claims against or Interests in the Debtor, (b) prejudice in any manner the rights of the Debtor, including, without limitation, any right to seek a further extension of the exclusivity periods under § 1121(d) of the Bankruptcy Code; or (c) constitute an admission, acknowledgement, offer, or undertaking by the Debtor.

E. Effects of Confirmation of the Plan; Injunction and Exculpation

1. Legally Binding Effect of Plan

Except as otherwise provided in § 1141(d)(3) of the Bankruptcy Code, and subject to the occurrence of the Effective Date, on and after entry of the Confirmation Order, the provisions of the Plan shall bind every Holder of a Claim against or Interest in any Debtor and inure to the benefit of and be binding on such Holder's respective successors and assigns, regardless of whether the Claim or Interest of such Holder is impaired under the Plan and whether such Holder has accepted the Plan.

On the Effective Date, except as otherwise expressly provided herein, title to all Assets shall remain/vest in the Reorganized Debtor, as applicable, free and clear of all liens, Claims, Causes of Action, interests, security interests, and other encumbrances and without further order of the Bankruptcy Court. On and after the Effective Date, except as otherwise provided herein, the Debtor and the Reorganized Debtor may operate its business and may use, acquire, and dispose of their Assets free of any restrictions of the Bankruptcy Code.

2. Injunctions

Pursuant to Section 12.5 of the Plan, the Bankruptcy Court shall retain exclusive jurisdiction over any suit brought on any claim or Cause of Action against a Protected Party in connection with or arising out of the administration of the Chapter 11 Case. The protections of this Section shall be in addition to, and shall not limit, all other releases, injunctions, exculpations, and any other applicable law or rule protecting Protected Parties from liability.

Pursuant to Section 12.6 of the Plan, the Confirmation Order shall permanently enjoin the commencement or prosecution by any Entity, whether directly, derivatively, or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses, or liabilities released or exculpated pursuant to the Plan.

Pursuant to Section 12.7 of the Plan, all injunctions or stays in effect during the Chapter 11 Case or pursuant to the Bankruptcy Code shall remain in effect and full force until the Effective Date, unless otherwise provided for by the Plan.

Pursuant to Section 12.8 of the Plan, all Holders of Claims and Interests and all other parties in interest, along with their respective successors and assigns and present and former affiliates, employees, agents, officers, directors, and principals, shall be enjoined from taking any action to interfere with the implementation or occurrence of the Effective Date.

By accepting Distributions under the Plan, each Holder of an Allowed Claim will be deemed to have affirmatively and specifically consented to be bound by the Plan, including the injunctions set forth therein.

3. Exculpation

To the extent permitted by applicable law, neither the Committee nor the members of the Committee and the Committee Professionals shall have or incur, and the Committee, the members of the Committee, and the Committee Professionals are hereby released and exculpated from any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, loss, and liability for any claim in connection with or arising out of the administration of the Chapter 11 Case, including, without limitation, the planning, filing or the administration of the Chapter 11 Case, the formulation, preparation, dissemination, approval, confirmation, administration, or consummation of the Plan, the Disclosure Statement, the solicitation of votes for or confirmation of the Plan or consummation or administration of the Plan, except to the extent arising out of or related to any act or omission of the Committee or a member of the Committee that is a criminal act or constitutes willful misconduct or gross negligence.

4. Releases by the Debtor

As of the Effective Date, except for the rights that remain in effect from and after the Effective Date to enforce this Plan, the Confirmation Order, Plan Supplement Documents, and the Plan Documents, for good and valuable consideration, including the contributions and services of the Released Parties to the Debtor's reorganization, the adequacy of which is hereby confirmed, and except as otherwise expressly provided in the Plan or the Confirmation Order, as an integral component of this Plan, the Released Parties are deemed forever released and discharged by the Debtor, the Reorganized Debtor, and the Estate from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses, and liabilities whatsoever, including any derivative claims, asserted or assertable on behalf of the Debtor, the Reorganized Debtor, or the Estate, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that the Debtor, the Reorganized Debtor, or the Estate would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim or Interest or other Entity, based on or related to, or in any manner arising from, in whole or in part, the Debtor, the Chapter 11 Case, the subject matter of or the transactions or events giving rise or related to, any Claim or Interest that is treated in this Plan, the Debtor's business, contractual arrangements between the Debtor and any Released Party, the Restructuring, the restructuring of any Claim before or during the Chapter 11 Case, the Disclosure Statement, this Plan, the Plan Support Documents, and the negotiation, formulation, or preparation thereof or the terms therein, the solicitation of votes with respect to this Plan, or any act or omission, other than Claims or Causes of Action arising out of or related to any act or omission of a Released Party that is a criminal act, willful misconduct, or gross negligence.

5. Releases by Holders of Claims

As of the Effective Date, except for the rights that remain in effect from and after the

Effective Date to enforce the Plan, the Plan Supplement Documents, and the Plan Documents, for good and valuable consideration, including the contributions and service of the Released Parties to the Debtor's reorganization, the adequacy of which is hereby confirmed, and except as otherwise expressly provided in the Plan or the Confirmation Order, as an integral component of the Plan, the Released Parties are deemed forever released and discharged by the Releasing Parties from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses, and liabilities whatsoever, including any derivative claims, asserted or assertable on behalf of the Debtor, the Reorganized Debtor, or the Estate, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that such Holders or their affiliates would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim or Interest or other Entity, based on or related to, or in any manner arising from, in whole or in part, the Debtor, the Chapter 11 Case, the subject matter of or the transactions or events giving rise or related to, any Claim or Interest that is treated in the Plan, the Debtor's business, contractual arrangements between the Debtor and any Released Party, the Chapter 11 Case, the Restructuring, the restructuring of any Claim before or during the Chapter 11 Case, the Disclosure Statement, this Plan, the Plan Support Documents, and the negotiation, formulation, or preparation thereof or the terms therein, the solicitation of votes with respect to this Plan, or any act or omission, other than Claims or Causes of Action arising out of or related to any act or omission of a Released Party that is a criminal act or constitutes, willful misconduct, or gross negligence.

6. Modification of the Plan

In accordance with the Bankruptcy Code, the Debtor reserves the right to amend or modify the Plan prior to the Confirmation Date. After the Confirmation Date, the Debtor may, upon order of the Court, amend or modify this Plan in accordance with § 1127(b), or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purposes and intent of this Plan..

7. Retention of Jurisdiction

The Bankruptcy Court shall retain jurisdiction to determine and resolve all matters related to or arising from the Bankruptcy Case and/or the Plan and Disclosure Statement, including all matters identified in Section 13.1 of the Plan.

8. Settlement of Claims and Controversies

Pursuant to § 1123(b)(3)(A) of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for all Distributions under the Plan and other benefits provided under the Plan, the provisions of the Plan shall constitute a good-faith compromise and settlement of all Claims and controversies relating to the rights that a Holder of a Claim or Interest may have with respect to such Claim or Interest or any Distribution under the Plan on account of thereof. If the Confirmation Order is not entered or the Effective Date does not occur, the Debtor reserves its rights with respect to all disputes resolved and settled under the Plan. Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, as of the Effective Date, of each compromise and settlement embodied in the Plan, and the Bankruptcy Court's finding that all

such compromises and settlements are (a) in the Debtor's and the Estate's best interests and (b) fair, equitable and within the range of reasonableness. The provisions of the Plan, including, without limitation, its release, injunction, exculpation, and compromise provisions are mutually dependent.

9. Vesting

On the Effective Date, except as otherwise expressly provided in the Plan, title to all Assets shall remain / vest in the Reorganized Debtor, as applicable, free and clear of all liens, Claims, Causes of Action, interests, security interests, and other encumbrances and without further order of the Bankruptcy Court. The Reorganized Debtor shall then transfer the Transferred Preference Claims to the Creditor Trust in accordance with the Plan.

10. Retention of Rights to Pursue Causes of Action

Notwithstanding entry of the Confirmation Order, the Bankruptcy Court shall retain jurisdiction over matters, as provided for in Section 13.1 of the Plan and **Exhibit "E,"** which include jurisdiction to:

a. to determine (i) any Disputed Claims, Disputed Interests and all related Claims accruing after the Confirmation Date including rights and liabilities under contracts giving rise to such Claims, (ii) the validity, extent, priority and nonavoidability of consensual and nonconsensual Liens and other encumbrances, (iii) preconfirmation tax liability pursuant to § 505, and (iv) controversies and disputes regarding the interpretation of the Plan and documents executed in connection therewith;

b. to allow, disallow, estimate, liquidate or determine any Claim or Interest against a Debtor and to enter or enforce any order requiring the filing of any such Claim or Interest before a particular date;

c. to approve all matters related to the assumption, assumption and assignment, or rejection of any executory contract or unexpired lease of a Debtor pursuant to § 365 and Article XI hereof;

d. to determine any request for payment of an Administrative Claim entitled to priority under § 507(a)(1), including compensation of parties entitled thereto, or fees and reimbursements to the Reorganized Debtor;

e. to resolve controversies and disputes regarding the interpretation and implementation of the Plan, any disputes relating to whether or not a timely and proper proof of Claim was Filed or whether a Disallowed Claim or Disallowed Interest should be reinstated;

f. to implement the provisions of the Plan and entry of orders in aid of confirmation and consummation of the Plan, including any disputes concerning the enforceability or applicability of the releases and injunctions contained herein;

g. to modify the Plan pursuant to § 1127 of the Plan;

h. to adjudicate any and all Causes of Action that arose in the Case prior to the Confirmation Date or in connection with the implementation of the Plan, whether or not pending on the Confirmation Date, including without limitation, any remands of appeals;

i. to resolve disputes concerning any reserves with respect to Disputed Claims, Disputed Interests or the administration thereof;

j. to hear, adjudicate, and resolve any matter of dispute brought by the Creditor Trustee, including (i) objections to Class 5 Claims; (ii) adversary proceedings relating to the Transferred Preference Claims; and (iii) any other matter relating to Class 5, a Creditor Trust Asset, this Plan, a Plan Document, or Plan Supplement Document, or anything related to the Plan and the Confirmation Order;

k. to resolve any disputes concerning whether a person or entity had sufficient notice of the Case, the applicable Bar Date, the hearing on the approval of the Disclosure Statement as containing adequate information, or the Confirmation Hearing for the purpose of determining whether a Claim or Interest is discharged hereunder or for any other purpose;

l. to determine any and all applications, Claims, Interests, pending adversary proceedings and contested matters (including, without limitation, any adversary proceeding or other proceeding to recharacterize agreements or reclassify Claims or Interests) in these Case;

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

n. to seek the issuance of such orders in aid of execution of the Plan, to the extent authorized by § 1142 of the Bankruptcy Code;

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

p. to recover all Assets of the Debtor and property of the Estate, wherever located, including any Cause of Action;

q. to resolve any dispute relating to the approval and payment of the fees and expenses of the Reorganized Debtor or its respective professionals;

r. to resolve matters concerning state, local, and federal taxes in accordance with §§ 346, 505, and 1146;

s. to hear any other matter not inconsistent with the Bankruptcy Code;

t. to resolve any and all disputes or controversies relating to distributions to be made, and/or reserves or escrows to be established, under the Plan;

u. to enter one or more final decrees closing the Case;

- v. to enforce the injunctions granted under Sections 12.5(b), 12.6, and 12.8 of the Plan; and
- w. to approve settlements relating to the above.

XIII. **COMPARISON OF PLAN TO ALTERNATIVES**

A. Chapter 7 Liquidation

The most realistic alternative to the Plan is conversion of the Chapter 11 Case from a case under Chapter 11 of the Bankruptcy Code to a case under Chapter 7 of the Bankruptcy Code. A Chapter 7 case, sometimes referred to as a “straight liquidation,” requires the liquidation of all of a Debtor’s assets by a Chapter 7 trustee. The cash realized from liquidation is subject to distribution to creditors in accordance with § 726 of the Bankruptcy Code. Whether a bankruptcy case is one under Chapter 7 or Chapter 11, allowed secured claims, allowed administrative claims, and allowed priority claims, unless subordinated pursuant to § 510 of the Bankruptcy Code, are entitled to be paid in cash, in full, before unsecured creditors and equity interests receive anything. Thus, in a Chapter 7 case, the recovery, if any, to creditors holding non-priority unsecured claims will depend on the net proceeds left in the estate after all of the Debtor’s assets have been reduced to cash and all claims of higher priority have been satisfied in full.

The Plan preserves Avoidance Actions and provides the Creditor Trustee with the authority to assert Avoidance Actions, as appropriate. If the case were converted to Chapter 7, these same Avoidance Actions would be available for prosecution by the Chapter 7 trustee as he/she deemed appropriate. Under either scenario, an estate representative or successor would have to expend funds to investigate Avoidance Actions, file Avoidance Actions, and litigate Avoidance Actions to settlement or judgment. The Debtor is unable to value the recoveries from the Avoidance Actions, but it does not believe that the value of the Avoidance Actions would change much whether prosecuted by the Creditor Trustee in accordance with the Plan or a Chapter 7 trustee. However, the Debtor believes that the expense associated with a Chapter 7 trustee administration, as detailed below, would be more expensive than the administration undertaken by the Creditor Trustee.

Chapter 7 liquidation adds an additional layer of expenses. As referenced above, conversion of a bankruptcy case to Chapter 7 would trigger the appointment of a Chapter 7 trustee who has the responsibility to monetize the Debtor’s assets. Pursuant to §§ 326 and 330 of the Bankruptcy Code, the Chapter 7 trustee will be entitled to reasonable compensation in relation to the level of disbursements made to creditors, as follows: (a) up to 25% of the first \$5,000 disbursed; (b) up to 10% of the amount disbursed in excess of \$5,000 but not in excess of \$50,000; (c) up to 5% of any amount disbursed in excess of \$50,000 but not in excess of \$1,000,000; and (d) up to 3% of any amount disbursed in excess of \$1,000,000. Additionally, the Chapter 7 trustee will be entitled to retain his or her own professionals to assist in the liquidation and administration of the estate. The fees and expenses of such professionals, to the extent allowed, are also entitled to priority in payment as Administrative Claims. Chapter 7 administrative costs are entitled to priority in payment over Chapter 11 administrative costs.

Nevertheless, Chapter 11 administrative costs continue to have priority over all other non-administrative priority claims and non-priority unsecured claims in the bankruptcy case.

The Debtor is opposed to conversion of the Chapter 11 Case to Chapter 7 for several reasons. First, conversion of the Chapter 11 Case will re-open the Bar Date and enable additional and otherwise time-barred Claims to be asserted. Second, the Debtor believes that conversion of the Chapter 11 Case could lead to additional layers of fees and expenses for the reasons stated in the prior paragraph. Third, conversion to Chapter 7 could result in the appointment of a trustee having no experience or knowledge of the prior proceedings in the Chapter 11 Case or of the Debtor's business, its books and records and their assets. A substantial amount of time would be required in order for the Chapter 7 trustee and the trustee's professionals to become familiar with the Debtor, its business operations, the assets and pending litigation to wind the Chapter 11 Case up effectively.

With respect to the "best-interest-of-creditors" test found in § 1129(a)(7) of the Bankruptcy Code, the Debtor does not believe that Claimants would achieve a greater recovery under Chapter 7 than they would receive under the Plan. Inasmuch as the Plan is a plan of reorganization and the secured creditors have liens in all or substantially all of the assets, any comparison of likely Distributions to Holders of Allowed Claims under the Plan to likely Distributions to Holders of Allowed Claims in a Chapter 7 proceeding is similar, except that the Debtor contends that the Plan incorporates beneficial compromises – like subordination – that would not be available in a Chapter 7 proceeding, and in a Chapter 7 proceeding, the potential for additional administrative expense and additional Claims demonstrates that the distributions under the Plan are likely to exceed, or at least be equal to, the distributions that would be made under Chapter 7 of the Bankruptcy Code.

The Debtor has performed a liquidation analysis to estimate the expected recovery to creditors under a Chapter 7 liquidation that is attached to this Disclosure Statement as **Exhibit "B."**

Finally, the Bankruptcy Code conditions confirmation of a plan of reorganization on, among other things, a finding that it is not likely to be followed by the liquidation or the need for further financial reorganization of a debtor. For purposes of determining whether the Plan satisfies this condition, the Debtor has analyzed the capacity of the Debtor, as reorganized, to service its obligations under the Plan. Based upon its analysis of its Projections, the Debtor believes that it will be able to make all payments required to be made under the Plan. See "Financial Projections and Assumptions."

B. Alternative Plans

If the Plan is not confirmed, any other party in interest could undertake to formulate a different plan of reorganization. Such a plan of reorganization might involve (i) reorganization and continuation of the business of the Debtor, (ii) the sale of the Debtor as a going concern, or (iii) an orderly liquidation of the properties and interests in property of the Debtor. With respect to an alternative plan of reorganization, the Debtor has examined various other alternatives in connection with the process involved in the formulation and development of the Plan. The Debtor believes that the Plan, as described herein, enables Holders of Claims to realize the best

recoveries under the present circumstances. In a liquidation of the Debtor under chapter 11, the assets would likely be sold in a more orderly fashion and over a more extended period of time than in a liquidation under chapter 7, probably resulting in marginally greater recoveries. Further, if a trustee were not appointed, since one is not required in a chapter 11 case, the expenses for professional fees would most likely be lower than in a chapter 7 case. However, although preferable to a chapter 7 liquidation, the Debtor believes that a liquidation under chapter 11 for the Debtor is a much-less attractive alternative because the recovery realized by Holders of Allowed Claims under the Plan is likely to be greater than their recovery under a chapter 11 liquidation.

C. Dismissal

The most remote alternative possibility is dismissal of the Chapter 11 Case. If dismissal were to occur, the Debtor would no longer have the protection of the automatic stay, supervision over the Senior Lender by the Bankruptcy Court, and other applicable provisions of the Bankruptcy Code. Dismissal would force a race among Claimants to take control and dispose of the Debtor's available assets, and unsecured Claimants, on an aggregate basis, would very likely fail to realize any recovery on their Claims.

XIV.

MATERIAL UNCERTAINTIES AND RISKS

In considering whether to vote to accept or reject the Plan, Claimants entitled to vote should consider the following risks associated with the Plan: (a) that all of the conditions to confirmation of the Plan are not satisfied or waived (as applicable); (b) that all of the conditions to the effectiveness of the Plan are not satisfied or waived (as applicable) or that such conditions are delayed by a significant period of time; (c) that estimations and projections may ultimately prove to be materially inaccurate; (d) that the prosecution of Causes of Action does not result in significant recoveries; (e) that the Reorganized Debtor's post-confirmation business operations are not successful; (f) that the Reorganized Debtor defaults on the terms of the Exit Financing, resulting in the inability of the Reorganized Debtor to perform under the Plan as it applies to the Creditor Trustee and Class 5 Claims due to the First Subordination Agreement; (g) that the Exit Financing does not close; (h) that the equity and subordinate-debt financing to be provided by Green Acres does not close; and (i) that the Debtor does not receive votes in amount and number pursuant to the Bankruptcy Code to approve the Plan.

There can also be no assurance that the Plan will not be modified up to and through the Confirmation Date, and the Debtor reserves the right to modify the Plan, subject to compliance with the Bankruptcy Code, if modification becomes warranted or necessary in furtherance of confirmation.

XV.

CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

A. Introduction

Implementation of the Plan may have federal, state, and local tax consequences to the Debtor and its Estate, as well as to Claimants and Interest Holders of the Debtor. No tax opinion

has been sought or will be obtained with respect to any tax consequences of the Plan, and the following disclosure does not constitute and is not intended to constitute either a tax opinion or tax advice to any Person.

This disclosure is provided for informational purposes only. Moreover, this disclosure summarizes only certain of the federal income-tax consequences associated with the Plan's confirmation and implementation and does not attempt to comment on all such aspects. Similarly, this disclosure does not attempt to consider any facts or limitations applicable to any particular Claimant or Interest Holder that may modify or alter the consequences described below. This disclosure does not address state, local, or foreign-tax consequences or the consequences of any federal tax other than the federal income tax.

This disclosure is based on the provisions of the Internal Revenue Code of 1986, as amended (the "**Tax Code**"), the regulations promulgated thereunder, existing judicial decisions, and administrative rulings. In light of the expansiveness of such authorities, no assurances can be given that legislative, judicial, or administrative changes will not be forthcoming that would affect the accuracy of the discussion below. Any such changes could be material and could be retroactive with respect to the transactions entered into or completed prior to the enactment or promulgation thereof. Finally, the tax consequences of certain aspects of the Plan are uncertain due to a lack of applicable legal authority and may be subject to judicial or administrative interpretations that differ from the discussion below.

THEREFORE, CLAIMANTS AND INTEREST HOLDERS ARE ADVISED TO CONSULT WITH THEIR OWN TAX ADVISORS REGARDING THE TAX CONSEQUENCES TO THEM AND TO THE DEBTOR OF THE TRANSACTIONS CONTEMPLATED BY THE PLAN, INCLUDING FEDERAL, STATE, LOCAL, AND FOREIGN TAX CONSEQUENCES.

B. Federal Income-Tax Consequences to the Claimants

In general, a Holder of a Claim should recognize gain or loss equal to the amount realized under the Plan in respect to its Claim less the amount of such Holder's basis in its Claim. Any gain or loss recognized in the exchange may be long-term or short-term capital gain or loss, or ordinary income or loss, depending on the nature of the Claim and the Holder, the length of time the Holder held the Claim and whether the Claim was acquired at a discount. If the Holder realizes a capital loss, its deduction of the loss may be subject to limitations under the Tax Code. The Holder's aggregate tax basis for any Distribution received under the Plan generally will equal the amount realized. The amount realized by a Holder generally will equal the sum of the Distribution the Holder received less the amount (if any) allocable to Claims for interest.

C. Disclaimers

PERSONS CONCERNED WITH THE TAX CONSEQUENCES OF THE PLAN SHOULD CONSULT THEIR OWN ACCOUNTANTS, ATTORNEYS AND/OR ADVISORS. THE DEBTOR MAKES THE ABOVE-NOTED DISCLOSURE OF POSSIBLE TAX CONSEQUENCES FOR THE SOLE PURPOSE OF ALERTING READERS TO TAX ISSUES THAT THEY MAY WISH TO CONSIDER. THE DEBTOR

CANNOT AND DOES NOT REPRESENT THAT THE TAX CONSEQUENCES MENTIONED ABOVE ARE COMPLETELY ACCURATE, BECAUSE, AMONG OTHER REASONS, THE TAX LAW EMBODIES MANY COMPLICATED RULES THAT MAKE IT DIFFICULT TO STATE ACCURATELY WHAT THE TAX IMPLICATIONS OF ANY ACTION MIGHT BE.

IRS CIRCULAR 230 NOTICE: TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE INTERNAL REVENUE SERVICE, THE DEBTOR INFORMS ALL RECIPIENTS OF THIS DISCLOSURE STATEMENT THAT ANY U.S. TAX INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT (INCLUDING THE EXHIBITS HERETO) IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, FOR THE PURPOSE OF (A) AVOIDING PENALTIES UNDER THE INTERNAL REVENUE CODE, OR (B) PROMOTING, MARKETING, OR RECOMMENDING TO ANOTHER PARTY ANY TRANSACTION OR MATTER ADDRESSED HEREIN.

**XVI.
CONCLUSION**

The Debtor believes that the Plan complies with § 1129 of the Bankruptcy Code and is fair and equitable and in the best interests of the Debtor, the Estate, and the Claimants. Accordingly, the Debtor urges the Claimants who receive Ballots to vote to accept the Plan.

DATED: July 1, 2017

By: /s/ Marcus A. Helt

Marcus A. Helt (TX 24052187)
Thomas C. Scannell (TX 24070559)
GARDERE WYNNE SEWELL LLP
2021 McKinney Avenue, Suite 1600
Dallas, TX 75201
Telephone: (214) 999-3000
Facsimile: (214) 999-4667
mhelt@gardere.com
tscannell@gardere.com

**COUNSEL TO THE DEBTOR AND DEBTOR-
IN-POSSESSION**

EXHIBIT "A"

FREQUENTLY ASKED QUESTIONS

EXHIBIT A
FREQUENTLY ASKED QUESTIONS

The purpose of this summary is to answer questions that are frequently asked by a party receiving a disclosure statement, and to give introductory information about the Bankruptcy Code. Unless otherwise stated, the information contained herein is as of the date of this Disclosure Statement, or as of any date indicated within the exhibits to this Disclosure Statement or the Plan.

A. HOW MUCH MONEY WILL I RECEIVE ON ACCOUNT OF MY CLAIM AGAINST OR INTEREST IN THE DEBTOR?

The amount of money paid to each holder of claim against the Debtor will depend on approval of the chapter 11 plan proposed by the Debtor, the class to which the claim or interest belongs, and allowance of the claim or interest. An explanation of the different classes of claims and interest and treatment of the same is described in Article IX of the Disclosure Statement and Article V of the Plan.

B. HAS A CHAPTER 11 PLAN BEEN PROPOSED?

Yes. The Debtor has proposed a chapter 11 plan, which was filed with the Bankruptcy Court on May 24, 2017, and is attached to the Disclosure Statement as **Exhibit F**.

C. WHAT IS CONFIRMATION OF A CHAPTER 11 PLAN, AND WHY IS CONFIRMATION OF A PLAN IMPORTANT?

A chapter 11 plan is approved / confirmed by a bankruptcy only if it satisfies numerous tests outlined in the Bankruptcy Code, including whether the creditors of the Debtor vote in favor of the plan.

A chapter 11 plan is not effective to control how the Debtor's assets are handled and when and how much claims asserted against the Debtor will be paid until the plan is approved/confirmed by the court; however, once it is confirmed/approved by the Bankruptcy Court, the chapter 11 plan operates as a binding contract between all parties affected by that plan. Therefore, it is very important that you read the Plan.

D. SHOULD I VOTE TO ACCEPT?

The Debtor believes that the Plan that it has proposed is in the best interests of all holders of claims; therefore, each holder of a claim should vote to accept the Plan.

E. WHY?

The Debtor believes that the Plan is better for holders of claims than reasonable alternatives.

- The Debtor does not believe that holders of claims would achieve a greater recovery under Chapter 7 than they would receive under the Plan. Inasmuch as the Plan is a plan of reorganization and the secured creditors have liens in all or substantially all of the assets, any comparison of likely distributions to holders of allowed claims under the Plan to likely distributions to holders of claims in a Chapter 7 proceeding is similar, except that the Debtor contends that the Plan incorporates beneficial compromises – like subordination – that would not be available in a Chapter 7 proceeding, and in a Chapter 7 proceeding, the potential for additional administrative expense and additional claims demonstrates that the distributions under the Plan are likely to exceed, or at least be equal to, the distributions that would be made under Chapter 7 of the Bankruptcy Code.
- Additionally, conversion from this Chapter 11 proceeding to a Chapter 7 proceeding would re-open the bar date for claims and could lead to more claims against the Debtor, which would affect the recovery of existing holders of claims.
- An alternative plan in Chapter 11 might involve either (i) reorganization and continuation of the Debtor’s business, (ii) the sale of the Debtor as a going concern, or (iii) an orderly liquidation of the properties and interests in property of the Debtor. Although a Chapter 11 liquidation is preferable to the additional administrative costs in a Chapter 7 liquidation and the rush sale likely to occur, the Debtor believes that preserving its value as a going-concern business results in greater benefit to holders of claims than even a Chapter 11 liquidation and sale of assets. Additionally, valuable and viable causes of action are owned by the Debtor, whether in pending litigation or potential litigation. The Debtor is unlikely to recover as much, if any, from these causes of action if it liquidates.
- If dismissal were to occur, the Debtor would no longer have the protection of the automatic stay, supervision over the senior lender by the Bankruptcy Court, and other applicable provisions of the Bankruptcy Code. Dismissal would force a race among holders of claims to take control and dispose of the Debtor’s available assets, and holders of unsecured claims, on an aggregate basis, would very likely fail to realize any recovery on their claims.

F. IF THE PLAN IS THE DOCUMENT THAT CONTROLS HOW A CLAIM WILL BE TREATED, THEN WHY I AM RECEIVING THIS DISCLOSURE STATEMENT?

The Disclosure Statement is a document that describes the proposed chapter 11 plan. It is required by the Bankruptcy Code, and its stated purpose is to provide the Bankruptcy Court, all creditors, and all equity holders of the Debtor “adequate information” about the Debtor, its assets, and the proposal in the chapter 11 plan on how the Debtor’s value / assets will be converted to cash and distributed to creditors and equity holders. Creditors should read the Disclosure Statement in an attempt to decide whether it is in their best interests. The Disclosure Statement will also identify the deadlines by which all creditors must cast a vote on a ballot to “accept” or “reject” the chapter 11 plan.

G. WHAT SHOULD I DO NEXT?

You should read the Disclosure Statement and exhibits sent by the Debtor and the Plan attached thereto as **Exhibit F** and decide whether it is in your best interests. If you need to consult an attorney about your individual interests, please do so.

EXHIBIT "B"

LIQUIDATION ANALYSIS

Liquidation Analysis

Overview

The Bankruptcy Code requires that each holder of an impaired claim or equity interest either (i) accept the Plan or (ii) receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.

The first step in determining whether this test has been satisfied is to determine the dollar amount that would be generated from the liquidation of the Debtors' assets in the context of a chapter 7 liquidation case. The gross amount of cash that would be available for satisfaction of claims and equity interests would be the sum consisting of the proceeds resulting from the disposition of the assets of the Debtor at the time of the commencement of the liquidation.

The next step is to reduce that gross amount by the costs and expenses of liquidation and by such additional administrative and priority claims that might result from the termination of the Debtors' business and the use of chapter 7 for the purposes of liquidation. Any remaining net cash would be allocated to creditors in strict accordance with section 507 of the Bankruptcy Code. After distribution to creditors, any remaining proceeds would be available for distribution to the shareholders.

The Debtors' costs of liquidation under chapter 7 would include the costs of winding down the Debtors' businesses, as well as the costs of operation during the wind-down period. Other expenses would include (i) the fees payable to a Chapter 7 trustee in bankruptcy, (ii) the fees payable to attorneys and other professionals that a trustee might engage, and (iii) the expenses incurred during the chapter 11 cases allowed in the chapter 7 case, such as compensation for attorneys, financial advisors, appraisers, accountants, and other professionals for the Debtors and statutory committees of unsecured creditors appointed in the chapter 11 cases, and costs and expenses of members of these committees of unsecured creditors, as well as other compensation claims.

The foregoing types of claims, costs, expenses, fees, and such other claims which may arise in a liquidation case would be paid in full from the liquidation proceeds before the balance of those proceeds would be made available to pay prepetition priority and unsecured claims.

After consideration of the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to creditors in the chapter 11 cases, the Debtors have determined that confirmation of the Plan will provide each holder of an allowed claim with a recovery that is not less than such holder would receive pursuant to liquidation of the Debtors under chapter 7.

The Debtors also believe that the value of any distributions to claimants in a chapter 7 case, would be less than the value of distributions under the Plan because such distributions in a chapter 7 case would not occur for a substantial period of time. In this regard, there is a risk that distribution of the proceeds of the liquidation could be delayed for one or more years after the completion of such liquidation in order to resolve claims and prepare for distributions. Given that the Plan represents a settlement of many claim issues, the Debtors would expect significant litigation of such issues in the event of a liquidation leading to lengthy delays in distributions.

The Debtors' liquidation analysis is an estimate of the proceeds that may be generated as a result of a hypothetical chapter 7 liquidation of the Debtors and does not explicitly factor in the loss of value due to delays in distribution in the chapter 7 process. The analysis is based on a number of significant assumptions which are described below. The liquidation analysis does not purport to be a valuation of the Debtors' assets and is not necessarily indicative of the values that may be realized in an actual liquidation.

The dollar amounts set forth on this balance sheet and discussed in the accompanying pages are based upon a Chapter 7 liquidation valuation standard, and are not based upon a fair value standard. Therefore, the asset disposition process would be conducted by a Chapter 7 Trustee and would take place on an accelerated basis. As such, there would be no extensive solicitation of offers, the assets would be nonoperating, would have no going concern character, and would be sold "as is" without any representations and warranties.

ValuePart, Incorporated
Liquidation Analysis

\$(000's)

Sources of Funds <i>Pro Forma Balance Sheet as of 07/30/2017</i>	Unaudited Book Value	Liquidation		Note
		%	Recovery Estimate	
Assets				
Cash and Cash Equivalents	\$ 5,238	100%	\$ 5,238	1
Accounts Receivable:				
Accts. Receivable - Trade	8,011	80%	6,409	
Accts. Receivable - Miscellaneous	345	5%	17	
Accts. Receivable - Affiliate	5,498	0%	0	
Allow for Uncollectable Accounts	(3,032)	0%	0	
Accounts Receivable	10,822	59%	6,426	2
Inventories:				
Perpetual Inventory	15,313	34%	5,191	
In-Transit	3,660	34%	1,241	
Obsolete Inventory (per GAAP)	(1,250)	0%	0	
Inventories	17,723	36%	6,432	3
Other Current Assets:				
Prepaid Insurance	38	0%	0	
Other Deferred Charges	40	0%	0	
Deferred Taxes	819	0%	0	
Other Current Assets	896	0%	0	4
Total Current Assets	34,680	52%	18,096	
Net Property and Equipment	598	33%	196	5
Notes Receivable:				
Note Receivable - Cypress Equipment	31	50%	15	
Note Receivable - Florida Track and Power	1,000	10%	100	
Note Receivable - Lakeview International Ltd.	1,976	0%	0	
Note Receivable - MG Parts S.A. DE C.V.	1,659	10%	166	
Notes Receivable	4,665	6%	281	6
Other Assets:				
Supply Agreement (Net of Amortization)	300	0%	0	
Litigation (see bankruptcy schedules)	480	0%	0	
Deferred Tax Asset	3,573	0%	0	
Net Refinancing Costs	2,388	0%	0	
Other Assets	6,741	0%	0	7
Total Assets	\$ 46,684	40%	18,574	
AVAILABLE TO PAY OUTSTANDING DEBTS			\$ 18,574	

ValuePart, Incorporated

Liquidation Analysis

\$(000's)

<u>Uses of Funds</u> <i>Pro Forma Balance Sheet as of 07/30/2017</i>	Unaudited Book Value	Liquidation Estimated Recovery	NOTE
LIABILITIES			
Chapter 7 Administrative Costs:			
Chapter 7 Trustee		\$ (557)	8
Professional Fees & Expenses		(279)	9
Occupancy & Freight costs		(483)	10
Payroll & Miscellaneous Charges		(429)	11
Total Liquidation Costs		(1,748)	
Available Funds after Liquidation Costs		16,826	
Administrative Claims - professional and other secured	1,633	(1,633)	12
Administrative Claims - 503(b)(9) and post petition A/P	1,834	(1,834)	13
Secured Claims - Without Additional Costs			
Available for 1st Lien		14,993	
Note Payable - Ares	16,100	(16,100)	14
Available for 2nd Lien		(1,107)	
Note Payable - Skokie	4,400	(4,400)	15
Available for Priority		(5,507)	
Priority Claims			
Estimated Priority- Taxes/Employee Health	453	(453)	16
Available for Trade and Other Unsecured		(5,961)	
Unsecured Claims			
Prepetition claims	12,245	(12,245)	17
Notes payable	15,517	(15,517)	18
Total Unsecured Claims	27,762	(27,762)	
Percent of Unsecured Claims Paid		0.0%	
Available for Equity		\$ -	

Debtors' Analysis

The liquidation analysis has been prepared by the Debtors as an estimate of the values which might be realized by creditors in the event the assets of the Debtors were to be liquidated in a chapter 7 case under the Bankruptcy Code. A chapter 7 liquidation consists generally of the cessation of business, the identification and assembly of assets, and the initiation of distressed or "forced" sales of the Debtors' assets by a court-appointed chapter 7 trustee, with subsequent distribution of the net proceeds of such asset dispositions to creditors in accordance with statutory priorities. The liquidation analysis should be read in conjunction with the accompanying notes.

The starting point for this liquidation analysis are the Debtors' assets based upon the projected pro forma balance sheet at July 30, 2017.

Assumption Footnotes

1. The cash balance is projected cash in depository accounts held by banks and does not include any deposits or prepayments.
2. Receivables include amounts billed to customers pursuant to the terms of related approved credit terms. Amounts estimated as realizable are based on a review of the aging of billed receivables and potential collections due to the accounts being insured.
3. Inventory consists primarily of undercarriage related parts and inventory in-transit from suppliers. The estimated recovery assumes a forced liquidation over a two-month period.
4. Other current assets consist primarily of prepaid expenses and deferred assets from which benefit would be derived by an ongoing operation, but would not be recoverable in a Chapter 7 liquidation.
5. Net property and equipment consists primarily of leased buildings, leasehold improvements, machinery and equipment, furniture and fixtures, computer equipment at book value. The following details the major assets in this category.
 - a. The Debtors hold real property leases whose estimated market values may exceed current net book values but will be rejected resulting in potential additional claims that have not been estimated for purposes of this analysis.
 - b. For purposes of this analysis, management assumes minimal recoveries for furniture and fixtures and computer equipment.
6. This asset is composed primarily of notes receivable and are assumed would be sold to a third party at a discount.
7. Other assets consist primarily of the John Deere supply agreement, deferred taxes and the capitalized cost incurred relating to the Ares loan. Litigation as outlined in the Schedules is included for disclosure purposes but no value is included for liquidation purposes.

Chapter 7 administrative costs consist of the following:

8. Chapter 7 Trustee fee is estimated at 3% of the assets liquidated.
9. Professional fees include legal, financial and other costs related to the bankruptcy proceedings, this would include hiring of appraisers, asset liquidators, auctioneers and other professionals to liquidate the assets.
10. Occupancy and freight costs will be incurred during the period primarily to liquidate the inventory and sell other assets.
11. Payroll and miscellaneous costs will be incurred assuming the liquidator will use some of the current personnel assist in the liquidation in order to minimize the costs.

Administrative Claims:

12. Estimated administrative claims related to post petition professional fees and other secured claims.
13. Estimated 503(b)(9) and post-petition accounts payable upon conversion to a chapter 7.

Secured Claims:

14. Ares claim is estimated at the same amount as the Debtors' pro forma financials at \$16.1 million which is assumed will be made as part of the Plan to fund the Class 2 claim of Ares. The amount, validity, extent, value, and priority of the Ares claim will be determined by the Bankruptcy Court after the Effective Date or pursuant to an agreement between the Reorganized Debtor and the Holder of the Class 2 Claim.
15. The Skokie claim is estimated at the prepetition amount and does not include any post-petition interest accrual.

Priority claims:

16. Priority claims are composed of unpaid employee compensation and benefits and taxes. For purposes of this analysis, it is assumed that all employee claims are below the cap for priority claims and that all non-US wages or benefits are paid in full as required by local rules and regulations. The amount reflected is the base upon the book value accrued amounts.

Unsecured claims:

17. Unsecured claims consist of prepetition trade payables.
18. Notes payable include the Finpa note and trade payables that were converted to notes payable.
19. Contingent Claims include estimated lease contract rejections and litigation but no amounts have been estimated for these claims.

Execution risk of a liquidation.

The liquidation analysis depends on estimates and assumptions. The liquidation analysis is based on a number of estimates and assumptions that, although developed and considered reasonable by the management of the Debtor, are subject to significant economic, business, regulatory, and competitive uncertainties and contingencies beyond the control of the Debtor or its management. There can be no assurance that the values reflected in this liquidation analysis would be realized if the Debtors were, in fact, to undergo such a liquidation and the actual results could vary materially and adversely from those contained herein.

EXHIBIT "C"
PROJECTIONS

Pro Forma Financial Statements (Unaudited)
Summary of Significant Accounting Assumptions

Basis of Presentation

The accompanying pro forma balance sheets, statements of income and statements of cash flows (unaudited) are estimated as of June 2017 using those accounting policies generally employed in the preparation of the historical financial statements.

The accompanying pro forma statements are not expected to change materially during the solicitation period. For these projections, it is assumed that the Chapter 11 Bankruptcy Effective date will occur during the fiscal month of August 2017.

Projected Financial Information

Introduction

The projected financial information (the "Projections") set forth below should be read in conjunction with the assumptions, qualifications and footnotes set forth herein, the Disclosure Statement, the Plan of Reorganization and the historical financial information (including the notes and schedules thereto). The Projections were prepared using those accompanying policies generally employed in the preparation of the Debtor's historical financial statements.

These Projections prepared by the Debtor include the estimated balance sheets, statements of income, and statements of cash flows for the fiscal years ending October 2017 through October 2021, including the estimated effects of the corporate restructuring on the operations and financial structure as further described in the Plan of Reorganization and Disclosure Statement.

The Projections herein include:

- Projected Balance Sheets of the Debtor are estimated at fiscal yearend October 2017 through October 2021. An estimate of the reorganization items to be posted upon Plan Confirmation are estimated to occur in the fiscal month of August 2017.
- Projected Statements of Income of the Debtor are estimated for the fiscal years ending October 2017 through October 2021
- Projected Statements of Cash Flows of the Debtor are estimated for the fiscal years ending October 2017 through October 2021.

The Projections present management's estimate of the expected balance sheets, statements of income and statements of cash flows. Accordingly, the Projections reflect management's judgment of expected future operating and business conditions, which are subject to change. The assumptions disclosed herein are those management believes are significant to the Projections. There will be differences between projected and actual results because events and circumstances frequently do not occur as expected. Accordingly, there can be no assurance the projected results will be realized. Actual results may vary materially from those projected. If actual results are lower than those shown or if the assumptions used in formulating the Projections are not realized, the Debtor's operating results and cash flows, and hence its ability to perform under a proposed Plan, may be materially and adversely affected.

The Projections were not prepared with a view toward compliance with the guidelines established by the American Institute of Certified Public Accountants ("AICPA"), the Financial Accounting Standards Board ("FASB"), or the rules and regulations of the SEC. Furthermore, the Projections have not been audited by the Debtors' independent accountants. While presented with numerical specificity, the Projections are based upon a variety of estimates and assumptions, which, although developed and considered reasonable by management, may not be realized and are subject to significant business, economic, and competitive uncertainties and contingencies, many of which are beyond the control of the Debtors' management. Consequently, the Projections should not be regarded as a representation or warranty by the Debtors, or any other person, as to their accuracy or that the Projections will be realized. Actual results may vary materially from those represented in these Projections.

Significant Assumptions

Business Activities

The Debtor is an industry leading distributor of high-quality aftermarket replacement parts for Caterpillar, Case New Holland ("CNH"), Komatsu, John Deere, Hitachi, and other earthmoving equipment manufacturers, dealers, and end-users. The Company offers undercarriage, rubber track, ground-engaging tools ("GET"), and hardware products (i.e. transmission, bearings, and hydraulics parts). Products are sold under the VTRACK by Passini brand. The Debtor has a diverse base of more than 2,500 customers across the U.S. and Canada. The Debtor has preferred supplier status with John Deere and CNH. The Debtor utilizes one of the largest North American networks of warehouse facilities in the industry, with seven locations in Dallas, Reno, Savannah, Seattle, Cleveland, Toronto, and Vancouver. On October 27, 2016 (the "Petition Date"), The Debtor filed a voluntary petition for relief under Chapter 11 in the United States Bankruptcy Court in the Northern District of Texas. Reduced liquidity, which resulted in declining inventory and subsequently a decrease in sales, triggered an EBITDA covenant default with Ares Commercial Finance ("Ares"). Restrictions in current borrowing capabilities have disrupted normal business operations, resulting in continued sales declines.

Market Drivers

The market for the Debtors products are primarily driven by the US, Canada and regional economic growth.

Aging infrastructure of the US may require more maintenance of the existing infrastructure resulting in higher usage and therefore maintenance for existing construction related equipment.

Balance Sheet Assumptions

Cash is estimated based upon using the full availability of an asset based revolver based upon estimates of advance rates on eligible accounts receivable and eligible inventory. Cash includes estimated cash collateral amounts that may be required by a secured credit facility.

Accounts receivable are estimated based upon historical days sales outstanding by major customer categories.

Inventory is estimated based upon management's assessment of inventory required to meet the sales goals.

Accounts payable assumes that suppliers will gradually increase terms over the 5-year period.

For projection purposes, the Debtors' pro forma financials assume that a payment of \$16.1 million will be made as part of the Plan to fund the Class 2 claim of Ares. The amount, validity, extent, value, and priority of the Class 2 Claim will be determined by the Bankruptcy Court after the Effective Date or pursuant to an agreement between the Reorganized Debtor and the Holder of the Class 2 Claim.

Long-Term liabilities will primarily consist of a new senior secured \$25 million asset base revolving facility and a \$6.35 million note payable to the "Creditors Trust" plus a series of transactions to exchange the existing \$10 million note from Finpa Trading SRL and the \$4.175 million subordinated note from Skokie Investrade, Inc. with new \$10.675 million notes from Green Oak.

The \$10.675 million in notes will be subordinated to the Creditor Trust note and the new revolving line of credit. No payments of interest or principal will be made until the Creditor Trust note is paid in full.

Green Oak will contribute \$7 million of cash and in exchange will receive \$4 million in equity and \$3 million be deemed part of the new \$10.675 million of subordinated notes.

Income Statement Assumptions

The overall estimated market for the Debtor's products is expected to grow at a rate approximating the projected growth of the US economy during the forecast period. The Debtor, however anticipates returning to similar market share as it had historically. Increased liquidity and inventory will lead to a rapid increase in

sales for the remainder of 2017 and 2018 and increase approximately 6% thereafter. By 2021, it is anticipated that the Debtors' sales will approach \$91 million. As a reference, the Debtor had previously achieved sales in 2014 and 2015 of approximately \$103 million and \$91 million respectively.

Margin Assumptions

Operating gross margins after freight are expected to be approximately 17% during the periods 2017-2021. For fiscal year to date October 29, 2016 through March 25, 2017, the comparable margin averaged 16.6%.

Operating expenses are expected to increase primarily driven by the increase in sales.

Other Income Statement Assumptions

Interest expense is based upon an estimate of the outstanding monthly balance on a revolving asset based loan with a reference rate of Prime plus 3.25% resulting in a rate of approximately 7.6%.

Tax provision is expected to accrue at an effective rate of approximately 35%.

Cash Flow Assumptions

Working capital requirements are expected to increase as increased sales require increased A/R and Inventory as previously discussed.

Capital expenditures are based on budgets and primarily represent maintenance of existing equipment and facilities.

The initial cash funding for the Plan of Reorganization is expected to be funded by advances from a \$25 million asset based revolving facility, a \$3 million non-interest bearing loan from Green Oak and a new equity contribution of \$4 million from Green Oak.

Bankruptcy Costs

The projected financial cash flows contemplate a payment in full of the Chapter 11 related costs, including professional fees, administrative claims, including 503(b)(9) claims and other expenses incurred because of the chapter 11 filing. The costs are expected to be approximately \$0.55 million for 503(b)claims and \$1.6 million for professional fees, other secured claims and administrative claims payable on effective date.

ValuePart, Incorporated
Balance Sheet Projections

Fiscal Years Ending October
\$ Thousands

Assets	<u>Jul-17</u>	<u>Restructuring Items</u>	<u>Aug-17</u>	<u>Oct-17</u>	<u>Oct-18</u>	<u>Oct-19</u>	<u>Oct-20</u>	<u>Oct-21</u>
Current Assets								
Cash and cash equivalents	\$ 5,238	\$ 7,000	\$ 4,923	\$ 3,234	\$ 6,799	\$ 5,415	\$ 6,857	\$ 6,272
Accounts receivable - net	10,822	(3,035)	7,879	9,679	11,476	11,733	12,232	12,926
Inventory - net	17,723	(750)	17,090	17,354	21,314	25,454	25,974	27,524
Other Current Assets	896	-	888	870	859	859	859	859
Total current assets	<u>34,680</u>	<u>3,215</u>	<u>30,780</u>	<u>31,138</u>	<u>40,448</u>	<u>43,461</u>	<u>45,922</u>	<u>47,581</u>
Property and Equipment - net	598	-	593	583	510	398	362	384
Notes receivable	4,665	-	4,645	4,606	4,413	4,235	4,057	3,900
Deferred tax asset	3,573	-	3,573	3,573	3,573	3,573	3,573	3,573
Supply agreement	300	-	184	231	232	232	232	232
Refinance costs	2,388	(2,218)	170	170	170	170	170	170
Total assets	<u>\$ 46,203</u>	<u>\$ 997</u>	<u>\$ 39,945</u>	<u>\$ 40,301</u>	<u>\$ 49,346</u>	<u>\$ 52,069</u>	<u>\$ 54,316</u>	<u>\$ 55,840</u>
Liabilities and Stockholders' Equity								
Current Liabilities								
503(b) claims	\$ 551	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Administrative and Professional fees	1,633	-	-	-	-	-	-	-
Accounts Payable	1,282	-	1,268	1,821	6,224	5,339	5,844	6,472
Accrued and other current liabilities	808	(768)	(186)	(186)	233	976	1,511	1,511
Total current liabilities	<u>4,274</u>	<u>(768)</u>	<u>1,082</u>	<u>1,636</u>	<u>6,457</u>	<u>6,315</u>	<u>7,355</u>	<u>7,983</u>
Note Payable - ACF FINCO 1 LP	14,322	1,778	-	-	-	-	-	-
Bank line of credit	-	-	12,088	12,151	16,536	19,348	19,983	20,828
Note Payable - Finpa	10,000	(10,000)	-	-	-	-	-	-
Note Payable - Skokie	4,175	(4,175)	-	-	-	-	-	-
Notes Payable - Green Oak (consolidated)	-	10,675	10,675	10,675	10,675	10,675	10,675	10,675
Prepetition claims	17,436	(11,350)	-	-	-	-	-	-
Note Payable - Creditors Trust	-	-	5,975	5,975	5,090	3,762	2,434	-
Total liabilities	<u>50,206</u>	<u>(13,840)</u>	<u>29,820</u>	<u>30,437</u>	<u>38,757</u>	<u>40,100</u>	<u>40,447</u>	<u>39,486</u>
Stockholders' Equity	<u>(4,003)</u>	<u>14,837</u>	<u>10,126</u>	<u>9,864</u>	<u>10,588</u>	<u>11,969</u>	<u>13,869</u>	<u>16,354</u>
Total liabilities and stockholders' equity	<u>\$ 46,203</u>	<u>\$ 997</u>	<u>\$ 39,945</u>	<u>\$ 40,301</u>	<u>\$ 49,346</u>	<u>\$ 52,069</u>	<u>\$ 54,316</u>	<u>\$ 55,840</u>

The accompanying notes are an integral part of this projected pro forma financial statement.

THE PROFORMA FINANCIAL PROJECTIONS ALSO REFLECT NUMEROUS ASSUMPTIONS MADE BY THE DEBTORS' MANAGEMENT, INCLUDING ASSUMPTIONS WITH RESPECT TO THE MARKET FOR THEIR PRODUCTS, GENERAL BUSINESS, ECONOMIC, MARKET AND FINANCIAL CONDITIONS AND OTHER MATTERS. ACCORDINGLY, THERE CAN BE NO ASSURANCE THAT THE ASSUMPTIONS MADE IN PREPARING THE PROFORMA FINANCIAL PROJECTIONS WILL PROVE ACCURATE. THE DEBTORS EXPECT THAT THERE WILL BE DIFFERENCES BETWEEN ACTUAL AND PROJECTED RESULTS, AND ACTUAL RESULTS MAY BE MATERIALLY GREATER OR LESS THAN THOSE CONTAINED IN THE PRO FORMA FINANCIAL PROJECTIONS. THE INCLUSION OF THE PROFORMA FINANCIAL PROJECTIONS IN THIS DISCLOSURE STATEMENT SHOULD NOT BE REGARDED AS AN INDICATION THAT THE DEBTORS CONSIDER THE PRO FORMA FINANCIAL PROJECTIONS TO BE A RELIABLE PREDICTION OF FUTURE EVENTS.

ValuePart, Incorporated
Statement of Operations Projections

Fiscal Years Ending October	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
§ Thousands					
Net Sales	\$ 51,794	\$ 75,983	\$ 80,275	\$ 85,292	\$ 90,623
Cost of Sales	<u>41,254</u>	<u>62,686</u>	<u>65,425</u>	<u>69,513</u>	<u>73,858</u>
Gross Profit	10,540	13,297	14,850	15,779	16,765
GP %	20.3%	17.5%	18.5%	18.5%	18.5%
Operating Expenses	<u>10,244</u>	<u>10,711</u>	<u>11,094</u>	<u>11,234</u>	<u>11,322</u>
Operating (Loss) Income	296	2,586	3,756	4,545	5,444
Other non-operating expenses	465	90	60	60	60
Depreciation and Amortization	1,022	265	304	229	170
Other Costs (Chapter 11)	4,243	-	-	-	-
Interest Expense	1,231	1,176	1,328	1,392	1,450
Interest Income	<u>(65)</u>	<u>(60)</u>	<u>(60)</u>	<u>(60)</u>	<u>(60)</u>
Net Interest Expense (Income)	1,166	1,116	1,268	1,333	1,391
Pretax Income (Loss)	<u>(6,601)</u>	<u>1,115</u>	<u>2,124</u>	<u>2,923</u>	<u>3,823</u>
Income Tax (benefit)	<u>(1,013)</u>	<u>390</u>	<u>743</u>	<u>1,023</u>	<u>1,338</u>
Net Income (Loss)	<u>\$ (5,588)</u>	<u>\$ 725</u>	<u>\$ 1,381</u>	<u>\$ 1,900</u>	<u>\$ 2,485</u>

The accompanying notes are an integral part of this projected pro forma financial statement.

THE PROFORMA FINANCIAL PROJECTIONS ALSO REFLECT NUMEROUS ASSUMPTIONS MADE BY THE DEBTORS' MANAGEMENT, INCLUDING ASSUMPTIONS WITH RESPECT TO THE MARKET FOR THEIR PRODUCTS, GENERAL BUSINESS, ECONOMIC, MARKET AND FINANCIAL CONDITIONS AND OTHER MATTERS. ACCORDINGLY, THERE CAN BE NO ASSURANCE THAT THE ASSUMPTIONS MADE IN PREPARING THE PROFORMA FINANCIAL PROJECTIONS WILL PROVE ACCURATE. THE DEBTORS EXPECT THAT THERE WILL BE DIFFERENCES BETWEEN ACTUAL AND PROJECTED RESULTS, AND ACTUAL RESULTS MAY BE MATERIALLY GREATER OR LESS THAN THOSE CONTAINED IN THE PRO FORMA FINANCIAL PROJECTIONS. THE INCLUSION OF THE PROFORMA FINANCIAL PROJECTIONS IN THIS DISCLOSURE STATEMENT SHOULD NOT BE REGARDED AS AN INDICATION THAT THE DEBTORS CONSIDER THE PRO FORMA FINANCIAL PROJECTIONS TO BE A RELIABLE PREDICTION OF FUTURE EVENTS.

ValuePart, Incorporated
Statement of Cash Flows Projections

Fiscal Years Ending October

\$ Thousands

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Cash Flows from Operating Activities					
Net Income (Loss)	\$ (5,580)	\$ 725	\$ 1,381	\$ 1,900	\$ 2,485
Adjustments to reconcile net (loss) income to net cash from operating activities:					
Depreciation	1,022	265	304	229	170
Change in AR	(984)	(1,796)	(257)	(499)	(694)
Change in Inventory	3,782	(3,960)	(4,140)	(520)	(1,550)
Change in Other Current Assets	(86)	12	-	-	-
Change in Other Long Term Assets	(509)	192	178	178	158
Changes in AP	2,777	4,402	(885)	505	628
Changes in Accruals	57	419	743	535	-
Changes in Note Payables	45	111	(0)	0	(1,438)
Net cash (used in) provided by operating activities	524	369	(2,677)	2,327	(243)
Cash Flows from Investing Activities					
Purchase of property and equipment	(80)	(192)	(192)	(192)	(192)
Cash Flows from Financing Activities					
Green Oak equity contribution	4,000	-	-	-	-
Green Oak Loan	3,000	-	-	-	-
Bankruptcy Costs and Creditor Trust Payments	(4,337)	(996)	(1,328)	(1,328)	(996)
Net change in bank line of credit	(2,638)	4,384	2,813	634	845
Net cash from financing activities	24	3,388	1,485	(693)	(151)
Net Increase (Decrease) in Cash	468	3,566	(1,384)	1,442	(585)
Cash at Beginning of Period	2,766	3,234	6,799	5,415	6,857
Cash at End of Period	\$ 3,234	\$ 6,799	\$ 5,415	\$ 6,857	\$ 6,272

The accompanying notes are an integral part of this projected pro forma financial statement.

THE PROFORMA FINANCIAL PROJECTIONS ALSO REFLECT NUMEROUS ASSUMPTIONS MADE BY THE DEBTORS' MANAGEMENT, INCLUDING ASSUMPTIONS WITH RESPECT TO THE MARKET FOR THEIR PRODUCTS, GENERAL BUSINESS, ECONOMIC, MARKET AND FINANCIAL CONDITIONS AND OTHER MATTERS. ACCORDINGLY, THERE CAN BE NO ASSURANCE THAT THE ASSUMPTIONS MADE IN PREPARING THE PROFORMA FINANCIAL PROJECTIONS WILL PROVE ACCURATE. THE DEBTORS EXPECT THAT THERE WILL BE DIFFERENCES BETWEEN ACTUAL AND PROJECTED RESULTS, AND ACTUAL RESULTS MAY BE MATERIALLY GREATER OR LESS THAN THOSE CONTAINED IN THE PRO FORMA FINANCIAL PROJECTIONS. THE INCLUSION OF THE PROFORMA FINANCIAL PROJECTIONS IN THIS DISCLOSURE STATEMENT SHOULD NOT BE REGARDED AS AN INDICATION THAT THE DEBTORS CONSIDER THE PRO FORMA FINANCIAL PROJECTIONS TO BE A RELIABLE PREDICTION OF FUTURE EVENTS.

EXHIBIT "D"

SOURCES & USES

Sources and Uses

The Debtor and its professionals have estimated the Debtor’s Sources & Uses, based on information available as of the date of this Disclosure Statement.

**ValuePart, Incorporated
Estimated Sources and Uses**

\$000 for the Month Ending

July 2017

Sources	
Revolver Availability	\$ 12,408
Green Oak Equity	4,000
Green Oak Note	3,000
Cash	5,238
Total Sources	\$ 24,646
Uses	
Ares (escrow)	\$ 16,100
New Lender Cash Collateral	1,500
New Lender Closing Fees	375
New Lender Legal Fees	75
503(b)(9) (20 day claims)	551
Estimated administration costs, secured claims and professional fees	1,633
Unsecured Creditor Note Payment	375
Total Uses	\$ 20,609
Net Availability/ Cash at Confirmation	\$ 4,037
Required Opening Excess Availability	\$ 3,375

THE SOURCES AND USES ARE DERRIVED FROM THE PROFORMA FINANCIAL PROJECTIONS WHICH REFLECT NUMEROUS ASSUMPTIONS MADE BY THE DEBTORS' MANAGEMENT, INCLUDING ASSUMPTIONS WITH RESPECT TO THE MARKET FOR THEIR PRODUCTS, GENERAL BUSINESS, ECONOMIC, MARKET AND FINANCIAL CONDITIONS AND OTHER MATTERS. ACCORDINGLY, THERE CAN BE NO ASSURANCE THAT THE ASSUMPTIONS MADE IN PREPARING THE PROFORMA FINANCIAL PROJECTIONS INCLUDING THIS ESTIMATE OF SOURCES AND USES WILL PROVE ACCURATE. THE DEBTORS EXPECT THAT THERE WILL BE DIFFERENCES BETWEEN ACTUAL AND PROJECTED RESULTS, AND ACTUAL RESULTS MAY BE MATERIALLY GREATER OR LESS THAN THOSE CONTAINED IN THE PRO FORMA FINANCIAL PROJECTIONS. THE INCLUSION OF THE PROFORMA SOURCES AND USES AND FINANCIAL PROJECTIONS IN THIS DISCLOSURE STATEMENT SHOULD NOT BE REGARDED AS AN INDICATION THAT THE DEBTORS CONSIDER THE PRO FORMA FINANCIAL PROJECTIONS TO BE A RELIABLE PREDICTION OF FUTURE EVENTS.

THIS SOURCES & USES EXHIBIT IS PRESENTED SOLELY FOR PURPOSES OF PROVIDING “ADEQUATE INFORMATION” UNDER § 1125 OF THE BANKRUPTCY CODE TO ENABLE HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN TO MAKE AN INFORMED JUDGMENT ABOUT THE PLAN. THIS EXHIBIT SHOULD NOT BE USED OR RELIED ON FOR ANY OTHER PURPOSE, INCLUDING THE PURCHASE OR SALE OF CLAIMS AGAINST OR INTERESTS IN, THE DEBTOR.

EXHIBIT "E"

CAUSES OF ACTION

EXHIBIT E
RESERVED CAUSES OF ACTION

Any action; Cause of Action (including but not limited to any and all claims for malpractice, negligence, professional negligence, negligent misrepresentation, fraudulent misrepresentation, breach of fiduciary duty, aiding and abetting breach of fiduciary duty, breach of contract, third party beneficiary, fraud, fraudulent concealment, securities fraud, securities violations, corporate derivative claims, disgorgement, constructive trust, and conspirator liability for any such claims); suit, account; controversy; agreement; promise; right to legal remedies; right to equitable remedies; right to payment; and claim, whether known or unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, unsecured and whether asserted or assertable directly or indirectly or derivatively, in law, equity or otherwise, that the Debtor have or may have against any person, arising out of, connected with, or in any way directly or indirectly related to any acts, conduct, or failure to act of such person, or consultation, advice, services or goods provided to the Debtor or by such person, or any affiliate of the Debtor by such person, as applicable, specifically including, without limitation: (a) damages (general, exemplary, or both) relating to or based on (i) fraud, fraudulent concealment, negligence, gross negligence, willful misconduct, or any tort actions, as well as any claims based on actions that aided and abetted such torts; (iii) violations of federal or state securities laws; (iii) violations of applicable corporate laws; (iv) breaches of fiduciary or agency duties, whether owed pursuant to common law, statute, or, including without limitation, any breach of any corporate document or employment agreement of the Debtor, by any officer, director, professional, consultant, or other fiduciary, including without limitation, BDO LLP, USA, as well as any claims based on actions that aided and abetted such breaches; or (v) causes of action based on alter ego or other liability theories; (b) damages based on any other claim of the Debtor, to the extent not specifically compromised or released; (c) any legal or equitable claims involving the ownership of interests, including without limitation, any action that seeks the remedy of constructive trust; (d) any claims of the Debtor for equitable subordination under section 510(c) of the Bankruptcy Code or under other applicable laws; (e) any claim of the Debtor to recharacterize one or more claim as equity interests, security financing transaction, or otherwise; (f) any objection to any Disputed Claim which includes as a basis any counterclaim by the Debtor or its Estate, Reorganized Debtor or its Estate, for affirmative relief, and which is pending and unresolved as of the Effective Date, together with all liability of the Debtor or its Estate, or the Reorganized Debtor or its Estate, on account of such Disputed Claim. Without limiting the foregoing, Causes of Action also specifically include, without limitation: (i) all claims and defenses asserted by the Reorganized Debtor in an adversary proceeding or other civil litigation pending as of the Effective Date; (ii) all tort, contract, and common law claims held by the Debtor against any person; (iii) all claims held by the Debtor whether in contract, tort, or statutory law against the Debtor's (r) creditors; (s) former officers and directors; (t) suppliers (including any person with whom the Debtor ever did business); (u) former employees; (v) former or current affiliates; (w) insurers (including, without limitation, for directors and officers liability coverage, business interruption, or similar claims); (x) persons that were or are joint venturers or partners with, or controlling persons of the Debtor; (y) Governmental Units, including taxing authorities and the United States; and (z) the Debtor's prior and current professionals; (iv) all avoidance actions arising under Chapter 5 of the Bankruptcy Code, specifically including without limitation, any and all claims which a trustee or other appropriate party in interest could assert under sections

502, 510, 522(f), 522(h), 542, 543, 544, 545, 547, 548, 549, 550, 551, 553, and 724(a) of the Bankruptcy Code, other than the Transferred Preference Actions, which shall be preserved for and transferred to the Creditor Trust; (v) the litigation by Valuepart, Inc. against ACF Finco I, LP, Case No. 17-03044, pending in the United States Bankruptcy Court for the Northern District of Texas, as such claims may be amended, supplemented, or otherwise modified in due course of the litigation proceedings therein; (vi) the Farquhar Litigation, as such claims may be amended, supplemented, or otherwise modified in due course of the litigation proceedings therein; (vii) the USCO Litigation, as such claims may be amended, supplemented, or otherwise modified in due course of the litigation proceedings therein; (viii) any potential Cause of Action arising from or related to any transfer or other actions or omissions referenced in the Debtor's Schedules or Statement of Financial Affairs which were Filed in Case No. 16-34169 (Docket No. 134) on December 2, 2016, as amended; (ix) any Cause of Action against any past or present insider of the Debtor, (x) any Cause of Action related to the extent, validity and priority of any liens; (xi) any Cause of Action for breach of contract; (xii) any Cause of Action arising in tort; (xiii) any Cause of Action against Midwest Equipment Sales, LLC, American Crane and Tractor Parts, Inc., Florida Engines & Machinery Corporation, MG Parts, S.A. DE C.V./Claudio Macias, Burgess Machinery, LLC, Westrock, Inc., and Jon Teague; (xiv) all defenses, counterclaims, setoffs, and rights that have been asserted or could be on behalf of the Debtor against or with respect to all Claims asserted against the Debtor or property of the Estate.

EXHIBIT "F"

SCHEDULE OF AFFILIATES

Schedule of Non-Debtor Affiliates¹

Finpa USA
Intramex Gmbh
Isa Passini
Ivano Passini
Passini Holding srl
Riccardo Carradori
Taha Elghawaby
Valuepart Changtai Machinery Production
Valuepart Europe SpA
Finpa Trading srl
Florida Track & Power
Undercarriage Participation srl
Intramex Gmbh Bremen
Intramex Valuepart Polska sp
Valuepart and Track Solutions
Valuepart France sas
Valuepart Makina Ticaret Ltd.

¹ This Schedule of Affiliates lists persons and entities related to ValuePart, Inc.

EXHIBIT "G"

PLAN OF REORGANIZATION

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re: § **Chapter 11**
§
VALUEPART, INCORPORATED § **Case No.: 16-34169-hdh**
§
Debtor. §

**FIRST AMENDED CHAPTER 11 PLAN OF REORGANIZATION
OF VALUEPART, INCORPORATED**

Marcus A. Helt (TX 24052187)
Thomas C. Scannell (TX 24070559)
GARDERE WYNNE SEWELL LLP
2021 McKinney Avenue, Suite 1600
Dallas, TX 75201
Telephone: (214) 999-3000
Facsimile: (214) 999-4667
mhelt@gardere.com
tscannell@gardere.com

COUNSEL TO THE DEBTOR AND DEBTOR-IN-POSSESSION

Dated: July 1, 2017

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LIST OF EXHIBITS

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Exhibit E	Exit Financing Documents (additional documents to be provided in the Plan Supplement)
Exhibit F	Green Oak Secured Subordinated Note (to be provided in the Plan Supplement)
Exhibit G	Creditor Note (to be provided in the Plan Supplement)
Exhibit H	FinPa Reinstated Note (to be provided in the Plan Supplement)
Exhibit I	First Subordination Agreement (to be provided in the Plan Supplement)
Exhibit J	Second Subordination Agreement (to be provided in the Plan Supplement)
Exhibit K	List of the Names and Amount of General Unsecured Insider Claims
Exhibit L	Restated Skokie Note and Security Agreement

The Debtor¹ in the above-referenced Chapter 11 bankruptcy case (the “**Debtor**”), hereby proposes the *First Amended Chapter 11 Plan of Reorganization of ValuePart, Incorporated* (the “**Plan**”) pursuant to §1121(a) of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “**Bankruptcy Code**”).

SUMMARY OF THE PLAN

1. **Summary Only.** The following is a brief summary of the Plan’s general terms and does not form a part of the Plan. This summary is qualified in its entirety by reference to the provisions of the Plan. Capitalized terms used in this summary are defined in the Plan.

2. **General Description of the Business.** Valuepart is a family-built business that distributes high-quality, competitively-priced, aftermarket replacement parts for off-highway earthmoving-equipment manufacturers. Valuepart is incorporated under the laws of Delaware. Valuepart operates from eight locations in Illinois, Texas, Nevada, Washington, Ohio, Georgia, and Vancouver and Toronto, Canada. Valuepart is headquartered in Illinois and is the debtor-in-possession in this Bankruptcy Case.

3. **Plan and Treatment of Claims.** The Plan contemplates a reorganization of the Debtor’s business and operations. Pursuant to the terms of the Plan:

- a) Reorganized VPI will continue to operate its business and retain its operating assets and most of its causes of action.
- b) Ivano Passini will be Reorganized VPI’s president. Isa Passini will be the Executive Vice-President of Operations, and Nate Stupka will report to her as the Debtor’s Chief Operating Officer. Jemco will appoint the Executive Vice-President of Finance, and Greg Miyake will report to that individual as the Chief Accounting Officer.²
- c) Reorganized VPI’s initial post-bankruptcy board of directors will be Ivano Passini, Isa Passini, and two individuals appointed by Jemco and identified in the Plan Supplement Documents.
- d) Reorganized VPI will receive new first-priority lender financing from the Exit Lender.
- e) Reorganized VPI will use the proceeds from the Exit Financing to, among other things, (i) fund an escrow used to pay the Allowed amount, if any, of the Ares claim asserted against the

¹ The debtor in this chapter 11 case (the “**Debtor**”) and the last four digits of the Debtor’s federal tax identification number are as follows: ValuePart, Incorporated (3880). The Debtor’s principal assets in this district are located at 9804 Chartwell Drive, Dallas, Texas 75243.

² Any pre-Confirmation changes made to officer roles will be noted in a Plan Supplement Document.

Estate, as determined by the Bankruptcy Court at a later date, and (ii) run the business on a post-bankruptcy basis.

- f) Reorganized VPI will be owned 100% by Green Oak.
- g) Green Oak will contribute \$7 million to Reorganized VPI. This \$7 million will be used to run the business on a post-bankruptcy basis.
- h) \$4 million of that \$7 million will be equity financing.
- i) \$3 million of that \$7 million will be fully-subordinated, interest-free secured-debt financing. This \$3 million note will be subordinated to the Creditor Note.
- j) Green Oak will be owned 50% each, indirectly or directly, by Skokie and Jemco.
- k) Allowed Administrative Claims will be paid at or before the Effective Date.
- l) General Unsecured Creditors will receive a \$6.35 million “Creditor Note,” payable to a Creditor Trust over a 4.5-year period.
- m) The Official Creditors Committee will be terminated on the Effective Date of the Plan.
- n) The “Creditors’ Trust” will be established, and it will be administered by a Creditor Trustee.
- o) The Creditor Trustee will be identified in the Plan Supplement Document and approved by the Bankruptcy Court.
- p) The Creditor Trust will make distributions to all Allowed General Unsecured Claims, as set forth in Class 5 and determined by the Bankruptcy Court, pursuant to the terms and conditions of a Creditor Trust Agreement, which is a Plan Supplement Document. It is estimated that the value of the Creditor Note will cause a dividend to General Unsecured Claims, exclusive of the costs and fees of the Creditor Trust,³ in an amount between 30% and 35% of total Allowed General Unsecured Claims.

³ The costs and fees of the Creditor Trust are the sole responsibility of the Creditor Trust and will be payable from the proceeds received by the Reorganized Debtor from the Creditor Note and other Creditor Trust Assets.

- q) In addition to the Creditor Note, the Creditor Trust will (i) receive a share of litigation proceeds received by the Reorganized VPI on certain non-avoidance causes of action and (ii) prosecute certain § 547 (b) causes of action and receive the proceeds from this prosecution. These § 547(b) causes of action will be identified and transferred to the Creditor Trust by the Reorganized Debtor within sixty (60) days after the Effective Date.
- r) Holders of General Unsecured Claims will receive a release of all causes of action under § 547(b) of the Bankruptcy Code if they (i) vote in favor of the Plan and (ii) provide credit terms and limits acceptable to the Reorganized VPI.
- s) Creditors holding Allowed Claims shall receive the following treatment under the Plan:

CLASS	CLAIMANT	TREATMENT
1.	<p>ALLOWED PRIORITY NON-TAX CLAIMS</p> <p>(Est. Amt. of Claims: \$.010 million)</p>	<p>Shall receive (i) Cash in an amount equal to the Allowed amount of such Priority Non-Tax Claim on the Effective Date or (ii) other treatment consistent with the provisions of § 1129(a)(9) of the Bankruptcy Code; <i>provided, however</i>, that Priority Non-Tax Claims that arise in the ordinary course of the Debtor’s business shall be paid by the Debtor or the Reorganized Debtor, as applicable, in the ordinary course of business.</p> <p>(Est. Recovery: 100%)</p>
2.	<p>ALLOWED SENIOR SECURED CLAIMS OF ACF FINCO I LP (ARES)</p>	<p>If the Holder of a Class 2 Claim votes in favor of the Plan, in full and final satisfaction, settlement, release, and discharge of such Class 2 Claim, the Reorganized Debtor will pay \$12.6 million or such other amount agreed by the Reorganized Debtor and the Holder of such Class 2 Claim to the Holder of such Class 2 Claim on the Effective Date.</p> <p>If the Holder of a Class 2 Claim votes against the Plan, the Class 2 Claim will be satisfied in full and final satisfaction, settlement, release, and discharge of such Class 2 Claim by payment of \$16.1 million into Escrow or such other amount as the Court deems necessary to secure the Class 2 Claim. The Class 2 Claim shall accrue payment-in-kind interest at the rate of 6.5% interest per annum, compounded daily. All liens and security interests of the Holder of the Class 2 Claim, if any, shall transfer immediately on the Effective Date to the funds held in Escrow in the same priority, validity, and amount as such liens and security interests existed on the Petition Date, subject to determination by the Court; and all such liens and security interests shall be deemed perfected on entry of the</p>

CLASS	CLAIMANT	TREATMENT
	(Est. Amt. of Claims: \$0.00)	Confirmation Order. The Allowed Class 2 Claim will be paid to the Holder of such Claim on the later of (a) 30 days after and to the extent the Class 2 Claim is Allowed, and (b) September 4, 2019, unless otherwise agreed by the Reorganized Debtor and the Holder of such Class 2 Claim. The amount, validity, extent, value, and priority, of the Class 2 Claim under § 506 of the Bankruptcy Code will be determined by the Bankruptcy Court after the Effective Date or pursuant to an agreement between the Reorganized Debtor and the Holder of the Class 2 Claim. Any Deficiency Claim or other unsecured claim of the Holder of the Class 2 Claim shall be included as a Class 5 General Unsecured Claim. (Est. Recovery: 100%)
3.	ALLOWED JUNIOR SECURED CLAIM OF SKOKIE (Est. Amt. of Claim: \$4.5 million plus post-petition fees and expenses to the extent allowed under § 506(b) of the Bankruptcy Code) ⁴	Shall be satisfied by execution of the Restated Skokie Note and Security Agreement, the First Subordination Agreement, and the Second Subordination Agreement. (Est. Recovery: 100%)
4.	OTHER SECURED CLAIMS (Est. Amt. of Claims: \$0.00)	Shall be satisfied at the Reorganized Debtor's option by (i) payment of such Allowed Other Secured Claim in full in Cash, including interest required under § 506(b) of the Bankruptcy Code; (ii) delivery of the Collateral securing such Allowed Other Secured Claim; or (iii) other treatment in a manner such that the Class 4 Claim is rendered Unimpaired. (Est. Recovery: 100%)
5.	GENERAL UNSECURED CLAIMS (Est. Amt. of Claims: \$20 million)	Shall be satisfied by Pro Rata Share of Distributions from Creditor Trust Assets. (Est. Recovery: 30% to 35%) ⁵

⁴ This claim is held by an Insider Entity. As part of this Plan, the Holder of this Class 3 Claim has agreed to subordinate payment and the exercise of any remedies of this Class 3 Claim to payment of the Creditor Note and the full satisfaction of the Reorganized Debtor's obligations to pay Class 5 Claims.

⁵ Percentage Distribution to Holders of Allowed Class 5 Claims is dependent on a variety of risks and factors, including the Reorganized Debtor's success, recovery, and value of the Creditor Trust Assets, and the administration costs of the Creditor Trust.

CLASS	CLAIMANT	TREATMENT
6.	UNSECURED CLAIM OF FINPA (Est. Amt. of Claims: \$10.4 million) ⁶	Shall be satisfied by execution of the FinPa Restated Note, the First Subordination Agreement, and the Second Subordination Agreement. (Est. Recovery: 33%)
7.	SUBORDINATED CLAIMS (Est. Amt. of Claims: Unknown) ⁷	There will be no Distributions to Claims in Class 7. (Est. Recovery: 0%)
8.	INTERESTS IN THE DEBTOR (Est. Amt. of Claims: Unknown)	All Interests will be cancelled and discharged on the Effective Date, and no holder of an Interest shall receive a Distribution on account of such Interest. (Est. Recovery: 0%)

ARTICLE I INTRODUCTION

1.1. *Introduction.*

This Plan is proposed by and on behalf of the Debtor under Chapter 11 of the Bankruptcy Code. Reference is made to the Disclosure Statement accompanying the Plan for a discussion of

⁶ This claim is held by an Insider Entity. The asserted amount of this claim is \$10,396,666.00. As part of this Plan, the Holder of this Class 6 Claim has agreed to reduce this \$10.4 million claim to \$3.5 million. This Holder has also agreed to subordinate this \$3.5 million to the other \$20.0 million of unsecured claims in Class 5 Claim. This reduced amount of \$3.5 million will be paid in full but not until the Creditor Note is paid in full.

⁷ On May 15, 2017, the Estate sued Ares in the United States Bankruptcy Court for the Northern District of Texas, Case No. 17-03044, asserting many causes of action including equitable subordination. Ares asserts a \$16.1 million claim against the Estate. As can be seen in this lawsuit, the Debtor disputes Ares's asserted claim against the Estate. If the Debtor is successful in Case No. 17-03044, then the amount of Subordinated Claims in Class 8 will include the amount of Ares's claim subordinated by the Bankruptcy Court.

the Debtor's history, results of operations, and for a summary and analysis of the Plan. All Holders of Claims against and Interests in the Debtor are encouraged to read the Plan and the Disclosure Statement in their entirety before voting to accept or reject the Plan. Other than the Disclosure Statement and any exhibits and schedules referenced therein or herein, no materials have otherwise been approved by the Debtor for use in soliciting acceptances of this Plan.

1.2. General Plan Structure; Funding Sources.

The execution and consummation of this Plan will be facilitated through the Exit Financing, the \$7 million of equity and subordinated-debt financing contributed by Green Oak, the Creditor Trust, and the appointment of the Creditor Trustee to monetize and administer the Creditor Trust Assets, and other payments made under the Plan by the Reorganized Debtor. Distributions to be made pursuant to the Plan will be funded from the Exit Financing operations of the Reorganized Debtor's business, liquidation of the Creditor Trust Assets, and recovery from other pursued Causes of Action.

ARTICLE II DEFINITIONS AND INTERPRETATION

In addition to such other terms as may be defined in other provisions of the Plan, the following capitalized terms shall have the following meanings:

2.1. Definitions.

"Administrative Claim" means any cost or expense of administration in connection with this Case of a kind specified in §§ 503(b) or 507(a)(1), including, without limitation, (a) the actual, necessary costs and expenses of preserving the Estate and of operating the business of the Debtor, including wages, salaries, commissions, or any other compensation for services rendered after the commencement of the bankruptcy case; (b) compensation for legal or other services, and reimbursement of costs and expenses under §§ 330(a) or 331, 363, or otherwise allowed by the Court; and (c) all fees and charges assessed against the Estate under 28 U.S.C. § 1930. For the avoidance of doubt, Administrative Claims include (a) fees earned and expenses incurred by Professionals; (b) expenses incurred by the members of the Committee; and (c) expenses incurred, if any, by an Entity in making a substantial contribution in the Case pursuant to §§ 503(b)(3) or (4).

"Affiliate" means as set forth in § 101(2) of the Bankruptcy Code.

"Allowed" means, with respect to Claims and Interests, (a) any Claim against or Interest in the Debtor, proof of which is timely Filed or by order of the Bankruptcy Court is not or will not be required to be Filed, (b) any Claim or Interest that has been or is hereafter listed in the Schedules as neither disputed, contingent nor unliquidated, and for which no timely Filed proof of Claim has been Filed, (c) any Interest registered in the Debtor's books and records as of the Petition Date or (d) any Claim allowed pursuant to the Plan and, in each such case in (a), (b) and (c) above, as to which either (i) no objection to the allowance thereof has been Filed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the

Bankruptcy Court, (ii) such an objection is so Filed and the Claim or Interest shall have been allowed pursuant to a Final Order (but only to the extent so allowed), or (iii) such an objection is so Filed and the Claim or Interest shall have been stipulated as allowed by the Reorganized Debtor, (but only to the extent so stipulated).

“**Ares**” means ACF Finco I, LP.

“**Assets**” means all assets of the Estate, including Causes of Action.

“**Ballot**” means the ballot form on which Holders of Impaired Claims entitled to vote on the Plan shall indicate their acceptance or rejection of the Plan.

“**Balloting Deadline**” means August 1, 2017, at 4:00 p.m. (prevailing Central Time), which is the deadline established by the Court for the submission of Ballots to the Debtor in accordance with the Voting Procedures.

“**Bankruptcy Code**” means the Bankruptcy Reform Act of 1978, as subsequently amended, principally codified at 11 U.S.C. § 101, *et seq.* Unless otherwise stated herein or the Disclosure Statement, all section (§) references contained in the Plan and Disclosure Statement are to the Bankruptcy Code.

“**Bankruptcy Court**” or “**Court**” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or, if such court ceases to have jurisdiction over the Case, such court or adjunct thereof having jurisdiction over the Case.

“**Bankruptcy Rules**” means the Federal Rules of Bankruptcy Procedure promulgated by the United States Supreme Court pursuant to 28 U.S.C. § 2075 as subsequently amended, and, where appropriate, the Local Bankruptcy Rules of the Bankruptcy Court.

“**Bar Date**” means March 7, 2017, for the Filing of proofs of claim and proofs of interest by all parties other than governmental units, and shall mean April 25, 2017, which is 180 days from the Petition Date, for the Filing of proofs of claims by all governmental units. The Bar Date is the last date on which proofs of claim or proofs of interest may be timely Filed against the Debtor.

“**Business Day**” means any day except Saturday, Sunday, or any other day on which the law authorizes commercial banks in the State of Texas to be closed.

“**Case**” means the voluntary case Filed by the Debtor, currently pending in the Bankruptcy Court under Chapter 11 of the Bankruptcy Code under Case No. 16-34169.

“**Cash**” means cash and cash equivalents that evidence immediately available funds.

“**Cash Collateral**” means any Cash of the Debtor or interest in Cash of the Debtor that serves as security for the repayment of a debt or the performance of an obligation owed by the Debtor to the holder of an Allowed Secured Claim.

“Cash Collateral Order” means the *First Interim Order Authorizing Debtor’s Use of Cash Collateral and Granting Adequate Protection and Related Relief* [Docket No. 32] entered on November 1, 2016, as such Order may be subsequently extended, amended, modified or supplemented.

“Cause of Action” means any action, cause of action, suit, account, controversy, agreement, promise, right to legal remedies, right to equitable remedies, right to payment, and Claim, whether known or unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, unsecured and whether asserted or assertable directly or indirectly or derivatively, in law, equity or otherwise, including (a) Chapter 5 Causes of Action; (b) those claims involved in those civil actions identified on Attachment 7 to the Debtor’s Statement of Financial Affairs [Docket No. 134]; (c) other damages (general, exemplary, or both) relating to or based on (i) fraud, negligence, gross negligence, willful misconduct, or any tort actions, (ii) violations of federal or state securities laws, (iii) violations of applicable corporate or partnership laws, (iv) breaches of fiduciary or agency duties, or (v) causes of action based upon alter ego or other liability theories; (vi) based on any other claim of the Debtor, to the extent not specifically compromised or released pursuant to the Plan or an agreement referred to, or incorporated into, the Plan or Final Order entered after notice and opportunity for hearing; (d) any claims of the Debtor for equitable subordination under § 510(c) or under other applicable laws; (e) any claim of the Debtor to recharacterize one or more Claims as Interests; and (f) any unresolved objection to any Disputed Claim.

“Chapter 5 Cause of Action” means any Cause of Action arising under §§ 510, 544 through 551 and 553 or otherwise under the Bankruptcy Code.

“Chapter 7” means chapter 7 of the Bankruptcy Code.

“Chapter 11” means chapter 11 of the Bankruptcy Code.

“Claim” means a claim against the Debtor, whether or not asserted, as defined in § 101(5), by whatever right the Creditor may have against the Debtor.

“Claim Objection Deadline” shall be 270 days after the Effective Date, unless extended by Order of the Court.

“Class” means any group of substantially similar Claims or Interests classified by the Plan pursuant to § 1122.

“Class 5 Claims” means as defined in paragraph 5.5(a) below.

“Collateral” means any property of the Debtor or interest in property of the Debtor that serves as security for the repayment of a debt or the performance of an obligation owed by the Debtor to the holder of an Allowed Secured Claim.

“Committee” means the Official Unsecured Creditors’ Committee duly appointed by the United States Trustee in this Case.

“**Confidentiality Agreement**” means that certain Confidentiality Agreement / Non-Disclosure Agreement mutually acceptable to and executed by the Reorganized Debtor and the Creditor Trustee.

“**Confirmation**” means the entry of an order by the Court confirming this Plan pursuant to § 1129 of the Bankruptcy Code.

“**Confirmation Date**” means the date of the entry of the Confirmation Order by the Bankruptcy Court.

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

“**Confirmation Order**” means the order signed by the Court and caused to be entered that confirms this Plan pursuant to § 1129 of the Bankruptcy Code.

“**Confirmation Payment**” means the \$375,000 payment by the Debtor or the Reorganized Debtor to the Creditor Trust on or before the Effective Date, which shall constitute the first payment on the Creditor Note and count towards the calculation of the GUC Payment Collar.

“**Contingent Claim**” means a Claim whose existence or liability of the Debtor dependent on an event that has not occurred or may never occur.

“**Creditor**” means any Entity that is the holder of a Claim that arose on or before the Petition Date or a Claim of the kind specified in § 502(g), 502(h) or 502(i).

“**Creditors’ Committee**” means the Official Unsecured Creditors’ Committee duly appointed by the United States Trustee in this Case.

“**Creditor Note**” means that certain unsecured promissory note in the original principal amount of \$6,350,000 to be executed and delivered by the Reorganized Debtor to the Creditor Trust, substantially in the form contained in the Plan Supplement Document; *provided, however*, that the payments owed to the Creditor Trust by the Reorganized Debtor under the Creditor Note will be subject to the GUC Payment Collar. The Creditor Note will be a Plan Supplement Document.

“**Creditor Note Maturity Date**” means as set forth in paragraph 5.5(c) of the Plan.

“**Creditor Note Payment**” means as set forth in paragraph 5.5(c) of the Plan.

“**Creditor Trust**” means the trust to be created pursuant to Article VIII of the Plan.

“**Creditor Trust Advisory Board**” means the advisory board to be established pursuant to the Creditor Trust Agreement and with which the Creditors Trustee shall consult regarding matters that will have a material impact on the value of the Creditor Trust, which matters shall be

set forth in detail in the Creditor Trust Agreement. Members of the Creditor Trust Advisory Board will be identified in the Plan Supplement.

“Creditor Trust Agreement” means the trust agreement governing the Creditor Trust, (a) substantially in the form filed with the Bankruptcy Court as a Plan Supplement Document, (b) reasonably acceptable to the Debtor and the Committee, and (c) executed by the Debtor and the Creditor Trustee; provided, however, that the Creditor Trust Agreement must include the (a) Litigation Put and (b) GUC Payment Collar.

“Creditor Trust Assets” means the Creditor Note, which includes the Confirmation Payment, the Litigation Put, the Litigation Recovery Share, and the Transferred Preference Claims.

“Creditor Trust Beneficiaries” means Holders of Allowed Class 5 Claims

“Creditor Trustee” means the Person selected to serve as the initial trustee under the Creditor Trust. The Creditor Trustee and his/her terms of employment will be identified in the Plan Supplement.

“Cure Claim” means a Claim arising from the assumption of an Executory Contract under § 365(b) of the Bankruptcy Code.

“Debtor” means ValuePart, Incorporated, a Delaware corporation.

“Deferred Monthly Payment” means as set forth in Section 5.5(c) of the Plan.

“Deficiency Claim” means any portion of a Claim (a) to the extent the value of the holder’s interest in Assets securing such Claim is less than the amount of such Claim or (b) to the extent the amount of a Claim is subject to setoff is less than the amount of the Claim, each as determined by § 506(a) of the Bankruptcy Code.

“Disallowed” means, with respect to a Claim, any portion thereof, that (a) has been disallowed by either a Final Order or pursuant to a settlement, or (b)(i) is set forth in the Schedules at zero or as contingent, disputed, or unliquidated and (ii) as to which a Bar Date has been established but no proof of claim has been Filed or deemed timely Filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy Court or otherwise deemed timely Filed under applicable law.

“Disclosure Statement” means that certain *Disclosure Statement in Support of Chapter 11 Plan of Reorganization of ValuePart, Incorporated* accompanying this Plan, as approved by the Bankruptcy Court for distribution pursuant to § 1125 [Docket No. ___], together with any amendments or modifications thereto.

“Disputed Claim” means the portion (including, when appropriate, the whole) of a Claim that is not an Allowed Claim as to which: (a) a proof of Claim has been Filed, or deemed Filed under applicable law or order of the Bankruptcy Court; (b) an objection has been or may be timely Filed; and (c) such objection has not been: (i) withdrawn, (ii) overruled or denied in

whole or in part pursuant to a Final Order, or (iii) granted in whole or part pursuant to a Final Order. Before the time that an objection has been or may be Filed, a Claim shall be considered a Disputed Claim (a) if the amount or classification of the Claim specified in the proof of Claim exceeds the amount or classification of any corresponding Claim scheduled by the Debtor in its Schedules, to the extent of such excess; (b) in its entirety, if any corresponding Claim scheduled by the Debtor has been scheduled as disputed, contingent or unliquidated in its Schedules; or (c) in its entirety, if no corresponding Claim has been scheduled by the Debtor in its Schedules.

“Disputed Claim Reserve Account” means the reserve account created pursuant to Section 10.3(1)(1) hereof for the benefit of Class 5 Disputed Claims that become Allowed Claims.

“Disputed Administrative Claim Reserve Account” means the reserve account created pursuant to Section 10.3(1)(2) hereof for the benefit of the Disputed Administrative, Priority, and Other Unsecured Claims that become Allowed Claims.

“Distribution(s)” means the payment of money or issuance of interest in accordance with this Plan.

“Effective Date” means the first Business Day on which all conditions to the occurrence of the Effective Date, as set forth in Article IX of the Plan, have been satisfied or duly waived.

“Entity” means any individual, corporation, partnership, joint venture, association, joint stock company, unincorporated organization, estate, trust, governmental unit, or other entity including the Debtor and the United States Trustee, whether singular or plural.

“Escrow” means an “escrow account” established at a third-party financial institution selected by the Debtor or the registry of the Bankruptcy Court or the United States District Court for the Northern District of Texas.

“Estate” means the bankruptcy estate created in this Case pursuant to § 541 of the Bankruptcy Code.

“Executory Contract” means any prepetition executory contract or unexpired lease governed by § 365 of the Code.

“Exit Financing” means financing provided pursuant to the Exit Financing Documents.

“Exit Financing Documents” means that exit credit agreement between the Debtor and the Exit Lender, dated on or about the Effective Date, substantially in the form contained in the Plan Supplement Document, and all documents related to that exit credit agreement, governing the Exit Financing.

“Exit Financing Proceeds” means \$16,100,000.00 of proceeds paid on the Reorganized Debtor’s behalf at the Effective Date pursuant to the Exit Financing to satisfy each holder of a Class 2 Claim. Such proceeds will be paid, at the Reorganized Debtor’s sole and absolute direction, to each holder of a Class 2 Claim or the Bankruptcy Court’s registry.

“Exit Lender” means PNC Bank, National Association, or such other financial institution under the Exit Financing Documents.

“Face Amount” means (a) with respect to a particular Claim, (i) if the Claim is listed in the Schedules and the holder of such Claim has not Filed a proof of Claim within the applicable period of limitation fixed by the Bankruptcy Court pursuant to the Bankruptcy Code, the Bankruptcy Rules or other applicable law, the amount of such Claim that is listed in the Schedules as not disputed, contingent or unliquidated; or (ii) if the holder of such Claim has Filed a proof of Claim with the Bankruptcy Court within the applicable period of limitation fixed by the Bankruptcy Court pursuant to the Bankruptcy Code, the Bankruptcy Rules or other applicable law, the liquidated amount stated in such proof of Claim, or such amount as is determined by the Final Order of the Bankruptcy Court; (b) in the case of an Administrative Claim, the liquidated amount set forth in any application Filed with respect thereto, or the amount set forth in the Debtor’s books and records or such amount as is determined pursuant to a Final Order; or (c) in all other cases, zero or such amount as shall be fixed or estimated pursuant to a Final Order.

“Farquhar Litigation” means the case entitled *Valuepart, Inc. v. Richard M. Farquhar*, Case No.14-cv-3004 in the District Court for the Northern District of Illinois.

“Fee Claim” means a Claim by a Professional or any other party-in-interest pursuant to §§ 327, 328, 330, 331, 363, 503(b) or 1103 of the Bankruptcy Code or otherwise relating to services performed after the Petition Date and prior to and including the Effective Date.

“File” or “Filed” or “Filing” means File or Filed or filing with the Bankruptcy Court in this Case.

“Final Decree” means an Order of the Bankruptcy Court closing the Case.

“Final Distribution” means the last and final Distribution made by the Creditor Trustee to Holders of Allowed Class 5 Claims such that the Creditor Trustee may proceed to dissolve and terminate the Creditor Trust.

“Final Order” means an Order or judgment of the Bankruptcy Court entered by the Clerk of the Bankruptcy Court on the docket in the Chapter 11 Case, which has not been reversed, vacated or stayed and as to which (a) the time to appeal, petition for *certiorari* or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari* or other proceedings for a new trial, reargument or rehearing shall then be pending or (b) if an appeal, writ of *certiorari*, new trial, reargument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court shall have been affirmed by the highest court to which such order was appealed, or *certiorari* shall have been denied or a new trial, reargument or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for *certiorari* or move for a new trial, reargument or rehearing shall have expired; provided, however, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed relating to such order, shall not cause such order not to be a Final Order.

“**FinPa**” means Finpa Trading srl.

“**FinPa Unsecured Claim**” means the Claim of FinPa pursuant to the Amended and Restated Promissory Note dated August 4, 2016, between the Debtor and FinPa.

“**FinPa Restated Note**” means that certain unsecured promissory note in the amount of \$3,500,000.00 between the Reorganized Debtor and FinPa, substantially in the form contained in the Plan Supplement Document. The FinPa Restated Note will (a) be a Plan Supplement Document, (b) not charge interest, and (c) be payable on demand; *provided, however*, the Holder of the FinPa Restated Note has no right to demand or receive any payment under the FinPa Restated Note until the Creditor Note and all other obligations of the Reorganized Debtor to the Creditor Trust under the Plan and Plan Supplement Documents are paid or otherwise satisfied in full, and no payment will be made on this FinPa Restated Note until the Creditor Note and all other obligations of the Reorganized Debtor to the Creditor Trust under this Plan and the Plan Supplement Documents are paid or otherwise satisfied in full.

“**First Administrative Claim Bar Date**” means January 15, 2017.

“**First Subordination Agreement**” means that certain Subordination Agreement between the Exit Lender, on one hand, and Skokie, the Creditor Trustee, Green Oak, and FinPa on the other hand, substantially in the form contained in the Plan Supplement Document.

“**General Unsecured Claim**” means every Claim against the Debtor that is not an Administrative Claim, a Priority Tax Claim, a Priority Non-Tax Claim, a Senior Secured Claim of Ares, a Junior Secured Claim of Skokie, an Other Secured Claim, the Unsecured Claim of FinPa, a Subordinated Claim, or an Interest in the Debtor.

“**General Unsecured Insider Claim**” means affiliates/insiders (as defined by § 101(2) and (31) of the Bankruptcy Code, respectively) debt that is not subject to the Second Subordination Agreement and shall be identified by the Debtor as a Plan Supplement Document in the total amount not to exceed \$1.625 million.

“**Green Oak Acquisitions LLC**” or “**Green Oak**” means the Entity that will own the New Equity. Green Oak will be owned 50% each, indirectly or directly, by Skokie and by Jemco.

“**Green Oak Secured Subordinated Note**” means that certain subordinated secured promissory note in the amount of \$3,000,000.00 dated on or about the Effective Date executed and delivered by Green Oak and made payable to the order of the Reorganized Debtor, substantially in the form contained in the Plan Supplement Document. Green Oak Secured Subordinated Note will (a) be a Plan Supplement Document, (b) not charge interest, and (c) be payable on demand; *provided, however*, the Holder of the Green Oak Secured Subordinated Note has no right to demand or receive any payments under the Green Oak Secured Subordinated Note until the Creditor Note and all other obligations of the Reorganized Debtor to the Creditor Trust, as set forth in the Plan and the Plan Supplement Documents, are paid or otherwise satisfied in full, and no payment will be made on this Green Oak Secured Subordinated Note

until such conditions are satisfied in full. The Green Oak Secured Subordinated Note will be subordinated to the Exit Lender and the Exit Financing.

“GUC Insider Holdback” means as set forth in Section 5.5(c) of the Plan.

“GUC Payment Collar” means that the total payments owed by the Reorganized Debtor to the Creditor Trust under the Creditor Note shall not exceed 35% nor be less than 30% of the Allowed General Unsecured Claims in Class 5, notwithstanding anything in the Plan to the contrary. Only payments under the Creditor Note, and not any other of the Creditor Trust Assets, are subject to the GUC Payment Collar and the GUC Payment Collar Reconciliation. It should be noted that the costs and expenses (including professional fees) incurred by the Creditor Trust are the sole responsibility and obligation of the Creditor Trust and will be paid from the Creditor Trust Assets only.

“GUC Payment Collar Reconciliation” means that the Reorganized Debtor’s last and final Creditor-Note Payment shall be in the amount of \$124,479.17:

- (i) Plus, such amounts necessary to satisfy the GUC Payment Collar, requiring that each Allowed General Unsecured Claim and Allowed General Unsecured Insider Claim receives a total Pro Rata Distribution of no less than thirty percent (30%) of their respective Allowed Claim or, if applicable.
- (ii) Less, such amount necessary to satisfy the GUC Payment Collar, requiring that each Allowed General Unsecured Claim and Allowed General Unsecured Insider Claim receives a total Pro Rata Distribution of no more than thirty-five percent (35%) of their respective Allowed Claim. If the reduction of the final Creditor Note Payment as set forth herein is insufficient to satisfy the GUC Payment Collar, then the Creditor Trustee shall pay the Reorganized Debtor such amounts as necessary to satisfy the terms of the GUC Payment Collar.

Both the Creditor Trustee and the Reorganized Debtor have the right to enforce the GUC Payment Collar Reconciliation.

“Holder” means an Entity holding a Claim or Interest.

“Impaired” means as set forth in § 1124 of the Bankruptcy Code.

“Initial Monthly Payment Date” means as set forth in paragraph 5.5(c) of the Plan.

“Interest” means equity in the Debtor, whether or not asserted, by an equity security holder as defined in § 101(17).

“Insider Entity” means any Entity that is either an “affiliate” or an “insider” as those terms are defined in § 101(2) and (31) of the Bankruptcy Code.

“**Insurance Policies**” means all of the Debtor’s insurance policies existing prior to the Petition Date issued by the Insurers.”

“**Jemco**” means Jemco SDN BHD or its designee.

“**Junior Secured Claim of Skokie**” means the Claim asserted by the Holder of the following: (a) Amended and Restated Promissory Note in the amount of \$50,000 dated August 4, 2016, (b) Promissory Note in the amount of \$3,000,000 dated August 4, 2016, (c) Promissory Note in the amount of \$50,000 dated August 4, 2016, (d) Amended and Restated Promissory Note in the amount of \$225,000, (e) Amended and Restated Promissory Note in the amount \$450,000, and (f) Amended and Restated Promissory Note in the amount of \$450,000 dated August 4, 2016. For each above-described promissory note, the Debtor is the maker and Skokie is the payee.

“**Lien**” means any security interest, charge against, encumbrance on or other interest in property, the purpose of which is to secure payment of a debt or performance of an obligation.

“**Litigation Recovery Share**” means 25% of the Net Litigation Recoveries as may be modified by (a) the Litigation Put and (b) remedies upon default as set forth in Section 5.5(c).

“**Litigation Put**” means the Creditor Trust’s right any time after forty-five (45) days written notice to the Reorganized Debtor to demand that the Reorganized Debtor buy the Litigation Recovery Share from the Creditor Trust for \$200,000 plus an additional \$20,000 for each default (whether cured or not) upon the Creditor Note as more fully set forth in Section 5.5; *provided, however*, the Creditor Trust may not exercise this Litigation Put until 180 days after the Confirmation Date.

“**Monthly Creditor Note Payment**” means as set forth in paragraph 5.5(c) of this Plan.

“**Net Litigation Recoveries**” means proceeds received from the Farquhar Litigation and the USCO Litigation after payment of all fees and expenses related to the Farquhar Litigation and the USCO Litigation.

“**New Equity**” means all shares of stock or membership interests, as the case may be, in the Reorganized Debtor.

“**Order**” means any mandate, precept, command, or direction given by a court.

“**Other Secured Claim**” means any Secured Claim other than the Senior Secured Claim of Ares and Senior Secured Claim of Skokie.

“**Person**” means a person as defined in § 101 (41) of the Bankruptcy Code.

“**Petition Date**” means October 27, 2016, the date on which the Case was commenced.

“**Plan**” means this *Chapter 11 Plan of Reorganization of ValuePart, Incorporated*, dated [June 28, 2017], including any amendments or modifications hereto.

“Plan Documents” means the agreements, documents and instruments entered into on or as of the Effective Date as contemplated by, and in furtherance of, the Plan (including all documents necessary to consummate the transactions contemplated in the Plan), copies of which shall be available to Creditors upon request to Debtor’s counsel.

“Plan Supplement Document(s)” means the documents, including the Schedule of Assumed Contracts and Non-Real Property Leases, the Creditor Trust Agreement, Green Oaks Secured Subordinated Note, the First Subordination Agreement, the Second Subordination Agreement, the Creditor Note, the Restated Skokie Note and Security Agreement, the FinPa Restated Note, the Exit Financing Documents, the identity of and terms of engagement with the Creditor Trustee, the identity of the Creditor Trust Advisory Board members, the Holders of General Unsecured Creditor Insider Claims, and the identity of the two individuals appointed by Jemco to the Reorganized VPI’s initial board of directors, all of which shall be included in the notice Filed with the Bankruptcy Court at least fifteen (15) days prior to the Confirmation Hearing. The Plan Supplement Documents may be reviewed via the Bankruptcy Court’s ECF docket for this Case, via www.jndla.com/cases/valuepart, or requested in writing from the Debtor’s counsel.

“Preference Claims” means those Causes of Action under § 547(b) of the Bankruptcy Code.

“Preference Election” means as defined in paragraph 5.5(d) of the Plan.

“Priority Non-Tax Claim” means a Claim, other than an Administrative Claim or a Priority Tax Claim, entitled to priority in payment under § 507(a).

“Priority Tax Claim” means a Claim entitled to priority in payment pursuant to §§ 502(i) and 507(a)(8).

“Professional” means each Entity that is either (a) employed pursuant to an order of the Court in accordance with §§ 327 or 1103 providing for compensation for services rendered prior to the Effective Date pursuant to §§ 327, 328, 329, 330 331, and 363, (b) seeking compensation and reimbursement pursuant to §§ 503(b)(2) or (4), or (c) awarded compensation and reimbursement by the Bankruptcy Code pursuant to § 503(b)(4) of the Bankruptcy Code.

“Pro Rata” means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of all Allowed Claims in that Class.

“Pro Rata Share” means, at any time, the proportion that the Face Amount of the Allowed Claim in a particular Class bears to the aggregate Face Amount of all Allowed Claims in such Class.

“Protected Parties” mean, collectively, (a) the Debtor, (b) Green Oak, (c) Exit Lender, (d) the Committee, (e) members of the Committee, and (f) with respect to each of the foregoing Entities, such Entities’ predecessors, professionals, successors, assigns, affiliates, current officers and directors, principals, shareholders, members, partners, managers, employees, subcontractors, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers,

consultants, representatives, management companies, and other professionals, and such entities' respective heirs, executors, estates, servants, and nominees, in each case in their capacity as such.

"Ratable Proportion" means, with reference to any Distribution on account of any Claim in any Class, a Distribution equal in amount to the ratio (expressed as a percentage) that the amount of such Claim bears to the aggregate amount of Claims in the same Class, as applicable.

"Restated Skokie Note and Security Agreement" means that certain secured promissory note in the collective amount of \$4,255,529.16, plus interest and fees to the extent Allowed under § 506(b) of the Bankruptcy Code, substantially in the form contained in the Plan Supplement Document, and related security agreement between the Reorganized Debtor and Skokie. The Restated Skokie Note and Security Agreement will (a) be a Plan Supplement Document; and (b) be payable on demand; *provided, however*, the Holder of the Restated Skokie Note and Security Agreement has no right to demand, receive payments, or exercise any remedies under the Restated Skokie Note and Security Agreement until the Creditor Note and all other obligations of the Reorganized Debtor to the Creditor Trust under the Plan and Plan Supplement Documents are paid or otherwise satisfied in full, and no payment will be made on the Restated Skokie Note and Security Agreement until the Creditor Note and all other obligations of the Reorganized Debtor to the Creditor Trust are paid or otherwise satisfied in full.

"Rejection Claim" means any Claim arising from the rejection of any executory contract or unexpired lease, including any Claim of (a) a lessor for damages resulting from the rejection of a lease of real property as any such Claim shall be calculated in accordance with § 502(b)(6) or (b) an employee for damages resulting from the rejection of an employment agreement as any such Claim shall be calculated in accordance with § 502(b)(7). A Rejection Claim shall constitute a General Unsecured Claim.

"Rejection Damages Bar Date" means the later of sixty (60) days after the Effective Date.

"Released Parties" means the Debtor and the Debtor's current officers and directors and their families, Holders of the Interests, Valuepart Changtai Machinery Production Co., FinPa, Passini Holdings, Lakeview International Corporation, and Skokie.

"Releasing Parties" means (a) Holders of Claims who vote to accept the Plan but do not opt out of the releases on the Ballot, (b) Holders of Claims that are Unimpaired under this Plan; (c) Holders of Claims whose vote to accept or reject this Plan is solicited but who do not vote to either accept or reject this Plan; and (d) Holders of Claims who vote to reject the Plan but do not opt out of the releases on the Ballot.

"Reorganized Debtor" or **"Reorganized VPI"** means the Debtor, as reorganized as of the Effective Date.

“Restructuring” means the Debtor’s financial and operational restructuring, the principal terms of which are in the Plan and the Plan Supplement Documents and Plan Documents.

“Schedules” means the *Schedules of Assets and Liabilities* Filed by the Debtor under § 521 and Bankruptcy Rule 1007 on December 12, 2016 [Docket No. 133], as amended from time to time.

“Schedule of Assumed Executory Contracts and Unexpired Leases” means the list of each Executory Contract that the Debtor intends to assume on the Effective Date or as soon as reasonably practicable thereafter; *provided, however*, such date may not be later than thirty (30) days after the Effective Date. For the avoidance of doubt, this Schedule of Assumed Contracts and Unexpired Leases includes all real property leases to be assumed and non-real-property leases and executory contracts to be assumed, which are attached to this Plan as Exhibits B and C, respectively. This Schedule of Assumed Contracts and Leases will be in the Plan Supplement Documents.

“Second Administrative Claim Bar Date” means thirty (30) days after the Effective Date.

“Second Subordination Agreement” means that certain Subordination Agreement between the Holder of the Junior Secured Claim of Skokie, the Green Oak Secured Subordinated Note, and the Finpa Restated Note on one hand, and the Creditor Trustee on the other hand, substantially in the form contained in the Plan Supplement Document, which subordinates and prohibits any and all payments, remedies, or other performance until such time as all of the obligations, payments, and rights to and of the Creditor Trust under the Plan and the Plan Supplement Documents have been satisfied in full.

“Secured Claim” means a Claim that arose before the Petition Date, to the extent secured by a lien or other security interest on property of the Debtor, which lien is valid, perfected, and enforceable under applicable law and which is not subject to avoidance under the Bankruptcy Code or other applicable non-bankruptcy law and which is duly established in the Case.

“Security Interest” means as defined in § 101(51) of the Bankruptcy Code.

“Senior Secured Claim of Ares” means the Claim of Ares pursuant to that certain loan and security agreement dated August 4, 2016.

“Skokie” means Skokie Investrade, Inc.

“Subordination Agreements” means, collectively, the (a) First Subordination Agreement and (b) the Second Subordination Agreement.

“Subordinated Obligation” means as defined in paragraph 5.6(b).

“Transferred Preference Claims” means Preference Claims that were, (a) not released pursuant to Section 5.5(d) in this Plan and (b) identified by the Reorganized Debtor sixty (60) days after the Confirmation Date and transferred to the Creditor Trust. Notwithstanding anything to the contrary in the Plan, the Confirmation Order, or otherwise, the Preference Claims transferred to the Creditor Trust must represent at least \$1.25 million in payments made by the Debtor, exclusive of preference claims against any Professional.

“Unclaimed Property” means any Cash or other property unclaimed made in respect of the relevant Allowed Claim or Allowed Interest. Unclaimed Property shall include: (a) checks (and the funds represented thereby) mailed to an address of a holder of a Allowed Claim or Interest and returned as undeliverable without a proper forwarding address; (b) funds for uncashed checks; and (c) checks (and the funds represented thereby) not mailed or delivered because no address to mail or deliver such property was available.

“Unexpired Lease” means lease to the Debtor is a party that is the subject to assumption or rejection under § 365 of the Bankruptcy Code.

“Unimpaired” means not Impaired.

“USCO Litigation” means the case entitled *USCO, S.P.A. v. Valuepart, Inc., Ace Track Co., Ltd., and Reone, Ltd.*, Case No.2:14-cv-02590, in the District Court for the Western District of Tennessee.

“U.S. Trustee” means the United States Trustee for the Northern District of Texas.

“Voting Procedures” means the procedures for submitting a Ballot in which a holder of a Claim votes for or against the Plan as described in Article III of the Disclosure Statement.

“Voting Period” means the period from the date of approval of the Disclosure Statement by the Bankruptcy Court through and including the Balloting Deadline, during which time Holders of Claims or Interests must submit a Ballot.

“VPI” means the Debtor.

2.2. Interpretation, Rules of Construction, and Other Terms

(a) Any term used in this Plan that is not defined herein, whether in Article I or elsewhere, but that is used in the Bankruptcy Code or the Bankruptcy Rules, has the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules and shall be construed in accordance with the rules of construction thereunder.

(b) If a conflict between the Plan and the Disclosure Settlement exists, the Plan will govern over the Disclosure Statement. If a conflict between the Plan and any document implementing the Plan exists, the document shall govern. If a conflict between the Plan and the Confirmation Order exists, the Confirmation Order shall govern.

(c) The words “herein,” “hereof,” “hereto,” “hereunder,” and others of similar import, refer to the Plan as a whole and not to any particular article, section, or clause contained in this Plan.

(d) Unless specified otherwise in a particular reference, a reference in this Plan to an article or section is a reference to that article or section of this Plan.

(e) Unless otherwise provided for herein, any reference in this Plan to an existing document or instrument means such document or instrument as it may have been amended, modified, or supplemented from time to time.

(f) As contextually appropriate, each term stated in either the singular or plural shall include both the singular and the plural.

(g) In addition to the above, the rules of construction set forth in § 102 of the Bankruptcy Code shall apply to this Plan.

(h) Except as otherwise specifically provided in the Plan to the contrary, references in the Plan to the Debtor or the Reorganized Debtor mean the Debtor or the Reorganized Debtor, as applicable, to the extent the context requires.

(i) Use of the word “include” or any form thereof means “including without limitation” without repeating the same each time used. Further, each definition above includes the plural as the context requires.

(j) All exhibits to this Plan are incorporated into this Plan, and shall be deemed to be included in this Plan, regardless of when Filed with the Court.

2.3. *Computation of Time*

Unless otherwise specifically stated herein, the provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

2.4. *Governing Law*

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of Texas, without giving effect to the principles of conflict of laws, shall govern the rights, obligations, construction, and implementation of the Plan, any agreements, documents, instruments, or contracts executed or entered into in connection with the Plan (except as otherwise set forth in those agreements; in which case, the governing law of such agreement shall control); provided, however, that corporate governance matters relating to the Debtor or the Reorganized Debtor, not incorporated in Texas shall be governed by the laws of the state or province of incorporation of the Debtor.

2.5. *Reference to Monetary Figures*

All references in the Plan to monetary figures shall refer to currency of the United States of America, unless otherwise expressly stated.

ARTICLE III CLASSIFICATION OF CLAIMS AND INTERESTS

Pursuant to § 1122 of the Bankruptcy Code, and for the purposes of organization, voting, and all confirmation matters, except as otherwise provided herein, all Claims against and all Interests in the Debtor shall be classified as set forth in this Article III.

3.1. *Administrative Claims and Priority Tax Claims*

As provided in § 1123(a) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims shall not be classified; thus, they are excluded from the Classes of Claims and Interests set forth in Article IV of the Plan.

3.2. *Classes of Claims and Interests*

A Claim or Interest is in a particular Class only to the extent the Claim or Interest is an Allowed Claim or Allowed Interest as defined herein. For purposes of organization, voting, and all confirmation matters, except as otherwise provided herein, all Claims (except for Administrative Claims and Priority Tax Claims) and Interests shall be classified as follows:

Class	Type of Allowed Claim or Interest	Treatment	Status
1	Allowed Priority Non-Tax Claims	Cash Distribution	Unimpaired. Deemed to Accept.
2	Allowed Secured Claims of ACF Finco I LP (Ares)	Cash Distributions	Impaired. Entitled to Vote.
3	Allowed Senior Secured Claim of Skokie	Subordination, Restructured Note	Impaired. Entitled to Vote.
4	Allowed Other Secured Claims	Cash Distribution	Impaired. Deemed to Accept.
5	Allowed General Unsecured Claims	Distributions from Creditor Trust	Impaired. Entitled to Vote.
6	Allowed Unsecured Claim of FinPa	Subordination, Restructured Note	Impaired. Entitled to Vote
7	Allowed Subordinated Claims	No Distributions to Such Claims.	Impaired. Entitled to Vote.
8	Allowed Interests in the Debtor	Interests shall not be retained.	Impaired. Deemed to Reject.

ARTICLE IV TREATMENT OF CERTAIN UNCLASSIFIED CLAIMS

4.1. *Administrative Claims*

(a) **Time for Filing Administrative Claims.**

An Administrative Claim that has been incurred, accrued, or in existence prior to January 15, 2017, must have been Filed in the Bankruptcy Court by the First Administrative Claim Bar Date. Any such Administrative Claim for which an application or request was not Filed by the First Administrative Claim Bar Date is released and forever barred and discharged.

For any Administrative Claim incurred, accrued, or in existence after January 14, 2017, other than (i) a Professional Fee Claim, (ii) a liability incurred and payable in the ordinary course of business by the Debtor, or (iii) an Administrative Claim that has been Allowed on or before the Effective Date, an application or request for payment must be Filed with the Bankruptcy Court and served on the Reorganized Debtor, the Creditor Trustee, the Office of the United States Trustee, by the Second Administrative Bar Date, unless an earlier date was established by the Bankruptcy Court.

Such notice must include at a minimum (i) the name of the holder of the Claim, (ii) the amount of the Claim, and (iii) the basis of the Claim. Failure to timely and properly File and serve the application required under this subsection shall result in the Administrative Claim being forever barred and discharged. Any party in interest may File an objection to an Administrative Claim Filed pursuant to this subsection, but any objection must be Filed within forty-five (45) days after the date the application or request for payment is Filed with the Bankruptcy Court.

(b) Time for Filing Fee Claims.

Each Professional who holds or asserts an Administrative Claim that is a Fee Claim for compensation for services rendered and reimbursement of expenses incurred prior to the Effective Date shall be required to File with the Bankruptcy Court and serve on all parties required to receive such notice a fee application within sixty (60) days after the Effective Date. Failure to timely and properly File and serve a fee application as required under this Section shall result in the Fee Claim being forever barred and discharged. No Fee Claim will be deemed Allowed until an order allowing the Fee Claim becomes a Final Order. Any party in interest may File an objection to a Fee Claim, but any objection must be Filed within twenty (20) days after the date the fee application is Filed with the Bankruptcy Court. No hearing may be held until the twenty (20) day objection period has terminated.

(c) Payment of Allowed Administrative Claims.

Except to the extent that any Person entitled to payment of an Administrative Claim agrees otherwise, each Holder of an Allowed Administrative Claim (other than Fee Claims) shall, in full and final satisfaction of any Administrative Claim, receive Cash from the Reorganized Debtor in an amount equal to such Allowed Administrative Claim on or as soon as reasonably practicable following the later to occur of: (a) the Effective Date and (b) the date on which such Administrative Claim becomes an Allowed Administrative Claim; provided, however, Allowed Administrative Claims representing liabilities incurred in the ordinary course of business by the Debtor may be paid in full in the ordinary course of business in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to such transactions, provided that either (x) such

Allowed Administrative Claims were included in the cash-collateral budgets previously approved by the Bankruptcy Court, or (y) the Bankruptcy Court approves such payments in writing.

On the Effective Date, the Debtor shall transfer to a trust account maintained by the Debtor's counsel Cash in an amount sufficient to pay the Fee Claims reasonably estimated by such Professional at least fifteen (15) days prior to the Confirmation Hearing that intends to File a Fee Claim. The Debtor's counsel shall hold such Cash in trust for the exclusive purpose of paying Allowed Fee Claims, and any excess funds remaining after all Fee Claims have been resolved by a Final Order of the Bankruptcy Court shall be transferred to and retained by the Reorganized Debtor. Each Allowed Fee Claim, after deducting any retainer, shall be paid from such trust account maintained by the Debtor's counsel within five (5) Business Days after such Claim is Allowed by a Final Order.

Notwithstanding any other provision of the Plan, all fees, expenses and other compensation arising after the Effective Date and due and payable to Professionals retained by the Reorganized Debtor shall be paid by the Reorganized Debtor first from funds remaining from those reserved for fees under (d) above and then from operations of the Reorganized Debtor.

All trade payables and current liabilities of the Debtor, excluding payments to utility service providers, that (a) arose in the ordinary course of business after the Effective Date, including payroll and salaries which have accrued prior to the Effective Date, and (b) otherwise qualify as Administrative Claims, shall be paid by the Reorganized Debtor in the ordinary course of business.

4.2. *Post-Confirmation Date Fees and Expenses*

Except as otherwise specifically provided in the Plan, from and after the Effective Date, the Reorganized Debtor shall, in the ordinary course of business and without further notice or action, order or approval of the Bankruptcy Court, pay in Cash the reasonable legal, professional, or other fees and expenses related to the implementation and Consummation of the Plan incurred by the Reorganized Debtor through and including the Effective Date. Upon the Confirmation Date, any requirement that Professionals comply with §§ 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtor may employ and pay any Professional for services rendered or expenses incurred after the Confirmation Date in the ordinary course of business without further notice to any party or action, order, or approval of the Bankruptcy Court.

4.3. *Priority Tax Claims*

At the election of the Debtor, each holder of an Allowed Tax Claim will receive from the Reorganized Debtor in full satisfaction of such Allowed Tax Claim (i) payments in Cash, in regular installments over a period ending not later than five (5) years after the Petition Date, of a total value, as of the Effective Date, equal to the Allowed amount of such Claim; (ii) a lesser amount in one Cash payment as may be agreed in writing by such holder; or (iii) such other treatment as may be agreed in writing by such holder; provided, that such agreed upon treatment

may not provide such holder with a return having a present value as of the Effective Date that is greater than the amount of such holder's Allowed Tax Claim or that is less favorable than the treatment provided to the most favored nonpriority Unsecured Claims under the Plan. The Confirmation Order shall enjoin any holder of an Allowed Tax Claim from commencing or continuing any action or proceeding against any responsible person, officer or director of the Reorganized Debtor that otherwise would be liable to such holder for payment of a Tax Claim so long as the Debtor is in compliance with this Section. So long as the holder of an Allowed Tax Claim is enjoined from commencing or continuing any action or proceeding against any responsible person, officer, or director under this Section or pursuant to the Confirmation Order, the statute of limitations for commencing or continuing any such action or proceeding shall be tolled. To the extent interest is required to be paid on any Allowed Priority Tax Claim, the rate of such interest shall be the rate provided in § 511 of the Bankruptcy Code. Notwithstanding the foregoing, any penalty arising with respect to or in connection with an Allowed Priority Tax Claim shall be treated as a Class 5 General Unsecured Claim.

4.4. *Payment of Statutory Fees*

All fees due and payable on or before the Effective Date (i) pursuant to 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, and (ii) to the United States Trustee, shall be paid by the Debtor on or before the Effective Date. All such fees payable after the Effective Date shall be paid by the Reorganized Debtor until entry of the final decree in the Bankruptcy Case.

ARTICLE V TREATMENT OF CLAIMS AND INTERESTS

5.1. *Class 1 – Allowed Priority Non-Tax Claims*

(a) **Classification.** Class 1 consists of Priority Non-Tax Claims.

(b) **Treatment.** Except to the extent that a Holder of an Allowed Priority Non-Tax Claim agrees to less-favorable treatment, in exchange for full and final satisfaction, settlement, release, and discharge of each Allowed Priority Non-Tax Claim, each Holder of such Allowed Priority Non-Tax Claim shall be paid in full in Cash by the Reorganized Debtor on or as reasonably practicable after (i) the Effective Date, (ii) the date on which such Priority Non-Tax Claim against the Debtor becomes an Allowed Priority Non-Tax Claim, or (iii) such other date as may be agreed by the parties or ordered by the Bankruptcy Court.

(c) **Impairment and Voting.** Class 1 is Unimpaired. In accordance with § 1126(f) of the Bankruptcy Code, each Holder of a Class 1 Claim is presumed to accept this Plan; therefore, no such Holder is entitled to vote to accept or reject this Plan.

5.2. *Class 2 – Allowed Senior Secured Claims of Ares*

(a) **Impairment and Voting.** Class 2 is Impaired under the Plan. Class 2 includes only the Secured Claim of Ares. The Holder of a Class 2 Claim is entitled to vote to accept or reject the Plan.

(b) **Claim and Lien Determination.** On the Effective Date, each Lien and Security Interest in the Assets will (a) be released and forever discharged and (b) immediately attach to the Escrow in the same validity, priority, and extent that existed on the Petition Date. The amount, validity, extent, value, and priority of the Class 2 Claim will be subject to determination by the Bankruptcy Court or pursuant to an agreement between the Reorganized Debtor and the Holder of the Class 2 Claim.

(c) **Treatment.** (i) If the Holder of a Class 2 Claim votes in favor of the Plan, in full and final satisfaction, settlement, release, and discharge of such Class 2 Claim, the Reorganized Debtor will pay \$12.6 million or such other amount agreed by the Reorganized Debtor and the Holder of such Class 2 Claim to the Holder of such Class 2 Claim on the Effective Date, and (ii) if the Holder of a Class 2 Claim votes against the Plan, the Class 2 Claim will be satisfied in full and final satisfaction, settlement, release, and discharge of such Class 2 Claim by payment of \$16.1 million into Escrow or such other amount as the Court deems necessary to secure the Class 2 Claim. The Class 2 Claim shall accrue payment-in-kind interest at the rate of 6.5% interest per annum, compounded daily. All liens and security interests of the Holder of the Class 2 Claim, if any, shall transfer immediately on the Effective Date to the funds held in Escrow in the same priority, validity, and amount as such liens and security interests existed on the Petition Date, subject to determination by the Court; and all such liens and security interests shall be deemed perfected on entry of the Confirmation Order.

The Allowed Class 2 Claim will be paid to the Holder of such Claim on the later of (a) 30 days after and to the extent the Class 2 Claim is Allowed, and (b) September 4, 2019, unless otherwise agreed by the Reorganized Debtor and the Holder of such Class 2 Claim. The amount, validity, extent, value, and priority, of the Class 2 Claim under § 506 of the Bankruptcy Code will be determined by the Bankruptcy Court after the Effective Date or pursuant to an agreement between the Reorganized Debtor and the Holder of the Class 2 Claim. Any Deficiency Claim or other unsecured claim of the Holder of the Class 2 Claim shall be included as a Class 5 General Unsecured Claim. Any Allowed unsecured claim of the Holder of the Class 2 Claim shall be entitled to (a) receive catch-up payments in first-priority from subsequent Distributions made after allowance of such claim as a Class 5 Claim, and (b) participate thereafter on a Pro Rata basis. Notwithstanding anything to the contrary, in making Distributions to Holders of Class 5 Claims, the Creditor Trustee shall not be obligated to reserve any amounts from any Distributions to provide for the potential of an Allowed Class 5 Claim for Ares.

5.3. Class 3 — Allowed Junior Secured Claim of Skokie

(a) **Impairment and Voting.** Class 3 is Impaired under the Plan. Class 3 includes only the Junior Secured Claim of Skokie. The Holder of a Class 3 Claim is entitled to vote to accept or reject the Plan.

(b) **Claim and Lien Determination.** On the Effective Date, the Holder of the Junior Secured Claim of Skokie shall have an Allowed Class 3 Claim in the amount of \$4,255,529.16, plus post-petition interest and fees to the extent Allowed under § 506(b) of the Bankruptcy Code. Each Lien and Security Interest that secured the Class 3 Claim immediately prior to the Effective Date will attach to the Reorganized Debtor's assets owned on the Effective

Date and acquired thereafter pursuant to the Restated Skokie Note and Security Agreement, the First Subordination Agreement, and the Second Subordination Agreement.

(c) **Treatment.** On the Effective Date, the Holder of the Class 3 Junior Secured Claim of Skokie will receive the Restated Skokie Note and Security Agreement in full and final satisfaction of the Junior Secured Claim of Skokie. Payments to the Holder of the Allowed Class 3 Claim will be governed by the Restated Skokie Note and Security Agreement, the First Subordination Agreement, and the Second Subordination Agreement; provided, however, no payments shall be made to the Holder of the Allowed Class 3 Claim until the Reorganized Debtor has paid or otherwise satisfied in full all amounts due under the Creditor Note and other obligations owed to the Creditor Trust under the Plan and the Plan Supplement Documents.

5.4. Class 4 — Allowed Other Secured Claims

(a) **Impairment and Voting.** Class 4 is Impaired under the Plan. Class 4 includes only Other Secured Claims. Each Holder of a Class 4 Claim is entitled to vote to accept or reject the Plan.

(b) **Claim and Lien Determination.** Each Holder of a Class 4 Claim shall retain its Lien and Security Interest in the Collateral that secured the Class 4 Claim on the Effective Date in the same priority at that time. The amount, validity, extent, value, and priority of each Class 4 Claim will be determined by the Bankruptcy Court or an agreement between the Reorganized Debtor and the Holder of each Class 4 Claim.

(c) **Treatment.** Except to the extent that a Holder of an Other Secured Claim agrees to less-favorable treatment, in exchange for full and final satisfaction, settlement, release, and discharge of each Allowed Other Secured Claim, each Holder of such Allowed Other Secured Claim shall receive, at the Reorganized Debtor's sole and absolute option, one of the following treatments: (i) the Debtor or the Reorganized Debtor will pay such Allowed Other Secured Claim in full in Cash, including any interest required under § 506(b) of the Bankruptcy Code, within sixty (60) days after the Effective Date, (ii) the Debtor or Reorganized Debtor shall deliver the Collateral securing such Allowed Other Secured Claim within sixty (60) days after the Effective Date, or (iii) the Debtor or the Reorganized Debtor shall otherwise treat such Allowed Other Secured Claim in any other manner such that the Class 4 Claim shall be rendered not Impaired. Any Deficiency Claim of the Holder of the Class 4 Claim shall be included as a Class 5 General Unsecured Claim

5.5. Class 5 — Allowed General Unsecured Claims

(a) **Impairment and Voting.** Class 5 is Impaired under the Plan. Class 5 includes only General Unsecured Claims and General Unsecured Insider Claims (the "**Class 5 Claims**"). Each Holder of a Class 5 Claim is entitled to vote to accept or reject the Plan.

(b) **Treatment.** Except to the extent that a Holder of an Allowed General Unsecured Claim in Class 5 has been paid prior to the Effective Date, or agrees to less-favorable

treatment, each Holder of such Allowed Claim shall receive, on the Effective Date, a Pro Rata Share of Distributions from the Creditor Trust Assets, in full and final satisfaction, settlement, release, and discharge of each Class 5 Claim. The Creditor Trustee may make multiple Distributions to holders of Allowed Class 5 Claims. The Creditor Trustee shall determine the amount and timing of such Distributions.

(c) **Creditor Note.**⁸

(i) On the Effective Date, the Creditor Trust will receive the Confirmation Payment, proceeds of which will be used to fund a reserve account to pay (x) first, the Creditor Trust's administration costs, and (y) second, to extent funds are available, Distributions to Allowed General Unsecured Claims, exclusive of the General Unsecured Insider Claims.

(ii) The Creditor Note shall be in the original principal amount of \$6.35 million, unsecured, non-interest bearing, and subject to the Subordination Agreements.

(iii) In addition to the Confirmation Payment, there shall be forty-eight (48) monthly payments of \$124,479.17 (the "**Creditor-Note Payment(s)**") owed by the Reorganized Debtor to the Creditor Trust under the Creditor Note. The Creditor-Note Payments shall be due on the fifteenth (15th) day of each month, beginning the fifteenth (15th) day of the month that is at least 180 days after the Effective Date (the "**Initial Monthly Payment Date**").

(iv) Notwithstanding the Reorganized Debtor's obligation to pay the Creditor-Note Payments, the Reorganized Debtor may elect to defer a monthly payment (the "**Deferred Monthly Payment**") two times during a twelve-month period, beginning on the Initial Monthly Payment Date; provided, however, the Reorganized Debtor may not exercise a Deferred Monthly Payment (x) on consecutive months or (y) if any uncured default exists. To exercise its right to a Deferred Monthly Payment, the Reorganized Debtor must notify the Creditor Trustee in writing on or before the due date of the applicable Creditor-Note Payment. No later than thirty (30) days after the due date of the Deferred Monthly Payment, the Reorganized Debtor must pay the Creditor Trustee both (1) the applicable Creditor-Note Payment and (2) the Deferred Monthly Payment.

(v) In addition to remedies at law or in equity, remedies under the Creditor Note also include the following:

(i) All prospective Distributions to be made by the Creditor Trustee to the General Unsecured Insider Claims shall be withheld until

⁸ To the extent there is an inconsistency or ambiguity between the terms and provisions of the Plan and the Creditor Note, then the Plan shall control. The Creditor Note is a Plan Supplement Document that will be filed on or before fifteen (15) days before the Confirmation Hearing commences.

thirty (30) days after such default has been cured. Any withheld Distributions to the General Unsecured Insider Claims shall be paid to the Holders of GUC Insider Claims as part of the Creditor Trustee's Final Distribution (the "**GUC Insider Holdback**"); and

(ii) In addition to Section 5.5(c)(v)(i), for each default, regardless of whether that default is cured, the Creditor Trustee's right to receive the Litigation Recovery Share shall increase by ten (10%) percent upon notice of such default. For example, upon notice of the first default under the Creditor Note, Holders of Allowed Class 5 Claims will then be entitled to receive a Litigation Recovery Share of thirty-five (35%) percent, and this percentage shall be increased an additional ten (10%) percent for each additional default.

(vi) The Maturity Date of the Creditor Note shall be the fifteenth (15th) day of the month that is fifty-four (54) months from the Effective Date (the "**Creditor Note Maturity Date**"). At the Creditor Note Maturity Date, the Reorganized Debtor shall pay the final monthly Creditor-Note Payment, plus/minus the amount necessary to effectuate the GUC Payment Collar Reconciliation.

(d) **Preference Release.** If the Debtor holds a Preference Claim against a Holder of a Class 5 Claim, each Holder of a Class 5 Claim may settle/resolve/be released from the Preference Claim by both (i) electing on the Ballot to vote in favor of the Plan and (ii) provide the Reorganized Debtor with goods and services for twelve (12) months after the Effective Date on terms and credit limits acceptable to the Reorganized Debtor, in its sole and absolute discretion. Holders of Class 5 Claims satisfying both (i) and (ii) above shall be deemed to have made a "Preference Election." The Preference Claim for each Holder of a Class 5 Claim will be listed on **Exhibit 1** to the Disclosure Statement. The Preference Election is subject to entry of the Confirmation Order and the occurrence of the Effective Date. The sole method of exercising this Preference Election is to vote in favor of the Plan by checking the box titled "Accept the Plan and Exercise the Preference Election" on the Ballot for General Unsecured Creditors – Class 5 and to reach an agreement with the Debtor as set forth in 5.5(d)(ii) above. For the avoidance of doubt, if the Plan is not confirmed, the Preference Election is null and void, and the Debtor may prosecute all Preference Claims. Notwithstanding anything to the contrary in this Plan, the Confirmation Order, or otherwise (i) the total gross Transferred Preference Claims assigned by the Reorganized Debtor to the Creditor Trust within sixty (60) days after the Confirmation Date for the benefit of the Allowed General Unsecured Creditors, shall be no less than \$1.25 million, exclusive of any Preference Claims against prepetition Professionals; and (ii) the Creditor Trust shall split equally the net proceeds (recovery less all fees and costs related to such recovery) of the Transferred Preference Claims in excess of \$500,000 with the Reorganized Debtor. The first \$500,000 of net proceeds of Transferred Preference Claims shall be retained solely by the Creditor Trust.

5.6. Class 6 — Allowed Unsecured Claim of FinPa

(a) **Impaired and Voting.** Class 6 is Impaired under the Plan. Class 6 includes only the Unsecured Claim of FinPa. The Holder of the Class 6 Claim is entitled to vote to accept or reject the Plan.

(b) **Treatment.** FinPa asserts a \$10,396,666.00 Claim against the Estate. Despite that assertion, the Holder of the Class 6 Claim has agreed to an Allowed Claim of \$3,500,000.00. On the Effective Date, the Holder of the Class 6 Unsecured Claim of FinPa shall have an allowed Class 6 Claim in the amount of \$3,500,000.00, and that claim shall be paid in full and final satisfaction by the FinPa Restated Note. Payments to the Holder of the Allowed Class 6 Claim will be governed by the FinPa Restated Note, the First Subordination Agreement, and the Second Subordination Agreement; provided, however, no payments shall be made to the Holder of the Allowed Class 6 Claim until the Reorganized Debtor has paid or otherwise satisfied in full all amounts due under the Creditor Note and other obligations owed to the Creditor Trust under the Plan and the Plan Supplement Documents the “Subordination Obligation”..

5.7. Class 7 — Allowed Subordinated Claims

(a) **Impairment and Voting.** Class 7 is Impaired under the Plan. Holders in Class 7 are not entitled to a Distribution under the Plan. Therefore, they are deemed to have rejected the Plan under § 1126(g) of the Bankruptcy Code.

(b) **Treatment.** There will be no Distributions to any Holder of a Class 7 Claim.

5.8. Class 8 — Holders of Allowed Interests in the Debtor

(a) **Impairment and Voting.** Class 8 consists of all Interests. Holders in Class 8 are not entitled to a Distribution under the Plan. Therefore, they are deemed to have rejected the Plan under § 1126(g) of the Bankruptcy Code.

(b) **Treatment.** On the Effective Date, all Interests shall be cancelled and discharged.

**ARTICLE VI
NON-VOTING AND UNIMPAIRED CLASSES**

6.1. Impaired/Unimpaired Classes

Holders of Allowed Claims in Class 1 are Unimpaired; therefore, they are presumed to accept the Plan. Holders of Claims in Classes 2, 3, 4, 5, 6, and 7 are Impaired under the Plan; therefore, they are entitled to vote to accept or reject the Plan. Holders of Allowed Interests in Class 8 are impaired and will receive no Distributions under the Plan on account of the Interests; therefore, they are presumed to vote to reject the Plan under § 1126(g) of the Bankruptcy Code. The Debtor need not solicit acceptances of the Plan from Holders of Claims in Class 1. All other

Classes are Impaired for purposes of voting on the Plan and will be solicited to vote to accept the Plan. Except as otherwise provided in the Plan, nothing under the Plan shall affect the Debtor's rights regarding any Claim that is not Impaired, including all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Claims that are not Impaired.

6.2. *Controversy Concerning Impairment*

If a controversy arises as to whether any Claim or Interest, or any class of Claims or Interests, is impaired under the Plan, the Bankruptcy Court shall, after notice and a hearing, determine such controversy.

6.3. *Elimination of Vacant Classes*

Any Class of Claims or Interests that does not have a Holder of an Allowed Claim or Allowed Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court as of the date of the Confirmation Hearing shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to § 1129(a)(8) of the Bankruptcy Code.

6.4. *Subordinated Claims*

Except as expressly provided herein, the allowance, classification, and treatment of Allowed Claims and Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable-subordination rights relating thereto, whether arising under general principles of equitable subordination, § 510(b) of the Bankruptcy Code, or otherwise. Pursuant to § 510 of the Bankruptcy Code, the Reorganized Debtor reserves the right to re-classify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

ARTICLE VII MEANS FOR IMPLEMENTATION OF THE PLAN

7.1. *Continued Corporate Existence*

The Debtor shall continue to exist after the Effective Date as a Reorganized Debtor in accordance with applicable laws of the jurisdiction in which it is incorporated or organized and pursuant to the Amended Certificate of Incorporation and the Amended By-Laws. On or after the Effective Date, the Reorganized Debtor may, in its sole and absolute discretion, take such action as permitted by applicable law and the Reorganized Debtor's organizational documents, as the Reorganized Debtor may determine is reasonable and appropriate.

7.2. *Operations Between the Confirmation Date and the Effective Date*

During the period from the Confirmation Date through and until the Effective Date, the Debtor shall continue to operate its business as a debtor-in-possession, subject to the oversight of

the Bankruptcy Court as provided in the Bankruptcy Code, the Bankruptcy Rules, and all orders of the Bankruptcy Court that are then in full force and effect.

7.3. *Implementation Transactions on or Prior to the Effective Date*

(a) Exit Financing. On the Effective Date, the Reorganized Debtor is authorized to execute and deliver to the Exit Lender the Exit Financing Documents. It is expected that the Exit Lender will provide the Reorganized Debtor with a revolving credit facility in the amount of, at least, \$16.1 million. Exit Lender agrees that proceeds from the Exit Financing can be used to fund the Escrow as discussed in Section 5.2(c). Without limiting the generality of the foregoing, the obligations of the Reorganized Debtor under the Exit Financing Documents shall be secured by a first-priority lien in and on substantially all of the Reorganized Debtor's assets, subject only to certain customary permitted liens.

(b) Issuance of Equity Securities. On the Effective Date, the Interests in the Debtor shall be cancelled and discharged, and the Reorganized Debtor is authorized to issue or cause to be issued New Equity to Green Oak in exchange for the contribution of at least \$7,000,000 of Cash. \$4,000,000.00 of that \$7,000,000.00 will be considered equity. \$3,000,000.00 will be considered debt pursuant to the Green Oak Secured Subordinated Note, subject to the Subordination Agreements. Upon such issuance, Green Oak will own 100% of the New Equity on the Effective Date. The issuance of the New Equity and the Distribution thereof shall be exempt from registration under applicable securities laws pursuant to § 1145(a) of the Bankruptcy Code.

(c) Issuance of Notes. On the Effective Date, the Reorganized Debtor shall execute and deliver to the Exit Lender, the Creditor Trust, the Holder of the Allowed Junior Secured Claim of Skokie, the Holder of the Allowed Unsecured Claim of FinPa, and Green Oak documents necessary to implement the Plan, including, without limitation, (i) the Exit Financing Documents, (ii) the Creditor Note, (iii) the Restated Skokie Note and Security Agreement, (iv) the FinPa Restated Note, and (v) Green Oak Secured Subordinated Note. Without limiting the generality of the foregoing, these documents shall provide that (i) the obligations of Reorganized Debtor to the Exit Lender shall be secured by a first-priority lien in and on substantially all of the Reorganized Debtor's assets, (ii) the obligations of the Reorganized Debtor to the Holder of the Restated Skokie Note and Security Agreement shall be secured by a second-priority lien in and on substantially all of the Reorganized Debtor's assets but no payments shall be made under the Restated Skokie Note and Security Agreement until the Subordinate Obligations are fully satisfied, (iii) the obligations of the Reorganized Debtor under the Creditor Note shall be unsecured, (iv) the obligations of the Reorganized Debtor under the FinPa Restated Note shall be unsecured but no payments shall be made or remedies exercised under this FinPa Restated Note until the Subordinate Obligations are fully satisfied, and (v) the obligations of the Reorganized Debtor under the Green Oak Secured Subordinated Note shall be unsecured but no payments shall be made or remedies exercised under the Green Oak Secured Subordinated Note until the Subordinate Obligations are fully satisfied. The issuance of these documents shall be exempt from registration under applicable securities laws pursuant to § 1145(a) of the Bankruptcy Code.

(d) Subordination Agreements. On the Effective Date, the Reorganized Debtor shall execute and deliver the Subordination Agreements to the Exit Lender, Creditor Trust, the Holder of the Allowed Junior Secured Claim of Skokie, the Holder of the Allowed Unsecured Claim of FinPa, and Green Oak. The First Subordination Agreement shall be by and between: (i) Skokie; (ii) FinPa; (iii) Green Oak; and (iv) the Creditor Trust, on one hand, and the Exit Lender on the other hand. The Second Subordination Agreement shall be by and among: (i) Skokie; (ii) Green Oak; (iii) FinPa on one hand, and the Creditor Trust, on the other hand.

(e) Restructuring Transactions. On the Effective Date, or as soon as reasonably practicable thereafter, the Reorganized Debtor may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by or necessary to effectuate the Plan, including (i) the execution and delivery of appropriate agreements or other documents of merger, consolidation, restructuring, conversion, disposition, transfer, dissolution, or liquidation containing terms that are consistent with the terms of the Plan and that satisfy the applicable requirements of applicable law and any other terms to which the applicable Entities may agree; (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms for which the applicable parties agree; (iii) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion, or dissolution pursuant to applicable state law; and (iv) all other actions that the applicable Entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law.

(f) Corporate Action. Upon the Effective Date, or as soon thereafter as is reasonably practicable, all actions contemplated by the Plan shall be deemed authorized and approved in all respects, including: (a) execution and entry into Exit Financing Documents; (b) distribution of the New Equity Interests; (c) selection of the directors and officers for the Reorganized Debtor; (d) implementation of the restructuring transactions contemplated by this Plan, as applicable; and (e) all other actions contemplated by the Plan (whether to occur before on or after the Effective Date). All matters provided for in the Plan involving the corporate structure of the Reorganized Debtor, and any corporate action required by the Debtor or the Reorganized Debtor in connection with the Plan shall be deemed to have occurred and shall be in effect, without any requirement of further action by the directors or officers of the Debtor or the Reorganized Debtor. On or (as applicable) before the Effective Date, the appropriate officers of the Debtor or the Reorganized Debtor (as applicable) shall be authorized and (as applicable) directed to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated by and consistent with the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Reorganized Debtor, including the Exit Financing Documents and any and all related and ancillary agreements, documents, and filings, New Equity Interests, and any and all other agreements, documents, securities, and instruments relating to the foregoing. The authorizations and approvals contemplated by this Article shall be effective notwithstanding any requirements under non-bankruptcy law. The issuance of the New Equity Interests shall be exempt from the requirements of section 16(b) of the Securities Exchange Act of 1934 (pursuant to Rule 16b-3

promulgated thereunder) with respect to any acquisition of such securities by an officer or director (or a director deputized for purposes thereof) as of the Effective Date.

(g) New Certificates of Incorporation and New By-Laws. On or immediately before the Effective Date, the Reorganized Debtor will File its respective New Certificates of Incorporation with the applicable Secretary of State and/or other applicable authorities in its state. Pursuant to § 1123(a)(6) of the Bankruptcy Code, the New Certificates of Incorporation will prohibit the issuance of non-voting equity securities. After the Effective Date, the Reorganized Debtor may amend and restate its New Certificate of Incorporation and New By-Laws and other constituent documents as permitted by the laws of its state.

(h) Cancellation of Certain Agreements. Except as expressly provided herein, on the Effective Date, all notes, instruments, certificates evidencing debt of or Interests in the Debtor shall be deemed surrendered and cancelled and the Debtor's obligations thereunder shall be discharged.

(i) Release of Liens. Upon full payment or other satisfaction of Secured Claims pursuant to this Plan (including payment into the Escrow described in Section 5.2(c)), the Holder of such Secured Claims shall deliver to the Debtor or the Reorganized Debtor, as applicable, any Collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to Allowed Secured Claims that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory liens, or *lis pendens*, or similar interests or documents. The Reorganized Debtor is authorized to file any such UCC-3 termination statement as may be necessary to fulfill the terms of this Section.

(j) Directors and Officers of the Reorganized Debtor. As of the Effective Date, the term of the current members of the board of directors of the Debtor shall expire, and the initial board of directors of the Reorganized Debtor shall be appointed in accordance with the New Certificates of Incorporation and New By-Laws of Reorganized Debtor. Pursuant to § 1129(a)(5) of the Bankruptcy Code, the initial board of directors for the Reorganized Debtor will be Ivano Passini, Isa Passini, and two individuals appointed by Jemco and identified in the Plan Supplement Documents. To the extent any such director or officer is an "insider" as such term is defined in § 101(31) of the Bankruptcy Code, the nature of any compensation to be paid to such director or officer will also be disclosed in the Plan Supplement Documents. Each such director and officer shall serve from and after the Effective Date pursuant to the terms of the New Certificate of Incorporation, New By-Laws, and other constituent documents of the Reorganized Debtor.

(k) Effectuating Documents; Further Transactions. On and after the Effective Date, the Reorganized Debtor and the officers and members of the new board of directors are authorized to and may issue, execute, deliver, File, or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and the securities issued pursuant to the Plan, in the name of and on

behalf of the Reorganized Debtor, without the need for any approvals, authorization or consents except those expressly required pursuant to the Plan.

(l) Exemption from Certain Taxes and Fees. Pursuant to § 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any stamp tax or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct and be deemed to direct the appropriate state or local governmental officials or agents to forgo the collection of any such tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) the creation of any mortgage, deed-of-trust, lien, or other security interest, (ii) the making or assignment of any lease or sublease, (iii) any restructuring transaction authorized by the Plan, or (iv) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including: (a) any merger agreements; (b) agreements of consolidation, restructuring, disposition, liquidation, or dissolution; (c) deeds; (d) bills of sale; or (e) assignments executed in connection with any restructuring transaction occurring under the Plan.

(m) D&O Liability Insurance Policies. Notwithstanding anything herein to the contrary, as of the Effective Date, the Debtor shall assume (and assign to the Reorganized Debtor if necessary to continue the D&O Liability Insurance Policies in full force) all of the D&O Liability Insurance Policies pursuant to § 365(a) of the Bankruptcy Code. Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Debtor's assumption of the D&O Liability Insurance Policies. Notwithstanding anything to the contrary contained herein, Confirmation of the Plan shall not discharge, impair, or otherwise modify any obligations assumed by the foregoing assumption of the D&O Liability Insurance Policies, and each such obligation shall be deemed and treated as an Executory Contract that has been assumed by the Debtors under the Plan as to which no Proof of Claim need be Filed.

7.4. Corporate Action

Entry of the Confirmation Order shall constitute authorization for Reorganized Debtor and the Debtor, pursuant to § 1123(a)(5)(D), to take or cause to be taken all corporate actions consistent with the Plan necessary or appropriate to implement all provisions of, and to consummate, the Plan prior to, on and after the Effective Date and all such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Bankruptcy Court without further approval, act or action under any applicable law, order, rule or regulation, including, without limitation, any action required by the directors of Reorganized Debtor, the Debtor, and its Affiliates, including, among other things, (a) the issuance of New Equity, (b) the execution of the Subordination Agreements, (c) the issuance of the Creditor Note, (d) the issuance of the Restated FinPa Note, (e) the issuance of the Skokie Restated Note and Security Agreement (f) all transfers of Assets that are to occur pursuant to the Plan, (g) the adoption of the Reorganized Debtor Note Documents, (h) the incurrence of all obligations contemplated by the Plan and the making of Plan Distributions, and (i) the implementation of all settlements and compromises as set forth in or contemplated by the Plan. On the Effective Date, the officers of the Debtor and Reorganized Debtor are authorized and directed to do all things and to execute

and deliver all agreements, documents, instruments, and notices as are contemplated by the Plan and to take all necessary actions required in connection therewith, in the name of and on behalf of the Debtor and Reorganized Debtor, as applicable. All obligations of the Debtor to indemnify and hold harmless current directors, officers, employees, whether arising under the Debtor's constituent documents, contract, law or equity, shall be assumed by, and assigned to, Reorganized Debtor on the Effective Date with the same effect as though such obligations constituted executory contracts that are assumed (or assumed and assigned, as applicable) under § 365 of the Bankruptcy Code, and all such obligations shall be fully enforceable on their terms from and after the Effective Date.

7.5. *Settlement of Claims and Controversies*

Pursuant to § 1123(b)(3)(A) of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for all Distributions under the Plan and other benefits provided under this Plan, the provisions of this Plan shall constitute a good-faith compromise and settlement of all Claims and controversies relating to the rights that a Holder of a Claim or Interest may have with respect to such Claim or Interest or any Distribution under the Plan on account of thereof. If the Confirmation Order is not entered or the Effective Date does not occur, the Debtor reserves its rights with respect to all disputes resolved and settled under this Plan. Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, as of the Effective Date, of each compromise and settlement embodied in the Plan, and the Bankruptcy Court's finding that all such compromises and settlements are (a) in the Debtor's and the Estate's best interests and (b) fair, equitable and within the range of reasonableness. The provisions of the Plan, including, without limitation, its release, injunction, exculpation, and compromise provisions are mutually dependent.

7.6. *Vesting of Assets*

On the Effective Date, except as otherwise expressly provided herein, title to all Assets shall remain/vest in the Reorganized Debtor, as applicable, free and clear of all liens, Claims, Causes of Action, interests, rights, security interests, and other encumbrances and without further order of the Bankruptcy Court. On and after the Effective Date, except as otherwise provided herein, the Debtor and the Reorganized Debtor may operate its business and may use, acquire, and dispose of their Assets free of any restrictions of the Bankruptcy Code.

7.7. *Sources of Cash for Plan Distributions*

All Cash necessary for the Creditor Trustee to make Distributions to Creditor Trust Beneficiaries shall be obtained from the proceeds of the Creditor Note and the other Creditor Trust Assets.

7.8. *Approval of Agreements*

The solicitation of votes on the Plan shall be deemed a solicitation for the approval of the Plan Supplement Documents and all transactions contemplated by the Plan. Entry of the Confirmation Order shall constitute approval of the Plan Supplement Documents and such

transactions and authorization for the Reorganized Debtor and the Debtor, as appropriate, to execute and deliver each of the Plan Documents.

7.9. *Entry of Final Decree*

As soon as is practicable after the Effective Date, the Reorganized Debtor shall File an application with the Clerk of the Court requesting the entry of a Final Decree closing the Case; provided, however, the Reorganized Debtor shall not File an application for Final Decree in this case until and unless the conditions to the Plan becoming effective in Article IX herein have been fully met. The Reorganized Debtor shall be responsible for all U.S. Trustee fees owed pursuant to 28 U.S.C. § 1930 until entry of the final decree and closing of the bankruptcy case. Neither the Reorganized Debtor nor the Creditor Trust shall be responsible for any U.S. Trustee fees after the bankruptcy case is closed.

7.10. *Retention of Rights to Pursue Causes of Action*

Pursuant to § 1123(b) of the Bankruptcy Code, all Causes of Action (including Chapter 5 Causes of Action and Transferred Preference Actions) are hereby preserved by this Plan, notwithstanding the occurrence of the Effective Date. The Reorganized Debtor shall retain the exclusive authority and all rights to enforce, commence, and pursue, as appropriate, any and all Causes of Action other than Transferred Preference Actions, whether arising before or after the Petition Date, including any actions specifically enumerated in the Plan Supplement Document, and the Reorganized Debtor's rights to commence, prosecute, or settle such Causes of Action shall be preserved. For the avoidance of doubt, the preservation of Causes of Action herein includes, without limitation, the Debtor's right to object to all Secured Claims, Administrative Claims, Priority Claims, and General Unsecured Claims, and the Creditor Trustee's right to object to Class 5 General Unsecured Claims. The Reorganized Debtor may pursue such Causes of Action other than the Transferred Preference Actions, as appropriate, in accordance with the Reorganized Debtor's best interests in its discretion. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement Documents, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtor or the Reorganized Debtor will not pursue any and all available Causes of Action against them. The Debtor and the Reorganized Debtor expressly reserve all rights to prosecute any and all Causes of Action other than the Transferred Preference Actions for such Transferred Preference Actions the Creditor Trustee is granted standing to prosecute against any Entity, except as otherwise expressly provided in the Plan. For the avoidance of doubt, the Reorganized Debtor reserves and shall retain the applicable Causes of Action notwithstanding the rejection or repudiation of any Executory Contract or Unexpired Lease during the Chapter 11 Case or pursuant to the Plan. The Reorganized Debtor, through its authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action other than the Transferred Preference Actions. The Reorganized Debtor shall have the exclusive right, authority, and discretion to determine and to initiate, File, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action other than the Transferred Preference Actions and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court.

With regard to the Transferred Preference Actions, the Creditor Trust (as a successor to the Debtor and as a representative of the Estate pursuant to § 1123(b) of the Bankruptcy Code) shall retain the exclusive authority and all rights to File, enforce, commence, prosecute, settle or otherwise resolve, and pursue, as appropriate, any and all Transferred Preference Actions, whether enumerated in the Plan Supplement Document or not, and the Creditor Trust's sole and exclusive right to commence, prosecute, or settle Transferred Preference Actions shall also be preserved for all purposes. For the avoidance of doubt, the transfer of the right to prosecute the Transferred Preference Actions to the Creditor Trust shall not affect the Debtor's or Reorganized Debtor's right to object to all Secured Claims, Administrative Claims, and Priority Claims. The Creditor Trust shall have the sole authority to prosecute, settle, and otherwise pursue such Transferred Preference Actions, and any objections to any Class 5 General Unsecured Claim, as appropriate, in its sole discretion. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement Documents, or the Disclosure Statement to any Transferred Preference Action against them as any indication that the Creditor Trust will not pursue any and all available Transferred Preference Action against them. Notwithstanding anything to the contrary in the Plan, the Reorganized Debtor shall not file a lawsuit on any Preference Claim other than the Ares Adversary Proceeding against Ares Case No. 17-03044.

The Debtor has not investigated any potential Causes of Action against any Persons or Entities other than (a) Ares and (b) that associated with the Farquhar Litigation and the USCO Litigation. Therefore, on the Effective Date, all Causes of Action, other than the Transferred Preference Claims, shall remain with the Debtor or Reorganized Debtor, which shall hold all rights on behalf of the Estate to commence and pursue any and all Causes of Action (under any theory of law, including, without limitation, the Bankruptcy Code, and in any court or other tribunal). The Reorganized Debtor shall pursue such Causes of Action as set forth herein, including all Causes of Action asserted against Ares in Case No. 17-03044, in its sole and absolute discretion. The failure to list or describe any unknown Cause of Action herein is not intended to limit the rights of the Reorganized Debtor to pursue any unknown Cause of Action. Unless Causes of Action against a Person or Entity are expressly waived, relinquished, released, compromised or settled herein or any Final Order, the Debtor or its Estate (before the Effective Date) and the Reorganized Debtor (post-Effective Date), expressly reserve all Causes of Action (including the unknown Causes of Action) for later adjudication and therefore, no preclusion doctrine or other rule of law, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches, shall apply to such Causes of Action upon, after, or as a result of the confirmation or Effective Date of the Plan, or the Confirmation Order. In addition, the Debtor or its Estate and the Reorganized Debtor expressly reserve the right to pursue or adopt any Claims not so waived, relinquished, released, compromised or settled that are alleged in any lawsuit in which the Debtor or its Estate is a defendant or an interested party, against any Person or Entity, including, without limitation, the plaintiffs and co-defendants in such lawsuits. Such retained potential causes of action include, without limitation, (i) any potential Cause of Action arising from or related to any transfer or other actions or omissions referenced in the Debtor's Schedules or Statement of Financial Affairs, which were Filed in Case No. 16-34169 (Docket No. 134) on December 2, 2016, as amended (ii) any potential Causes of Action against any past or present insider of the Debtor, (iii) any causes of action related to the extent, validity and priority of any liens, (iv) any actions for breach of contract, and (v) any actions arising in tort. The Reorganized

Debtor shall have the right to identify any additional Causes of Action prior to the Effective Date of the Plan.

Except as related to the Transferred Preference Actions and Class 5 General Unsecured Claims, the Reorganized Debtor shall also retain and may prosecute and enforce all defenses, counterclaims, and rights that have been asserted or could be on behalf of the Debtor against or with respect to all Claims asserted against the Debtor or property of the Estate. No claim, right, Cause of Action, or other asset shall be deemed waived or otherwise forfeited by virtue of the Debtor's failure to identify such property in the Debtor's Schedules or the Disclosure Statement accompanying the Plan unless otherwise ordered by the Bankruptcy Court.

In this connection, the Reorganized Debtor will continue to review payments made by and transactions involving the Debtor prior to the Petition Date to determine whether preference and other actions to avoid such payments and transactions should be brought. Failure to specifically identify potential actions herein shall not be deemed a waiver of any such action by the Debtor or any other party.

ARTICLE VIII THE CREDITOR TRUST

8.1. *Creation of the Creditor Trust and Appointment of the Creditor Trustee*

(a) On the Effective Date, the Creditor Trust will be created pursuant to the Creditor Trust Agreement.

(b) The Creditor Trust shall be administered by the Creditor Trustee who shall be selected by the Creditors' Committee and identified no later than five (5) days prior to the Voting Deadline and notice of same shall be filed and served via ECF. The appointment of the initial Creditor Trustee and the terms of its compensation shall be subject to the approval of the Bankruptcy Court at the Confirmation Hearing.

(c) On the Effective Date, all of the Creditor Trust Assets shall transfer to and vest in the Creditor Trust free and clear of all Claims, Liens, interests, rights, and encumbrances without the need for any action by the Debtor or the Bankruptcy Court.

(d) Compensation owed to the Creditor Trustee and the Creditor Trust's counsel shall be paid from the Creditor Trust Assets – and not from the Reorganized Debtor.

8.2. *Property of the Creditor Trust*

On the Effective Date, the Creditor Trust shall have all rights to and shall have the sole authority on behalf of the Creditor Trust Beneficiaries to enforce or exercise (a) the Creditor Note, (b) the Litigation Recovery Share, (c) the Litigation Put, (d) the GUC Payment Collar, (e) the GUC Payment Collar reconciliation and (f) the Transferred Preference Claims and all rights and remedies related to any and all of the foregoing.. Further, notwithstanding any prohibition of assignability under applicable law, on the Effective Date, the Reorganized Debtor shall be deemed to have automatically transferred to the Creditor Trust all of its right, title, and interest in

and to the Transferred Preference Claims and other Creditor Trust Assets and the right to object to any Class Claims, unless otherwise agreed. By and through the Creditor Trustee, the Creditor Trust shall be authorized and is granted standing for all purposes, including to (a) prosecute, resolve, and otherwise take steps, in its discretion, to monetize and otherwise maximize the value of the Transferred Preference Claims and (b) object to any and all Class 5 Claims. The Reorganized Debtor shall reasonably cooperate with the Creditor Trust to provide necessary accounting information and documentation to enable the Creditor Trustee to efficiently and timely perform the functions of this Plan, including as set forth in the preceding sentence.

8.3. Purpose of the Creditor Trust

On the Effective Date, the Creditor Trust will be established and become effective for the benefit of the Creditor Trust Beneficiaries and for the primary purpose of liquidating its assets in accordance with Treas. Reg. § 301.7701-4(d) 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 liquidating purpose of the Creditor Trust. The Debtor, all Claimants, and all Holders of Interests shall be deemed to have adopted and approved the Creditor Trust Agreement. The purpose of the Creditor Trust is to (a) liquidate all Creditor Trust Assets, including the investigation and prosecution of the Transferred Preference Claims conveyed to the Creditor Trust under the Plan, and (b) distribute the proceeds of the Creditor Trust Assets to the Creditor Trust Beneficiaries. The Creditor Trust shall not be deemed a successor-in-interest of the Debtor or Reorganized Debtor for any purpose other than as specifically set forth herein or in the Creditor Trust Agreement. The Creditor Trust is intended to qualify as a “grantor trust” for federal income tax purposes with the Holders of the Creditor Trust Interests treated as grantors and owners of the Creditor Trust. As soon as practicable after the Effective Date, the Creditor Trustee (to the extent that the Creditor Trustee deems it necessary or appropriate in his or her sole discretion) shall value the assets of the Creditor Trust based on the good faith determination of the Creditor Trustee. The valuation shall be used consistently by all parties for all federal income tax purposes. The Bankruptcy Court shall resolve any dispute regarding such valuation.

8.4. Powers of the Creditor Trustee

The Creditor Trustee shall have the power to administer the assets of the Creditor Trust in a manner consistent with the Creditor Trust Agreement and the Creditor Trustee shall be the estate representative designated to prosecute the Transferred Preference Claims transferred to the Creditor Trust as a representative of the Estate pursuant to § 1123(b)(3)(B) and otherwise. Without limiting the generality of the foregoing, the Creditor Trustee shall (a) hold, administer, and prosecute the assets of the Creditor Trust and any proceeds thereof; (b) analyze and object, as appropriate, all Class 5 Claims, and otherwise resolve same, (c) have the power and authority to retain, as an expense of the Creditor Trust, attorneys, advisors, other professionals and employees as may be appropriate to perform the duties required of the Creditor Trustee hereunder or in the Creditor Trust Agreement; (d) make distributions to Holders of Allowed Class 5 Claims, including General Unsecured Claims and General Unsecured Insider Claims, as provided in the Creditor Trust Agreement; and (e) provide periodic reports and updates regarding the status of the administration of the Creditor Trust. The Creditor Trustee shall step into the shoes of the Reorganized Debtor under the Plan when making Distributions to Creditor Trust

Beneficiaries pursuant to the Creditor Trust Agreement. The Bankruptcy Court shall retain jurisdiction to resolve any disputes, hearing the Transferred Preference Actions and Class 5 General Unsecured Claim objections and otherwise hearing such additional matters brought by the Creditor Trustee in the fulfillment of his/her duties pursuant to the Plan and the Creditor Trust Agreement.

8.5. *Creditor Trust Advisory Board*

On the Effective Date, the Creditor Trust Advisory Board shall be created pursuant to the Creditor Trust Agreement. The Creditor Trust Advisory Board shall consist of at least two (2) members, selected by the Creditors' Committee, who shall be identified in the Plan Supplement Documents. The Creditor Trustee shall consult with and obtain consent from the Creditor Trust Advisory Board as more fully set forth in the Creditor Trust Agreement, including the settlement of significant General Unsecured Claims, the settlement of significant Transferred Preference Claims, and the making of distributions to the beneficiaries of the Creditor Trust.

8.6. *Cooperation Between Creditor Trustee and Reorganized Debtor*

(a) The Creditor Trustee and the Reorganized Debtor shall consult and cooperate reasonably in the performance of their duties under the Plan.

(b) Subject to the Confidentiality Agreement, the Reorganized Debtor shall provide to the Creditor Trustee, with reasonable access, the books and records of the Debtor concerning, among other things, objections to Class 5 Claims and Transferred Preference Claims.

(c) Subject to the Confidentiality Agreement, the Reorganized Debtor shall provide the Creditor Trustee with (i) quarterly reporting of balance sheets and income statements for the prior quarter (due 20 days after the end of each quarter) and notices of any defaults under the Plan or new-lending facilities (due three business days upon receipt) including Exit Financing; and (ii) copies of the annual audits

(d) If Creditor Trustee needs reasonable clarification of the information received from the Reorganized Debtor pursuant to Section 8.6(c), the Creditor Trustee is allowed to meet with a board member designated by the Reorganized Debtor;

8.7. *Distributions by the Creditor Trustee*

The Creditor Trustee shall make Pro Rata Distributions to Holders of (a) Allowed Class 5 General Unsecured Claims and, (b) Allowed Class 5 General Unsecured Insider Claims; provided, however, such Distributions to the Allowed General Unsecured Insider Claims shall be subject to both the GUC Insiders Holdback and the GUC Payment Collar. The Reorganized Debtor shall be obligated to pay such amounts to the Creditor Trust under the terms of the Creditor Note to fully satisfy the GUC Payment Collar Reconciliation.

8.8. *Litigation Put*

The Creditor Trust shall have the exclusive right to exercise the Litigation Put.

8.9. *Termination of the Creditor Trust*

The Creditor Trust shall continue to exist until the earlier of the (a) fifth (5th) year anniversary of the Effective Date (as such date may be extended by Order of the Bankruptcy Court) and (b) the time the Creditor Trustee has (i) administered all Creditor Trust Assets and made a final Distribution to Holders of Allowed Claims not previously paid and after all Allowed Claims are paid in full in accordance with the terms of the Plan, and (ii) performed all other duties required by the Plan and the Creditor Trust Agreement. Multiple extensions of the termination of the Creditor Trust may be obtained so long as Bankruptcy Court approval is obtained prior to the expiration of each extended term. As soon as reasonably practicable after the Final Distribution, the Creditor Trustee shall dissolve the Creditor Trust pursuant to the Creditor Trust Agreement. Upon dissolution, the Creditor Trustee's duties under the Trust Agreement and the Plan shall terminate.

ARTICLE IX CONDITIONS PRECEDENT TO EFFECTIVE DATE; EFFECT OF PLAN CONFIRMATION

9.1. *Conditions to Confirmation*

The following are conditions precedent to confirmation of the Plan:

(a) The Clerk of the Bankruptcy Court shall have entered an order or orders (i) approving the Disclosure Statement as containing "adequate information" pursuant to § 1125 of the Bankruptcy Code, (ii) authorizing solicitation of votes with respect to the Plan, (iii) determining that all votes are binding and have been properly tabulated as acceptances or rejections of the Plan, (iv) confirming and giving effect to the terms and provisions of the Plan, (v) determining that all applicable tests, standards, and burdens in connection with the Plan have been duly satisfied and met by the Debtor and the Plan, (vi) approving the Plan Documents, and (vii) authorizing the Debtor to execute, enter into, and deliver the Plan Documents and to execute, implement, and to take all actions otherwise necessary or appropriate to give effect to the transactions and transfer of assets contemplated by the Plan and the Plan Documents;

(b) The Confirmation Order, the Plan Documents, and the Plan are each in a form satisfactory to the Debtor; and

(c) The Confirmation Order shall include a determination that all of the settlements and compromises contained herein meet the applicable standards under § 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019 for approval and implementation.

9.2. *Conditions Precedent to the Effective Date*

The following are conditions precedent to the occurrence of the Effective Date:

- (a) The Exit Financing has become effective and all conditions to the effectiveness thereof shall have been satisfied or waived;
- (b) All documents effectuating the Plan and the transactions thereunder have been executed and delivered by the parties thereto including the Creditor Note and the second Subordination Agreement, and all conditions to the effectiveness of such documents have been satisfied or waived as provided therein;
- (c) Payment of the Confirmation Payment by the Debtor to the Creditor Trust;
- (d) The Confirmation Order has become a Final Order, and it authorizes and directs the Debtor and the Reorganized Debtor to take all actions necessary or appropriate to implement and consummate the provisions of, and transactions described or contemplated in, the Plan;
- (e) The Creditor Trust has been created; and
- (f) The New Equity has been issued.

9.3. *Waiver of Conditions*

The Debtor may waive any one or more of the conditions set forth in Sections 9.1 or 9.2 in a writing executed by the Debtor without notice or order of the Bankruptcy Court and without notice to any parties in interest; provided, however, the Debtor may not waive the conditions set forth in 9.1 (a) or (c) or 9.2 (b), (c), (d), or (e) without the written consent of the Committee, which shall not be unreasonably withheld.

9.4. *Effect of Non-Occurrence of the Effective Date*

If the Effective Date shall not occur, the Plan shall be null and void, and nothing contained herein shall: (a) constitute a waiver or release of any Claims against or Interests in the Debtor, (b) prejudice in any manner the Debtor's rights, including, without limitation, any right to seek a further extension of the exclusivity periods under § 1121(d) of the Bankruptcy Code; or (c) constitute an admission, acknowledgement, offer, or undertaking by the Debtor.

ARTICLE X CLAIM OBJECTIONS, AND MISCELLANEOUS DISTRIBUTION PROVISIONS

10.1. *Objections to Claims*

- (a) All objections to Claims must be Filed on or before the Claims Objection Deadline, which is two hundred seventy (270) days after the Effective Date, unless extended by

the Bankruptcy Court for cause shown. Any Disputed Claim to which an objection is not Filed on or before the Claims Objection Deadline will be deemed to constitute an Allowed Claim following the Claims Objection Deadline. Only the Reorganized Debtor may File objections to Claims, except for Class 5 Claims, which such standing and authority shall rest in the Creditor Trust and the Reorganized Debtor consistent with the next sentence. But the Reorganized Debtor may, on or before the Claims Objection Deadline, File a motion with the Bankruptcy Court requesting standing to object to a Class 5 Claim so long as the Reorganized Debtor has made a prior written demand to the Creditor Trust to object to the Claim and the Creditor Trust has unjustifiably refused or failed to respond to such demand. Any such motion Filed by the Claims Objection Deadline shall, if granted, toll the Claims Objection Deadline solely with respect to the Claim that is the subject of the motion, until and including the date that is ten (10) business days following the date of entry of the Order granting the motion.

(b) Until a Contingent Claim becomes an Allowed Claim or is Disallowed, the Claim will be treated as a Disputed Claim. The Holder of a Contingent Claim will be entitled to a Distribution under the Plan only when the Contingent Claim becomes an Allowed Claim. Any Contingent Claim for reimbursement or contribution held by a Person that may be liable with the Debtor on a Claim of a Claimant is Disallowed as of the Effective Date if: (a) that Claimant's Claim is Disallowed; (b) the Claim for reimbursement or contribution is contingent as of the Effective Date; or (c) that Person asserts a right of subrogation to the rights of the Claimant under § 509 of the Bankruptcy Code.

(c) To facilitate the timely and effective administration of Claims, except as otherwise expressly stated herein, following the later of the Effective Date and the applicable Bar Date, no original or amended proof of Claim may be Filed in the Chapter 11 Case to assert a Claim against the Debtor or the Estate without prior authorization of the Bankruptcy Court, and any such proof of Claim which is Filed without such authorization shall be deemed null, void and of no force or effect; provided, however, that the Holder of a Claim that has been evidenced in the Chapter 11 Case by the filing of a proof of Claim on or before the Bar Date shall be permitted to File an amended proof of Claim in relation to such Claim at any time if the sole purpose of the amendment is to reduce the amount of the Claim asserted.

(d) The Creditor Trustee shall be allowed to object to Class 5 Claims. The Reorganized Debtor shall also be allowed to object to Class 5 Claims, consistent with the terms of the Plan. But only the Reorganized Debtor is allowed to object to Claims other than Class 5 Claims. The Reorganized Debtor shall reasonably cooperate with the Creditor Trust on Class 5 Claims, including providing all necessary and helpful financial, payment, shipping, proof of receipt, account balances, debt amounts, and books and records, to aid and support the Creditor Trust's Class 5 Objections.

10.2. *Estimation of Claims*

As applicable, the Debtor or the Reorganized Debtor may at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim pursuant to § 502(c) of the Bankruptcy Code, regardless of whether the Debtors had previously objected to or otherwise disputed 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. If the Bankruptcy Court estimates any contingent, unliquidated, or Disputed Claim, the amount so estimated shall constitute either (a) the Allowed amount of such Claim or (b) a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Reorganized Debtor may pursue supplementary proceedings to object to the allowance of such Claim.

10.3. *Distributions Under the Plan*

(a) *Allowed Claims*

Distributions by the Creditor Trust will only be made to Holders of Allowed Claims in Classes 5 in accordance with the terms of this Plan, the Plan Documents, and the Plan Supplement Documents. Distribution by the Reorganized Debtor will be made to Holders of Allowed Claims in Classes 1,2,3,4, and 6. A Claim or Interest is “Allowed” under the Plan: (i) to the extent that it is listed in the Schedules in a liquidated, non-contingent and undisputed amount, but only if no proof of Claim or proof of Interest is Filed with the Bankruptcy Court to evidence such Claim or Interest on or before the Bar Date and no objection thereto has been timely Filed, but only if no objection to the allowance of the Claim or Interest is Filed; (ii) as evidenced by a proof of Claim or proof of Interest Filed on or before the Bar Date, but only to the extent asserted in a liquidated amount, and only if no objection to the allowance of the Claim or Interest or no motion to expunge the proof of Claim or Interest has been timely Filed; or (iii) to the extent allowed by a Final Order of the Bankruptcy Court.

The Creditor Trustee shall make Distributions to Holders of Allowed Claims in Class 5 on the terms set forth herein or otherwise set forth in the Creditor Trust Agreement. The Reorganized Debtor shall make Distributions to all other Classes pursuant to the Plan, the Plan Documents, and the Plan Supplement Documents. Any Holder of an Allowed Claim may receive, instead of the Distribution or treatment to which it is entitled under this Plan, any other Distribution or treatment that it and the Creditor Trustee (as it applies to Classes 5) or the Reorganized Debtor (as to other classes) may agree to in writing, so long as such alternative treatment is (a) substantially the same or less favorable to the Claimant than the treatment otherwise prescribed herein and (b) does not violate any term of this Plan, the Plan Documents, or the Plan Supplement Documents.

Neither the Reorganized Debtor nor the Creditor Trustee, as the case may be, may distribute proceeds to claimants in any classes unless and until such claimant’s claim becomes Allowed pursuant to further order of the Bankruptcy Court or as otherwise set forth herein.

(b) *No Distributions Pending Allowance*

No payment or Distribution provided under this Plan shall be made on account of a Claim unless and until (and only to the extent that) such Claim becomes an Allowed Claim.

(c) ***No Post-petition Interest on Claims***

Except as otherwise specifically provided in the Plan or Confirmation Order, post-petition interest shall not accrue or be paid on any Claim, and no Holder of a Claim shall be entitled to interest accruing on such Claim on or after the Petition Date.

(d) ***Due Authorization by Claimants***

Every Claimant who elects to participate in the Distributions provided in this Plan warrants that the Claimant is authorized to accept in consideration of its Claim against the Debtor the Distributions provided for in this Plan and that there are no outstanding commitments, agreements, or understandings, express or implied, that may or can in any way defeat or modify the rights conveyed or obligations undertaken by the Claimant under the Plan.

(e) ***De Minimis Distributions and Rounding***

Ratable Distributions to holders of Allowed Claims will not be made if such Distribution will result in a Distribution amount of less than \$150.00, unless a request therefore is made in writing to the Reorganized Debtor.

(f) ***Distribution Record Date***

As of the close of business on the Effective Date, the various lists of Holders of Claims in each Class, as maintained by the Debtor, the Reorganized Debtor, as the case may be, or their respective agent(s), shall be deemed closed, and there shall be no further changes in the record Holders of any Claims after the Effective Date. Neither the Debtor, the Reorganized Debtor, nor the Creditor Trustee has any obligation to recognize any transfer of a Claim occurring after the close of business on the Effective Date.

(g) ***Delivery of Distributions***

As applicable, the Reorganized Debtor or the Creditor Trustee will issue or cause to be issued, the applicable consideration under this Plan and, subject to Bankruptcy Rule 9010, will make Distributions to any Holder of an Allowed Claim as and when required by this Plan at (i) the address of such Holder on the books and records of the Debtor; (ii) the address set forth in any timely-filed proof of Claim; or (iii) the address listed in any "address-change" notice delivered to the Debtor, including any addresses included on any transfers of Claim Filed pursuant to Bankruptcy Rule 3001 prior to the Effective Date. If any Distribution to any Holder is returned as undeliverable, no Distribution or payment to such shall be made unless and until the Reorganized Debtor or the Creditor Trustee, as applicable, has been notified of the then-current address of such Holder; at which time or as soon as reasonably practicable, such Distribution shall be made to such Holder without interest.

(h) ***Distributions to be Pro Rata Within a Class***

Except as otherwise provided herein, all Distributions constituting a partial payment to holders of Allowed Claims within a specific Class shall be made on a Pro Rata basis to the holders of Allowed Claims in such Class.

(i) ***Means of Cash Payment***

Cash payments made pursuant to the Plan will be in U.S. funds, by the means agreed to by the payor and the payee, including by check or wire transfer, or, in the absence of an agreement, by a commercially reasonable manner as the payor will determine in its sole discretion.

(j) ***Allocation of Payments***

Amounts paid under this Plan to Holders of Allowed Claims in satisfaction thereof shall be allocated first to the principal amounts of such Claims, with any excess allocated to interest that has accrued on such Claims but remains unpaid.

(k) ***Distributions on Account of Disputed Claims***

No Distributions will be made on a Disputed Claim unless and until such Disputed Claim becomes an Allowed Claim. In determining the amount of Distributions to be made under the Plan to Holders of Allowed Claims on the Effective Date or a Distribution date, the appropriate Distributions shall be made as if all the Disputed Claims as of such Distribution date were Allowed Claims in the full amount claimed by the Holders thereof, unless otherwise ordered or estimated by the Bankruptcy Court.

(l) ***Disputed Claim Reserves***

(i) ***Disputed Claim Reserve Account***

In addition to as provided otherwise in the Plan, the Creditor Trust shall, as it applies to Class 5 Claims only, reserve for the account of each Holder of a Disputed Claim in the Disputed Claim Reserve Account (x) Creditor Trust Assets that would otherwise be distributable to such Holder on such date in accordance with the Plan were such Disputed Claim an Allowed Claim on such date or (y) such other property as may be agreed between Creditor Trustee, the Holder of the Disputed Claim, and the Reorganized Debtor.

Property reserved under this Section shall be set aside and, to the extent practicable, held by the Creditor Trustee in an interest-bearing account to be maintained by the Creditor Trustee pending resolution of such Disputed Claims; provided, however, that Cash shall be invested in a manner consistent with the requirements of § 345 or as otherwise ordered by the Bankruptcy Court. All interest accruing on funds held in the Disputed Claim Reserve Account shall revert to the Creditor Trust.

If a Disputed Claim becomes an Allowed Claim, property of the Creditor Trust reserved for the Holder thereof shall be distributed by the Creditor Trustee to such Holder as soon as practicable after such Claim becomes an Allowed Claim pursuant to, and to the extent provided

for in, the Plan. To the extent an objection to a Disputed Claim is upheld or a Claim is withdrawn or reduced, the reserves held on account of such Disputed or withdrawn Claim shall be reallocated to the Allowed Claimants in the applicable Class pursuant to their respective Pro Rata Share.

(ii) ***Disputed Administrative Claim Reserve Account***

As to Priority Claims, Administrative Claims, and Other Secured Claims, the Reorganized Debtor shall reserve in the Disputed Administrative Claim Reserve Account on account of the Holder of a Disputed Claim (a) Assets of the Reorganized Debtor that would otherwise be distributable to such Holder on such date in accordance with the Plan were such Disputed Claim an Allowed Claim on such date or (b) such other property as may be agreed between the Reorganized Debtor and the Holder of the Disputed Claim.

Property reserved under this Section shall be set aside and, to the extent practicable, held by the Reorganized Debtor in an interest-bearing account to be maintained by the Reorganized Debtor pending resolution of such Disputed Claims; provided, however, that Cash shall be invested in a manner consistent with the requirements of § 345 or as otherwise ordered by the Bankruptcy Court. All interest accruing on funds held in the Disputed Administrative Claims Reserve Account shall revert to the Reorganized Debtor.

If a Disputed Claim becomes an Allowed Claim, property of the Reorganized Debtor reserved for the Holder thereof shall be distributed by the Reorganized Debtor to such Holder as soon as practicable after such Claim becomes an Allowed Claim pursuant to (i) and to the extent provided for in the Plan; (ii) an agreement between the Holder of the Disputed Claim and the Reorganized Debtor; or (iii) to a final and non-appealable order of the Bankruptcy Court. To the extent an objection to a Disputed Claim is upheld or a Claim is withdrawn or reduced, the reserves held on account of such Disputed or withdrawn Claim shall be reallocated to the Reorganized Debtor.

(m) ***Undeliverable or Unclaimed Distributions***

(iii) Any Entity that is entitled to receive a Cash Distribution under the Plan but that fails to cash a check within 90 days of its issuance shall be entitled to receive a reissued check from the Creditor Trust for the amount of the original check, without any interest, if such Entity requests the Creditor Trust to reissue such check and provides such documentation as may be requested to verify that such Entity is entitled to such check prior to the later of (a) the first anniversary of the Effective Date and (b) 180 days after such Entity's Claim becomes an Allowed Claim. If an Entity fails to cash a check within 90 days of its issuance and fails to request reissuance of such check prior to the later to occur of (a) the first anniversary of the Effective Date, (b) six (6) months following the date such Entity's Claim becomes an Allowed Claim, and (c) for any distribution issued more than two years after the Effective date, 90 days following the date of issuance, such Entity shall not be entitled to receive any distribution under the Plan with respect to the amount of such check. If the distribution to any holder of an Allowed Claim is returned to the Creditor Trust as undeliverable, no further Distributions will be made to such holder unless and until the Creditor Trust is notified in writing of such Holder's current

address; provided, however, that the Creditor Trust shall make reasonable efforts to contact the Holder of such Allowed Claim, identify the correct mailing address and resend the distribution.

(iv) All Claims for undeliverable Distributions must be made on or before the later to occur of (i) the first anniversary of the Effective Date and (ii) six (6) months following the date such Entity's Claim becomes an Allowed Claim. After such date, all unclaimed property shall revert to the Creditor Trust for further disbursement in accordance with this Plan, and the Claim of any holder or successor to such holder with respect to such property shall be discharged and forever barred notwithstanding any federal or state escheatment laws to the contrary. In no event shall any funds escheat to the State of Texas.

(n) *Transmittal of Distributions and Notices*

(i) Distributions to Holders of Allowed Claims will be made by mail at (a) the address of each such holder as set forth on the proofs of Claim Filed by such holders, (b) the address set forth in any written notice of address change Filed with the Bankruptcy Court and delivered to the Creditor Trustee after the date of any related proof of Claim, or (c) the address reflected in the Schedules if no proof of Claim is Filed and the Creditor Trustee has not received a written notice of address change. If any Distribution is returned as undeliverable, no further Distributions to such holder will be made unless and until the Creditor Trustee is notified in writing of such Claimant's then current address.

(ii) Any property or notice other than Cash Distributions made through this Article X which an Entity is or becomes entitled to receive pursuant to the Plan shall be delivered by regular mail, postage prepaid, in an envelope addressed to that Entity at the address indicated on any notice of appearance Filed by that Entity or his authorized agent prior to the Effective Date. If no notice of appearance has been Filed, notice shall be sent to the address indicated on a properly Filed proof of Claim or, absent such a proof of Claim, the address that is listed on the Schedules for that Entity. The date of Distribution shall be the date of mailing, and property distributed in accordance with this Article X shall be deemed delivered to such Entity regardless of whether such property is actually received by that Entity.

(iii) A Holder of a Claim or Interest may designate a different address for notices and distributions by both (a) filing with the Bankruptcy Court such change of address and (b) notifying in writing (x) the Creditor Trustee (for Class 5 Claims) and (y) the Reorganized Debtor for all other claims, of that address in writing. The new address shall be effective upon receipt by the Creditor Trustee.

(iv) The Creditor Trust shall require any Creditor Trust Beneficiary or other party receiving a Distribution to furnish to the Creditor Trustee in writing his/her/its employer or taxpayer-identification number, as assigned by the IRS. The Creditor Trust may condition any Distribution to any Creditor Trust Beneficiary or other party receiving a Distribution on the receipt of such identification number.

(v) Neither the Creditor Trustee nor the Reorganized Debtor is under any duty to take any action to either attempt to locate any holder of a Claim, or obtain an executed Internal

Revenue Service Form W-9 from any holder of a Claim. The Creditor Trust has no responsibility to ensure that it has the correct mailing address and taxpayer or employer-identification number for a Creditor.

(vi) Notwithstanding anything to the contrary in this Plan, the Disclosure Statement, the Confirmation Order, Plan Supplement Documents or otherwise, the Creditor Trustee shall not reserve any amounts from any Distributions he/she makes to account for the potential General Unsecured Claim or Deficiency Claim of Ares (the “*Ares Unsecured Claim*”), whether arising from § 506(b) of the Bankruptcy Code or otherwise; to the extent the Creditor Trustee makes Distributions to Holders of Allowed Class 5 Claims, pays expenses and other costs of administering the Creditor Trust and/or is otherwise unable to pay or otherwise make Distribution on account of the Ares Unsecured Claim, in whole or in part, Ares shall have no Claim, right, Cause of Action or entitlement to reimbursement against the Creditor Trustee or otherwise have the right to sue the Creditor Trustee, who shall incur no liability, damage, exposure, responsibility or obligation to or related to Ares, except in the case of fraud or gross negligence.

10.4. *Setoffs*

Except as otherwise expressly provided herein, pursuant to §§ 502(d) or 553 of the Bankruptcy Code or any applicable non-bankruptcy law, agreements entered into in connection with the Plan, the Confirmation Order, or in agreements previously approved by Final Order of the Bankruptcy Court, the Debtor, the Creditor Trustee, and the Reorganized Debtor may, but will not be required to, setoff against any Claim and the Distributions made with respect to the Claim, before any Distribution is made on account of such Claim, any and all of the claims, rights and Causes of Action of any nature that the Debtor may hold against the Holder of such Claim; provided, however, that neither the failure to effect such a setoff, the allowance of any Claim hereunder, any other action or omission of the Debtor, nor any provision of the Plan shall constitute a waiver or release by the Debtor or the Creditor Trustee of any such claims, rights and Causes of Action that the Debtor may possess against such holder. If the Debtor fails to setoff against a Holder of a Claim and seeks to collect a claim from the Holder of such Claim after a Distribution to the Holder of such Claim pursuant to the Plan, the Reorganized Debtor or Creditor Trustee, as applicable, shall be entitled to full recovery on its claim, if any, against the Holder of such Claim or Interest.

ARTICLE XI EXECUTORY CONTRACTS AND UNEXPIRED LEASES

11.1. *Executory Contracts and Unexpired Leases to be Assumed*

Except as otherwise provided herein or in any order of the Bankruptcy Court, on the Effective Date or no later than thirty (30) days after the Effective Date, every Executory Contract shall be deemed rejected unless it is identified on the Schedule of Assumed Executory Contracts and Unexpired Leases. The Debtor/Reorganized Debtor reserves the right to modify the treatment of an Executory Contract pursuant to this Plan. Each Executory Contract on the Schedule of Assumed Executory Contracts and Unexpired Leases shall be assumed only to the

extent that it constitutes an executory contract or unexpired lease as contemplated by § 365 of the Bankruptcy Code. Nothing contained in this Plan constitutes an admission by the Debtor that any such contracts or leases are “executory” or that the Debtor has any liability thereunder. Further, such assumption is subject to the same rights that the Debtor held or holds on or after the Petition Date to modify or terminate such agreement(s) under applicable non-bankruptcy law. If the Bankruptcy Court or any other court of competent jurisdiction determines before, on, or after the Effective Date, that any agreement in the form of a lease of real or personal property identified for assumption on the Schedule of Assumed Executory Contracts and Unexpired Leases is, in fact, a secured transaction, the resulting secured indebtedness arising from such determination shall be treated as a Class 4 Claim. Each Executory Contract assumed pursuant to this section shall be fully enforceable by the Reorganized Debtor in accordance with its terms, except as modified by the provisions of the Plan, any order of the Bankruptcy Court authorizing and providing for its assumption or applicable federal law.

11.2. *Approval of Assumptions*

Subject to the occurrence of the Closing, the Confirmation Order (except as otherwise provided therein) shall approve the assumptions, revestments, and, to the extent not subject to dispute, the cure amounts described in this Article and listed on the Schedule of Assumed Contracts pursuant to § 365 of the Bankruptcy Code.

11.3. *Objections to Assumption of Executory Contracts and Unexpired Leases*

Any Entity objecting to the proposed assumption of an Executory Contract based on any ground, including a lack of adequate assurance of future performance or the adequacy of the cure amount listed in the Schedule of Assumed Contracts and Unexpired Leases, shall File and serve a written objection to the proposed assumption of such Executory Contract by the same deadline and in the same manner established for filing objections to Confirmation.

Failure to File an objection within the time period set forth above shall constitute consent to the assumption of those Executory Contracts in the Reorganized Debtor, including an acknowledgment that the proposed assumption provides adequate assurance of future performance. If any Entity files an objection to the proposed assumption of an Executory Contract by the Debtor based on any ground other than the adequacy of the cure amount set forth in the Schedule of Assumed Contracts and Unexpired Leases, and the Bankruptcy Court ultimately determines that the Debtor cannot assume such contract or lease or that the Debtor cannot provide adequate assurance of future performance as proposed or in any modified proposal submitted by the Debtor, then the Executory Contract shall automatically be deemed to have been rejected pursuant to this Article.

11.4. *Payments Related to Assumption of Executory Contracts and Unexpired Leases*

If not the subject of *bona-fide* dispute pursuant to this Article as of Confirmation Date, monetary defaults, if any, under each Executory Contract to be assumed under the Plan shall be satisfied by the Debtor pursuant to § 365(b)(1) by payment in Cash of the amount set forth in the Cure Amounts Motion or such other amount as ordered by the Bankruptcy Court or agreed to by

the parties on or as soon after the Effective Date as practicable or on such other terms as agreed to by the parties to such Executory Contract. In the event of a *bona-fide* dispute pursuant to this Article, payment of the amount otherwise payable hereunder shall be made following entry of a Final Order or agreement by the Debtor and the party to the Executory Contract.

11.5. *Rejection of Executory Contracts*

The Plan constitutes and incorporates a motion by the Debtor to reject, as of the Effective Date, all Executory Contracts to which the Debtor is a party, except for Executory Contracts that (a) have been assumed or rejected pursuant to Final Order of the Bankruptcy Court, (b) are the subject of a separate motion pursuant to § 365 of the Bankruptcy Code to be Filed and served by the Debtor on or before the Confirmation Date, or (c) is specifically designated on the Schedule of Assumed Contracts and Unexpired Leases.

The Confirmation Order shall constitute an order of the Bankruptcy Court approving such rejections, pursuant to § 365 of the Bankruptcy Code, effective as of the Petition Date. Any party to an Executory Contract identified for rejection as provided herein may, within the same deadline and in the same manner established for Filing objections to Confirmation, File any objection thereto. Failure to File any such objection within the time period set forth above shall constitute consent and agreement to the rejection.

11.6. *Bar Date for Rejection Damages*

If the rejection of an Executory Contract pursuant to this Article gives rise to a Claim by the other party or parties to such Executory Contract, such Claim must be Filed with the Bankruptcy Court by the Rejection Damages Bar Date. If such Claim is timely Filed and is an Other Secured Claim, it shall be classified in Class 4. If such Claim is timely Filed and is a General Unsecured Claim, it shall be classified in Class 5; provided, however, that in either event, any Claim arising from the rejection of an Executory Contract shall be forever barred and shall not be enforceable against the Debtor or its Estate, affiliates, successors, or properties, unless a proof of Claim is Filed by the Rejection Damages Bar Date.

ARTICLE XII RELEASES; INDEMNIFICATION; PLAN INJUNCTION

12.1. *Binding Effect*

Except as otherwise provided in § 1141(d)(3) of the Bankruptcy Code, and subject to the occurrence of the Effective Date, on and after entry of the Confirmation Order, the provisions of this Plan shall bind every Holder of a Claim against or Interest in any Debtor and inure to the benefit of and be binding on such Holder's respective successors and assigns, regardless of whether the Claim or Interest of such Holder is impaired under this Plan and whether such Holder has accepted the Plan.

12.2. *Compromise and Settlement of Claims, Interests, and Controversies*

Pursuant to §§ 363 and 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good-faith compromise of substantially all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim may have with respect to any Allowed Claim or Interest or any distribution to be made on account of such Allowed Claim or Interest. Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtor, the Estate, and Holders, and is fair, equitable, and reasonable. In accordance with the provisions of the Plan, pursuant to § 363 of the Bankruptcy Code and Bankruptcy Rule 9019(a), without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Reorganized Debtor may compromise and settle Claims against them and Causes of Action against other Entities.

12.3. *Discharge of Claims and Termination of Interests*

Upon the Effective Date, and in consideration of the Distributions to be made under this Plan, except as otherwise provided in this Plan or in the Confirmation Order, each Holder of a Claim or Interest and any successor, assign, or affiliate of such Holder shall be deemed to have forever waived, released, and discharged the Debtor of and from any and all Claims, Interests, rights, and liabilities that arose prior to the Effective Date. Except as otherwise provided in the Plan, upon the Effective Date, all such Holders of Claims and Interests and their successors, assigns, and affiliates shall be forever precluded and enjoined, pursuant to §§ 105, 524, and 1141 of the Bankruptcy Code, from asserting any such discharged Claim against or terminated Interest in the Debtor or Reorganized Debtor.

12.4. *Releases*

(a) *Release by the Debtor*

As of the Effective Date, except for the rights that remain in effect from and after the Effective Date to enforce this Plan, the Plan Supplement Documents, and the Plan Documents, for good and valuable consideration, including the contributions and services of the Released Parties to the Debtor's reorganization, the adequacy of which is hereby confirmed, and except as otherwise expressly provided in the Plan or the Confirmation Order, as an integral component of this Plan, the Released Parties are deemed forever released and discharged by the Debtor, the Reorganized Debtor, and the Estate from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses, and liabilities whatsoever, including any derivative claims, asserted or assertable on behalf of the Debtor, the Reorganized Debtor, or the Estate, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that the Debtor, the Reorganized Debtor, or the Estate would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim or Interest or other Entity, based on or related to, or in any manner arising from, in whole or in part,

the Debtor, the Chapter 11 Case, the subject matter of or the transactions or events giving rise or related to, any Claim or Interest that is treated in this Plan, the Debtor's business, contractual arrangements between the Debtor and any Released Party, the Restructuring, the restructuring of any Claim before or during the Chapter 11 Case, the Disclosure Statement, this Plan, the Plan Support Documents, and the negotiation, formulation, or preparation thereof or the terms therein, the solicitation of votes with respect to this Plan, or any act or omission, other than Claims or Causes of Action arising out of or related to any act or omission of a Released Party that is a criminal act, willful misconduct, or gross negligence.

(b) ***Release by a Holder of a Claim***

As of the Effective Date, except for the rights that remain in effect from and after the Effective Date to enforce this Plan, the Confirmation Order, the Plan Supplement Documents, and the Plan Documents, for good and valuable consideration, including the contributions and service of the Released Parties to the Debtor's reorganization, the adequacy of which is hereby confirmed, and except as otherwise expressly provided in the Plan or the Confirmation Order, as an integral component of this Plan, the Released Parties are deemed forever released and discharged by the Releasing Parties from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses, and liabilities whatsoever, including any derivative claims asserted or assertable on behalf of the Debtor, the Reorganized Debtor, or the Estate, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that such Holders or their affiliates would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim or Interest or other Entity, based on or related to, or in any manner arising from, in whole or in part, the Debtor, the Chapter 11 Case, the subject matter of or the transactions or events giving rise or related to, any Claim or Interest that is treated in this Plan, the Debtor's business, contractual arrangements between the Debtor and any Released Party, the Chapter 11 Case, the Restructuring, the restructuring of any Claim before or during the Chapter 11 Case, the Disclosure Statement, this Plan, the Plan Support Documents, and the negotiation, formulation, or preparation thereof or the terms therein, the solicitation of votes with respect to this Plan, or any act or omission, other than Claims or Causes of Action arising out of or related to any act or omission of a Released Party that is a criminal act, willful misconduct, or gross negligence.

12.5. *Exculpation and Protected-Party Injunction*

(a) ***Exculpation***

To the extent permitted by applicable law, neither the Committee nor the members of the Committee and the Committee Professionals shall have or incur, and the Committee, the members of the Committee and the Committee Professionals are hereby released and exculpated from any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, loss, and liability for any claim in connection with or arising out of the administration of the Chapter 11 Case, including, without limitation, the planning, filing or the administration of the Chapter 11 Case, the formulation, preparation, dissemination, approval, confirmation, administration, or consummation of the Plan, the Disclosure Statement, the solicitation of votes for or confirmation

of the Plan or consummation or administration of the Plan, except to the extent arising out of or related to any act or omission of the Committee or a member of the Committee that is a criminal act, willful misconduct, or gross negligence.

(b) *Protected-Party Injunction*

The Bankruptcy Court shall retain exclusive jurisdiction over any suit brought on any claim or Cause of Action against a Protected Party in connection with or arising out of the administration of the Chapter 11 Case, including the negotiation and pursuit of the Disclosure Statement, the Plan Supplement Documents, the Plan Documents, the Restructuring, the solicitation of votes for, or confirmation of, this Plan, the funding of the Plan, the occurrence of the Effective Date, the administration of this Plan or the property to be distributed under the Plan, the issuance of securities under or in connection with this Plan or the transactions in furtherance of any of the foregoing, and any Entity bringing such suit shall do so in the Bankruptcy Court or such other court as the Bankruptcy Court may direct. The protections of this Section shall be in addition to, and shall not limit, all other releases, injunctions, exculpations, and any other applicable law or rule protecting Protected Parties from liability. By accepting Distributions to this Plan, each Holder of an Allowed Claim will be deemed to have affirmatively and specifically consented to be bound by this Plan, including the injunctions set forth in this Plan.

12.6. *Injunction Related to Releases and Exculpation*

The Confirmation Order shall permanently enjoin the commencement or prosecution by any Entity, whether directly, derivatively, or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses, or liabilities released or exculpated pursuant to this Plan.

12.7. *Term of Stay or Injunctions*

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

12.8. *Injunction Against Interference with Plan*

Upon entry of the Confirmation Order, all Holders of Claims and Interests and all other parties in interest, along with their respective successors and assigns and present and former affiliates, employees, agents, officers, directors, and principals, shall be enjoined from taking any action to interfere with the implementation or occurrence of the Effective Date.

**ARTICLE XIII
MISCELLANEOUS**

13.1. Retention of Jurisdiction

Notwithstanding entry of the Confirmation Order, the Bankruptcy Court shall retain jurisdiction as is legally permissible, including, without limitation, for the following purposes:

(a) to determine (i) any Disputed Claims, Disputed Interests and all related Claims accruing after the Confirmation Date including rights and liabilities under contracts giving rise to such Claims, (ii) the validity, extent, priority and nonavoidability of consensual and nonconsensual Liens and other encumbrances, (iii) preconfirmation tax liability pursuant to § 505, and (iv) controversies and disputes regarding the interpretation of the Plan and documents executed in connection therewith;

(b) to allow, disallow, estimate, liquidate or determine any Claim or Interest against a Debtor and to enter or enforce any order requiring the filing of any such Claim or Interest before a particular date;

(c) to approve all matters related to the assumption, assumption and assignment, or rejection of any Executory Contract of the Debtor pursuant to § 365 and Article XI hereof;

(d) to determine any request for payment of an Administrative Claim entitled to priority under § 507(a)(1), including compensation of parties entitled thereto, or fees and reimbursements to the Reorganized Debtor;

(e) to resolve controversies and disputes regarding the interpretation and implementation of the Plan, any disputes relating to whether or not a timely and proper proof of Claim was Filed or whether a Disallowed Claim or Disallowed Interest should be reinstated;

(f) to implement the provisions of the Plan and entry of orders in aid of confirmation and consummation of the Plan, including any disputes concerning the enforceability or applicability of the releases and injunctions contained herein;

(g) to modify the Plan pursuant to § 1127 of the Plan;

(h) to adjudicate any and all Causes of Action that arose in the Case prior to the Confirmation Date or in connection with the implementation of the Plan, whether or not pending on the Confirmation Date, including without limitation, any remands of appeals;

(i) to resolve disputes concerning any reserves with respect to Disputed Claims, Disputed Interests or the administration thereof;

(j) to resolve disputes, including to hear, adjudicate, and resolve any matter or dispute brought by the Reorganized Debtor, including (i) Claims objections and (ii) enforcement actions related to the GUC Payment Reconciliation.

(k) to hear, adjudicate, and resolve any matter of dispute brought by the Creditor Trustee, including (i) objections to Class 5 Claims; (ii) adversary proceedings relating to the Transferred Preference Claims; and (iii) any other matter relating to Class 5, a Creditor Trust

Asset, this Plan, a Plan Document, or Plan Supplement Document, or anything related to the Plan and the Confirmation Order;

(l) to resolve any disputes concerning whether a person or entity had sufficient notice of the Case, the applicable Bar Date, the hearing on the approval of the Disclosure Statement as containing adequate information, or the Confirmation Hearing for the purpose of determining whether a Claim or Interest is discharged hereunder or for any other purpose;

(m) to determine any and all applications, Claims, Interests, pending adversary proceedings and contested matters (including, without limitation, any adversary proceeding or other proceeding to recharacterize agreements or reclassify Claims or Interests) in these Case;

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

(o) to seek the issuance of such orders in aid of execution of the Plan, to the extent authorized by § 1142 of the Bankruptcy Code;

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

(q) to recover all Assets of the Debtor and property of the Estate, wherever located, including any Cause of Action;

(r) to resolve any dispute relating to the approval and payment of the fees and expenses of the Reorganized Debtor or its respective professionals;

(s) to resolve matters concerning state, local, and federal taxes in accordance with §§ 346, 505, and 1146;

(t) to hear any other matter not inconsistent with the Bankruptcy Code;

(u) to resolve any and all disputes or controversies relating to distributions to be made, and/or reserves or escrows to be established, under the Plan;

(v) to enter one or more final decrees closing the Case;

(w) to enforce the Plan, including the releases, injunctions, and exculpations granted under Sections 12.4, 12.5, 12.6, 12.7, and 12.8 of the Plan; and

(x) to approve settlements relating to the above.

13.2. *Successors and Assigns*

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

13.3. *Subordinated Claims*

The allowance, classification, and treatment of all Allowed Claims and Interests and the respective Distributions and treatments thereof under this Plan shall take into account and conform to the relative priority and rights of Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, §§ 510(a), (b), or (c) of the Bankruptcy Code, or otherwise. Pursuant to § 510 of the Bankruptcy Code, the Debtor reserves the rights to reclassify any Allowed Claim in accordance with any contractual, legal, or equitable subordination relating thereto.

13.4. *Ipsa Facto and Similar Provisions Ineffective*

Any term of any policy, contract, instrument, or other obligation applicable to the Debtor shall be void and of no further force or effect with respect to the Debtor to the extent that such policy, contract, or other obligation is conditioned on, creates an obligation of the Debtor as a result of or gives rise to a right of any Entity based on any of the following (a) the insolvency or financial condition of the Debtor, (b) the commencement of the Chapter 11 Case, and (c) the confirmation or consummation of this Plan.

13.5. *Cram Down*

If all of the applicable requirements for Confirmation of the Plan are met as set forth in § 1129(a) except subsection (8) thereof, the Debtor may request the Bankruptcy Court to confirm the Plan pursuant to § 1129(b), notwithstanding the requirements of § 1129(a)(8), on the basis that the Plan is fair and equitable as to the Creditors and does not discriminate unfairly with respect to any Impaired Class of Claims against the Debtor that does not vote to accept the Plan as described in the Disclosure Statement. The Debtor reserves the right to alter the treatment of any Class in order to effectuate a cram down under § 1129(b).

13.6. *Modification of the Plan*

The Debtor reserves the right, in accordance with the Bankruptcy Code, to amend or modify this Plan prior to the Confirmation Date. After the Confirmation Date, the Debtor may, upon order of the Court, amend or modify this Plan in accordance with § 1127(b), or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purposes and intent of this Plan.

13.7. Withdrawal or Revocation of the Plan

The Debtor reserves the right to revoke or withdraw the Plan prior to the Confirmation Date. If the Plan is revoked or withdrawn by the Debtor, or if the Confirmation Date does not occur with respect to the Debtor, the Plan shall be of no further force or effect.

13.8. Notices

All notices, requests, elections, or demands in connection with the Plan shall be in writing and shall be deemed to have been given when received or, if mailed, five (5) days after the date of mailing provided such writing shall have been sent by registered or certified mail, postage prepaid, return receipt requested, and sent to the following:

To the Debtor or Reorganized Debtor: ValuePart, Incorporated
945 Lakeview Parkway
Suite 110
Vernon Hills, Illinois 60061-1452

Counsel for the Debtor: Marcus A. Helt
Thomas C. Scannell
Mark C. Moore
Gardere Wynne Sewell LLP
2021 McKinney Avenue
Suite 1600
Dallas, Texas 75201
Telephone: (214) 999-3000
Facsimile: (214) 999-4667

To Creditor Trust _____

Creditor Trust’s Counsel _____

To the Exit Lender: _____

Telephone: (____) ____ - ____
Facsimile: (____) ____ - ____

All notices and requests to Creditors and Interest Holders shall be sent to their last-known addresses. The Debtor and the Reorganized Debtor may designate in writing any other address for purposes of this Section 13.8, which designation shall be effective upon receipt.

13.9. *Implementation of Plan*

The parties shall use reasonable efforts and shall cooperate with one another to effect the transactions contemplated by the Plan. Each of the parties hereto shall execute such documents and other papers and take such further actions as may be reasonably required or desirable to carry out the provisions hereof and the transactions contemplated hereby.

13.10. *Severability*

Should any term or provision of the Plan be determined the Bankruptcy Court to be invalid, void or unenforceable, such determination shall in no way limit or affect the enforceability or operative effect of any other provision of the Plan. If any term or provision of the Plan is of such a character as to deny Confirmation, the Debtor reserves the right to strike such provisions from the Plan and seek Confirmation of the Plan as modified. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

13.11. *All Claims*

This Plan is intended to deal with all Claims against the Debtor of whatever character whether or not disputed, contingent, or liquidated and whether or not allowed by the Bankruptcy Court under § 502 of the Bankruptcy Code. However, only those Claims Allowed under § 502 shall be entitled to receive the treatment afforded by the Plan.

13.12. *Immediate Binding Effect*

This Plan shall be binding on and inure to the benefit of the Debtor, the Reorganized Debtor, all present and future Holders of Claims and Interests, and their respective successors and assigns, and all other parties in interest in the Case. In addition, notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and the Plan Supplement Documents shall be immediately effective and enforceable and deemed binding on the Debtor, the Reorganized Debtor, and any and all Holders of Claims or Interests (irrespective of whether their Claims or Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each Entity acquiring property right under the Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtor.

13.13. *Additional Documents.*

On or before the Effective Date, the Debtor may File with the Bankruptcy Court such agreements and other documents in form and substance reasonably acceptable to the Debtor as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtor or Reorganized Debtor, as applicable, and all Holders receiving distributions pursuant to the Plan and all other parties in interest may, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

13.14. *Statutory Committee and Cessation of Fee and Expense Payment.*

On the Effective Date, the Committee is dissolved, and members thereof shall be released and discharged from all rights and duties from or related to the Chapter 11 Case. The Reorganized Debtor shall no longer be responsible for paying any fees or expenses incurred by any statutory committees after the Effective Date.

13.15. *Reservation of Rights.*

Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Bankruptcy Court enters the Confirmation Order, and the Confirmation Order shall have no force or effect if the Effective Date does not occur. None of the filing of the Plan, any statement or provision contained in the Plan, or the taking of any action by any Debtor with respect to the Plan, the Disclosure Statement, or the Plan Supplement Document shall be or shall be deemed to be an admission or waiver of any rights of any Debtor with respect to the Holders before the Effective Date.

[Signature to Follow]

Dated: July 1, 2017

Respectfully submitted,

VALUEPART, INCORPORATED

By: /s/ Greg Baracato
Chief Restructuring Officer

Prepared by:

Marcus A. Helt (TX 24052187)
Thomas C. Scannell (TX 24070559)
GARDERE WYNNE SEWELL LLP
2021 McKinney Avenue, Suite 1600
Dallas, TX 75201
Telephone: (214) 999-3000
Facsimile: (214) 999-4667

**COUNSEL FOR DEBTOR AND
DEBTOR-IN-POSSESSION**

EXHIBIT "A"

POTENTIAL PREFERENCE AMOUNTS

ValuePart, Incorporated
Potential Preference Claim Amounts

Name	Amount
945 LLC Total	\$19,001.04
AAA COOPER TRANSPORTATION Total	\$87,725.11
ADVANCED RESOURCES Total	\$12,590.16
AMERICAN EXPRESS Total	\$48,821.37
AT&T Total	\$28,716.21
BCBS OF IL Total	\$64,346.23
BDO Total	\$352,417.06
BLACK CAT BLADES Total	\$489,352.70
BOYD AND SON'S Total	\$14,472.66
BRAHMA BOLT AND MILL SUPP Total	\$105,501.16
BULLDOG SEALING PRODUCTS Total	\$16,071.78
BUSINESS DEVELOPMENT (CHI Total	\$262,489.64
CANADA CUSTOMS AND REVENU Total	\$47,280.71
CEP INTERNATIONAL LTD Total	\$20,455.98
CH ROBINSON WORLDWIDE, IN Total	\$38,910.23
CNH AMERICA LLC Total	\$41,731.01
CONGRESS ST INV/EFFINGHAM Total	\$47,475.00
CR3 PARTNERS, LLC Total	\$100,000.00
DAECHANG FORGING CO., LTD Total	\$851,908.04
DAY & ROSS Total	\$7,203.15
DCT PACIFIC COAST LLC Total	\$53,186.37
DELTA TRACK & EQUIPMENT L Total	\$17,759.67
DICOM FREIGHT Total	\$14,567.49
DONG AH CONSTR. IND. CO., Total	\$166,366.85
EQUIPMENT SALES & SERVICE Total	\$17,984.66
EVERLAST GROUP,THE Total	\$50,614.47
FEDEX FREIGHT Total	\$253,004.41
FINPA U.S.A. Total	\$12,000.00
FMC Total	\$23,000.00
GARDERE LLP Total	\$200,000.00
GENERAL NOLI USA INC Total	\$28,132.34
GREAT-WEST LIFE ASSURANCE Total	\$11,412.92
GREG CONNOR Total	\$25,735.86
GUARDIAN Total	\$8,863.26
HAIYANG DELI FOUNDRY CO., Total	\$114,364.53
HANGZHOU ZHONGCE RUBBER C Total	\$310,033.42
HANJIN HEAVY INDUSTRY CO. Total	\$190,568.50
HERCULES SEALING PRODUCTS Total	\$8,218.23
ICON OWNER POOL 6 EL PASO Total	\$100,947.33
INDUS TRAC PARTS-IL Total	\$8,220.00
INDUS TRAC PARTS-LA Total	\$7,520.00
INDUS TRAC PARTS-NY Total	\$23,854.40
INDUS TRAC PARTS-PA Total	\$63,512.28
INDUS TRAC PARTS-TX Total	\$74,560.00
INDUSTRIAL TRAC PARTS-GA Total	\$13,360.00
INDUSTRIAL TRAC PARTS-TN Total	\$18,460.00
INTERTRACTOR AMERICA CORP Total	\$285,947.44
ISA PASSINI Total	\$8,500.00
ITB TRANSPORT INC Total	\$13,702.19
IVANO PASSINI Total	\$8,500.00
JEMCO SDN. BHD. Total	\$458,960.47
JIANGXI JINLILONG IMP & E Total	\$77,224.22

ValuePart, Incorporated
Potential Preference Claim Amounts

Name	Amount
KEY STONE ONE CO. LLC Total	\$63,927.00
KTSU AMERICA Total	\$90,161.32
KUNSHAN KENSETSU BUHIN CO Total	\$265,092.00
LABOR WORKS Total	\$7,062.91
LIAONING LIAOAN CONSTRUCT Total	\$85,095.96
MANITOU LIN TRANSPORT INC. Total	\$15,498.40
MEISER ENTERPRISES, INC. Total	\$36,900.00
METARIS INC. Total	\$12,497.09
MINISTERE DU REVENUE DU Q Total	\$38,792.07
MONTEGRAPPA ENTERPRISES I Total	\$46,676.56
NEW ENGLAND MOTOR FREIGHT Total	\$8,104.72
NINGBO TUOXING PRECISION Total	\$11,175.00
NINGBO YINZHOU PRECISION Total	\$48,850.00
NIXON PEABODY Total	\$63,202.41
NUOVA SJAT Total	\$10,549.42
OAK HARBOR FREIGHT LINES, Total	\$19,704.86
PAINT VALLEY EQUIPMENT LT Total	\$11,037.43
PASSINI HOLDING SRL Total	\$66,666.66
PEGASUS INT'L INC. Total	\$10,600.54
PENINSULA TRUCK LINES, IN Total	\$12,934.79
PETER WITWER NORTH AMERI Total	\$279,593.93
PLANTE & MORAN, PLLC Total	\$14,392.50
PUKDOO INDUSTRIAL CO., LT Total	\$166,318.00
QUANZHOU HENGLIDA ENGINEE Total	\$145,048.97
R & L CARRIERS, INC. Total	\$161,408.19
RELIANT ENERGY Total	\$7,636.74
RICCARDO CARRADORI Total	\$10,000.00
RUSSELL A. FARROW LIMITED Total	\$67,563.69
SAMEK CORPORATION Total	\$10,000.00
SOUTHEASTERN FREIGHT LINE Total	\$11,484.50
SOUTHTOWN CHRYSLER DODGE Total	\$51,577.95
ST FREIGHT, LLC Total	\$7,260.00
SUPERIOR TIRE & RUBBER CO Total	\$11,519.62
TAHA FINANCIAL & TAX CONS Total	\$8,000.00
TEXAS PALLET COMPANY Total	\$8,660.00
TRINITY LOGISTICS, INC. Total	\$44,780.00
UNIQUE FASTENERS Total	\$29,441.32
UPS Total	\$75,330.74
USF HOLLAND INC. Total	\$10,482.52
VALUEPART CHANGTAI MACHINERY PRODUCTION CO Total	\$1,033,007.70
VAN KAM FREIGHTWAYS LTD. Total	\$23,218.17
WILLIS OF WISCONSIN, INC. Total	\$18,671.00
XPOLOGISTICS Total	\$21,286.57
YINGKOU PUKDOO INDUSTRIAL Total	\$32,391.00
YRC REIMER Total	\$8,891.86
Grand Total	\$8,508,044.66

EXHIBIT "B"

REAL PROPERTY LEASES ASSUMED

**Exhibit B--Valuepart Plan of Reorganization
Schedule of Assumed Real Property Leases**

Property Description	Address	Cure Amount	Counterparty
Vancouver Distribution Center	7137 Venture Street, Delta, BC V4G 1E9, Canada	\$0	Montegrappa Enterprises, Inc.
Vernon Hills Office	945 Lakeview Parkway, Suite 110 Vernon Hills, IL 60061	\$0	945 Lakeview Partnership, LLC
Dallas Distribution Center	9804 Chartwell Dallas, TX 75243	\$0	Icon Owner Pool 6 El Paso, LLC
Savannah Distribution Center	259 Industrial Blvd. Rincon, GA 31326	\$0	Congress Street Investors/Effinghm AM Industrial Park 5, LLP
Toronto Distribution Center	2150B Drew Road, Mississauga, On L5S 1B1, Canada	\$0	Laurel Lynn Investments Ltd.
Valley City Distribution Center	Original Liverpool Township Lot, No. 2, Section No. 6, Liverpool Township, Inc.	\$0	Keystone One Company, Ltd.
Seattle Distribution Center	1725 Puyallup Street Sumner, WA 98390	\$0	DCT Pacific Coast, LLC
Reno Distribution Center	2225 Greg Street, Suite 102, Sparks, NV 89431	\$0	MMK Properties
Vernon Hills Apartment	945 Lakeview Parkway Suite 110, Vernon Hills, IL 60061	\$0	Finpa Trading Int'l, Inc.
Toronto Distribution Center II	2150B Drew Road, Mississauga, ON L5S 1B1, Canada	\$0	Ben-Ted Construction Ltd.

EXHIBIT "C"

**SCHEDULE OF ASSUMED NON-REAL PROPERTY LEASES
AND EXECUTORY CONTRACTS**

Valuepart Plan-Exhibit C
Schedule of Assumed Non-Real Property Leases and Executory Contracts

Lease or Contract Description	Cure Amount	Counter Party/Vendor
Electric Picker, Equipment Lease Agreement	\$0	Darr Equipment Co.
Copier	\$0	Toshiba
Copier, Maintenance and Equipment Lease Agreement	\$0	Konica
Copier	\$0	CCT Financial
Forklift, Equipment Lease Agreement through Sept. 2019	\$0	Southeast Industrial Equipment, Inc.
Forklift, Equipment Lease Agreement through July 2021	\$0	Southeast Industrial Equipment, Inc.
Mail Machine, Equipment Lease Agreement	\$0	Pittney Bowes
Copier	\$0	Leaf
Telecommunications Service Agreement	\$0	TDS Metrocom, LLC
Cooperative Sales & Marketing Agreement, as Amended	\$0	John Construction & Forestry Company
Cooperative Sales & Marketing Agreement, as Amended	\$0	John Deere Canada ULC
Cooperative Sales & Marketing Agreement, as Amended	\$0	Deere & Company
BCBS Employee Group Medical Insurance Plan	\$0	Blue Cross Blue Shield of Illinois
Classic International Loss Occuring Insurance Policy (#I-435338801)	\$0	Coface North American Insurance Company
Supply Agreement Dated March 18, 2016	\$0	CNH Industrial America LLC
Great-West Employee Group Benefits Plan (Canada)	\$0	Great-West Life Assurance Co.
Guardian Employee Group Benefits Plan	\$0	Guardian
Guardian Employee Group Dental Insurance Plan	\$0	Guardian
Guardian Employee Group Vision Insurance Plan	\$0	Guardian
Guardian Employee Group AD&D Insurance Plan	\$0	Guardian
Guardian Employee Group Basic Life Insurance Plan	\$0	Guardian
Guardian Employee Group Long Term Disability Insurance Plan	\$0	Guardian
Passini Group Services Supply Contract	\$0	Passini Holdings Slr
Merchant Services Agreement	\$0	Moneris
Auto Insurance Policy (#BA BA677385-15-CAG)	\$0	Travelers Indemnity Company
Commercial General Liability Insurance Policy (#Y-630-8A066193-TIA-15)	\$0	Trevelers Indemnity Company of America
Umbrella Liability Insurance Policy (#YSM-CUP-8A77477-TIL-15)	\$0	Trevelers Indemnity Company of America
CNH Cooperative Sales & Marketing Agreement	\$0	CNH
Principal Employee 401(k)	\$0	The Principal Life Insurance Company
Sun Advantage contract	\$0	Sun Life Insurance
Employee Agreement with Norah Price dated 4/3/2017	\$0	Norah Price
Employee Agreement with Nate Stupka dated 9/28/2016	\$0	Nate Stupka
Employee Agreement with Greg Miyake dated 11/1/2016	\$0	Greg Miyake
ADP-Canada and USA (Payroll and COBRA)	\$0	ADP Canada and USA
Flex Employee Flexibility Account	\$0	Employee pool
Vtrack Trademark License Agreement	\$0	Undercarriage

EXHIBIT "E"

EXITING FINANCING DOCUMENTS

PNC Bank, National Association
200 South Wacker Drive, Suite 600
Chicago, Illinois 60606



June 28, 2017

\$25,000,000
Senior Secured Credit Facility
Proposal Letter

Valuepart, Inc.
945 Lakeview Pkwy
Vernon Hills, IL 60061
Attention: Ivano Passini

Dear Mr. Passini:

You have requested that PNC Bank, National Association ("PNC") provide Valuepart, Inc. (as a reorganized debtor under the Plan of Reorganization, defined below, the "Borrower") with an aggregate of \$25,000,000 in senior secured financing, the proceeds of which will be used to (a) refinance existing senior bank debt of Borrower upon the effectiveness of the Plan of Reorganization, (b) partially fund capital expenditures, (c) provide for the ongoing working capital needs of the Borrower, and (d) pay fees and expenses related to this transaction. Borrower filed a voluntary petition under chapter 11 of the United States Bankruptcy Code in the Bankruptcy Court for the Northern District of Texas (the "Bankruptcy Court") to commence case number 16-34169 in the Bankruptcy Court (the "Bankruptcy Case"), and it has filed that certain Chapter 11 Plan of Reorganization of Valuepart, Incorporated dated as of May 24, 2017 in the Bankruptcy Case, as amended, modified, otherwise supplemented or confirmed in a manner satisfactory to PNC (the "Plan of Reorganization").

PNC is pleased to present for preliminary discussion purposes only, a proposal to underwrite the senior secured financing of up to \$25,000,000 for the purposes set forth above as more fully described in the attached Preliminary Memorandum of Terms and Conditions (the "Preliminary Term Sheet").

Although PNC intends to hold all of the Credit Facility, PNC reserves the right to syndicate the Credit Facility (either before or after execution of definitive documentation) with a financial institution or group of financial institutions. Accordingly, the Borrower hereby represents and covenants that to the best of its knowledge, all written information and data prepared by the Borrower, concerning the Borrower and its subsidiaries or the transactions contemplated hereby (the "Information") which is made available in writing to PNC by the Borrower or any authorized representative of the Borrower in connection with the transactions contemplated

hereby (as subsequently updated or corrected), will be complete and correct in all material respects and will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein in the aggregate, in light of the circumstances under which such statements were made, not misleading. In arranging and syndicating the Credit Facility, PNC will be using and relying on the Information without independent verification thereof.

It is understood that this letter and Preliminary Term Sheet merely constitute a statement of suggested terms for discussion with respect to the transactions contemplated hereby, do not contain all matters upon which agreement must be reached in order for the transactions contemplated hereby to be consummated and, therefore, do not constitute a binding commitment with respect to these transactions. PNC will not be deemed to have extended any commitment to the Borrower unless and until (i) a formal written commitment letter is issued and executed and delivered, or (ii) all of the parties execute and deliver definitive documentation for the Credit Facility, in each case subject to the conditions contained therein, whichever shall first occur, notwithstanding any deposits received, subsequent conversations, e-mail or correspondence exchanges, draft document exchanges or other communications.

PNC may terminate its obligations under this letter to proceed with the due diligence if the proposed financing is not approved by PNC, if the terms of the transaction are changed in any material respect, if any material information submitted to PNC proves to have been inaccurate or incomplete in any material respect, or if any material adverse change occurs, or any additional information is disclosed to or discovered by PNC, whether prior to Borrower's acceptance of this letter or during the period of such acceptance until the execution of definitive documentation, which PNC deems materially adverse in respect of the condition (financial or otherwise), business, operations, assets, nature of assets, liabilities or prospects of the Borrower or any guarantor.

The Borrower hereby indemnifies and holds harmless PNC and each director, officer, employee and affiliate thereof (each, an "Indemnified Person"), from and against any and all losses, claims, damages, expenses and liabilities incurred by any Indemnified Person that arise out of or relate to any investigation or other proceeding (including any threatened investigation or litigation or other proceedings and whether or not such Indemnified Person is a party thereto) relating to this letter, the Preliminary Term Sheet or the transactions contemplated hereby, including without limitation the reasonable fees and disbursements of counsel (which fees and disbursements may include, but are not limited to, reasonable fees and disbursements of in-house counsel incurred in connection with any of the foregoing) but excluding any of the foregoing claimed by any Indemnified Person to the extent incurred by reason of the gross negligence or willful misconduct of such Indemnified Person as determined by a final nonappealable judgment of a court of competent jurisdiction. PNC shall not be responsible or liable to the Borrower or any other person for consequential damages which may be alleged as a result of this letter, the Preliminary Term Sheet or any of the transactions contemplated hereby. The Borrower's obligations under this paragraph shall survive any termination of this letter except that upon the execution of the definitive financing agreements the terms of such agreements shall supersede these provisions.

This letter and the Preliminary Term Sheet are delivered to the Borrower on the condition that they be kept confidential and not to be shown to, or discussed with, any third party (other than on a confidential or need-to-know basis with the Borrower's directors, officers, employees, counsel and other advisors, or as required by law) without PNC's prior approval; provided, that this letter and the Preliminary Term Sheet may be filed with the Bankruptcy Court so long as references to fees, interest and other pricing are redacted on a basis and to an extent acceptable to PNC.

PNC and Borrower hereby waive any right to trial by jury on any claim, demand, action, or cause of action arising under this proposal letter, the Preliminary Term Sheet, any transaction relating hereto, or any other instrument, document or agreement executed or delivered in connection herewith, whether sounding in contract, tort or otherwise.

In order for PNC to proceed with its due diligence, credit investigation and the transactions contemplated hereby, the Borrower hereby agrees to pay PNC \$ [REDACTED] upon execution of this letter (the "Deposit Fee"). Such Deposit Fee shall be refundable to the Borrower (less the costs and expenses incurred by PNC, including fees and disbursements of outside counsel) only in the event that PNC does not approve this transaction substantially on the terms proposed herein. If PNC's costs and expenses and/or legal fees and expenses exceed the amount of the Deposit Fee, PNC reserves the right to require an increase in the amount of the Deposit Fee to cover such increased costs. In the event that the Borrower requests PNC to cease seeking credit approval, or accepts a commitment from, or otherwise proceeds with a similar financing transaction with another lender or financing source, the Deposit Fee will be deemed earned in its entirety. In addition, the Borrower hereby agrees to pay all costs and expenses incurred by PNC, including fees and expenses of PNC's inside and outside counsel as well as the costs of providing PNC with such appraisal, audits, financial reports and other documents as may be requested in connection with the credit and due diligence investigation. Because PNC will incur these expenses even if no commitment is issued or credit approval received, or the Credit Facility is not consummated for any reason, this expense reimbursement agreement is unconditional and the Borrower shall be obligated to reimburse PNC for such costs and expenses. Borrower agrees to promptly seek Bankruptcy Court approval of Borrower's reimbursement obligations set forth in this paragraph and Borrower's indemnification obligations set forth above, including PNC's right to receive reimbursement of all cost and expense set forth in this paragraph and indemnification obligations set forth above shall be entitled to priority as an administrative expense claim under Section 503(b)(1) of the Bankruptcy Code and to immediate payment upon demand by PNC without any further order of the Bankruptcy Court. The Borrower acknowledges that PNC, in its sole discretion, may require customer, vendor and credit reference checks as well as liens and tax liens, judgment searches, and background reports of the Borrower, and certain key individuals associated with Borrower.

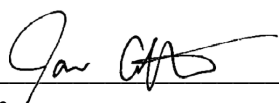
To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each customer, including organizations and businesses, that opens an account. What this means for you: When you open an account, we will ask for your name, address, taxpayer identifying number and other information that will allow us to identify you, such as articles in incorporation. For some businesses and organizations, we may also need to ask for identifying information and documentation relating to certain individuals associated with the business or organization.

We appreciate the opportunity to provide this proposal and look forward to working with you on establishing a successful long-term relationship with your company. We will proceed with the proposed credit and due diligence inquiry after we have received this letter countersigned by Borrower and returned to PNC together with the \$[REDACTED] Deposit Fee before the close of business on June 30, 2017.

[signature page follows]

Sincerely,

PNC BANK, NATIONAL ASSOCIATION

By: 
Name: Jim Clifton
Title: Senior Vice President

The undersigned agrees to and accepts the expense reimbursement, confidentiality and indemnification provisions set forth above:

VALUEPART, INC.

By: _____
Name:
Title:

Borrower's TIN: _____

**PRELIMINARY MEMORANDUM OF TERMS AND CONDITIONS
DATED JUNE 28, 2017¹**

THIS IS A PROPOSAL ONLY, NOT A COMMITMENT

- Borrower(s):** Valuepart, Inc., as a reorganized debtor upon emergence from case number 16-34169 filed under chapter 11 of the United States Bankruptcy Code (11 U.S.C. §§ 101, et. seq., the "Bankruptcy Code") in the United States Bankruptcy Court for the Northern District of Texas. Following legal review of the corporate structure, corporate formation and acquisition agreements, PNC may request that certain of the subsidiaries of Valuepart, Inc. also be Borrowers.
- Guarantor(s):** A newly formed intermediate holding company ("Holdings") to hold all of equity securities of the reorganized Valuepart, Inc., together with all existing and future domestic subsidiaries of Holdings, and to the extent no adverse tax consequences would result therefrom, the guarantee of all existing and foreign subsidiaries of Holdings.
- Agent:** PNC Bank, National Association ("PNC" or "Agent").
- Lender:** PNC Bank, National Association.
- Purpose:**
- (i) Refinance existing senior bank of Borrower upon Borrower's emergence of the Bankruptcy Case.
 - (ii) Partially fund capital expenditures.
 - (iii) Provide for on-going working capital needs.
 - (iv) Pay fees and expenses related to this transaction
- Credit Facility:** An up to \$25,000,000 secured revolving credit facility. For purposes hereof, the "Maximum Revolver Amount" means \$25,000,000. The maximum amount that may be outstanding under the Credit Facility at any time shall be the lesser of (i) the Maximum Revolver Amount less the Availability Block (as defined below) and (ii) the Borrowing Base (as defined below).
- Revolving Credit Availability:** Usage under the Credit Facility shall not exceed the sum of the following (the "Borrowing Base"):

¹ Unless otherwise indicated, all capitalized terms used as defined terms in this preliminary memorandum have the meanings given thereto in the attached Proposal Letter.

- (a) Up to 85% of Eligible Accounts Receivable (or up to 90% of Eligible Accounts Receivable to the extent subject to credit insurance satisfactory to Agent) aged less than 60 days past due (not to exceed 90 days from invoice date), cross aged on the basis of 50% or more past due, plus;
- (b) Up to the lesser of (i) 65% of the costs of Eligible Inventory or (ii) 85% of the net orderly liquidation value percentage of Eligible Inventory, minus
- (c) The Availability Block, minus
- (c) Applicable reserves.

"Availability Block" shall mean \$3,000,000.

Sub Limits:

- 1) Letters of Credit to be issued under the Credit Facility limited to an amount to be determined.
- 2) Inventory availability limited to \$12,500,000.
- 3) Eligible In-Transit Inventory availability limited to \$4,000,000.

All criteria for (a) eligible assets, including without limitation the definitions of Eligible Accounts Receivable, Eligible Inventory and Eligible In-Transit Inventory, (b) advance rates, and (c) applicable reserves and sublimits, shall be determined by Agent. Without limiting the foregoing, Eligible In-Transit Inventory shall be subject to (i) satisfactory documents of title designating Agent as the consignee and (ii) execution and delivery of satisfactory freight forwarder and/or customs broker agreements.

Maturity:

Three (3) years from the closing date.

Interest Rates:

The Credit Facility shall bear interest at (i) the Base Rate plus the applicable margin set forth below or, (ii) commencing with the thirteenth full calendar month following the closing date so long as the Fixed Charge Coverage Ratio (as defined below) for the trailing twelve month period then ended is greater than 1.0 to 1.0, the LIBOR Rate plus the applicable margin set forth below. For the period from the closing date through the end of the second full calendar quarter following the closing date, borrowings shall bear interest at the Base Rate plus the margin set forth in Level III of the table below. Thereafter, the interest rate margins shall be adjusted as of the first day of each calendar quarter based on the average daily Excess Availability for the preceding quarter in accordance with the following table:

<u>Level</u>	<u>Average Daily Excess Availability</u>	<u>LIBOR Margin</u>	<u>Base Rate Margin</u>
I	≥ 66 2/3% of Maximum Revolver Amount	██████	██████
II	≥ 33 1/3% but < 66 2/3% of Maximum Revolver Amount	██████	██████
III	< 33 1/3% of Maximum Revolver Amount	██████	██████

For the avoidance of doubt, no LIBOR borrowings shall be permitted during the first year of the Credit Facility.

"Excess Availability" means, as of any date of determination, the amount available to be borrowed under the Credit Facility at such time (net of then outstanding obligations under the Credit Facility).

Interest will be calculated on the daily outstandings on a 360 day year for the actual number of days elapsed and will be due monthly in arrears on the first business day of each month for Base Rate borrowings and on the last day of each interest period for LIBOR Rate borrowings.

The "Base Rate" shall mean, for any day, a fluctuating per annum rate of interest equal to the highest of (i) the interest rate per annum announced from time to time by the Agent at its Principal Office as its then prime rate, which rate may not be the lowest rate then being charged commercial borrowers by the Agent, (ii) the Federal Funds Open Rate plus ½ of 1%, and (iii) the one month LIBOR rate plus 100 basis points (1%).

LIBOR Rate pricing will be adjusted for any statutory reserves. In the event that the PNC LIBOR rate at any time would be determined to be less than zero, such rate shall be deemed to be zero.

The Borrower shall pay Letter of Credit fees equal to the applicable spread over LIBOR on the aggregate face amount of the Letters of Credit issued under the Credit Facility. In addition, the Borrower shall pay a Letter of Credit fronting fee of ██████ per annum to PNC as the fronting bank, payable quarterly in arrears.

Default Rate: ██████ over the applicable rate.

Collateral: The Credit Facility will be secured by (collectively, the "Collateral):

- (i) first priority perfected security interest in all of the Borrower's and each Guarantor's present and future and wherever located accounts, general intangibles, contract rights, all rights to the

payment of money, instruments, documents, chattel paper, inventory, machinery, equipment, furniture, fixtures, property and plant, licenses, trademarks, tradenames, patents, copyrights and other assets, all proceeds and products thereof; and

- (ii) first priority perfected security interest in (a) 100% of the member or ownership interests of Borrower in its domestic subsidiaries, whether presently existing or subsequently formed or acquired, and to the extent no adverse tax consequences would result therefrom, a first priority lien on up to 65% of the Borrower's, any Guarantor's or any domestic subsidiary's existing or subsequently formed or acquired foreign subsidiaries, and (b) 100% of the member or ownership interests of Holdings in Borrower.

The Credit Facility will be cross-collateralized and cross-defaulted with all other present and future obligations of the Borrower and the Guarantor(s) to the Lender.

Cash Collateral:

In addition to the Collateral set forth above, the Credit Facility shall be secured by cash collateral in an amount equal to \$1,500,000 (the "Cash Collateral"). The Cash Collateral shall be maintained in a separate blocked account with the Agent and subject to a blocked account control agreement satisfactory to the Agent. Agent may apply the Cash Collateral to the obligations owing under the Credit Facility upon an event of default.

Fee Structure:

Deposit Fee:

\$[REDACTED] due and payable upon execution of the proposal letter of which the sum of \$[REDACTED] shall be applied as an underwriting/due diligence process fee. Such Deposit Fee shall be refundable to the Borrower (less costs and expenses incurred by PNC, including, without limitation, the underwriting/due diligence process fee and fees and disbursements of outside counsel and the allocated cost of in-house counsel (collectively, the "Expenses")) only in the event that PNC does not approve this transaction substantially on the terms proposed herein. If PNC's Expenses exceed the amount of the Deposit Fee, PNC reserves the right to require an increase in the amount of the Deposit Fee to cover such increased costs. In the event that the Borrower requests Lender to cease seeking credit approval, or accepts a commitment from, or otherwise proceeds with a similar financing transaction with another lender or financing source, the Deposit Fee will be deemed earned in its entirety.

Closing Fee:

\$[REDACTED], equal to [REDACTED] of the Maximum Revolver Amount. The Deposit Fee, as set forth above and in the transmittal letter accompanying this proposal, less Expenses, shall be credited to the Closing Fee, which

shall be payable on the closing date.

Facility Fee: █████ per annum on the unused portion of the Credit Facility (or █████ per annum of the unused portion of the Credit Facility if usage for any month is less than 50% of the Credit Facility. This fee shall be calculated on the basis of a 360 day year for the actual number of days elapsed and will be payable quarterly in arrears.

Collateral Monitoring Fee: \$████ per month. Field examinations will be charged at PNC's applicable rate, which for examinations performed by PNC is currently an additional \$████ per person-day, plus expenses and administrative fees.

Cash Management, Collections and Remittances: The Borrower shall have established, and will maintain, a cash management and treasury management system at Agent in form and substance satisfactory to Agent. All customers shall be directed to make remittances to a lockbox or blocked account approved and controlled by Agent (the "Controlled Accounts"). The Borrower shall be subject to cash dominion during the term of the Credit Facility. All available funds in the Collection Accounts shall be remitted daily to the Agent for application to the amount outstanding under the Credit Facility. For the purpose of crediting the Borrower's loan account and calculating interest, all items of payment shall be deemed applied by Agent one (1) business day following the business day of Agent's receipt thereof.

Monthly Float Charge: Equal to the product of (a) the Domestic Base Rate for one (1) business day, multiplied by (b) the face amount of all items of payment received during the prior month.

Early Termination Fee: █████ of the Maximum Revolver Amount if terminated on or before the first anniversary of the closing date; █████ of the Maximum Revolver Amount if terminated after the first anniversary of the closing date and on or before the second anniversary of the closing date; █████ of the Maximum Revolver Amount if terminated after the second anniversary of the closing date and on or before the third anniversary of the closing date; and zero if terminated after the third anniversary of the closing date.

Expenses: All expenses incurred by PNC or the Lender, including, without limitation, the Expenses, and reasonable legal, accounting, appraisal, audit, searches and the filing and recording of UCC filings and other security interests, and any other expenses in reference to structuring, documenting, closing, monitoring or enforcing the agreements shall be for the account of the Borrower and payable at closing and otherwise on demand.

Conditions Precedent: Including, but not limited to, the following, with all documents to be satisfactory in form and substance to the Agent:

- (a) No material adverse change in the condition, financial or otherwise, operations, properties, assets or prospects of the Borrower or Guarantor.
- (b) No material threatened or pending litigation or material contingent obligations, including, without limitation, satisfactory resolution of all claims with respect to the reorganized Borrower and pursuant to the Plan of Reorganization involving Ares prior to the closing date.
- (c) Execution of loan documentation and satisfactory legal review of all documentation.
- (d) Satisfactory legal opinions.
- (e) Satisfactory asset-based field examination to be completed by examiners selected by Agent, including that such field examination shall include a validation of all restructuring charges incurred by the Borrower during the Bankruptcy Case.
- (f) Delivery of any landlord's waivers required by the Agent.
- (g) Evidence that all actions necessary or, in the opinion of the Agent, desirable, to perfect and protect the security interests of the Lender have been taken.
- (h) Satisfactory valuations of the Borrower's inventory, machinery and equipment to be completed by appraisers selected by Agent.
- (i) The Borrower will have minimum Excess Availability of \$3,375,000, at closing after giving effect to the Availability Block, payment of fees and expenses on the closing date, advances made on the closing date and subtraction of trade payables 60 days or more past due. Such availability to be evidenced by a Borrowing Base Certificate for the Credit Facility, satisfactory to the Agent.
- (j) Satisfactory review by the Agent, in its sole discretion, of all material contracts including, but not limited to, the supply agreement with Jemco Manufacturing.
- (k) Satisfactory review by the Agent, in its sole discretion, of each intellectual property license utilized by the Borrower, including any such license with the Passini family or any affiliate thereof. Each intellectual property license shall be collaterally assigned to the Agent in a manner satisfactory to the Agent in its sole discretion.

- (l) Satisfactory review by the Agent, in its sole discretion, of the Borrower's employment agreement with Nate Stupka.
- (m) Evidence that Borrower is in compliance with all pertinent Federal, State, and local regulations including, but not limited to, those with respect to EPA, OSHA and ERISA.
- (n) Receipt and satisfactory review of monthly and annual financial projections demonstrating the ability to service the proposed financing.
- (o) Satisfactory review by the Agent, in its sole discretion, of the Plan of Reorganization (including, without limitation, all schedules, exhibits and plan supplements with respect thereto).
- (p) The Bankruptcy Court shall have entered an order, in form and substance satisfactory to Agent, confirming the Plan of Reorganization (the "Confirmation Order"), and the Confirmation Order shall be a final non-appealable order, which has not been stayed by the Bankruptcy Court or by any other court having jurisdiction to issue any such stay. The Confirmation Order shall have been entered upon proper notice to all parties to be bound by the Plan of Reorganization, all as may be required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and any applicable local bankruptcy rules. In addition to the foregoing, unless waived by Agent, the time to appeal the Confirmation Order or to seek review, rehearing, or certiorari with respect to the Confirmation Order must have expired, no appeal or petition for review, rehearing or certiorari with respect to the provisions of the Confirmation Order may be pending, and the Confirmation Order must otherwise be in full force and effect.
- (q) The conditions precedent to the confirmation of the Plan of Reorganization set forth in the Plan of Reorganization shall have occurred and the conditions precedent to the "effective date" set forth in the Plan of Reorganization shall have occurred; in each case, none of such conditions precedent shall have been waived without the prior written consent of Agent; with respect to such conditions precedent to the confirmation of the Plan of Reorganization and effective date, Borrower and the official creditors' committee in the Bankruptcy Case shall have confirmed to Agent in writing that such conditions precedent have been satisfied or waived and that the "effective date" has occurred. All other actions, documents and agreements necessary to implement the Plan of Reorganization shall have been effected or executed and delivered, as the case may be, to the required parties and, to the extent required, filed with the applicable governmental units

in accordance with applicable laws.

- (r) There shall be no adversary proceeding pending in the Bankruptcy Court, or litigation commenced outside of the bankruptcy proceedings that is not stayed pursuant to section 362 of the Bankruptcy Code, seeking to enjoin or prevent the financing or the transactions contemplated hereby.
- (s) Evidence of cancellation of all commitments from, repayment in full of all indebtedness to, and termination of all existing liens in favor of Ares and any other creditor with a lien on the Collateral (except for permitted liens acceptable to Agent), including delivery of a letter confirming the termination.
- (t) Issuance of an unsecured note to the Borrower's general unsecured creditor prior to the bankruptcy proceeding in the principal amount of \$[6,350,000] (the "Junior Creditor Note"). The Junior Creditor Note shall be subordinated to the Credit Facility pursuant to a subordination agreement satisfactory to Agent and shall contain terms and conditions satisfactory to Agent and Lenders, including that (i) except for a one-time payment in the amount of \$[375,000] on the closing date, no cash payments shall be permitted during the first 6 months following the closing date, and (ii) thereafter, commencing with the seventh month following the closing date, cash payments not to exceed \$[125,000] per month shall be permitted only to the extent that, after giving effect to such payment, the Fixed Charge Coverage Ratio (calculated, for the avoidance of doubt, to include such payment as a fixed charge and based on a monthly build-up of EBITDA from the closing date) is greater than 1.0 to 1.0 and no default exists or would result therefrom.
- (u) Issuance of additional indebtedness to the equity owners of Holdings in the aggregate principal amount of \$[10,675,000] (the "Junior Shareholder Indebtedness"). The Junior Shareholder Indebtedness may be secured by a lien on the Collateral (it being understood that such junior and subordinate lien shall be a "silent second" lien) and shall be subordinated to the Junior Creditor Note and the Credit Facility pursuant to a subordination and intercreditor agreement satisfactory to Agent and shall contain terms and conditions satisfactory to Agent and Lenders, including that no amortization of cash interest payments or PIK interest shall be permitted.
- (v) The final legal and capital structure of Borrower to be acceptable to Agent, including satisfactory review of any operating or similar agreement among the Passini family, Jemco Manufacturing and

each other equity investor of Borrower and/or its parent holding companies, as applicable.

Covenants: Usual and customary covenants including but not limited to maintenance of corporate existence, payment on indebtedness and taxes when due, financial reporting requirements (to include monthly internal and annual audited financial statements of the Borrower, quarterly financial statements, monthly accounts receivable and accounts payable agings, monthly inventory listings, and weekly Borrowing Base certificates), delivery of certificate of non-default, limitation on dividends and stock repurchases, limitation on capital expenditures, restriction and quality standards with respect to investments, limitation on other debt, limitation on other liens or guarantees, limitation on change of control, no change in nature of business, limitations on mergers or acquisitions, no change in fiscal year, no additional subsidiaries, limitation on sale of assets, limitations on intercompany loans, payments and other intercompany advances and limitations on transactions with affiliates. Without limiting the foregoing, the Borrower shall not pay or otherwise transfer to any affiliate any amount in respect of quality control, engineering support or other corporate overhead in excess of \$400,000 during any fiscal year, provided that no such payments shall be permitted during an event of default.

Financial covenants will include the following:

- (i) Minimum monthly EBITDA (at levels to be determined) during the first year of the Credit Facility, which shall be determined based on a build-up test of EBITDA from the closing date to the end of each applicable month.
- (ii) Commencing with the thirteen month following the closing date, a minimum monthly Fixed Charge Coverage Ratio covenant of 1.0 to 1.0 determined for the most recently ended twelve month period. "Fixed Charge Coverage Ratio" shall mean the ratio of (a) EBITDA less non-financed capital expenditures and cash taxes paid, divided by (b) the sum of interest and principal on all indebtedness (including, without limitation, payments in respect of the Junior Creditor Note).
- (iii) Minimum Excess Availability, after giving effect to the Availability block and subtraction of trade payables 60 days or more past due, of not less than \$1,000,000 at all times.
- (iv) Maximum capital expenditures in amounts to be determined.

Representations and Warranties: Borrower will make such representations and warranties as may be appropriate in Agent's judgment in light of the proposed transaction and

the general circumstances of the Borrower.

Events of Default: Appropriate events of default, including but not limited, to the following:

- 1) Any non-payment when due of interest and/or principal of any advance, loan or drawing under the Credit Facility, or any fee thereunder. Payment defaults to include violation of the Borrowing Base.
- 2) Any breach in any material respect of any representation or warranty when made.
- 3) Any violation in any respect of any affirmative or negative covenant.
- 4) Any of the security interest or liens granted by the Collateral Documents ceases to be valid, binding and enforceable first priority security interest.
- 5) Any default related to other material indebtedness by the Borrower which has continued beyond the grace period or for a period of time sufficient to permit the acceleration of such indebtedness.
- 6) Any bankruptcy, insolvency, reorganization, attachment, receivership or similar proceeding shall be instituted by or against the Borrower or any Guarantor.
- 7) Any judgment or judgments in the aggregate for the payment of money in excess of an amount to be determined shall be rendered against the Borrower unless the same shall be contested in good faith, and the Borrower establishes reserves satisfactory to Agent.
- 8) Any material adverse change in Borrower's or any Guarantor's results of operations, condition (financial or otherwise), and/or assets.

Governing Law: New York – submission by Borrower to New York jurisdiction.

EXHIBIT "K"

**LIST OF NAMES AND AMOUNT OF GENERAL
UNSECURED INSIDER CLAIMS**

Creditor's Name	Amount of Claim
Isa Passini	\$396,500.00
Ivano Passini	\$253,765.00
Passini Holdings	\$217,250.78
ValuePart China	\$453,467.41
ValuePart Turkey	\$38,318.70
ValuePart Turkey	\$265,331.21
Total	\$1,624,633.10