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

In Re:	§	
	§	
AGS Enterprises, Inc.	§	**Case No. 16-34322**
KLN Steel Products Company, LLC,	§	
	§	**Jointly Administered**
Debtors.	§	**Chapter 11**
	§	
	§	**Judge Stacey G.C. Jernigan**

SECOND AMENDED DISCLOSURE STATEMENT FOR JOINT PLAN OF REORGANIZATION FOR AGS ENTERPRISES, INC. AND KLN STEEL PRODUCTS COMPANY, LLC.

(Dated: December 20, 2017)

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INTRODUCTION

This Second Amended Disclosure Statement ("**Disclosure Statement**") and the accompanying Ballots are being furnished to you, the holders of Claims against and Interests in the Chapter 11 debtors AGS Enterprises, Inc., debtor and debtor-in-possession (**"AGS"**) and KLN Steel Products Company, LLC, debtor and debtor-in-possession (**"KLN"**) (together, the **"Debtors"** or **"Plan Proponents"**), pursuant to Section 1125 of the United States Bankruptcy Code in connection with the solicitation of ballots for the acceptance of the Second Amended Plan of Reorganization (the **"Plan"**) Proposed by AGS Enterprises, Inc. and KLN Steel Products Company, LLC under Chapter 11 (**"Chapter 11"**) of Title 11 of the United States Code (the **"Bankruptcy Code"**).

Capitalized terms used in this Disclosure Statement and not defined herein shall have their respective meanings as defined in the Plan or, if not defined in the Plan, as defined in the Bankruptcy Code.

On November 2, 2016 (the **"Petition Date"**), the Debtors filed voluntary petitions under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court, Northern District of Texas, Dallas Division (the **"Bankruptcy Court"**). As of the date of the filing of this Disclosure Statement, no Official Committee(s) of Unsecured Creditors have been appointed by the Office of the United States Trustee in either of the Debtors' cases.

On December 12, 2017, after notice and hearing, the Bankruptcy Court approved this Amended Disclosure Statement and authorized the Plan Proponents to solicit votes with respect to the Plan. The purpose of this Disclosure Statement is to enable those persons whose Claims against and Interests in the Debtors are Impaired and entitled to vote under the Plan to make an informed decision on whether to vote for or against the Plan. Holders of Claims should read this Disclosure Statement and the Plan in their entirety before voting on the Plan. No solicitation of votes with respect to the Plan may be made except pursuant to this Disclosure Statement. No statement or information concerning the Debtors (particularly as to the results or financial condition of, or with respect to distributions to be made under the Plan) or any of the Debtors' assets, properties or business that is given for the purpose of soliciting acceptances or rejections of the Plan, is authorized other than as set forth in this Disclosure Statement. In the event of any inconsistencies between the provisions of the Plan and this Disclosure Statement, the provisions of the Plan shall control. A copy of the Plan is attached as **Exhibit "A"** to this Disclosure Statement.

After carefully reviewing this Disclosure Statement and all exhibits and schedules attached hereto, please indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the enclosed Ballot.

BALLOTS SHOULD BE MARKED, SIGNED, DATED AND RETURNED SO THAT THEY ARE STAMPED AS HAVING BEEN RECEIVED BY NO LATER THAN 4:00 P.M., CENTRAL STANDARD TIME, ON JANUARY 22, 2018 (THE "VOTING DEADLINE") AT THE FOLLOWING ADDRESS, AS SET FORTH ON THE ENCLOSED RETURN ENVELOPE:

AGS/KLN BALLOTS
Attn: C. Ashley Ellis
c/o Gardere Wynne Sewell LLP
2021 McKinney Avenue, Suite 1600
Dallas, TX 75201

THE PLAN PROPONENTS BELIEVE THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTERESTS OF ALL CLAIMANTS OF THE DEBTORS AND, CONSEQUENTLY, THE PLAN PROPONENTS URGE ALL CLAIMANTS TO VOTE TO ACCEPT THE PLAN.

Any Ballots received after the Voting Deadline will not be counted (unless otherwise ordered by the Bankruptcy Court). Ballots that are received after the Voting Deadline may not be used in connection with the Plan Proponents' request for confirmation of the Plan or any modification thereof, except to the extent allowed by the Bankruptcy Court.

This Disclosure Statement has been compiled by the Plan Proponents to accompany the Plan. The factual statements, projections, financial information, and other information contained in this Disclosure Statement have been taken primarily from documents prepared by the Debtors, including the Debtors' Schedules and Statement of Financial Affairs, the Debtors' Monthly Operating Reports, and pleadings filed in the Bankruptcy Case. Nothing contained in this Disclosure Statement shall have any preclusive effect against the Plan Proponents (whether by waiver, admission, estoppel, or otherwise) in any cause or proceeding which may exist or occur in the future. This Disclosure Statement shall not be construed or deemed to constitute an acceptance of fact or an admission by the Plan Proponents with regard to any of the statements made herein, and all rights and remedies of the Plan Proponents are expressly reserved in this regard. This Disclosure Statement contains statements which constitute the Plan Proponents' or other third parties' views of certain facts. All such disclosures should be read as assertions of such parties. To the extent any paragraph does not contain an express reference that it constitutes an assertion of a particular party, it should be read as an assertion of the party indicated by the context and meaning of such paragraph.

The statements contained in this Disclosure Statement are made either as of the Petition Date or the date hereof unless another time is specified herein, and neither delivery of this Disclosure Statement nor any exercise of rights granted in connection with the Plan shall, under any circumstances, create an implication that there has been no change in the information set forth herein since the date of this Disclosure Statement.

Certain of the information contained in this Disclosure Statement, by its nature, is forward looking, contains estimates and assumptions which may prove to be inaccurate, and contains projections which may prove to be wrong, or which may be materially different from actual future results. Each Claimant should independently verify and consult its individual attorney and accountant as to the effect of the Plan on such individual Claimant or Interest holder.

The Plan Proponents strongly urge each recipient entitled to vote on the Plan to review carefully the contents of this Disclosure Statement, the Plan, and the other documents that accompany or are referenced in this Disclosure Statement in their entirety before making a decision to accept or reject the Plan.

IT IS OF THE UTMOST IMPORTANCE TO THE PLAN PROPONENTS THAT YOU VOTE PROMPTLY TO ACCEPT THE PLAN BY COMPLETING AND SIGNING THE BALLOT ENCLOSED HEREWITH AND RETURNING IT TO COUNSEL FOR KLN AND AGS, AT THE ADDRESS SET FORTH IN THE BALLOT INSTRUCTIONS THAT ACCOMPANY THE BALLOT. SHOULD YOU HAVE ANY QUESTIONS REGARDING THE VOTING PROCEDURES, YOUR BALLOT, OR THE BALLOT INSTRUCTIONS, OR IF YOUR BALLOT IS DAMAGED OR LOST, CONTACT COUNSEL FOR KLN AND AGS AT THE FOLLOWING ADDRESS:

C. ASHLEY ELLIS
Gardere Wynne Sewell LLP
2021 McKinney Avenue, Suite 1600
Dallas, TX 75201
(214) 999-3000
(214) 999-3813 (facsimile)

The Approval Order fixes January 29, 2018 at 9:30 a.m., Central Standard Time, in the Courtroom of the Honorable Stacey G.C. Jernigan, United States Bankruptcy Judge, United States Bankruptcy Court for the Northern District of Texas, Dallas Division, 1100 Commerce Street, Room 1428, Dallas, Texas 75242-1496, as the date, time, and place for the hearing on Confirmation of the Plan, and fixes January 22, 2018, as the date by which all objections to Confirmation of the Plan must be filed with the Bankruptcy Court and received by counsel for the Plan Proponents. Counsel for the Plan Proponents will request Confirmation of the Plan at the Confirmation Hearing.

Counsel for the Plan Proponents strongly urges each recipient entitled to vote on the Plan to review carefully the contents of this Disclosure Statement, the Plan, and the other documents that accompany or are referenced in this Disclosure Statement in their entirety before making a decision to accept or reject the Plan.

THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, NOR HAS THE SECURITIES AND EXCHANGE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.

ARTICLE I

HISTORICAL BACKGROUND AND PREPETITION BUSINESS OPERATIONS

AGS is a Texas corporation, and KLN is a Texas limited liability company that is 100% owned by AGS. To understand the business of AGS and KLN Steel, it is necessary to understand the process by which private companies become entitled to bid under what are known as "GSA contracts" with Federal agencies facilitated by the United States General Services Administration (the **"GSA"**). The GSA - the Federal Government's business manager, supplies and services buyer, real estate developer, telecommunications manager, and computer solutions provider - contracts with private companies, on behalf of the Federal Government, for billions of dollars' worth of products and services. The technical definition of a GSA contract is a government-wide, indefinite

delivery, indefinite quantity Multiple Award Schedule contract. In other words, typical GSA contracts are open ended with no set amount of product to be delivered thereunder. While the term of the contract is fixed, the deliverables are not. During the term of a GSA Contract, multiple Federal agencies can order an unlimited amount of products or services. Both AGS and KLN Steel were historically awarded GSA numbers, entitling them to participate in the bidding process for various contracts with Federal agencies. AGS also owns two non-debtors, Dehler Manufacturing Co., Inc. (**"Dehler"**) and Furniture by Thurston (**"FBT"**) that likewise have GSA contracts. The Debtors' business is to manufacture deliverables, as and when ordered, pursuant to its respective GSA contract, including primarily metal dormitory furniture provided to military bases across the United States and abroad.

Historically, both AGS and KLN Steel conducted their actual manufacturing operations through KLN Manufacturing, LLC, a Texas limited liability company (**"Manufacturing"**), wholly owned by AGS. Manufacturing employed the personnel, owned the machinery, equipment and other hard assets necessary to the manufacture of deliverables under each of the Debtors' respective GSA Contracts. During the course of the Debtors' bankruptcy cases, Manufacturing ceased operations and the hard assets previously used to manufacture product for the Debtors have been sold at auction. As a result, Manufacturing will not be necessary to the Debtors' post-confirmation operations. The Debtors will subcontract out their manufacturing instead of doing it in-house.

FACTORS PRECIPITATING THE FILING OF THESE CHAPTER 11 CASES

The key precipitating event that led to the filing of these Chapter 11 Cases was the impact on and deterioration of the Debtors' business operations as a result of litigation brought by one of the Debtors' significant competitors: University Loft Company. U-Loft is a competitor of the Debtors in both the college/university and Federal Government markets. Prepetition, U-Loft commenced litigation against the Debtors in the United States District Court, Western District of Texas, *United States of America ex. rel, University Loft Company v. AGS Enterprises, Inc. dba Avteq, Inc., KLN Steel Products Co., LLC, Furniture by Thurston, Inc., Dehler Manufacturing, Inc., John O'Donnell and Kelly O'Donnell*, Civil No. 14-CV-528-OLG-PAM. This litigation has been protracted and expensive for the Debtors, ultimately necessitating the filing of these Chapter 11 cases.

Further, post-petition, the parties engaged in additional litigation styled *AGS Enterprise, Inc. and KLN Steel Products Company, LLC, Cross Plaintiffs and Third Party Plaintiffs v. J. Squared, Inc. d/b/a University Loft Company, Cross-Defendant and James N. Jannetides, Third Party Defendant;* Adversary No. 17-003008-SGJ, and U-Loft filed another related lawsuit against certain of the Debtors' principals and other parties for fraudulent transfers of assets. In lieu of proceeding down the path of a continued protracted, expensive defense in the Qui Tam Litigation and related litigation, the mediated terms of the FCA Settlement, the CSA and the Plan instead provide for a swift, fair and equitable resolution of U-Loft's and the Debtors' claims filed against each other, pursuant to the terms and conditions of this Plan, which resolution will allow the Debtors to continue their post-confirmation business operations unimpeded, all for the benefit of all Creditors of the Estates.

ARTICLE II

PURPOSE OF CHAPTER 11

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. The commencement of a Chapter 11 case creates an "estate" comprised of all the legal and equitable interests of a debtor. Sections 1101, 1107, and 1108 of the Bankruptcy Code provide that a debtor may remain in possession of its property and continue to operate its business as a "debtor-in-possession". Thus, since the Petition Date, the Debtors have been operating and managing their business operations in the ordinary course of business and under the supervision of the Bankruptcy Court.

Confirmation of a plan of reorganization is the principal purpose of a Chapter 11 case. The plan is the vehicle for satisfying the holders of claims against and equity interests in a debtor. Under the Bankruptcy Code, when soliciting acceptance or rejection of a plan of reorganization, a plan proponent must transmit to the holders of claims or interests a disclosure statement approved by the court as containing "adequate information." The Bankruptcy Court found that this Disclosure Statement contained information that is in compliance with the adequate information requirement of the Bankruptcy Code. The Disclosure Statement describes various transactions contemplated under the Plan and is supplied to you for purposes of assisting in your evaluation of, and your decision of how to vote on, the Plan.

The Plan Proponents believe that the Plan provides the best vehicle by which Holders of Allowed Unsecured Claims can maximize the recovery on their Allowed Claims. A copy of the Plan is attached as **Exhibit "A"**. The Plan Proponents urge you to review carefully and then vote to accept the Plan.

Summary of the Plan. For your convenience, the following is a summary of certain material terms of the Plan. *The Plan Proponents encourage you to read the Plan in its entirety*. The Plan is a comprehensive proposal by the Plan Proponents that provides for the following:

(a) **Continuation of Business:** The Plan provides for the continuation of the business of the Debtors as combined with the business of the Non-Debtor Affiliates. Upon confirmation of the Plan, the Debtors will be well-positioned to continue to take the actions necessary to eliminate corporate complexity, dissolve or liquidate non-essential entities, and right-size the business by streamlining and focusing on contract procurement and fulfillment, but not resuming manufacturing operations. Post-confirmation, the Debtors contemplate doing business utilizing the name Dehler Manufacturing Co., Inc.

(b) **Resolution of Causes of Action Asserted by and Against U-Loft:** The Plan incorporates the terms of two Settlements (i) a settlement reached between the Debtors and certain non-Debtor Affiliates, the United States and, U-Loft as Relator ("The FCA Settlement); and a settlement between the Debtors and certain non-Debtor Affiliates, U-Loft in its personal capacity and other parties (the "CSA") (as detailed herein and collectively referred to herein as "The Settlements"). The Settlements provide for the resolution and cessation of the litigation filed against the Debtors by U-Loft, individually and as Relator on behalf of the United States (the "**Qui Tam Litigation**") and for the resolution and cessation of the Adversary Proceeding. As detailed elsewhere herein and in multiple pleadings filed

with the Bankruptcy Court, the Qui Tam Litigation against the Debtors and other non-debtor defendants was the primary reason why the Debtors filed for bankruptcy protection. Further, post-petition, U-Loft filed another related lawsuit against certain of the Debtors' principals and other parties for fraudulent transfers of assets. None of the claims made against the Debtors by U-Loft have gone to trial. In lieu of proceeding down the path of a continued protracted, expensive defense in the Qui Tam Litigation and related litigation, the mediated terms of the Settlements and the Plan instead provide for a swift, fair and equitable resolution of U-Loft's and the Debtors' claims filed against each other, pursuant to the terms and conditions of this Plan, which resolution will allow the Debtors to continue their post-confirmation business operations unimpeded, all for the benefit of all Creditors of the Estates.

(c) **Formation of the Creditors' Trust**. On the Effective Date of the Plan, a creditors' trust will be formed to own and control the Reorganized Debtors, and receive the Net Revenue from the operations of the Reorganized Debtors and Net Recoveries. The Escrow Agent previously appointed by the Court may also serve as the Trustee of the Creditors' Trust.

(d) **Post-Confirmation Vendor Escrow Protections:** As stated above, the Plan provides for the continuation of the business of the Debtors, as combined with the business of the Non-Debtor Affiliates (collectively the "**Reorganized Debtors**"), in an efficient and integrated fashion. To effectuate this Plan, to maximize the odds for success of the Reorganized Debtors' future business operations and, importantly, to promote goodwill and confidence among the Reorganized Debtors' ancillary vendors, suppliers and manufacturers, this Plan provides for an escrow arrangement (the "**Post-Confirmation Vendor Escrow**") under which parties doing business with the Reorganized Debtors post-confirmation will have an additional layer of security and assurance of payment. This Post-Confirmation Vendor Escrow is a continuation of the pre-confirmation Escrow arrangement approved by Order of the Bankruptcy Court entered on May 24, 2017 granting the Debtors' Expedited Motion to Approve Escrow Procedure for Payment of Vendors as well as an expansion of the authority and duties of the Escrow Agent. Post-confirmation, all collections on the Reorganized Debtors' accounts receivable will be placed into a centralized account controlled by the Escrow Agent. As collections come in, the Escrow Agent, not the Reorganized Debtors, will pay the approved bills of the ancillary vendors, suppliers and manufacturers via the Post-Confirmation Vendor Escrow.

(e) **Cancellation of Old Equity; Issuance of New Equity to the Trust:** The Plan provides that, on the Effective Date, all equity interests in AGS shall be cancelled, and no holder of an equity interest in AGS shall receive any distribution on account of such prepetition equity interests under this Plan. 100% of the new equity in AGS will be issued to the Trust and AGS will continue to own 100% of the equity in KLN and the Non-Debtor Affiliates.

(f) **Treatment of Allowed Administrative and Priority Claims:** The Plan provides for the payment in full of all Allowed Administrative Claims and Priority Claims by the Reorganized Debtors and/or the Escrow Agent (depending on who is holding the cash of the Debtors) on or promptly after the Effective Date except for Priority Tax Claims which will be paid over time in accordance with the Bankruptcy Code.

(g) **Treatment of Allowed Unsecured Claims:** The Plan generally provides the following treatment for Allowed Unsecured Claims:

The Plan generally provides the following treatment for Allowed Unsecured Claims:

(i) **Administrative Convenience Claims (Unsecured Claims of $5,000.00 or less):** Unsecured Creditors with Allowed Claims of $5,000.00 or less (or those Unsecured Creditors who elect to reduce their Allowed Claim to $5,000.00) will receive a cash dividend from the Trust equal to 25% of their Allowed Claim.

(ii) **United States' Allowed Unsecured Claim**: Pursuant to the terms of the FCA Settlement, the United States will receive a promissory note from the Reorganized Debtors in the face amount of $3 million, at 0% interest. The first $1,250,000 of the United States' Allowed Unsecured Claim will be paid in full by the Escrow Agent from Net Revenue and Net Recoveries prior to any distribution of either Net Revenue or Net Recoveries to the Trust. After the $1,250,000 is paid in full, the Escrow Agent shall pay the remainder of the claim ($1,750,000) by distribution of 20% of Net Revenue and Net Recoveries prior to the distribution of the remaining 80% of Net Revenue and Net Recoveries to the Creditor's Trust. In the event of a sale of the stock or assets of the Reorganized Debtors, the sale proceeds therefrom shall be treated as Net Revenue for the purpose of payment of the United States' Allowed Unsecured Claim. The note will not have any pre-payment penalty. Relatedly, discussions and negotiations regarding releases from liability continue between the United States and the O'Donnells individually. If and when an agreement is reached for such individual releases of one or both of the O'Donnells, such releases will be documented via a separate agreement executed by and between them and the United States, and have no impact on the Reorganized Debtors' obligations under this Plan.

(iii) **General Unsecured Claims:** Entities holding Allowed General Unsecured Claims, excluding Frost Bank, LGC and U-Loft, will each receive their Pro Rata share of 4% of the Trust Interest which Trust Interest entitles each General Unsecured Creditor to be paid its Pro Rata share of (i) Net Recoveries from the Causes of Action provided however, that no distribution shall be made to any Unsecured Creditor against which the Reorganized Debtors as combined with the Non-Debtor Affiliates assert an Avoidance Action or other affirmative claim for recovery until such Avoidance Action or other affirmative claim is resolved; and (ii) the Net Revenue generated from the post-confirmation business operations of the Reorganized Debtors as combined with the Non-Debtor Affiliates that is distributed by the Trust to holders of Unsecured Claims.

(iv) **U-Loft Allowed Unsecured Claims:** Pursuant to the terms of the FCA Settlement and CSA, U-Loft will receive a 45% share of the Trust Interest which entitles U-Loft to be paid 45% of the distributions of (i) Net Recoveries from the Causes of Action; and (ii) Net Revenue by the Trust to holders of Unsecured Claims.

(v) **Frost Bank Allowed Unsecured Claims**: Pursuant to the terms of the CSA, Frost Bank will receive a 40% share of the Trust Interest which entitles Frost Bank to be paid 40% of the distributions of (i) Net Recoveries from the Causes of Action; and (ii) Net Revenue by the Trust to holders of Unsecured Claims.

(vi) **LGC Allowed Unsecured Claim**: Pursuant to the terms of the CSA, LGC will receive an 11% share of the Trust Interest which entitles LGC to be paid 11% of the distributions of (i) Net Recoveries from the Causes of Action; and (ii) Net Revenue by the Trust to holders of Unsecured Claims.

ARTICLE III

ASSETS OF THE DEBTORS ON THE PETITION DATE

The following is a summary description of each of the Debtors' principal assets. The information has been compiled from the Debtors' audited and unaudited records as reflected in the Debtors' Schedules, Statements of Financial Affairs and Monthly Operating Reports.

3.1 **AGS Enterprises, Inc.**:

(a) **Personal Property**: As of the Petition Date, AGS had personal property in the amount of $136,892.00 (consisting of office furniture, FIFO valuation); $273,784.00 in inventory; $1,803.45 in cash; and an intercompany receivable from Manufacturing in the amount of $6,913,823.00. Given the cessation of operations at its subsidiary Manufacturing and the ensuing auction, the intercompany receivable has been rendered uncollectible during the course of these Cases. Certain of AGS's personal property is alleged to be subject to the secured interests of Frost Bank.

(b) **Checking, Savings or Other Financial Accounts**: $1,803 in checking accounts.

(c) **Accounts Receivable**: None.

(d) **Intellectual Property and Intangibles**: AGS is entitled to bid under GSA contracts with Federal agencies. GSA contracts are open with no set amount of product to be delivered thereunder. While the term of the contract is fixed, the deliverables are not. During the term of a GSA Contract, multiple Federal agencies can order an unlimited amount of products or services. The Debtors believe that AGS's GSA contract has realizable value that will contribute to the post-confirmation business success of the Reorganized Debtors.

(e) **Machinery, Equipment, Vehicles**: None

(f) **Office Equipment**: None

3.2 **KLN Steel Products Company, LLC**:

(a) **Personal Property**: Personal property in the aggregate amount of $4,931,005.

(b) **Checking, Savings, or Other Financial Accounts**: As of the Petition Date, KLN Steel had $43,940 in checking accounts.

(c) **Accounts Receivable**: As of the Petition Date, KLN Steel had $2,809,921 in outstanding accounts receivable. As of the date of this Disclosure Statement, there remain approximately $2 million in unrealized receivables, the majority of which are believed to be collectible.

(d) **Intellectual Property and Intangibles**: KLN Steel is entitled to bid under GSA contracts with Federal agencies. GSA contracts are open with no set amount of product to be delivered thereunder. While the term of the contract is fixed, the deliverables are not. During the term of a GSA Contract, multiple Federal agencies can order an unlimited amount of products or services. The Debtors believe that KLN Steel's GSA contract has realizable value that will contribute to the post-confirmation business success of the Reorganized Debtors.

(e) **Inventory**: As of the Petition Date, KLN Steel had $2,077,143 in inventory: $1,420,452 raw materials, $145,459 work in progress, and $802,150 finished goods. The vast majority of that inventory has been utilized in business operations post-petition, and any remaining inventory will be contributed to the post-confirmation business operations of the Reorganized Debtors.

(f) **Machinery, Equipment, Vehicles**: None

(g) **Office Equipment**: None.

3.3 **Claims and Causes of Action of Both Debtors**: As of the Petition Date, the Debtors held the following claims and causes of action.

(a) **U-Loft Causes of Action**. The Debtors have claims and causes of action, counterclaims, demands at law or in equity, in contract in tort, that have been or that may be asserted against U-Loft including but not limited to among other things, tortious interference and unfair competition, in that certain litigation *AGS Enterprise, Inc. and KLN Steel Products Company, LLC, Cross Plaintiffs and Third Party Plaintiffs v. J. Squared, Inc. d/b/a University Loft Company, Cross-Defendant and James N. Jannetides, Third Party Defendant;* Adversary No. 17-003008-SGJ as same may be amended or modified. Notably, U-Loft has historically competed with, and has often bid for the same contracts as, the Debtors in supplying dormitory furniture, furnishings, and related items to the military under GSA Contracts and in the open market to colleges or universities. The Debtors' longstanding supplier relationships, historical manufacturing techniques, and internal pricing models have been developed over many years and comprise the primary reasons why the Debtors have often been the successful bidder on projects both for the Federal Government and in the open student housing market. In recent years, however, the Debtors lost multiple contracts to U-Loft as a result of what the Debtors allege to be U-Loft's illegal conduct that gave U-Loft an unfair competitive advantage.

While the Debtors believe in the merits of these claims, the time and money to pursue same would be significant. Pursuant to the Plan and the Settlements, the claims

brought in the Qui Tam Litigation and the Adversary Proceeding are resolved with respect to the Debtors, and the Reorganized Debtors' post-confirmation business operations can proceed free of the disputes with U-Loft, all for the benefit of the Reorganized Debtors, parties in interest and stakeholders of the estates.

(b) **Hance Scarborough**. As of the Petition Date, the Debtors also held claims and causes of action against Hance Scarborough, LLP for breach of contract, excessive fees, and legal malpractice which claims have now been settled with the approval of the Bankruptcy Court.

(c) **Avoidance Actions.** The Bankruptcy Code preserves the Debtors' rights to prosecute claims and causes of action which exist outside of bankruptcy, and also empowers the Debtors to prosecute certain claims that are established by the Bankruptcy Code, including claims to avoid and recover preferential transfers and fraudulent conveyances. Unless otherwise stated herein, the Plan transfers all of the Debtors' and their estates' rights in respect of all causes of actions to the Trust.

IN REVIEWING THIS DISCLOSURE STATEMENT AND THE PLAN, AND IN DETERMINING WHETHER TO VOTE IN FAVOR OF OR AGAINST THE PLAN, HOLDERS OF CLAIMS AND INTERESTS (INCLUDING PARTIES THAT RECEIVED PAYMENTS FROM THE DEBTORS WITHIN NINETY (90) DAYS PRIOR TO THE PETITION DATE) SHOULD CONSIDER THAT A CAUSE OF ACTION MAY EXIST AGAINST THEM, THAT THE PLAN PRESERVES ALL CAUSES OF ACTION, AND THAT THE PLAN AUTHORIZES THE TRUST TO PROSECUTE THE SAME.

All rights, if any, of a defendant to assert a claim arising from relief granted in an Avoidance Action, together with the Trust's right to oppose such claim are fully preserved. Any such claim that is Allowed shall be entitled to treatment and distribution under the Plan as a General Unsecured Claim.

ARTICLE IV

LIABILITIES OF THE DEBTORS

4.1 **Administrative Claims: All Debtors.** Administrative Claims are any claims defined in §503(b) of the Code as "administrative expenses" and granted priority under § 507(a)(1) of the Code, including:

(a) Claim for any cost or expense of administration in connection with the Case, including, without limitation, any actual, necessary cost or expense of preserving the Debtor's estate and of operating the business of the Debtors incurred on or before the Effective Date;

(b) the full amount of all Claims for compensation for legal, accounting and other services or reimbursement of costs under §§330, 331 or 503 of the Bankruptcy Code;

(c) all fees and charges assessed against the Debtors' estates under Chapter 123 of Title 28 of the United States Code; and

(d) a Claim for post-petition taxes and related items, including any interest and penalties on such post-petition taxes.

(i) **Professionals**. The Debtors originally employed Coats Rose, P.C. as bankruptcy counsel. Coats Rose, P.C. is currently owed approximately $413,000.00 in fees and expenses, with a hearing set for approval of same on August 31, 2017. The Debtors' lead bankruptcy counsel changed firms from Coats Rose to Grader Wynne Sewell LLP ("**Grader**") in May of 2017, and the Debtors filed a Notice of Change of Law Firm for AGS Enterprises, Inc. and KLN Steel Products Company, LLC and of Substitution of Law Firms [Docket No. 169]. Gardere is owed approximately $250,000.00 in fees and expenses as of December 15, 2017. Under the Plan, all professionals employed pursuant to §§ 327 and 330 shall be required to file with the Bankruptcy Court a final fee application within sixty (60) days after the Effective Date. Nothing in the Plan or this Disclosure Statement is intended to restrict the ability of any party in interest or the U.S. Trustee to object to any final fee applications.

(ii) **LGC Administrative Claim**. LGC filed a request for administrative claim in the amount of $363,203.16 for post-petition rent, ad valorem taxes and other alleged amounts due. Settlement discussions were productive, and on December 13, 2017, the Court entered an order granting LGC an allowed administrative claim in the amount of $298,099.00.

(iii) **Other Asserted Administrative Claims.** A review of the docket on October 2, 2017, reveals that no requests for administrative expense payments have been filed in this case.

4.2 **Scheduled and Known Secured and Priority Claims, Pending Litigation:** The scheduled and filed Claim amounts listed below do not include the accrual of interest after the filing of the Cases, to the extent such post-petition interest may be applicable.

(a) **Alleged Partially Secured Claim of Frost Bank:** Frost Bank filed two (2) proofs of claim in Debtors' Bankruptcy Cases, one in the amount of $6,075,683.38 against KLN Steel, and one in the amount of $4,900,270.20 against AGS, $136,892.00 of which Frost Bank appears to allege to be secured by inventory of AGS. Frost Bank's claims arise out of the Promissory Note dated September 25, 2015, naming AGS and KLN Manufacturing as Borrowers, among others.

(b) **Priority Claims:** As of the Petition Date, there are no known Priority Claims against the Debtors.

(c) **Pending Litigation:** The Debtors list the following pending litigation:

Style of Case	Status
United States of America ex. rel. University Loft Company vs. KLN Steel Products Co., LLC, et al., Civ. No. 14-CV-528-OLG PAM	Administratively Closed; resolved via the Plan and the Settlements

Style of Case	Status
AGS Enterprise, Inc. and KLN Steel Products Company, LLC, Cross Plaintiffs and Third Party Plaintiffs v. J. Squared, Inc. d/b/a University Loft Company, Cross-Defendant and James N. Jannetides, Third Party Defendant; Adversary No. 17-003008-SGJ	Pending; resolved via the Plan and the Settlements

As stated above, the U-Loft Qui Tam Litigation was the single key precipitating event that led to the filing of these Chapter 11 Cases as the Debtors' executive officers and management were forced to divert their attention from the business operations of the Debtors to defend AGS, KLN Steel, the other defendants, and themselves personally against the baseless claims asserted in this predatory litigation. However, these bankruptcy filings did provide the Debtors with a stay of the U-Loft Qui Tam Litigation while simultaneously providing the Debtors the opportunity to protect the GSA contracts, to minimize additional business disruptions and downsize via cessation of manufacturing operations. And, most significantly, these Chapter 11 cases have afforded the Debtors the opportunity to address and finally resolve the U-Loft Qui Tam Litigation and Adversary Proceeding by the Settlements, and treat the resulting U-Loft Allowed Claim pursuant to this Plan. With this finality, the Debtors may emerge from Chapter 11 with the U-Loft Qui Tam Litigation finally behind them.

4.3 **Unsecured Claims**:

(a) The Schedules of AGS reflect Unsecured Claims in the amount of $408,289.84. In addition to the claims scheduled by AGS, a review of the claims register on July 21, 2017 reveals $982,540.12 in unsecured proofs of claim filed against AGS (exclusive of the proofs of claim filed by Frost Bank and U-Loft), many of which are duplicative of scheduled claims and/or duplicative of claims filed against KLN Steel. Particular significant unsecured proofs of claim not included in the above total include: a claim in the amount of $4,900,270.20 filed by Frost Bank, and a claim in the amount of $141,552,908.00 filed by U-Loft, each of which will be treated pursuant to the terms of the CSA incorporated into the Plan. Given the post-confirmation consolidation of the Debtors proposed in the Plan, all duplicative claims filed against both Debtors will be eliminated.

(b) The Schedules of KLN Steel reflect Unsecured Claims in the amount of $898,165.69. In addition to the claims scheduled by KLN Steel, a review of the claims register on July 21, 2017 reveals $550,534.96 in unsecured proofs of claim filed against KLN Steel (exclusive of the proofs of claim filed by Frost Bank and U-Loft), many of which are duplicative of scheduled claims and/or duplicative of claims filed against AGS. Particular significant unsecured proofs of claim include: a claim in the amount of $6,075,683.38 filed by Frost Bank, and a claim in the amount of $123,698,037.00 filed by U-Loft, each of which will be treated pursuant to the terms of the Settlements incorporated into the Plan. Given the post-confirmation consolidation of the Debtors proposed in the Plan, all duplicative claims filed against both Debtors will be eliminated.

The bar date for filing additional proofs of claim against the Debtors was March 8, 2017.

ARTICLE V

MATTERS ARISING DURING THE CHAPTER 11 CASES

5.1 **Commencement of the Debtors' Cases:** Each of the Debtors' Chapter 11 cases was commenced by the filing of a voluntary petition under Chapter 11 on the dates identified herein as each Debtor's Petition Date. Shortly after these cases were commenced, the Debtors filed several motions incident to the management of the Bankruptcy Cases that were granted by the Court, including the authority to retain certain professionals and the joint administration of the Debtors' cases under one case number.

5.2 **Auction of Assets Held by Manufacturing Affiliate:** In March of 2017, Non-Debtor Affiliate Manufacturing employed Heritage Global Partners, Inc. to conduct an auction of its personal property which included all of the manufacturing equipment and hard assets used in connection with the Debtors' manufacturing operations to fill orders under the GSA Contracts. The auction ultimately yielded approximately $850,000 to Manufacturing, approximately $200,000 of which was used to pay personal property taxes, with the balance being paid to Frost Bank on account of Frost Bank's security interests against Manufacturing. The payment of the auction proceeds to Frost Bank by Manufacturing reduced the amounts owed to Frost Bank by the Debtors.

5.3 **Motion to Lift the Automatic Stay Commenced by University Loft Company:** On November 8, 2016, U-Loft filed an Amended Motion for Relief from Automatic Stay to Proceed with Litigation and to Obtain Determination Regarding Fraud (the "**Stay Motion**"). In the Stay Motion, U-Loft argues that the Court should grant relief from the automatic stay under 11 U.S.C. § 362(d)(1) and/or (d)(2) to allow the U-Loft Qui Tam Litigation to proceed. At the first hearing on the Stay Motion, the Court denied U-Loft's request to lift the stay, finding that, among other things, these Cases were in their initial stages and ought to have an opportunity to proceed in Chapter 11. The Court held an additional hearing on the Stay Motion on April 4, 2017, and after hearing the evidence, the Bankruptcy Court made extensive findings on the record, and again denied U-Loft's Stay Motion, finding that cause *did not* exist to lift the stay to allow U-Loft to continue to prosecute the claims in the Qui Tam Litigation against the Debtors. The Court further ordered that the Debtors file a plan of reorganization on or before 11:59 p.m. on April 14, 2017, which the Debtors did.

5.4 **Global Mediations:** On April 4, 2017 and then again on October 26, 2017, the Court ordered U-Loft, the United States of America, acting through the United States Department of Justice, the Debtors, and Frost Bank to attend global mediations and negotiate in a good faith attempt to (a) settle the Qui Tam Litigation, (b) agree to the terms of a consensual Chapter 11 plan of reorganization, and (c) otherwise resolve any other disputes between and among them. LGC all non-debtor defendants in the U-Loft Qui Tam Litigation were invited to attend as well.

5.5 **The Settlements:** As a result of the two mediations, the Debtors, the United States of America, acting through the United States Department of Justice, U-Loft, LGC, and Frost Bank reached the Settlements, the terms of which have been incorporated into this Disclosure Statement, the CSA, the FCA Settlement and the Plan. The Settlements settle the disputes between U-Loft (individually), Frost Bank and LGC, on the one hand, and the Debtors on the other hand, and most importantly, finally resolves the U-Loft Qui Tam Litigation and the Adversary Proceeding, allowing the Debtors to emerge from Chapter 11 with the disputes with U-Loft finally behind them. As

detailed in the classification and treatment provisions of the Plan, pursuant to the terms of the Settlements: (i) the Allowed Unsecured Claim of the United States in the amount of $3 million shall be paid via the United States Note Obligation; (ii) LGC will receive an 11% share of the Trust Interest; (iii) Frost Bank will receive a 40% share of the Trust Interest; (iv) U-Loft will receive a 45% share of the Trust Interest; and (v) the Qui Tam Litigation and the Adversary Proceeding will be dismissed as to the Debtors.

ARTICLE VI

ACCEPTANCE AND CONFIRMATION OF THE PLAN

6.1 **Requirements for Confirmation**: At the Confirmation Hearing, the Court will determine whether the provisions of section 1129 of the Code have been satisfied.

(a) **Provisions of Section 1129**. Section 1129 of the Bankruptcy Code, as applicable here, provides as follows:

The Plan must comply with the applicable provisions of the Code, including section 1123 which specifies the mandatory contents of a plan and section 1122 which requires that Claims and Interests be placed in Classes with "substantially similar" Claims and Interests (section 1129(a)(1)).

The Plan Proponents of the Plan must comply with the applicable provisions of the Code (section 1129(a)(2)).

The Plan must have been proposed in good faith and not by any means forbidden by law (section 1129(a)(3)).

Any payment made or to be made by the Debtors, 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, must be disclosed to the Court and approved or be subject to the approval of the Court as reasonable (section 1129(a)(4)).

The Debtors must disclose the identity and affiliations of any individual proposed to serve, after Confirmation of the Plan, as a director, officer, or voting trustee of the reorganized debtor, of an affiliate of the Debtors participating in the Plan with the Debtors, or of a successor to the Debtors under the Plan. The appointment to, or continuance in, such office of such individual must be consistent with the interests of the Debtors' creditors, equity holders, and with public policy. The Plan Proponents must also disclose the identity of any insider that will be employed or retained by the reorganized debtor and the nature of any compensation for such insider (section 1129(a)(5)).

The Plan must meet the "best interest of creditors" test which requires that each holder of a Claim or Interest of a Class of Claims or Interests that is impaired under the Plan either accept the Plan or receive or retain under the Plan on account of such Claim or Interest property of a value as of the Effective Date of the Plan, that is not less than the amount that such holder would receive or retain if the Debtor was liquidated on such date under Chapter 7 of the Code. If the holders of a Class of Secured Claims make an election under section 1111(b) of the Code, each holder of a Claim in such electing Class must receive or retain under the Plan on account of its Claim property of a value, as of the Effective Date of the Plan, that is not less than the value of its interest in the Debtor's interest in the property that secures its Claim (section 1129(a)(7)). To calculate what non-

accepting holders would receive if the Debtor was liquidated under Chapter 7, the Court must determine the dollar amount that would be generated upon disposition of the Debtor's assets and reduce such amount by the costs of liquidation. Such costs would include the fees of a Trustee (as well as those of counsel and other professionals) and all expenses of sale.

Each Class of Claims or Interests must either accept the Plan or not be impaired under the Plan (section 1129(a)(8)). Alternatively, as discussed herein, the Plan may be confirmed over the dissent of a Class of Claims or Interests if the "cramdown" requirements of section 1129(b) of the Code are met.

Except to the extent that the holder of a particular Claim has agreed to a different treatment of such Claim, the Plan must provide that holders of Administrative Claims and Priority Claims (other than tax claims) will be paid in full in cash on the Effective Date of the Plan, and that holders of priority tax Claims will receive on account of such Claims deferred cash payments, over a period not exceeding six (6) years after the date of assessment of such tax, of a value, as of the Effective Date of the Plan, equal to the Allowed amount of such Claim (section 1129(a)(9)).

At least one impaired Class must accept the Plan, determined without including the acceptance of the Plan by any insider holding a Claim of such Class (section 1129(a)(10)).

The Plan must be "feasible". In other words, it cannot be likely that confirmation of the Plan will be followed by the liquidation, or the need for further financial reorganization, of the Debtors or any successor to the Debtors under the Plan, unless such liquidation is proposed in the Plan (section 1129(a)(11)).

All fees required to be paid under the Code have been paid or the Plan provides for such payment on its Effective Date (section 1129(a)(12)).

(b) **The Plan Meets All of the Requirements for Confirmation.** The Plan Proponents believe that the Plan satisfies all statutory requirements of Chapter 11 of the Code and should be confirmed. More specifically:

(i) The Plan complies with all of the applicable provisions of the Code;

(ii) The Plan Proponents have complied with the Code and has proposed the Plan in good faith;

(iii) All disclosure requirements concerning payments made or to be made for services rendered in connection with the Chapter 11 case or the Plan have been, or will be met prior to or at the Confirmation Hearing; and

(iv) Administrative Claims, Priority Claims, and fees required to be paid under the Code are appropriately treated under the Plan.

(c) **The Plan is Feasible**. Furthermore, the Plan is feasible. The Code requires that, as a condition to Confirmation of a plan, the Court find that Confirmation is not likely to be followed by a liquidation or a need for further financial reorganization except as proposed in that plan. The Plan Proponents believe the plan is feasible as it provides for payment of creditors, continuation of business, and unique provisions for the protection of

vendors post-confirmation. Initially, the Plan provides for the payment in full of all Allowed Administrative Claims and Priority Claims by the Reorganized Debtors on or promptly after the Effective Date except for Priority Tax Claims which will be paid over time in accordance with the Bankruptcy Code. Next, Confirmation of the Plan shall effect the formation of the Trust. On the Effective Date, the Causes of Action shall be transferred to the Trust, and implementation of the Post-Confirmation Vendor Escrow shall continue uninterrupted. The Trust Assets shall consist of (i) Net Recoveries on the Causes of Action; (ii) the Net Revenue from the Debtors' post-confirmation business operations as combined with the Non-Debtor Affiliates in accordance with the Plan, and (iii) the reissued stock of AGS.

With regard to the Net Revenue and the Reorganized Debtors' future business operations, attached to the Plan is the Post-Confirmation Business Plan, which is a three-year plan setting forth the jobs forecast and financial targets of the Reorganized Debtors. As detailed in the Plan and this Disclosure Statement, the Reorganized Debtors are comprised of the Debtors as reorganized on the Effective Date and as combined with the Non-Debtor Affiliates (Dehler Manufacturing Co. Inc.; Dehler Manufacturing, LLC; Furniture by Thurston, LLC and Thurston Manufacturing, LLC). The Reorganized Debtors anticipate doing business using the name Dehler Manufacturing Co., Inc. Upon confirmation of the Plan, the Debtors will be well-positioned to take the actions necessary to right-size the business by streamlining and focusing on contract procurement and fulfillment, but not resuming manufacturing operations. In addition to a receivable from the U.S. Military owed to KLN Steel of approximately $1.4 million which has recently been collected, Dehler currently has approximately $550,000 in outstanding accounts receivable, all of which is believed to be collectible. In addition to the GSA Contracts held by each of the Debtors, Dehler Manufacturing Co., Inc. also holds a GSA Contract and, as reflected in the Post-Confirmation Business Plan, between Dehler and the Debtors pending bids and awarded purchase orders in 2017 (post-implementation of the escrow procedures) total approximately $8.3 million. The Debtors expect to see many more "Invitations for Bid" and "Requests for Quotation" opportunities to bid on jobs for the U.S. government given the end of the government's FY2017.

The feasibility and achievability of the Post-Confirmation Business Plan is bolstered by the pre-confirmation implementation of the Post-Confirmation Vendor Escrow. As anticipated and intended, the escrow process to date has promoted goodwill and confidence among the Debtors' ancillary vendors, suppliers and manufacturers; 11 of the Debtors' and Dehler's 21 total current vendors involved in jobs that have been awarded or for which bids are pending have embraced the escrow procedures. The remaining vendors who have not currently assented to the escrow procedures make up less than 30% of the total payments to vendors. To the extent that the remaining vendors ultimately decline to participate in the Post-Confirmation Vendor Escrow or otherwise demand concessions incompatible with the Plan, the Debtors are confident that any such vendor can be replaced. In short, the business plan and goals set forth in the Post-Confirmation Business Plan are reasonable and achievable, and the early implementation of the Post-Confirmation Vendor Escrow has allowed for a head start on maximizing the odds for success of the Debtors' future business operations. The Plan is feasible.

ARTICLE VII

LIQUIDATION ANALYSIS

The Plan Proponents believe that the Plan, which provides for the continued business operations of the Debtors as combined with the Non-Debtor Affiliates, affords creditors the potential for the greatest realization from the Debtors' assets, and, therefore, is in the best interests of creditors. As noted above, the value of the Debtors is in their GSA Contracts. The continued procurement of jobs under the GSA Contracts of the Debtors and/or Non-Debtor Affiliates Dehler or FBT, without related manufacturing activities, is the focus of the Debtors streamlined, post-confirmation business, as set forth in the Plan and the Post-Confirmation Business Plan.

By contrast, the abrupt cessation of business and a liquidation of the GSA Contracts at a "fire sale" would yield little or no value for Creditors. Relatedly and to that point, the auction of affiliate Manufacturing's equipment did not raise nearly the funds originally anticipated, and nowhere near the funds necessary to pay off Frost Bank whose claims against the Debtors were reduced but not satisfied by the auction proceeds. In a Chapter 7 liquidation scenario, a trustee would be appointed to administer the Estate, to resolve pending controversies against the Debtors and claims of the Estates against other parties, and to make distribution to Creditors. If the Cases were converted to cases under Chapter 7, significant additional Administrative Expenses would be incurred, and any distributions to holders of Claims would be substantially delayed and, in all likelihood, reduced as compared to the anticipated results of Confirmation of the Plan. A Chapter 7 trustee would be entitled to compensation in accordance with the scale set forth in § 326 of the Bankruptcy Code. A Chapter 7 trustee might also seek to retain new professionals, including attorneys and accountants, in order to resolve any disputed Claims and possibly to pursue claims of the Estates against other parties. There is a strong probability that such Chapter 7 trustee would not possess any particular knowledge of the Debtors' industry. The trustee and any such new professionals retained by the trustee would need to expend time familiarizing themselves with the properties owned by the Debtors and the industry generally, resulting in a duplication of effort, increased expense, and delay in payment to Creditors. Under the Bankruptcy Rules, a new bar date for the filing of proofs of claim would have to be set, and additional Claims against the Estates that will soon be time-barred (because they were not filed before the applicable bar dates set in the Cases) could be asserted.

THE PLAN PROPONENTS BELIEVE THAT CONFIRMATION AND IMPLEMENTATION OF THE PLAN IS PREFERABLE TO ANY OF THE ALTERNATIVES DESCRIBED HEREIN BECAUSE IT SHOULD PROVIDE GREATER RECOVERIES THAN THOSE AVAILABLE IN A CHAPTER 7 LIQUIDATION TO THE HOLDERS OF SECURED AND UNSECURED CLAIMS WHO WOULD LIKELY RECEIVE LESS IN A CHAPTER 7 LIQUIDATION. IN ADDITION, OTHER ALTERNATIVES WOULD INVOLVE DELAY, UNCERTAINTY, AND SUBSTANTIAL ADMINISTRATIVE COSTS.

ARTICLE VIII

VOTING PROCEDURES

ACCEPTANCE OR REJECTION OF THE PLAN WILL BE DETERMINED, PURSUANT TO THE BANKRUPTCY CODE, BASED UPON THE ALLOWED CLAIMS AND ALLOWED INTERESTS THAT ACTUALLY VOTE ON THE PLAN. THEREFORE, IT IS IMPORTANT THAT CLAIMANTS EXERCISE THEIR RIGHT TO VOTE TO ACCEPT OR REJECT THE PLAN.

8.1 **Classes Entitled to Vote on the Plan**: All members of Impaired Classes who hold Allowed Claims are entitled to vote to accept or reject the Plan. Section 1124 of the Bankruptcy Code generally provides that a class of claims or interests is considered to be Impaired under a plan unless the plan does not alter the legal, equitable and contractual rights of the holders of such claims or interest. For purposes of Plan solicitation, all Classes of Claims are Impaired and are, therefore, entitled to cast ballots on this Plan. Interest holders are deemed to have rejected the Plan and are therefore not entitled to vote on the Plan.

8.2 **Persons Entitled to Vote on the Plan**: Only holders of Allowed Claims and holders of Disputed Claims which have been temporarily allowed for voting purposes are entitled to vote on the Plan. For purposes of the Plan, an Allowed Claim is (i) a Claim against or Interest in a Debtor, proof of which, if filed on or before the Bar Date, which is not a Contested Claim or Contested Interest, (ii) if no proof of claim or interest was so filed, a Claim against or Interest in a Debtor that has been or hereafter is listed by a Debtor in the Schedules as liquidated in amount and not disputed or contingent, or (iii) a Claim or Interest allowed hereunder or by Final Order. An Allowed Claim or Allowed Interest does not include any Claim or Interest or portion thereof which is a Disallowed Claim or Disallowed Interest which has been subsequently withdrawn, disallowed, released or waived by the holder thereof, by this Plan, or pursuant to Final Order. Unless otherwise specifically provided in the Plan, an Allowed Claim or Allowed Interest shall not include any amount for punitive damages or penalties. Therefore, although the holders of Disputed Claims will receive ballots, these votes will not be counted unless such Claims become Allowed Claims as provided under the Plan or are temporarily allowed for voting purposes by the Court.

THE CLAIMS IN ALL CLASSES UNDER THE PLAN EXCEPT INTERESTS UNDER CLASS 8 ARE IMPAIRED AND ARE ENTITLED TO VOTE WITH RESPECT TO ACCEPTANCE OR REJECTION OF THE PLAN. INTERESTS IN CLASS 8 WILL BE EXTINGUISHED AND ARE DEEMED TO HAVE REJECTED THE PLAN.

8.3 **Vote Required for Class Acceptance**: During the Confirmation Hearing, the Bankruptcy Court will determine whether the Classes voting on the Plan have accepted the Plan by determining whether sufficient acceptances have been received from the holders of Allowed Claims actually voting in such Classes. A Class of Claims will be determined to have accepted the Plan if the holders of Allowed Claims in the Class casting votes in favor of the Plan (i) hold at least two-thirds of the total amount of the Allowed Claims of the holders in such Class who actually vote and (ii) constitute more than one-half in number of holders of the Allowed Claims in such Class who actually vote on the Plan.

As a condition to Confirmation, the Bankruptcy Code requires that each impaired Class of Claims or Interests accept the Plan, subject to the "cramdown" exception of §1129(b) described herein. To effectuate the §1129(b) exception, at least one impaired Class of Claims must accept the Plan.

8.4 **Voting Instructions:**

(a) **Ballots and Voting.** Holders of Allowed Claims entitled to vote on the Plan have been sent a Ballot, together with instructions for voting, with this Disclosure Statement. Claimants should read the Ballot carefully and follow the instructions contained therein. In voting for or against the Plan, please use only the Ballot that accompanies this Disclosure Statement.

EACH CREDITOR WILL RECEIVE A SINGLE BALLOT ONLY. IF YOU HAVE MORE THAN ONE CLAIM AGAINST ONE OF THE DEBTORS, OR YOU HAVE CLAIMS AGAINST MORE THAN ONE DEBTOR, YOU MAY REPRODUCE THIS BALLOT AS MANY TIMES AS NECESSARY TO PROPERLY VOTE YOUR CLAIMS. IF YOU HAVE ANY QUESTIONS CONCERNING THE BALLOT OR VOTING PROCEDURES, YOU SHOULD CONTACT COUNSEL FOR THE DEBTORS:

C. ASHLEY ELLIS
Gardere Wynne Sewell LLP
2021 McKinney Avenue, Suite 1600
Dallas, TX 75201
(214) 999-3000
ecfbankruptcy@gardere.com

(b) **Returning Ballots and Voting Deadline.** You should complete and sign each Ballot that you receive and return it either via email to ecfbankruptcy@gardere.com or in the pre-addressed envelope enclosed with each Ballot to the counsel for the Debtor in the self-addressed envelope provided, by the Voting Deadline.

THE VOTING DEADLINE IS 4:00 P.M., CENTRAL STANDARD TIME, ON JANUARY 22, 2018. IN ORDER TO BE COUNTED, BALLOTS MUST BE ACTUALLY RECEIVED BY COUNSEL FOR THE DEBTOR VIA EMAIL OR VIA U.S. MAIL OR OTHER COURIER ON OR BEFORE 4:00 P.M., CENTRAL STANDARD TIME, ON THE VOTING DEADLINE AT THE ADDRESS SET FORTH IN THE BALLOT INSTRUCTIONS WHICH ACCOMPANY THE ENCLOSED BALLOT. EXCEPT TO THE EXTENT ALLOWED BY THE BANKRUPTCY COURT, BALLOTS RECEIVED AFTER THE VOTING DEADLINE MAY NOT BE ACCEPTED OR USED IN CONNECTION WITH THE PLAN PROPONENTS' REQUEST FOR CONFIRMATION OF THE PLAN OR ANY MODIFICATION THEREOF.

(c) **Incomplete or Irregular Ballots.** Ballots which fail to designate the Class to which they apply shall be counted in the appropriate Class as determined by the Plan Proponents, subject only to contrary determinations by the Bankruptcy Court.

(d) **Changing Votes.** Bankruptcy Rule 3018(a) permits a Claimant, for cause, to move the Bankruptcy Court to permit such claimant to change or withdraw its acceptance or rejection of a plan of reorganization.

8.5 **Contested and Unliquidated Claims**: Contested Claims are not entitled to vote to accept or reject the Plan. If you are the holder of a Contested Claim, you may ask the Bankruptcy Court pursuant to Bankruptcy Rule 3018 to have your Claim temporarily Allowed for the purpose of voting.

8.6 **Possible Reclassification of Creditors and Interest Holder**: The Plan Proponents are required pursuant to §1122 of the Bankruptcy Code to place Claims and Interests into Classes that contain substantially similar Claims or Interests. While the Plan Proponents believe that all Claims and Interests are classified in the Plan in compliance with §1122, it is possible that a Claimant or Interest holder may challenge the classification of its Claim or Interest. If the Plan Proponents are required to reclassify any Claims or Interests of any Claimants or Interest holders under the Plan, the Plan Proponents, to the extent permitted by the Bankruptcy Court, intend to continue to use the acceptances received from such Claimants or Interest holders pursuant to the solicitation of acceptances using this Disclosure Statement for the purpose of obtaining the approval of the Class or Classes of which such Claimants or Interest holders are ultimately deemed to be a member. Any reclassification of Claimants or Interest holders should affect the Class in which such Claimants or Interest holders were initially a member, or any other Class under the Plan, by changing the composition of such Class and the required vote thereof for approval of the Plan.

ARTICLE IX

CRAMDOWN OR MODIFICATION OF THE PLAN

9.1 **"Cramdown:" Request for Relief under Section 1129(b)**: In the event any Impaired Class of Claims shall fail to accept the Plan in accordance with § 1129(a) of the Bankruptcy Code, the Plan Proponents shall request the Bankruptcy Court to confirm the Plan in accordance with the provisions of § 1129(b) of the Bankruptcy Code.

The Court may confirm a plan, even if it is not accepted by all impaired Classes, if a plan has been accepted by at least one impaired Class of Claims and the plan meets the "cramdown" provisions set forth in § 1129(b) of the Code. The "cramdown" provisions require that the Court find that a plan "does not discriminate unfairly" and is "fair and equitable" with respect to each non-accepting impaired Class. In the event that all impaired Classes do not vote to accept the Plan, the Plan Proponents will request that the Bankruptcy Court nonetheless confirm the Plan pursuant to the provisions of § 1129(b) of the Code.

The Court may find that the Plan is "fair and equitable" with respect to a Class of non-accepting impaired Interests only if (a) the holder of an Interest will receive or retain under the Plan property of a value as of the Plan's Effective Date equal to the greatest of any fixed liquidation preference or redemption price or the value of such Interest or (b) the holder of any Interest that is junior to such Interest will not receive or retain any property under the Plan.

The Court may find that the Plan is "fair and equitable" with respect to a Class of non-accepting impaired Unsecured Claims only if (a) each impaired unsecured Creditor receives or

retains under the Plan property of a value as of the Effective Date of such Plan equal to the amount of its Allowed Claim, or (b) the holder of any Claim or Interest that is junior to the Claims of the dissenting Class will not receive or retain any property under the Plan.

The Court may find that the Plan is "fair and equitable" with respect to a Class of non-accepting Secured Claims, only if, under the Plan, (a) the holder of each Secured Claim in such Class retains such holder's lien and receives deferred cash payments totaling at least the Allowed amount of such Secured Claim and having a value, as of the Effective Date of the Plan, equal to or in excess of the value of such holder's interest in the estate's interest in the collateral for the Secured Claim, (b) the collateral for such Secured Claim is sold, the lien securing such Claims attached to the proceeds, and such liens on proceeds are afforded the treatment described under clause (a) or (c) of this sentence, or (c) the holders of such Secured Claims realize the "indubitable equivalent" of their claims.

If all of the provisions of section 1129 are met, the Court may enter an order confirming the Plan.

9.2 **The Plan Meets the "Best Interest of Creditors" Test**: The "best interest of creditors" test requires that the Court find that the Plan provides to each non-accepting holder of a Claim or Interest treated under the Plan a recovery which has a present value at least equal to the present value of the distribution that such person would receive from the Debtor if the Debtor were liquidated under Chapter 7 of the Code. An analysis of the likely recoveries and effect on Creditors in the event of liquidation under Chapter 7 of the Code is contained hereinabove.

9.3 **The Plan Meets the Cramdown Standard With Respect to Any Impaired Class of Claims Rejecting the Plan**: The Plan satisfies the provisions for cramdown under §1129(b)(2) of the Code. Secured Creditors are retaining their liens and receiving the value of their interest in the Debtors' property totaling the allowed amount of their Secured Claims. Interest Holders are not receiving or retaining any property under the Plan on account of their Interests. In the event an impaired Class rejects the Plan, the Plan shall be deemed a motion for cramdown of such Class under §1129(b)(2) of the Code.

9.4 **Modification or Revocation of the Plan; Severability**: Subject to the restrictions on modifications set forth in §1127 of the Bankruptcy Code and any applicable notice requirements, the Plan Proponents reserve the right to alter, amend or modify the Plan before its substantial consummation. The Plan Proponents also reserve the right to withdraw the Plan prior to the Confirmation Date. If the Plan Proponents withdraw the Plan, or if Confirmation does not occur, then the Plan shall be null and void in all respects, and nothing contained in the Plan will prejudice in any manner the rights of the Debtors.

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Plan Proponents, has the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such 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.

ARTICLE X

RISK FACTORS

10.1 **Factors Relating to Chapter 11 and the Plan**: The following is intended as a summary of certain risks associated with the Plan, but is not exhaustive and must be supplemented by the analysis and evaluation of the Plan and this Disclosure Statement made by each Claimant as a whole in consultation with such Claimant's own advisors. It is unlikely, although possible, that the Debtors' and Non-Debtor Affiliates' will not be able to procure new jobs pursuant to the GSA Contracts and the targets set forth in the Business Plan will not be met. The fact remains, however, that in order for Creditors to be paid, business operations must be downsized and must continue post-confirmation. This risk, however, is not exclusive to the Plan. The value of the Debtors' estates is inexorably tied to the value that may be realized from continued procurement of jobs under the GSA Contracts, whether the Plan is confirmed or not. The Plan Proponents believe that the streamlined business model proposed via the Plan and the Business Plan is feasible, and the fact that the Debtors and Dehler have continued to bid on and win jobs indicates that the risk that the Post-Confirmation Business Plan will not be realized is minimal.

10.2 **Insufficient Acceptances**: The Plan may not be confirmed without sufficient accepting votes. Each impaired Class of Claims and Interests receiving a distribution under the Plan is given the opportunity to vote to accept or reject the Plan. The Plan will be accepted by a Class of impaired Claims if the Plan is accepted by Claimants in such Class actually voting on the Plan who hold *at least* two-thirds (2/3) in amount and *more than* one-half (½) in number of the total Allowed Claims of that Class which actually vote. The Plan will be accepted by a Class of impaired Interests if it is accepted by holders of Interests in such Class actually voting on the Plan who hold *at least* two-thirds (2/3) in amount of the total Allowed Interests of the Class which actually vote. However, an Interest Holder is deemed to have rejected the Plan and is therefore not entitled to vote on the Plan. Only those members of a Class who vote to accept or reject the Plan will be counted for voting purposes.

If any impaired Class of Claims under the Plan fails to provide acceptance levels sufficient to meet the minimum Class vote requirements but at least one impaired Class of Claims accepts the Plan, then, subject to the provisions of the Plan, the Plan Proponents intend to request confirmation of the Plan under Section 1129(b) of the Bankruptcy Code.

10.3 **Lack of Material Recoveries on the Causes of Action**: There is a risk that the litigation intended to be brought by the Trust under the Plan will not yield any material Net Recoveries for the payment of creditors. Risk is an inescapable part of any litigation, and exists independent of Chapter 11 and the Plan. The Plan Proponents cannot guarantee that the Net Proceeds from the Causes of Action will exceed a certain amount.

ARTICLE XI

CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

The following discussion summarizes certain possible federal income tax consequences of the Plan to the Debtors, and to the holders of Claims and Interests. It is based on the Internal Revenue Code of 1986, as amended (the "**Code**"), Treasury Regulations, and administrative and

judicial interpretations thereof which are now in effect, but which could change, even retroactively, at any time. This discussion does not address all aspects of federal, state and local tax laws that could impact the various classes of Claimants, the holders of Interests or the Debtors.

NO RULING HAS BEEN SOUGHT OR OBTAINED FROM THE IRS WITH RESPECT TO ANY OF THE TAX ASPECTS OF THE PLAN AND NO OPINION OF COUNSEL HAS BEEN OBTAINED BY THE PLAN PROPONENTS WITH RESPECT THERETO. NO REPRESENTATIONS OR ASSURANCES ARE BEING MADE WITH RESPECT TO THE FEDERAL INCOME TAX CONSEQUENCES AS DESCRIBED HEREIN. CERTAIN TYPES OF CLAIMANTS AND INTEREST HOLDERS MAY BE SUBJECT TO SPECIAL RULES NOT ADDRESSED IN THIS SUMMARY OF FEDERAL INCOME TAX CONSEQUENCES. FURTHER, STATE, LOCAL, OR FOREIGN TAX CONSIDERATIONS MAY APPLY TO A HOLDER OF A CLAIM OR INTEREST WHICH ARE NOT ADDRESSED HEREIN. BECAUSE THE TAX CONSEQUENCES OF THE PLAN ARE COMPLEX AND MAY VARY BASED ON INDIVIDUAL CIRCUMSTANCES, EACH HOLDER OF A CLAIM OR INTEREST AFFECTED BY THE PLAN MUST CONSULT, AND RELY UPON, HIS OR HER OWN TAX ADVISOR REGARDING THE SPECIFIC TAX CONSEQUENCES OF THE PLAN WITH RESPECT TO THAT HOLDER'S CLAIM OR INTEREST. THIS INFORMATION MAY NOT BE USED OR QUOTED IN WHOLE OR IN PART IN CONNECTION WITH THE OFFERING FOR SALE OF SECURITIES.

11.1 **Tax Consequences to the Debtors**: Under the IRC, a taxpayer generally must include in gross income the amount of any discharge of indebtedness income realized during the taxable year. Section 108(a)(1)(A) of the IRC provides an exception to this general rule, however, in the case of a taxpayer that is under the jurisdiction of a bankruptcy court in a case brought under the Bankruptcy Code where the discharge of indebtedness is granted by the court or is pursuant to a Plan approved by the court, provided that the amount of discharged indebtedness that would otherwise be required to be included in income is applied to reduce certain tax attributes of the taxpayer. Section 108(e)(2) of the IRC provides that a taxpayer shall not realize income from the discharge of indebtedness to the extent that satisfaction of the liability would have given rise to a deduction. As a result of §§ 108(a)(1)(A) and 108(e)(2) of the IRC, the Debtors do not anticipate that any of them will recognize any taxable income from the discharge of indebtedness through the Chapter 11 Cases. Reductions in tax attributes (net operating loss carryover) will occur to the extent of cancellation of indebtedness income not recognized due to the above.

Under § 1141 of the Bankruptcy Code, confirmation of the Plan will discharge the Debtors from all debts except as provided for in the Plan. Implementation of the Plan, including the liquidation and ultimate dissolution of the Debtors may result in discharge of indebtedness to the Debtors as a matter of tax law to the extent of any unsatisfied portion of such Claims. Any such discharge of indebtedness should not be included in gross income of the Debtor, however, because of the exceptions to such inclusion discussed above.

11.2 **Tax Consequences to Creditors**: A Creditor who receives cash or other consideration in satisfaction of any Claim may recognize ordinary income. The impact of such ordinary income, as well as the tax year for which the income shall be recognized, shall depend upon the individual circumstances of each Claimant, including the nature and manner of organization of the Claimant, the applicable tax bracket for the Claimant, and the taxable year of the Claimant. Each

Creditor is urged to consult with its tax advisor regarding the tax implications of any payments or distributions under the Plan.

In general, the principal federal income tax consequences of the Plan to holders of Claims will be (a) recognition of loss or a bad debt deduction to the extent that the total payments received under the Plan with respect to the Claim are less than the adjusted basis of the holder in such Claim, or (b) recognition of taxable income by the holder of the Claim to the extent of the excess of the amount of any payments made under the Plan in respect of the Claim over the holder's adjusted basis therein.

Common examples of holders of Claims who may recognize taxable income upon receipt of payments under the Plan include (a) former employees with Claims for services rendered while serving as employees of a Debtor, (b) trade creditors whose Claims represent an item not previously reported in income (including Claims for lost income upon rejection of leases or other contracts with a Debtor), (c) holders of Claims who had previously claimed a bad debt deduction with respect to their Claims in excess of their ultimate economic loss, and (d) holders of Claims that include amounts of pre-petition interest that had not previously been reported in income. Common examples of Claims who may recognize a loss or deduction for tax purposes as a result of implementation of the Plan, provided that such holders are not paid in full, include holders of Claims that arose out of cash actually loaned or advanced to a Debtor, and holders of Claims consisting of items that were previously included in income of such holders on the accrual method of accounting, to the extent, in both cases, that the economic loss to such holders has not been allowed as a tax deduction in a prior year.

The amount and character or any resulting income or loss recognized for federal income tax consequences to a holder of any Claim as a result of implementation of the Plan will, however, depend on many factors. The most significant of these factors include (a) the nature and origin of the Claim, (b) whether the holder is a corporation (c) the extent to which the Plan provides for payment of the particular Claim, (d) the extent to which any payment made is allocable to pre-petition interest which is part of such Claim, and (e) the prior tax reporting positions taken by the holder with respect to the item that constitutes the Claim. As to the last factor, relevant tax reporting positions include whether the holder had to report under its method of accounting any portion of the Claim (including accrued and unpaid interest) as income prior to receipt and whether the holder previously claimed a bad debt or worthlessness deduction with respect to the Claim, which would affect the adjusted basis of the holder in the Claim.

General rules for the deduction of bad debts are provided in IRC § 166 as follows:

If either (a) the creditor is a corporation, or (b) the debt is a business bad debt in the hands of the creditor, and the creditor demonstrates that the debt is collectable only in part, a deduction for partial worthlessness of the debt will be allowed to the extent that the debt is charged off in the accounting records of the creditor.

For a creditor not described in the previous paragraph, a bad debt deduction is allowable only in the year that the debt becomes wholly worthless.

If the creditor is not a corporation and the debt is a nonbusiness bad debt, the bad debt deduction is treated as a short-term capital loss, which can offset only capital gain income and a limited amount of ordinary income.

For purposes of IRC § 166, a "nonbusiness debt" means a debt other than (i) a debt created or acquired in connection with the creditor's trade or business, or (ii) a debt the loss from the worthlessness of which was incurred during the operation of the creditor's trade or business.

The time as of which a debt becomes worthless (or partially worthless), and therefore the tax year in which a creditor may claim a bad debt deduction, is a question of fact. Pursuant to Income Tax Regulations ("**Regs.**") § 1.166-2(c), as a general rule, bankruptcy is an indication of the worthlessness of at least a part of an unsecured, non-priority debt. In bankruptcy cases, a debt may become worthless before settlement in some instances, and only when a settlement in bankruptcy has been reached in other instances. The mere fact that bankruptcy proceedings instituted against the debtor are terminated in a later year, thereby confirming the conclusion that the debt is worthless (or partially worthless), does not necessarily shift the deduction to such later year. Thus, even though the precise amount that holders of General Unsecured Claims or other Claims will receive under the Plan may not be known until the final distribution date, the determination of the precise amount that will be paid under the Plan with respect to a Claim, or that no amount will be paid, does not necessarily establish that any resulting bad debt deduction is properly allowable in the Creditor's tax year in which the final distribution is made, rather than in an earlier year. Accordingly, to the extent that a Creditor may claim a bad debt deduction which it has not previously claimed, it is possible that the Creditor will be required to amend its return for a prior year and claim the deduction in that year, rather than in the year in which the final distribution is made. Creditors should consult with their individual tax advisors with respect to this issue.

The extent to which gain or loss may be recognized by a holder of a Claim upon implementation of the Plan may be significantly affected by any bad debt deduction that may have been claimed by the holder in a prior year with respect to the debt on which the Claim is based. If the holder took a bad debt deduction in a prior year which is recovered in whole or part through a payment made to the holder pursuant to the Plan, the holder will generally be required to include in income the amount recovered in the year the holder receives the payment. An exception to this rule permits exclusion of a recovery of a prior bad debt deduction to the extent that the earlier bad debt deduction did not produce a tax benefit to the holder.

THE FOREGOING IS INTENDED TO BE A SUMMARY ONLY AND NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING OR CONSULTATION WITH A TAX ADVISOR. THE FEDERAL, STATE, LOCAL, AND FOREIGN TAX CONSEQUENCES OF THE PLAN ARE COMPLEX AND, IN SOME CASES, UNCERTAIN. SUCH CONSEQUENCES MAY ALSO VARY BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER OF A CLAIM OR INTEREST. ACCORDINGLY, EACH HOLDER OF A CLAIM OR INTEREST IS STRONGLY URGED TO CONSULT WITH HIS OR HER OWN TAX ADVISOR REGARDING THE FEDERAL, STATE, LOCAL, AND FOREIGN TAX CONSEQUENCES OF THE PLAN.

ARTICLE XII

RECOMMENDATION OF THE PLAN PROPONENTS

The Plan Proponents believe the Plan is in the best interests of all Creditors. Accordingly, the Plan Proponents recommend that you vote for acceptance of the Plan and hereby solicit your acceptance of the Plan.

DATED: December 20, 2017

AGS ENTERPRISES, INC.

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Kelly O'Donnell, President

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