

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

IN RE:

N214FT, LLC,

DEBTOR.

CASE NO. 17-43289-11

CHAPTER 11

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**N214FT'S DISCLOSURE STATEMENT IN SUPPORT OF CHAPTER 11 PLAN OF  
N214FT, LLC DATED OCTOBER 23, 2017**

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Dated: October 23, 2017

## **INTRODUCTORY DISCLOSURES**

**THIS DISCLOSURE STATEMENT, WHICH HAS BEEN FILED BY THE DEBTOR, IN ITS CAPACITY AS DEBTOR AND DEBTOR-IN-POSSESSION, CONTAINS A SUMMARY OF MATERIAL PROVISIONS OF THE PLAN OF THE DEBTOR PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE, INCLUDING PROVISIONS RELATING TO THE TREATMENT OF CLAIMS AGAINST AND INTERESTS IN THE DEBTOR AND THE MEANS OF IMPLEMENTATION OF THE PLAN.**

**THIS DISCLOSURE STATEMENT ALSO SUMMARIZES CERTAIN FINANCIAL INFORMATION CONCERNING THE DEBTOR AND THE CLAIMS ASSERTED AGAINST THE DEBTOR IN THIS BANKRUPTCY CASE. WHILE THE DEBTOR BELIEVES THAT THIS DISCLOSURE STATEMENT CONTAINS ADEQUATE INFORMATION WITH RESPECT TO THE DOCUMENTS AND INFORMATION SUMMARIZED, HOLDERS OF CLAIMS AND INTERESTS SHOULD CAREFULLY REVIEW THE ENTIRE PLAN AND EACH OF THE DOCUMENTS REFERENCED IN THIS DISCLOSURE STATEMENT AND SHOULD SEEK THE ADVICE OF THEIR OWN LEGAL COUNSEL AND OTHER ADVISORS BEFORE CASTING THEIR BALLOTS ON THE PLAN.**

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

**UNLESS INDICATED OTHERWISE, THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF OR THE DATE OTHERWISE INDICATED HEREIN, AND NEITHER DELIVERY OF THIS DISCLOSURE STATEMENT NOR ANY RECOVERY MADE IN CONNECTION WITH THE PLAN WILL, UNDER ANY CIRCUMSTANCES, CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT SINCE THE DATE THIS DISCLOSURE STATEMENT AND THE MATERIALS RELIED UPON IN PREPARING THIS DISCLOSURE STATEMENT WERE COMPILED.**

**THE APPROVAL OF THIS DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT CONSTITUTE AN ENDORSEMENT BY THE BANKRUPTCY COURT OF THE PLAN OR A GUARANTEE OF THE ACCURACY**

**AND COMPLETENESS OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT. THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE, AND MAY NOT BE CONSTRUED AS, AN ADMISSION OF FACT, LIABILITY, STIPULATION, OR WAIVER.**

**NOTHING CONTAINED IN THIS DISCLOSURE STATEMENT, EXPRESS OR IMPLIED, IS INTENDED TO GIVE RISE TO ANY COMMITMENT OR OBLIGATION OF THE PLAN PROPONENTS OR ANY OTHER PARTY, NOR WILL IT BE CONSTRUED AS CONFERRING UPON ANY PERSON ANY RIGHTS, BENEFITS, OR REMEDIES OF ANY NATURE WHATSOEVER. THIS DISCLOSURE STATEMENT IS INFORMATIONAL ONLY. ADDITIONALLY, HOLDERS OF CLAIMS AND INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL, OR TAX ADVICE. EACH CREDITOR 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.**

**IF THE PLAN IS CONFIRMED BY THE BANKRUPTCY COURT AND THE EFFECTIVE DATE OCCURS, ALL HOLDERS OF CLAIMS AND INTERESTS (INCLUDING THOSE HOLDERS OF CLAIMS WHO DO NOT SUBMIT BALLOTS TO ACCEPT OR REJECT THE PLAN, OR WHO ARE NOT ENTITLED TO VOTE ON THE PLAN) WILL BE BOUND BY THE TERMS OF THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY.**

## **ARTICLE I INTRODUCTION**

The Debtor<sup>1</sup> (“N214FT”), as debtor and debtor-in-possession, submits this disclosure statement (the “Disclosure Statement”) pursuant to section 1125 of title 11 of the Bankruptcy Code in connection with the solicitation of votes on the *CHAPTER 11 PLAN OF N214FT, LLC DATED OCTOBER 23, 2017* (the “Plan,” attached hereto as **Exhibit A**). To the extent any inconsistencies exist between this Disclosure Statement and the Plan, the Plan governs.

Capitalized terms used but not defined herein have the meanings assigned to them in Article I of the Plan.

**WHO IS ENTITLED TO VOTE:** Under the Bankruptcy Code, only Holders of Claims or Interests in “impaired” classes are entitled to vote on the Plan (unless, for reasons discussed in more detail below, such Holders are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code). Under section 1124 of the Bankruptcy Code, a class of claims or interests is deemed to be “impaired” under the Plan unless (i) the Plan leaves unaltered the legal, equitable, and contractual rights to which such claim or interest entitles the holder thereof or (ii)

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<sup>1</sup> Please refer to Article I.B of the Plan for the defined terms that are used in the Plan, and note that certain additional defined terms are located within the body of this Disclosure Statement where indicated.

notwithstanding any legal right to an accelerated payment of such claim or interest, the Plan, among other things, cures all existing defaults (other than defaults resulting from the occurrence of events of bankruptcy) and reinstates the maturity of such claim or interest as it existed before the default.

The following table summarizes: (i) the designation of Claims and Interests under the Plan, (ii) which Classes are Impaired and Unimpaired by the Plan, (iii) which Classes are entitled to vote and not entitled to vote on the Plan, and (iv) the estimated recoveries for holders of Claims. The table is qualified in its entirety by reference to the full text of the Plan. For a more detailed summary of the terms and provisions of the Plan, *see Article III—Summary of the Plan* below.

All Classified Claims are subject to Disallowance if the Holder of such Claims is the alleged transferee of a transfer that is an Avoidance Action. Also, the Debtor, and as applicable the Reorganized Debtor, retain all rights to object to any Claim under applicable non-bankruptcy law or bankruptcy law. This Disclosure Statement shall not be used as a basis for Allowance of any Claim.

| <b>Class</b> | <b>Designation</b>    | <b>Impairment Status</b> | <b>Voting Rights</b> | <b>Estimated Amount of Claims</b>    | <b>Estimated Recovery</b>                    |
|--------------|-----------------------|--------------------------|----------------------|--------------------------------------|--|
| N/A          | Administrative Claims | N/A                      | None                 | Approximate amount:<br>\$100,000     | One Hundred Percent (100%) of Allowed Claims |
| N/A          | Priority Tax Claims   | N/A                      | None                 | Approximate amount:<br>\$330,000     | One Hundred Percent (100%) of Allowed Claims |
| 1            | UMB Secured Claim     | Impaired                 | Entitled to Vote     | Approximate amount:<br>\$3.5 million | T.B.D.                                       |
| 2            | UMB Unsecured Claim   | Impaired                 | Entitled to Vote     | Approximate amount:<br>\$500,000     | T.B.D.                                       |

| Class | Designation       | Impairment Status | Voting Rights    | Estimated Amount of Claims      | Estimated Recovery          |
|-------|-------------------|-------------------|------------------|---------------------------------|-----------------------------|
| 3     | General Unsecured | Impaired          | Entitled to Vote | Approximate amount:<br>\$132,00 | Pro Rata of<br>\$35,000     |
| 4     | Guarantor         | Impaired          | Deemed to Reject | N/A                             | Unknown                     |
| 5     | Equity Interest   | Impaired          | Entitled to Vote | N/A                             | Retain Same Equity Interest |

**DECIDING HOW TO VOTE ON THE PLAN:** All Holders of Claims are encouraged to read this Disclosure Statement, its exhibits, and the Plan carefully and in their entirety before, if applicable, deciding to vote either to accept or to reject the Plan. This Disclosure Statement contains important information about the Plan, considerations pertinent to acceptance or rejection of the Plan, and developments concerning the Chapter 11 Case.

A Ballot to be used for voting to accept or reject the Plan is enclosed with this Disclosure Statement and transmitted to all Holders of Allowed Claims entitled to vote on the Plan (the “Voting Classes”). The Holders of Allowed Claims entitled to vote on the Plan should carefully review the Ballot and the instructions thereon, and must execute the Ballot, and return it to the address indicated thereon by the deadline to enable the Ballot to be considered for voting purposes. The Ballot is for voting purposes only and does not constitute and shall not be deemed a Proof of Claim or an assertion of a Claim.

**IN ORDER FOR YOUR VOTE TO BE COUNTED, YOUR VOTE MUST BE RECEIVED BY THE VOTING AGENT AT THE ADDRESS SET FORTH BELOW ON OR BEFORE THE VOTING DEADLINE OF \_\_\_ P.M., PREVAILING CENTRAL TIME, ON \_\_\_\_\_, 2017, UNLESS EXTENDED BY THE DEBTOR. PLEASE NOTE: A FULL EXPLANATION OF THE VOTING REQUIREMENTS AND VOTING PROCEDURES IS FOUND IN ARTICLE IX OF THIS DISCLOSURE STATEMENT.**

**EACH BALLOT ADVISES THAT (A) EACH HOLDER OF A CLAIM WHO HAS AFFIRMATIVELY VOTED TO ACCEPT THE PLAN AND (B) EACH HOLDER OF A CLAIM WHO DOES NOT VOTE TO ACCEPT OR REJECT THE PLAN AND IS A HOLDER OF A CLAIM IN A CLASS THAT HAS VOTED TO ACCEPT THE PLAN SHALL BE DEEMED TO HAVE CONSENTED TO THE RELEASE, INJUNCTION, AND EXCULPATION PROVISIONS SET FORTH IN ARTICLE XI OF THE PLAN AND UNCONDITIONALLY, IRREVOCABLY, AND FOREVER RELEASED AND DISCHARGED THE RELEASED PARTIES IDENTIFIED IN ARTICLE XI OF THE PLAN FROM ANY AND ALL CAUSES OF ACTION.**

ARTICLE IX OF THIS DISCLOSURE STATEMENT PROVIDES ADDITIONAL DETAILS AND IMPORTANT INFORMATION REGARDING VOTING PROCEDURES AND REQUIREMENTS. PLEASE READ ARTICLE VIII OF THIS DISCLOSURE STATEMENT CAREFULLY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

**THE DEBTOR STRONGLY RECOMMENDS THAT YOU VOTE TO ACCEPT THE PLAN, WHICH HAS BEEN PROPOSED BY THE DEBTOR. THE DEBTOR BELIEVES THAT THE PLAN MAXIMIZES THE VALUE OF THE DEBTOR'S ESTATE AND REPRESENTS THE BEST AVAILABLE ALTERNATIVE FOR COMPLETING THIS CHAPTER 11 CASE.**

## **ARTICLE II BACKGROUND**

### *2.1 Debtor's History*

N214FT is a Texas limited liability company that was formed in 2014. N214FT has two members, Dustin Rall and Scott Schuster. The Debtor is the legal and registered owner of a Dassault Aviation model Mystere-Falcon 50 aircraft and is engaged in the business of Aircraft ownership, including acting through a property manager to charter the Aircraft. In July 2014, the Debtor financed the purchase of the Aircraft pursuant to a promissory note and aircraft security agreement issued in favor of UMB.

The Debtor does not maintain its own employees. Instead, under the Aircraft Management Agreement, Baker Aviation, LLC ("Baker Aviation") provides its services in connection with the management, operation, administration, and maintenance of the Aircraft in the ordinary course of business and in accordance with the terms of the Aircraft Management Agreement. The receipt or provision of these services is negotiated by the Debtor with Baker Aviation on an arm's length basis and independently approved by the Debtor's officers. Pursuant to the Aircraft Management Agreement, Baker Aviation provides its services to the Debtors in exchange for 15% of all charter revenue, and payment by the Debtor of certain operating costs, fixed costs (including Aircraft insurance, hangar fees and pilot costs), and incidental costs.

### *2.2 Debtor's Management*

The Debtor is managed by Dustin Rall and Scott Schuster. The Members are guarantors of the UMB Secured Claim.

### *2.3 Capital Structure*

#### *(a) Secured Note*

UMB provided the Debtor with a loan in order to enable the acquisition of the Aircraft. That loan is documented in the following agreements (the "Loan Documents"):

- a *Business Loan Agreement*, dated as of July 25, 2014, between the Debtor and UMB
- a *Promissory Note*, dated as of July 25, 2014, executed by the Debtor in favor of UMB
- an *Aircraft Security Agreement*, dated as of July 25, 2014, between the Debtor and UMB
- a *Commercial Guaranty*, dated as of July 25, 2014 by Rall, in favor of UMB;
- a *Commercial Guaranty*, dated as of July 25, 2014 by Schuster, in favor of UMB; and
- other Commercial Guaranty agreements by entities controlled by Rall or Schuster, in favor of UMB.

The UMB Promissory Note is secured by Liens upon the Aircraft (including all engines, avionics, and log books associated with the Aircraft) and all accounts, general intangibles and other proceeds relating to the Aircraft (including the Aircraft Management Agreement).

(b) Membership Interests

Dustin Rall and Scott Schuster are the sole members of the Debtor.

2.4 *Other Significant Obligations.*

(a) Tarrant County Tax

Tarrant County Texas has filed Proof Claim of No 1 asserting a Secured Claim to the extent of collateral value and an Unsecured Priority Tax Claim under 11 U.S.C. § 507(a)(8)(B) to the extent of any shortfall in collateral value. The amount of the Tarrant County Tax Claim, as filed, is \$354,513.65, for tax years 2016 and 2017.

(b) Baker Aviation, LLC

Baker Aviation is the Debtor's only general Unsecured Creditor. The Debtor owes Baker Aviation approximately \$132,000 for prepetition amounts under the Aircraft Management Agreement.

### **ARTICLE III EVENTS LEADING TO CHAPTER 11**

3.1 *Revenue Shortfalls*

For each year of operation, the Debtor has generated negative gross revenue. The revenue shortfall has been caused by (1) lack of consistent aircraft charters and (2) significant Aircraft maintenance and operating expenses. This revenue shortfall has also required the Members to personally fund approximately \$1.5 million for the Debtor's debt service to UMB and Baker Aviation. These payments by the Members have been considered capital contributions. Such capital contributions far exceed any amounts that could have been billed for the Member's use of the Aircraft.

3.2 *UMB Notice of Default*

On May 12, 2017, UMB served a notice of default for Debtor's failure to notify UMB of the Tarrant County Tax Lien and demanded that the Debtor pay and discharge such tax. On August 9, 2017, UMB served a Fifth Further Notice of Default and Demand for Payment and demanded that the Debtor pay the outstanding principal balance of the UMB Promissory Note. The August Notice of Default further provided that the Debtor turnover possession of the Aircraft.

To preserve the value of the Aircraft for the benefit of all creditors, and in an effort to negotiate a consensual sale process that would maximize the value of the Aircraft, the Debtor commenced this chapter 11 case.

#### **ARTICLE IV KEY EVENTS DURING CHAPTER 11 CASE**

The following is a general summary of this Chapter 11 Case.

##### *4.1 Filing Chapter 11*

The Debtor filed Chapter 11 on August 10, 2017.

##### *4.2 Retention of Professionals*

The Debtor also filed one application to retain professionals to assist the Debtor in carrying out their duties under the Bankruptcy Code as debtor-in-possession in this Chapter 11 Case. The Bankruptcy Court approved the retention and employment of Kelly Hart & Pitre ("Kelly Hart") as counsel for the Debtor [Docket Nos. 15, 36].

##### *4.3 Bankruptcy Schedules and Statement of Financial Affairs*

On September 8, 2017, the Debtor timely filed its Schedules of Assets (A and B), Exempt Property (C), Creditors Holding Secured Claims (D), Creditors Holding Unsecured Priority Claims (E), Creditors Holding Unsecured Nonpriority Claims (F), Executory Contracts and Unexpired Leases (G), and Codebtors (H) (the "Schedules") [Docket No. 18]. On September 8, 2017, the Debtor also timely filed its Statement of Financial Affairs [Docket No. 19].

##### *4.4 Executory Contracts*

The Debtor is party to the Aircraft Management Agreement which is an executory contract. All executory contracts will be deemed rejected as of the Effective Date.

##### *4.5 UMB Lift Stay*

On September 26, 2017, UMB filed a Motion for Relief From Stay [Docket No. 20]. The Debtor objected to the Motion for Relief From Stay [Docket No. 30]. The Bankruptcy Court held a preliminary hearing on the UMB Motion for Relief From Stay on October 12, 2017, and continued the matter to a final hearing to be held on November 22, 2017.



#### 4.6 *Aircraft Broker Retention*

On October 9, 2017, the Debtor filed an Application to Employ Swartz Aviation, LLC as the Aircraft Broker [Docket No. 25].

#### 4.7 *Operations and Estate Assets*

The Aircraft Management Agreement has remained in place since the commencement of the Bankruptcy Case.

### ARTICLE V SUMMARY OF THE PLAN

#### 5.1 *Introduction*

**THE SUMMARY OF THE PLAN SET FORTH BELOW IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE FULL TEXT OF THE PLAN. IN THE EVENT OF ANY INCONSISTENCY BETWEEN THE PROVISIONS OF THE PLAN AND THE SUMMARY CONTAINED HEREIN, THE TERMS OF THE PLAN WILL GOVERN. CREDITORS ARE ENCOURAGED TO THOROUGHLY REVIEW THE TERMS OF THE PLAN AND TO SEEK INDEPENDENT LEGAL OR FINANCIAL ADVICE REGARDING THE TERMS OR TREATMENT CONTAINED THEREIN.**

#### 5.2 *Overview of the Plan*

The Plan provides for the payment of unclassified Allowed Administrative Claims and Allowed Priority Tax Claims, and five (5) separate classifications of Claims and Equity Interests.

#### 5.3 *Administrative Claims, Professional Fees, and Priority Tax Claims*

As provided in section 1123(a) of the Bankruptcy Code, Administrative Claims (including Professional Fee Claims) under section 507(a)(2) of the Bankruptcy Code and Priority Tax Claims under section 507(a)(8) of the Bankruptcy Code are not classified for purposes of voting on, or receiving Distributions under the Plan. Holders of Administrative Claims (including Professional Fee Claims) and Priority Tax Claims are not entitled to vote on the Plan but, rather, are treated separately in accordance with Article II of the Plan and under sections 1129(a)(9)(A) and (C) of the Bankruptcy Code.

##### (a) *Timing and Treatment of Administrative Claims and Professional Fees*

All Professionals seeking payment of a Professional Fee Claim shall file their respective final applications for allowances of compensation for services rendered and reimbursement of expenses incurred through the Effective Date **within forty-five (45) days after the occurrence of the Effective Date**. If Allowed, such Professional Fee Claim will be paid from an Administrative Expense Claim Fund.

An Administrative Claim with respect to which notice has been properly filed and served

shall become an Allowed Administrative Claim only to the extent Allowed by Final Order not made the subject of appeal, or as such Claim is settled, compromised, or otherwise resolved.

**HOLDERS OF ADMINISTRATIVE CLAIMS THAT ARE REQUIRED TO FILE AND SERVE A REQUEST FOR PAYMENT OF SUCH ADMINISTRATIVE CLAIMS BY THE ADMINISTRATIVE BAR DATE THAT FAIL TO DO SO SHALL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING SUCH ADMINISTRATIVE CLAIMS AGAINST THE DEBTOR OR ITS RESPECTIVE PROPERTY OR THE REORGANIZED DEBTOR.**

Total Professional Fee Claims through the Effective Date have not been finalized, but can only be estimated at this time. However, the Debtor has projected the Professional Fee Claims through October 23, 2017 to be approximately \$100,000.

(b) Treatment of Allowed Priority Tax Claims

The Tarrant County Tax Claim shall be Allowed in the amount equal to the amount of such Claim against the Debtor,<sup>2</sup> and, with respect to the Secured Claim of Tarrant County shall be paid, in full on the Distribution Date (Sale), unless there shall be a dispute as regards the ranking of the Tarrant County Priority Tax Claim with respect to the UMB Secured Claim, in which case the Bankruptcy Court shall resolve such dispute and sufficient funds shall be held in escrow after the Closing until the Bankruptcy Court resolves any ranking dispute with respect to the Secured Claim. The Holder of the Tarrant County Priority Tax Claim shall retain all lien rights and ranking thereof. In the event the Tarrant County Tax Claim is not fully paid as a Secured Claim by the proceeds of the Sale at Closing, the Holder of the portion of the Tarrant County Tax Claim that is a Priority Tax Claim under section 507(a)(8)(B) shall receive (a) cash in an amount not to exceed the amount of such Claim or (b) such other treatment as may be agreed upon by the Debtor and Tarrant County, or as may otherwise be provided in the Bankruptcy Code

(c) UST Fees

All fees payable under 28 U.S.C. § 1930 that are unpaid as of the Effective Date shall be paid in Cash in full by N214FT on or before the Distribution Date. Fees payable pursuant to 28 U.S.C. § 1930 for the Debtor's Estate after the Effective Date, if any, will be paid by the Disbursing Agent using the Administrative Expense Fund as such become due.

5.4 *Classification and Treatment of Claims and Interests*

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes, including voting, Confirmation, and Distribution pursuant hereto and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Equity Interest shall be deemed classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and shall be deemed classified in a different

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<sup>2</sup> The Debtor reserves all rights to object to the amount of the Tarrant County Tax Claim.

Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that such Claim or Equity Interest is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date.

| Class   | Claims and Interests     | Status   | Voting Rights    |
|---------|--------------------------|----------|------------------|
| Class 1 | UMB Secured Claim        | Impaired | Entitled to Vote |
| Class 2 | UMB Unsecured Claim      | Impaired | Entitled to Vote |
| Class 3 | General Unsecured Claims | Impaired | Entitled to Vote |
| Class 4 | Guarantor Claims         | Impaired | Deemed to Reject |
| Class 5 | Equity Interests         | Impaired | Entitled to Vote |

### 5.5 Claims Analysis

The following table provides a summary of the filed and scheduled Claims for discussion purposes only and does not reflect any opinion by the Debtor or Plan Proponents of any Claims that are Allowed or Disallowed:

| Type Claim               | Plan Estimate | Filed/Scheduled |
|--------------------------|---------------|-----------------|
| Admin. Claims            | \$100,000     | none            |
| Priority Tax Claims      | \$330,000     | \$354,513.65    |
| UMB Secured Claim        | \$3,500,000   | \$3,827,408.33  |
| UMB Unsecured Claim      | \$500,000     | \$327,408.33    |
| General Unsecured Claims | \$35,000      | \$131,955.15    |
| Guarantor Claims         | Unknown       | Unknown         |

### 5.6 Plan Classification and Treatment Summary

#### 1. CLASS 1 – UMB Secured Claim.

(a) *Classification:* Class 1 consists of the UMB Secured Claim.

(b) *Treatment:* The Class 2 Claim of UMB shall be Allowed in the amount equal to the amount of the UMB Secured Claim. If the UMB Secured Claim has not been paid by the Effective Date because the Distribution Date (Sale) has not occurred, UMB shall receive on the Effective Date a promissory note in the principal amount of Three Million Five Hundred thousand and No/100ths Dollars (\$3,500,000), which shall be the amount of the estimated UMB Secured Claim, with such note to bear interest at the simple interest rate of five and one-half percent (5.5%) per annum, and to provide for equal monthly payments of principal and interest

according to an amortization rate of twelve (12) years, with the full balance of all principal and interest to be fully due and payable at the end of the forty-eighth (48<sup>th</sup>) full calendar month after the Effective Date (“Plan Secured Note”). If payment made upon the Distribution Date (Sale) does not fully pay the balance due under the Plan Secured Note, the portion not paid through the proceeds of the Sale shall be added to the UMB Plan Unsecured Note (Defined below), and the monthly payments to be made under the UMB Plan Unsecured Note shall be revised as set forth within the treatment of the Class 2 UMB Unsecured Claim. The Members shall be co-makers of the Plan Secured Note.

(c) *Voting:* The Holder(s) of the Class 1 UMB Secured Claim are Impaired and entitled to vote to accept or reject the Plan.

## **2. CLASS 2 – UMB Unsecured Claim**

(a) *Classification:* Class 2 consists of UMB Unsecured Claim

(b) *Treatment:* The Class 2 UMB Unsecured Claim shall be Allowed in the amount equal to the difference between (i) the amount of the Plan Secured Note and the UMB Claim. If the UMB Unsecured Claim has not been paid by the Effective Date UMB shall receive on the Effective Date a promissory note in the principal amount of the amount of the UMB Unsecured Claim (estimated herein to be approximately Five Hundred Thousand and No/100ths Dollars (\$500,000)<sup>3</sup>, with such note to bear interest at the simple interest rate of six percent (6.0%) per annum, and to provide for equal monthly payments of principal and interest according to an amortization rate of twelve (12) years, with the full balance of all principal and interest to be fully due and payable at the end of the forty-eighth (48<sup>th</sup>) full calendar month after the Effective Date (“UMB Plan Unsecured Note”). If payment made upon the Distribution Date (Sale) does not fully pay the balance due under the Plan Secured Note, the portion not paid through the proceeds of the Sale shall be added to the UMB Plan Unsecured Note principal balance, and the monthly payments to be made under the UMB Plan Unsecured Note shall be revised to provide for equal monthly payments of principal and interest calculated upon the remaining amount of the amortization term, with all principal and interest to be due upon the original maturity date. The Members shall be co-makers of the UMB Plan Unsecured Note.

(c) *Voting:* The Holder(s) of the Class 2 UMB Unsecured Claim are impaired and entitled to vote to accept or reject the Plan.

## **3. CLASS 3 – Convenience Claims**

(a) *Classification:* General Unsecured Claims (excluding the Class 2 UMB Unsecured Claim).

(b) *Treatment:* Each Holder of an Allowed Claim in Class 3 will be entitled to receive a Pro Rata share of the Unsecured Claim fund (which shall not be diluted by the Class 2 UMB Unsecured Claim).

<sup>3</sup> This amount will vary depending upon (i) the final sale price of the Aircraft and (ii) the amount of the Allowed Secured Tarrant county Tax Claim.

(c) *Voting:* The holders of Class 3 General Unsecured Claims are impaired and entitled to vote to accept or reject the Plan.

#### **4. CLASS 4 – Guarantor Claims**

(a) *Classification:* Class 4 consists of the Guarantor’s Claims Held by Dustin Rall and/or Scott Schuster for reimbursement of amounts actually paid or to be paid by either of them to UMB or any other Person on account of any act(s) of guaranty of indebtedness of N214FT.

(b) *Treatment:* The holder of a Class 4 Claim will not receive any distribution under the Plan and these claims will be extinguished.

(c) *Voting:* Holders of Class 4 claims are deemed to reject the Plan, as their claims are to be extinguished on the Effective Date, and therefore are not entitled to vote to accept or reject the Plan.

#### **5. CLASS 5 – Owner’s Equity Interests**

(a) *Classification:* Class 5 consists of the Equity Interests.

(b) *Treatment:* The holders of Class 5 Equity Interests shall retain the same percentage ownership interest in N214FT, but shall be required to execute the Plan Secured Note and the UMB Plan Unsecured Note prior to the Effective Date (to be held in escrow pending the occurrence of the Effective Date). The holders of Class 5 Claims are therefore impaired. The Holders of the Class 5 Equity Interests are entitled to vote to accept or reject the Plan.

(c) *Voting:* The Holders of the Class 5 Equity Interests are entitled to vote to accept or reject the Plan.

#### *5.7 Means for Implementation of the Plan*

##### (a) Plan Funding

Distributions under the Plan, and the Reorganized Debtor’s operations post-Effective Date will be funded from the following sources:

- (i) Sale of the Aircraft. Upon this Court’s entry of the Sale Order the Aircraft will be sold to the Buyer for pursuant to the Aircraft Purchase Agreement. The sale will be free and clear of the Lien of UMB in, to and upon the Aircraft, and its related documents, certificates, records and equipment.<sup>4</sup> At Closing the Debtor will

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<sup>4</sup> UMB shall maintain the right to credit bid an amount greater than the sale price to be achieved through the Aircraft Purchase Agreement.

make the payments required to be made on the Distribution Date (Sale). Any remaining Net Sale Proceeds will be distributed pursuant to the terms of the Plan. If the Sale has not been accomplished prior to the Effective Date, then the reorganized Debtor shall continue to market the Aircraft, until it receives an offer with which it agrees, and such sale shall be brought before the Bankruptcy Court for approval.

- (ii) Plan Notes. If the Sale has not been accomplished prior to the Effective Date, the Debtor shall issue the Plan Notes and commence payments upon the Plan Notes in accordance with the terms thereof, pending Closing.
- (iii) Administrative Expense Fund. Within ten (10) days after the entry of a Final Order on all Professional Fee Claims, the Members of N214FT will deposit with the Debtor the Administrative Expense Fund in an amount sufficient to pay such Professional Fee Claim.

(b) Continued Existence

Reorganized N214FT will exist on and after the Effective Date as a juridical entity, with all the powers of a Texas limited liability corporation, under applicable law. As of the Effective Date, reorganized N214FT may operate its businesses free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than those restrictions expressly imposed by the Plan and Confirmation Order

(c) Corporate Governance

In conformity with applicable bankruptcy and non-bankruptcy law, reorganized N214FT shall cause to be filed with all appropriate governmental agencies appropriate restated articles of incorporation, restated by-laws, as the case may be, to the extent necessary under the Bankruptcy Code and as permitted by applicable non-bankruptcy law.

(d) Approvals

On the Effective Date, all matters provided for under the Plan that would otherwise require approval of N214FT, or its respective managers, officers, or directors, including, without limitation, the adoption and effectiveness of the restated articles of incorporation, restated by-laws, restated articles of organization, and/or restated operating agreements, as the case may be, and the election or appointment of officers, directors, and/or managers, as the case may be, of Reorganized N214FT as provided for under the Plan, shall be deemed to have occurred and shall be in effect from and after the Effective Date without any requirement of further action by Reorganized N214FT or its respective managers, officers, or directors.

(e) Delivery of Distributions and Undeliverable or Unclaimed Distributions.

(i) Delivery of Distributions in General

Except as otherwise provided in the Plan, the Disbursing Agent shall make all distributions required under the Plan. Distributions to Holders of Allowed Claims shall be made at the address of the Holder of such Claim or Equity Interest as indicated on the records of N214FT as of the Effective Date and as set forth on the Schedules filed with the Bankruptcy Court, at the address specified in a timely filed proof of claim, or as provided by the agreement of the Holders and N214FT.

(ii) Undeliverable Distributions and Unclaimed Property

**Holding of Undeliverable Distributions.** If any distribution to a Holder of an Allowed Claim is returned to the Disbursing Agent as undeliverable, no further distributions shall be made to such Holder unless and until the Disbursing Agent is notified in writing of such Holder's then-current address. Undeliverable distributions shall remain in the possession of Disbursing Agent, until such time as a distribution becomes deliverable. Undeliverable Cash shall not be entitled to any interest, dividends or other accruals of any kind. As soon as reasonably practicable, the Disbursing Agent shall make all distributions that become deliverable.

**Failure to Claim Undeliverable Distributions.** In an effort to ensure that all Holders of Allowed Claims receive their allocated distributions, one hundred twenty (120) days after the Effective Date, the Disbursing Agent will compile a listing of unclaimed distribution Holders. This list will be maintained for as long as the Bankruptcy Case open. Any Holder of an Allowed Claim (irrespective of when a Claim became an Allowed Claim) that does not assert a Claim pursuant hereto for an undeliverable distribution (regardless of when not deliverable) within one (1) year after the Effective Date shall have its Claim for such undeliverable distribution discharged and shall be forever barred from asserting any such Claim against Reorganized N214FT, or its property. In such cases: (i) any Cash held for distribution on account of such Claims shall constitute property of Reorganized N214FT. Nothing contained herein shall require Reorganized N214FT to attempt to locate any Holder of an Allowed Claim on account of an unclaimed distribution.

(iii) Compliance with Tax Requirements.

**Compliance with Tax Requirements/Allocations.** To the extent applicable, Reorganized N214FT shall comply with all tax withholding and reporting requirements imposed on it by any governmental unit, and all distributions pursuant hereto shall be subject to such withholding and reporting requirements.

5.8 *Treatment of Executory Contracts and Unexpired Leases*

(a) Assumption and Rejection

N214FT is party to the Aircraft Management Agreement, an executory contract with

Baker Aviation. The Aircraft Management Agreement, along with all other executory contracts of the Debtor shall be rejected upon the Effective Date, unless expressly assumed pursuant to order of the Bankruptcy Court.

(b) Insurance Policies

All of the Debtor's insurance policies and any agreements, documents, or instruments relating thereto, are treated as and deemed to be Executory Contracts under the Plan.

5.9 *Claims Objection*

(a) Prosecution of Objections to Claims

As of the Effective Date, Reorganized N214FT shall have the exclusive authority on or before the Claims Objection Bar Date to file objections, settle, compromise, withdraw or litigate to judgment objections to Claims. Hearings on any such objections shall be fixed for hearing at least twenty-eight (28) days after the filing of the objections or at such other time as may be fixed by the Bankruptcy Court or agreed to by the parties (subject to the authority of the Bankruptcy Court). Reorganized N214FT shall litigate to judgment, settle or withdraw objections to Disputed Claims, and with regard to objections, if any, pending as of Confirmation. From and after the Effective Date, Reorganized N214FT may settle or compromise any Disputed Claim without approval of the Bankruptcy Court. Reorganized N214FT also reserves the right to resolve any Disputed Claims outside the Bankruptcy Court under applicable governing law.

(b) Allowance of Claims

Except as to Claims allowed by the Plan or as otherwise expressly provided herein or in any order by the Bankruptcy Court prior to the Effective Date (including the Confirmation Order), no Claim shall be deemed Allowed, unless and until such Claim is deemed Allowed under the Bankruptcy Code or the Bankruptcy Rules or the Bankruptcy Court enters a Final Order in the Chapter 11 Case allowing such Claim. Except as to Claims Allowed by the or any order entered by the Bankruptcy Court prior to the Effective Date (including the Confirmation Order), the Reorganized Debtor, after confirmation, will have and retain any and all rights and defenses the Debtor had with respect to any Claim as of the Petition Date.

5.10 *Releases, Indemnification, Injunction; Exculpation; Discharge*

(a) Discharge of Debtor

The rights afforded under the Plan and the treatment of all Claims and Equity Interests under the Plan shall be in exchange for and in complete satisfaction, discharge, and release of Claims and Equity Interests of any nature whatsoever, including any interest accrued on such Claims from and after the Petition Date, against the Debtor and the Reorganized Debtor, or any of their assets or properties. Except as otherwise provided herein, on the Effective Date, all such Claims against and Equity Interests in the Debtor and the Reorganized Debtor shall be satisfied, discharged, and released in full, and all persons shall be precluded from asserting against the



Debtor or the Reorganized Debtor, and/or any party released under the Plan, their successors and/or assigns, their assets, or their properties any other or further Claims or Equity Interests based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Confirmation Date.

(b) Injunction

**THERE SHALL BE, ON AND AFTER THE EFFECTIVE DATE, AN INJUNCTION TO THE FULLEST EXTENT ALLOWED UNDER SECTIONS 1141 AND 524 OF THE BANKRUPTCY CODE, AND ALL HOLDERS OF CLAIMS SHALL BE ENJOINED FROM PURSUING ANY ACTION ON ACCOUNT OF OR RELATED TO ANY CLAIM THROUGH ANY CONDUCT OR PROCEEDING WHATSOEVER, WITH RESPECT TO DISCHARGED, RELEASED, ENJOINED OR EXCULPATED CLAIMS, AND AS AGAINST ANY PERSON SUBJECT TO OR DERIVING RIGHTS FROM THE DISCHARGE AND/OR ANY RELEASE OR EXCULPATION ARISING UNDER THE PLAN.**

(c) Exculpations

The Debtor and the Reorganized Debtor and each of its respective representatives (including any attorneys), shall have no liability to any Holder of any Claim, for any act or omission occurring during the course of this Bankruptcy Case occurring up to the Effective Date, including acts or omissions in connection with, or arising out of, the filing of the petition, the preparation of motions, memoranda, or other documents, preparation and/or negotiation of the Disclosure Statement and the Plan, the solicitation of votes for and the pursuit of Confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for gross negligence or willful misconduct as determined by a Final Order of the Bankruptcy Court, which shall possess exclusive jurisdiction over all such determinations, and, in all respects, shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

(d) Indemnification Obligations

Subject to the occurrence of the Effective Date, the obligations of the Debtor and the Reorganized Debtor to indemnify, defend, reimburse or limit the liability of directors, officers or employees who were directors, officers or employees of the Debtor as of the Petition Date or became so thereafter against any liabilities, claims or causes of action as provided under applicable state or federal law, shall not be discharged, irrespective of whether such indemnification, defense, reimbursement or limitation is owed in connection with an event occurring before or after the Petition Date. The indemnification obligations of the Debtor and the Reorganized Debtor, set forth herein are limited to those authorized or permitted under state or federal law as the same is now or may become applicable at the time any claim for indemnification is made.

5.11 *Modification of the Plan; Revocation*

N214FT reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules to (1) amend or modify the Plan prior to the entry of the Confirmation Order and (2) after the entry of the Confirmation Order, Reorganized N214FT may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

5.12 *Conditions Precedent to the Occurrence of the Effective Date; Waiver*

(a) Conditions Precedent to Confirmation

The Effective Date shall not occur until the following conditions have been satisfied or waived.

1. The Confirmation Order, in form and substance reasonably acceptable to N214FT shall have been entered and shall be a Final Order.
2. All documents, actions, and agreements necessary to implement the Plan shall have been effected and executed.

5.13 *Findings by the Bankruptcy Court and Effects of Confirmation*

In addition to the findings set forth in section 1129(a) of the Bankruptcy Code, and such others as may be separately issued by the Bankruptcy Court, Confirmation of the Plan shall be based upon such findings by the Bankruptcy Court as are reasonably proper in the premises and the Confirmation Order shall contain such orders upon such findings as appropriate. Without limitation, such findings and the effects of the Confirmation Order shall include, in addition to the effects otherwise described in the Plan:

**ARTICLE VI  
CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN AND  
SECURITIES LAW CONSIDERATIONS**

6.1 *Generally*

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

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

THE FOLLOWING SUMMARY IS, THEREFORE, NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER OF A CLAIM OR EQUITY INTEREST. HOLDERS OF CLAIMS OR EQUITY INTERESTS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS FOR THE FEDERAL, STATE, LOCAL AND OTHER TAX CONSEQUENCES PECULIAR TO THEM UNDER THE PLAN. THE DEBTOR ASSUMES NO RESPONSIBILITY FOR THE TAX EFFECT THAT CONFIRMATION AND RECEIPT OF ANY DISTRIBUTION UNDER THE PLAN MAY HAVE ON ANY GIVEN CREDITOR OR OTHER PARTY IN INTEREST.

## 6.2 *IRS Circular 230 Disclosure*

THIS DISCLOSURE STATEMENT IS WRITTEN TO SUPPORT THE PROMOTION OR THE MARKETING OF TRANSACTIONS DISCUSSED HEREIN. TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE IRS, THE DEBTOR IS INFORMING YOU THAT THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, BY ANY TAXPAYER FOR THE PURPOSE OF AVOIDING TAX-RELATED PENALTIES THAT MAY BE IMPOSED ON SUCH TAXPAYER UNDER THE TAX CODE. TAXPAYERS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

## 6.3 *Tax Consequences to Holders of Claims*

### (a) *Realization and Recognition of Gain or Loss in General*

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

purposes.

Generally, a Holder of an Allowed Claim will realize gain or loss on the exchange under the Plan of its Allowed Claim for stock and other property (such as Cash and new debt instruments), in an amount equal to the difference between (i) the sum of the amount of any Cash and the issue price of any debt instrument, (other than any consideration attributable to a Claim for accrued but unpaid interest), and (ii) the adjusted basis of the Allowed Claim exchanged therefor (other than basis attributable to accrued but unpaid interest previously included in the Holder's taxable income). The treatment of accrued but unpaid interest and amounts allocable thereto varies depending on the nature of the Holder's Claim and is discussed below.

Whether or not such realized gain or loss will be recognized (*i.e.*, taken into account) for federal income tax purposes will depend in part upon whether such exchange qualifies as a recapitalization or other "reorganization" as defined in the Tax Code, which may in turn depend upon whether the Claim exchanged is classified as a "security" for federal income tax purposes. The term "security" is not defined in the Tax Code or in the Treasury Regulations. One of the most significant factors considered in determining whether a particular debt instrument is a security is the original term thereof. In general, the longer the term of an instrument, the greater the likelihood that it will be considered a security. As a general rule, a debt instrument having an original term of 10 years or more will be classified as a security, and a debt instrument having an original term of fewer than five years will not. Debt instruments having a term of at least five years but less than 10 years are likely to be treated as securities, but may not be, depending upon their resemblance to ordinary promissory notes, whether they are publicly traded, whether the instruments are secured, the financial condition of the Debtor at the time the debt instruments are issued, and other factors. Each Holder of an Allowed Claim should consult his or her own tax advisor to determine whether his or her Allowed Claim constitutes a security for federal income tax purposes.

(b) Accrued Interest

Each Holder of an Allowed Claim is urged to consult its tax advisor regarding the allocation of consideration and deductibility of unpaid interest for tax purposes. The Plan does not provide that interest on any Claim will accrue from the Petition Date until the Effective Date.

(c) Withholding

All distributions to Holders of Claims under the Plan are subject to any applicable withholding. Under federal income tax law, interest, dividends, and other reportable payments may, under certain circumstances, be subject to "backup withholding" at a Twenty-Eight Percent (28%) rate. Backup withholding generally applies if the Holder (a) fails to furnish its social security number or other taxpayer identification number ("TIN"), (b) furnishes an incorrect TIN, (c) fails properly to report interest or dividends, or (d) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is its correct number and that it is not subject to backup withholding. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax. Certain persons are exempt from backup withholding, including, in certain

circumstances, corporations and financial institutions.

#### 6.4 *Tax Consequences to Members*

Because the Debtor is a limited liability company taxed as a partnership, there are no tax consequences to the Debtor arising from the Plan. Any tax consequences of Confirmation of the Plan and the occurrence of the Effective Date shall be effective with respect to the Members personally, not the Debtor. The Members are encouraged to seek tax advice.

### **ARTICLE VII VOTING; CONFIRMATION; ALTERNATIVE TO PLAN**

#### 7.1 *Confirmation Standards*

Pursuant to section 1128 of the Bankruptcy Code and Bankruptcy Rule 3017(c), the Bankruptcy Court has scheduled a Confirmation Hearing for \_\_\_\_\_, 2017, at [\*] \_\_.m. Central Time. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for the announcement of the adjournment date made at the Confirmation Hearing or at any subsequently adjourned Confirmation Hearing. Objections to Confirmation of the Plan must be made in writing and must specify in detail the name and address of the objector, all grounds for the objection, and the amount and Class of the Claim. Any such objection must be filed with the Bankruptcy Court on or before \_\_\_\_\_, 2017, at [\*] \_\_.m. Central Time. Objections to Confirmation of the Plan are governed by Bankruptcy Rule 9014.

To confirm the Plan, the Bankruptcy Code requires that the Bankruptcy Court make a series of findings concerning the Plan and the Debtor, including that:

- the Plan has classified Claims and Interests in a permissible manner;
- the Plan complies with the applicable provisions of the Bankruptcy Code;
- the Debtor has complied with the applicable provisions of the Bankruptcy Code;
- the Debtor, as proponent of the Plan, has proposed the Plan in good faith and not by any means forbidden by law;
- the disclosure required by section 1125 of the Bankruptcy Code has been made;
- the Plan has been accepted by the requisite votes of Creditors and Equity Interest Holders;
- the Plan is feasible and Confirmation will not likely be followed by the liquidation or the need for further financial reorganization of the Debtor or the Reorganized Debtor;
- the Plan is in the “best interests” of all Holders of Claims or Interests in an impaired

Class by providing to Creditors or Interest Holders on account of such Claims or Interests property of a value, as of the Effective Date, that is not less than the amount that such Holder would receive or retain in a chapter 7 liquidation, unless each Holder of a Claim or Interest in such Class has accepted the Plan;

- all fees and expenses payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, have been paid or the Plan provides for the payment of such fees on the Effective Date; and
- the disclosures required under section 1129(a)(5) of the Bankruptcy Code concerning the identity and affiliations of persons who will serve as officers, directors and voting trustees of the Reorganized Debtor have been made.

(a) “Best Interests” Test

The Bankruptcy Code requires that the Bankruptcy Court find that the Plan is in the best interest of all holders of Claims and Interests that are Impaired by the Plan and that have not accepted the Plan as a requirement to confirm the Plan. The “best interests” test, as set forth in section 1129(a)(11) of the Bankruptcy Code, requires the Bankruptcy Court to find either that all members of an Impaired Class of Claims or Interests have accepted the Plan or that the Plan will provide a member who has not accepted the Plan with a recovery of property of a value, as of the effective date of the Plan, that is not less than the amount that such holder would receive or retain if the Debtor were liquidated under chapter 7 of the Bankruptcy Code on such date.

In chapter 7 liquidation, no junior class of Claims or Interests may be paid unless all classes of Claims or Interests senior to such junior class are paid in full. Section 510(a) of the Bankruptcy Code provides that subordination agreements are enforceable in a bankruptcy case to the same extent that such subordination is enforceable under applicable nonbankruptcy law. Therefore, no class of Claims or Interests that is contractually subordinated to another class would receive any payment on account of its Claims or Interests, unless and until such senior classes were paid in full. Once the Bankruptcy Court ascertains the recoveries in liquidation of the Debtor’s secured and priority creditors, it would then determine the probable distribution to unsecured creditors from the remaining available proceeds of the liquidation. If this probable distribution has a value greater than the value of distributions to be received by the unsecured creditors under the Plan, then the Plan is not in the best interests of creditors and cannot be confirmed by the Bankruptcy Court.

The Debtor believes that the Plan affords Holders of Claims the potential for the greatest realization on the Debtor’s assets and, therefore, is in the best interests of such Holders. For further discussion, see the Liquidation Value discussion below in Article 7.3.

(b) Feasibility

The Bankruptcy Code requires that Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of a debtor. The Plan is a liquidating plan that specifically contemplates the liquidation of all assets of the Debtor and

distribution of the proceeds of that liquidation.

The liquidation and distribution of the Debtor's assets is discussed and the Exhibits containing the underlying information are described and referred to, *infra*. The Debtor believes that the Plan proposes a suitable method for such liquidation and Distribution and that Confirmation of the Plan is not likely to be followed by the need for further financial reorganization. The Plan calls for the issuance of the Plan Notes and to the extent required, the Members, who will be co-makers of the Plan Notes, will fund the payment thereof through capital contributions to the reorganized Debtor. History has shown the willingness and ability of the Members to fund the Debtor, as prior to the commencement of this Bankruptcy Case the Members have funded at least \$1,500,000 toward obligations of the Debtor. Utilizing the market approach to sale of the Aircraft (and providing for the issuance of the Plan Notes to offset negative or downward pricing pressure) chosen by the Debtor will result in a remaining amount due to UMB that is the lowest that can be reasonably expected.

Accordingly, the Debtor submits that the Plan is feasible and satisfies the requirements of Section 1129 of the Bankruptcy Code.

(c) Cram Down

If all of the applicable requirements for Confirmation of the Plan are met as set forth in section 1129(a) of the Bankruptcy Code except for subsection (8) thereof, the Debtor may request the Bankruptcy Court to confirm the Plan pursuant to section 1129(b) of the Bankruptcy Code, notwithstanding the requirements of section 1129(a)(8) of the Bankruptcy Code, on the basis that the Plan is fair and equitable and does not discriminate unfairly with respect to any Impaired Class that does not vote to accept this Plan as described in the Disclosure Statement.

To obtain confirmation, it must be demonstrated to a bankruptcy court that a plan "does not discriminate unfairly" and is "fair and equitable" with respect to each dissenting impaired class. A plan does not discriminate unfairly if the legal rights of a dissenting impaired class are treated in a manner consistent with the treatment of other classes whose legal rights are substantially similar to those of the dissenting impaired class and if no class receives more than it is entitled to for its claims. The Debtors believe the Plan satisfies this requirement.

The Bankruptcy Code establishes different "fair and equitable" tests for secured claims, unsecured claims, and holders of equity interests.

- i. **Secured Claims.** with respect to treatment of a secured claim under a plan, "fair and equitable" means either (i) the impaired secured creditor retains its liens to the extent of its allowed claim and receives deferred cash payments at least equal to the allowed amount of its claims with a present value as of the effective date of a plan at least equal to the value of such creditor's interest in the property securing its liens, (ii) property subject to the lien of the impaired secured creditor is sold free and clear of that lien, with that lien attaching to the proceeds of sale, and such lien proceeds

are treated in accordance with clauses (i) and (iii) hereof, or (iii) the impaired secured creditor realizes the “indubitable equivalent” of its claim under a plan.

- ii. **Unsecured Claims.** with respect to treatment of an unsecured claim under a plan, “fair and equitable” means either, (i) each impaired unsecured creditor receives or retains property of a value equal to the amount of its allowed claim, or (ii) the holders of claims and interests that are junior to the claims of the dissenting class will not receive any property under a plan.
- iii. **Equity Interests.** With respect to the treatment of equity interests under a plan, “fair and equitable” means either (i) each equity interest holder will receive or retain under a plan property of a value equal to the greatest of the allowed amount of any fixed liquidation preference or redemption price, if any, of such equity interest or the value of the equity interest, or (ii) the holders of equity interests that are junior to the dissenting class of equity interests will not receive or retain any property under a plan on account of such junior equity interest.

The Debtor believes that the Plan can be confirmed on a non-consensual basis if the Holders of any Class of Claims entitled to vote on the Plan vote to reject the Plan (provided at least one Impaired Class of Claims entitled to vote votes to accept the Plan). If appropriate, the Debtor will demonstrate at the Confirmation Hearing that the Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code as to any non-accepting Class.

#### *7.2 Vote Required for Acceptance by a Class*

The Bankruptcy Code defines acceptance of a plan by a class of Claims as acceptance by holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the allowed Claims of that class held by creditors, other than any entity designated under section 1129(e) of the Bankruptcy Code, who cast ballots for acceptance or rejection of the Plan.

(a) Acceptance by Impaired Classes. Each Impaired Class of Claims that will (or may) receive or retain property or any interest in property under the Plan shall be entitled to vote to accept or reject the Plan. An Impaired Class of Claims shall have accepted the Plan if (i) the holders (other than any holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (ii) the holders (other than any holder designated under section 1126(e) of the Bankruptcy Code) of more than one-half (1/2) in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

(b) Voting Presumptions. Claims in Unimpaired Classes are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code and, therefore, are not entitled to vote to accept or reject the Plan. This applies to Class 6, the Argo



Secured Claim, who is deemed Unimpaired and therefore conclusively presumed to accept the Plan. Claims and Equity Interests in Classes that do not entitle the holders thereof to receive or retain any property under the Plan are conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and, therefore, are not entitled to vote to accept or reject the Plan. This is applicable to the Guarantor Claims in Class 4 are conclusively presumed to reject the Plan.

(c) Voting Rights. Pursuant to the provisions of the Bankruptcy Code, only Holders of Claims and Equity Interests in Classes that are (a) treated as “impaired” by a plan of reorganization and (b) entitled to receive a distribution under such plan are entitled to vote on the Plan. Under the Plan, only Holders of Claims in Classes 1, 2, 3, and 5 are entitled to vote on the Plan. Holders of Guarantor Claims in Class 4 are conclusively presumed to reject the Plan.

Notwithstanding the foregoing, only holders of Allowed Claims in the voting Classes are entitled to vote on the Plan. A Claim which is unliquidated, contingent, or disputed is not an Allowed Claim and is, therefore, not entitled to vote, unless and until the amount is estimated or determined, or the dispute is determined, resolved, or adjudicated in the Bankruptcy Court or another court of competent jurisdiction, or pursuant to agreement as may be permitted. However, the Bankruptcy Court may deem a contingent, unliquidated, or disputed Claim to be allowed on a provisional basis, for purposes only of voting on the Plan. If your Claim is contingent, unliquidated, or disputed, you will receive instructions for seeking temporary allowance of your Claim for voting purposes and it will be your responsibility to obtain an order provisionally allowing your Claim.

### *7.3 Alternatives to Confirmation Is Chapter 7 Liquidation*

If the Debtor fails to obtain enough acceptances from Classes 1, 2, 3, and/or 5 to confirm the Plan, or the Plan is not subsequently confirmed and consummated, the alternative is liquidation of the Debtor under chapter 7 of the Bankruptcy Code.

Proceeding under chapter 7 would impose significant additional monetary and time costs on the Debtor’s Estate. Under chapter 7, a trustee would be elected or appointed to administer the Estate, to resolve pending controversies, including Disputed Claims against the Debtor and Claims of the Estate against other parties, and to make distributions to holders of Claims. A chapter 7 trustee would be entitled to compensation in accordance with the scale set forth in section 326 of the Bankruptcy Code, and the trustee would also incur significant administrative expenses. The chapter 7 administrative expenses also take priority over any chapter 11 administrative expenses.

There is a strong probability that a chapter 7 trustee in these cases would not possess any particular knowledge about the Debtor or aircraft sales. Additionally, a trustee would probably seek the assistance of professionals who may not have any significant background or familiarity with this Chapter 11 Case. The trustee and any professionals retained by the trustee likely would expend significant time familiarizing themselves with this Chapter 11 Case. This would result in duplication of effort, increased expenses, and delay in payments to creditors, time and money are

inevitable. In addition to these time and monetary costs, there are other problems in a chapter 7 liquidation that would result in a substantially smaller recovery for holders of Claims than under the Plan.

Further, Distributions under the Plan probably would be made earlier than would distributions in a chapter 7 case. Distributions of the proceeds in a chapter 7 liquidation might not occur until one or more years after the completion of the liquidation in order to afford the trustee the opportunity to resolve claims and prepare for distributions.

The Bankruptcy Court must also find that the Holders of Claims and Equity Interests who do not accept the Plan and/or who object to the Plan will receive at least as much under the Plan as such Holders of Claims and Equity Interests would receive in a chapter 7 liquidation. This requirement, called the best interests of creditors test, applies in connection with the Plan to those Creditors and Equity Interest Holders in Classes 1, 2, 3, and 5, which are the only Classes Impaired by the Plan. The best interests of creditors test discussion in disclosure statements is accompanied by a “liquidation analysis” or discussion of what Creditors and Equity Interest Holders would receive upon liquidation of the bankruptcy estate through chapter 7 of the Bankruptcy Code. In effect, the Bankruptcy Code recognizes that the chapter 7 liquidation process is the bankruptcy process that most likely provides the greatest chance of the least amount of recovery; hence the right of the dissenting creditor, regardless of the Vote of the Class, retains this basic right.

The Debtor offers this liquidation analysis for review by those Holders whose Claims and/or Equity Interests are Impaired by the Plan. The Debtor believes that liquidation under chapter 7 would result in substantial diminution of the value of the Estate because, among other reasons: (i) of the additional administrative expenses involved in the appointment of a trustee and additional attorneys, accountants, and other professionals to assist such trustee (section 726(b) of the Bankruptcy Code elevates the priority of the trustee and his professionals above the administrative expenses of the chapter 11 case); and (ii) of the overall diminution in value of Debtor’s assets resulting from the disruption and delay caused by the conversion to chapter 7, institution of a trustee and resignation of current management.

In connection with its Motion for Relief from Stay, UMB submitted document providing an opinion as to value of the Aircraft stating the estimated liquidation value to be between \$2,130,00–\$2,214,000 (and while the valuation statement provided a higher valuation (upwards of \$2,700,000 assuming a year-long marketing period, UMB has not suggested it would conduct such a process)). The Debtor has retained the Broker (subject to Court approval), and the opinion of the Broker is that the Aircraft, within a timely marketing period, should bring a gross sale price of up to \$3,995,000. Thus, under UMB’s own analysis, the value left for Unsecured Creditors, including chapter 7 Administrative Claims, would be \$0. Therefore, the chapter 7 estate would be administratively insolvent. Under the Plan certain amounts are to be funded by the Members, and these amounts would not be available in a chapter 7 case.

Such an outcome is certainly less than as may be obtained by these Creditors under the Plan. The Holders of Equity Interests would receive nothing on account of their interests, so the Plan makes the Equity Interest Holders no worse off.

THE PLAN PROPONENTS BELIEVE THAT THE PLAN AFFORDS SUBSTANTIALLY GREATER RECOVERY TO HOLDERS OF CLAIMS AND NO WORSE TREATMENT OF EQUITY INTERESTS THAN SUCH HOLDERS WOULD RECEIVE IF THE DEBTOR WERE LIQUIDATED UNDER CHAPTER 7 OF THE BANKRUPTCY CODE.

## **ARTICLE VIII CERTAIN FACTORS TO BE CONSIDERED**

**Prior to voting to accept or reject the plan, all holders of Claims should read and carefully consider the risk factors set forth below, as well as all other information set forth or otherwise referenced in this disclosure statement. These risk factors should not, however, be regarded as constituting the only risks involved in connection with the Plan and its implementation. Additional risks and uncertainties not presently known to the Debtor or that it currently deems immaterial may also harm its Estate.**

### *8.1 Objections to Plan and Confirmation*

Section 1129 of the Bankruptcy Code provides certain requirements for a chapter 11 plan to be confirmed. Parties-in-interest may object to confirmation of the Plan based on an alleged failure to fulfill these requirements or other reasons.

### *8.2 Objections to Classification of Claims and Equity Interests*

Section 1122 of the Bankruptcy Code provides that a plan of reorganization may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests in such class. The Debtor believes that the classification of Claims and Equity Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because each class of Claims and Equity Interests encompass Claims or Interests that are substantially similar to the other Claims or Equity Interests in each such class.

### *8.3 Failure to Obtain Confirmation of the Plan*

The Debtor cannot ensure it will receive enough acceptances to confirm the Plan. But, even if the Debtor does receive enough acceptances, there can be no assurance that the Bankruptcy Court will confirm the Plan. Even if enough acceptances are received and, with respect to those Classes deemed to have rejected the Plan, the requirements for “cramdown” are met, the Bankruptcy Court, which as a court of equity may exercise substantial discretion, may choose not to confirm the Plan or may require additional solicitations or consents prior to confirming the Plan. Section 1129 of the Bankruptcy Code requires, among other things, that the value of distributions to dissenting holders of Claims and Interests may not be less than the value such holders would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. Although the Debtor believes that the Plan will meet such tests, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

The Debtor's ability to propose and confirm an alternative plan is uncertain. Confirmation of any alternative plan under chapter 11 of the Bankruptcy Code would likely take significantly more time and result in delays in the ultimate distributions to the holders of Claims. If confirmation of an alternative plan is not possible, the Debtor would likely be liquidated under chapter 7. Based upon the Debtor's analysis, liquidation under chapter 7 would result in distributions of reduced value, if any, to holders of Claims.

#### 8.4 *Failure to Consummate or Effectuate a Plan*

Consummation of the Plan is conditioned upon, among other things, entry of the Confirmation Order approving any transactions contemplated thereunder. As of the date of this Disclosure Statement, there can be no assurance that any or all of the foregoing conditions will be met or that the other conditions to consummation, if any, will be satisfied. Accordingly, even if the Plan is confirmed by the Bankruptcy Court, there can be no assurance that the Plan will be consummated and effectuated and the liquidation completed.

#### 8.5 *Risk of Non-Occurrence of the Effective Date of the Plan*

Although the Debtor believes that the Effective Date may occur within a reasonable time following the Confirmation Date, there can be no assurance as to such timing.

#### 8.6 *Claims Estimation*

There can be no assurance that the estimated amount of Claims is correct, and the actual Allowed amounts of Claims may differ from estimates. The estimated amounts are subject to certain risks, uncertainties and assumptions. Should one or more of these risks or uncertainties materialize or should underlying assumptions prove incorrect, the actual Allowed amounts of Claims may vary from those estimated therein.

#### 8.7 *Certain Tax Considerations, Risks and Uncertainties*

THERE ARE A NUMBER OF MATERIAL INCOME TAX CONSIDERATIONS, RISKS AND UNCERTAINTIES ASSOCIATED WITH CONSUMMATION OF THE PLAN. INTERESTED PARTIES SHOULD READ CAREFULLY THE DISCUSSION SET FORTH IN THIS DISCLOSURE STATEMENT FOR A DISCUSSION OF CERTAIN FEDERAL INCOME TAX CONSEQUENCES BOTH TO THE DEBTOR AND TO HOLDERS OF CLAIMS THAT ARE IMPAIRED UNDER THE PLAN.

### **ARTICLE IX VOTING PROCEDURES AND REQUIREMENTS**

#### 9.1 *Introduction*

Detailed instructions for voting on the Plan are provided with the Ballots accompanying this Disclosure Statement. For purposes of the Plan, only holders of record of Claims in the following Classes, as of the Voting Record Date, are entitled to vote: Classes 1, 2, 3, and 5.

If your Claim is **not** in Classes 1, 2, 3, and 5, you are not entitled to vote on the Plan. All Equity Interests are not entitled to vote.

If your Claim is in Class 1, 2, 3, and 5, you should read your ballot and follow the listed instructions carefully. Please use only the ballot that accompanies this Disclosure Statement.

## 9.2 *Voting*

In order for your vote to be counted, your signed ballot must be actually received at the following address before the Voting Deadline of \_\_\_\_\_, 2017, at 6:00 p.m. (prevailing Central time):

By Hand Delivery, Certified, Registered, or Regular Mail, or Overnight Carrier:

Kelly Hart & Pitre  
301 Main Street  
Suite 1600  
Baton Rouge, LA 70801

UNLESS THE BALLOT IS ACTUALLY RECEIVED BY THE BALLOTING AGENT ON OR PRIOR TO THE VOTING DEADLINE, SUCH BALLOT WILL BE REJECTED AS INVALID AND WILL NOT BE COUNTED AS AN ACCEPTANCE OR REJECTION OF THE PLAN.

## 9.3 *Reservation of Rights*

THE DEBTOR RESERVES THE RIGHT, WITH THE APPROVAL OF THE OTHER PLAN PROPONENTS, AND WITHOUT NOTICE EXCEPT AS MAY BE REQUIRED UNDER APPLICABLE LAW, TO EXTEND THE SOLICITATION PERIOD OR TERMINATE THE SOLICITATION OF VOTES ON THE PLAN.

## 9.4 *Waivers of Defects, Irregularities, etc.*

Unless otherwise directed by the Bankruptcy Court, all questions as to the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawals of ballots will be determined by the Debtor in its sole discretion, which determination will be final and binding. The Debtor reserves the right to reject any and all ballots submitted by any creditors not in proper form, the acceptance of which would, in the opinion of the Debtor or its counsel, be unlawful. The Debtor further reserves its rights to waive any defects or irregularities or conditions of delivery as to any particular ballot by its creditors. The interpretation (including the ballot and the respective instructions thereto) by the Debtor, unless otherwise directed by the Bankruptcy Court, will be final and binding on all parties. Unless waived, any defects or irregularities in connection with deliveries of ballots must be cured within such time as the Debtor (or the Bankruptcy Court) determine. Neither the Debtor nor any other person will be under any duty to provide notification of defects or irregularities with respect to deliveries of ballots nor will any of them incur any liabilities for failure to provide such notification. Unless otherwise directed by the Bankruptcy Court, delivery of such ballots will not be deemed to have

been made until such irregularities have been cured or waived. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will be invalidated.

**ARTICLE X  
CONCLUSION**

The Debtor recommends that holders of Claims in Classes 1, 2, 3, and 5 vote to accept the Plan and to evidence such acceptance by returning their signed ballots so that they will be received before the Voting Deadline of \_\_\_\_\_, 2017, at 6:00 p.m. (prevailing Central time).

Dated: October 23, 2017

Respectfully submitted, as of the date first set forth above,

N214FT, LLC

/s/Dustin Rall

By: Its Member, Dustin Rall

/s/Scott Schuster

By: Its Member, Schott Schuster

Prepared and Submitted by,  
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