Twelfth Report to Court of KSV Kofman Inc. as Information Officer of ASHINC Corporation (formerly known as Allied Systems Holdings, Inc.), ASCCO (Canada) Company (formerly known as Allied Systems (Canada) Company), AXCCO Canada Company (formerly known as Axis Canada Company) and those other companies listed on Schedule "A" hereto

July 16, 2015

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Appendices

Court File No.:12-CV-9757-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C.C-36, AS AMENDED

AND IN THE MATTER OF ALLIED SYSTEMS HOLDINGS, INC., ALLIED SYSTEMS (CANADA) COMPANY, AXIS CANADA COMPANY AND THOSE OTHER COMPANIES LISTED ON SCHEDULE "A" HERETO

APPLICATION OF ALLIED SYSTEMS HOLDINGS, INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C.C-36, AS AMENDED

TWELFTH REPORT OF KSV KOFMAN INC. AS INFORMATION OFFICER OF ALLIED SYSTEMS HOLDINGS, INC., ALLIED SYSTEMS (CANADA) COMPANY, AXIS CANADA COMPANY AND THOSE OTHER COMPANIES LISTED ON SCHEDULE "A" HERETO

JULY 16, 2015

1.0 Introduction

1. On May 17, 2012, involuntary petitions were filed by BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 Ltd. and Spectrum Investment Partners, L.P. ("Black Diamond/Spectrum") against Allied Systems Holdings, Inc. (now known as ASHINC Corporation) ("Allied Systems US") and its subsidiary, Allied Systems, Ltd. (L.P.) (now known as ASLTD L.P.) ("ASL") pursuant to Chapter 11 of Title 11 of the *United States Code* ("Chapter 11") ("Involuntary Petitions") in the United States Bankruptcy Court for the District of Delaware ("U.S. Court").

2. On June 10, 2012, voluntary petitions were filed with the U.S. Court for relief under Chapter 11 by the US and Canadian subsidiaries of Allied Systems US ("Subsidiaries")[1] (Allied Systems US, ASL and the Subsidiaries are collectively

[1] The U.S. subsidiaries are : AAINC Corporation (f/k/a Allied Automotive Group, Inc.); AFBLLC LLC (f/k/a Allied Freight Broker LLC); AXALLC LLC (f/k/a Axis Areta, LLC) ; AXGINC Corporation (f/k/a Axis Group, Inc.); Commercial Carriers, Inc.; CTSINC Corporation (f/k/a CT Services, Inc.); CTLLC (f/k/a Cordin Transport LLC); F.J. Boutell Driveaway LLC; GACS Incorporated; Logistic Systems, LLC; Logistic Technology, LLC; QAT, Inc.; RMX LLC; Transport Support LLC; and Terminal Services LLC. The Canadian subsidiaries are ASCCO (Canada) Company (f/k/a Allied Systems (Canada) Company) and AXCCO Canada Company (f/k/a Axis Canada Company).

referred to as the "Chapter 11 Debtors"), including Allied Systems (Canada) Company (now known as ASCCO (Canada) Company) ("Allied Canada") and Axis Canada Company (now known as AXCCO Canada Company) ("Axis Canada") (jointly, the "Canadian Debtors"). In connection therewith, Allied Systems US and ASL consented to the Involuntary Petitions. The cases commenced or consented to by the Chapter 11 Debtors in the U.S. Court are herein defined as the "Chapter 11 Proceedings".

3. The Chapter 11 Debtors were granted ancillary relief under Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") pursuant to an Order of the Ontario Superior Court of Justice ("Court", and together with the U.S. Court, the "Courts") dated June 12, 2012 (the "Initial Order") and a Court Order dated June 13, 2012 (the "Supplemental Order", and together with the Initial Order, the "Orders").

4. Pursuant to the Orders, *inter alia*: a) the Chapter 11 Proceedings were recognized as a "foreign main proceeding" pursuant to Part IV of the CCAA; b) Allied Systems US was appointed as the Chapter 11 Debtors' foreign representative ("Foreign Representative"); c) certain orders made by the U.S. Court dated June 12, 2012 were recognized; and d) Duff & Phelps Canada Restructuring Inc. ("D&P") was appointed as the Information Officer (the "Information Officer").

5. On June 30, 2015, D&P was acquired by KSV Kofman Inc. ("KSV"). Pursuant to an Order of the Court made on July 10, 2015, D&P's ongoing mandates were transferred to KSV, including acting as Information Officer in these proceedings. The professionals overseeing this mandate prior to June 30, 2015 remain unchanged.

6. This report ("Report") is filed by KSV in its capacity as Information Officer.

1.1 Purposes of this Report

1. The purposes of this Report are to:

   a) Provide an update to the Court on the status of these proceedings and the Chapter 11 Proceedings; and

   b) Summarize the Chapter 11 Debtors' Joint Plan of Reorganization (the "Plan") proposed by the Chapter 11 Debtors, the Committee (as defined below) and Black Diamond/Spectrum (collectively, the "Plan Proponents") which was filed with the U.S. Court on May 4, 2015 and amended on June 17, 2015.

1.2 Currency

1. All currency references in this Report are to United States dollars, unless otherwise noted.

1.3 Restrictions

1. In preparing this Report, the Information Officer has relied upon unaudited financial information prepared by Chapter 11 Debtors' representatives, Chapter 11 Debtors' books and records and discussions with its representatives. The Information Officer has not performed an audit or other verification of such information. The Information Officer expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this Report, or relied upon by the Information Officer.

2.0 Background

1. The Chapter 11 Debtors were primarily engaged in the "car-haul" business, being the transport by specially designed tractor trailers of vehicles, such as automobiles, sport-utility vehicles and light trucks, from manufacturing plants, ports, auctions, and railway distribution points to automobile dealerships in the United States and Canada. In Canada, this business was conducted by Allied Canada.

2. The Chapter 11 Debtors' operations were centralized from its head office located in Atlanta, Georgia. The Chapter 11 Debtors employed approximately 1,835 individuals, including approximately 440 employees and independent contractors in Canada.

3. Further background information concerning the Chapter 11 Debtors was provided in the affidavit of Scott Macaulay, formerly Senior Vice President and Chief Financial Officer of Allied Systems US, sworn June 11, 2012 ("Macaulay Affidavit") and the Information Officer's previous reports ("IO Reports"). The Macaulay Affidavit, the IO Reports and other materials filed with the Court in the Canadian proceedings are available on KSV's website at http://www.ksvadvisory.com/insolvency-cases/allied-systems-holdings-inc/. Information regarding the Chapter 11 Proceedings is posted on the "Restructuring News" portion of Allied Group's website at www.alliedautomotive.com.

2.1 The Credit Facilities and Litigation Claims

1. Pursuant to a first lien credit facility ("First Lien Facility") and second lien credit facility ("Second Lien Facility"), as amended, Black Diamond/Spectrum, Yucaipa American Alliance Fund I, LP and Yucaipa American Alliance (Parallel) Fund I, LP (together, "Yucaipa", including companies affiliated with Yucaipa) and other parties are lenders to the Chapter 11 Debtors (with respect to the First Lien Facility, the "First Lien Lenders" and with respect to the Second Lien Facility, the "Second Lien Lenders").

2. At the commencement of the Chapter 11 Proceedings, the Chapter 11 Debtors owed approximately $244 million and $30 million in principal under the First Lien Facility and the Second Lien Facility, respectively.

3. On January 18, 2012, three lenders under the First Lien Facility filed suit against Yucaipa in the Supreme Court of the State of New York ("New York Action"), seeking a determination that the fourth amendment to the First Lien Facility ("Fourt Amendment") was null and void and that Yucaipa was not the First Lien Facility "requisite lender" ("Requisite Lender"). In November, 2012, Justice Charles E. Ramos of the Supreme Court of the State of New York, delivered an oral decision that the Fourth Amendment was invalid and void *ab initio* and that Yucaipa was not the Requisite Lender. Justice Ramos' opinion was subsequently affirmed by the Appellate Division of New York. Yucaipa's request for further review by the New York Court of Appeals was denied.

4. On October 18, 2012, the Chapter 11 Debtors initiated an adversary proceeding against the First Lien Lenders seeking to: a) enjoin the New York Action; and b) a declaration that the third and fourth amendments to the First Lien Facility agreement were valid and enforceable. The ruling by Justice Ramos effectively mooted the relief requested by the Chapter 11 Debtors and on February 27, 2013, the U.S. Court ruled that the third amendment to the First Lien Facility was valid and enforceable.

5. On March 14, 2013, the Unsecured Creditors Committte ("Committee"), as plaintiff, and Black Diamond/Spectrum, as intervenors, filed a complaint against Yucaipa and numerous officers and directors of the Chapter 11 Debtors ("Estate Complaint"). The Estate Complaint asserts various claims on behalf of the Chapter 11 Debtors' estates and the First Lien Lenders, including breach of fiduciary duty and equitable subordination claims against Yucaipa (the "Estate Claims").

6. On July 9, 2013, Black Diamond/Spectrum filed a motion for summary judgment, seeking a determination that they are the Requisite Lender. On July 30, 2013, the U.S. Court granted the motion. This is subject to appeal by Yucaipa .

7. On November 19, 2014, Black Diamond/Spectrum and certain of their affiliates filed a complaint (the "Lender Complaint") commencing an adversary proceeding in the U.S. Court against Yucaipa and other parties. The Lender Complaint asserts, *inter alia*, a claim for equitable subordination against Yucaipa (the "Lender Direct Claims"). The Lender Direct Claims and the Estate Claims are jointly referred to as the "Litigation Claims".

8. On February 19, 2015, Yucaipa filed answers to the Lender Complaint and asserted counterclaims against Black Diamond/Spectrum for equitable subordination.

9. Trials with respect to the Litigation Claims as well as Yucaipa's counterclaims are to be scheduled.

2.2 Transactions

1. In accordance with a U.S. Court order made on June 21, 2013, the Chapter 11 Debtors conducted a sale process for their assets ("Sale Process").

2. The Sale Process resulted in Jack Cooper Holdings Corp. ("JCT") purchasing substantially all of the Chapter 11 Debtors' assets (the "JCT Transaction"), other than certain owned real and personal property ("Excluded Assets"), which were purchased by an acquisition entity formed by Black Diamond/Spectrum (the "BD/Spectrum Transaction"). The JCT Transaction and the BD/Spectrum Transaction are jointly referred to as the "Transactions".

3. On September 17, 2013 and September 30, 2013, the U.S. Court granted orders approving the JCT Transaction and BD/Spectrum Transaction, respectively ("Sale Orders"). The Sale Orders were recognized by this Court on October 10, 2013.

4. On December 27, 2013, the JCT Transaction was completed.

5. Black Diamond/Spectrum assigned its rights to acquire certain of the Excluded Assets to ATC Transportation LLC ("ATC"). On March 20, 2014, ATC completed the transaction with respect to certain of the Excluded Assets. The BD/Spectrum Transaction with respect to the other Excluded Assets was completed on June 12, 2014.

6. The Chapter 11 Debtors have used the funds generated from the proceeds of the Transactions to satisfy certain obligations, including to repay in full their debtor-in-possession facility and to repay a portion of the First Lien Facility.

2.3 Assets remaining in the Chapter 11 Debtors' Estates

1. The assets remaining in the Chapter 11 Debtors' estates are:

   a) The Estate Claims;

   b) Cash on hand;

   c) Tax losses;

   d) Three parcels of real property ("Retained Real Property");

   e) Shares of Haul Insurance Limited ("Haul"), the Chapter 11 Debtors' captive insurance subsidiary; and

   f) The right to recover excess cash collateral pledged to secure certain insurance programs (the "Cash Collateral").

3.0 Plan of Reorganization

1. The following section provides an overview of the Plan. A copy of the Plan is attached as Appendix "A". Review of this section is not a substitute for reading the Plan. Creditors are strongly encouraged to read the Plan in its entirety. Capitalized terms not defined below are as defined in the Plan.

3.1 Overview

1. On May 4, 2015, the Chapter 11 Debtors filed a motion ("Plan Motion") to, *inter alia*: a) approve the disclosure statement in support of the Plan (the "Disclosure Statement"); b) approve voting procedures; and c) set a date for a hearing to confirm the Plan.

2. On June 17, 2015, the Plan Proponents filed an amended Plan and Disclosure Statement in response to certain objections filed by*, inter alia*, Yucaipa and the U.S. Trustee.

3. On July 8, 2015, the U.S. Court approved the Plan Motion, including the amended Disclosure Statement, and set a confirmation hearing to begin on September 9, 2015. A copy of the amended Disclosure Statement, which contains a summary of the voting procedures, is provided in Appendix "B".

4. The Plan proposes to: a) establish a trust for the purpose of pursuing the Litigation Claims ("Allied Litigation Trust"); and b) either re-vesting the remaining Chapter 11 Debtors' assets in the reorganized Chapter 11 Debtors (the "Reorganized Debtors") or distributing them by the Plan Administrator to the Chapter 11 Debtors' creditors. The beneficial shareholders of the Reorganized Debtors will be the First Lien Lenders that elect not to receive the First Lien Lender Cash Distribution (as defined below).

3.2 Allied Litigation Trust

1. The Estate Claims will vest in the Allied Litigation Trust and will be prosecuted together with the Lender Direct Claims. If the Plan is confirmed, funding for the prosecution of the Litigation Claims will be provided by litigation funding loans (the "Litigation Funding Loans") to be advanced by the First Lien Lenders (the "Litigation Lenders") and be backstopped by affiliates of Black Diamond/Spectrum (the "Backstop Parties"). Each First Lien Lender is entitled to participate in the Litigation Funding Loans up to its pro rata share of the First Lien Facility. In exchange for backstopping the Litigation Funding Loans, the Backstop Parties will be entitled to a fee in the amount of $900,000 ("Backstop Fee") (Article 5.1 (c) of the Plan).

2. The beneficial interests in the Allied Litigation Trust will be distributed pursuant to the litigation proceeds waterfall ("Litigation Waterfall") as follows (Article 5.14 of the Plan):

First	To the Backstop Parties in satisfaction of the Backstop Fee.
Second	To repay all Litigation Funding Loans.
Third	To the Litigation Lenders in the amount of $4.5 million.
Fourth	$3 million, to be allocated: a) 50% on a pro rata basis to holders of Allowed First Lien Lender Claims; and b) 50% on a pro rata basis to holders of Allowed General Unsecured Claims and Allowed Second Lien Lender Claims.
Fifth	Remaining funds to be distributed: a) 20% on a pro rata basis to holders of Allowed First Lien Lender claims; b) 5% on a pro rata basis to holders of Allowed General Unsecured Claims and Allowed Second Lien Lender Claims; and c) 75% to the Litigation Funding Lenders.

3.3 Reorganized Debtors

1. After the Effective Date, the Reorganized Debtors will continue to operate and may seek to acquire income-producing assets in order to utilize the benefits of retained net operating losses. The Reorganized Debtors will own, among other things, the Retained Real Property, the Cash Collateral, and the equity of Haul.

3.4 Treatment of Claims and Interests

1. There are eight classes of claims under the Plan, including administrative and priority tax claims.

2. As set forth in the Disclosure Statement, the claim categories and their treatment under the Plan are summarized below.

Class	Description	Estimated Amount of Claims[1]	Treatment Under Plan	Estimated Recovery [2]
N/A	Administrative Claims and Priority Tax Claims	$4,432,000	Paid in full	100%

[1] The Chapter 11 Debtors are in the process of reviewing proofs of claim. The Chapter 11 Debtors anticipate that the Estimated Amount of Claims will be reduced following the claims reconciliation process.

[2] The estimated recovery was provided in the Disclosure Statement.

Class	Description	Estimated Amount of Claims[1]	Treatment Under Plan	Estimated Recovery [2]
1	Priority Claims	$250,000	Paid in full	100%
2	First Lien Lender Claims	$244,021,526	Each holder of an Allowed First Lien Lender Claim shall receive its pro rata share of (i) the beneficial interests in the Allied Litigation Trust in accordance with the Litigation Proceeds Waterfall, and (ii) $2.6 million (the "First Lien Lender Cash Distribution"), provided that each First Lien Lender may elect, in lieu of receipt of its pro rata share of the First Lien Lender Cash Distribution, to receive its pro rata share of the new common stock in Allied Systems US. Black Diamond/Spectrum shall distribute to the holders of Allowed First Lien Lender Claims their pro rata share of approximately $13 million held in reserve. Any distribution to Yucaipa will be held in escrow.	0.16%
3	Second Lien Lender Claims	$30,000,000	Each holder of an Allowed Second Lien Lender Claim shall receive its pro rata share of the beneficial interests of the Allied Litigation Trust in accordance with the Litigation Proceeds Waterfall, provided that any distribution on account of such beneficial interests shall be turned over for distribution to First Lien Lenders to the extent required, until the First Lien Lenders have been paid in full.	0.00%
4	AIG Claims	$4,382,495	The AIG Entities shall receive (i) the AIG Cash Collateral ($6.4 million), and (ii) $1 million.	22.82%
5	General Unsecured Claims	$1,742,807,202	Each holder of an Allowed General Unsecured Claim shall receive its pro rata share of (a) $3 million and (b) the beneficial interests of the Allied Litigation Trust in accordance with the Litigation Proceeds Waterfall.	0.17%
6	Parent Equity Interests	$0.00	Holders of Parent Equity Interests shall not receive or retain any distribution under the Plan on account of such interests and the common stock shall be cancelled.	0.00%
7	Subsidiary Equity Interests	$0.00	Holders of Subsidiary Equity Interests shall retain such Subsidiary Equity Interests.	0.00%

3.5 Implementation

1. The cash necessary to fund the First Lien Lender Cash Distribution will be provided by the Reorganized Debtors. The cash necessary to fund other distributions will be paid from cash on hand or, if the Chapter 11 Debtors do not have sufficient cash on hand, from the Wind-down Reserve. The Plan Administrator will make all distributions (Article 5.1 (a) of the Plan).

3.6 Releases

1. The Plan provides a release to the Plan Proponents and certain other parties for actions taken during the Chapter 11 Proceedings (Article 10.6 and 10.8 of the Plan).

3.7 Voting, Notice Acceptance and Confirmation of the Plan

3.7.1 Voting

1. Voting rights with respect to the Plan are as follows (Article 4 of the Plan):

    a) Creditors and interest holders in Classes 1 and 7 are unimpaired (meaning that their claims are not subject to compromise), including creditors of the Canadian Debtors, and are deemed to accept the Plan;

    b) Creditors in Classes 2, 3, 4 and 5, including creditors of the Canadian Debtors, are impaired and may vote on the Plan (Yucaipa cannot vote on the Plan) ("Voting Creditors"); and

    c) Creditors in Class 6 are impaired and will not receive any distribution under the Plan. Therefore, holders of interests in Class 6 are deemed to reject the Plan. At the confirmation hearing, the Chapter 11 Debtors will request that the U.S. Court confirm the Plan notwithstanding such rejection.

2. The deadline to vote on the Plan is August 17, 2015 at 4pm EST.

3.7.2 Notice

1. A solicitation package, including the Disclosure Statement, a ballot, a confirmation hearing notice and return envelope (the "Solicitation Package") will be sent by Rust Consulting, the claims agent (the "Claims Agent"), to Voting Creditors, including creditors of the Canadian Debtors . The Information Officer understands that the Solicitation Package will be sent by mail within the next week or so. Ballots can also be accessed at: https://omnimgt.com/alliedsystems.

2. The Claims Agent will send by mail a notice of non-voting and a confirmation hearing notice to non-voting Creditors (Class 1, 6, 7), including creditors of the Canadian Debtors.

3.7.3 Acceptance

1. The impaired classes will have accepted the Plan if at least 66.6% in dollar value and over 50% in number of Allowed Claims of such classes have voted to accept the plan.

3.7.4 Confirmation

1. The U.S. Court confirmation hearing for the Plan is scheduled to begin on September 9, 2015.

3.8 Treatment of Creditors of Canadian Debtors

1. The Plan is applicable to all creditors, including creditors of the Canadian Debtors. Creditors of each of the Chapter 11 Debtors are treated the same – recovery for creditors of the Canadian Debtors is the same as recovery of Allied Systems US and other entities.

2. The Information Officer understands that Allied Systems US may seek to recognize the Plan in Canada if it is confirmed by the U.S. Court. The timing of such a motion is unknown, but would not be before September, 2015.

* * *

All of which is respectfully submitted,

KSV Kofman Inc.

KSV KOFMAN INC.
IN ITS CAPACITY AS INFORMATION OFFICER OF
ASHINC CORPORATION (FORMERLY KNOWN AS ALLIED SYSTEMS HOLDINGS INC),
ALLIED SYSTEMS (CANADA) COMPANY, AXIS CANADA COMPANY AND
THOSE OTHER COMPANIES LISTED ON SCHEDULE "A" HERETO
AND NOT IN ITS PERSONAL CAPACITY

Schedule “A”

Schedule A

AAINC Corporation (f/k/a Allied Automotive Group, Inc.)

AFBLLC LLC (f/k/a Allied Freight Broker LLC)

ASLTD L.P. (f/k/a Allied Systems, Ltd. (L.P.)

AXALLC LLC (f/k/a Axis Areta, LLC)

AXGINC Corporation (f/k/a Axis Group, Inc.)

Commercial Carriers, Inc.

CTSINC Corporation (f/k/a CT Services, Inc.)

CTLLC (f/k/a Cordin Transport LLC)

F.J. Boutell Driveaway LLC

GACS Incorporated

Logistic Systems, LLC

Logistic Technology, LLC

QAT, Inc.

RMX LLC

Transport Support LLC

Terminal Services LLC

Appendix “A”

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	**Chapter 11**
ASHINC CORPORATION, *et al.* [1]	)	**Case No. 12-11564 (CSS)**
	)	**Jointly Administered**
Debtors.	)	

DEBTORS' JOINT CHAPTER 11 PLAN OF REORGANIZATION PROPOSED BY THE DEBTORS, THE COMMITTEE AND THE FIRST LIEN AGENTS

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[1] The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: ASHINC Corporation (f/k/a Allied Systems Holdings, Inc.) (58-0360550); AAINC Corporation (f/k/a Allied Automotive Group, Inc.) (58-2201081); AFBLLC LLC (f/k/a Allied Freight Broker LLC) (59-2876864); ASCCO (Canada) Company (f/k/a Allied Systems (Canada) Company) (90-0169283); ASLTD L.P. (f/k/a Allied Systems, Ltd. (L.P.) (58-1710028); AXALLC LLC (f/k/a Axis Areta, LLC) (45-5215545); AXCCO Canada Company (f/k/a Axis Canada Company) (875688228); AXGINC Corporation (f/k/a Axis Group, Inc.) (58-2204628); Commercial Carriers, Inc. (38-0436930); CTSINC Corporation (f/k/a CT Services, Inc.) (38-2918187); CTLLC LLC (f/k/a Cordin Transport LLC) (38-1985795); F.J. Boutell Driveway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

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Dated: June 17, 2015

THE DISCLOSURE STATEMENT WITH RESPECT TO THIS PLAN OF REORGANIZATION HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT. THE PLAN PROPONENTS HAVE SEPARATELY NOTICED A HEARING TO CONSIDER THE ADEQUACY OF THE DISCLOSURE STATEMENT UNDER BANKRUPTCY CODE SECTION 1125. THE PLAN PROPONENTS RESERVE THE RIGHT TO MODIFY OR SUPPLEMENT THIS PLAN OF REORGANIZATION AND THE ACCOMPANYING DISCLOSURE STATEMENT PRIOR TO AND UP TO THE DATE OF SUCH HEARING.

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DEBTORS' JOINT CHAPTER 11 PLAN OF REORGANIZATION

INTRODUCTION

The Debtors, the Committee and the First Lien Agents (each defined below) propose this Plan pursuant to Section 1121(a) of the Bankruptcy Code. Reference is made to the Disclosure Statement (defined below) distributed contemporaneously herewith for a discussion, among other things, of the Debtors' history, business, property, material events in the Chapter 11 Cases (as defined below) and a summary and analysis of the Plan and certain related matters, including risk factors.

No solicitation materials, other than the Disclosure Statement and related materials transmitted therewith and approved by the Bankruptcy Court, have been authorized by the Bankruptcy Court for use in soliciting acceptances or rejection of this Plan. All parties entitled to vote to accept or reject the Plan are encouraged to read the Disclosure Statement and Plan in their entirety before voting.

ARTICLE I

RULES OF CONSTRUCTION AND DEFINITIONS

1.1 Rules of Construction

(a) For purposes of the Plan, except as expressly provided or unless the context otherwise requires, all capitalized terms used in the Plan and not otherwise defined in the Plan shall have the meanings ascribed to them in Section 1.2 of the Plan. Any capitalized term used in the Plan that is not defined herein, but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable.

(b) Whenever the context requires, terms shall include the plural as well as the singular number, the masculine gender shall include the feminine, and the feminine gender shall include the masculine.

(c) Any reference in the Plan to (i) a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions, or as otherwise specified in this Plan, and (ii) an existing document, exhibit, or other agreement means such document, exhibit, or other agreement as it may have been, or may hereafter be, amended, modified, or supplemented from time to time, as the case may be, and as in effect at any relevant point.

(d) Unless otherwise specified, all references in the Plan to sections, articles, schedules, and exhibits are references to sections, articles, schedules, and exhibits of or to the Plan.

(e) The words "herein," "hereof," and "hereto" refer to the Plan in its entirety rather than to a particular portion of the Plan.

(f) Captions and headings to articles and sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan.

(g) The rules of construction set forth in Bankruptcy Code Section 102 and in the Bankruptcy Rules shall apply.

(h) References to a specific article, section, or subsection of any statute, rule, or regulation expressly referenced herein shall, unless otherwise specified, include any amendments to or successor provisions of such article, section, or subsection.

(i) In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

1.2 Definitions

(1) "**1114 Order**" means the order of the Bankruptcy Court, in form and substance acceptable to the First Lien Requisite Lenders, terminating, on the Effective Date, all of the Retiree Obligations under the Retiree Benefit Plans.

(2) **"2007 Plan of Reorganization"** means the plan of reorganization of the Debtors that was confirmed on May 29, 2007 in the Georgia Bankruptcy Case.

(3) **"2012 Final DIP Order"** means the *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503(b) and 507(1), Fed. R. Bankr. P. 2002, 4001 and 9014 and Del. Bankr. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying Automatic Stay* [Docket No. 230], entered on July 12, 2012.

(4) **"Adequate Protection Claims"** means the Adequate Protection Priority Claims and the Supplemental Adequate Protection Priority Claims.

(5) **"Adequate Protection Priority Claims"** means the superpriority administrative expense claims granted under Section 364(c)(1) of the Bankruptcy Code pursuant to the 2012 Final DIP Order.

(6) **"Administrative Claim"** means any Administrative Expense Claim other than any AIG Claim. For the avoidance of doubt, the Northwest Claim, the Central States Administrative Claim and City of New York Administrative Claim are all Administrative Claims.

(7) **"Administrative Expense Claim"** means any Claim for costs and expenses of administration of these Chapter 11 Cases with priority under Section 507(a)(2) of the Bankruptcy Code, including, without limitation, costs and expenses allowed under Section 503(b) of the Bankruptcy Code, the actual and necessary costs and expenses of preserving the Estates of the Debtors, any Claim arising under Section 503(b)(9) of the Bankruptcy Code, any Claim relating to the right of reclamation to the extent afforded such priority under the Bankruptcy Code, any Professional Fee Claims, and any fees or charges assessed against the Estates of the Debtors under 28 U.S.C. § 1930.

(8) **"Administrative Expense Claim Bar Date"** means the date fixed by order(s) of the Bankruptcy Court by which all Persons (other than governmental entities to the extent provided in Section 503(b)(1)(D) of the Bankruptcy Code) asserting an Administrative Expense Claim (other than a Professional Fee Claim, but including any Claim pursuant to Section 503(b) of the Bankruptcy Code) against the Debtors must have filed a Claim or be forever barred from doing so, which date shall be no earlier than five (5) Business Days prior to the first date scheduled for the hearing on Confirmation.

(9) **"AIG Cash Collateral"** means cash collateral (in the amount of approximately $6,381,880 as reflected in AIG's Summary of Closeout Quotes dated August 15, 2015 and as adjusted thereafter) held by the AIG Entities to secure payment and reimbursement obligations under the U.S. Insurance Program and Canada Insurance Program. For the avoidance of doubt, the AIG Cash Collateral does not include any amounts owned or posted by Haul Insurance Limited.

(10) **"AIG Claims"** means the Secured Claim asserted by the AIG Entities with respect to amounts allegedly due and to become due pursuant to the U.S. Insurance Program and Canada Insurance Program, the Administrative Expense Claim asserted by the AIG Entities in the amount of $1,234,724.00 pursuant to the AIG Motion and any and all other Claims held by the AIG Entities against the Debtors.

(11) **"AIG Entities"** means National Union Fire Insurance Company of Pittsburgh, PA, AIG Insurance Company of Canada f/k/a Chartis Insurance Company of Canada, and other insurers affiliated with AIG Property Casualty, Inc. f/k/a Chartis Inc.

(12) **"AIG Motion"** means the *Motion of National Union Fire Insurance Company of Pittsburgh, PA, AIG Insurance Company of Canada, and Other Insurers Affiliated with AIG Property Casualty, Inc. to Compel Enforcement of Order Authorizing Assumption of Chartis Insurance Programs, to Allow and Direct Payment of Administrative Expense, and to Grant Related Relief* [Docket No. 2190], filed on January 16, 2014.

(13) **"AIG Settlement"** means the treatment of the AIG Claims as set forth in Section 3.3(c) of the Plan.

(14) **"Allied Automotive"** means AAINC Corporation (f/k/a Allied Automotive Group, Inc.), a Georgia corporation, one of the above-captioned Debtors.

(15) "**Allied Canada"** means ASCCO (Canada) Company (f/k/a Allied Systems (Canada) Company), an entity organized under the laws of Canada, one of the above-captioned Debtors.

(16) **"Allied Freight"** means AFBLLC LLC (f/k/a Allied Freight Broker LLC), a Delaware limited liability company, one of the above-captioned Debtors.

(17) **"Allied Holdings"** means ASHINC Corporation (f/k/a Allied Systems Holdings, Inc.), a Delaware corporation, one of the above-captioned Debtors.

(18) **"Allied Litigation Trust"** means the trust established pursuant to the Litigation Trust Agreement.

(19) **"Allied Systems"** means ASLTD L.P. (f/k/a Allied Systems, Ltd. (L.P.)), a Georgia limited partnership, one of the above-captioned Debtors.

(20) **"Allowed"** means when used with respect to a Claim, all or any portion of a Claim that (i) is not Disputed, (ii) has been allowed by a Final Order, (iii) was timely filed, and for which no objection was timely filed, (iv) was listed in the Debtors' schedules as undisputed, and for which no objection was timely filed, or (v) is allowed pursuant to any contract, instrument, indenture, or other agreement entered into or assumed in connection with the Plan, *provided*, *however*, that all Allowed Claims shall remain subject to all limitations set forth in the Bankruptcy Code, including, in particular, Sections 502 and 510, as applicable.

(21) **"Amended Complaint"** means the *Official Committee of Unsecured Creditors' Amended Complaint for (I) Equitable Subordination, (II) Recharacterization, (III) Breach of Contract, (IV) Specific Performance, (V) Breaches of Fiduciary Duties, (VI) Aiding and Abetting Breaches of Fiduciary Duties, (VII) Avoidance and Recovery of Avoidable Transfers, and (VIII) Disallowance of Certain Claims* [Adv. Pro. Docket No. 76], filed on March 14, 2013 in the adversary proceeding captioned *The Official Committee of Unsecured Creditors of Allied Systems Holdings, Inc. v. Yucaipa American Alliance Fund I, L.P., et al.*, Adv. Pro. No. 13-50530 (CSS). A copy of the Amended Complaint is attached to the Disclosure Statement as Exhibit DS-3.

(22) **"Assumed Contract"** means any contract or agreement identified on Schedule 6.3 to the Plan Supplement.

(23) **"Axis"** means AXGINC Corporation (f/k/a Axis Group, Inc.), a Georgia corporation, one of the above-captioned Debtors.

(24) **"Axis Areta"** means AXALLC LLC (f/k/a Axis Areta, LLC), a Georgia limited liability company, one of the above-captioned Debtors.

(25) **"Axis Canada"** means AXCCO Canada Company (f/k/a Axis Canada Company), an entity organized under the laws of Canada, one of the above-captioned Debtors.

(26) **"Backstop Fee"** means a fee in the aggregate amount of $900,000.00 payable to the Backstop Parties in consideration for their agreement to backstop the commitments for the Litigation Funding Loans.

(27) **"Backstop Parties"** means affiliates of Black Diamond Capital Management L.L.C.. and Spectrum Investment Partners, L.P. who have agreed to backstop the commitments for the full amount of the Litigation Funding Loans.

(28) **"Bankruptcy Code"** means Sections 101 *et seq.*, of title 11 of the United States Code, as now in effect or hereafter amended and applicable to the Chapter 11 Cases.

(29) **"Bankruptcy Court"** means the United States Bankruptcy Court for the District of Delaware or such other court as may have jurisdiction over the Chapter 11 Cases or any aspect thereof.

(30) **"Bankruptcy Rules"** means the Federal Rules of Bankruptcy Procedure, as now in effect or hereafter amended and applicable to the Chapter 11 Cases.

(31) **"Bar Date"** means (i) with respect to entities other than governmental units, August 2, 2013 at 12:00 a.m. (midnight) Eastern Daylight Time, (ii) with respect to governmental units, November 30, 2013 at 12:00 a.m. (midnight) Eastern Standard Time, and (iii) such other date(s) fixed by order(s) of the Bankruptcy Court, by which all Persons, including governmental units, asserting a Claim against the Debtors, must have filed a Proof of Claim or be forever barred from asserting such Claim.

(32) **"Bar Date Order"** means that certain order of the Bankruptcy Court entered May 29, 2013 [Docket No. 1208], establishing the Bar Date for filing Proofs of Claim, with only those exceptions permitted thereby.

(33) **"Beneficiaries"** means the Litigation Lenders and holders of Allowed First Lien Lender Claims, Allowed Second Lien Lender Claims and Allowed General Unsecured Claims.

(34) **"Business Day"** means any day, excluding Saturdays, Sundays, or "legal holidays" (as defined in Bankruptcy Rule 9006(a)), on which commercial banks are open for business in New York, New York.

(35) **"Canada Insurance Program"** shall have the meaning ascribed to it in the AIG Motion.

(36) **"Cash"** means legal tender of the United States or equivalents thereof.

(37) **"Cash on Hand"** means the cash collateral of the First Lien Lenders held by the Debtors as of the Effective Date of the Plan.

(38) **"Causes of Action"** means all claims as defined in section 101(5) of the Bankruptcy Code, causes of action, third-party claims, counterclaims and crossclaims (including, but not limited to, any and all alter ego or derivative claims and any Causes of Action described in the Disclosure Statement) of the Debtors and/or their Estates that are pending on the Effective Date or may be instituted after the Effective Date against any Person.

(39) **"Central States"** means Central States Southeast and Southwest Areas Health and Welfare Fund and Central States Southeast and Southwest Pension Fund.

(40) **"Central States Administrative Claim"** means the Administrative Expense Claim and Priority Claim portions of the Claims asserted by Central States pursuant to Proofs of Claim numbers 540, 542, 543, 545, 547-552, and 557-565 (but not any General Unsecured Claim) and Allowed, by agreement, in the aggregate amount of $270,000.00 pursuant to the Central States Settlement.

(41) **"Central States Settlement"** means the agreement between the Plan Proponents and Central States to reduce and allow the Central States Administrative Claim in the aggregate amount of $270,000.00.

(42) **"Chapter 11 Cases"** means the above-captioned, jointly-administered chapter 11 cases of the Debtors pending in the Bankruptcy Court under Case No. 12-11564 (CSS).

(43) **"CIT"** means the CIT Group/Business Credit, Inc.

(44) **"City of New York Administrative Claim"** means the Disputed Administrative Expense Claim asserted by The City of New York in the approximate amount of $555,000.00.

(45) **"Claim"** means a claim as such term is defined in Bankruptcy Code Section 101(5) against the Debtors, whether arising before or after the Petition Date and specifically including an Administrative Expense Claim.

(46) **"Claims Agent"** means Rust Consulting/Omni Bankruptcy.

(47) **"Claim Objection Deadline"** means the last day for filing objections to Claims in the Bankruptcy Court, which shall be the latest of (i) sixty (60) days after the Effective Date, (ii) sixty (60) days after the applicable Proof of Claim or Request for Payment is filed (except as otherwise provided in Section 10.1 of the Plan), and (iii) such other later date as is established by order of the Bankruptcy Court upon motion of the Plan Administrator. The Plan Administrator may, in its discretion, move the Bankruptcy Court to enter an order extending the Claim Objection Deadline at any time prior to the expiration of the Claim Objection Deadline.

(48) **"Claims Register"** means the official claims registers in the Debtors' Chapter 11 Cases maintained by the Claims Agent on behalf of the Clerk of the Bankruptcy Court.

(49) **"Class"** means a category of holders of Claims or Interests, as described in Article II of the Plan.

(50) **"Commercial Carriers**" means Commercial Carriers, Inc., a Michigan corporation, one of the above-captioned Debtors.

(51) **"Committee"** means the official committee of unsecured creditors formed by the U.S. Trustee to serve in the Chapter 11 Cases.

(52) **"Common Stock"** means, collectively, any common equity in Allied Holdings outstanding prior to the Effective Date, including, without limitation, any stock option or other right to purchase the common stock of Allied Holdings, together with any warrant, conversion right, restricted stock unit, right of first refusal, subscription, commitment, agreement, or other right to acquire or receive any such common stock in Allied Holdings that have been fully exercised prior to the Effective Date.

(53) **"Common Stockholders"** means the holders of the Common Stock.

(54) "**Confirmation**" means confirmation of the Plan by the Bankruptcy Court pursuant to Bankruptcy Code Section 1129.

(55) **"Confirmation Date"** means the date of entry by the Clerk of the Bankruptcy Court of the Confirmation Order.

(56) **"Confirmation Hearing"** means the hearing to consider Confirmation of the Plan under Bankruptcy Code Section 1128.

(57) **"Confirmation Order"** means the order entered by the Bankruptcy Court confirming the Plan pursuant to Bankruptcy Code Section 1129.

(58) **"Cordin"** means CTLLC LLC (f/k/a Cordin Transport LLC), a Delaware limited liability company, one of the above-captioned Debtors.

(59) "**Cure**" means, in connection with the assumption of an executory contract or unexpired lease, pursuant to and only to the extent required by Bankruptcy Code Section 365(b), (i) the distribution within a reasonable period of time following Effective Date of Cash or such other property (A) as required under the terms of the applicable executory contract or lease, (B) other than as required under the terms of the applicable executory contract or lease, as may be agreed upon by the counterparties and the Debtors, or (C) as may be ordered by the Bankruptcy Court or determined in such manner as the Bankruptcy Court may specify; and/or (ii) the taking of such other actions (A) as required under the terms of the applicable executory contract or lease, (B) other than as required under the terms of the applicable executory contract or lease, as may be agreed upon by the counterparties and the Debtors, or (C) as may be ordered by the Bankruptcy Court or determined in such manner as the Bankruptcy Court may specify.

(60) **"CT Services"** means CTSINC Corporation (f/k/a CT Services, Inc.), a Michigan corporation, one of the above-captioned Debtors.

(61) **"Debtors"** means Allied Holdings, Allied Automotive, Allied Freight, Allied Canada, Allied Systems, Axis Areta, Axis Canada, Axis, Commercial Carriers, CT Services, Cordin, F.J., GACS, Logistic Systems, Logistic Technology, QAT, RMX, Transport Support and Terminal Services, including in their capacities as debtors and debtors in possession pursuant to Bankruptcy Code Sections 1107 and 1108.

(62) **"Disclosure Statement"** means the written disclosure statement that relates to the Plan, as amended, supplemented, or otherwise modified from time to time, and that is prepared, approved and distributed in accordance with Bankruptcy Code Section 1125 and Bankruptcy Rule 3018.

(63) **"Disputed"** means any Claim or portion thereof which (i) was scheduled as "disputed" in the Schedules or (ii) is subject to an objection filed (or similar challenge to a Claim included in any timely filed adversary proceeding) prior to the Claim Objection Deadline that has not been resolved by settlement or Final Order.

(64) **"Disputed Claims Reserve"** means the reserve fund created pursuant to Section 7.1 of the Plan.

(65) **"Disputed First Lien Obligations"** means the First Lien Obligations allegedly owned by Yucaipa that are the subject of certain of the causes of action set forth in the Estate Claims and the Lender Direct Claims.

(66) **"Disputed First Lien Obligations Escrow"** means the proceeds of the JCT Sale allocable to the Disputed First Lien Obligations that have been deposited into escrow in accordance with the JCT Sale Order and pursuant to the terms of that certain Escrow Agreement, dated as of the 27th day of December, 2013, by and among (a) Allied Holdings (on behalf of itself and each of the other Debtors); (b) the First Lien Agents; (c) Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.; and (d) Wilmington Trust, National Association, as Escrow Agent.

(67) **"Distribution Date"** means, subject to the provisions of Section 7.1 of the Plan, unless a later date is established by order of the Bankruptcy Court upon motion of the Debtors, the Plan Administrator, or any other party, the later of (a) the Effective Date or as soon as practicable thereafter, (b) the date such Claim becomes an Allowed Claim or as soon as practicable thereafter, or (c) as soon as practicable following a

determination by the Plan Administrator that that there is sufficient Cash to make a distribution to the holder of such Claim pursuant to the terms of this Plan, *provided however,* that the Plan Administrator will commence distributions under the Plan to the holders of Allowed First Lien Lender Claims and Allowed General Unsecured Claims no later than the date that is 60 days after the Effective Date of the Plan.

(68) **"Distribution Record Date"** means the record date for determining entitlement to receive distributions under the Plan on account of Allowed Claims, which date shall be the Business Day immediately preceding the Effective Date, at 5:00 p.m. prevailing Eastern time on such Business Day.

(69) **"Effective Date"** means the Business Day upon which all conditions to the consummation of the Plan as set forth in Section 8.2 of the Plan have been satisfied or waived as provided in Section 8.3 of the Plan, and is the date on which the Plan becomes effective.

(70) **"Estates"** means the estates of the Debtors in the Chapter 11 Cases, created pursuant to Bankruptcy Code Section 541.

(71) **"Estate Claims"** means all claims of the Debtors' Estates asserted in the Amended Complaint and any additional claims of the Debtors' Estates arising out of, or related to, the facts and circumstances described in the Amended Complaint, including defendants not named in the Amended Complaint.

(72) **"Filed Claim"** means a Claim evidenced by a Proof of Claim or Request for Payment, as applicable.

(73) **"Final Order"** means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket in the Chapter 11 Cases, or the docket of any such other court, the operation or effect of which has not been stayed, reversed, or amended, and as to which order or judgment (or any revision, modification, or amendment thereof) the time to appeal, petition for certiorari, or seek review or rehearing or leave to appeal has expired and as to which no appeal, petition for certiorari or petition for review or rehearing was filed or, if filed, remains pending or as to which any right to appeal, petition for certiorari, reargument, or rehearing shall have been waived in writing by all Persons possessing such right, or, in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order shall have been affirmed by the highest court to which such order was appealed, or from which reargument or rehearing was sought or certiorari has been denied, and the time to take any further appeal, petition for certiorari, or move for reargument or rehearing shall have expired; *provided*, *however*, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure or any analogous rule under the Bankruptcy Rules may be filed with respect to such order shall not cause such order not to be a Final Order.

(74) **"First Lien Agents"** means Black Diamond Commercial Finance, L.L.C., a Delaware limited liability company, and Spectrum Commercial Finance LLC, a Delaware limited partnership, and their respective successors and assigns.

(75) **"First Lien Credit Agreement"** means that certain *Amended and Restated First Lien Secured Super-Priority Debtor in Possession and Exit Credit and Guaranty Agreement*, dated as of March 30, 2007 (as amended by that certain *Limited Waiver and* Amendment *No. 1 to Credit Agreement and Pledge and Security Agreement*, dated as of May 29, 2007, that certain *Amendment No. 2 to Credit Agreement*, dated as of June 12, 2007, and that certain *Amendment No. 3 to Credit Agreement*, dated as of April 17, 2009), made by Allied Systems and Allied Holdings, as borrowers, the other Debtors, as guarantors, the lenders party thereto from time to time, Goldman Sachs Credit Partners L.P., as lead arranger and as syndication agent, and CIT, as administrative agent and as collateral agent.

(76) **"First Lien Credit Agreement Claims"** means the Secured Claims held by each First Lien Lender pursuant to the First Lien Credit Agreement.

(77) **"First Lien Lender Cash Distribution"** means the $2.6 million in Cash to be provided by the Reorganized Debtors for distribution on account of the First Lien Lender Claims pursuant to Section 3.3(a) of the Plan.

(78) **"First Lien Lender Claims"** means the First Lien Credit Agreement Claims and the Adequate Protection Claims.

(79) **"First Lien Lender"** means each holder of an Allowed First Lien Lender Claim.

(80) **"First Lien Obligations"** means obligations arising under the First Lien Credit Agreement.

(81) **"First Lien Requisite Lender"** means BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 Ltd., and Spectrum Investment Partners, L.P., acting jointly, together with their respective successors and assigns.

(82) **"First Lien Reserves"** means the approximately $13 million of Cash held in reserves by the First Lien Agents for the benefit of the First Lien Lenders.

(83) **"F.J."** means F.J. Boutell Driveaway LLC, a Delaware limited liability company, one of the above-captioned Debtors.

(84) **"GACS"** means GACS Incorporated, a Georgia corporation, one of the above-captioned Debtors.

(85) **"Georgia Bankruptcy Case"** means the bankruptcy case commenced by the Debtors on July 31, 2005 in the United States Bankruptcy Court for the Northern District of Georgia, captioned *In re Allied Holdings, Inc. and Transport Support LLC*, Case No. 05-12515.

(86) **"General Unsecured Claim"** shall mean any Claim that is not an Administrative Claim, an AIG Claim, a Priority Tax Claim, a Priority Claim, a First Lien Lender Claim, or a Second Lien Lender Claim.

(87) **"GUC Cash Distribution"** means the $3 million in Cash from the Cash on Hand and/or the Winddown Reserve for distribution on account of the General Unsecured Claims pursuant to Section 3.3(c) of the Plan.

(88) **"Haul Insurance Limited"** means Haul Insurance Limited, a direct wholly-owned subsidiary of Allied Holdings, a Cayman Islands company.

(89) **"Impaired"** means, with respect to any Claim or Interest, that such Claim or Interest is impaired within the meaning of Bankruptcy Code Section 1124.

(90) **"Intercreditor Agreement"** means that certain *Intercreditor Agreement*, dated May 15, 2007, made by and among the First Lien Collateral Agent and the Second Lien Collateral Agent (each as defined therein).

(91) **"Interests"** means collectively the Parent Equity Interests and the Subsidiary Equity Interests.

(92) **"Jack Cooper"** means Jack Cooper Holdings Corp. and certain of its affiliates that acquired assets of the Debtors pursuant to the JCT Sale.

(93) **"JCT Sale"** means the sale of certain of the Debtors' assets to Jack Cooper that was approved by the Bankruptcy Court pursuant to the JCT Sale Order and consummated on December 27, 2013.

(94) **"JCT Sale Order**" means the *Order (A) Approving Asset Purchase Agreement and Authorizing the Sale of Assets of the Debtors Outside the Ordinary Course of Business, (B) Authorizing the Sale of Assets*

Free and Clear of all Liens, Claims, Encumbrances and Interests, (C) Authorizing the Assumption and Sale and Assignment of Certain Executory Contracts and Unexpired Leases, and (D) Granting Related Relief [Docket No. 1837], entered on September 17, 2013.

(95) **"Lender Direct Claims"** means the claims and causes of action set forth in the Lender Direct Complaint.

(96) **"Lender Direct Complaint"** means that certain Complaint captioned *BDCM Opportunity Fund II, L.P., et al. v. Yucaipa American Alliance Fund I, L.P., et al., Adv. Proc. No. 14-50971 (CSS).* A copy of the Lender Direct Complaint is attached to the Disclosure Statement as Exhibit DS-4.

(97) **"Lien"** means a lien as such term is defined in Bankruptcy Code Section 101(37).

(98) **"Litigation Claims"** means the Estate Claims and the Lender Direct Claims.

(99) **"Litigation Funding Loans"** means one or more commitments aggregating $15 million issued by the Litigation Lenders to fund the prosecution of the Litigation Claims.

(100)**"Litigation Lender"** means each First Lien Lender (other than Yucaipa) who elects to participate in the Litigation Funding Loan commitments.

(101)**"Litigation Oversight Committee"** means the committee formed pursuant to Section 5.12 of the Plan to, among other things, select the Litigation Trustee, oversee the Allied Litigation Trust, the work of the Litigation Trustee and the prosecution of the Litigation Claims.

(102)**"Litigation Proceeds Waterfall"** means the manner in which the proceeds of any recovery on account of the Litigation Claims are to be distributed as set forth in Section 5.14 of the Plan.

(103)**"Litigation Trust Agreement"** means that certain agreement made by an among the Debtors, as depositor of the Estate Claims, the First Lien Agents, as depositor of the Lender Direct Claims, the Committee and the Litigation Trustee, establishing and delineating the terms and conditions of the Allied Litigation Trust, substantially in the form to be filed as part of the Plan Supplement.

(104)**"Litigation Trust Assets"** means the Litigation Claims.

(105)**"Litigation Trust Expenses"** means the fees and expenses of the Litigation Trustee, including, without limitation, professional fees and expenses incurred in connection with the prosecution of the Litigation Claims.

(106)**"Litigation Trustee"** shall mean that Person selected by the Litigation Oversight Committee to act as the trustee of the Allied Litigation Trust or any of his, her or its successors.

(107)**"Logistic Systems"** means Logistics Systems, LLC, a Georgia limited liability company, one of the above-captioned Debtors.

(108)**"Logistic Technology"** means Logistic Technology, LLC, a Georgia limited liability company, one of the above-captioned Debtors.

(109)"**New Boards**" means the initial boards of directors or managers, as applicable, of the Reorganized Debtors.

(110)**"New Common Stock"** means the new common stock of Reorganized Allied Holdings to be authorized and/or issued to the New Common Stockholders pursuant to Section 5.5 of the Plan, with the rights of the holder thereof to be as provided for in the New Debtor Governing Documents.

(111)**"New Common Stockholder"** means each First Lien Lender who is entitled to and elects, in lieu of receiving its Pro Rata share of the First Lien Lender Cash Distribution, to receive its Pro Rata share of the New Common Stock.

(112)**"New Debtor Governing Documents"** means such certificates or articles of incorporation, bylaws, or such other applicable formation documents of each of the Reorganized Debtors, the forms of which will be included in the Plan Supplement.

(113)**"Northwest"** means Northwest Administrators, Inc.

(114)**"Northwest Claim"** means the Administrative Expense Claim and Priority Claim (but not any General Unsecured Claim) asserted in the amount of $93,970.27 by Northwest pursuant to the Northwest Request and Allowed, by agreement, in the amount of $40,000.00 pursuant to the Northwest Settlement.

(115)**"Northwest Request"** means the *Application of Northwest Administrators Inc. for Allowance of Administrative Expense Claim* [Docket No. 2292], filed by Northwest on March 3, 2014.

(116)**"Northwest Settlement"** means the agreement between the Plan Proponents and Northwest to reduce and allow the Northwest Claim in the amount of $40,000.00.

(117)**"Old Securities"** means the Common Stock and any promissory notes held by any creditor.

(118)**"Parent Equity Interests"** means the legal, equitable, contractual, or other rights of any Person (i) with respect to the Common Stock, or (ii) to acquire or receive any Common Stock.

(119)**"Person"** means any person, individual, firm, partnership, corporation, trust, association, company, limited liability company, joint stock company, joint venture, governmental unit, or other entity or enterprise.

(120)**"Petition"** means each petition for relief commencing the Chapter 11 Cases.

(121)"**Petition Date**" means (i) with respect to Allied Holdings and Allied Systems, May 17, 2012, the date that involuntary petitions were filed against Allied Holdings and Allied Systems, and (ii) with respect to the remaining Debtors, June 10, 2012, the date such Debtors filed voluntary petitions in the Bankruptcy Court.

(122)"**Plan**" means this plan of reorganization under Chapter 11 of the Bankruptcy Code and all implementing documents contained in the Plan Supplement, as the same may be amended, modified, or supplemented from time to time.

(123)**"Plan Administrator"** means the Person designated as the Litigation Trustee by the Litigation Oversight Committee in accordance with the Litigation Trust Agreement.

(124)**"Plan Proponents"** means the Debtors, the Committee and the First Lien Agents.

(125)**"Plan Supplement"** means the supplement to the Plan, which may be filed in parts pursuant to Section 5.17 of the Plan, containing, without limitation, (i) the identity of the members of the Litigation Oversight Committee; (ii) the Litigation Trust Agreement; (iii) the identity of the members of the New Boards; (iv) the New Debtor Governing Documents; and (v) the proposed Assumed Contracts, if any.

(126)**"Priority Claim"** means a Claim against the Debtors entitled to priority pursuant to Bankruptcy Code Section 507(a), other than a Priority Tax Claim or an Administrative Claim.

(127)**"Priority Tax Claim"** means a Claim that is entitled to priority pursuant to Bankruptcy Code Section 507(a)(8).

(128)**"Professional"** means any professional retained in the Chapter 11 Cases by order of the Bankruptcy Court, whether by the Debtors or the Committee, excluding any of the Debtors' ordinary course professionals.

(129)**"Professional Fee Claim"** means a Claim of a Professional for compensation or reimbursement of costs and expenses relating to services rendered from and after the Petition Date and prior to and including the Effective Date, subject to any limitations imposed by order of the Bankruptcy Court.

(130)**"Proof of Claim"** means a Proof of Claim filed in accordance with the Bar Date Order.

(131)**"Pro Rata"** means, at any time, as applicable, the proportion that (i) the amount of a Claim in a particular Class or Classes (or portions thereof, as applicable) bears to the aggregate amount of all Claims (including Disputed Claims), as applicable, in such Class or Classes, (ii) the amount of an Allowed Claim in a particular Class or Classes (or portions thereof, as applicable) bears to the aggregate amount of all Allowed Claims in such Class or Classes, (iii) the amount of an Allowed Claim in a particular Class or Classes (or portions thereof, as applicable) bears to the aggregate amount of all Claims (including Disputed Claims), as applicable, in such Class or Classes, or (iv) the amount of an Allowed Claim in a particular Class or Classes making an election bears to the aggregate amount of all Allowed Claims in such Class or Classes also making such election, unless the Plan provides otherwise.

(132)**"QAT"** means QAT, Inc., a Florida corporation, one of the above-captioned Debtors.

(133)**"Rejection Damages Claim"** means a Claim arising from the Debtors' rejection of a contract or lease, which Claim shall be limited in amount by any applicable provision of the Bankruptcy Code, including, without limitation, Bankruptcy Code Section 502, subsection 502(b)(6) thereof with respect a Claim of a lessor for damages resulting from the rejection of a lease of real property, subsection 502(b)(7) thereof with respect to a Claim of an employee for damages resulting from the rejection of an employment contract, or any other subsection thereof.

(134)**"Released Parties"** shall have the meaning set forth in Section 10.6(a) of the Plan.

(135)**"Reorganized Allied Holdings"** means reorganized Allied Holdings or its successor on or after the Effective Date

(136)**"Reorganized Allied Holdings Shareholders Agreement"** means the shareholders agreement applicable to the equity interests of Reorganized Allied Holdings to be issued to those First Lien Lenders who have elected to receive such interests in lieu of their Pro Rata share of the First Lien Lender Cash Distribution in accordance with Section 3.3(a) of the Plan, which shareholders' agreement shall be in form and substance acceptable to each of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 Ltd., and Spectrum Investment Partners, L.P.

(137)**"Reorganized Debtor"** means each reorganized Debtor or its successor on or after the Effective Date.

(138)**"Reorganized Debtors' Assets"** means all assets of the Debtors or the Estates, other than the Estate Claims. Without limitation, the Reorganized Debtors' Assets shall include (a) the Debtors' interest in all Cash on Hand, (b) the Debtors' interest in all proceeds of the Sale, (c) any claim, right or interest of the Debtors in any deposit, prepayment, refund, rebate, abatement or other recovery for Taxes, including existing net operating losses, (d) certain real property held by the Debtors, (e) the right to recover excess cash collateral pledged to secure obligations under certain (i) self-insured workers compensation programs and (ii) bonds issued to governmental agencies and freight brokers to guaranty the Debtors' transportation-related obligations, (f) the Subsidiary Equity Interests, (g) all proceeds of any of the foregoing and all proceeds of any of the foregoing received by any person or entity on or after the Effective Date, (h) all of the Debtors'

books and records to the extent the same are not purchased assets pursuant to the Sale, and (i) the attorney-client privilege related or incidental to the assets identified in the foregoing (a) - (h) above.

(139)**"Replacement DIP Order"** means the *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503(b) and 507(1), Fed. R. Bankr. P. 2002, 4001 and 9014 and Del. Bankr. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying Automatic Stay* [Docket No. 1324], entered on June 21, 2013.

(140)**"Request for Payment"** means a request for payment of an Administrative Claim filed with the Bankruptcy Court in connection with the Chapter 11 Cases.

(141)**"Retiree Benefit Plans"** means that certain Allied Retiree Benefit Plan, dated as of September 23, 2004 and any retiree death benefit plans or arrangements.

(142)**"Retiree Committee"** means the committee of retirees of the Debtors, appointed by the U.S. Trustee on January 8, 2014, pursuant to order of the Bankruptcy Court entered on December 23, 2013.

(143)**"Retiree Obligations"** means the Debtors' obligations under the Retiree Benefit Plans.

(144)**"RMX"** means RMX LLC, a Delaware limited liability company, one of the above-captioned Debtors.

(145)**"Sale"** means, collectively, the JCT Sale and the SBDRE Sale.

(146)**"SBDRE Sale"** means the sale of certain of the Debtors' assets to (a) SBDRE LLC and its affiliates, entities formed by the First Lien Agents, and (b) ATC Transportation LLC, as designee of SBDRE LLC which was approved by the Bankruptcy Court on September 30, 2013 and consummated in part on March 20, 2014 and in part on June 12, 2014.

(147)**"SBDRE Sale Order**" means the *Order Under 11 U.S.C. §§ 105(a), 363 and 365 and Fed. R. Bankr. P. 2002, 6004 and 6006 Authorizing and Approving: (I) Sale of Assets Free and Clear of Liens, Claims, Encumbrances and Other Interests; and (II) Assumption and Assignment of Unexpired Lease to an Acquisition Entity Formed by Prepetition First Lien Agents* [Docket No. 1868], entered on September 30, 2013.

(148)**"Schedules"** means the Statements of Financial Affairs and Schedules of Assets and Liabilities filed by the Debtors with the Bankruptcy Court in the Chapter 11 Cases under Bankruptcy Rule 1007, as such Statements of Financial Affairs and Schedules of Assets and Liabilities have been or may be amended or supplemented from time to time.

(149)**"Second Lien Credit Agreement"** means that certain *Second Lien Secured Super-Priority Debtor in Possession and Exit Credit and Guaranty Agreement*, dated as of May 15, 2007 (as amended by that certain *Limited Waiver and Amendment No. 1 to Credit Agreement and Pledge and Security Agreement*, dated as of May 29, 2007, as further amended by that certain *Amendment No. 2 to Credit Agreement*, dated as of June 12, 2007, and that certain *Amendment No. 3 to Credit Agreement*, dated as of April 17, 2008), made by Allied Systems and Allied Holdings, as borrowers, the other Debtors, as guarantors, the lenders party thereto from time to time, Goldman Sachs Credit Partners L.P., as lead arranger and as syndication agent, and The Bank of New York Mellon, as administrative agent and as collateral agent.

(150)**"Second Lien Credit Agreement Claims"** means the Claims held by each Second Lien Lender pursuant to the Second Lien Credit Agreement.

(151)**"Second Lien Lender Claims"** means the Second Lien Credit Agreement Claims and the Adequate Protection Claims.

(152)**"Second Lien Lender"** means each holder of an Allowed Second Lien Lender Claim.

(153) **"Secured Claim"** means a Claim (i) that is secured by a Lien on property in which the Estates have an interest, which lien is not subject to avoidance under the Bankruptcy Code or otherwise invalid under the Bankruptcy Code or applicable state law, or a Claim that is subject to a valid right of the creditor of setoff against amounts owed to the Debtors; (ii) to the extent of the value of the holder's interest in the Estates' interest in such property or to the extent of the amount subject to a valid right of setoff, as applicable; and (iii) the amount of which (A) is undisputed by the Debtors or (B) if disputed by the Debtors, such dispute is settled by written agreement between the Debtors or the Plan Administrator and the holder of such Claim or determined, resolved, or adjudicated by Final Order.

(154)**"Subsidiary Equity Interests"** means the equity interests in each of the Debtors other than Allied Holdings.

(155)**"Supplemental Adequate Protection Priority Claims"** means the superpriority administrative expense claims granted under section 507(b) of the Bankruptcy Code pursuant to the Replacement DIP Order.

(156)**"Taxes"** means (a) any taxes and assessments imposed by any Governmental Body, including net income, gross income, profits, gross receipts, license, employment, stamp, occupation, premium, alternative or add-on minimum, ad valorem, real property, personal property, transfer, real property transfer, value added, sales, use, environmental (including taxes under Code Section 59A), customs, duties, capital stock, franchise, excise, withholding, social security (or similar), unemployment, disability, payroll, fuel, excess profits, windfall profit, severance, estimated or other tax, including any interest, penalty or addition thereto, whether disputed or not, and any expenses incurred in connection with the determination, settlement or litigation of the Tax liability, (b) any obligations under any agreements or arrangements with respect to Taxes described in clause (a) above, and (c) any transferee liability in respect of Taxes described in clauses (a) and (b) above or payable by reason of assumption, transferee liability, operation of Law, Treasury Regulation Section 1.1502-6(a) (or any predecessor or successor thereof or any analogous or similar provision under Law) or otherwise.

(157)**"Terminal Services"** means Terminal Services LLC, a Delaware limited liability company, one of the above-captioned Debtors.

(158)**"Transport Support"** means Transport Support LLC, a Delaware limited liability company, one of the above-captioned Debtors.

(159)**"Unfiled Claim"** means a Claim as to which no Proof of Claim or Request for Payment has been filed.

(160)**"Unimpaired"** means, with respect to any Claim, that such Claim is not impaired within the meaning of Bankruptcy Code Section 1124.

(161)**"U.S. Insurance Program"** shall have the meaning ascribed to it in the AIG Motion.

(162)**"U.S. Trustee"** means the Office of the United States Trustee for the District of Delaware.

(163)**"Winddown Reserve"** means the reserve established by the First Lien Agents upon the consummation of the JCT Sale for the purposes of winding down the Debtors' Estates, as adjusted from time to time.

(164)**"Yucaipa"** means Yucaipa American Alliance Find I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund II, L.P., Yucaipa American Alliance (Parallel) Fund II, L.P., and their respective agents, officers, directors, managers, employees and affiliates.

ARTICLE II

CLASSIFICATION OF CLAIMS AND INTERESTS

2.1 Introduction

A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class and such Claim or Interest has not been paid, released, or otherwise settled prior to the Effective Date. A Claim or Interest may be and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes.

2.2 Unclassified Claims

In accordance with Bankruptcy Code Section 1123(a)(1), Administrative Claims and Priority Tax Claims have not been classified.

2.3 Unimpaired Class of Claims

The following Class contains Claims that are not Impaired by the Plan, are deemed to accept the Plan, and are not entitled to vote on the Plan.

Class 1: Priority Claims

2.4 Impaired Voting Classes of Claims

The following Classes contain Claims that are Impaired by the Plan and are entitled to vote on the Plan.

Class 2: First Lien Lender Claims

Class 3: Second Lien Lender Claims

Class 4: AIG Claims

Class 5: General Unsecured Claims

2.5 Impaired Non-Voting Class of Interests

The following Classes contains Claims and Interests that are Impaired by the Plan and are not entitled to vote on the Plan.

Class 6: Parent Equity Interests

2.6 Unimpaired Non-Voting Class of Interests

The following Classes contains Claims and Interests that are Unimpaired by the Plan, are deemed to accept the Plan, and are not entitled to vote on the Plan.

Class 7: Subsidiary Equity Interests

ARTICLE III

TREATMENT OF CLAIMS AND INTERESTS

3.1 Unclassified Claims

(a) Administrative Claims

With respect to each Allowed Administrative Claim, except as otherwise provided for in Section 10.1 of the Plan, on the Effective Date, the holder of each such Allowed Administrative Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Administrative Claim, (A) Cash equal to the unpaid portion of such Allowed Administrative Claim or (B) such different treatment as to which such holder and the Debtors or the Plan Administrator, as applicable, shall have agreed upon in writing; *provided*, *however*, that Allowed Administrative Claims (other than Professional Fee Claims and Claims asserted under Section 503(b)(3) or (b)(4)) with respect to liabilities incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases shall be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto. For the avoidance of doubt, (i) Central States shall receive the treatment provided in the Central States Settlement, and (ii) Northwest shall receive the treatment provided in the Northwest Settlement.

(b) Priority Tax Claims

Each holder of an Allowed Priority Tax Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Tax Claim, as shall have been determined by the Debtors or by the Plan Administrator, either (i) on the Effective Date, Cash equal to the due and unpaid portion of such Allowed Priority Tax Claim, (ii) treatment in a manner consistent with Bankruptcy Code Section 1129(a)(9)(C), or (iii) such different treatment as to which such holder and the Debtors or the Plan Administrator, as applicable, shall have agreed upon in writing.

3.2 Unimpaired Class of Claims

(a) Class 1: Priority Claims

On the applicable Distribution Date, each holder of an Allowed Priority Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Claim, either (i) Cash equal to the unpaid portion of such Allowed Priority Claim or (ii) such different treatment as to which such holder and the Debtors or the Plan Administrator, as applicable, shall have agreed upon in writing.

3.3 Impaired Voting Classes of Claims

(a) Class 2: First Lien Lender Claims

On the applicable Distribution Date, each holder of an Allowed First Lien Lender Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed First Lien Lender Claim its Pro Rata share of: (i) the beneficial interests in the Allied Litigation Trust payable to holders of Allied First Lien Lender Claims in accordance with the Litigation Proceeds Waterfall, and (ii) the First Lien Lender Cash Distribution, *provided, however*, that each First Lien Lender may elect, in lieu of receipt of its Pro Rata share of the First Lien Lender Cash Distribution, to receive its Pro Rata share of the New Common Stock. Each of the First Lien Lenders comprising the First Lien Requisite Lender has elected to receive shares of New Common Stock in lieu of receiving is Pro Rata distribution of the First Lien Lender Cash Distribution. In addition, on the Effective Date, the First Lien Agents shall distribute to the holders of Allowed First Lien Lender Claims the First Lien Reserves. For the avoidance of doubt, pursuant to the limitations set forth in the First Lien Credit Agreement, in no event shall Yucaipa be entitled to make the election contemplated in the proviso to clause (ii) of this Section 3.3(a) of the Plan.

Notwithstanding anything to the contrary set forth herein, any distributions that would otherwise be made on account of the Disputed First Lien Obligations by the Debtors or the First Lien Agents shall be made to the Disputed First Lien Obligations Escrow to be held, and ultimately distributed, in accordance with the terms thereof and the JCT Sale Order.

For the avoidance of doubt, the holders of First Lien Lender Claims shall be deemed to waive the right to participate in the GUC Cash Distribution on account of any unsecured portion of a First Lien Lender Claim.

(b) Class 3: Second Lien Lender Claims

Each holder of an Allowed Second Lien Lender Claim shall receive, in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Second Lien Lender Claim its Pro Rata share of the beneficial interests of the Allied Litigation Trust payable to holders of Allowed Second Lien Lender Claims (calculated on a Pro Rata basis with holders of Allowed General Unsecured Claims) in accordance with the Litigation Proceeds Waterfall, *provided, however*, that any future distribution on account of such beneficial interests shall be turned over to the First Lien Agents for distribution to the First Lien Lenders to the extent required by Sections 4.1 and 4.2 of the Intercreditor Agreement until the First Lien Lenders have been indefeasibly paid in full in Cash.

For the avoidance of doubt, the holders of Second Lien Lender Claims shall be deemed to waive the right to participate in the GUC Cash Distribution on account of any unsecured portion of a Second Lien Lender Claim.

(c) Class 4: AIG Claims

On the Effective Date, pursuant to the AIG Settlement (and subject to the satisfaction of the conditions to effectiveness) the AIG Entities shall receive in full satisfaction, settlement, release, and discharge of and in exchange for all Allowed AIG Claims, (i) the AIG Cash Collateral, and (ii) Cash in the amount of $1,000,000.00. If the conditions to effectiveness of the AIG Settlement are not satisfied (or waived by AIG) the AIG Settlement will not become effective and the AIG Claims will be treated as Disputed.

(d) Class 5: General Unsecured Claims

On the applicable Distribution Dates, each holder of an Allowed General Unsecured Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed General Unsecured Claim, a Pro Rata share of (a) the GUC Cash Distribution and (b) the beneficial interests of the Allied Litigation Trust payable to holders of Allowed General Unsecured Claims (calculated on a Pro Rata basis with holders of Allowed Second Lien Lender Claims) in accordance with the Litigation Proceeds Waterfall.

3.4 Impaired Non-Voting Class Interests

(a) Class 6: Parent Equity Interests

Holders of Parent Equity Interests shall not receive or retain any distribution under the Plan on account of such Interests, and the Common Stock shall be cancelled as set forth in Section 5.4 of the Plan.

3.5 Unimpaired Non-Voting Class Interests

(a) Class 7: Subsidiary Equity Interests

Holders of Subsidiary Equity Interests shall retain such Subsidiary Equity Interests, subject to any corporate reorganization that may be undertaken by the Debtors or the Reorganized Debtors prior to, on or after the Effective Date.

3.6 Reservation of Rights Regarding Claims and Interests

Except as otherwise explicitly provided in the Plan, nothing shall affect the Debtors' or the Reorganized Debtors' rights and defenses, both legal and equitable, with respect to any Claims or Interests, including, but not limited to, all rights with respect to legal and equitable defenses to alleged rights of setoff or recoupment. Similarly, nothing herein shall prejudice or be deemed to prejudice creditors' rights of setoff or recoupment.

ARTICLE IV

ACCEPTANCE OR REJECTION OF THE PLAN

4.1 Impaired Classes Entitled to Vote

Holders of Claims in the Impaired Voting Classes of Claims are each entitled to vote as a Class to accept or reject the Plan. Accordingly, the votes of holders of Claims in Classes 2, 3, 4 and 5 shall be solicited with respect to the Plan.

4.2 Acceptance by an Impaired Class

In accordance with Bankruptcy Code Section 1126(c), and except as provided in Bankruptcy Code Section 1126(e), the Impaired Classes of Claims shall have accepted the Plan if the Plan is accepted by the 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 such Class that have timely and properly voted to accept or reject the Plan.

4.3 Presumed Acceptances by Unimpaired Classes

Claims in Class 1 and Subsidiary Equity Interests in Class 7 are Unimpaired under the Plan. Under Bankruptcy Code Section 1126(f), holders of such Unimpaired Claims and Interests are conclusively presumed to have accepted the Plan, and the votes of such Unimpaired Claim and Interest holders shall not be solicited.

4.4 Presumed Rejection by Impaired Voting Class of Interests

Interests in Class 6 are Impaired under the Plan and not entitled to a distribution under the Plan. Under Bankruptcy Code Section 1126(g), holders of such Impaired Claims and Interests are conclusively presumed to have rejected the Plan, and the votes of such Impaired Claim and Interest holders shall not be solicited.

ARTICLE V

MEANS FOR IMPLEMENTATION OF THE PLAN

5.1 Funding of Distributions under the Plan

(a) Source of Cash, including the First Lien Lender Cash Distribution and GUC Cash Distribution

The Cash necessary to fund the First Lien Lender Cash Distribution shall be provided by the Reorganized Debtors. The Cash necessary to fund the payment of Administrative Claims, Priority Claims, the Cash portion of the AIG Claims and the GUC Cash Distribution will be paid from Cash on Hand held by the Debtors or, if the Debtors do not have sufficient Cash on Hand, by the First Lien Agents from the Winddown Reserve. The Plan Administrator will make all distributions of Cash, including the First Lien Lender Cash Distribution and the GUC Cash Distribution.

(b) First Lien Reserves

As set forth above, on the Effective Date, the First Lien Agents shall distribute to each holder of an Allowed First Lien Lender Claim such holder's Pro Rata share of approximately $13 million of Cash from the First Lien Reserves as part of the treatment of the holders of Allowed First Lien Lender Claims under the Plan. Such Cash is currently held by the First Lien Agents, and the First Lien Agents will make this distribution. The Pro Rata portion of such amount allocable to the Disputed First Lien Obligations shall be made to the Disputed First Lien Obligations Escrow to be held, and ultimately distributed, in accordance with the terms thereof and the JCT Sale Order.

(c) Litigation Funding Loans

Funding for the prosecution of the Litigation Claims shall be provided through the Litigation Funding Loans issued by the Litigation Lenders. Each First Lien Lender (other than Yucaipa) is entitled to participate in the Litigation Funding Loans up to its Pro Rata share of the First Lien Obligations (calculated without giving effect to any First Lien Obligations allegedly owned by Yucaipa). The Backstop Parties will backstop the commitments for the full amount of the Litigation Funding Loans. In consideration for their agreement to backstop the commitments for the Litigation Funding Loans, the Backstop Parties shall receive the Backstop Fee payable in accordance with the Litigation Proceeds Waterfall.

5.2 Continued Corporate Existence

The Reorganized Debtors shall continue to exist as of and after the Effective Date as private legal entities, in accordance with the applicable laws of the State of Delaware, the State of Georgia, the State of Florida, the State of Michigan and the applicable jurisdictions in Canada and pursuant to the New Debtor Governing Documents. Notwithstanding the foregoing, the Debtors or the Reorganized Debtors, as applicable, may engage in any corporate restructuring prior to, on or after the Effective Date, which may include the merger, liquidation or dissolution of one or more of the Debtors or the Reorganized Debtors.

5.3 New Debtor Governing Documents

The organizational documents of the Debtors shall be amended as necessary to satisfy the provisions of the Plan and the Bankruptcy Code and shall include, among other things, pursuant to Bankruptcy Code Section 1123(a)(6), a provision prohibiting the issuance of non-voting equity securities (but only to the extent required by Bankruptcy Code Section 1123(a)(6)). The amended organizational documents of the Debtors shall constitute the New Debtor Governing Documents. The New Debtor Governing Documents shall be in substantially the forms of such documents included in the Plan Supplement and shall be in full force and effect as of the Effective Date.

5.4 Cancellation of Interests

On the Effective Date, all Old Securities, including all promissory notes, stock, instruments, warrants, certificates and other documents evidencing the Parent Equity Interests shall be deemed automatically cancelled and surrendered and shall be of no further force in accordance with Section 7.7 of the Plan, and the obligations of the Debtors thereunder or in any way related thereto, including any obligation of the Debtors to pay any franchise or similar type taxes on account of such Interests, shall be discharged.

5.5 Authorization and Issuance of the New Common Stock

(a) On the Effective Date, Reorganized Allied Holdings shall issue shares of New Common Stock to the New Common Stockholders pursuant to Section 3.3(a).

(b) The rights of the holders of the New Common Stock shall be as provided for in the New Debtor Governing Documents.

5.6 Directors and Officers of Reorganized Debtors

(a) The initial directors of the New Board and officers of each of the Reorganized Debtors shall be selected by the parties to whom the New Common Stock will be distributed pursuant to the Plan in accordance with the New Debtor Governing Documents. The identities of the initial directors of the New Board shall be disclosed prior to the Confirmation Hearing as part of the Plan Supplement in accordance with Section 1129(a)(5) of the Bankruptcy Code.

(b) All officers and directors of the Debtors not listed in the Plan Supplement will be deemed to have resigned on the Effective Date.

5.7 Corporate Action; Effectuating Documents

(a) On the Effective Date, the adoption and filing of the New Debtor Governing Documents and all actions contemplated by the Plan shall be authorized and approved in all respects pursuant to the Plan. All matters provided for herein involving the corporate structure of the Debtors or the Reorganized Debtors, and any corporate action required by the Debtors or the Reorganized Debtors in connection with the Plan, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the stockholders or directors of the Debtors or the Reorganized Debtors, and shall be fully authorized pursuant to Section 303 of the Delaware General Corporation Law.

(b) Any director, chief executive officer, president, chief financial officer, senior vice president, general counsel or other appropriate officer of the Reorganized Debtors shall be authorized to execute, deliver, file, or record the documents included in the Plan Supplement and such other contracts, instruments, releases, indentures, and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. Any director, secretary or assistant secretary of the Reorganized Debtors shall be authorized to certify or attest to any of the foregoing actions. All of the foregoing is authorized without the need for any required approvals, authorizations, or consents except for express consents required under the Plan.

5.8 Plan Administrator

On the Effective Date, the Plan Administrator shall have all the rights and powers to implement the provisions of the Plan pertaining to the Plan Administrator, including, without limitation, the right to (1) effect all actions and execute all agreements, instruments and other documents necessary to implement the provisions of the Plan; (2) make distributions as contemplated in the Plan (other than those distributions to be made by the First Lien Agents), (3) establish and administer any necessary reserves for Disputed Claims that may be required; and (4) object to Disputed Claims and prosecute, settle, compromise, withdraw or resolve in any manner approved by the Bankruptcy Court such Disputed Claims. For the avoidance of doubt, the Plan Administrator shall have no obligation to object to or dispute (or expend funds to object or dispute) any Claim where, in the Plan Administrator's sole judgment, the cost of such objection or dispute is not warranted in light of the potential incremental benefit to the remaining holders of Claims. The Litigation Trustee shall serve as the initial Plan Administrator. The reasonable costs and expenses incurred by the Plan Administrator in performing the duties set forth in the Plan shall be paid by the Litigation Trust, subject to the approval of the Litigation Oversight Committee.

5.9 Revesting of Reorganized Debtor Assets

Except as otherwise provided herein, the Reorganized Debtors' Assets shall revest in the Reorganized Debtors on the Effective Date. Thereafter, the Reorganized Debtors may operate its business and may use, acquire, and dispose of such property free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, or Bankruptcy Court approval. Except as specifically provided in the Plan or the Confirmation Order, as of the Effective Date, all property of the Reorganized Debtors shall be free and clear of all Claims and Interests, and

all Liens with respect thereto. For the avoidance of doubt, the Litigation Trust Assets shall not revest in the Reorganized Debtors. Such assets shall vest in the Allied Litigation Trust pursuant to Section 5.11 of the Plan.

5.10 The Litigation Trustee

(a) Appointment of the Litigation Trustee

The Litigation Trustee shall be selected by the Litigation Oversight Committee. Pursuant to the Litigation Trust Agreement, the selection of the Litigation Trustee will be determined by a majority vote of the Litigation Oversight Committee and will require the written approval of the two members of the Litigation Oversight Committee selected by the First Lien Requisite Lender. The identity of the Litigation Trustee shall be disclosed prior to the Confirmation Hearing as part of the Plan Supplement in accordance with Section 1129(a)(5) of the Bankruptcy Code. The Litigation Trustee will be compensated by the Allied Litigation Trust.

(b) Powers of the Litigation Trustee

The Litigation Trustee shall be a representative of the Debtors' Estates and shall, subject to the terms of the Litigation Trust Agreement, have the power to make all decisions with respect to the prosecution of the Litigation Claims; *provided, however*, that the following actions will require prior written approval of a majority of the members of the Litigation Oversight Committee and the two members of the Litigation Oversight Committee selected by the First Lien Requisite Lender: (a) any determination to draw funds under the commitments for any Litigation Funding Loans issued by the Litigation Lenders; (b) the incurrence by the Litigation Trust of additional indebtedness to fund the prosecution of the Litigation Claims in excess of the Litigation Funding Loans; (c) the retention of counsel and other professionals to assist in prosecution of the Litigation Claims; (d) settlement of all or any portion of the Litigation Claims, and (e) any arrangement for compensation of the Litigation Trustee or the Plan Administrator.

The Litigation Trustee shall consult with, and obtain approval of, the Litigation Oversight Committee with respect to all material decisions regarding the prosecution of the Litigation Claims, including (without limitation) the litigation strategy with respect thereto, and the filing and prosecution of any dispositive or other substantive motions or pleadings.

(c) The Litigation Trustee as the Representative of the Debtors' Estates

On the Effective Date, the Litigation Trustee, and not the Reorganized Debtors shall be deemed the Estates' representative in accordance with Section 1123 of the Bankruptcy Code and shall have all the rights and powers set forth in the Litigation Trust Agreement, including, without limitation, the right to (1) effect all actions and execute all agreements, instruments and other documents necessary to implement the provisions of the Litigation Trust Agreement; (2) administer the Litigation Trust Assets, including prosecuting, settling, abandoning or compromising any actions that are or relate to the Litigation Trust Assets; (3) employ and compensate professionals and other agents consistent with Section 5.10(b) of the Plan, *provided, however*, that any such compensation shall be paid by the Allied Litigation Trust to the extent not inconsistent with the status of the Allied Litigation Trust as a liquidating trust within the meaning of Treas. Reg. § 301.7701-4(d) for federal income tax purposes; and (4) control attorney/client privilege relating to or arising from the Litigation Trust Assets.

5.11 The Allied Litigation Trust

(a) On the Effective Date, the Allied Litigation Trust shall be established pursuant to the Litigation Trust Agreement for the purpose of prosecuting the Litigation Claims. The Allied Litigation Trust is intended to qualify as a liquidating trust pursuant to United States Treasury Regulation Article 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

(b) On the Effective Date, the Estate Claims shall vest automatically in the Allied Litigation Trust. The Plan shall be considered a motion pursuant to Sections 105, 363 and 365 of the Bankruptcy Code for such relief. The transfer of the Estate Claims to the Allied Litigation Trust shall be made for the benefit and on behalf of the Beneficiaries. The assets comprising the Litigation Trust Assets will be treated for tax purposes as being transferred by the Debtors and the First Lien Agents to the Beneficiaries pursuant to the Plan in exchange for their Allowed Claims and then by the Beneficiaries to the Allied Litigation Trust in exchange for the beneficial interests in the Allied Litigation Trust. The Beneficiaries shall be treated as the grantors and owners of the Allied Litigation Trust. Upon the transfer of the Litigation Trust Assets, the Allied Litigation Trust shall succeed to all of the Debtors' and the First Lien Agents' rights, title and interest in the Litigation Trust Assets, and the Debtors and the First Lien Agents will have no further interest in or with respect to the Litigation Trust Assets.

(c) Except as otherwise ordered by the Bankruptcy Court, the Litigation Trust Expenses on or after the Effective Date shall be paid in accordance with the Litigation Trust Agreement without further order of the Bankruptcy Court.

(d) The Allied Litigation Trust shall file annual reports regarding the liquidation or other administration of property comprising the Litigation Trust Assets, the distributions made by it and other matters required to be included in such report in accordance with the Litigation Trust Agreement. In addition, the Allied Litigation Trust will file tax returns as a grantor trust pursuant to United States Treasury Regulation Article 1.671-4(a).

5.12 The Litigation Oversight Committee

(a) The Litigation Oversight Committee shall be comprised of three members: two members selected by the First Lien Requisite Lender and one member selected by the Committee. Each member of the Litigation Oversight Committee shall be reasonably satisfactory to each of the Backstop Parties. The identity of the members of the Litigation Oversight Committee shall be disclosed prior to the Confirmation Hearing as part of the Plan Supplement in accordance with Section 1129(a)(5) of the Bankruptcy Code.

(b) The Litigation Oversight Committee shall oversee the Allied Litigation Trust and the Litigation Trustee.

(c) The Litigation Oversight Committee shall be authorized to retain and employ Professionals to assist it with and advise it with respect to its duties under the Plan. All fees and expenses of such Professionals shall be satisfied by the Allied Litigation Trust.

(d) The duties and powers of the Litigation Oversight Committee shall terminate upon the final resolution of the Litigation Claims and the final distribution of all proceeds in accordance with the terms of the Litigation Trust Agreement.

5.13 Joint Prosecution of the Litigation Claims

The Litigation Claims shall be jointly prosecuted in the Bankruptcy Court (or such other court of competent jurisdiction) in a single action to the maximum extent permitted by law, or otherwise in actions coordinate for the purposes of trial and discovery.

5.14 Litigation Proceeds Waterfall

The proceeds of the Litigation Claims shall be distributed as follows: (a) *first*, to the Backstop Parties in satisfaction of the Backstop Fee; (b) *second*, to repay all Litigation Funding Loans then outstanding; (c) *third*, to the Litigation Lenders in the amount of $4.5 million; (d) *fourth*, a distribution of up to the next $3 million, to be allocated on a dollar for dollar basis (i) 50% on a Pro Rata basis to the holders of Allowed First Lien Lender Claims and (ii) 50% on a Pro Rata basis to the holders of Allowed General Unsecured Claims and Allowed

Second Lien Lender Claims; and (e) *thereafter*, any remaining balance shall be split on a dollar for dollar basis as follows (i) 20% on a Pro Rata basis to the holders of Allowed First Lien Lender Claims; (ii) 5% on a Pro Rata basis to the holders of Allowed General Unsecured Claims and Allowed Second Lien Lender Claims; and (iii) 75% to the Litigation Funding Lenders; *provided, however,* that any distributions made pursuant to subsection (d) of this Section 5.14 of the Plan shall be credited against any distributions that would otherwise be made under clause (e) of this Section 5.14 of the Plan.

5.15 Certain Settlements

Confirmation of the Plan shall constitute approval of each of the AIG Settlement, the Central States Settlement and the Northwest Settlement pursuant to Bankruptcy Rule 9019. Confirmation of the Plan shall also constitute a settlement of any and all disputes among the First Lien Agents (on behalf of the First Lien Lenders), the Debtors and the Committee, including (without limitation) with respect to (a) the entitlement of the First Lien Lenders to adequate protection pursuant to the 2012 Final DIP Order and the Replacement DIP Order, and (b) the obligation of the First Lien Lenders to fund the Wind Down Budget (as defined in the JCT Sale Order).

In addition to the occurrence of the Effective Date, the effectiveness of the AIG Settlement shall be conditioned upon satisfaction of the following conditions, which may be waived by AIG: (a) the Debtors shall have settled or transferred to the State of Florida all remaining workers' compensation claims, or shall otherwise have withdrawn from the self-insured workers' compensation program in the State of Florida, and (b) the Debtors shall have settled or transferred to the State of Georgia all remaining workers' compensation claims, or shall otherwise have withdrawn from the self-insured workers' compensation program in the State of Georgia. If these conditions are not satisfied (or waived by AIG), the AIG Settlement will not become effective and the AIG Claims will be treated as Disputed.

5.16 Exemption From Certain Transfer Taxes

Pursuant to Bankruptcy Code Section 1146(a), any transfers from the Debtors to the Allied Litigation Trust or any other Person pursuant to, in contemplation of, or in connection with the Plan, and the issuance, transfer, or exchange of any debt, equity securities or other interest under or in connection with the Plan, shall not be taxed under any law imposing a stamp tax, real estate transfer tax, mortgage recording tax, sales or use tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or government assessment, and the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to all documents necessary to evidence and implement distributions under the Plan, including the documents contained in the Plan Supplement and all documents necessary to evidence and implement any of the transactions and actions described in the Plan or the Plan Supplement.

5.17 Plan Supplement

The Plan Supplement may be filed in parts either contemporaneously with the filing of the Plan or from time to time thereafter, but in no event later than one (1) week prior to the deadline established by the Bankruptcy Court for objecting to Confirmation of the Plan. After filing, the Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court during normal business hours. The Plan Supplement also will be available for inspection on (a) the website maintained by the Claims Agent: http://www.omnimgt.com/alliedsystems, and (b) the Bankruptcy Court's website: http://www.deb.uscourts.gov. In addition, holders of Claims or Interests may obtain a copy of any document included in the Plan Supplement upon written request in accordance with Section 10.16 of the Plan.

5.18 Committee

Upon the Effective Date, the Committee shall dissolve automatically, whereupon its members, Professionals and agents shall be released from any further duties and responsibilities in the Chapter 11 Cases and under the Bankruptcy Code, except with respect to (a) obligations arising under confidentiality agreements which shall remain in full force and effect according to their terms; (b) applications for Professional Fee Claims filed by or on behalf of the Committee; (c) any motions or other actions seeking enforcement or implementation of the provisions of this Plan, the Confirmation Order or the Litigation Trust Agreement, and (d) providing assistance (if requested by the Litigation Trustee) in connection with the Litigation Claims or in defending any claim brought against the Committee by any party in the Litigation Claims. Professionals retained by the Committee shall be entitled to reasonable compensation for services rendered in connection with the matters identified in clauses (b), (c) and (d) after the Effective Date, subject to a budget to be agreed between the Committee and the members of the Litigation Oversight Committee appointed by the First Lien Requisite Lender.

5.19 Retiree Committee

Upon the Effective Date, the Retiree Committee shall dissolve automatically, whereupon its members, shall be released from any further duties and responsibilities in the Chapter 11 Cases and under the Bankruptcy Code.

ARTICLE VI

TREATMENT OF CONTRACTS AND LEASES

6.1 Rejection of Contracts and Leases

On the Effective Date, except for the executory contracts and unexpired leases listed on the Plan Supplement, if any, and except to the extent that a Debtor either previously has assumed, assumed and assigned or rejected an executory contract or unexpired lease by an order of the Bankruptcy Court, including, but not limited to, the JCT Sale Order or the SBDRE Sale Order, or has filed a motion to assume or assume and assign an executory contract or unexpired lease prior to the Effective Date, each executory contract and unexpired lease entered into by the Debtors prior to the Petition Date that has not previously expired or terminated pursuant to its own terms will be deemed rejected pursuant to section 365 of the Bankruptcy Code, and written notice will be provided to each such counterparty of such deemed rejected contract or lease (together with a statement of the date by which any Proof of Claim must be filed). Each such contract and lease will be rejected only to the extent that any such contract or lease constitutes an executory contract or unexpired lease. The entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of any such rejections pursuant to Sections 365(a) and 1123 of the Bankruptcy Code and that the rejection thereof is in the best interest of the Debtors, their Estates and all parties in interest in the Chapter 11 Cases.

6.2 Claims Based of Rejection of Executory Contracts of Unexpired Leases

Claims created by the rejection of executory contracts and unexpired leases pursuant to this Section 6.1 of the Plan, or the expiration or termination of any executory contract or unexpired lease prior to the Effective Date, must be filed with the Bankruptcy Court and served on the Litigation Trustee no later than thirty (30) days after the Effective Date. Any Claims arising from the rejection of an executory contract or unexpired lease pursuant to Section 6.1 for which proofs of Claim are not timely filed within that time period will be forever barred from assertion against the Debtors, the Estates, its successors and assigns, and its assets and properties, unless otherwise ordered by the Bankruptcy Court or as otherwise provided herein. All such Claims shall, as of the Effective Date, be subject to the discharge and permanent injunction set forth in Section 10.7. Unless otherwise ordered by the Bankruptcy Court, all such Claims that are timely filed as provided herein shall be

treated as General Unsecured Claims under the Plan and shall be subject to the provisions of Article III of the Plan.

6.3 Assumption of Contracts and Leases

(a) Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into in connection with the Plan, on the Effective Date, pursuant to section 365 of the Bankruptcy Code, the Debtors shall assume each of the respective executory contracts and unexpired leases, if any, listed as Assumed Contracts in the Plan Supplement; provided, however, that the Debtors reserve the right, at any time prior to the Effective Date, to amend the Plan Supplement to: (a) delete any executory contract or unexpired lease listed therein, thus providing for its rejection pursuant hereto; or (b) add any executory contract or unexpired lease to the Plan Supplement, thus providing for its assumption pursuant to this Section 6.3. The Debtors shall provide written notice to each counterparty to an Assumed Contract (together with a statement of the date by which any Cure Claims must be filed) and written notice of any amendments to the Plan Supplement to the parties to the executory contracts or unexpired leases affected thereby and to the parties on the then-applicable service list in the Chapter 11 Cases. Nothing herein or in the Plan Supplement shall constitute an admission by the Debtors that any contract or lease is an executory contract or unexpired lease or that a Debtor has any liability thereunder.

(b) Each executory contract or unexpired lease assumed under this Section 6.3 shall include any modifications, amendments, supplements or restatements to such contract or lease.

6.4 Payments Related to the Assumption of Executory Contracts and Unexpired Leases

Any Cure Claims associated with any executory contract or unexpired lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code: (a) by payment of the Cure Claim in Cash on or after the Effective Date; or (b) on such other terms as are agreed to by the parties to such executory contract or unexpired lease. Pursuant to section 365(b)(2)(D) of the Bankruptcy Code, no Cure Claim shall be allowed for a penalty rate or other form of default rate of interest. If there is an unresolved dispute regarding: (x) the amount of any Cure Claim; (y) the ability of the Reorganized Debtors to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed; or (z) any other matter pertaining to assumption of such contract or lease, the payment of any Cure Claim required by section 365(b)(1) of the Bankruptcy Code shall be made following the resolution of such dispute by the parties or the entry of a Final Order resolving the dispute and approving the assumption.

6.5 Extension of Time to Assume or Reject

Notwithstanding anything set forth in Article VI of the Plan, in the event of a dispute as to whether a contract is executory or a lease is unexpired, the Debtors' right to move to assume or reject such contract or lease shall be extended until the date that is thirty (30) days after entry of a Final Order by the Bankruptcy Court determining that the contract is executory or the lease is unexpired. The deemed rejection provided for in Section 6.1 of the Plan shall not apply to any such contract or lease, and any such contract or lease shall be assumed or rejected only upon motion of the Debtors following the Bankruptcy Court's determination that the contract is executory or the lease is unexpired.

ARTICLE VII

PROVISIONS GOVERNING DISTRIBUTIONS

7.1 Determination of Allowability of Claims and Interests and Rights to Distributions

(a) Only holders of Allowed Claims shall be entitled to receive distributions under the Plan. The Plan Administrator shall make distributions to holders of Allowed Claims on each Distribution Date.

(b) With respect to Filed Claims, the Debtors, the Plan Administrator or any other party in interest with standing shall have the right to object to the Proofs of Claim or Requests for Payment in the Bankruptcy Court by the Claims Objection Deadline (as extended), but shall not be required to do so.

(c) No distribution shall be made on a Disputed Claim until and unless such Disputed Claim becomes an Allowed Claim. Prior to making any distribution under the Plan to a particular Class, the Plan Administrator, shall establish a Disputed Claims Reserve for Disputed Claims in such Class, each of which Disputed Claims Reserves shall be administered by the Plan Administrator. The Plan Administrator shall reserve in Cash or other property, for distribution on account of each Disputed Claim, the full amount of the estimated distribution on account of such Disputed Claim (or such lesser amount as may be estimated or otherwise ordered by the Bankruptcy Court in accordance with Section 7.5 of the Plan or otherwise) with respect to each Disputed Claim.

(d) The Plan Administrator shall hold property in the Disputed Claims Reserves in trust for the benefit of the holders of Claims ultimately determined to be Allowed. Each Disputed Claims Reserve shall be closed and extinguished by the Plan Administrator when all distributions and other dispositions of Cash or other property required to be made under the Plan will have been made in accordance with the terms of the Plan. Upon closure of a Disputed Claims Reserve, all Cash or other property held in that Disputed Claims Reserve shall revest in and become the property of (i) the Reorganized Debtors if the applicable Disputed Claims Reserve was established with assets of the Reorganized Debtors or (ii) the Allied Litigation Trust if the applicable Disputed Claims Reserve was established with the proceeds of the Litigation Claims. All funds or other property that vest or revest in the Reorganized Debtors pursuant to this paragraph shall be used to pay the fees and expenses of the Plan Administrator, and thereafter distributed on a Pro Rata basis to holders of Allowed Claims pursuant to the remaining provisions of this Plan at a time determined in the sole discretion of the Plan Administrator.

(e) Notwithstanding anything to the contrary set forth herein, any distributions that would otherwise be made on account of the Disputed First Lien Obligations by the Debtors or the First Lien Agents shall be made to the Disputed First Lien Obligations Escrow to be held, and ultimately distributed, in accordance with the terms thereof and the JCT Sale Order. On the Effective Date the Plan Administrator shall succeed to the rights and obligations of the Debtors under the Disputed First Lien Obligations Escrow.

7.2 Procedures for Making Distributions to Holders of Allowed Claims

(a) The Plan Administrator shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court.

(b) The Plan Administrator shall send distributions to the holders of the Allowed Claims at the addresses listed for such holder in the Schedules or on the applicable Proof of Claim or notice of transfer of a Claim filed at least 5 days before the Effective Date.

(c) If any holder's distribution is returned as undeliverable, no further distributions to such holder shall be made unless and until the Plan Administrator is notified by the Reorganized Debtors, the Claims Agent, or such holder of such holder's then current address, at which time all missed distributions shall be

made, subject to Section 7.2(d) of the Plan, to such holder without interest. If any distribution is made by check and such check is not returned but remains uncashed for three (3) months after the date of such check, the Plan Administrator may cancel and void such check, and the distribution with respect thereto shall be deemed undeliverable. If, pursuant to Section 7.8 of the Plan, any holder is requested to provide an applicable Internal Revenue Service form or to otherwise satisfy any tax withholding requirements with respect to a distribution and such holder fails to do so within three (3) months of the date of such request, such holder's distribution shall be deemed undeliverable.

(d) Amounts in respect of returned or otherwise undeliverable or unclaimed distributions made by the Plan Administrator shall be returned to or deemed to revest in the Reorganized Debtors or the Allied Litigation Trust, as applicable, until such distributions are claimed. All claims for returned or otherwise undeliverable or unclaimed distributions must be made (i) on or before the first (1st) anniversary of the Effective Date or (ii) with respect to any distribution made later than such date, on or before six (6) months after the date of such later distribution; after which date all undeliverable property shall revert and revest in to the Reorganized Debtors or the Allied Litigation Trust, as applicable, free of any restrictions thereon and the claims of any holder with respect to such property shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary. In the event of a timely claim for any returned or otherwise undeliverable or unclaimed distribution, the Plan Administer shall distribute such amount or property pursuant to the Plan.

(e) The Plan Administrator may elect not make a distribution of less than $25.00 to any holder of an Allowed Claim unless the distribution is a final distribution. If, at any time, the Plan Administrator determines that the remaining Cash and other Assets are not sufficient to make distributions to holders of Allowed Claims in an amount that would warrant the Reorganized Debtor incurring the cost of making such a distribution, the Plan Administrator may dispose of such remaining Cash and other Assets in a manner the Plan Administrator deems to be appropriate, including donating it to a charitable organization.

(f) All distributions made under the Plan shall be final, and none of the Estates, the Litigation Trustee, nor any representative of the Debtors' Estates may seek disgorgement of any distributions made under the Plan.

7.3 Consolidation for Distribution Purposes Only

Solely for the purposes of determining the Allowed amount of Claims to be used in calculating distributions to be made pursuant to the Plan, any holder asserting the same Claim against more than one Debtor (based on a guarantee, joint and several liability under contract or applicable law, or any other basis) shall be deemed to have only one Claim and shall only receive a distribution under the Plan on account of such Claim.

7.4 Application of Distribution Record Date

On the applicable Distribution Record Date, the Debtors' books and records for Unfiled Claims and the claims register maintained by the Claims Agent for Filed Claims shall be closed for purposes of determining the record holders of Claims, and there shall be no further changes in the record holders of any Claims. Except as provided herein, the Plan Administrator and its respective agents, successors, and assigns shall have no obligation to recognize any transfer of Claims occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the applicable books and records, claims registers or transfer ledgers as of 5:00 p.m. prevailing Eastern time on the Distribution Record Date irrespective of the number of distributions to be made under the Plan to such Persons or the date of such distributions.

7.5 Provisions Related to Disputed Claims

(a) Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, the Plan Administrator shall have the right to make, file, prosecute, settle, compromise, withdraw or resolve in any manner approved by the Bankruptcy Court, objections to Claims. The costs of pursuing the objections to Claims shall be borne by the Reorganized Debtors. From and after the Effective Date, the Plan Administrator and any claimant may elect to compromise, settle or otherwise resolve any objection to a Disputed Claim without approval of the Bankruptcy Court. Notwithstanding anything in the Plan, the U.S. Trustee's rights to object to Claims, including Professional Fee Claims and Claims asserted under Section 503(b)(3) or (b)(4), are fully reserved.

(b) All objections to Disputed Claims shall be filed and served upon the holders of each such Claim not later than the Claim Objection Deadline (as extended).

(c) At any time, (a) prior to the Effective Date, the Debtors, and (b) subsequent to the Effective Date, the Plan Administrator, may request that the Bankruptcy Court estimate any contingent or unliquidated Claim to the extent permitted by Section 502(c) of the Bankruptcy Code regardless of whether the Debtors or the Plan Administrator has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall have jurisdiction to estimate any Claim at any time during litigation concerning any objection to such Claim, including during the pendency of any appeal relating to any such objection. If the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount shall constitute either the Allowed amount of such Claim or a maximum limitation on the Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the Claim, the Debtors or the Plan Administrator, as applicable, may elect to object to the ultimate allowance of the Claim or seek to reduce and allow the Claim. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

(d) There shall be no distribution on account of any Claims held by any Person from which property is recoverable under Section 542, 543, 550 or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under Section 522(f), 522(h), 544, 545, 547, 548, 549 or 724(a) of the Bankruptcy Code. Nothing herein shall affect the rights of Yucaipa to file a Claim, if any, under Section 502(h) of the Bankruptcy Code. Any such Claim of Yucaipa, if Allowed, shall be classified in Class 5.

7.6 Adjustment of Claims Without Objection

Any Claim that has been paid or satisfied, or any Claim that has been amended or superseded, may be adjusted on the Claims Register by the Claims Agent at the direction of the Debtors or the Plan Administrator, as applicable, upon notice to the holder of such Claim, but without a Claims objection having to be Filed. If no objection is received within the time period prescribed in the notice, such Claim shall be adjusted without any further notice to or action, order or approval of the Bankruptcy Court.

7.7 Surrender of Cancelled Old Securities

Each holder of an Parent Equity Interest shall be deemed to have surrendered any stock certificate or other documentation underlying each such Interest, and any such stock certificates and other documentation shall be deemed to be cancelled pursuant to Section 5.4 of the Plan.

7.8 Withholding and Reporting Requirements

In connection with the Plan and all distributions hereunder, the Plan Administrator shall, to the extent applicable, comply with all tax withholding and reporting requirements imposed by any federal, state,

provincial, local, or foreign taxing authority, and all distributions hereunder shall be subject to any such withholding and reporting requirements. The Plan Administrator shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements including, without limitation, requiring that, as a condition to the receipt of a distribution, the holder of an Allowed Claim complete the appropriate IRS Form W-8 or IRS Form W-9, as applicable to each holder. Notwithstanding any other provision of the Plan, (a) each holder of an Allowed Claim that is to receive a distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed on such holder by any governmental unit, including income and other tax obligations, on account of such distribution, and (b) no distribution shall be made to or on behalf of such holder pursuant to the Plan unless and until such holder has made arrangements satisfactory to the applicable Plan Administrator to allow it to comply with its tax withholding and reporting requirements. Any property to be distributed pursuant to the Plan shall, pending the implementation of such arrangements, be treated as an undeliverable distribution to be held by the Plan Administrator, as the case may be, until such time as the Plan Administrator is satisfied with the holder's arrangements for any withholding tax obligations.

7.9 Setoffs

The Plan Administrator may, but shall not be required to, set off against any Claim, and the payments or other distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever that the Debtors, the Reorganized Debtors or the Allied Litigation Trust may have against the holder of such Claim; *provided*, *however*, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors, the Reorganized Debtors or the Allied Litigation Trust of any such claim that the Debtors, the Reorganized Debtors or the Allied Litigation Trust may have against such holder.

7.10 Prepayment

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

7.11 No Distribution in Excess of Allowed Amount of Claim

Notwithstanding anything to the contrary contained in the Plan, no holder of an Allowed Claim shall receive in respect of that Claim any Distribution in excess of the Allowed amount of that Claim.

ARTICLE VIII

CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN

8.1 Conditions to Confirmation

The following are conditions precedent to the occurrence of the Confirmation Date, each of which must be satisfied or waived in accordance with Section 8.3 of the Plan:

(a) an order pursuant to Bankruptcy Code Section 1125 shall have been entered finding that the Disclosure Statement contains adequate information;

(b) the proposed Confirmation Order, in form and substance satisfactory to the Debtors, the First Lien Requisite Lender and the Committee, shall have been submitted to the Bankruptcy Court;

(c) the Bankruptcy Court shall have approved (i) the Northwest Settlement, (ii) the Central States Settlement, (iii) the AIG Settlement, and (iv) the settlement among the First Lien Agents (on behalf of the First Lien Lenders), the Debtors and the Committee as contemplated by Section 5.15 of the Plan; and

(d) the Bankruptcy Court shall have determined that the Plan satisfies all requirements for confirmation under the Bankruptcy Code.

8.2 Conditions to Effective Date

The following conditions precedent must be satisfied or waived on or prior to the Effective Date in accordance with Section 8.3 of the Plan:

(a) the Confirmation Order shall have been entered;

(b) the Confirmation Order shall, among other things:

(i) provide that the Debtors, the Reorganized Debtors, the Committee, the Plan Administrator, the Litigation Trustee, the Litigation Oversight Committee and the Allied Litigation Trust are authorized and directed to take all actions necessary or appropriate to enter into, implement, and consummate the transactions contemplated by and the contracts, instruments, releases, indentures, and other agreements or documents created under or in connection with the Plan; and

(ii) authorize the issuance of the New Common Stock;

(c) the Confirmation Order shall not then be stayed, vacated, or reversed;

(d) all other actions, documents, and agreements necessary to implement the Plan shall have been effected or executed, or will be effected or executed contemporaneously with implementation of the Plan (including, without limitation, the New Debtor Governing Documents), each of which shall be in form and substance acceptable to the First Lien Requisite Lender;

(e) the Cash necessary to fund the First Lien Lender Cash Distribution and the GUC Cash Distribution shall have been provided to the Plan Administrator;

(f) the fees and expenses required to be paid on the Effective Date pursuant to Section 10.2 of the Plan shall have been paid in full in Cash;

(g) the aggregate amount of all Allowed Administrative Claims and Priority Tax Claims shall not exceed $4.5 million (such cap to be reduced for all administrative expenses and other wind-down costs paid by the Debtors, in the ordinary course, on or after the date of the Disclosure Statement and prior to the Effective Date) and the aggregate amount of all Allowed Priority Claims shall not exceed $275,000;

(h) BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 Ltd., and Spectrum Investment Partners, L.P. shall each have executed and delivered the Reorganized Allied Holdings Shareholders' Agreement;

(i) all conditions to the effectiveness of the AIG Settlement shall have been satisfied (or waived by AIG);

(j) either the Confirmation Order shall provide that the Retiree Benefit Plans are terminated by their terms on the Effective Date or the 1114 Order shall have been entered; and

(k) The Effective Date shall have occurred by no later than September 30, 2015, or such other date as agreed to by each of the Plan Proponents.

8.3 Waiver of Conditions

Each of the conditions set forth in Sections 8.1 and 8.2, with the express exception of the conditions contained in Sections 8.1(a), 8.2(a) and 8.2(c), may be waived in whole or in part by the Plan Proponents, without any notice to parties in interest or the Bankruptcy Court and without a hearing.

8.4 Operations of the Debtors Between the Confirmation Date and the Effective Date

During the period from the Confirmation Date through and until the Effective Date, the Debtors shall continue to operate its business as debtor in possession, subject to the oversight of the Bankruptcy Court as provided in the Bankruptcy Code, the Bankruptcy Rules, and all Final Orders.

8.5 Effective Date

On or within one Business Day of the Effective Date, the Debtors shall file and serve a notice of occurrence of the Effective Date.

ARTICLE IX

RETENTION OF JURISDICTION

9.1 Scope of Retention of Jurisdiction

Under Bankruptcy Code Sections 105(a) and 1142, and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, and except as otherwise ordered by the Bankruptcy Court, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases and the Plan to the fullest extent permitted by law, including, without limitation, jurisdiction to:

(a) allow, disallow, determine, liquidate, classify, estimate, or establish the priority or secured or unsecured status of any Claim (whether a Filed Claim or Unfiled Claim) or Interest not otherwise Allowed under the Plan (other than personal injury or wrongful death Claims, unless agreed by the holder), including, without limitation, the resolution of any Request for Payment and the resolution of any objections to the allowance or priority of Claims;

(b) hear and determine all applications for Professional Fees; *provided*, *however*, that from and after the Effective Date, the payment of the fees and expenses of the retained Professionals of the Reorganized Debtors, the Plan Administrator or the Allied Litigation Trust (to the extent different from those of the Plan Administrator) shall be made in the ordinary course of business and shall not be subject to the approval of the Bankruptcy Court;

(c) hear and determine all matters with respect to contracts or leases or the assumption or rejection of any contracts or leases to which a Debtors were a party or with respect to which the Debtors may be liable, including, if necessary and without limitation, the nature or amount of any required Cure or the liquidation or allowance of any Claims arising therefrom;

(d) effectuate performance of and payments under the provisions of the Plan;

(e) hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters arising out of, under, or related to, the Litigation Claims or the Chapter 11 Cases, including, without limitation, any matters arising out of the asset purchase agreements evidencing the Sale, the JCT Sale Order, and the SBDRE Sale Order;

(f) enter such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan, the Disclosure Statement, or the Confirmation Order;

(g) hear and determine disputes arising in connection with the interpretation, implementation, consummation, or enforcement of the Plan, including, without limitation, disputes arising under agreements, documents, or instruments executed in connection with the Plan, *provided*, *however*, that any dispute arising under or in connection with the New Debtor Governing Documents shall be adjudicated in accordance with the provisions of the applicable document;

(h) consider any modifications of the Plan, cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

(i) issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any entity with the implementation, consummation, or enforcement of the Plan or the Confirmation Order;

(j) enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified, or vacated;

(k) hear and determine any matters arising in connection with or relating to the Plan, the Plan Supplement, the Disclosure Statement, the Confirmation Order, the Litigation Trust Agreement, or any contract, instrument, release, or other agreement or document created in connection with the Plan, the Plan Supplement, the Disclosure Statement, or the Confirmation Order;

(l) enforce all orders, judgments, injunctions, releases, exculpations, indemnifications, and rulings entered in connection with the Chapter 11 Cases or provided for under the Plan;

(m) except as otherwise limited herein, recover all assets of the Debtors and property of the Estates, wherever located;

(n) hear and determine matters concerning state, local, and federal taxes in accordance with Bankruptcy Code Sections 346, 505, and 1146;

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

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

(q) enter a final decree closing the Chapter 11 Cases.

9.2 Failure of the Bankruptcy Court to Exercise Jurisdiction

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to the Chapter 11 Cases, including the matters set forth in Section 9.1 of the Plan, the provisions of this Article IX shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court having jurisdiction with respect to such matter.

ARTICLE X

MISCELLANEOUS PROVISIONS

10.1 Administrative Expense Claims, Professional Fee Claims and Substantial Contribution Claims

(a) The Bankruptcy Court shall have entered one or more orders establishing the Administrative Expense Claim Bar Date. Objections to Administrative Expense Claims must be filed and served on the Debtor or Reorganized Debtor, as applicable, and the Plan Administrator, their counsel, and the entity submitting such Administrative Expense Claim no later than twenty (20) days (or such longer period as may be allowed by order of the Bankruptcy Court) after the Administrative Expense Claims Bar Date.

(b) All final Requests for Payment of Professional Fee Claims must be filed and served on the Reorganized Debtor and the Plan Administrator, their counsel, and other necessary parties in interest no later than forty-five (45) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to such Requests for Payment must be filed and served on the Reorganized Debtor and the Plan Administrator, their counsel, and the requesting Professional or other entity no later than twenty (20) days (or such longer period as may be allowed by order of the Bankruptcy Court) after the date on which the applicable Request for Payment was served.

10.2 Payment of Statutory Fees

All quarterly fees payable pursuant to Section 1930 of Title 28 of the United States Code prior to the Effective Date shall be paid by the Debtors on or before the Effective Date. All such fees payable after the Effective Date shall be paid by the Plan Administrator as and when due, until such time as the Chapter 11 Cases are closed, dismissed or converted.

10.3 Termination of Retiree Benefit Plans

On the Effective Date, the Retiree Benefit Plans shall be deemed terminated and cancelled as permitted by their terms or otherwise permitted by law. Alternatively, in connection with the confirmation of the Plan, Debtors shall seek entry of the 1114 Order terminating the Retiree Obligations under the Retiree Benefit Plans. Entry of either a form of Confirmation Order providing for the termination of the Retiree Benefit Plans on the Effective Date or the 1114 Order is a condition to the occurrence of the Effective Date.

10.4 Successors and Assigns and Binding Effect

The rights, benefits, and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, personal representative, successor, or assign of such Person, including, but not limited to, the Allied Litigation Trust, the Reorganized Debtors and all other parties in interest in the Chapter 11 Cases.

10.5 Preservation of Subordination Rights

Nothing contained in this Plan shall be deemed to modify, impair, terminate or otherwise affect in any way the rights of any Entity under section 510(a) of the Bankruptcy Code, and all such rights are expressly preserved under this Plan. The treatment set forth in Article III of the Plan and the distributions to the various Classes of Claims hereunder shall not affect the right of any Person to levy, garnish, attach, or employ any other legal process with respect to such distributions by reason of any claimed subordination rights or otherwise. All such rights and any agreements relating thereto shall remain in full force and effect, except as otherwise expressly compromised and settled pursuant to the Plan.

10.6 Releases

(a) **Releases by the Debtors**

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtors, the Reorganized Debtors, the Plan Administrator, the Allied Litigation Trust, the Litigation Trustee and any Person (including the Committee and the First Lien Agents) seeking to exercise the rights of the Debtors' Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to Bankruptcy Code Section 1123(b)(3), shall be deemed to forever release, waive, and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action (including claims or causes of action arising under Chapter 5 of the Bankruptcy Code), and liabilities whatsoever (other than for fraud, willful misconduct, criminal conduct and/or gross negligence), whether direct or derivative, in connection with or related to the Debtors, the Chapter 11 Cases, or the Plan (other than the rights of the Debtors, the Committee, the Reorganized Debtors, the Allied Litigation Trust, the Litigation Trustee and the First Lien Agents to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered thereunder), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity, or otherwise, that are based in whole or part on any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date against (i) any of the directors and officers of the Debtors serving during the pendency of the Chapter 11 Cases, other than those directors and officers named as defendants in either the Amended Complaint or the Lender Direct Complaint or any other director or officer that is party to a tolling agreement with the Committee, (ii) any Professionals of the Debtors, (iii) the First Lien Agents, in their capacity as such, (iv) the First Lien Lenders (other than Yucaipa) in their capacity as such, (v) any Professional of the First Lien Agents, (vi) the Second Lien Lenders (other than Yucaipa) in their capacity as such, (vii) any Professional for the Second Lien Lenders (other than Yucaipa), (viii) the members of the Committee, but only in their capacity as such, (ix) any Professional of the Committee, in their capacity as such; and (x) with respect to the Persons identified in clauses (ii) through (ix), their respective directors, officers, employees, members, participants, agents, representatives, partners, affiliates, counsel, other advisors, successors or assigns (collectively, the "Released Parties"); provided, however, that nothing in this Section 10.6(a) shall be deemed to prohibit the Debtors, the Reorganized Debtors, the Allied Litigation Trust, the Litigation Trustee, the Plan Administrator or the First Lien Agents from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, causes of action or liabilities they may have against any Person identified as a defendant in any of the Litigation Claims.

(b) **Releases by Holders of Claims and Interests**

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, each holder of a Claim or Interest that affirmatively votes in favor of the Plan and does not otherwise elect on its Ballot to withhold the release contemplated by this Section 10.6(b) shall be deemed to forever release, waive, and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action and liabilities whatsoever (other than for fraud, willful misconduct, criminal conduct and/or gross negligence) against the Released Parties in connection with or related to the Debtors, the Chapter 11 Cases, or the Plan (other than the rights under the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered thereunder), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity, or otherwise, that are based in whole or part on any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date; *provided*, *however*, that nothing herein shall be deemed a waiver or release of a Claim holder's right to receive a distribution pursuant to the terms of the Plan or any obligation under the Plan or Confirmation Order. For the avoidance of doubt, this Release by holders of Claims and Interests is not

and shall not be deemed a waiver of the Debtors' rights or claims against the holders of Claims and Interests, including to the Debtors' rights to assert setoffs, recoupments or counterclaims, or to object or assert defenses to any such Claim, and all such rights, causes of action and claims are expressly reserved, except as otherwise provided in the Plan or other Final Order. For the avoidance of doubt, nothing contained in this Section 10.6(b) shall be deemed to prohibit the First Lien Lenders from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, causes of action or liabilities they may have against any Person identified as a defendant in any of the Litigation Claims.

10.7 Discharge of the Debtors

(a) Except as otherwise provided herein or in the Confirmation Order, all consideration distributed under the Plan shall be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims of any nature whatsoever against the Debtors or any of its assets or properties and, regardless of whether any property shall have been abandoned by order of the Bankruptcy Court, retained, or distributed pursuant to the Plan on account of such Claims. Upon the Effective Date, (i) the Debtors shall be deemed discharged and released under Bankruptcy Code Section 1141(d)(1)(A) from any and all Claims, including, but not limited to, demands and liabilities that arose before the Effective Date, and all debts of the kind specified in Bankruptcy Code Section 502, whether or not (A) a Proof of Claim based upon such debt is filed or deemed filed under Bankruptcy Code Section 501, (B) a Claim based upon such debt is Allowed under Bankruptcy Code Section 502, (C) a Claim based upon such debt is or has been disallowed by order of the Bankruptcy Court, or (D) the holder of a Claim based upon such debt accepted the Plan, and (ii) all Interests shall be terminated.

(b) As of the Effective Date, except as provided in the Plan or the Confirmation Order, all Persons shall be precluded from asserting against the Debtors, the Committee, the Reorganized Debtors, the First Lien Agents, the Allied Litigation Trust, the Plan Administrator or the Litigation Trustee any other or further claims, debts, rights, causes of action, claims for relief, liabilities, or equity interests relating to the Debtors based upon any act, omission, transaction, occurrence, or other activity of any nature that occurred prior to the Effective Date. In accordance with the foregoing, except as provided in the Plan or the Confirmation Order, the Confirmation Order shall be a judicial determination of discharge of all such Claims and other debts and liabilities against the Debtors and termination of all Common Stock, pursuant to Bankruptcy Code Sections 524 and 1141, and such discharge shall void any judgment obtained against the Debtors at any time, to the extent that such judgment relates to a discharged Claim or terminated Interest.

10.8 Exculpation and Limitation of Liability

(a) **To the fullest extent permitted by applicable law and approved in the Confirmation Order, neither the Debtors, nor the Litigation Oversight Committee, nor any Released Party shall have any liability for any act or omission in connection with, relating to, or arising out of, the Chapter 11 Cases, the formulation, negotiation, or implementation of the Plan, the solicitation of acceptances of the Plan, the pursuit of Confirmation of the Plan, the 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 acts or omissions that constitute or are the result of fraud, criminal conduct, gross negligence, or willful misconduct or willful violation of federal or state securities laws or the Internal Revenue Code.**

(b) **Notwithstanding any other provision of the Plan other than Section 10.2, to the fullest extent permitted by applicable law and approved in the Confirmation Order, no holder of a Claim or an Interest, no other party in interest, and none of their respective present or former directors, officers, employees, members, participants, agents, representatives, partners, affiliates, counsel, other advisors, successors or assigns, shall have any right of action against the Debtors, the Litigation Oversight Committee or any Released Party for any act or omission in connection with, relating to, or arising out of, the Chapter 11 Cases, the formulation, negotiation, or implementation of the Plan, solicitation of**

acceptances of the Plan, the pursuit of Confirmation of the Plan, the 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 acts or omissions that constitute or are the result of fraud, criminal conduct, gross negligence, or willful misconduct or willful violation of federal or state securities laws or the Internal Revenue Code.

10.9 Injunction

(a) **Except as provided in the Plan or the Confirmation Order, as of the Effective Date, all Persons that have held, currently hold, may hold, or allege that they hold, a Claim or other debt or liability that is discharged pursuant to Section 10.7 of the Plan or Bankruptcy Code Sections 524 and 1141 or an Interest or other right of an equity security holder that is terminated pursuant to the terms of the Plan are permanently enjoined from taking any of the following actions against the Debtors, the Reorganized Debtors, the Committee, the Allied Litigation Trust, the Litigation Oversight Committee, the Plan Administrator, the Litigation Trustee, the First Lien Agents, their respective directors, officers, employees, members, participants, agents, representatives, partners, affiliates, counsel, other advisors, successors or assigns, and their respective subsidiaries or their property, on account of any such discharged Claims, debts, or liabilities or terminated Interests or rights: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff, right of subrogation, or recoupment of any kind against any debt, liability, or obligation due to the Debtors, the Reorganized Debtors, the Allied Litigation Trust or the Litigation Trustee; or (v) commencing or continuing any action, in each such case in any manner, in any place, or against any Person that does not comply with or is inconsistent with the provisions of the Plan.**

(b) **Except as provided in the Plan or the Confirmation Order, as of the Effective Date, all Persons that have held, currently hold, or may hold, a Claim, or an Interest or other right of an equity security holder, obligation, suit, judgment, damage, demand, debt, right, cause of action, or liability that is released pursuant to Sections 10.6, 10.7, or 10.8 of the Plan are permanently enjoined from taking any of the following actions on account of such released Claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities or terminated Interests or rights, including against the Released Parties: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff against any debt, liability, or obligation due to any released Person; or (v) commencing or continuing any action, in any manner, in any place, or against any Person that does not comply with or is inconsistent with the provisions of the Plan.**

10.10 Certain Provisions Relating to Central States, Southeast and Southwest Area Pension Fund and the Pension Benefit Guaranty Corporation

Notwithstanding anything to the contrary contained in the Plan (including, but without limitation, Sections 10.5, 10.6, 10.7 and 10.8), neither Yucaipa nor any Affiliate, officer, director, member or shareholder thereof shall be released from any claim or liability (including, without limitation, any liability or Claim for withdrawal liability under 29 U.S.C. §§ 1383 and 1385) now or hereafter owing to Central States, Southeast and Southwest Area Pension Fund ("**Central States Pension Fund**"), a multi-employer plan as that term is defined by 29 U.S.C. § 1301(a)(3), as a result of any Debtor's participation in Central States Pension Fund. For the avoidance of doubt, subject to the Central States Settlement, nothing in this paragraph shall restrict Central States Pension Fund's right to receive distributions on its Claims pursuant to the terms of the Plan.

Notwithstanding anything to the contrary contained in the Plan, no provision of the Plan shall be construed as discharging, releasing or relieving any party (other than the Reorganized Debtors and their subsidiaries), in any capacity, from any liability imposed under any law or regulatory provision with respect to any pension plans covered by Title IV of ERISA or the Pension Benefit Guaranty Corporation (the "**PBGC**"). Neither the PBGC nor any pension plans covered by Title IV of ERISA will be enjoined or precluded from enforcing any such liability as a result of any provision of the Plan or the Confirmation Order.

10.11 Term of Injunctions or Stays

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Cases under Bankruptcy Code Sections 105 or 362 or otherwise, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date.

10.12 Modifications and Amendments

The Plan Proponents may alter, amend, or modify the Plan under Bankruptcy Code Section 1127(a) at any time prior to the Confirmation Date. After the Confirmation Date and prior to substantial consummation of the Plan, as defined in Bankruptcy Code Section 1101(2), the Plan Proponents may under Bankruptcy Code Section 1127(b), institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, *provided*, *however*, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

10.13 Substantial Consummation

On the Effective Date, the Plan shall be deemed to be substantially consummated under Section 1101 and 1127(b) of the Bankruptcy Code.

10.14 Severability of Plan Provisions

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Plan Proponents shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

10.15 Revocation, Withdrawal, or Non-Consummation

The Plan Proponents reserve the right to revoke or withdraw the Plan at any time prior to the Confirmation Date and to file subsequent plans of reorganization. If the Plan Proponents revoke or withdraw the Plan in accordance with this Section 10.15, or if Confirmation or the Effective Date does not occur, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Class of Claims), assumption or rejection of contracts or leases effected by the Plan, and any document or agreement executed pursuant to the Plan shall be deemed null and void, and (c) nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against, or any Interests in, any Debtors or any other Person, (ii) prejudice in any manner the rights of the Debtors or any

Person in any further proceedings involving the Debtors, or (iii) constitute an admission of any sort by any Plan Proponents or any other Person.

10.16 Notices

Any notice, request, or demand required or permitted to be made or provided to or upon the Debtors, the Reorganized Debtors, the Allied Litigation Trust, the Committee or the First Lien Agents under the Plan shall be (a) in writing, (b) served by (i) certified mail, return receipt requested, (ii) hand delivery, (iii) overnight delivery service, (iv) first class mail, or (v) facsimile transmission, (c) deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, and (d) addressed as follows:

For the Debtors:

ASHINC Corp.
Attn: John Blount
c/o Jeffrey W. Kelley
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600 Peachtree Street, Suite 5200
Atlanta, GA 30308-2216
E-mail: jblount@ashincorp.com

with copies to:

TROUTMAN SANDERS LLP
Jeffrey W. Kelley
Matthew R. Brooks
Bank of America Plaza
600 Peachtree Street, Suite 5200
Atlanta, Georgia 30308-2216
Telephone No.: (404) 885-3000
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- and -

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10.17 Conflicts

To the extent any provision of the Disclosure Statement or any instrument, document or agreement executed in connection with the Plan (or any exhibits, schedules, appendices, supplements or amendments to the foregoing) conflicts with or is in any way inconsistent with the terms of the Plan, the terms and provisions of the Plan shall govern and control.

10.18 Aid and Recognition

The Debtors, the Reorganized Debtors, the Plan Administrator or Litigation Trustee, as the case may be, shall, as needed to effect the terms hereof, request the aid and recognition of any court or judicial, regulatory or administrative body in any province or territory of Canada or any other nation or state.

[SIGNATURE PAGE FOLLOWS]

Dated: June 17, 2015

ASHINC Corp.
(for itself and on behalf of each Debtor)

By: */s/* John F. Blount
Name: John F. Blount
Title: President and CEO/Wind-Down Officer

Official Committee of Unsecured Creditors

By: */s/* Michael G. Burke
Name: Michael G. Burke
Title: Counsel to the Official Committee of Unsecured Creditors

First Lien Agents
By: */s/* Adam C. Harris
Name: Adam C. Harris
Title: Counsel to the First Lien Agents

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Attorneys for the First Lien Agents

Appendix “B”

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	**Chapter 11**
ASHINC CORPORATION, *et al.* [1]	)	**Case No. 12-11564 (CSS)**
	)	**Jointly Administered**
Debtors.	)	

DISCLOSURE STATEMENT IN SUPPORT OF DEBTORS' JOINT CHAPTER 11 PLAN OF REORGANIZATION PROPOSED BY THE DEBTORS, THE COMMITTEE AND THE FIRST LIEN AGENTS

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Attorneys for the Debtors and Debtors in Possession

- and -

[1] The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: ASHINC Corporation (f/k/a Allied Systems Holdings, Inc.) (58-0360550); AAINC Corporation (f/k/a Allied Automotive Group, Inc.) (58-2201081); AFBLLC LLC (f/k/a Allied Freight Broker LLC) (59-2876864); ASCCO (Canada) Company (f/k/a Allied Systems (Canada) Company) (90-0169283); ASLTD L.P. (f/k/a Allied Systems, Ltd. (L.P.) (58-1710028); AXALLC LLC (f/k/a Axis Areta, LLC) (45-5215545); AXCCO Canada Company (f/k/a Axis Canada Company) (875688228); AXGINC Corporation (f/k/a Axis Group, Inc.) (58-2204628); Commercial Carriers, Inc. (38-0436930); CTSINC Corporation (f/k/a CT Services, Inc.) (38-2918187); CTLLC LLC (f/k/a Cordin Transport LLC) (38-1985795); F.J. Boutell Driveway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

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Attorneys for the First Lien Agents

Dated: June 17, 2015

THE DISCLOSURE STATEMENT WITH RESPECT TO THIS PLAN OF REORGANIZATION HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT. THE PLAN PROPONENTS HAVE SEPARATELY NOTICED A HEARING TO CONSIDER THE ADEQUACY OF THE DISCLOSURE STATEMENT UNDER BANKRUPTCY CODE SECTION 1125. THE PLAN PROPONENTS RESERVE THE RIGHT TO MODIFY OR SUPPLEMENT THIS PLAN OF REORGANIZATION AND THE ACCOMPANYING DISCLOSURE STATEMENT PRIOR TO AND UP TO THE DATE OF SUCH HEARING.

DISCLAIMER

This Disclosure Statement describes a plan of reorganization (the "Plan") for ASHINC Corporation and its affiliated-debtors (collectively, the "Debtors"). The Debtors, the Committee,[2] and the First Lien Agents will ask the Bankruptcy Court to confirm the Plan. Confirmation is subject to certain material conditions, and there is no assurance that those conditions will be satisfied.[3]

If the Bankruptcy Court confirms the Plan, the Plan Proponents intend to have the Plan become effective as promptly as possible thereafter and to make an initial distribution to certain holders of Claims against the Debtors from Cash on Hand held by the Debtors, the Winddown Reserve and the First Lien Reserves. The Plan Proponents intend to make some distribution to all holders of Allowed Claims, although not all distributions will be made in Cash. Rather, certain distributions will be in the nature of beneficial interests in the Allied Litigation Trust (subsequent Cash distributions may be made on account of such beneficial interests).[4]

The Plan Proponents request that each holder of an Impaired Claim that is entitled to vote on the Plan vote in favor of the Plan. The Plan Proponents recommend that voting creditors vote in favor of the Plan because the Plan Proponents believe that the Plan provides for the greatest possible recovery for all holders of Allowed Claims.

To have your vote counted, you must return an executed ballot (each a "Ballot") to the Claims Agent, Rust Consulting/Omni Bankruptcy on or before [•], 2015 (the "Voting Deadline"). You may mail your Ballot to one of the addresses set forth on the Ballot.

If your claim is in a Class that is entitled to vote on the Plan, enclosed with this disclosure statement (the "Disclosure Statement") is a Ballot together with instructions for completing it. If you did not receive a Ballot and you are entitled to vote on the Plan, you may obtain a copy free of charge on the following website: http://omnimgt.com/alliedsystems, or by sending a letter to counsel to the Debtors at the address listed above. To be counted, your Ballot must be duly completed, executed, and actually received no later than the Voting Deadline.

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[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Plan.

[3] Yucaipa, a purported holder of First Lien Lender Claims and other Claims, has filed an objection to the Disclosure Statement and asserted objections to confirmation of the Plan, and may assert additional objections. You may obtain a copy of that objection free of charge on the following website: http://omnimgt.com/alliedsystems, under Court Docket No. 2991.

[4] As set forth in further detail below, the holders of Allowed Second Lien Lender Claims are entitled to receive certain beneficial interests in the Allied Litigation Trust, but such holders are required to turn over any amounts received in connection with such beneficial interests to the First Lien Agents for distribution to the First Lien Lenders pursuant to the terms of the Intercreditor Agreement until the First Lien Lenders have been indefeasibly paid in full in Cash.

This Disclosure Statement summarizes events that occurred prior to the Debtors' filing for bankruptcy, material events during the Chapter 11 Cases, and the Plan itself. You should read this Disclosure Statement and the Plan in their entirety. The Plan Proponents believe that the information set forth in these documents is fair and accurate; however, the Plan and this Disclosure Statement (and the summaries that they provide) are qualified in their entirety by the matters to which they refer. Factual information contained in the Disclosure Statement is based on the Debtors' books and records, as well as public information related to the proceedings described in the Disclosure Statement. The Plan Proponents do not represent or warrant that the information contained in this Disclosure Statement, including the financial information, is without any inaccuracy or omission.

As you determine whether to vote to accept the Plan, you must rely on your own examination of the Debtors and the terms of the Plan, including the merits and risks involved. The contents of this Disclosure Statement do not constitute any legal, business, financial, or tax advice. You should consider consulting with your own legal, business, financial, and tax advisors with respect to the Plan and the Disclosure Statement.

Except as set forth in this Disclosure Statement, no person is authorized by the Debtors to give any information or to make any representation related to the Plan other than as contained in this Disclosure Statement. You should not rely on any such representation you may receive as having been authorized by the Debtors. The Disclosure Statement does not constitute an offer to buy or the solicitation of an offer to buy any securities, or an offer to sell or a solicitation of an offer to sell any securities.

The statements contained in this Disclosure Statement are made as of the date hereof (unless otherwise indicated) and should not under any circumstance create any implication that the information contained herein is correct at any time subsequent to the date hereof. Estimates of Claims set forth in this Disclosure Statement may vary from the amounts of Claims ultimately Allowed by the Bankruptcy Court.

The information contained in this Disclosure Statement is included for purposes of soliciting votes on the Plan only and should not be deemed as an admission or stipulation of any kind, absent the Plan Proponents' express, written consent.

INTRODUCTION

The Plan Proponents provide this Disclosure Statement in connection with the Plan they have proposed. The Plan Proponents are soliciting votes on the Plan. A copy of the Plan is attached to this Disclosure Statement as Exhibit DS-1.

This Disclosure Statement summarizes certain information regarding the Debtors' operations prior the bankruptcy, their efforts to sell their assets, and significant events that have occurred during the Chapter 11 Cases. This Disclosure Statement also describes the Plan, the proposed distributions under the Plan, the effect of confirmation of the Plan (including the proposed business operations of the Reorganized Debtors after the Effective Date), the manner in which distributions will be made under the Plan, and summarizes the process to confirm the Plan, including voting on the Plan. **While the Plan Proponents have attempted to provide a fair and accurate summary of the matters described in this Disclosure Statement, the summary of information contained in this Disclosure Statement is not considered an admission by any of the Plan Proponents in any legal proceeding.**

On [•], 2015, the Bankruptcy Court entered an order finding that this Disclosure Statement contains "adequate information" within the meaning of section 1125 of the Bankruptcy Code. "Adequate information" is "information of a kind, and in sufficient detail … that would enable … a hypothetical investor … to make an informed judgment about the plan." The Bankruptcy Court has authorized the Plan Proponents to use this Disclosure Statement to solicit votes on the Plan. **Even though the Bankruptcy Court has approved this Disclosure Statement and authorized the Plan Proponents to use this Disclosure Statement to solicit votes on the Plan, the Bankruptcy Court has not yet determined whether the Plan should be confirmed. This Disclosure Statement has not been approved or disapproved by the Securities and Exchange Commission nor has the Commission passed upon the accuracy or adequacy of the statements contained herein.**

The Bankruptcy Court has authorized **only** this Disclosure Statement to be used in connection with solicitation of votes on the Plan. In voting to accept or reject the Plan, you should rely only on information contained in this Disclosure Statement (and accompanying exhibits) and your own examination of the Debtors and the terms of the Plan. You should not rely on information from other sources.

The Plan Proponents recommend that creditors entitled to vote on the Plan vote to accept the Plan.

SUMMARY OF VOTING PROCEDURES

If your claim is in a Class that is entitled to vote on the Plan, together with this Disclosure Statement and the accompanying exhibits, you are being provided with a Ballot to vote on the Plan. After reviewing this Disclosure Statement and the accompanying exhibits, if you are entitled to vote on the Plan, you should vote to accept or reject the Plan using the enclosed Ballot. **Only holders of Claims in Classes 2, 3, 4 and 5 may vote on the Plan. Creditors in**

Class 1 and holders of Class 7 Subsidiary Equity Interests are unimpaired and are deemed to accept the Plan. Holders of Class 6 Parent Company Interests are not entitled to a distribution under the Plan, and accordingly, are deemed to reject the Plan. If you are entitled to vote on the Plan, you must return your Ballot by overnight courier or regular mail. Ballots submitted by facsimile or other electronic transmission will not be accepted and will be void.

The Voting Deadline to vote on the Plan is [•], 2015 at 4:00 p.m. Eastern time. The Claims Agent must *receive* your Ballot on or before the Voting Deadline for your vote on the Plan to be counted. If you have not received a Ballot, or if your Ballot is lost or mutilated, you may obtain a replacement Ballot free of charge on the following website: http://omnimgt.com/alliedsystems. You may also contact the Claims Agent at the following address:

(i) Via first-class mail, hand delivery or overnight mail –

ASHINC Corporation, *et al.* Claims Processing
c/o Rust Consulting/Omni Bankruptcy
5955 DeSoto Avenue, Suite 100
Woodland Hills, CA 91367

(ii) Via Facsimile:

ASHINC Corporation, *et al.* Claims Processing
c/o Rust Consulting/Omni Bankruptcy
818-783-2737

(iii) Via Email:

ASHINC Corporation, *et al.* Claims Processing
c/o Rust Consulting/Omni Bankruptcy
ashinc@omnimgt.com

(iv) Via Telephone at 818-906-8300

Copies of the Plan, this Disclosure Statement, and other Plan related documents will also be available on the internet free of charge at the following website: http://omnimgt.com/alliedsystems.

ARTICLE I
OVERVIEW OF THE PLAN

The following is a brief overview of the material provisions of the Plan and is qualified in its entirety by the full text of the Plan, which is attached as Exhibit DS-1. For a more detailed description of the terms of the Plan, see Article IV, entitled "Description of the Plan."

A. Summary of Plan Structure.

The Plan is a plan of reorganization whereby the Litigation Trust Assets (including the Lender Direct Claims and the Estate Claims), will vest in the Allied Litigation Trust, and the remainder of the Debtors' assets, including the proceeds from the Sale (defined below), will either revest in the Reorganized Debtors or be distributed to the Debtors' creditors. The Reorganized Debtors will own certain parcels of real estate, the right to recover excess cash collateral pledged to secure obligations under certain (i) self-insured workers compensation programs, and (ii) bonds issued to governmental agencies and freight brokers to guaranty payment of the Debtors' transportation-related obligations, the equity of Haul Insurance Limited, and certain tax attributes relating to net operating losses. The Reorganized Debtors intend to utilize these assets to continue certain business operations (including, without limitation, leasing the retained parcels of real estate and administering the workers compensation programs), and may develop new operations after the Effective Date. The Allied Litigation Trust will jointly prosecute the Estate Claims and the Lender Direct Claims, with the proceeds (if any) flowing through the Litigation Proceeds Waterfall. The Plan provides a release to the Plan Proponents and certain other parties and exculpates the Plan Proponents and other parties for actions taken during the course of the Chapter 11 Cases, and limits the liability of the Reorganized Debtors, the Committee, the First Lien Agents, the Litigation Oversight Committee, the Allied Litigation Trust and the Litigation Trustee and related parties for actions taken in carrying out the Plan following the Effective Date.

B. Summary of Estimated Distributions.

All creditors will receive a distribution on account of their Claims under the Plan, although any distributions made to the Second Lien Lenders on account of their beneficial interests in the Allied Litigation Trust shall be turned over to the First Agents for distribution to the First Lien Lenders pursuant to the Intercreditor Agreement until the First Lien Lenders have been indefeasibly paid in full.

Holders of Allowed Unclassified Claims and Allowed Priority Claims shall be paid in full on the initial Distribution Date. In connection therewith, Central States shall receive the treatment provided in the Central States Settlement, Northwest shall receive the treatment provided in the Northwest Settlement, and AIG shall receive the treatment provided in the AIG Settlement.

The holders of Allowed First Lien Lender Claims shall receive their Pro Rata share of: (i) the beneficial interests of the Allied Litigation Trust payable to holders of Allowed First Lien Lender Claims in accordance with the Litigation Proceeds Waterfall, and (ii) the First Lien Lender Cash Distribution, provided, however, that each First Lien Lender (other than Yucaipa) may elect, in lieu of receipt of its Pro Rata share of the First Lien Lender Cash Distribution, to receive its Pro Rata share of the New Common Stock. Each of the First Lien Lenders comprising the First Lien Requisite Lender has elected to receive shares of New Common Stock in lieu of receiving its Pro Rata distribution of the First Lien Lender Cash Distribution. In

addition, on the Effective Date, the First Lien Agents shall distribute to the holders of Allowed First Lien Lender Claims their Pro Rata share of the First Lien Reserves.

The holders of Allowed Second Lien Lender Claims shall receive their Pro Rata share of the beneficial interests of the Allied Litigation Trust payable to holders of Allowed Second Lien Claims (calculated on a Pro Rata basis with holders of Allowed General Unsecured Claims) in accordance with the Litigation Proceeds Waterfall, provided, however, that any distribution on account of such beneficial interests shall be turned over to the First Lien Agents for distribution to the First Lien Lenders to the extent required by Sections 4.1 and 4.2 of the Intercreditor Agreement until the First Lien Lenders have been indefeasibly paid in full in Cash.

The holders of Allowed General Unsecured Claims shall receive their Pro Rata share of: (i) the GUC Cash Distribution and (ii) the beneficial interests of the Allied Litigation Trust payable to holders of Allowed General Unsecured Claims (calculated on a Pro Rata basis with holders of Allowed Second Lien Lender Claims) in accordance with the Litigation Proceeds Waterfall.

The holders of Parent Company Interests will not receive any distribution on account of such interests, although the holders of Subsidiary Equity Interests shall retain such interests, subject to any corporate reorganization that may be undertaken by the Debtors or the Reorganized Debtors prior to, on or after the Effective Date.

Holders of Administrative Claims, Priority Tax Claims and Priority Claims will each receive payment of 100% of the amount of their Allowed Claims (as the same may have been or is hereafter determined by the Bankruptcy Court or agreement with the Debtors or Plan Administrator, as applicable). The recoveries for all other holders of Allowed Claims (other than the AIG Claims, which will be satisfied in accordance with the AIG Settlement) will be substantially dependent on the outcome of the prosecution of the Estate Claims and Lender Direct Claims, and cannot be estimated at this time.

ARTICLE II
BACKGROUND LEADING TO CHAPTER 11 FILING

A. Incorporation of the Macaulay Declaration

When the Debtors (other than Allied Holdings and Allied Systems) filed these Chapter 11 Cases, and Allied Holdings and Allied Systems consented to the entry of an order for relief on June 10, 2012, Scott D. Macaulay, a Senior Vice President and the Chief Financial Officer of Allied Holdings, filed a declaration (the "**Macaulay Declaration**") setting forth the Debtors' background and the events leading up to the Chapter 11 Cases. A copy of the Macaulay Declaration is attached as Exhibit DS-2 to this Disclosure Statement. The following section contains an abbreviated summary of certain events discussed in greater detail in the Macaulay Declaration. Creditors are encouraged to read the Macaulay Declaration in its entirety.

B. Summary Background

1. The Debtors' Businesses

The Debtors' main line of business was carried out by Allied Automotive and its direct and indirect subsidiaries (collectively, the "**Allied Automotive Group**").[5] This major line of business, known in the industry as "car-haul," was the transport of light vehicles, such as automobiles, sport-utility vehicles and light trucks, from manufacturing plants, ports, auctions, and railway distribution points to automobile dealerships in the United States and Canada. The trips were generally what are known in the industry as "short hauls," with each averaging less than two hundred miles. The Debtors' major customers were automobile manufacturers.

Allied Automotive Group, primarily through its operating subsidiary, Allied Systems, transported light vehicles by means of tractor trailers (the "**Rigs**") specially designed for transporting light vehicles. As of the end of 2011, the Debtors owned about 2400 Rigs, which operated out of approximately 44 terminals, most of which were leased, located in the United States and Canada. Allied Systems' drivers were unionized.

The Debtors' much smaller line of business was carried out by Axis and its direct and indirect subsidiaries (collectively, the "**Axis Group**").[6] This line of business included arranging for and managing vehicle tracking, vehicle accessorizing, and dealer preparation services for the automotive industry in the United States and Canada, and providing yard management services in Mexico. The Axis Group operated 39 terminals located in the United States, Canada and Mexico.

2. The Georgia Bankruptcy Case

The Debtors were reorganized in Chapter 11 cases (collectively, the "**Georgia Bankruptcy Cases**") that were filed in the United States Bankruptcy Court for the Northern District of Georgia on July 31, 2005 and that resulted in the 2007 Plan of Reorganization, which was confirmed and became effective on May 29, 2007. As a result of the 2007 Plan of Reorganization, two investment funds became the largest shareholders of Allied Holdings. These two funds, Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P. (collectively, the "**Yucaipa**"), which are affiliated with the Yucaipa Companies, LLC, together owned approximately 63% of the outstanding shares of Allied Holdings. After confirmation of the 2007 Plan of Reorganization, Yucaipa acquired approximately $40 million in principal amount of the obligations outstanding under the Second Lien Credit Facility (defined below) and contributed approximately $20 million of such amount to capital, in exchange for which Yucaipa was issued non-voting preferred shares convertible into common shares. If the preferred shares were so converted, Yucaipa would have owned approximately 70% of the outstanding common shares in Allied Holdings.

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[5] The Allied Automotive Group included the following Debtors: Allied Automotive, Allied Systems, Allied Canada, QAT, RMX, Transport Support, F.J., GACS, Commercial Carriers and Allied Freight.

[6] The Axis Group included the following Debtors: Axis, CT Services, Cordin, Terminal Services, Axis Canada, Axis Areta, Logistic Technology and Logistic Systems.

3. The Credit Facilities

The exit financing established on the effective date of the 2007 Plan of Reorganization was still outstanding on May 17, 2012, the date involuntary petitions under Chapter 11 of the Bankruptcy Code were filed against Allied Holdings and Allied Systems, and a substantial portion of those facilities remain outstanding as of the filing of this Disclosure Statement. Indeed, that exit financing is the First Lien Credit Facility and the Second Lien Credit Facility (defined below) which provided financing of up to $315 million to the Debtors upon emergence pursuant to the 2007 Plan of Reorganization. The larger facility (the "**First Lien Credit Facility**") is evidenced by the First Lien Credit Agreement and provided for up to $265 million in financing. The First Lien Credit Facility was provided by the First Lien Lenders, one of which, CIT Group/Business Credit Inc. ("**CIT**"), initially served as administrative and collateral agent of the First Lien Credit Facility.[7] The First Lien Credit Facility was comprised of three facilities: (1) a facility for revolving loans and swing line loans up to the amount of $35 million (the "**Revolving Loan Facility**"); (2) a facility for the issuance of letters of credit for the account of the Debtors in the amount of up to $50 million (the "**Letter of Credit Facility**"); and (3) a term loan facility in the amount of $180 million (the "**First Lien Term Loan Facility**"). CIT was the sole lender under the Revolving Loan Facility and was not a Lender under either the Letter of Credit Facility or the First Lien Term Loan Facility.

The other credit facility (the "**Second Lien Credit Facility**") is evidenced by the Second Lien Credit Agreement and provided for a $50 million term loan to the Debtors. Goldman Sachs Credit Partners L.P. was the original administrative agent and collateral agent under the Second Lien Credit Facility and was later replaced in these capacities by Bank of New York Mellon.

The First Lien Credit Facility was secured by a first-priority security interest in substantially all of the Debtors' assets, including accounts, general intangibles, money, inventory, equipment (including Rigs), real estate and the stock of certain subsidiaries (the "**Collateral**"). The Second Lien Credit Facility was secured by a second-priority security interest in the Collateral. The Debtors and the collateral agents for the two credit facilities entered into the Intercreditor Agreement to set forth, among other things, the relative rights and priorities as between the two facilities with respect to their liens on the Collateral.

4. Pre-Petition Litigation Relating to the First Lien Credit Facility

Soon after its emergence from the Georgia Bankruptcy Cases pursuant to the 2007 Plan of Reorganization, the Debtors business again began to falter leading to the occurrence of defaults and events of default under the First Lien Credit Agreement and the Second Lien Credit Agreement. The Petitioning Creditors (defined below), allege that, as a result of the occurrence of these defaults and events of default, Yucaipa became concerned that the lenders under those facilities would declare the debt to be due and payable and commence the exercise of rights and remedies, which would in turn cause Yucaipa to lose its equity investment. The Petitioning Creditors allege that, in an effort to forestall this possibility, Yucaipa commenced a series of

[7] CIT subsequently resigned as administrative agent and collateral agent and was replaced by the First Lien Agents.

actions designed to facilitate its acquisition of a majority of the outstanding obligations under both the First Lien Facility and the Second Lien Facility, and to become the "Requisite Lender" under each. Both the First Lien Credit Agreement and the Second Lien Credit Agreement provided for the "Requisite Lender" under such facility to have certain powers and the right to direct the administrative agent and the collateral agent with respect to certain actions, including the right to direct or not direct the exercise of rights and remedies upon the occurrence of an event of default. The Petitioning Creditors allege that, with this power, Yucaipa could stop the lenders from taking actions to threaten Yucaipa's investment.

As initially drafted, however, both the First Lien Credit Agreement and the Second Lien Credit Agreement contained explicit restrictions prohibiting Yucaipa from becoming as "Lender" under such facilities by excluding Yucaipa from the definition of an "Eligible Assignee." Thus, in order to move forward with its efforts to become the Requisite Lender Yucaipa needed the loan facilities to be amended to permit its acquisition of the debt.

On April 17, 2008, amendments were executed to both the First Lien Credit Agreement and the Second Lien Credit Agreement that permitted Yucaipa to acquire debt under those facilities. The amendment to the Second Lien Credit Agreement did not impose any limitations on Yucaipa's ability to acquire debt under that facility, other than requiring that half of any debt acquired be contributed to capital. As discussed above, Yucaipa subsequently acquired $40 million in principal amount of obligations under the Second Lien Facility and contributed $20 million to capital.

The amendment under the First Lien Credit Agreement (the **"Third Amendment"**), unlike the amendment for the Second Lien Credit Agreement, imposed significant restrictions on Yucaipa's ability to both acquire debt and to vote that debt once acquired, thus precluding Yucaipa from becoming the Requisite Lender under the First Lien Credit Facility. Yucaipa also waived its right to take any action as a First Lien Lender in any insolvency or liquidation proceeding, and voluntarily assigned its right to vote in any insolvency or liquidation proceeding to the administrative agent under the First Lien Credit Agreement (now the First Lien Agents). Yucaipa did not acquire any obligations under the First Lien Facility at that time.

In early 2009, Yucaipa launched a tender offer to purchase not less than 51% of the principal amount of the obligations outstanding under the First Lien Facility. As a condition to accepting the tender, however, the selling lender was required to execute a further amendment to the First Lien Credit Facility that, had it become effective, would have eliminated all of the restrictions on Yucaipa's ability to acquire and vote debt under the First Lien Facility imposed by the Third Amendment. The tender offer failed.

By April 2009, ComVest Investment Partners III, L.P. ("**ComVest**") had acquired a majority of the outstanding obligations under First Lien Credit Facility and had thereby become the First Lien Requisite Lender. Yucaipa engaged in negotiations with ComVest directly to acquire ComVest's position in the First Lien Facility, and to become the Requisite Lender. Those negotiations continued throughout the Spring of 2009 and into the Summer, culminating in an agreement between ComVest and Yucaipa whereby Yucaipa would acquire ComVest's

debt position in the First Lien Facility and become the Requisite Lender. In order to consummate this transaction without being subject to the restrictions on its ability to acquire and vote debt imposed by the Third Amendment, Yucaipa sought a further amendment to the First Lien Credit Facility eliminating those restrictions.

Thus, on August 21, 2009, ComVest and the Debtors purported to enter into an amendment (the "**Purported Fourth Amendment**") to the First Lien Credit Agreement to allow Yucaipa to be an eligible assignee under the First Lien Credit Facility, with no restriction on either the amount of debt it could acquire or its right to vote. No lender other than ComVest executed (or was asked to execute) the Purported Fourth Amendment. Upon execution of the Purported Fourth Amendment, Yucaipa purchased from ComVest the majority in principal amount of outstanding obligations under the First Lien Facility. However, CIT, as the administrative agent, declined to recognize the validity of the Purported Fourth Amendment and consequently declined to recognize Yucaipa as the purported First Lien Requisite Lender.

In November 2009, Allied Holdings and Yucaipa sued CIT in Georgia State Court to establish (1) that Yucaipa had become the First Lien Requisite Lender in August 2009 and (2) that CIT was damaging Yucaipa and the Debtors by failing to take action lawfully demanded by Yucaipa as purported First Lien Requisite Lender. CIT denied the allegations in the complaint and filed counterclaims against both Yucaipa and the Debtors alleging, among other things, that the Purported Fourth Amendment was invalid. Allied Holdings, Yucaipa and CIT settled the litigation pursuant to a settlement agreement dated as of December 5, 2011 (the "**Settlement Agreement**"), with the parties filing mutual dismissals with prejudice on December 7, 2011. The terms of the Settlement Agreement included, among others, mutual limited releases, and the recognition by CIT (in its individual capacity and not on behalf of any other lender) of the validity of the Purported Fourth Amendment and of Yucaipa as the purported First Lien Requisite Lender

On January 18, 2012, three lenders under the First Lien Credit Facility filed suit against Yucaipa in the Supreme Court of the State of New York, Index No. 650150/2012. These lenders were Black Diamond CLO 2005-1 Ltd., its affiliate BDCM Opportunity Fund II, LP (collectively, "**Black Diamond**"), and Spectrum Investment Partners, L.P. ("**Spectrum**"). In this suit (the "**NYS Action**"), the plaintiffs sought a judicial declaration that the Purported Fourth Amendment was null and void and that Yucaipa was not the First Lien Requisite Lender. The NYS Action was pending as of the Petition Date and is described in further detail below.

5. Events Leading to the Chapter 11 Cases

In 2011, in connection with attempts to implement rate increases with its car-haul customers, the Debtors ceased providing car-haul services to several customers. This lead to a decrease in the Debtors' revenue from 2010 to 2011. The Debtors sought to implement rate increases because the rate levels in effect were not sustainable and did not cover operating costs. One major reason for the unsustainable rate levels that caused the Debtors to cease providing car-haul services to several substantial customers (and the Debtors' financial distress) was the drastic decline of production by original equipment manufacturers of light vehicles resulting

from the recession that began in December 2007 and was ongoing as of the Petition Date. This decline led to fierce competition among trucking companies and railroads for contracts to transport these vehicles and a related reduction in the rate of compensation offered to the Debtors and their competitors. While the rate of compensation to the Debtors for transporting light vehicles declined, the Debtors' expenses in many areas, including the rate of compensation for the Debtors' unionized employees, increased.

On May 17, 2012, the three plaintiffs in the NYS Action (the "**Petitioning Creditors**") filed involuntary bankruptcy petitions seeking relief under Chapter 11 against Allied Holdings and Allied Systems in the U.S. Bankruptcy Court for the District of Delaware. As of the commencement of the involuntary bankruptcy cases, the outstanding principal amount due under the First Lien Credit Facility totaled approximately $244 million**,** including about $35 million due under the Revolving Loan Facility. Also, as of the commencement of the involuntary cases, the outstanding principal amount due under the Second Lien Term Facility was approximately $30 million.

In light of the involuntary bankruptcy cases and its financial condition, the Debtors determined that it would be in the best interests of their Estates to proceed under Chapter 11. Accordingly, Allied Holdings and Allied System consented to relief under Chapter 11, and caused seventeen direct and indirect subsidiaries of Allied Holdings to join them by filing voluntary Chapter 11 petitions.

ARTICLE III
EVENTS DURING THE CHAPTER 11 CASE

This section of the Disclosure Statement summarizes material events that have occurred in the Chapter 11 Cases prior to the date of filing of this Disclosure Statement. This is not an inclusive list of all matters that have occurred. Creditors and Interest holders are encouraged to review the docket in the Chapter 11 Cases for a complete list of all matters that have been put before the Bankruptcy Court. A copy of the docket may be accessed online at the following website: http://omnimgt.com/alliedholdings.

A. First Day Motions

On June 10, 2012, the Debtors filed several motions and other pleadings (the "**First Day Motions**") to ensure an orderly transition into Chapter 11, including (1) a motion to pay certain pre-petition workforce obligations and other benefits to the Debtors' employees; (2) a motion relating to the continued use of the Debtors' existing cash management system, bank accounts and business forms; (3) a motion to retain and employ the Claims Agent; (4) a motion to establish procedures for determining adequate assurance for the provision of utility services; (5) a motion to pay prepetition claims of certain critical vendors; (6) a motion to continue the Debtors' insurance programs; (7) a motion to pay customs duties, claims of common carriers and warehousemen; (8) a motion to pay prepetition sales, use and other taxes; and (9) a motion to obtain post-petition debtor-in-possession financing from the Yucaipa DIP Lenders (defined

below). The First Day Motions were granted with certain agreed limited modifications to accommodate the comments of the United States Trustee.

B. The DIP Financing Motions

In order for the Debtors to maintain their operations during the Chapter 11 Cases, it was necessary for the Debtors to obtain post-petition financing. As a result of negotiations with Yucaipa American Alliance Fund II, L.P. and Yucaipa American Alliance (Parallel) Fund II, L.P. (the "**Yucaipa DIP Lenders**"), the Debtors entered into a debtor-in-possession facility with the Yucaipa DIP Lenders (the "**2012 DIP Facility**"). The 2012 DIP Facility was approved by the Bankruptcy Court on an interim basis on June 12, 2012 pursuant to an interim order [Docket No. 114] and on a final basis on July 12, 2012 pursuant to the 2012 Final DIP Order. Pursuant to its terms, the 2012 DIP Facility included a credit facility of up to $20 million. The proceeds of the 2012 DIP Facility were used for working capital and general corporate purposes subject to the terms and conditions of the 2012 Final DIP Order and to the extent set forth in the Debtors' one-year budget attached to the 2012 Final DIP Order.

On May 17, 2013, the Debtors filed a motion to replace the 2012 DIP Facility with a new line of credit from affiliates of the Petitioning Creditors (the "**Replacement DIP Facility**"). The Replacement DIP Facility was a debtor-in-possession delayed draw term loan facility that provided for postpetition secured loans in an aggregate principal amount not to exceed $33,500,000. The Replacement DIP Facility was approved by the Bankruptcy Court on a final basis on June 21, 2013 pursuant to the Replacement DIP Order. The Replacement DIP Facility provided the Debtors with $11.5 million of incremental financing and allowed the Debtors to avoid potential defaults and events of default under the 2012 DIP Facility. The proceeds of the Replacement DIP Facility were also used to refinance in full the 2012 DIP Facility, to pay certain fees and expenses related to the 2012 DIP Facility and for the Debtors' working capital needs and general corporate purposes, as outlined in the Debtors' 13-week cash projections attached to the Replacement DIP Order. The amounts outstanding under the Replacement DIP Facility were paid in full from the proceeds of the Sale.

C. Retention of Professionals

Shortly after filing for bankruptcy, the Debtors filed applications to retain the following professionals: Troutman Sanders LLP as bankruptcy co-counsel; Richards, Layton & Finger, P.A. as bankruptcy co-counsel; the Claims Agent as administrative advisor; Gowling Lafleur Henderson LLP as Canadian counsel; Rothschild Inc. as financial advisor and investment banker; and PricewaterhouseCoopers LLP to provide tax compliance services.

Following the formation of the Committee on June 20, 2012 [Docket No. 144], the Committee filed applications to retain Sidley Austin LLP, as co-counsel to the Committee; Sullivan Hazeltine Allinson LLC, as co-counsel to the Committee; Conway Mackenzie, Inc., as financial advisors to the Committee; and Stikeman Elliott LLP as Canadian counsel.

The Bankruptcy Court granted each of these applications.

D. The NYS Action

Following the commencement of the Chapter 11 Cases, the NYS Action continued to proceed in the Supreme Court of the State of New York. On March 29, 2013, Justice Charles E. Ramos docketed an opinion and order holding that the Purported Fourth Amendment was invalid and void *ab initio* because that amendment required unanimous First Lien Lender consent, and no First Lien Lender (other than ComVest) had consented to (or was asked to consent to) the terms of the Purported Fourth Amendment. Justice Ramos' opinion also concluded that Yucaipa was not the First Lien Requisite Lender. Justice Ramos' decision was subsequently affirmed by the Appellate Division and Yucaipa's request for further review by the New York State Court of Appeals was denied.

E. Filing of the Schedules and Statement of Financial Affairs and Proof of Claims and Bar Date

On July 25, 2012, the Debtors filed detailed schedules and statements of financial affairs with the Bankruptcy Court. On May 28, 2013, the Debtors filed a proposed form of order establishing the deadline by which parties holding claims against the Debtors must file such claims [Docket No. 1202]. Pursuant to the *Order Pursuant to Section 502(b)(9) of the Bankruptcy Code, Bankruptcy Rules 2002(a)(7), (f), (l) and 3003(c)(3), and Local Rule 2002-1(e) Establishing the Deadline for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof* [Docket No. 1208] (the "**Bar Date Order**"), entered on May 29, 2013, the Bankruptcy Court established August 2, 2013 at 12:00 a.m. (midnight) (prevailing Eastern Time) as the bar date for filing Proofs of Claim against the Debtors and a governmental bar date of November 30, 2013 at 12:00 a.m. (midnight) (prevailing Eastern Time) (collectively, the "**Bar Date**"). On June 3, 2013, the Debtors served, among other things, the *Notice of Deadlines for the Filing of Proofs of Claim* on all known creditors of the Debtors.

The chart below reflects, as of May 1, 2015, Claims that were scheduled as not disputed, contingent or unliquidated, together with timely filed Proofs of Claim, in each case (1) excluding Claims that have been paid or satisfied post-petition, (2) excluding duplicate Claims, including where the same Claim has been filed against multiple Debtors, and (3) reducing amounts for Claims that have been stipulated to after the filing of a Proof of Claim:

Class	Description	Estimated Number of Claims	Estimated Amount of Claims	Treatment Under Plan	Estimated Recovery as % of Available Assets
Unclassified	Administrative Claims and Priority Tax Claims	75	$4,432,000	With respect to each Allowed Administrative Claim, except as otherwise provided for in Section 10.1 of the Plan, on the Effective Date, the holder of each such Allowed Administrative Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Administrative Claim, (A) Cash equal to the unpaid portion of such Allowed Administrative Claim or (B) such different treatment as to which such holder and the Debtors or the Plan Administrator, as applicable, shall have agreed upon in writing; provided, however, that Allowed Administrative Claims (other than Professional Fee Claims and Claims asserted under Section 503(b)(3) or (b)(4)) with respect to liabilities incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases shall be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto. For the avoidance of doubt, (i) Central States shall receive the treatment provided in the Central States Settlement, and (ii) Northwest shall receive the treatment provided in the Northwest Settlement. Each holder of an Allowed Priority Tax Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Tax Claim, as shall have been determined by the Debtors or by the Plan Administrator, either (i) on the Effective Date, Cash equal to the due and unpaid portion of such Allowed Priority Tax Claim, (ii) treatment in a manner consistent with Bankruptcy Code Section 1129(a)(9)(C), or (iii) such different treatment as to which such holder and the Debtors or the Plan Administrator, as applicable, shall have agreed upon in writing.	100%
1	Priority Non-Tax Claims	16	$250,000	On the applicable Distribution Date, each holder of an Allowed Priority Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Claim, either (i) Cash equal to the unpaid portion of such Allowed Priority Claim or (ii) such different treatment as to which such holder and the Debtors or the Plan Administrator, as applicable, shall have agreed upon in writing.	100%

Class	Description	Estimated Number of Claims	Estimated Amount of Claims	Treatment Under Plan	Estimated Recovery as % of Available Assets
2	First Lien Lender Claims		$244,021,526.00	On the applicable Distribution Date, each holder of an Allowed First Lien Lender Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed First Lien Lender Claim its Pro Rata share of: (i) the beneficial interests in the Allied Litigation Trust payable to holders of Allied First Lien Lender Claims in accordance with the Litigation Proceeds Waterfall, and (ii) the First Lien Lender Cash Distribution, provided, however, that each First Lien Lender may elect, in lieu of receipt of its Pro Rata share of the First Lien Lender Cash Distribution, to receive its Pro Rata share of the New Common Stock. Each of the First Lien Lenders comprising the First Lien Requisite Lender has elected to receive shares of New Common Stock in lieu of receiving its Pro Rata distribution of the First Lien Lender Cash Distribution. In addition, on the Effective Date, the First Lien Agents shall distribute to the holders of Allowed First Lien Lender Claims the First Lien Reserves. For the avoidance of doubt, pursuant to the limitations set forth in the First Lien Credit Agreement, in no event shall Yucaipa be entitled to make the election contemplated in the proviso to clause (ii) of this Section 3.3(a) of the Plan. Notwithstanding anything to the contrary set forth herein, any distributions that would otherwise be made on account of the Disputed First Lien Obligations by the Debtors or the First Lien Agents shall be made to the Disputed First Lien Obligations Escrow to be held, and ultimately distributed, in accordance with the terms thereof and the JCT Sale Order. For the avoidance of doubt, the holders of First Lien Lender Claims shall be deemed to waive the right to participate in the GUC Cash Distribution on account of any unsecured portion of a First Lien Lender Claim.	0.16%

Class	Description	Estimated Number of Claims	Estimated Amount of Claims	Treatment Under Plan	Estimated Recovery as % of Available Assets
3	Second Lien Lender Claims		$30,000,000.00	Each holder of an Allowed Second Lien Lender Claim shall receive, in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Second Lien Lender Claim its Pro Rata share of the beneficial interests of the Allied Litigation Trust payable to holders of Allowed Second Lien Lender Claims (calculated on a Pro Rata basis with holders of Allowed General Unsecured Claims) in accordance with the Litigation Proceeds Waterfall, provided, however, that any future distribution on account of such beneficial interests shall be turned over to the First Lien Agents for distribution to the First Lien Lenders to the extent required by Sections 4.1 and 4.2 of the Intercreditor Agreement until the First Lien Lenders have been indefeasibly paid in full in Cash. For the avoidance of doubt, the holders of Second Lien Lender Claims shall be deemed to waive the right to participate in the GUC Cash Distribution on account of any unsecured portion of a Second Lien Lender Claim.	0.00%
4	AIG Claims		$4,382,495.00	On the Effective Date, pursuant to the AIG Settlement (and subject to the satisfaction of the conditions to effectiveness) the AIG Entities shall receive in full satisfaction, settlement, release, and discharge of and in exchange for all Allowed AIG Claims, (i) the AIG Cash Collateral, and (ii) Cash in the amount of $1,000,000.00. If the conditions to effectiveness of the AIG Settlement are not satisfied (or waived by AIG) the AIG Settlement will not become effective and the AIG Claims will be treated as Disputed.	22.82%
5	General Unsecured Claims	1,934	$1,742,807,202.34	On the applicable Distribution Dates, each holder of an Allowed General Unsecured Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed General Unsecured Claim, a Pro Rata share of (a) the GUC Cash Distribution and (b) the beneficial interests of the Allied Litigation Trust payable to holders of Allowed General Unsecured Claims (calculated on a Pro Rata basis with holders of Allowed Second Lien Lender Claims) in accordance with the Litigation Proceeds Waterfall.	0.17%

Class	Description	Estimated Number of Claims	Estimated Amount of Claims	Treatment Under Plan	Estimated Recovery as % of Available Assets
6	Parent Equity Interests	-	$0.00	Holders of Parent Equity Interests shall not receive or retain any distribution under the Plan on account of such Interests, and the Common Stock shall be cancelled as set forth in Section 5.4 of the Plan.	0.00%
7	Subsidiary Equity Interests	-	$0.00	Holders of Subsidiary Equity Interests shall retain such Subsidiary Equity Interests, subject to any corporate reorganization that may be undertaken by the Debtors or the Reorganized Debtors prior to, on or after the Effective Date.	0.00%

The Debtors are currently in the process of reviewing Proofs of Claim and assessing which Claims are valid and which claim objections to prosecute. The Debtors expect to file claim objections. Consequently, the Debtors anticipate that the figures set forth above, which reflect the face amount of claims filed or scheduled (and not otherwise satisfied prior to the filing of the Plan), will be reduced following the claims reconciliation process. As set forth in further detail below, to the extent that the Debtors dispute an amount listed in a Proof of Claim, any distribution that could be made on account of such amount will be reserved in a Disputed Claims Reserve until such time as the Claim is Allowed or disallowed. If such Claim is disallowed, the amounts in the Disputed Claims Reserve will be distributed by the Plan Administrator in accordance with the terms of the Plan.

F. The Sale

On May 17, 2013, the Debtors entered into a stalking horse asset purchase agreement (the "**Stalking Horse Agreement**") with New Allied Acquisition Co. LLC ("**New Allied Acquisition Co.**"), an acquisition entity formed by Black Diamond Commercial Finance, L.L.C. and Spectrum Commercial Finance LLC, in their capacities as First Lien Agents, contemplating the sale of substantially all of the Debtors' assets. Also on May 17, 2013, the Debtors filed the *Motion of the Debtors for Entry of Orders: (A)(I) Approving Bid Procedures Relating to Sale of the Debtors' Assets; (II) Approving Bid Protections; (III) Scheduling a Hearing to Consider the Sale; (IV) Approving the Form and Manner of Notice of Sale by Auction; (V) Establishing Procedures for Noticing and Determining Cure Amounts; and (VI) Granting Related Relief; and (B)(I) Approving Asset Purchase Agreement and Authorizing the Sale of Certain Assets of Debtors Outside the Ordinary Course of Business; (II) Authorizing the Sale of Assets Free and Clear of all Liens, Claims, Encumbrances, and Interests; (III) Authorizing the Assumption, Sale, and Assignment of Certain Executory Contracts and Unexpired Leases; and (IV) Granting Related Relief* [Docket No. 1175] (the "**Sale Motion**"), seeking approval of bid procedures and the Stalking Horse Agreement.

On June 21, 2013, the Bankruptcy Court entered a bidding procedures order [Docket No. 1320], which (1) established bidding and auction procedures (the "**Bidding Procedures**") related to the Sale; (2) scheduled a hearing (the "**Sale Hearing**"); (3) approved the form and manner of

notice of an auction (the "**Auction**"); and (4) established procedures to determine cure amounts and deadlines for objections for certain contract and leases to be assumed and assigned by the Debtors.

From August 14, 2013 through August 15, 2013, the Debtors conducted the Auction, and at the conclusion of the Auction, the Debtors determined that New Allied Acquisition Co.'s final bid, worth approximately $105 million, was the highest and best bid submitted at the Auction. On August 16, 2013, the Debtors filed the *Notice of Successful Bidder at Auction of Sale of Substantially All of Debtors' Assets* [Docket No. 1609].

Numerous parties filed objections to the sale of the Debtors' assets to New Allied Acquisition Co. [Docket Nos. 1602, 1628, 1720, 1723, 1724, 1730, 1731, 1735, 1736, 1754 & 1761]. On September 6, 2013, Jack Cooper, one of the bidders at the Auction, made a revised bid for the Debtors' assets of $135 million. On that same day, the Committee filed the *Motion of the Official Committee of Unsecured Creditors to Reopen the Auction Relating to the Sale of Substantially All of the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests* [Docket No. 1769] (the "**Motion to Reopen**"), seeking to reopen the Auction to allow Jack Cooper to formally submit its revised bid for the Debtors' assets. On September 8, 2013, the Debtors joined in the Motion to Reopen [Docket No. 1772]. On September 9, 2013, the Bankruptcy Court conducted a telephonic hearing on the Motion to Reopen and approved same. Accordingly, the Debtors reopened the Auction on September 11, 2013, and the reopened Auction concluded on September 12, 2013. On September 12, 2013, the Debtors filed the *Amended Notice of Successful Bidders at Auction in Connection with the Sale of Substantially All the Debtors' Assets* [Docket No. 1806], announcing that the successful bidder for substantially all of the Debtors' assets other than certain owned real and personal property (the "**Excluded Assets**") was Jack Cooper, and that the successful bidder for the Excluded Assets was an acquisition entity to be formed by the First Lien Agents (the "**SBDRE Purchaser**").

On September 17, 2013, the Bankruptcy Court approved the JCT Sale and entered the JCT Sale Order. On September 30, 2013, the Bankruptcy Court approved the SBDRE Sale and entered the SBDRE Sale Order. The JCT Sale closed on December 27, 2013. On March 20, 2014, the SBDRE Purchaser assigned its rights to acquire certain of the Excluded Assets to ATC Transportation LLC and the SBDRE Sale with respect to those Excluded Assets was consummated. The SBDRE Sale with respect to other Excluded Assets was consummated on June 12, 2014. In addition to satisfying certain cure claims, including prepetition Claims of counter-parties to contracts that were assumed and assigned to Jack Cooper in connection with the Sale (such satisfaction being part of the overall consideration for the Sale), the Debtors satisfied certain other obligations from the proceeds of the Sale pursuant to authority granted under the JCT Sale Order, including obligations arising under the Replacement DIP Facility. Accordingly, on or shortly after the closing date of the JCT Sale, certain of the Claims against the Debtors were satisfied.

G. The Retiree Benefit Plans and the Retiree Committee

On December 9, 2013, the Debtors filed the *Debtors' Motion to Approve Termination of Retiree Medical Benefits* [Docket No. 2064] (the "**Retiree Motion**"), seeking to terminate the medical benefits provided to certain of the Debtors' retirees (the "**Medical Benefits Retirees**"), pursuant to Allied Holdings' contractual right to terminate the Retirement Benefit Plan.[8] One of the Medical Benefit Retirees filed two objections to the Retiree Motion [Docket Nos. 2088 & 2119]. In response to these objections, the Bankruptcy Court ordered the U.S. Trustee to form the Retiree Committee to serve as the "authorized representative" of the Medical Benefits Retirees under Section 1114(b) of the Bankruptcy Code. On January 8, 2014, the U.S. Trustee formed the Retiree Committee. Since that time, the Debtors have adjourned the Retiree Motion and have continued to provide medical benefits to the Medical Benefits Retirees, as described below.

At the time the Debtors filed the Retiree Motion and through the close of the JCT Sale, the Medical Benefits Retirees were covered under an employee group medical plan for non-union employees. Once the JCT Sale closed, the Debtors' insurer determined not to renew the group policy. Therefore, Allied Holdings undertook to provide premium supplements to the Medical Benefits Retirees. Allied Holdings has paid approximately $13,000 a month for these premium supplements, which cover (1) the cost of the premium for a prescription drug supplement for those Medical Benefits Retirees that are also covered by Medicare and (2) the benefits premium for the four Medical Benefits Retirees not covered by Medicare (and their dependents).

In addition the Retirement Benefit Plans include a program which provides for a death benefit of $5,000 to each of about one hundred fifty-five retirees. Further, another retiree asserts a right to a death benefit of $50,000.

In connection with confirmation of the Plan, the Debtors shall seek entry of either (1) a form of the Confirmation Order that deems the Retiree Benefit Plans terminated and cancelled in accordance with their terms or as otherwise permitted by law on the Effective Date or (2) upon the Debtors' satisfaction of the requirements of Section 1114 of the Bankruptcy Code, the 1114 Order terminating the Retiree Obligations under the Retiree Benefit Plans. Entry of a form of Confirmation Order that provides for such termination on the Effective Date or the 1114 Order is a condition to the occurrence of the Effective Date.

H. The Requisite Lender Litigation; Committee Adversary Proceeding and Lender Direct Complaint

On October 18, 2012, the Debtors initiated an adversary proceeding (Case No. 12-11564) (the "**Allied Adversary Proceeding**") against the First Lien Lenders seeking (1) to enjoin the NYS Action, and (2) a declaration that the Third and Fourth Amendments to the First Lien

[8] Allied Holdings possesses a contractual right "to amend, withdraw, suspend, or terminate" the Retiree Benefit Plan "in its sole discretion." *See* Retiree Benefit Plan, § 6. A copy of the Retiree Benefit Plan was filed an exhibit to the Retiree Motion.

Credit Agreement were valid and enforceable in accordance with their terms and also seeking a declaration as to the identity of the First Lien Requisite Lender. The Bankruptcy Court refused to enjoin the NYS Action, which was then set for oral argument on the motion of Black Diamond and Spectrum for summary judgment. Justice Ramos' oral decision at the conclusion of the hearing in November 2012, and subsequently confirmed by his written decision in March 2013, effectively rendered moot substantially all of the relief requested in the Allied Adversary Proceeding.

Notwithstanding Jutice Ramos' ruling in the NYS Action, on January 5, 2013, Yucaipa filed cross-claims in the Allied Adversary Proceeding seeking, *inter alia*, a declaration that the Third Amendment was invalid (the "**Yucaipa Cross-Claims**"). At a hearing on February 27, 2013, the Bankruptcy Court dismissed the Yucaipa Cross-Claims, finding, among other things, that the Third Amendment was valid and enforceable and that the covenant not to sue in the Third Amendment barred the Yucaipa Cross-Claims.

On February 1, 2013, the Committee commenced an adversary proceeding (Case No. 13-50530) (the "**Committee Adversary Proceeding**"), asserting claims against Yucaipa for, *inter alia*, equitable subordination, and breach of fiduciary duty claims against certain of the Debtors current and former officers and directors. That same day, the Committee filed a motion for standing to prosecute claims on behalf of the Debtors' estates [Docket No. 858]. In that standing motion, the Committee noted that it had undertaken "a comprehensive investigation of potential claims belonging to the Debtors' estates." Id. ¶ 6.

On February 27, 2013, the Bankruptcy Court granted the Committee standing to pursue various claims against Yucaipa and the Debtors' officers and directors and allowed the First Lien Agents to "intervene/participate in the litigation." As a result, on March 14, 2013, the Committee, as plaintiff, and the First Lien Agents, as intervenors, filed the Amended Complaint against Yucaipa and numerous officers and directors of Allied. A copy of the Amended Complaint is attached hereto as Exhibit DS-3. The Amended Complaint in the Committee Adversary Proceeding asserts various claims, including breach of fiduciary duty claims, an equitable subordination claim against Yucaipa on behalf of the Estates, brought by the Committee, and an equitable subordination claim against Yucaipa on behalf of the First Lien Lenders (other than Yucaipa) brought by the First Lien Agents as intervenors. The claims and causes of action being prosecuted in the Committee Adversary Proceeding are the "Estate Claims" that will be transferred to the Allied Litigation Trust upon the Effective Date of the Plan, with the proceeds thereof distributed to the Holders of Allowed Claims pursuant to the Litigation Proceeds Waterfall.

On April 8, 2013 defendant Mark Gendregske filed motions seeking (a) a determination that the breach of fiduciary duty claims were non-core proceedings and a demand for a jury trial, and (b) withdrawal of the reference by the District Court. Neither Yucaipa nor the other defendants joined in that motion or sought similar relief. Black Diamond, Spectrum and the UCC filed oppositions to the Gendregske motions. On January 28, 2015, the Bankruptcy Court issued an Opinion concluding that the breach of fiduciary duty claims against Gendregske are

non-core and that he is entitled to a jury trial. On April 9, 2015, the District Court granted Gendregske's motion to withdraw the reference.

On July 10, 2014, Yucaipa filed a motion in the Bankruptcy Court seeking to amend its answer to the Amended Complaint and assert counterclaims for equitable subordination against Black Diamond and Spectrum. The basis for Yucaipa's equitable subordination claim is that Black Diamond and Spectrum engaged in a concerted scheme, carried out over a period lasting more than three years, to induce Yucaipa to purchase First Lien Obligations so that, in connection with a later bankruptcy of Allied, they could seek to have Yucaipa's debt equitably subordinated in a way that would materially increase the recoveries for Black Diamond and Spectrum. According to Yucaipa, this scheme included (a) improper inducement of Yucaipa (an insider) to purchase First Lien Obligations and become the Requisite Lender, only to thereafter challenge Yucaipa's status and block recognition by CIT (the then First Lien Agent), (b) litigation with Yucaipa over the validity of the Purported Fourth Amendment to the Credit Agreement, (c) sham negotiations with Jack Cooper regarding the potential sale of First Lien Obligations to Jack Cooper, (d) improper trading of First Lien Obligations between Black Diamond and Spectrum coupled with fraudulent representations to the Bankruptcy Court in connection with the May, 2102 involuntary chapter 11 petitions, and (e) baseless assertions of claims for equitable subordination against Yucaipa. Black Diamond and Spectrum opposed the motion to amend and the Bankruptcy Court has not yet ruled on the request.

On July 9, 2013, the First Lien Agents filed a motion for summary judgment in the Allied Adversary Proceeding and the Committee Adversary Proceeding for a determination that they are the First Lien Requisite Lender. At a hearing on July 30, 2013, the Bankruptcy Court granted that motion, ruling that Black Diamond and Spectrum are the First Lien Requisite Lender [Adv. Pro. 13-50530 D.I. 297].

On November 19, 2014, Black Diamond and Spectrum, together with Black Diamond Commercial Finance, LLC and Spectrum Commercial Finance, LLC, commenced an adversary proceeding in the Bankruptcy Court against Yucaipa, numerous officers and directors of Allied, and Ronald Burkle.[9] The Lender Direct Complaint[10] asserts, *inter alia*, a claim for equitable subordination against Yucaipa based, in part, on allegations that Yucaipa improperly used its status as purported First Lien Requisite Lender prior to the commencement of the Chapter 11 Cases to, among other things, derail negotiations with Jack Cooper -- regarding a transaction that Yucaipa alleges would have resulted in all lenders under the First Lien Facility receiving payment in full -- by insisting upon a disproportionate share of the consideration Jack Cooper was willing to pay. The claims and causes of action asserted in this adversary proceeding are referred to as the "Lender Direct Claims" and will be prosecuted together with the Estate Claims, with the proceeds thereof distributed to the Holders of Allowed Claims pursuant to the Litigation Proceeds Waterfall. On February 19, 2015, Yucaipa and the other defendants (other than Burkle) filed answers to the complaint denying the material allegations, asserting affirmative

[9] BDCM Opportunity Fund II, LP, et al. v. Yucaipa Am. Alliance Fund I, L.P., et al., Adv. Proc. No. 14-50971 (CSS) (Bankr. D. Del.).

[10] A copy of the Lender Direct Complaint is attached hereto as Exhibit DS-4.

defenses, and asserting counterclaims against Black Diamond and Spectrum for equitable subordination (on the same bases as the equitable subordination claim described above). In addition, Burkle filed a motion to dismiss the claims against him.

Black Diamond and Spectrum filed a motion to dismiss Yucaipa's counterclaim for equitable subordination and Yucaipa has opposed that motion. Black Diamond and Spectrum also filed an opposition to Burkle's motion to dismiss and Burkle has filed a reply in support. The Bankruptcy Court has not yet ruled on either Black Diamond and Spectrum's motion to dismiss the equitable subordination counterclaim or on Burkle's motion to dismiss.

On February 10, 2015, in reliance on the Bankruptcy Court's January 28th Opinion in respect of the Gendregske motion for determination of core versus non-core status, Yucaipa and the other defendants filed (a) a motion for determination of core versus non-core status of the claims asserted by Black Diamond and Spectrum, and (b) a motion seeking withdrawal of the reference. Black Diamond and Spectrum have opposed both motions and Yucaipa and the other defendants have filed replies. The Bankruptcy Court entered an agreed order on Yucaipa and the other defendants' motion for determination of core versus non-core status. The District Court has not yet ruled on the motion to withdraw the reference.

I. The Northwest Settlement and the Central States Settlement

On March 3, 2014, Northwest filed the Northwest Request, asserting an administrative expense claim and/or Priority Claim in the amount of $93,960.27. According to the Northwest Request, prior to the commencement of the Chapter 11 Cases and through the close of the Sale, the Debtors employed members of a bargaining unit represented by Teamsters Locals 542 and 848. The Debtors were also party to collective bargaining agreements with Locals 542 and 848 and agreed to be bound by the Western Conference of Teamsters Pension Trust Fund Agreement and Declaration of Trust (the "**Pension Trust Fund Agreement**"). Northwest alleges in the Northwest Request that the Debtors agreed under the Pension Trust Fund Agreement that if they were to withdraw from a pension plan established in connection with the Pension Trust Fund Agreement (the "**Pension Plan**"), they would be generally liable to the Western Conference of Teamsters Pension Trust (the "**Trust Fund**") for a share of the unfunded vested benefits of the Pension Plan, as determined under the Employer Withdrawal Liability Rules and Procedures adopted and amended from time to time by the trustees of the Trust Fund. Northwest further alleges that in 2011, the Debtors had a partial withdrawal from the Pension Plan, and that the consummation of the Sale triggered a complete withdrawal liability. Northwest, as the authorized administrative agent and assignee of the Trust Fund, has calculated the Debtors' total withdrawal liability as $5,223,598.88, $93,970.27 of which could be attributed to the time after the Petition Date.

Following the filing of the Northwest Request, the Plan Proponents engaged in discussions with Northwest regarding the Northwest Request. Following these discussions, the Plan Proponents and Northwest reached the Northwest Settlement, agreeing to reduce and allow the Administrative Claim or Priority Claim in the Northwest Request in the Northwest Request

in the amount of $40,000.00. The Northwest Settlement has no effect on the General Unsecured Claims of Northwest for withdrawal liability.

Central States also asserts Claims against the Estates for withdrawal liability relating to a pension plan. In its filed Proofs of Claims, Central States alleges that the Debtors may not have correctly reported contribution amounts, and accordingly, the amounts asserted in its Proofs of Claims may grossly understate the Debtors' withdrawal liability. Central States further indicates in the Proofs of Claims that at least a portion its Claims are Administrative Expense Claims and/or Priority Claims. Following discussions, the Plan Proponents and Central States have agreed, pursuant to the Central States Settlement, to reduce and allow the portion of the Central States Claim alleged to constitute an Administrative or Priority Claim in the amount of $270,000.00. The Central States Settlement has no effect on the General Unsecured Claims of Central States for (among other things) withdrawal liability.

J. The AIG Settlement

On January 16, 2014, the AIG Entities filed the AIG Motion, seeking, *inter alia*, an Allowed Administrative Expense Claim in the amount of the 2012 Premium Adjustment (defined below), any premium that becomes due for the 2013/2014 Policy Period (as defined in the AIG Motion), and any other premiums that become due as a result of further adjustments.

AIG provided primary casualty coverage to the Debtors pursuant to two programs, the U.S. Insurance Program and the Canada Insurance Program (collectively, the "**Chartis Insurance Programs**"). In connection with the Chartis Insurance Programs, the AIG Entities hold cash collateral (in the amount of approximately $6,381,880 as reflected in AIG's Summary of Closeout Quotes dated August 15, 2015 and as adjusted thereafter).

On January 9, 2013, the Debtors filed the *Debtors' Motion for an Order (I) Authorizing the Debtors to Assume the Chartis Insurance Programs, (II) Approving the Debtors' Entry into Postpetition Insurance Agreements Pursuant to the Chartis Insurance Programs, and (III) Granting Related Relief* [Docket No. 765] (the "**AIG Assumption Motion**"). On January 24, 2013, the Bankruptcy Court entered an order approving the AIG Assumption Motion [Docket No. 810] (the "**AIG Assumption Order**"), authorizing Chartis (as defined in the AIG Assumption Order and which are certain of the AIG Entities) to have administrative expense claims and obviating the need for Chartis to file Proofs of Claims with respect to such administrative expense claims.

Following entry of the AIG Assumption Order, AIG renewed certain of the U.S. Insurance Programs and Canada Insurance Programs to January 1, 2014. In the AIG Motion, AIG alleges that the Debtors failed to pay a November 2013 invoice in the amount of $1,141,100.00 (the "**2012 Premium Adjustment**"). The AIG Motion further asserts that AIG was attempting to audit the Debtors' books and records to determine whether any premium obligations were due for the policy period covering January 1, 2013 to January 1, 2014 (the "**2013 Policy Period**") and that it would invoice the Debtors for amounts related to the

2013/2014 Policy Period. Later, the AIG entities determined that the Debtors owe approximately $93,624 for premium obligations for the 2013/2014 Policy Period.

In reaction to the Sale, AIG filed the AIG Motion to ensure that the Debtors comply with the Assumption Order, including providing for the payment of $1,234,724.00, the 2012 Premium Adjustment and the premium obligation for the 2013/2014 Policy Period. As described in further detail below, the Plan proposes that on the Effective Date, the AIG Entities receive, in full satisfaction, settlement, release, and discharge of and in exchange for all Allowed AIG Claims, the AIG Cash Collateral plus a cash payment of $1,000,000.

In addition to (i) the agreement of the Debtors and AIG on a form of settlement agreement to be filed as part of the Plan Supplement and (ii) the occurrence of the Effective Date, the effectiveness of the AIG Settlement shall be conditioned upon satisfaction of the following conditions, which may be waived by AIG: (a) the Debtors shall have settled or transferred to the State of Florida all remaining workers' compensation claims, or shall otherwise have withdrawn from the self-insured workers' compensation program in the State of Florida, and (b) the Debtors shall have settled or transferred to the State of Georgia all remaining workers' compensation claims, or shall otherwise have withdrawn from the self-insured workers' compensation program in the State of Georgia. If these conditions are not satisfied (or waived by AIG) the AIG Settlement will not become effective and the AIG Claims will be treated as Disputed.

K. Settlement Among the Debtors, the Committee and the First Lien Agents (on behalf of the First Lien Lenders)

Pursuant to each of the 2012 Final DIP Order and the Replacement DIP Order, the First Lien Agents (for the benefit of the First Lien Lenders) were granted certain "adequate protection" in the form of adequate protection liens and superpriority adequate protection claims to protect them against any diminution in their interests in the Collateral resulting from, *inter alia*, the Debtors' incurrence of debtor in possession financing and use of cash collateral pursuant to the 2012 DIP Order and the Replacement DIP Order. In addition, pursuant to the JCT Sale Order, the First Lien Agents agreed to fund the Wind Down Budget (as defined therein).

The Committee challenged the amount of the First Lien Agents' adequate protection claims arguing that the priming of the First Lien Facility by the 2012 DIP Facility and the Replacement DIP Facility did not result in a diminution in the value of the Collateral. Rather, the Committee asserted that those loan facilities allowed the Debtors to preserve and maintain the value of the Collateral, enabling it to be sold to Jack Cooper and SBDRE. To avoid potentially extensive and protracted litigation over the extent of such diminution, the Debtors, the Committee and the First Lien Agents have agreed that the Plan (including the funds to be made available by the First Lien Agents to fund the distributions contemplated by the Plan) shall constitute a settlement of any and all disputes between or among the Debtors, the Committee and the First Lien Agents (on behalf of the First Lien Lenders), including any such disputes relating

to the First Lien Agents' entitlement to adequate protection and the obligation of the First Lien Agents to fund the Wind Down Budget.

ARTICLE IV
DESCRIPTION OF THE PLAN

A. Overview

The Plan is a plan of reorganization that provides for a means for the efficient pursuit of the Estate Claims and the Lender Direct Claims, and the maximization of the value of the Debtors' remaining assets through certain continuing business operations.

Jack Cooper and the SBDRE Purchaser acquired substantially all of the Debtors' assets pursuant to the Sale. Accordingly, following the close of the Sale, other than the proceeds of the Sale in which the Debtors hold an interest, the assets that remain in the Debtors' estates include the (i) Estate Claims, (ii) Cash on Hand, (iii) certain interests in recoveries for Taxes, including net operating losses, (iv) three parcels of real property (formerly truck terminals located in Memphis, Tennessee, Soldotna, Alaska, and Columbia, South Carolina) **(the "Retained Property")**, (v) shares of Haul Insurance Limited, the Debtors' captive insurance subsidiary, (vi) the right to recover excess cash collateral pledged to secure obligations under certain self-insured workers' compensation programs and other insurance programs, and (vii) rights related to the foregoing.

After the Effective Date, the Reorganized Debtors will continue a number of business operations, including those related to Haul Insurance Limited,[11] managing the Retained Property (e.g., identifying potential tenants and entering into leases for the Retained Property), and administering certain self-insured workers' compensation programs in Florida, Georgia, and Kentucky.[12] The Reorganized Debtors may also seek to acquire income-producing assets in order to utilize the benefits of retained net operating losses.

The Estate Claims (which together with the Lender Direct Claims comprise the Litigation Trust Assets) shall vest automatically in the Allied Litigation Trust, and the Litigation Claims shall be jointly prosecuted in the Bankruptcy Court (or such other court of competent jurisdiction) in a single action to the maximum extent permitted by law, or otherwise in actions coordinated for the purposes of trial and discovery. The Litigation Oversight Committee and the Litigation Trustee will determine the means by which the Litigation Claims will be prosecuted in order to maximize efficiency and minimize cost. Funding for the prosecution of the Litigation Claims shall be provided through the Litigation Funding Loans issued by the Litigation Lenders.

[11] Haul Insurance Limited historically has provided reinsurance on several programs that are ongoing, and will take several years to conclude. The Reorganized Debtors will continue their relationships with certain third-party administrators to oversee the reinsurance programs, including making periodic payments of fees and claims as required.

[12] The Reorganized Debtors will also continue their relationships with certain third-party administrators engaged by the Debtors to oversee the workers compensation programs, including making periodic payments of fees and claims as required.

Each First Lien Lender (other than Yucaipa) is entitled to participate in the Litigation Funding Loans up to its pro rata share of the First Lien Obligations (calculated without giving effect to any First Lien Obligations held or allegedly held by Yucaipa). The Backstop Parties will backstop the commitments for the full amount of the Litigation Funding Loans.

As described in further detail below, the beneficial interests in the Allied Litigation Trust will be distributed to holders of Claims as a portion of the distributions that will be made under the Plan. Proceeds of the Litigation Claims will be distributed pursuant to the Litigation Proceeds Waterfall as follows: (1) *first*, to the Backstop Parties in satisfaction of the Backstop Fee to the extent not otherwise paid from draws under the Litigation Funding Loans; (2) *second*, to repay all Litigation Funding Loans then outstanding; (3) *third*, to the Litigation Lenders in the amount of $4.5 million; (4) *fourth*, a distribution of up to the next $3 million, to be allocated on a dollar for dollar basis (i) 50% on a Pro Rata basis to the holders of Allowed First Lien Lender Claims and (ii) 50% on a Pro Rata basis to the holders of Allowed General Unsecured Claims and Allowed Second Lien Lender Claims; and (5) thereafter, any remaining balance shall be split on a dollar for dollar basis as follows (i) 20% on a Pro Rata basis to the holders of Allowed First Lien Lender Claims; (ii) 5% on a Pro Rata basis to the holders of Allowed General Unsecured Claims and Allowed Second Lien Lender Claims; and (iii) 75% to the Litigation Funding Lenders; provided, however, that any distributions made pursuant to subsection (d) of Section 5.14 of the Plan shall be credited against any distributions that would otherwise be made under clause (e) of Section 5.14 of the Plan. The Litigation Claims seek damages from the defendants (among other relief) in excess of $100 million. Notwithstanding the foregoing, because the Litigation Claims are at an early stage, the Plan Proponents cannot provide any information on the likelihood of success.

The rest of the Debtors' assets (the Reorganized Debtors' Assets) will revest in the Reorganized Debtors, and the Reorganized Debtors will continue to operate as they have following the close of the Sale. On the Effective Date, the Plan Administrator shall have all rights and powers to implement provisions of the Plan pertaining to the Plan Administrator, including, without limitation, the right to (1) effect all actions and execute all agreements, instruments and other documents necessary to implement the provisions of the Plan; (2) make distributions as contemplated in the Plan, (3) establish and administer any necessary reserves for Disputed Claims that may be required; and (4) object to Disputed Claims and prosecute, settle, compromise, withdraw or resolve in any manner approved by the Bankruptcy Court such Disputed Claims. The Litigation Trustee shall serve as the initial Plan Administrator.

As set forth above, the Plan provides the Plan Administrator with the authority to resolve Disputed Claims. As Disputed Claims are resolved (either consensually or by Final Order), the amounts related to such Disputed Claims in the Disputed Claim Reserves will be released for distribution to the Debtors' creditors pursuant to the Plan. For the avoidance of doubt, the Plan Administrator shall not have any obligation to object to or dispute (or expend funds to dispute) any Claims where, in the Plan Administrator's sole judgment, the cost of such objection or dispute is not warranted in light of the potential incremental benefit to the remaining creditors.

B. Administrative Claims and Priority Tax Claims

Administrative Claims are specified in section 503 of the Bankruptcy Code and generally include those expenses related to the administration of the Bankruptcy Case. Priority Tax Claims are those set forth in sections 502(i) and 507(a)(8) of the Bankruptcy Code. Under the Bankruptcy Code, these Claims may not be "classified" and must be paid in full and in Cash to confirm the Plan.

Under the Plan, all Requests for Payment and Claims for Professional Fees must be filed no later than forty-five (45) days after the Effective Date of the Plan or otherwise be barred for all purposes by operation of the Plan. Further, contemporaneous with filing the Plan and the Disclosure Statement, the Debtors filed a motion to establish the date by which holders of Administrative Claims (other than governmental entities to the extent provided in Section 503(b)(1)(D) of the Bankruptcy Code) must assert such Claims against the Debtors. If approved, this bar date will be in advance of the Confirmation Hearing, and the Debtors will provide notice of this bar date in the notice of the Confirmation Hearing.

On the Effective Date, each holder of an Allowed Administrative Claim or an Allowed Priority Tax Claim shall receive in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Administrative Claim or Allowed Priority Tax Claim, either (1) Cash equal to the due and unpaid portion of such Allowed Administrative Claim or Allowed Priority Tax Claim or (2) such different treatment as to which such holder and the Debtors or the Plan Administrator, as applicable, shall have agreed upon in writing. Alternatively, holders of Allowed Priority Tax Claims could receive treatment in a manner consistent with Bankruptcy Code Section 1129(a)(9)(C). For the avoidance of doubt, (i) Central States shall receive treatment provided in the Central States Settlement, and (ii) Northwest shall receive the treatment provided in the Northwest Settlement.

C. Classification and Treatment of Claims and Interests

Section 1123(a)(1) of the Bankruptcy Code requires that the Debtors designate Classes of Claims and Interests, other than Administrative Expense Claims and Priority Tax Claims, under the Plan consistent with Section 1122 of the Bankruptcy Code. The classification set forth in the Plan is applicable for purposes of voting, distribution and confirmation of the Plan.

Set forth below are the Classes of Claims and Interests under the Plan, as well as whether or not such Classes are "impaired" within the meaning of the Bankruptcy Code. Only impaired Classes may vote on the Plan. The Unimpaired Class is deemed to accept the Plan, and the Impaired Class that will not receive a distribution is deemed to reject the Plan.

1. Classification and Treatment of Classified Claims and Interests

a. Unimpaired Class of Claims – Not Entitled to Vote and Deemed to Accept

Class 1 – Priority Claims. Priority Claims are Claims entitled to priority in payment under section 507 of the Bankruptcy Code, other than Administrative Expense Claims and Priority Tax Claims. Each holder of an Allowed Priority Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Claim, either (i) Cash equal to the unpaid portion of such Allowed Priority Claim or (ii) such different treatment as to which such holder and the Debtors or the Plan Administrator, as applicable, shall have agreed upon in writing. Class 1 Claims are not impaired under the Plan and are deemed to accept the Plan.

The Plan Administrator will pay Allowed Priority Claims in full on or as soon as practicable after the later of (1) the Effective Date, or (2) the date on which such Claim becomes an Allowed Claim; or at such other time and in such other manner as may be agreed upon in writing between the holder of such Claim and the Plan Administrator. For the avoidance of doubt, the Plan Administrator shall commence distributions under the Plan to holders of Allowed Priority Claims no later than 60 days after the Effective Date of the Plan.

b. Impaired Classes of Claims – Entitled to Vote

Class 2 – First Lien Lender Claims. First Lien Lender Claims are the Secured Claims held by each First Lien Lender. Each holder of an Allowed First Lien Lender Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed First Lien Lender Claim its Pro Rata share of: (i) the beneficial interests of the Allied Litigation Trust payable to holders of Allowed First Lien Lender Claims in accordance with the Litigation Proceeds Waterfall, (ii) the First Lien Lender Cash Distribution, provided, however, that each First Lien Lender may elect, in lieu of receipt of its Pro Rata share of the First Lien Lender Cash Distribution, to receive its Pro Rata share of the New Common Stock, and (iii) the First Lien Reserves. The First Lien Lender Cash Distribution, $2.6 million, will be funded by the Reorganized Debtors, and payments from First Lien Reserves will be made by the First Lien Agents. Class 2 Claims are Impaired under the Plan and are entitled to vote to accept or reject the Plan. For the avoidance of doubt, pursuant to the Third Amendment to the First Lien Credit Agreement, the First Lien Agents hold an irrevocable power of attorney and proxy to vote any First Lien Lender Claims held or allegedly held by Yucaipa. The First Lien Agents intend to exercise that power of attorney and proxy to vote such First Lien Lender Claims to accept the Plan.

The Plan Administrator will commence distributions of the First Lien Lender Cash Distribution and the First Lien Agents will make distributions from the First Lien Reserves as soon as practicable after the later of (1) the Effective Date, or (2) the date on which the applicable First Lien Lender Claim becomes an Allowed Claim; or at such other time and in such other manner as may be agreed upon in writing between the holder of such First Lien Lender

Claim and the Plan Administrator. For the avoidance of doubt, the Plan Administrator shall commence distributions under the Plan to holders of Allowed First Lien Lender Claims no later than 60 days after the Effective Date of the Plan. Any distribution to Yucaipa (including any distribution to Yucaipa in its capacity as an alleged holder of a Claim in Class 2) shall continue to be held in the Disputed Obligations Escrow (as defined in the JCT Sale Order) and shall be released only in accordance with paragraph 13 of the JCT Sale Order and the Escrow Agreement (as defined in the JCT Sale Order). Further, any payments on account of the distributions of beneficial interests in the Allied Litigation Trust to the holders of Claims in Class 2, payable in accordance with the Litigation Proceeds Waterfall, will be made when proceeds from the Litigation Claims are available.

As noted above, in lieu of its Pro Rata share of the First Lien Lender Cash Distribution, each holder of an Allowed First Lien Lender Claim (other than Yucaipa, who is precluded from making any such election by virtue of the Third Amendment) may elect to receive shares of the New Common Stock by so indicating such election on its Ballot. Those Holders making this election will receive the shares of New Common Stock when the New Governing Documents become effective. Any Holder of First Lien Obligations that either (1) fails to affirmatively make such election on its Ballot, or (2) fails to timely return a Ballot voting to accept the Plan, will be deemed to have elected to receive its Pro Rata Share of the First Lien Lender Cash Distribution. Each of the First Lien Lenders comprising the First Lien Requisite Lender has elected to receive shares of the New Common Stock in lieu of receiving its share of the First Lien Lender Cash Distribution.

Class 3 – Second Lien Lender Claims. The Second Lien Lender Claims are Claims held by each Second Lien Lender. Each holder of an Allowed Second Lien Lender Claim shall receive, in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Second Lien Lender Claim its Pro Rata share of the beneficial interests of the Allied Litigation Trust payable to holders of Allowed Second Lien Lender Claims (calculated on a Pro Rata basis with holders of Allowed General Unsecured Claims) in accordance with the Litigation Proceeds Waterfall, provided, however, that any distribution on account of such beneficial interests shall be turned over to the First Lien Agents for distribution to the First Lien Lenders to the extent required by Sections 4.1 and 4.2 of the Intercreditor Agreement until the First Lien Lenders have been indefeasibly paid in full in Cash. For the avoidance of doubt, the holders of Second Lien Lender Claims shall be deemed to waive the right to participate in the GUC Cash Distribution on account of any unsecured portion of a Second Lien Lender Claim. The Debtors believe that the outstanding principal amount of Second Lien Lender Claims is approximately $30 million. Class 3 Claims are Impaired under the Plan and are entitled to vote to accept or reject the Plan.

Class 4 – AIG Claims. The AIG Claims include the Secured Claims asserted by the AIG Entities pursuant to the AIG Motion and the Administrative Expense Claim asserted by the AIG Entities in the amount of $1,281,710.00. On the Effective Date, pursuant to the AIG Settlement (and subject to the satisfaction of the conditions to effectiveness) the AIG Entities shall receive in full satisfaction, settlement, release, and discharge of and in exchange for all Allowed AIG Claims, the AIG Settlement. If the condition to effectiveness of the AIG Settlement are not

satisfied (or waived by AIG) the AIG Settlement will not become effective and the AIG Claims will be treated as Disputed. Class 4 Claims are Impaired under the Plan and are entitled to vote to accept or reject the Plan.

Class 5 – General Unsecured Claims. General Unsecured Claims are Claims that arose prior to the Petition Date that are not supported by collateral and not entitled to legal priority under the Bankruptcy Code. Each holder of an Allowed General Unsecured Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed General Unsecured Claim, a Pro Rata share of (i) the GUC Cash Distribution and (b) the beneficial interests of the Allied Litigation Trust payable to holders of Allowed General Unsecured Claims (calculated on a Pro Rata basis with holders of Allowed Second Lien Lender Claims) in accordance with the Litigation Proceeds Waterfall. The GUC Cash Distribution will be $3 million and will be funded from Cash on Hand and/or from the Winddown Reserve. Class 5 Claims are Impaired under the Plan and are entitled to vote to accept or reject the Plan.

The Plan Administrator will commence distributions of the portion of the GUC Cash Distribution funded with Cash on Hand and/or from the Winddown Reserve to holders of General Unsecured Claims as soon as practicable after the later of (1) the Effective Date, or (2) the date on which the applicable General Unsecured Claim becomes an Allowed Claim; or at such other time and in such other manner as may be agreed upon in writing between the holder of such General Unsecured Claim and the Plan Administrator. For the avoidance of doubt, the Plan Administrator shall commence distributions under the Plan to holders of Allowed General Unsecured Claims no later than 60 days after the Effective Date of the Plan. Further, any payments on account of the distributions of beneficial interests in the Allied Litigation Trust to the holders of Claims in Class 4, payable in accordance with the Litigation Proceeds Waterfall, will be made when proceeds from the Litigation Claims are available.

c. Impaired Class of Interests – Not Entitled to Vote and Deemed to Reject

Class 6 – Parent Equity Interests. The Parent Equity Interests are the legal, equitable, contractual, or other rights of any Person with respect to the Common Stock. Holders of Parent Equity Interests shall not receive or retain any distribution under the Plan on account of such Interests, and the Common Stock shall be cancelled as set forth in Section 5.4 of the Plan. Class 6 Interests are Impaired and will not receive a distribution under the Plan. Accordingly, Class 6 is deemed to reject the Plan.

d. Unimpaired Class of Interests – Not Entitled to Vote and Deemed to Accept

Class 7 – Subsidiary Equity Interests. The Subsidiary Equity Interests are the equity interests in each of the Debtors other than Allied Holdings. Holders of Subsidiary Equity Interests shall retain such Interests, subject to any corporate reorganization that may be undertaken by the Debtors or the Reorganized Debtors prior to, on or after the Effective Date.

Class 7 Interests are Unimpaired and will not be affected by the Plan. Accordingly, Class 7 is deemed to accept the Plan.

2. Claims and Interests May Be in More Than One Class

A Claim or Interest is part of a particular Class only to the extent that the Claim or Interest qualifies within the definition of that Class and such Claim or Interest is part of a different Class to the extent that the remainder of the Claim or Interest qualifies within the description of a different Class. A Claim or Interest is also placed in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent the Claim or Interest is an Allowed Claim or an Allowed Interest and the Claim or Interest has not been paid, released or otherwise settled prior to the Effective Date.

3. Impairment, Classification, and Related Disputes

A holder of a Claim or Interest may dispute the classification of a Claim or Interest or the treatment of a Class (including whether a Class is Impaired or Unimpaired), by objecting to the Plan or otherwise filing an appropriate motion to challenge the classification, characterization or treatment of the Claim, the Interest, or the Class. The deadline to file any such motion or objection is the deadline set by the Bankruptcy Court to object to confirmation of the Plan. If the Bankruptcy Court does not grant the motion or otherwise confirms the Plan without conditioning confirmation upon any grounds raised in such a motion or objection, the treatment, characterization, and classification set forth in the Plan will be binding upon all holders of Claims and Interests.

D. Acceptance or Rejection of the Plan

1. Classes of Claims Entitled to Vote

Creditors and Interest holders in Classes 1 and 7 are Unimpaired and are deemed to accept the Plan. Creditors in Classes 2, 3, 4, and 5 are Impaired and may vote on the Plan. Holders of Interests in Class 6 are impaired and will not receive a distribution under the Plan. Therefore, holders of Interests in Class 6 are deemed to reject the Plan.

2. Acceptance by a Class of Claims

In accordance with Bankruptcy Code Section 1126(c), and except as provided in Bankruptcy Code Section 1126(e), the Impaired Classes of Claims shall have accepted the Plan if the Plan is accepted by the 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 such Class that have timely and properly voted to accept or reject the Plan.

3. Cramdown

Class 6 is deemed to reject the Plan. In addition, one or more of the Impaired Classes of Claims could vote to reject the Plan. At the Confirmation Hearing, the Debtors will request that

the Bankruptcy Court confirm the Plan notwithstanding such rejection under the cramdown provisions of the Bankruptcy Code, because the Plan is fair and equitable and does not discriminate unfairly with respect to any Class that rejects the Plan.

E. Effects of Confirmation

1. Revesting of Reorganized Debtor Assets

On the Effective Date, the Reorganized Debtor Assets shall revest in the Reorganized Debtors. The value of the Reorganized Debtor Assets is set forth in the Liquidation Analysis attached as Exhibit DS-5 hereto.[13] The Reorganized Debtors may operate their businesses and may use, acquire, and dispose of such property free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, or Bankruptcy Court approval. Except as specifically provided in the Plan or the Confirmation Order, as of the Effective Date, all property of the Reorganized Debtors shall be free and clear of all Claims and Interests, and all Liens with respect thereto. Holders of First Lien Obligations that are considering making the election to receive New Common Stock in lieu of their Pro Rata Share of the First Lien Lender Cash Consideration should be aware that from and after the Effective Date, the Reorganized Debtors will require new capital to, among other things, make the payment required to fund the First Lien Lender Cash Distribution and to pay ongoing costs and expenses. The Reorganized Debtors may raise such capital through the incurrence of debt or the issuance of additional New Common Stock, which could affect the value of the New Common Stock that would be received by any First Lien Lender making such election.

2. Vesting of Litigation Trust Assets in the Allied Litigation Trust

On the Effective Date, the Estate Claims shall vest automatically in the Allied Litigation Trust for joint prosecution with the Lender Direct Claims. The proceeds of the Litigation Claims will be distributed to the Beneficiaries pursuant to the Litigation Proceeds Waterfall.

3. Preservation and Retention of Defenses of the Debtor and Rights to Object to Claims and Interests

Confirmation of this Plan will have no impact upon, and will not render *res judicata*: (i) the Debtors', the Reorganized Debtors', the Allied Litigation Trust's, the Litigation Trustee's or the Plan Administrator's rights and defenses, both legal and equitable, with respect to any Claims or Interests, including, but not limited to, all rights with respect to legal and equitable defenses to alleged rights of setoff or recoupment; or (iii) any party's right to object to any Claim against the Debtors, subject to any limitation expressly set forth in the Plan. Similarly, nothing herein shall prejudice or be deemed to prejudice creditors' rights of setoff or recoupment.

[13] No value has been attributed to the Reorganized Debtors' tax attributes because there can be no assurance that the Reorganized Debtors will generate sufficient income to utilize such tax attributes, or that such attributes will be available for use under applicable law.

4. Authority to Effectuate the Plan

Except as expressly set forth in the Plan, on the Effective Date, all matters provided for under the Plan will be authorized and approved without further approval or order of the Bankruptcy Court.

5. No Waiver of Legal Privileges

Confirmation of the Plan will not waive the attorney/client, work product, or other legal privileges of the Debtors. Further, as set forth in the Plan, (i) the Litigation Trust Assets include the attorney-client privilege related or incidental to the assets identified in definition of the Litigation Trust Assets and (ii) the Reorganized Debtor Assets include the attorney-client privilege related or incidental to the assets identified in the definition of the Reorganized Debtor Assets. Accordingly, the Plan explicitly preserves the attorney-client privilege, and the Litigation Trustee and the Reorganized Debtors are each authorized to assert the attorney-client privilege related to their respective assets.

F. Means of Implementation of the Plan

1. Continued Corporate Existence

The Reorganized Debtors shall continue to exist as of and after the Effective Date as private legal entities, in accordance with the applicable laws of the State of Delaware, the State of Georgia, the State of Florida, the State of Michigan and the applicable jurisdictions in Canada and pursuant to the New Debtor Governing Documents. Notwithstanding the foregoing, the Debtors or the Reorganized Debtors, as applicable, may engage in any corporate restructuring prior to, on or after the Effective Date, which may include the merger, liquidation or dissolution of one or more of the Debtors or the Reorganized Debtors.

2. Entity Governance Documentation

The organizational documents of the Debtors shall be amended as necessary to satisfy the provisions of the Plan and the Bankruptcy Code and shall include, among other things, pursuant to Bankruptcy Code Section 1123(a)(6), a provision prohibiting the issuance of non-voting equity securities (but only to the extent required by Bankruptcy Code Section 1123(a)(6)). The amended organizational documents of the Debtors shall constitute the New Debtor Governing Documents. The New Debtor Governing Documents shall be in substantially the forms of such documents included in the Plan Supplement and shall be in full force and effect as of the Effective Date.

3. The Allied Litigation Trust

a. The Litigation Oversight Committee

The Allied Litigation Trust shall be governed by the Litigation Oversight Committee. The Litigation Oversight Committee shall be comprised of three members: two members

selected by the First Lien Requisite Lender and one member selected by the Committee. Each member of the Litigation Oversight Committee shall be reasonably satisfactory to each of the Backstop Parties. The identity of the members of the Litigation Oversight Committee shall be disclosed prior to the Confirmation Hearing as part of the Plan Supplement in accordance with Section 1129(a)(5) of the Bankruptcy Code. The Litigation Oversight Committee shall be authorized to retain and employ Professionals to assist it with and advise it with respect to its duties under the Plan. All fees and expenses of such Professionals shall be satisfied by the Allied Litigation Trust. The duties and powers of the Litigation Oversight Committee shall terminate upon the final resolution of the Litigation Claims and the final distribution of all proceeds in accordance with the terms of the Litigation Trust Agreement.

b. Appointment of the Litigation Trustee

The Litigation Trustee shall be selected by the Litigation Oversight Committee. Pursuant to the Litigation Trust Agreement, the selection of the Litigation Trustee will be determined by a majority vote of the Litigation Oversight Committee and will require the written approval of the two members of the Litigation Oversight Committee selected by the First Lien Requisite Lender. The identity of the Litigation Trustee shall be disclosed prior to the Confirmation Hearing as part of the Plan Supplement in accordance with Section 1129(a)(5) of the Bankruptcy Code.

c. Rights, Powers, and Duties of the Allied Litigation Trust and the Litigation Trustee

The Allied Litigation Trust shall be established for the purpose of prosecuting the Litigation Claims. The Litigation Trustee shall be a representative of the Debtors' Estates and shall have the power to (1) effect all actions and execute all agreements, instruments and other documents necessary to implement the provisions of the Litigation Trust Agreement; (2) administer the Litigation Trust Assets, including prosecuting, settling, abandoning or compromising any actions that are or relate to the Litigation Trust Assets; (3) employ and compensate professionals and other agents consistent with Section 5.10(b) of the Plan, provided, however, that any such compensation shall be made only out of the proceeds of the Litigation Funding Loans, to the extent not inconsistent with the status of the Allied Litigation Trust as a liquidating trust within the meaning of Treas. Reg. § 301.7701-4(d) for federal income tax purposes; and (4) control attorney/client privilege relating to or arising from the Litigation Trust Assets. The following actions, however, will require prior written approval from the two members of the Litigation Oversight Committee selected by the First Lien Requisite Lender: (1) selection of the Litigation Trustee; (2) any determination to draw funds under the commitments for the Litigation Funding Loans issued by the Litigation Lenders; (3) the incurrence by the Allied Litigation Trust of additional indebtedness to fund the prosecution of the Litigation Claims in excess of the Litigation Funding Loans; (4) retention of counsel and other professionals to assist in prosecution of the Litigation Claims; (5) settlement of all or any portion of the Litigation Claims; and (6) any arrangement for compensation of the Litigation Trustee.

d. Compensation of the Litigation Trustee

The Litigation Trustee will be compensated by the Allied Litigation Trust.

e. Limitations on Liability

The Litigation Trustee (and each of the members of the Litigation Oversight Committee and each of the Professionals retained by the Litigation Trustee and the Litigation Oversight Committee) shall not incur liability to any Person by reason of discharge of its duties as set forth in the Plan, except in the event of gross negligence or willful misconduct.

f. Retention of Professionals

The Allied Litigation Trust (with the approval of the two member of the Litigation Oversight Committee appointed by the First Lien Requisite Lenders) may retain attorneys, accountants, or other professionals to assist in the prosecution of the Litigation Claims. The Litigation Trust may compensate such Professionals without prior order of the Bankruptcy Court.

4. Committee

Upon the Effective Date, the Committee shall dissolve automatically, whereupon its members, Professionals and agents shall be released from any further duties and responsibilities in the Chapter 11 Cases and under the Bankruptcy Code, except with respect to (a) obligations arising under confidentiality agreements which shall remain in full force and effect according to their terms; (b) applications for Professional Fee Claims filed by or on behalf of the Committee; (c) any motions or other actions seeking enforcement or implementation of the provisions of this Plan, the Confirmation Order or the Litigation Trust Agreement, and (d) providing assistance (if requested by the Litigation Trustee) in connection with the Litigation Claims or in defending any claim brought against the Committee by any party in the Litigation Claims. Professionals retained by the Committee shall be entitled to reasonable compensation for services rendered in connection with the matters identified in clauses (b), (c) and (d) after the Effective Date, subject to a budget to be agreed between the Committee and the members of the Litigation Oversight Committee appointed by First Lien Requisite Lender.

5. Retiree Committee

Upon the Effective Date, the Retiree Committee shall dissolve automatically, whereupon its members shall be released from any further duties and responsibilities in the Chapter 11 Cases and under the Bankruptcy Code.

G. Objection to and Resolution of Claims Against and Interests in the Debtors

1. Consolidation for Distribution Purposes Only

Solely for the purposes of determining the Allowed amount of Claims to be used in calculating distributions to be made pursuant to the Plan, any Holder asserting the same Claim against more than one Debtor (based on a guarantee, joint and several liability under contract or applicable law, or any other basis) shall be deemed to have only one Claim and shall only receive distributions under the Plan on account of such Claim.

2. Authority to Object to and Resolve Objections to Claims and Interests

As set forth above, the Plan Administrator may prosecute, settle, or decline to pursue objections to any Claims against or Interests in the Debtors in accordance with the terms of the Plan, whether objections to the Claims or Interests were filed prior to or after the Effective Date. The Plan Administrator shall have no obligation to raise or prosecute any objections to Claims or Interests.

3. Deadline for Objection to Claims and Interests

The last day for filing objections to Claims in the Bankruptcy Court shall be the latest of (1) sixty (60) days after the Effective Date, (2) sixty (60) days after the applicable Proof of Claim or Request for Payment is filed (except as otherwise provided in Section 10.1 of the Plan), and (3) such other later date as is established by order of the Bankruptcy Court upon motion of the Plan Administrator. The Plan Administrator may, in its discretion, move to extend the Claim Objection Deadline at any time prior to the expiration of the Claim Objection Deadline.

4. No Bankruptcy Court Approval Required for Resolution of Disputed Claims

The Plan does not require the Plan Administrator to obtain Bankruptcy Court approval for the resolution of any Disputed Claim. To the extent, however, the Plan Administrator is unable to resolve a Disputed Claim, the Plan Administrator will request the Bankruptcy Court to make a determination resolving such Disputed Claim.

5. Estimation of Claims

The Plan authorizes the Plan Administrator to request that the Bankruptcy Court estimate any Claim pursuant to section 502(c) of the Bankruptcy Code. The Bankruptcy Court may estimate Claims to: (1) establish the Allowed amount of the Claim for purposes of distribution; or (2) to establish the maximum amount of any such Claim, without prejudice to the Plan Administrator later objecting to the Claim.

H. Distributions

1. No Distributions on Account of Disputed Claims

No distribution shall be made on account of any Disputed Claim until and unless such Disputed Claim becomes an Allowed Claim.

2. Setoff

The Plan Administrator may, but shall not be required to, set off against any Claim, and the payments or other distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever that the Debtors, the Reorganized Debtors or the Litigation Trustee may have against the holder of such Claim; provided, however, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors, the Reorganized Debtors or the Allied Litigation Trust of any such claim that the Debtors, the Reorganized Debtors or the Allied Litigation Trust may have against such holder.

3. The Disputed Claims Reserve

Prior to making any distribution to holders of Claims, the Plan Administrator shall establish a Disputed Claims Reserve for Disputed Claims for each Class, which shall be administered by the Plan Administrator. The Plan Administrator shall reserve in Cash or other property, for distribution on account of each Disputed Claim, the amount that would be distributed to the holder of such Disputed Claim if such claim were Allowed in the full asserted amount (or such lesser amount as may be estimated or otherwise ordered by the Bankruptcy Court in accordance with Section 7.5 of the Plan or otherwise) with respect to each Disputed Claim.

4. Maintenance of the Disputed Claims Reserve and other Cash of the Debtors and the Estates

Except as otherwise provided in the Plan, the Plan Administrator may hold Cash of the Estates in one or more accounts that the Plan Administrator determines to be in the best interests of the Estates. Any reference to the establishment or maintenance of any reserves contained in the Plan, including the Disputed Claims Reserves, will not require the Plan Administrator to establish separate deposit or similar accounts for such reserves. The establishment of reserves under the Plan may be accomplished by accounting, general ledger, paper, or other book entry, as the Plan Administrator may determine.

5. Finality of Distributions

All distributions made under the Plan shall be final, and none of the Estates, the Litigation Trustee, nor any representative of the Debtors' Estates may seek disgorgement of any distributions made under the Plan.

6. Manner of Payment; Delivery of Distributions

Except as otherwise set forth in the Plan, the Plan Administrator will make all Cash distributions under the Plan in Cash made by check drawn on a domestic bank or by wire transfer or ACH from a domestic bank.

7. Undeliverable Distributions

If any holder's distribution is returned as undeliverable, no further distributions to such holder shall be made unless and until the Plan Administrator is notified by the Claims Agent or such holder of such holder's then current address, at which time all missed distributions shall be made, subject to Section 7.2(d) of the Plan, to such holder without interest. If any distribution is made by check and such check is not returned but remains uncashed for three (3) months after the date of such check, the Plan Administrator may cancel and void such check, and the distribution with respect thereto shall be deemed undeliverable. If, pursuant to Section 7.8 of the Plan, any holder is requested to provide an applicable Internal Revenue Service form or to otherwise satisfy any tax withholding requirements with respect to a distribution and such holder fails to do so within three (3) months of the date of such request, such holder's distribution shall be deemed undeliverable.

8. Fractional Amounts

The Plan Administrator may elect not to make distributions of Cash in fractions of dollars. Whenever any payment of a fraction of a dollar under the Plan would otherwise be called for, the Plan Administrator may round the amount of such distribution to the nearest dollar (up or down).

9. De Minimis Distributions

The Plan Administrator may elect not to make a distribution of less than $25.00 to any holder of an Allowed Claim unless the distribution is a final distribution. If, at any time, the Plan Administrator determines that the remaining Cash and other assets are not sufficient to make distributions to holders of Allowed Claims in an amount that would warrant the Plan Administrator incurring the cost of making such a distribution, the Plan Administrator may dispose of such remaining Cash and other assets in a manner the Plan Administrator deems appropriate.

10. Withholding and Reporting Requirements

In connection with the Plan and all distributions thereunder, the Plan Administrator shall, to the extent applicable, comply with all tax withholding and reporting requirements imposed by any federal, state, provincial, local, or foreign taxing authority, and all distributions hereunder shall be subject to any such withholding and reporting requirements. The Plan Administrator shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements including, without limitation, requiring that, as a condition to the receipt of a distribution, the holder of an Allowed Claim complete the

appropriate IRS Form W-8 or IRS Form W-9, as applicable to each holder. Notwithstanding any other provision of the Plan, (a) each holder of an Allowed Claim that is to receive a distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed on such holder by any governmental unit, including income and other tax obligations, on account of such distribution, and (b) no distribution shall be made to or on behalf of such holder pursuant to the Plan unless and until such holder has made arrangements satisfactory to the applicable Plan Administrator to allow it to comply with its tax withholding and reporting requirements. Any property to be distributed pursuant to the Plan shall, pending the implementation of such arrangements, be treated as an undeliverable distribution to be held by the Plan Administrator, as the case may be, until such time as the Plan Administrator is satisfied with the holder's arrangements for any withholding tax obligations.

I. Injunctions and Limitations of Liability

1. Injunction

Except as provided in the Plan or the Confirmation Order, as of the Effective Date, all Persons that have held, currently hold, may hold, or allege that they hold, a Claim or other debt or liability that is discharged pursuant to Section 10.7 of the Plan or Bankruptcy Code Sections 524 and 1141 or an Interest or other right of an equity security holder that is terminated pursuant to the terms of the Plan are permanently enjoined from taking any of the following actions against the Debtors, the Reorganized Debtors, the Committee, the Allied Litigation Trust, the Litigation Oversight Committee, the Plan Administrator, the Litigation Trustee, the First Lien Agents, their respective directors, officers, employees, members, participants, agents, representatives, partners, affiliates, counsel, other advisors, successors or assigns, and their respective subsidiaries or their property, on account of any such discharged Claims, debts, or liabilities or terminated Interests or rights: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff, right of subrogation, or recoupment of any kind against any debt, liability, or obligation due to the Debtors, the Reorganized Debtors, the Allied Litigation Trust or the Litigation Trustee; or (v) commencing or continuing any action, in each such case in any manner, in any place, or against any Person that does not comply with or is inconsistent with the provisions of the Plan.

As of the Effective Date, except as provided in the Plan or the Confirmation Order, all Persons shall be precluded from asserting against the Debtors, the Committee, the Reorganized Debtors, the First Lien Agents, the Allied Litigation Trust, the Litigation Oversight Committee, the Plan Administrator or the Litigation Trustee any other or further claims, debts, rights, causes of action, claims for relief, liabilities, or equity interests relating to the Debtors based upon any act, omission, transaction, occurrence, or other activity of any nature that occurred prior to the Effective Date. In accordance with the foregoing, except as provided in the Plan or the Confirmation Order, the Confirmation Order shall be a judicial determination of discharge of all such Claims and other debts and

liabilities against the Debtors and termination of all Common Stock, pursuant to Bankruptcy Code Sections 524 and 1141, and such discharge shall void any judgment obtained against the Debtors at any time, to the extent that such judgment relates to a discharged Claim or terminated Interest.

2. No Liability for Solicitation or Participation

Pursuant to section 1125(e) of the Bankruptcy Code, Persons that solicit acceptances or rejections of the Plan, in good faith and in compliance with the applicable provisions of the Bankruptcy Code, shall not be liable, on account of such solicitation or participation, for violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or the offer, issuance, sale, or purchase of securities.

3. Exculpation and Limitation of Liability

To the fullest extent permitted by applicable law and approved in the Confirmation Order, neither the Debtors, nor the Litigation Oversight Committee, nor any Released Party shall have any liability for any act or omission in connection with, relating to, or arising out of, the Chapter 11 Cases, the formulation, negotiation, or implementation of the Plan, the solicitation of acceptances of the Plan, the pursuit of Confirmation of the Plan, the 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 acts or omissions that constitute or are the result of fraud, criminal conduct, gross negligence, or willful misconduct or willful violation of federal or state securities laws or the Internal Revenue Code.

Notwithstanding any other provision of the Plan other than Section 10.2 of the Plan, to the fullest extent permitted by applicable law and approved in the Confirmation Order, no holder of a Claim or an Interest, no other party in interest, and none of their respective present or former directors, officers, employees, members, participants, agents, representatives, partners, affiliates, counsel, other advisors, successors or assigns, shall have any right of action against the Debtors, the Litigation Oversight Committee or any Released Party for any act or omission in connection with, relating to, or arising out of, the Chapter 11 Cases, the formulation, negotiation, or implementation of the Plan, solicitation of acceptances of the Plan, the pursuit of Confirmation of the Plan, the 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 acts or omissions that constitute or are the result of fraud, criminal conduct, gross negligence, or willful misconduct or willful violation of federal or state securities laws or the Internal Revenue Code.

4. Releases

a. Releases by the Debtor

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtors, the Reorganized Debtors, the Plan Administrator, the

Allied Litigation Trust, the Litigation Trustee and any Person (including the Committee and the First Lien Agents) seeking to exercise the rights of the Debtors' Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to Bankruptcy Code Section 1123(b)(3), shall be deemed to forever release, waive, and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action (including claims or causes of action arising under Chapter 5 of the Bankruptcy Code), and liabilities whatsoever (other than for fraud, willful misconduct, criminal conduct and/or gross negligence), whether direct or derivative, in connection with or related to the Debtors, the Chapter 11 Cases, or the Plan (other than the rights of the Debtors, the Committee, the Reorganized Debtors, the Allied Litigation Trust, the Litigation Trustee and the First Lien Agents to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered thereunder), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity, or otherwise, that are based in whole or part on any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date against (i) any of the directors and officers of the Debtors serving during the pendency of the Chapter 11 Cases, other than those directors and officers named as defendants in either the Amended Complaint or the Lender Direct Complaint or any other director or officer that is party to a tolling agreement with the Committee, (ii) any Professionals of the Debtors, (iii) the First Lien Agents, in their capacity as such, (iv) the First Lien Lenders (other than Yucaipa) in their capacity as such, (v) any Professional of the First Lien Agents, (vi) the Second Lien Lenders (other than Yucaipa) in their capacity as such, (vii) any Professional for the Second Lien Lenders (other than Yucaipa), (viii) the members of the Committee, but only in their capacity as such, (ix) any Professional of the Committee, in their capacity as such; and (x) with respect to the Persons identified in clauses (ii) through (ix), their respective directors, officers, employees, members, participants, agents, representatives, partners, affiliates, counsel, other advisors, successors or assigns (collectively, the "Released Parties"); provided, however, that nothing in Section 10.6(a) of the Plan shall be deemed to prohibit the Debtors, the Reorganized Debtors, the Allied Litigation Trust, the Litigation Trustee, the Plan Administrator or the First Lien Agents from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, causes of action or liabilities they may have against any Person identified as a defendant in any of the Litigation Claims.

b. Releases by Holders of Claims and Interests

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, each holder of a Claim or Interest that affirmatively votes in favor of the Plan and does not otherwise elect on its Ballot to withhold the release contemplated by Section 10.6(b) of the Plan shall be deemed to forever release, waive, and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action and liabilities whatsoever (other than for fraud, willful misconduct, criminal conduct and/or gross negligence) against the Released Parties in connection with or related to the Debtors, the Chapter 11 Cases, or the Plan (other than the rights under the Plan and the contracts,

instruments, releases, indentures, and other agreements or documents delivered thereunder), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity, or otherwise, that are based in whole or part on any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date; provided, however, that nothing herein shall be deemed a waiver or release of a Claim holder's right to receive a distribution pursuant to the terms of the Plan or any obligation under the Plan or Confirmation Order. For the avoidance of doubt, this Release by holders of Claims and Interests is not and shall not be deemed a waiver of the Debtors' rights or claims against the holders of Claims and Interests, including to the Debtors' rights to assert setoffs, recoupments or counterclaims, or to object or assert defenses to any such Claim, and all such rights, causes of action and claims are expressly reserved, except as otherwise provided in the Plan or other Final Order. For the avoidance of doubt, nothing contained in Section 10.6(b) of the Plan shall be deemed to prohibit the First Lien Lenders from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, causes of action or liabilities they may have against any Person identified as a defendant in any of the Litigation Claims.

J. Certain Provisions Relating to Central States, Southeast and Southwest Area Pension Fund

Notwithstanding anything to the contrary contained in the Plan (including, but without limitation, Sections 10.6, 10.7, 10.8 and 10.9 of the Plan), neither Yucaipa nor any Affiliate, officer, director, member or shareholder thereof shall be released from any claim or liability (including, without limitation, any liability or Claim for withdrawal liability under 29 U.S.C. §§ 1383 and 1385) now or hereafter owing to Central States, Southeast and Southwest Area Pension Fund ("**Central States Pension Fund**"), a multi-employer plan as that term is defined by 29 U.S.C. § 1301(a)(3), as a result of any Debtor's participation in Central States Pension Fund. For the avoidance of doubt, subject to the Central States Settlement, nothing in this paragraph shall restrict Central States Pension Fund's right to receive distributions on its Claims pursuant to the terms of the Plan.

Notwithstanding anything to the contrary contained in the Plan, no provision of the Plan shall be construed as discharging, releasing or relieving any party (other than the Reorganized Debtors and their subsidiaries), in any capacity, from any liability imposed under any law or regulatory provision with respect to any pension plans covered by Title IV or ERISA or the Pension Benefit Guaranty Corporation (the "**PBGC**"). Neither the PBGC nor any pension plans covered by Title IV or ERISA will be enjoined or precluded from enforcing any such liability as a result of any provision of the Plan or the Confirmation Order.

1. Release of Liens

Except as otherwise provided in the Plan or the Confirmation Order, all Liens, security interests, deeds of trust, or mortgages against property of the Debtors or the Estates shall be deemed to be released, terminated, and nullified on the Effective Date.

2. Cancellation of Instruments

Unless otherwise provided for in the Plan, on the Effective Date, all Old Securities, including all promissory notes, instruments, indentures, agreements, or other documents evidencing, giving rise to, or governing any Claim against or Parent Equity Interest in the Debtors shall represent only the right, if any, to participate in the distributions contemplated by the Plan.

3. Authorization and Issuance of the New Common Stock

On the Effective Date, Reorganized Allied Holdings shall issue shares of New Common Stock to the New Common Stockholders. The rights of the New Common Stockholders shall be as provided for in the New Debtor Governing Documents.

K. Other Plan Matters

1. Executory Contracts and Unexpired Leases

a. Rejection of Executory Contracts and Unexpired Leases

On the Effective Date, except for the executory contracts and unexpired leases listed in the Plan Supplement, if any, and except to the extent that a Debtor either previously has assumed, assumed and assigned or rejected an executory contract or unexpired lease by an order of the Bankruptcy Court, including, but not limited to, the JCT Sale Order or the SBDRE Sale Order, or has filed a motion to assume or assume and assign an executory contract or unexpired lease prior to the Effective Date, each executory contract and unexpired lease entered into by the Debtors prior to the Petition Date that has not previously expired or terminated pursuant to its own terms will be deemed rejected pursuant to section 365 of the Bankruptcy Code. The Assumed Contracts listed in the Plan Supplement will be assumed effective on the Effective Date of the Plan. Entry of the Confirmation Order shall constitute approval, pursuant to section 365(a) of the Bankruptcy Code, of the rejection or assumption, as appropriate, of such contracts rejected or assumed pursuant to the Plan. The Debtors shall provide written notice to each counterparty to an executory contract or unexpired lease as to whether such contract or lease constitutes an Assumed Contract or has been rejected (together with a statement of the date by which any Proof of Claim must be filed).

b. Claims for Rejection Damages

Proofs of Claim for damages allegedly arising from the rejection of any contract pursuant to the Plan must be filed with the Bankruptcy Court and served on the Plan Administrator not later than thirty (30) days after the Effective Date. All Proofs of Claim for such damages not timely filed and properly served as prescribed herein shall be forever barred and the holder of such a Claim shall not be entitled to participate in any distribution under the Plan.

c. Objections to Proofs of Claim Based On Rejection Damages

Objections to any Proof of Claim based on the rejection of an Executory Contract pursuant to the Plan may be made as otherwise set forth in the Plan.

2. Conditions Precedent to Confirmation

The following are conditions precedent to Confirmation of the Plan: (1) an order pursuant to Bankruptcy Code Section 1125 shall have been entered finding that the Disclosure Statement contains adequate information; (2) the proposed Confirmation Order, in form and substance satisfactory to the Debtors, the First Lien Requisite Lenders and the Committee, shall have been submitted to the Bankruptcy Court; (3) the Bankruptcy Court shall have approved the Northwest Settlement, the Central States Settlement, the AIG Settlement and the settlement among the First Lien Agents (in behalf of the First Lien Lenders), the Debtors and the Committee as contemplated by Section 5.15 of the Plan, and (4) the Bankruptcy Court shall have determined that the Plan satisfies the requirements for confirmation under the Bankruptcy Code.

3. Conditions Precedent to the Effective Date

The following are conditions precedent to the Effective Date of the Plan: (1) the Confirmation Order shall have been entered; (2) the Confirmation Order shall, among other things: (i) provide that the Debtors, the Reorganized Debtors, the Committee, the Plan Administrator, the Litigation Trustee, the Litigation Oversight Committee and the Allied Litigation Trust are authorized and directed to take all actions necessary or appropriate to enter into, implement, and consummate the transactions contemplated by and the contracts, instruments, releases, indentures, and other agreements or documents created under or in connection with the Plan; and (ii) authorize the issuance of the New Common Stock; (3) the Confirmation Order shall not then be stayed, vacated, or reversed; (4) all other actions, documents, and agreements necessary to implement the Plan shall have been effected or executed, or will be effected or executed contemporaneously with implementation of the Plan (including, without limitation, the New Debtor Governing Documents), each of which shall be in form and substance acceptable to the First Lien Requisite Lender; (5) the Cash necessary to fund the First Lien Lender Cash Distribution and the GUC Cash Distribution shall have been provided to the Plan Administrator; (6) the fees and expenses required to be paid on the Effective Date pursuant to Section 10.2 of the Plan shall have been paid in full in Cash; (7) the aggregate amount of all Allowed Administrative Claims and Priority Tax Claims shall not exceed $4.5 million (such cap to be reduced for all administrative expenses and other wind-down costs paid by the Debtors, in the ordinary course, on or after the date of this Disclosure Statement and prior to the Effective Date) and the aggregate amount of all Allowed Priority Claims shall not exceed $275,000; (8) BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 Ltd., and Spectrum Investment Partners, L.P. shall each have executed and delivered the Reorganized Allied Holdings Shareholders' Agreement; (9) either the Confirmation Order shall provide that the Retiree Benefit Plans are terminated by their terms on the Effective Date or the 1114 Order shall have been entered; and (10) the Effective Date shall have occurred by no later than September 30, 2015.

4. Operations of the Debtors Between the Confirmation Date and the Effective Date

During the period from the Confirmation Date through and until the Effective Date, the Debtors shall continue to operate their businesses as debtors in possession, subject to the oversight of the Bankruptcy Court as provided in the Bankruptcy Code, the Bankruptcy Rules, and all Final Orders.

5. Retention of Jurisdiction

From and after the Effective Date, and notwithstanding the entry of the Confirmation Order, to the extent it has jurisdiction, the Bankruptcy Court shall retain exclusive jurisdiction of the Chapter 11 Cases and all matters arising under, arising out of, or related to the Chapter 11Cases, the Plan, and the Confirmation Order to the fullest extent permitted by law, including, among other things, jurisdiction to:

(1) allow, disallow, determine, liquidate, classify, estimate, or establish the priority or secured or unsecured status of any Claim (whether a Filed Claim or Unfiled Claim) or Interest not otherwise Allowed under the Plan (other than personal injury or wrongful death Claims, unless agreed by the holder), including, without limitation, the resolution of any Request for Payment and the resolution of any objections to the allowance or priority of Claims;

(2) hear and determine all applications for Professional Fees; provided, however, that from and after the Effective Date, the payment of the fees and expenses of the retained Professionals of the Reorganized Debtors, the Plan Administrator or the Allied Litigation Trust (to the extent different from those of the Plan Administrator) shall be made in the ordinary course of business and shall not be subject to the approval of the Bankruptcy Court;

(3) hear and determine all matters with respect to contracts or leases or the assumption or rejection of any contracts or leases to which a Debtors were a party or with respect to which the Debtors may be liable, including, if necessary and without limitation, the nature or amount of any required Cure or the liquidation or allowance of any Claims arising therefrom;

(4) effectuate performance of and payments under the provisions of the Plan;

(5) hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters arising out of, under, or related to, the Litigation Claims, the Chapter 11 Cases, including, without limitation, any matters arising out of the asset purchase agreements evidencing the Sale, the JCT Sale Order, and the SBDRE Sale Order;

(6) enter such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan, the Disclosure Statement, or the Confirmation Order;

(7) hear and determine disputes arising in connection with the interpretation, implementation, consummation, or enforcement of the Plan, including, without limitation, disputes arising under agreements, documents, or instruments executed in connection with the Plan, provided, however, that any dispute arising under or in connection with the New Debtor Governing Documents shall be adjudicated in accordance with the provisions of the applicable document;

(8) consider any modifications of the Plan, cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

(9) issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any entity with the implementation, consummation, or enforcement of the Plan or the Confirmation Order;

(10) enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified, or vacated;

(11) hear and determine any matters arising in connection with or relating to the Plan, the Plan Supplement, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, or other agreement or document created in connection with the Plan, the Plan Supplement, the Disclosure Statement, or the Confirmation Order;

(12) enforce all orders, judgments, injunctions, releases, exculpations, indemnifications, and rulings entered in connection with the Chapter 11 Cases or provided for under the Plan;

(13) except as otherwise limited herein, recover all assets of the Debtors and property of the Estates, wherever located;

(14) hear and determine matters concerning state, local, and federal taxes in accordance with Bankruptcy Code Sections 346, 505, and 1146;

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

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

(17) enter a final decree closing the Chapter 11 Cases.

6. Post-Effective Date Reporting and Payment of Certain Fees

The Plan provides that all fees payable pursuant to section 1930 of title 28 of the United States Code shall be paid on the earlier of when due or the Effective Date, or as soon thereafter as practicable. All such fees payable after the Effective Date shall be paid by the Plan

Administrator as and when due, until such time as the Chapter 11 Cases are closed, dismissed or converted.

7. Modification of the Plan

The Plan Proponents may alter, amend, or modify the Plan under Bankruptcy Code Section 1127(a) at any time prior to the Confirmation Date. After the Confirmation Date and prior to substantial consummation of the Plan, as defined in Bankruptcy Code Section 1101(2), the Plan Proponents may under Bankruptcy Code Section 1127(b), institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, provided, however, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

8. Revocation or Withdrawal of the Plan

The Plan Proponents may revoke or withdraw the Plan at any time prior to the Confirmation Date. If the Plan Proponents revoke or withdraw the Plan prior to the Confirmation Date, the Plan shall be deemed null and void. In such event, nothing contained in the Plan shall be deemed to constitute a waiver or release of any claims by or against the Plan Proponents or any other Person or to prejudice in any manner the rights of the Plan Proponents or any Person in any further proceedings involving the Plan Proponents.

L. Miscellaneous Provisions

1. Exemption from Transfer Taxes

All transfers of assets made pursuant to the terms of the Plan shall be exempt from all stamp, transfer, and similar taxes within the meaning of Section 1146(c) of the Bankruptcy Code, to the fullest extent permitted by law.

2. No Admissions

Notwithstanding anything herein to the contrary, nothing contained in the Plan shall be deemed an admission by the Debtors with respect to any matter set forth in the Plan including, without limitation, liability on any Claim or Interest or the propriety of any classification of any Claim or Interest.

3. Controlling Documents

If there is an inconsistency or ambiguity between any term or provision contained in this Disclosure Statement and the Plan, the terms and provisions of the Plan shall control. To the extent there is an inconsistency or ambiguity between any term or provision contained in the Plan and the Confirmation Order, the terms and provisions of the Confirmation Order shall control.

4. Governing Law

Except to the extent the Bankruptcy Code, the Bankruptcy Rules, or other federal laws are applicable, the laws of the State of Delaware shall govern the construction, implementation, and enforcement of the Plan and all rights and obligations arising under the Plan, without giving effect to the principles of conflicts of law.

5. Successors and Assigns

The rights, benefits and obligations of any Person named or referred to in the Plan will be binding upon, and will inure to the benefit of, the heir, executor, administrator, representative, successor, or assign of such Person.

6. Severability

Should the Bankruptcy Court determine, on or prior to the Confirmation Date, that any provision of the Plan is either illegal or unenforceable on its face or illegal or unenforceable as applied to any Claim or Interest, the Bankruptcy Court may alter and modify such provision to make it valid and enforceable to the maximum extent practicable consistent with the original purpose of such provision. Notwithstanding any such determination, interpretation, or alteration, the remainder of the terms and provisions of the Plan shall remain in full force and effect.

7. Integration

The Plan Supplement is incorporated in and is a part of the Plan as if set forth in full therein.

8. Binding Effect

The Plan is binding on and inures to the benefit of (and detriment to, as the case may be) the Debtors and all holders of Claims or Interests (whether or not they have accepted this Plan) and their respective personal representatives, successors, and assigns.

9. Withholding and Reporting

In connection with the Plan and all instruments issued in connection therewith and distributions thereunder, the Plan Administrator shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority and all distributions hereunder shall, to the extent applicable, be subject to any such withholding and reporting requirements. Notwithstanding anything in the Plan to the contrary, in calculating and making the payments under this Plan, the Plan Administrator may deduct from such payments any necessary withholding amount.

10. Other Documents and Actions

Subject to the provisions of the Plan, the Plan Administrator, the Litigation Trustee or the Reorganized Debtors, as applicable, may execute, deliver, file, or record such documents, contracts, instruments, releases and other agreements, and take such other action as is reasonable, necessary, or appropriate to effectuate the transactions provided for in the Plan, without any further action by or approval of the Bankruptcy Court.

11. Substantial Consummation

On the Effective Date, the Plan shall be deemed to be substantially consummated under Section 1101 and 1127(b) of the Bankruptcy Code.

12. Aid and Recognition

The Debtors, the Reorganized Debtors, the Plan Administrator or Litigation Trustee, as the case may be, shall, as needed to effect the terms hereof, request the aid and recognition of any court or judicial, regulatory or administrative body in any province or territory of Canada or any other nation or state.

ARTICLE V
FINANCIAL INFORMATION

The Debtors have filed the Schedules and monthly operating reports with the Bankruptcy Court. This financial information may be examined in the Bankruptcy Court Clerk's Office and is also available on the following website: http://www.omnimgt.com/alliedsystems.

ARTICLE VI
CONFIRMATION PROCEDURES

The following is a brief summary of the Confirmation process. Holders of Claims and Interests are encouraged to review the relevant provisions of the Bankruptcy Code and to consult their own advisors.

A. The Confirmation Hearing

Section 1128(a) of the Bankruptcy Code provides that the Bankruptcy Court, after notice, may conduct the Confirmation Hearing to consider Confirmation. Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to Confirmation.

B. Confirmation Standards

At the Confirmation Hearing, the Bankruptcy Court will determine whether the requirements of Bankruptcy Code Section 1129(a) have been satisfied with respect to the Plan. The Plan Proponents believe that: (1) the Plan satisfies all of the statutory requirements of Chapter 11 of the Bankruptcy Code; (2) the Debtors have complied or will have complied with

all of the requirements of Chapter 11 of the Bankruptcy Code; and (iii) the Plan has been proposed in good faith. Specifically, the Plan Proponents believe that the Plan satisfies or will satisfy the applicable confirmation requirements of Bankruptcy Code Section 1129(a) set forth below.

- The Plan complies with the applicable provisions of the Bankruptcy Code.

- The Debtors and the other Plan Proponents have complied with the applicable provisions of the Bankruptcy Code.

- The Plan has been proposed in good faith and not by any means proscribed by law.

- Any payment made or promised 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 Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, has been disclosed to the Bankruptcy Court, and any such payment made before confirmation of the Plan is reasonable, or if such payment is to be fixed after confirmation of the Plan, such payment is subject to the approval of the Bankruptcy Court as reasonable.

- The Debtors have disclosed or will have disclosed prior to the Confirmation Hearing (i) the identity and affiliations of any individual proposed to serve, after Confirmation of the Plan, as a director or officer of the Reorganized Debtors or as the Litigation Trustee or the lead individual working for or on behalf of the Litigation Trustee, (ii) any affiliate of the Debtors participating in the Plan with the Debtors, or a successor to the Debtors under the Plan, and (iii) the appointment to, or continuance in, such office of such individual is consistent with the interests of creditors and equity holders and with public policy, and the Debtors have disclosed the identity of any insider that will be employed or retained by the Debtors, and the nature of any compensation for such insider.

- With respect to each Impaired Class of Claims, each holder of an Impaired Claim either has accepted the Plan or will receive or retain under the Plan on account of such holder's Claim, property of a value, as of the Effective Date of the Plan, that is not less than the amount such holder would receive or retain if the Debtors were liquidated on the Effective Date under Chapter 7 of the Bankruptcy Code. See discussion of "Best Interests Test" below.

- As set forth above, because Class 6 is deemed to reject the Plan (and other Classes of Impaired Claims could vote to reject the Plan), the Debtors will request that the Bankruptcy Court confirm the Plan notwithstanding such rejection under the cramdown provisions of the Bankruptcy Code.

- Except to the extent that the holder of a particular Claim has agreed to a different treatment of such Claim, the Plan provides that Allowed Administrative Claims,

Allowed Priority Tax Claims and Allowed Priority Claims will be paid in full on the Distribution Date.

- At least one class of Impaired Claims has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a Claim in such Class.

- All fees payable under Section 1930 of Title 28 have been paid or the Plan provides for the payment of all such fees on the Effective Date of the Plan.

C. Best Interests Test/Liquidation Analysis

As described above, Section 1129(a)(7) of the Bankruptcy Code requires that each holder of an Impaired Claim or Interest either (a) accept the Plan or (b) receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive if the Debtors were liquidated under Chapter 7 of the Bankruptcy Code. Because the majority of the Debtors' assets have already been liquidated to Cash, the value of any distributions if the Debtors' Chapter 11 Cases were converted to a case under Chapter 7 of the Bankruptcy Code would be less than the value of distributions under the Plan. This is because conversion of the Chapter 11 Cases to Chapter 7 cases would require the appointment of a Chapter 7 trustee, and in turn, such Chapter 7 trustee's likely retention of new professionals. The "learning curve" that the trustee and new professionals would be faced with comes at a significant cost to the Estates and with a significant delay compared to the time of distributions under the Plan (and prosecution of the Estate Claims). Worse still, a Chapter 7 trustee would be entitled to significant fees relating to the distributions of the already monetized assets made to creditors. Accordingly, a portion of the Cash currently available for distribution to holders of Claims would instead be paid to the Chapter 7 trustee. Attached hereto as Exhibit DS-5 is a liquidation analysis supporting the Plan Proponents' belief that creditors would receive less value if the Debtors were liquidated under Chapter 7 of the Bankruptcy Code.

As a result, the Plan Proponents believe that the Estates would have fewer funds to be distributed in a hypothetical Chapter 7 liquidation than it would if this Plan is confirmed, and therefore holders of Claims in all Impaired Classes will recover less than in the hypothetical Chapter 7 cases. In addition, if the Chapter 11 Cases were converted to cases under the Chapter 7 of the Bankruptcy Code, the only constituents that likely would receive any recovery would be the holders of Allowed First Lien Lender Claims as the assets belonging to the Estates (which, for the most part already have been liquidated) are insufficient to satisfy the Claims of the First Lien Lenders. Therefore, without the structure of the Plan, all of the creditors with Claims of lower priority than the First Lien Lender Claims would likely receive little, if any, recovery on account of their Claims. Accordingly, the Debtors believe that the "best interests" test of Bankruptcy Code Section 1129 is satisfied.

D. Feasibility

The Bankruptcy Code requires that a debtor demonstrate that confirmation of a plan of reorganization is not likely to be followed by liquidation or the need for further financial

reorganization. For the purposes of whether the Plan meets this requirement, the Debtors have analyzed their ability to meet their obligations under the Plan. The Debtors believe that the Plan Administrator will be able to make all payments required under the Plan and that the Litigation Trustee will be able to adequately prosecute the Estate Claims. Moreover, the Reorganized Debtors have the same ability to operate their limited businesses after Confirmation as they did before. Therefore, Confirmation is not likely to be followed by liquidation or the need for further reorganization.

E. Confirmation Without Acceptance by All Impaired Classes

The Bankruptcy Court may confirm a plan of reorganization over the rejection or deemed rejection of the plan of reorganization by a class of claims or interests if the plan of reorganization "does not discriminate unfairly" and is "fair and equitable" with respect to such class. The Plan Proponents believe this Plan meets the test.

1. No Unfair Discrimination

This test applies to Classes of Claims or Interests that are of equal priority and are receiving different treatment under the Plan. The test does not require that the treatment be the same or equivalent, but that such treatment be "fair". The Plan does not discriminates unfairly against any Impaired Class of Claims or Interests. Indeed, each holder of a Claim will receive equal treatment to the other holders of similarly situated Claims. Further, no holder of a Parent Company Interest will receive a distribution, and accordingly, each holder of a Parent Company Interest will receive equal treatment. In addition, while the holders of Subsidiary Equity Interests will retain their Interests under the Plan, and such treatment is different than the treatment that the holders of Parent Company Interests will receive, this disparate treatment is not unfair discrimination in violation of the provisions of the Bankruptcy Code relating to confirmation. The treatment of the Subsidiary Equity Interests only contemplates maintaining the Debtors' corporate structure, as each holder of a Subsidiary Equity Interest is a Debtor. Accordingly, the disparate treatment of Classes 6 and 7 is not unfair discrimination.

2. Fair and Equitable Test

This test applies to Classes of different priority and status (e.g., secured versus unsecured) and includes the general requirement that no Class of Claims or Interests receive more than 100% of the amount of the allowed Claims or Interests in such Class. As to the dissenting class, the test sets different standards depending on the type of claims against or interests in the debtor in such Class. In order to demonstrate that a plan is fair and equitable, the plan proponent must demonstrate:

• Secured Creditors: Each holder of a secured claim either (1) retains its liens on the property, to the extent of the allowed amount of its secured claim and receives deferred cash payments having a value, as of the effective date of the Chapter 11 plan, of at least the allowed amount of such claim, (2) has the right to credit bid the amount of its claim if its property is sold

and retains its liens on the proceeds of the sale (or if sold, on the proceeds thereof), or (3) receives the "indubitable equivalent" of its allowed secured claim.

• Unsecured Creditors: Either (1) each holder of an impaired unsecured claim receives or retains under the Chapter 11 plan property of a value equal to the amount of its allowed claim or (2) the holders of claims and interests that are junior to the claims of the dissenting class will not receive any property under the Chapter 11 plan.

• Equity Interests: Either (1) each holder of an interest will receive or retain under the Chapter 11 plan property of a value equal to the greatest of the fixed liquidation preference (if any) to which such holder is entitled, the fixed redemption price (if any) to which such holder is entitled, or the value of the interest or (2) the holder of an interest that is junior to the non-accepting class will not receive or retain any property under the Chapter 11 plan.

The Debtors believe the Plan satisfies the "fair and equitable" requirement because all of the foregoing requirements have been met, there is no Class of equal priority receiving more favorable treatment, and no holder of a lower class recovers anything until higher classes are paid in full other than that the holders of Subsidiary Equity Interests will retain such Interests while the holders of Parent Company Interests will not. As set forth above, this variation in treatment does not violate the "fair and equitable" requirement because the treatment of Interests in Class 7 only serves as a means of maintaining the Debtors' corporate structure following the Effective Date.

ARTICLE VII
ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

The Plan Proponents believe that confirmation of the Plan represents the best mechanism for expediting a prompt distribution of the Debtors' assets to holders of Claims and Interests. The alternatives to confirmation of the Plan include (a) development of an alternative plan, (b) dismissal of the Bankruptcy Case, or (c) conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code. The Plan Proponents believe that each of these alternatives is inferior to confirmation of the Plan.

The Plan substantially, though not entirely, implements the rights that creditors and holders of Interests would otherwise have under a non-bankruptcy distribution of the Debtors' assets. The Plan Proponents do not believe that there are any other reasonable alternative and better plan structures because there are very few estate assets that have not been liquidated, and the largest unliquidated asset of the Debtors' Estates is the Estate Claims for which the Plan provides the best mechanism for liquidation. Another alternative plan would simply introduce delay and added expense for little, or no, benefit. Therefore, the Plan Proponents believe that pursuing an alternative plan is not appropriate.

Dismissal of the Chapter 11 Cases is also an inferior alternative. Dismissal would, among other things, (a) eliminate the efficacy of the Bar Date Order thereby creating

considerable risks and added costs; (b) cause the automatic stay to terminate; (c) eliminate a forum for contesting Claims; and (d) eliminate the most efficient means for the Debtors to liquidate the Estate Claims. Therefore, dismissal of the Chapter 11 Cases provides no benefit and is not an appropriate alterative to the Plan.

Conversion of these cases to cases under Chapter 7 also is an inferior alternative. Conversion of these cases to cases under Chapter 7 would result in the appointment of a Chapter 7 trustee and, likely, the retention of new professionals. The Chapter 7 trustee also would be entitled to a percentage fee for distributions. The costs alone of replacing the Debtors' current fiduciary and professionals would be disproportionate and unnecessary. Furthermore, the flexibility of the plan process, as described in this Disclosure Statement, makes confirmation of the Plan more efficient and effective than conversion of these cases to Chapter 7.

If the Effective Date of the Plan is delayed, or the Plan is not confirmed, the Debtors will continue to incur Professional Fees that will consume Cash that would otherwise be available to satisfy Allowed Claims. Such a delay would also delay distributions of Allowed Claims, because distributions will not be made until the Effective Date of the Plan.

There are numerous permutations and/or alternatives to the proposed Plan, ranging from technical differences to differences in certain provisions that could be deemed material. It is the Plan Proponents' estimation that the most likely alternative that would provide a meaningfully different structure would be a conversion to Chapter 7. Such an alternative would consume additional Cash in the form of the Chapter 7 trustee's statutory fees as well as the other factors set forth in Section VI.C of this Disclosure Statement, and likely delay distribution of Allowed Claims when compared to the proposed Plan.

ARTICLE VIII
CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

The confirmation and execution of the Plan may have tax consequences to holders of Claims and Interests. The Plan Proponents do not offer an opinion as to any federal, state, local, or other tax consequences to holders of Claims and Interests as a result of the confirmation of the Plan. All holders of Claims and Interests are urged to consult their own tax advisors with respect to the federal, state, local and foreign tax consequences of the Plan. **This Disclosure Statement is not intended, and should not be construed, as legal or tax advice to any Creditor, Interest holder, or other party in interest.**

ARTICLE IX
CONCLUSION AND RECOMMENDATION

The Plan Proponents believe that confirmation of the Plan is in the best interests of all holders of Claims and urge all holders of Claims in Classes 2, 3, 4, and 5 to vote to accept the Plan and to evidence such acceptance by returning their Ballots to the Claims Agent at the address set forth above so that they will actually be received on or before 4:00 p.m., prevailing Eastern Time, [•], 2015.

Dated: June 17, 2015

ASHINC Corp.
(for itself and on behalf of each Debtor)

By: */s/* John F. Blount
Name: John F. Blount
Title: President and CEO/Wind-Down Officer

Official Committee of Unsecured Creditors

By: */s/* Michael G. Burke
Name: Michael G. Burke
Title: Counsel to the Official Committee of Unsecured Creditors

First Lien Agents
By: */s/* Adam C. Harris
Name: Adam C. Harris
Title: Counsel to the First Lien Agents

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Attorneys for the First Lien Agents

EXHIBIT DS-1

[PLAN OF REORGANIZATION]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	**Chapter 11**
ASHINC CORPORATION, *et al.* [1]	)	**Case No. 12-11564 (CSS)**
	)	**Jointly Administered**
Debtors.	)	

DEBTORS' JOINT CHAPTER 11 PLAN OF REORGANIZATION PROPOSED BY THE DEBTORS, THE COMMITTEE AND THE FIRST LIEN AGENTS

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Attorneys for the Committee

- and -

[1] The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: ASHINC Corporation (f/k/a Allied Systems Holdings, Inc.) (58-0360550); AAINC Corporation (f/k/a Allied Automotive Group, Inc.) (58-2201081); AFBLLC LLC (f/k/a Allied Freight Broker LLC) (59-2876864); ASCCO (Canada) Company (f/k/a Allied Systems (Canada) Company) (90-0169283); ASLTD L.P. (f/k/a Allied Systems, Ltd. (L.P.) (58-1710028); AXALLC LLC (f/k/a Axis Areta, LLC) (45-5215545); AXCCO Canada Company (f/k/a Axis Canada Company) (875688228); AXGINC Corporation (f/k/a Axis Group, Inc.) (58-2204628); Commercial Carriers, Inc. (38-0436930); CTSINC Corporation (f/k/a CT Services, Inc.) (38-2918187); CTLLC LLC (f/k/a Cordin Transport LLC) (38-1985795); F.J. Boutell Driveway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

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Attorneys for the First Lien Agents

Dated: June 17, 2015

THE DISCLOSURE STATEMENT WITH RESPECT TO THIS PLAN OF REORGANIZATION HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT. THE PLAN PROPONENTS HAVE SEPARATELY NOTICED A HEARING TO CONSIDER THE ADEQUACY OF THE DISCLOSURE STATEMENT UNDER BANKRUPTCY CODE SECTION 1125. THE PLAN PROPONENTS RESERVE THE RIGHT TO MODIFY OR SUPPLEMENT THIS PLAN OF REORGANIZATION AND THE ACCOMPANYING DISCLOSURE STATEMENT PRIOR TO AND UP TO THE DATE OF SUCH HEARING.

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DEBTORS' JOINT CHAPTER 11 PLAN OF REORGANIZATION

INTRODUCTION

The Debtors, the Committee and the First Lien Agents (each defined below) propose this Plan pursuant to Section 1121(a) of the Bankruptcy Code. Reference is made to the Disclosure Statement (defined below) distributed contemporaneously herewith for a discussion, among other things, of the Debtors' history, business, property, material events in the Chapter 11 Cases (as defined below) and a summary and analysis of the Plan and certain related matters, including risk factors.

No solicitation materials, other than the Disclosure Statement and related materials transmitted therewith and approved by the Bankruptcy Court, have been authorized by the Bankruptcy Court for use in soliciting acceptances or rejection of this Plan. All parties entitled to vote to accept or reject the Plan are encouraged to read the Disclosure Statement and Plan in their entirety before voting.

ARTICLE I

RULES OF CONSTRUCTION AND DEFINITIONS

1.1 Rules of Construction

(a) For purposes of the Plan, except as expressly provided or unless the context otherwise requires, all capitalized terms used in the Plan and not otherwise defined in the Plan shall have the meanings ascribed to them in Section 1.2 of the Plan. Any capitalized term used in the Plan that is not defined herein, but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable.

(b) Whenever the context requires, terms shall include the plural as well as the singular number, the masculine gender shall include the feminine, and the feminine gender shall include the masculine.

(c) Any reference in the Plan to (i) a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions, or as otherwise specified in this Plan, and (ii) an existing document, exhibit, or other agreement means such document, exhibit, or other agreement as it may have been, or may hereafter be, amended, modified, or supplemented from time to time, as the case may be, and as in effect at any relevant point.

(d) Unless otherwise specified, all references in the Plan to sections, articles, schedules, and exhibits are references to sections, articles, schedules, and exhibits of or to the Plan.

(e) The words "herein," "hereof," and "hereto" refer to the Plan in its entirety rather than to a particular portion of the Plan.

(f) Captions and headings to articles and sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan.

(g) The rules of construction set forth in Bankruptcy Code Section 102 and in the Bankruptcy Rules shall apply.

(h) References to a specific article, section, or subsection of any statute, rule, or regulation expressly referenced herein shall, unless otherwise specified, include any amendments to or successor provisions of such article, section, or subsection.

(i) In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

1.2 Definitions

(1) "**1114 Order**" means the order of the Bankruptcy Court, in form and substance acceptable to the First Lien Requisite Lenders, terminating, on the Effective Date, all of the Retiree Obligations under the Retiree Benefit Plans.

(2) **"2007 Plan of Reorganization"** means the plan of reorganization of the Debtors that was confirmed on May 29, 2007 in the Georgia Bankruptcy Case.

(3) **"2012 Final DIP Order"** means the *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503(b) and 507(1), Fed. R. Bankr. P. 2002, 4001 and 9014 and Del. Bankr. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying Automatic Stay* [Docket No. 230], entered on July 12, 2012.

(4) **"Adequate Protection Claims"** means the Adequate Protection Priority Claims and the Supplemental Adequate Protection Priority Claims.

(5) **"Adequate Protection Priority Claims"** means the superpriority administrative expense claims granted under Section 364(c)(1) of the Bankruptcy Code pursuant to the 2012 Final DIP Order.

(6) **"Administrative Claim"** means any Administrative Expense Claim other than any AIG Claim. For the avoidance of doubt, the Northwest Claim, the Central States Administrative Claim and City of New York Administrative Claim are all Administrative Claims.

(7) **"Administrative Expense Claim"** means any Claim for costs and expenses of administration of these Chapter 11 Cases with priority under Section 507(a)(2) of the Bankruptcy Code, including, without limitation, costs and expenses allowed under Section 503(b) of the Bankruptcy Code, the actual and necessary costs and expenses of preserving the Estates of the Debtors, any Claim arising under Section 503(b)(9) of the Bankruptcy Code, any Claim relating to the right of reclamation to the extent afforded such priority under the Bankruptcy Code, any Professional Fee Claims, and any fees or charges assessed against the Estates of the Debtors under 28 U.S.C. § 1930.

(8) **"Administrative Expense Claim Bar Date"** means the date fixed by order(s) of the Bankruptcy Court by which all Persons (other than governmental entities to the extent provided in Section 503(b)(1)(D) of the Bankruptcy Code) asserting an Administrative Expense Claim (other than a Professional Fee Claim, but including any Claim pursuant to Section 503(b) of the Bankruptcy Code) against the Debtors must have filed a Claim or be forever barred from doing so, which date shall be no earlier than five (5) Business Days prior to the first date scheduled for the hearing on Confirmation.

(9) **"AIG Cash Collateral"** means cash collateral (in the amount of approximately $6,381,880 as reflected in AIG's Summary of Closeout Quotes dated August 15, 2015 and as adjusted thereafter) held by the AIG Entities to secure payment and reimbursement obligations under the U.S. Insurance Program and Canada Insurance Program. For the avoidance of doubt, the AIG Cash Collateral does not include any amounts owned or posted by Haul Insurance Limited.

(10) **"AIG Claims"** means the Secured Claim asserted by the AIG Entities with respect to amounts allegedly due and to become due pursuant to the U.S. Insurance Program and Canada Insurance Program, the Administrative Expense Claim asserted by the AIG Entities in the amount of $1,234,724.00 pursuant to the AIG Motion and any and all other Claims held by the AIG Entities against the Debtors.

(11) **"AIG Entities"** means National Union Fire Insurance Company of Pittsburgh, PA, AIG Insurance Company of Canada f/k/a Chartis Insurance Company of Canada, and other insurers affiliated with AIG Property Casualty, Inc. f/k/a Chartis Inc.

(12) **"AIG Motion"** means the *Motion of National Union Fire Insurance Company of Pittsburgh, PA, AIG Insurance Company of Canada, and Other Insurers Affiliated with AIG Property Casualty, Inc. to Compel Enforcement of Order Authorizing Assumption of Chartis Insurance Programs, to Allow and Direct Payment of Administrative Expense, and to Grant Related Relief* [Docket No. 2190], filed on January 16, 2014.

(13) **"AIG Settlement"** means the treatment of the AIG Claims as set forth in Section 3.3(c) of the Plan.

(14) **"Allied Automotive"** means AAINC Corporation (f/k/a Allied Automotive Group, Inc.), a Georgia corporation, one of the above-captioned Debtors.

(15) "**Allied Canada"** means ASCCO (Canada) Company (f/k/a Allied Systems (Canada) Company), an entity organized under the laws of Canada, one of the above-captioned Debtors.

(16) **"Allied Freight"** means AFBLLC LLC (f/k/a Allied Freight Broker LLC), a Delaware limited liability company, one of the above-captioned Debtors.

(17) **"Allied Holdings"** means ASHINC Corporation (f/k/a Allied Systems Holdings, Inc.), a Delaware corporation, one of the above-captioned Debtors.

(18) **"Allied Litigation Trust"** means the trust established pursuant to the Litigation Trust Agreement.

(19) **"Allied Systems"** means ASLTD L.P. (f/k/a Allied Systems, Ltd. (L.P.)), a Georgia limited partnership, one of the above-captioned Debtors.

(20) **"Allowed"** means when used with respect to a Claim, all or any portion of a Claim that (i) is not Disputed, (ii) has been allowed by a Final Order, (iii) was timely filed, and for which no objection was timely filed, (iv) was listed in the Debtors' schedules as undisputed, and for which no objection was timely filed, or (v) is allowed pursuant to any contract, instrument, indenture, or other agreement entered into or assumed in connection with the Plan, *provided*, *however*, that all Allowed Claims shall remain subject to all limitations set forth in the Bankruptcy Code, including, in particular, Sections 502 and 510, as applicable.

(21) **"Amended Complaint"** means the *Official Committee of Unsecured Creditors' Amended Complaint for (I) Equitable Subordination, (II) Recharacterization, (III) Breach of Contract, (IV) Specific Performance, (V) Breaches of Fiduciary Duties, (VI) Aiding and Abetting Breaches of Fiduciary Duties, (VII) Avoidance and Recovery of Avoidable Transfers, and (VIII) Disallowance of Certain Claims* [Adv. Pro. Docket No. 76], filed on March 14, 2013 in the adversary proceeding captioned *The Official Committee of Unsecured Creditors of Allied Systems Holdings, Inc. v. Yucaipa American Alliance Fund I, L.P., et al.*, Adv. Pro. No. 13-50530 (CSS). A copy of the Amended Complaint is attached to the Disclosure Statement as Exhibit DS-3.

(22) **"Assumed Contract"** means any contract or agreement identified on Schedule 6.3 to the Plan Supplement.

(23) **"Axis"** means AXGINC Corporation (f/k/a Axis Group, Inc.), a Georgia corporation, one of the above-captioned Debtors.

(24) **"Axis Areta"** means AXALLC LLC (f/k/a Axis Areta, LLC), a Georgia limited liability company, one of the above-captioned Debtors.

(25) **"Axis Canada"** means AXCCO Canada Company (f/k/a Axis Canada Company), an entity organized under the laws of Canada, one of the above-captioned Debtors.

(26) **"Backstop Fee"** means a fee in the aggregate amount of $900,000.00 payable to the Backstop Parties in consideration for their agreement to backstop the commitments for the Litigation Funding Loans.

(27) **"Backstop Parties"** means affiliates of Black Diamond Capital Management L.L.C.. and Spectrum Investment Partners, L.P. who have agreed to backstop the commitments for the full amount of the Litigation Funding Loans.

(28) **"Bankruptcy Code"** means Sections 101 *et seq.*, of title 11 of the United States Code, as now in effect or hereafter amended and applicable to the Chapter 11 Cases.

(29) **"Bankruptcy Court"** means the United States Bankruptcy Court for the District of Delaware or such other court as may have jurisdiction over the Chapter 11 Cases or any aspect thereof.

(30) **"Bankruptcy Rules"** means the Federal Rules of Bankruptcy Procedure, as now in effect or hereafter amended and applicable to the Chapter 11 Cases.

(31) **"Bar Date"** means (i) with respect to entities other than governmental units, August 2, 2013 at 12:00 a.m. (midnight) Eastern Daylight Time, (ii) with respect to governmental units, November 30, 2013 at 12:00 a.m. (midnight) Eastern Standard Time, and (iii) such other date(s) fixed by order(s) of the Bankruptcy Court, by which all Persons, including governmental units, asserting a Claim against the Debtors, must have filed a Proof of Claim or be forever barred from asserting such Claim.

(32) **"Bar Date Order"** means that certain order of the Bankruptcy Court entered May 29, 2013 [Docket No. 1208], establishing the Bar Date for filing Proofs of Claim, with only those exceptions permitted thereby.

(33) **"Beneficiaries"** means the Litigation Lenders and holders of Allowed First Lien Lender Claims, Allowed Second Lien Lender Claims and Allowed General Unsecured Claims.

(34) **"Business Day"** means any day, excluding Saturdays, Sundays, or "legal holidays" (as defined in Bankruptcy Rule 9006(a)), on which commercial banks are open for business in New York, New York.

(35) **"Canada Insurance Program"** shall have the meaning ascribed to it in the AIG Motion.

(36) **"Cash"** means legal tender of the United States or equivalents thereof.

(37) **"Cash on Hand"** means the cash collateral of the First Lien Lenders held by the Debtors as of the Effective Date of the Plan.

(38) **"Causes of Action"** means all claims as defined in section 101(5) of the Bankruptcy Code, causes of action, third-party claims, counterclaims and crossclaims (including, but not limited to, any and all alter ego or derivative claims and any Causes of Action described in the Disclosure Statement) of the Debtors and/or their Estates that are pending on the Effective Date or may be instituted after the Effective Date against any Person.

(39) **"Central States"** means Central States Southeast and Southwest Areas Health and Welfare Fund and Central States Southeast and Southwest Pension Fund.

(40) **"Central States Administrative Claim"** means the Administrative Expense Claim and Priority Claim portions of the Claims asserted by Central States pursuant to Proofs of Claim numbers 540, 542, 543, 545, 547-552, and 557-565 (but not any General Unsecured Claim) and Allowed, by agreement, in the aggregate amount of $270,000.00 pursuant to the Central States Settlement.

(41) **"Central States Settlement"** means the agreement between the Plan Proponents and Central States to reduce and allow the Central States Administrative Claim in the aggregate amount of $270,000.00.

(42) **"Chapter 11 Cases"** means the above-captioned, jointly-administered chapter 11 cases of the Debtors pending in the Bankruptcy Court under Case No. 12-11564 (CSS).

(43) **"CIT"** means the CIT Group/Business Credit, Inc.

(44) **"City of New York Administrative Claim"** means the Disputed Administrative Expense Claim asserted by The City of New York in the approximate amount of $555,000.00.

(45) **"Claim"** means a claim as such term is defined in Bankruptcy Code Section 101(5) against the Debtors, whether arising before or after the Petition Date and specifically including an Administrative Expense Claim.

(46) **"Claims Agent"** means Rust Consulting/Omni Bankruptcy.

(47) **"Claim Objection Deadline"** means the last day for filing objections to Claims in the Bankruptcy Court, which shall be the latest of (i) sixty (60) days after the Effective Date, (ii) sixty (60) days after the applicable Proof of Claim or Request for Payment is filed (except as otherwise provided in Section 10.1 of the Plan), and (iii) such other later date as is established by order of the Bankruptcy Court upon motion of the Plan Administrator. The Plan Administrator may, in its discretion, move the Bankruptcy Court to enter an order extending the Claim Objection Deadline at any time prior to the expiration of the Claim Objection Deadline.

(48) **"Claims Register"** means the official claims registers in the Debtors' Chapter 11 Cases maintained by the Claims Agent on behalf of the Clerk of the Bankruptcy Court.

(49) **"Class"** means a category of holders of Claims or Interests, as described in Article II of the Plan.

(50) **"Commercial Carriers**" means Commercial Carriers, Inc., a Michigan corporation, one of the above-captioned Debtors.

(51) **"Committee"** means the official committee of unsecured creditors formed by the U.S. Trustee to serve in the Chapter 11 Cases.

(52) **"Common Stock"** means, collectively, any common equity in Allied Holdings outstanding prior to the Effective Date, including, without limitation, any stock option or other right to purchase the common stock of Allied Holdings, together with any warrant, conversion right, restricted stock unit, right of first refusal, subscription, commitment, agreement, or other right to acquire or receive any such common stock in Allied Holdings that have been fully exercised prior to the Effective Date.

(53) **"Common Stockholders"** means the holders of the Common Stock.

(54) "**Confirmation**" means confirmation of the Plan by the Bankruptcy Court pursuant to Bankruptcy Code Section 1129.

(55) **"Confirmation Date"** means the date of entry by the Clerk of the Bankruptcy Court of the Confirmation Order.

(56) **"Confirmation Hearing"** means the hearing to consider Confirmation of the Plan under Bankruptcy Code Section 1128.

(57) **"Confirmation Order"** means the order entered by the Bankruptcy Court confirming the Plan pursuant to Bankruptcy Code Section 1129.

(58) **"Cordin"** means CTLLC LLC (f/k/a Cordin Transport LLC), a Delaware limited liability company, one of the above-captioned Debtors.

(59) "**Cure**" means, in connection with the assumption of an executory contract or unexpired lease, pursuant to and only to the extent required by Bankruptcy Code Section 365(b), (i) the distribution within a reasonable period of time following Effective Date of Cash or such other property (A) as required under the terms of the applicable executory contract or lease, (B) other than as required under the terms of the applicable executory contract or lease, as may be agreed upon by the counterparties and the Debtors, or (C) as may be ordered by the Bankruptcy Court or determined in such manner as the Bankruptcy Court may specify; and/or (ii) the taking of such other actions (A) as required under the terms of the applicable executory contract or lease, (B) other than as required under the terms of the applicable executory contract or lease, as may be agreed upon by the counterparties and the Debtors, or (C) as may be ordered by the Bankruptcy Court or determined in such manner as the Bankruptcy Court may specify.

(60) **"CT Services"** means CTSINC Corporation (f/k/a CT Services, Inc.), a Michigan corporation, one of the above-captioned Debtors.

(61) **"Debtors"** means Allied Holdings, Allied Automotive, Allied Freight, Allied Canada, Allied Systems, Axis Areta, Axis Canada, Axis, Commercial Carriers, CT Services, Cordin, F.J., GACS, Logistic Systems, Logistic Technology, QAT, RMX, Transport Support and Terminal Services, including in their capacities as debtors and debtors in possession pursuant to Bankruptcy Code Sections 1107 and 1108.

(62) **"Disclosure Statement"** means the written disclosure statement that relates to the Plan, as amended, supplemented, or otherwise modified from time to time, and that is prepared, approved and distributed in accordance with Bankruptcy Code Section 1125 and Bankruptcy Rule 3018.

(63) **"Disputed"** means any Claim or portion thereof which (i) was scheduled as "disputed" in the Schedules or (ii) is subject to an objection filed (or similar challenge to a Claim included in any timely filed adversary proceeding) prior to the Claim Objection Deadline that has not been resolved by settlement or Final Order.

(64) **"Disputed Claims Reserve"** means the reserve fund created pursuant to Section 7.1 of the Plan.

(65) **"Disputed First Lien Obligations"** means the First Lien Obligations allegedly owned by Yucaipa that are the subject of certain of the causes of action set forth in the Estate Claims and the Lender Direct Claims.

(66) **"Disputed First Lien Obligations Escrow"** means the proceeds of the JCT Sale allocable to the Disputed First Lien Obligations that have been deposited into escrow in accordance with the JCT Sale Order and pursuant to the terms of that certain Escrow Agreement, dated as of the 27th day of December, 2013, by and among (a) Allied Holdings (on behalf of itself and each of the other Debtors); (b) the First Lien Agents; (c) Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.; and (d) Wilmington Trust, National Association, as Escrow Agent.

(67) **"Distribution Date"** means, subject to the provisions of Section 7.1 of the Plan, unless a later date is established by order of the Bankruptcy Court upon motion of the Debtors, the Plan Administrator, or any other party, the later of (a) the Effective Date or as soon as practicable thereafter, (b) the date such Claim becomes an Allowed Claim or as soon as practicable thereafter, or (c) as soon as practicable following a

determination by the Plan Administrator that that there is sufficient Cash to make a distribution to the holder of such Claim pursuant to the terms of this Plan, *provided however,* that the Plan Administrator will commence distributions under the Plan to the holders of Allowed First Lien Lender Claims and Allowed General Unsecured Claims no later than the date that is 60 days after the Effective Date of the Plan.

(68) **"Distribution Record Date"** means the record date for determining entitlement to receive distributions under the Plan on account of Allowed Claims, which date shall be the Business Day immediately preceding the Effective Date, at 5:00 p.m. prevailing Eastern time on such Business Day.

(69) **"Effective Date"** means the Business Day upon which all conditions to the consummation of the Plan as set forth in Section 8.2 of the Plan have been satisfied or waived as provided in Section 8.3 of the Plan, and is the date on which the Plan becomes effective.

(70) **"Estates"** means the estates of the Debtors in the Chapter 11 Cases, created pursuant to Bankruptcy Code Section 541.

(71) **"Estate Claims"** means all claims of the Debtors' Estates asserted in the Amended Complaint and any additional claims of the Debtors' Estates arising out of, or related to, the facts and circumstances described in the Amended Complaint, including defendants not named in the Amended Complaint.

(72) **"Filed Claim"** means a Claim evidenced by a Proof of Claim or Request for Payment, as applicable.

(73) **"Final Order"** means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket in the Chapter 11 Cases, or the docket of any such other court, the operation or effect of which has not been stayed, reversed, or amended, and as to which order or judgment (or any revision, modification, or amendment thereof) the time to appeal, petition for certiorari, or seek review or rehearing or leave to appeal has expired and as to which no appeal, petition for certiorari or petition for review or rehearing was filed or, if filed, remains pending or as to which any right to appeal, petition for certiorari, reargument, or rehearing shall have been waived in writing by all Persons possessing such right, or, in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order shall have been affirmed by the highest court to which such order was appealed, or from which reargument or rehearing was sought or certiorari has been denied, and the time to take any further appeal, petition for certiorari, or move for reargument or rehearing shall have expired; *provided*, *however*, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure or any analogous rule under the Bankruptcy Rules may be filed with respect to such order shall not cause such order not to be a Final Order.

(74) **"First Lien Agents"** means Black Diamond Commercial Finance, L.L.C., a Delaware limited liability company, and Spectrum Commercial Finance LLC, a Delaware limited partnership, and their respective successors and assigns.

(75) **"First Lien Credit Agreement"** means that certain *Amended and Restated First Lien Secured Super-Priority Debtor in Possession and Exit Credit and Guaranty Agreement*, dated as of March 30, 2007 (as amended by that certain *Limited Waiver and* Amendment *No. 1 to Credit Agreement and Pledge and Security Agreement*, dated as of May 29, 2007, that certain *Amendment No. 2 to Credit Agreement*, dated as of June 12, 2007, and that certain *Amendment No. 3 to Credit Agreement*, dated as of April 17, 2009), made by Allied Systems and Allied Holdings, as borrowers, the other Debtors, as guarantors, the lenders party thereto from time to time, Goldman Sachs Credit Partners L.P., as lead arranger and as syndication agent, and CIT, as administrative agent and as collateral agent.

(76) **"First Lien Credit Agreement Claims"** means the Secured Claims held by each First Lien Lender pursuant to the First Lien Credit Agreement.

(77) **"First Lien Lender Cash Distribution"** means the $2.6 million in Cash to be provided by the Reorganized Debtors for distribution on account of the First Lien Lender Claims pursuant to Section 3.3(a) of the Plan.

(78) **"First Lien Lender Claims"** means the First Lien Credit Agreement Claims and the Adequate Protection Claims.

(79) **"First Lien Lender"** means each holder of an Allowed First Lien Lender Claim.

(80) **"First Lien Obligations"** means obligations arising under the First Lien Credit Agreement.

(81) **"First Lien Requisite Lender"** means BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 Ltd., and Spectrum Investment Partners, L.P., acting jointly, together with their respective successors and assigns.

(82) **"First Lien Reserves"** means the approximately $13 million of Cash held in reserves by the First Lien Agents for the benefit of the First Lien Lenders.

(83) **"F.J."** means F.J. Boutell Driveaway LLC, a Delaware limited liability company, one of the above-captioned Debtors.

(84) **"GACS"** means GACS Incorporated, a Georgia corporation, one of the above-captioned Debtors.

(85) **"Georgia Bankruptcy Case"** means the bankruptcy case commenced by the Debtors on July 31, 2005 in the United States Bankruptcy Court for the Northern District of Georgia, captioned *In re Allied Holdings, Inc. and Transport Support LLC*, Case No. 05-12515.

(86) **"General Unsecured Claim"** shall mean any Claim that is not an Administrative Claim, an AIG Claim, a Priority Tax Claim, a Priority Claim, a First Lien Lender Claim, or a Second Lien Lender Claim.

(87) **"GUC Cash Distribution"** means the $3 million in Cash from the Cash on Hand and/or the Winddown Reserve for distribution on account of the General Unsecured Claims pursuant to Section 3.3(c) of the Plan.

(88) **"Haul Insurance Limited"** means Haul Insurance Limited, a direct wholly-owned subsidiary of Allied Holdings, a Cayman Islands company.

(89) **"Impaired"** means, with respect to any Claim or Interest, that such Claim or Interest is impaired within the meaning of Bankruptcy Code Section 1124.

(90) **"Intercreditor Agreement"** means that certain *Intercreditor Agreement*, dated May 15, 2007, made by and among the First Lien Collateral Agent and the Second Lien Collateral Agent (each as defined therein).

(91) **"Interests"** means collectively the Parent Equity Interests and the Subsidiary Equity Interests.

(92) **"Jack Cooper"** means Jack Cooper Holdings Corp. and certain of its affiliates that acquired assets of the Debtors pursuant to the JCT Sale.

(93) **"JCT Sale"** means the sale of certain of the Debtors' assets to Jack Cooper that was approved by the Bankruptcy Court pursuant to the JCT Sale Order and consummated on December 27, 2013.

(94) **"JCT Sale Order**" means the *Order (A) Approving Asset Purchase Agreement and Authorizing the Sale of Assets of the Debtors Outside the Ordinary Course of Business, (B) Authorizing the Sale of Assets*

Free and Clear of all Liens, Claims, Encumbrances and Interests, (C) Authorizing the Assumption and Sale and Assignment of Certain Executory Contracts and Unexpired Leases, and (D) Granting Related Relief [Docket No. 1837], entered on September 17, 2013.

(95) **"Lender Direct Claims"** means the claims and causes of action set forth in the Lender Direct Complaint.

(96) **"Lender Direct Complaint"** means that certain Complaint captioned *BDCM Opportunity Fund II, L.P., et al. v. Yucaipa American Alliance Fund I, L.P., et al., Adv. Proc. No. 14-50971 (CSS).* A copy of the Lender Direct Complaint is attached to the Disclosure Statement as Exhibit DS-4.

(97) **"Lien"** means a lien as such term is defined in Bankruptcy Code Section 101(37).

(98) **"Litigation Claims"** means the Estate Claims and the Lender Direct Claims.

(99) **"Litigation Funding Loans"** means one or more commitments aggregating $15 million issued by the Litigation Lenders to fund the prosecution of the Litigation Claims.

(100)**"Litigation Lender"** means each First Lien Lender (other than Yucaipa) who elects to participate in the Litigation Funding Loan commitments.

(101)**"Litigation Oversight Committee"** means the committee formed pursuant to Section 5.12 of the Plan to, among other things, select the Litigation Trustee, oversee the Allied Litigation Trust, the work of the Litigation Trustee and the prosecution of the Litigation Claims.

(102)**"Litigation Proceeds Waterfall"** means the manner in which the proceeds of any recovery on account of the Litigation Claims are to be distributed as set forth in Section 5.14 of the Plan.

(103)**"Litigation Trust Agreement"** means that certain agreement made by an among the Debtors, as depositor of the Estate Claims, the First Lien Agents, as depositor of the Lender Direct Claims, the Committee and the Litigation Trustee, establishing and delineating the terms and conditions of the Allied Litigation Trust, substantially in the form to be filed as part of the Plan Supplement.

(104)**"Litigation Trust Assets"** means the Litigation Claims.

(105)**"Litigation Trust Expenses"** means the fees and expenses of the Litigation Trustee, including, without limitation, professional fees and expenses incurred in connection with the prosecution of the Litigation Claims.

(106)**"Litigation Trustee"** shall mean that Person selected by the Litigation Oversight Committee to act as the trustee of the Allied Litigation Trust or any of his, her or its successors.

(107)**"Logistic Systems"** means Logistics Systems, LLC, a Georgia limited liability company, one of the above-captioned Debtors.

(108)**"Logistic Technology"** means Logistic Technology, LLC, a Georgia limited liability company, one of the above-captioned Debtors.

(109)"**New Boards**" means the initial boards of directors or managers, as applicable, of the Reorganized Debtors.

(110)**"New Common Stock"** means the new common stock of Reorganized Allied Holdings to be authorized and/or issued to the New Common Stockholders pursuant to Section 5.5 of the Plan, with the rights of the holder thereof to be as provided for in the New Debtor Governing Documents.

(111)**"New Common Stockholder"** means each First Lien Lender who is entitled to and elects, in lieu of receiving its Pro Rata share of the First Lien Lender Cash Distribution, to receive its Pro Rata share of the New Common Stock.

(112)**"New Debtor Governing Documents"** means such certificates or articles of incorporation, bylaws, or such other applicable formation documents of each of the Reorganized Debtors, the forms of which will be included in the Plan Supplement.

(113)**"Northwest"** means Northwest Administrators, Inc.

(114)**"Northwest Claim"** means the Administrative Expense Claim and Priority Claim (but not any General Unsecured Claim) asserted in the amount of $93,970.27 by Northwest pursuant to the Northwest Request and Allowed, by agreement, in the amount of $40,000.00 pursuant to the Northwest Settlement.

(115)**"Northwest Request"** means the *Application of Northwest Administrators Inc. for Allowance of Administrative Expense Claim* [Docket No. 2292], filed by Northwest on March 3, 2014.

(116)**"Northwest Settlement"** means the agreement between the Plan Proponents and Northwest to reduce and allow the Northwest Claim in the amount of $40,000.00.

(117)**"Old Securities"** means the Common Stock and any promissory notes held by any creditor.

(118)**"Parent Equity Interests"** means the legal, equitable, contractual, or other rights of any Person (i) with respect to the Common Stock, or (ii) to acquire or receive any Common Stock.

(119)**"Person"** means any person, individual, firm, partnership, corporation, trust, association, company, limited liability company, joint stock company, joint venture, governmental unit, or other entity or enterprise.

(120)**"Petition"** means each petition for relief commencing the Chapter 11 Cases.

(121)"**Petition Date**" means (i) with respect to Allied Holdings and Allied Systems, May 17, 2012, the date that involuntary petitions were filed against Allied Holdings and Allied Systems, and (ii) with respect to the remaining Debtors, June 10, 2012, the date such Debtors filed voluntary petitions in the Bankruptcy Court.

(122)"**Plan**" means this plan of reorganization under Chapter 11 of the Bankruptcy Code and all implementing documents contained in the Plan Supplement, as the same may be amended, modified, or supplemented from time to time.

(123)**"Plan Administrator"** means the Person designated as the Litigation Trustee by the Litigation Oversight Committee in accordance with the Litigation Trust Agreement.

(124)**"Plan Proponents"** means the Debtors, the Committee and the First Lien Agents.

(125)**"Plan Supplement"** means the supplement to the Plan, which may be filed in parts pursuant to Section 5.17 of the Plan, containing, without limitation, (i) the identity of the members of the Litigation Oversight Committee; (ii) the Litigation Trust Agreement; (iii) the identity of the members of the New Boards; (iv) the New Debtor Governing Documents; and (v) the proposed Assumed Contracts, if any.

(126)**"Priority Claim"** means a Claim against the Debtors entitled to priority pursuant to Bankruptcy Code Section 507(a), other than a Priority Tax Claim or an Administrative Claim.

(127)**"Priority Tax Claim"** means a Claim that is entitled to priority pursuant to Bankruptcy Code Section 507(a)(8).

(128)**"Professional"** means any professional retained in the Chapter 11 Cases by order of the Bankruptcy Court, whether by the Debtors or the Committee, excluding any of the Debtors' ordinary course professionals.

(129)**"Professional Fee Claim"** means a Claim of a Professional for compensation or reimbursement of costs and expenses relating to services rendered from and after the Petition Date and prior to and including the Effective Date, subject to any limitations imposed by order of the Bankruptcy Court.

(130)**"Proof of Claim"** means a Proof of Claim filed in accordance with the Bar Date Order.

(131)**"Pro Rata"** means, at any time, as applicable, the proportion that (i) the amount of a Claim in a particular Class or Classes (or portions thereof, as applicable) bears to the aggregate amount of all Claims (including Disputed Claims), as applicable, in such Class or Classes, (ii) the amount of an Allowed Claim in a particular Class or Classes (or portions thereof, as applicable) bears to the aggregate amount of all Allowed Claims in such Class or Classes, (iii) the amount of an Allowed Claim in a particular Class or Classes (or portions thereof, as applicable) bears to the aggregate amount of all Claims (including Disputed Claims), as applicable, in such Class or Classes, or (iv) the amount of an Allowed Claim in a particular Class or Classes making an election bears to the aggregate amount of all Allowed Claims in such Class or Classes also making such election, unless the Plan provides otherwise.

(132)**"QAT"** means QAT, Inc., a Florida corporation, one of the above-captioned Debtors.

(133)**"Rejection Damages Claim"** means a Claim arising from the Debtors' rejection of a contract or lease, which Claim shall be limited in amount by any applicable provision of the Bankruptcy Code, including, without limitation, Bankruptcy Code Section 502, subsection 502(b)(6) thereof with respect a Claim of a lessor for damages resulting from the rejection of a lease of real property, subsection 502(b)(7) thereof with respect to a Claim of an employee for damages resulting from the rejection of an employment contract, or any other subsection thereof.

(134)**"Released Parties"** shall have the meaning set forth in Section 10.6(a) of the Plan.

(135)**"Reorganized Allied Holdings"** means reorganized Allied Holdings or its successor on or after the Effective Date

(136)**"Reorganized Allied Holdings Shareholders Agreement"** means the shareholders agreement applicable to the equity interests of Reorganized Allied Holdings to be issued to those First Lien Lenders who have elected to receive such interests in lieu of their Pro Rata share of the First Lien Lender Cash Distribution in accordance with Section 3.3(a) of the Plan, which shareholders' agreement shall be in form and substance acceptable to each of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 Ltd., and Spectrum Investment Partners, L.P.

(137)**"Reorganized Debtor"** means each reorganized Debtor or its successor on or after the Effective Date.

(138)**"Reorganized Debtors' Assets"** means all assets of the Debtors or the Estates, other than the Estate Claims. Without limitation, the Reorganized Debtors' Assets shall include (a) the Debtors' interest in all Cash on Hand, (b) the Debtors' interest in all proceeds of the Sale, (c) any claim, right or interest of the Debtors in any deposit, prepayment, refund, rebate, abatement or other recovery for Taxes, including existing net operating losses, (d) certain real property held by the Debtors, (e) the right to recover excess cash collateral pledged to secure obligations under certain (i) self-insured workers compensation programs and (ii) bonds issued to governmental agencies and freight brokers to guaranty the Debtors' transportation-related obligations, (f) the Subsidiary Equity Interests, (g) all proceeds of any of the foregoing and all proceeds of any of the foregoing received by any person or entity on or after the Effective Date, (h) all of the Debtors'

books and records to the extent the same are not purchased assets pursuant to the Sale, and (i) the attorney-client privilege related or incidental to the assets identified in the foregoing (a) - (h) above.

(139)**"Replacement DIP Order"** means the *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503(b) and 507(1), Fed. R. Bankr. P. 2002, 4001 and 9014 and Del. Bankr. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying Automatic Stay* [Docket No. 1324], entered on June 21, 2013.

(140)**"Request for Payment"** means a request for payment of an Administrative Claim filed with the Bankruptcy Court in connection with the Chapter 11 Cases.

(141)**"Retiree Benefit Plans"** means that certain Allied Retiree Benefit Plan, dated as of September 23, 2004 and any retiree death benefit plans or arrangements.

(142)**"Retiree Committee"** means the committee of retirees of the Debtors, appointed by the U.S. Trustee on January 8, 2014, pursuant to order of the Bankruptcy Court entered on December 23, 2013.

(143)**"Retiree Obligations"** means the Debtors' obligations under the Retiree Benefit Plans.

(144)**"RMX"** means RMX LLC, a Delaware limited liability company, one of the above-captioned Debtors.

(145)**"Sale"** means, collectively, the JCT Sale and the SBDRE Sale.

(146)**"SBDRE Sale"** means the sale of certain of the Debtors' assets to (a) SBDRE LLC and its affiliates, entities formed by the First Lien Agents, and (b) ATC Transportation LLC, as designee of SBDRE LLC which was approved by the Bankruptcy Court on September 30, 2013 and consummated in part on March 20, 2014 and in part on June 12, 2014.

(147)**"SBDRE Sale Order**" means the *Order Under 11 U.S.C. §§ 105(a), 363 and 365 and Fed. R. Bankr. P. 2002, 6004 and 6006 Authorizing and Approving: (I) Sale of Assets Free and Clear of Liens, Claims, Encumbrances and Other Interests; and (II) Assumption and Assignment of Unexpired Lease to an Acquisition Entity Formed by Prepetition First Lien Agents* [Docket No. 1868], entered on September 30, 2013.

(148)**"Schedules"** means the Statements of Financial Affairs and Schedules of Assets and Liabilities filed by the Debtors with the Bankruptcy Court in the Chapter 11 Cases under Bankruptcy Rule 1007, as such Statements of Financial Affairs and Schedules of Assets and Liabilities have been or may be amended or supplemented from time to time.

(149)**"Second Lien Credit Agreement"** means that certain *Second Lien Secured Super-Priority Debtor in Possession and Exit Credit and Guaranty Agreement*, dated as of May 15, 2007 (as amended by that certain *Limited Waiver and Amendment No. 1 to Credit Agreement and Pledge and Security Agreement*, dated as of May 29, 2007, as further amended by that certain *Amendment No. 2 to Credit Agreement*, dated as of June 12, 2007, and that certain *Amendment No. 3 to Credit Agreement*, dated as of April 17, 2008), made by Allied Systems and Allied Holdings, as borrowers, the other Debtors, as guarantors, the lenders party thereto from time to time, Goldman Sachs Credit Partners L.P., as lead arranger and as syndication agent, and The Bank of New York Mellon, as administrative agent and as collateral agent.

(150)**"Second Lien Credit Agreement Claims"** means the Claims held by each Second Lien Lender pursuant to the Second Lien Credit Agreement.

(151)**"Second Lien Lender Claims"** means the Second Lien Credit Agreement Claims and the Adequate Protection Claims.

(152)**"Second Lien Lender"** means each holder of an Allowed Second Lien Lender Claim.

(153) **"Secured Claim"** means a Claim (i) that is secured by a Lien on property in which the Estates have an interest, which lien is not subject to avoidance under the Bankruptcy Code or otherwise invalid under the Bankruptcy Code or applicable state law, or a Claim that is subject to a valid right of the creditor of setoff against amounts owed to the Debtors; (ii) to the extent of the value of the holder's interest in the Estates' interest in such property or to the extent of the amount subject to a valid right of setoff, as applicable; and (iii) the amount of which (A) is undisputed by the Debtors or (B) if disputed by the Debtors, such dispute is settled by written agreement between the Debtors or the Plan Administrator and the holder of such Claim or determined, resolved, or adjudicated by Final Order.

(154)**"Subsidiary Equity Interests"** means the equity interests in each of the Debtors other than Allied Holdings.

(155)**"Supplemental Adequate Protection Priority Claims"** means the superpriority administrative expense claims granted under section 507(b) of the Bankruptcy Code pursuant to the Replacement DIP Order.

(156)**"Taxes"** means (a) any taxes and assessments imposed by any Governmental Body, including net income, gross income, profits, gross receipts, license, employment, stamp, occupation, premium, alternative or add-on minimum, ad valorem, real property, personal property, transfer, real property transfer, value added, sales, use, environmental (including taxes under Code Section 59A), customs, duties, capital stock, franchise, excise, withholding, social security (or similar), unemployment, disability, payroll, fuel, excess profits, windfall profit, severance, estimated or other tax, including any interest, penalty or addition thereto, whether disputed or not, and any expenses incurred in connection with the determination, settlement or litigation of the Tax liability, (b) any obligations under any agreements or arrangements with respect to Taxes described in clause (a) above, and (c) any transferee liability in respect of Taxes described in clauses (a) and (b) above or payable by reason of assumption, transferee liability, operation of Law, Treasury Regulation Section 1.1502-6(a) (or any predecessor or successor thereof or any analogous or similar provision under Law) or otherwise.

(157)**"Terminal Services"** means Terminal Services LLC, a Delaware limited liability company, one of the above-captioned Debtors.

(158)**"Transport Support"** means Transport Support LLC, a Delaware limited liability company, one of the above-captioned Debtors.

(159)**"Unfiled Claim"** means a Claim as to which no Proof of Claim or Request for Payment has been filed.

(160)**"Unimpaired"** means, with respect to any Claim, that such Claim is not impaired within the meaning of Bankruptcy Code Section 1124.

(161)**"U.S. Insurance Program"** shall have the meaning ascribed to it in the AIG Motion.

(162)**"U.S. Trustee"** means the Office of the United States Trustee for the District of Delaware.

(163)**"Winddown Reserve"** means the reserve established by the First Lien Agents upon the consummation of the JCT Sale for the purposes of winding down the Debtors' Estates, as adjusted from time to time.

(164)**"Yucaipa"** means Yucaipa American Alliance Find I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund II, L.P., Yucaipa American Alliance (Parallel) Fund II, L.P., and their respective agents, officers, directors, managers, employees and affiliates.

ARTICLE II

CLASSIFICATION OF CLAIMS AND INTERESTS

2.1 Introduction

A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class and such Claim or Interest has not been paid, released, or otherwise settled prior to the Effective Date. A Claim or Interest may be and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes.

2.2 Unclassified Claims

In accordance with Bankruptcy Code Section 1123(a)(1), Administrative Claims and Priority Tax Claims have not been classified.

2.3 Unimpaired Class of Claims

The following Class contains Claims that are not Impaired by the Plan, are deemed to accept the Plan, and are not entitled to vote on the Plan.

Class 1: Priority Claims

2.4 Impaired Voting Classes of Claims

The following Classes contain Claims that are Impaired by the Plan and are entitled to vote on the Plan.

Class 2: First Lien Lender Claims

Class 3: Second Lien Lender Claims

Class 4: AIG Claims

Class 5: General Unsecured Claims

2.5 Impaired Non-Voting Class of Interests

The following Classes contains Claims and Interests that are Impaired by the Plan and are not entitled to vote on the Plan.

Class 6: Parent Equity Interests

2.6 Unimpaired Non-Voting Class of Interests

The following Classes contains Claims and Interests that are Unimpaired by the Plan, are deemed to accept the Plan, and are not entitled to vote on the Plan.

Class 7: Subsidiary Equity Interests

ARTICLE III

TREATMENT OF CLAIMS AND INTERESTS

3.1 Unclassified Claims

(a) Administrative Claims

With respect to each Allowed Administrative Claim, except as otherwise provided for in Section 10.1 of the Plan, on the Effective Date, the holder of each such Allowed Administrative Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Administrative Claim, (A) Cash equal to the unpaid portion of such Allowed Administrative Claim or (B) such different treatment as to which such holder and the Debtors or the Plan Administrator, as applicable, shall have agreed upon in writing; *provided*, *however*, that Allowed Administrative Claims (other than Professional Fee Claims and Claims asserted under Section 503(b)(3) or (b)(4)) with respect to liabilities incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases shall be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto. For the avoidance of doubt, (i) Central States shall receive the treatment provided in the Central States Settlement, and (ii) Northwest shall receive the treatment provided in the Northwest Settlement.

(b) Priority Tax Claims

Each holder of an Allowed Priority Tax Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Tax Claim, as shall have been determined by the Debtors or by the Plan Administrator, either (i) on the Effective Date, Cash equal to the due and unpaid portion of such Allowed Priority Tax Claim, (ii) treatment in a manner consistent with Bankruptcy Code Section 1129(a)(9)(C), or (iii) such different treatment as to which such holder and the Debtors or the Plan Administrator, as applicable, shall have agreed upon in writing.

3.2 Unimpaired Class of Claims

(a) Class 1: Priority Claims

On the applicable Distribution Date, each holder of an Allowed Priority Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Claim, either (i) Cash equal to the unpaid portion of such Allowed Priority Claim or (ii) such different treatment as to which such holder and the Debtors or the Plan Administrator, as applicable, shall have agreed upon in writing.

3.3 Impaired Voting Classes of Claims

(a) Class 2: First Lien Lender Claims

On the applicable Distribution Date, each holder of an Allowed First Lien Lender Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed First Lien Lender Claim its Pro Rata share of: (i) the beneficial interests in the Allied Litigation Trust payable to holders of Allied First Lien Lender Claims in accordance with the Litigation Proceeds Waterfall, and (ii) the First Lien Lender Cash Distribution, *provided, however*, that each First Lien Lender may elect, in lieu of receipt of its Pro Rata share of the First Lien Lender Cash Distribution, to receive its Pro Rata share of the New Common Stock. Each of the First Lien Lenders comprising the First Lien Requisite Lender has elected to receive shares of New Common Stock in lieu of receiving is Pro Rata distribution of the First Lien Lender Cash Distribution. In addition, on the Effective Date, the First Lien Agents shall distribute to the holders of Allowed First Lien Lender Claims the First Lien Reserves. For the avoidance of doubt, pursuant to the limitations set forth in the First Lien Credit Agreement, in no event shall Yucaipa be entitled to make the election contemplated in the proviso to clause (ii) of this Section 3.3(a) of the Plan.

Notwithstanding anything to the contrary set forth herein, any distributions that would otherwise be made on account of the Disputed First Lien Obligations by the Debtors or the First Lien Agents shall be made to the Disputed First Lien Obligations Escrow to be held, and ultimately distributed, in accordance with the terms thereof and the JCT Sale Order.

For the avoidance of doubt, the holders of First Lien Lender Claims shall be deemed to waive the right to participate in the GUC Cash Distribution on account of any unsecured portion of a First Lien Lender Claim.

(b) Class 3: Second Lien Lender Claims

Each holder of an Allowed Second Lien Lender Claim shall receive, in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Second Lien Lender Claim its Pro Rata share of the beneficial interests of the Allied Litigation Trust payable to holders of Allowed Second Lien Lender Claims (calculated on a Pro Rata basis with holders of Allowed General Unsecured Claims) in accordance with the Litigation Proceeds Waterfall, *provided, however*, that any future distribution on account of such beneficial interests shall be turned over to the First Lien Agents for distribution to the First Lien Lenders to the extent required by Sections 4.1 and 4.2 of the Intercreditor Agreement until the First Lien Lenders have been indefeasibly paid in full in Cash.

For the avoidance of doubt, the holders of Second Lien Lender Claims shall be deemed to waive the right to participate in the GUC Cash Distribution on account of any unsecured portion of a Second Lien Lender Claim.

(c) Class 4: AIG Claims

On the Effective Date, pursuant to the AIG Settlement (and subject to the satisfaction of the conditions to effectiveness) the AIG Entities shall receive in full satisfaction, settlement, release, and discharge of and in exchange for all Allowed AIG Claims, (i) the AIG Cash Collateral, and (ii) Cash in the amount of $1,000,000.00. If the conditions to effectiveness of the AIG Settlement are not satisfied (or waived by AIG) the AIG Settlement will not become effective and the AIG Claims will be treated as Disputed.

(d) Class 5: General Unsecured Claims

On the applicable Distribution Dates, each holder of an Allowed General Unsecured Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed General Unsecured Claim, a Pro Rata share of (a) the GUC Cash Distribution and (b) the beneficial interests of the Allied Litigation Trust payable to holders of Allowed General Unsecured Claims (calculated on a Pro Rata basis with holders of Allowed Second Lien Lender Claims) in accordance with the Litigation Proceeds Waterfall.

3.4 Impaired Non-Voting Class Interests

(a) Class 6: Parent Equity Interests

Holders of Parent Equity Interests shall not receive or retain any distribution under the Plan on account of such Interests, and the Common Stock shall be cancelled as set forth in Section 5.4 of the Plan.

3.5 Unimpaired Non-Voting Class Interests

(a) Class 7: Subsidiary Equity Interests

Holders of Subsidiary Equity Interests shall retain such Subsidiary Equity Interests, subject to any corporate reorganization that may be undertaken by the Debtors or the Reorganized Debtors prior to, on or after the Effective Date.

3.6 Reservation of Rights Regarding Claims and Interests

Except as otherwise explicitly provided in the Plan, nothing shall affect the Debtors' or the Reorganized Debtors' rights and defenses, both legal and equitable, with respect to any Claims or Interests, including, but not limited to, all rights with respect to legal and equitable defenses to alleged rights of setoff or recoupment. Similarly, nothing herein shall prejudice or be deemed to prejudice creditors' rights of setoff or recoupment.

ARTICLE IV

ACCEPTANCE OR REJECTION OF THE PLAN

4.1 Impaired Classes Entitled to Vote

Holders of Claims in the Impaired Voting Classes of Claims are each entitled to vote as a Class to accept or reject the Plan. Accordingly, the votes of holders of Claims in Classes 2, 3, 4 and 5 shall be solicited with respect to the Plan.

4.2 Acceptance by an Impaired Class

In accordance with Bankruptcy Code Section 1126(c), and except as provided in Bankruptcy Code Section 1126(e), the Impaired Classes of Claims shall have accepted the Plan if the Plan is accepted by the 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 such Class that have timely and properly voted to accept or reject the Plan.

4.3 Presumed Acceptances by Unimpaired Classes

Claims in Class 1 and Subsidiary Equity Interests in Class 7 are Unimpaired under the Plan. Under Bankruptcy Code Section 1126(f), holders of such Unimpaired Claims and Interests are conclusively presumed to have accepted the Plan, and the votes of such Unimpaired Claim and Interest holders shall not be solicited.

4.4 Presumed Rejection by Impaired Voting Class of Interests

Interests in Class 6 are Impaired under the Plan and not entitled to a distribution under the Plan. Under Bankruptcy Code Section 1126(g), holders of such Impaired Claims and Interests are conclusively presumed to have rejected the Plan, and the votes of such Impaired Claim and Interest holders shall not be solicited.

ARTICLE V

MEANS FOR IMPLEMENTATION OF THE PLAN

5.1 Funding of Distributions under the Plan

(a) Source of Cash, including the First Lien Lender Cash Distribution and GUC Cash Distribution

The Cash necessary to fund the First Lien Lender Cash Distribution shall be provided by the Reorganized Debtors. The Cash necessary to fund the payment of Administrative Claims, Priority Claims, the Cash portion of the AIG Claims and the GUC Cash Distribution will be paid from Cash on Hand held by the Debtors or, if the Debtors do not have sufficient Cash on Hand, by the First Lien Agents from the Winddown Reserve. The Plan Administrator will make all distributions of Cash, including the First Lien Lender Cash Distribution and the GUC Cash Distribution.

(b) First Lien Reserves

As set forth above, on the Effective Date, the First Lien Agents shall distribute to each holder of an Allowed First Lien Lender Claim such holder's Pro Rata share of approximately $13 million of Cash from the First Lien Reserves as part of the treatment of the holders of Allowed First Lien Lender Claims under the Plan. Such Cash is currently held by the First Lien Agents, and the First Lien Agents will make this distribution. The Pro Rata portion of such amount allocable to the Disputed First Lien Obligations shall be made to the Disputed First Lien Obligations Escrow to be held, and ultimately distributed, in accordance with the terms thereof and the JCT Sale Order.

(c) Litigation Funding Loans

Funding for the prosecution of the Litigation Claims shall be provided through the Litigation Funding Loans issued by the Litigation Lenders. Each First Lien Lender (other than Yucaipa) is entitled to participate in the Litigation Funding Loans up to its Pro Rata share of the First Lien Obligations (calculated without giving effect to any First Lien Obligations allegedly owned by Yucaipa). The Backstop Parties will backstop the commitments for the full amount of the Litigation Funding Loans. In consideration for their agreement to backstop the commitments for the Litigation Funding Loans, the Backstop Parties shall receive the Backstop Fee payable in accordance with the Litigation Proceeds Waterfall.

5.2 Continued Corporate Existence

The Reorganized Debtors shall continue to exist as of and after the Effective Date as private legal entities, in accordance with the applicable laws of the State of Delaware, the State of Georgia, the State of Florida, the State of Michigan and the applicable jurisdictions in Canada and pursuant to the New Debtor Governing Documents. Notwithstanding the foregoing, the Debtors or the Reorganized Debtors, as applicable, may engage in any corporate restructuring prior to, on or after the Effective Date, which may include the merger, liquidation or dissolution of one or more of the Debtors or the Reorganized Debtors.

5.3 New Debtor Governing Documents

The organizational documents of the Debtors shall be amended as necessary to satisfy the provisions of the Plan and the Bankruptcy Code and shall include, among other things, pursuant to Bankruptcy Code Section 1123(a)(6), a provision prohibiting the issuance of non-voting equity securities (but only to the extent required by Bankruptcy Code Section 1123(a)(6)). The amended organizational documents of the Debtors shall constitute the New Debtor Governing Documents. The New Debtor Governing Documents shall be in substantially the forms of such documents included in the Plan Supplement and shall be in full force and effect as of the Effective Date.

5.4 Cancellation of Interests

On the Effective Date, all Old Securities, including all promissory notes, stock, instruments, warrants, certificates and other documents evidencing the Parent Equity Interests shall be deemed automatically cancelled and surrendered and shall be of no further force in accordance with Section 7.7 of the Plan, and the obligations of the Debtors thereunder or in any way related thereto, including any obligation of the Debtors to pay any franchise or similar type taxes on account of such Interests, shall be discharged.

5.5 Authorization and Issuance of the New Common Stock

(a) On the Effective Date, Reorganized Allied Holdings shall issue shares of New Common Stock to the New Common Stockholders pursuant to Section 3.3(a).

(b) The rights of the holders of the New Common Stock shall be as provided for in the New Debtor Governing Documents.

5.6 Directors and Officers of Reorganized Debtors

(a) The initial directors of the New Board and officers of each of the Reorganized Debtors shall be selected by the parties to whom the New Common Stock will be distributed pursuant to the Plan in accordance with the New Debtor Governing Documents. The identities of the initial directors of the New Board shall be disclosed prior to the Confirmation Hearing as part of the Plan Supplement in accordance with Section 1129(a)(5) of the Bankruptcy Code.

(b) All officers and directors of the Debtors not listed in the Plan Supplement will be deemed to have resigned on the Effective Date.

5.7 Corporate Action; Effectuating Documents

(a) On the Effective Date, the adoption and filing of the New Debtor Governing Documents and all actions contemplated by the Plan shall be authorized and approved in all respects pursuant to the Plan. All matters provided for herein involving the corporate structure of the Debtors or the Reorganized Debtors, and any corporate action required by the Debtors or the Reorganized Debtors in connection with the Plan, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the stockholders or directors of the Debtors or the Reorganized Debtors, and shall be fully authorized pursuant to Section 303 of the Delaware General Corporation Law.

(b) Any director, chief executive officer, president, chief financial officer, senior vice president, general counsel or other appropriate officer of the Reorganized Debtors shall be authorized to execute, deliver, file, or record the documents included in the Plan Supplement and such other contracts, instruments, releases, indentures, and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. Any director, secretary or assistant secretary of the Reorganized Debtors shall be authorized to certify or attest to any of the foregoing actions. All of the foregoing is authorized without the need for any required approvals, authorizations, or consents except for express consents required under the Plan.

5.8 Plan Administrator

On the Effective Date, the Plan Administrator shall have all the rights and powers to implement the provisions of the Plan pertaining to the Plan Administrator, including, without limitation, the right to (1) effect all actions and execute all agreements, instruments and other documents necessary to implement the provisions of the Plan; (2) make distributions as contemplated in the Plan (other than those distributions to be made by the First Lien Agents), (3) establish and administer any necessary reserves for Disputed Claims that may be required; and (4) object to Disputed Claims and prosecute, settle, compromise, withdraw or resolve in any manner approved by the Bankruptcy Court such Disputed Claims. For the avoidance of doubt, the Plan Administrator shall have no obligation to object to or dispute (or expend funds to object or dispute) any Claim where, in the Plan Administrator's sole judgment, the cost of such objection or dispute is not warranted in light of the potential incremental benefit to the remaining holders of Claims. The Litigation Trustee shall serve as the initial Plan Administrator. The reasonable costs and expenses incurred by the Plan Administrator in performing the duties set forth in the Plan shall be paid by the Litigation Trust, subject to the approval of the Litigation Oversight Committee.

5.9 Revesting of Reorganized Debtor Assets

Except as otherwise provided herein, the Reorganized Debtors' Assets shall revest in the Reorganized Debtors on the Effective Date. Thereafter, the Reorganized Debtors may operate its business and may use, acquire, and dispose of such property free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, or Bankruptcy Court approval. Except as specifically provided in the Plan or the Confirmation Order, as of the Effective Date, all property of the Reorganized Debtors shall be free and clear of all Claims and Interests, and

all Liens with respect thereto. For the avoidance of doubt, the Litigation Trust Assets shall not revest in the Reorganized Debtors. Such assets shall vest in the Allied Litigation Trust pursuant to Section 5.11 of the Plan.

5.10 The Litigation Trustee

(a) Appointment of the Litigation Trustee

The Litigation Trustee shall be selected by the Litigation Oversight Committee. Pursuant to the Litigation Trust Agreement, the selection of the Litigation Trustee will be determined by a majority vote of the Litigation Oversight Committee and will require the written approval of the two members of the Litigation Oversight Committee selected by the First Lien Requisite Lender. The identity of the Litigation Trustee shall be disclosed prior to the Confirmation Hearing as part of the Plan Supplement in accordance with Section 1129(a)(5) of the Bankruptcy Code. The Litigation Trustee will be compensated by the Allied Litigation Trust.

(b) Powers of the Litigation Trustee

The Litigation Trustee shall be a representative of the Debtors' Estates and shall, subject to the terms of the Litigation Trust Agreement, have the power to make all decisions with respect to the prosecution of the Litigation Claims; *provided, however*, that the following actions will require prior written approval of a majority of the members of the Litigation Oversight Committee and the two members of the Litigation Oversight Committee selected by the First Lien Requisite Lender: (a) any determination to draw funds under the commitments for any Litigation Funding Loans issued by the Litigation Lenders; (b) the incurrence by the Litigation Trust of additional indebtedness to fund the prosecution of the Litigation Claims in excess of the Litigation Funding Loans; (c) the retention of counsel and other professionals to assist in prosecution of the Litigation Claims; (d) settlement of all or any portion of the Litigation Claims, and (e) any arrangement for compensation of the Litigation Trustee or the Plan Administrator.

The Litigation Trustee shall consult with, and obtain approval of, the Litigation Oversight Committee with respect to all material decisions regarding the prosecution of the Litigation Claims, including (without limitation) the litigation strategy with respect thereto, and the filing and prosecution of any dispositive or other substantive motions or pleadings.

(c) The Litigation Trustee as the Representative of the Debtors' Estates

On the Effective Date, the Litigation Trustee, and not the Reorganized Debtors shall be deemed the Estates' representative in accordance with Section 1123 of the Bankruptcy Code and shall have all the rights and powers set forth in the Litigation Trust Agreement, including, without limitation, the right to (1) effect all actions and execute all agreements, instruments and other documents necessary to implement the provisions of the Litigation Trust Agreement; (2) administer the Litigation Trust Assets, including prosecuting, settling, abandoning or compromising any actions that are or relate to the Litigation Trust Assets; (3) employ and compensate professionals and other agents consistent with Section 5.10(b) of the Plan, *provided, however*, that any such compensation shall be paid by the Allied Litigation Trust to the extent not inconsistent with the status of the Allied Litigation Trust as a liquidating trust within the meaning of Treas. Reg. § 301.7701-4(d) for federal income tax purposes; and (4) control attorney/client privilege relating to or arising from the Litigation Trust Assets.

5.11 The Allied Litigation Trust

(a) On the Effective Date, the Allied Litigation Trust shall be established pursuant to the Litigation Trust Agreement for the purpose of prosecuting the Litigation Claims. The Allied Litigation Trust is intended to qualify as a liquidating trust pursuant to United States Treasury Regulation Article 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

(b) On the Effective Date, the Estate Claims shall vest automatically in the Allied Litigation Trust. The Plan shall be considered a motion pursuant to Sections 105, 363 and 365 of the Bankruptcy Code for such relief. The transfer of the Estate Claims to the Allied Litigation Trust shall be made for the benefit and on behalf of the Beneficiaries. The assets comprising the Litigation Trust Assets will be treated for tax purposes as being transferred by the Debtors and the First Lien Agents to the Beneficiaries pursuant to the Plan in exchange for their Allowed Claims and then by the Beneficiaries to the Allied Litigation Trust in exchange for the beneficial interests in the Allied Litigation Trust. The Beneficiaries shall be treated as the grantors and owners of the Allied Litigation Trust. Upon the transfer of the Litigation Trust Assets, the Allied Litigation Trust shall succeed to all of the Debtors' and the First Lien Agents' rights, title and interest in the Litigation Trust Assets, and the Debtors and the First Lien Agents will have no further interest in or with respect to the Litigation Trust Assets.

(c) Except as otherwise ordered by the Bankruptcy Court, the Litigation Trust Expenses on or after the Effective Date shall be paid in accordance with the Litigation Trust Agreement without further order of the Bankruptcy Court.

(d) The Allied Litigation Trust shall file annual reports regarding the liquidation or other administration of property comprising the Litigation Trust Assets, the distributions made by it and other matters required to be included in such report in accordance with the Litigation Trust Agreement. In addition, the Allied Litigation Trust will file tax returns as a grantor trust pursuant to United States Treasury Regulation Article 1.671-4(a).

5.12 The Litigation Oversight Committee

(a) The Litigation Oversight Committee shall be comprised of three members: two members selected by the First Lien Requisite Lender and one member selected by the Committee. Each member of the Litigation Oversight Committee shall be reasonably satisfactory to each of the Backstop Parties. The identity of the members of the Litigation Oversight Committee shall be disclosed prior to the Confirmation Hearing as part of the Plan Supplement in accordance with Section 1129(a)(5) of the Bankruptcy Code.

(b) The Litigation Oversight Committee shall oversee the Allied Litigation Trust and the Litigation Trustee.

(c) The Litigation Oversight Committee shall be authorized to retain and employ Professionals to assist it with and advise it with respect to its duties under the Plan. All fees and expenses of such Professionals shall be satisfied by the Allied Litigation Trust.

(d) The duties and powers of the Litigation Oversight Committee shall terminate upon the final resolution of the Litigation Claims and the final distribution of all proceeds in accordance with the terms of the Litigation Trust Agreement.

5.13 Joint Prosecution of the Litigation Claims

The Litigation Claims shall be jointly prosecuted in the Bankruptcy Court (or such other court of competent jurisdiction) in a single action to the maximum extent permitted by law, or otherwise in actions coordinate for the purposes of trial and discovery.

5.14 Litigation Proceeds Waterfall

The proceeds of the Litigation Claims shall be distributed as follows: (a) *first*, to the Backstop Parties in satisfaction of the Backstop Fee; (b) *second*, to repay all Litigation Funding Loans then outstanding; (c) *third*, to the Litigation Lenders in the amount of $4.5 million; (d) *fourth*, a distribution of up to the next $3 million, to be allocated on a dollar for dollar basis (i) 50% on a Pro Rata basis to the holders of Allowed First Lien Lender Claims and (ii) 50% on a Pro Rata basis to the holders of Allowed General Unsecured Claims and Allowed

Second Lien Lender Claims; and (e) *thereafter*, any remaining balance shall be split on a dollar for dollar basis as follows (i) 20% on a Pro Rata basis to the holders of Allowed First Lien Lender Claims; (ii) 5% on a Pro Rata basis to the holders of Allowed General Unsecured Claims and Allowed Second Lien Lender Claims; and (iii) 75% to the Litigation Funding Lenders; *provided, however,* that any distributions made pursuant to subsection (d) of this Section 5.14 of the Plan shall be credited against any distributions that would otherwise be made under clause (e) of this Section 5.14 of the Plan.

5.15 Certain Settlements

Confirmation of the Plan shall constitute approval of each of the AIG Settlement, the Central States Settlement and the Northwest Settlement pursuant to Bankruptcy Rule 9019. Confirmation of the Plan shall also constitute a settlement of any and all disputes among the First Lien Agents (on behalf of the First Lien Lenders), the Debtors and the Committee, including (without limitation) with respect to (a) the entitlement of the First Lien Lenders to adequate protection pursuant to the 2012 Final DIP Order and the Replacement DIP Order, and (b) the obligation of the First Lien Lenders to fund the Wind Down Budget (as defined in the JCT Sale Order).

In addition to the occurrence of the Effective Date, the effectiveness of the AIG Settlement shall be conditioned upon satisfaction of the following conditions, which may be waived by AIG: (a) the Debtors shall have settled or transferred to the State of Florida all remaining workers' compensation claims, or shall otherwise have withdrawn from the self-insured workers' compensation program in the State of Florida, and (b) the Debtors shall have settled or transferred to the State of Georgia all remaining workers' compensation claims, or shall otherwise have withdrawn from the self-insured workers' compensation program in the State of Georgia. If these conditions are not satisfied (or waived by AIG), the AIG Settlement will not become effective and the AIG Claims will be treated as Disputed.

5.16 Exemption From Certain Transfer Taxes

Pursuant to Bankruptcy Code Section 1146(a), any transfers from the Debtors to the Allied Litigation Trust or any other Person pursuant to, in contemplation of, or in connection with the Plan, and the issuance, transfer, or exchange of any debt, equity securities or other interest under or in connection with the Plan, shall not be taxed under any law imposing a stamp tax, real estate transfer tax, mortgage recording tax, sales or use tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or government assessment, and the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to all documents necessary to evidence and implement distributions under the Plan, including the documents contained in the Plan Supplement and all documents necessary to evidence and implement any of the transactions and actions described in the Plan or the Plan Supplement.

5.17 Plan Supplement

The Plan Supplement may be filed in parts either contemporaneously with the filing of the Plan or from time to time thereafter, but in no event later than one (1) week prior to the deadline established by the Bankruptcy Court for objecting to Confirmation of the Plan. After filing, the Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court during normal business hours. The Plan Supplement also will be available for inspection on (a) the website maintained by the Claims Agent: http://www.omnimgt.com/alliedsystems, and (b) the Bankruptcy Court's website: http://www.deb.uscourts.gov. In addition, holders of Claims or Interests may obtain a copy of any document included in the Plan Supplement upon written request in accordance with Section 10.16 of the Plan.

5.18 Committee

Upon the Effective Date, the Committee shall dissolve automatically, whereupon its members, Professionals and agents shall be released from any further duties and responsibilities in the Chapter 11 Cases and under the Bankruptcy Code, except with respect to (a) obligations arising under confidentiality agreements which shall remain in full force and effect according to their terms; (b) applications for Professional Fee Claims filed by or on behalf of the Committee; (c) any motions or other actions seeking enforcement or implementation of the provisions of this Plan, the Confirmation Order or the Litigation Trust Agreement, and (d) providing assistance (if requested by the Litigation Trustee) in connection with the Litigation Claims or in defending any claim brought against the Committee by any party in the Litigation Claims. Professionals retained by the Committee shall be entitled to reasonable compensation for services rendered in connection with the matters identified in clauses (b), (c) and (d) after the Effective Date, subject to a budget to be agreed between the Committee and the members of the Litigation Oversight Committee appointed by the First Lien Requisite Lender.

5.19 Retiree Committee

Upon the Effective Date, the Retiree Committee shall dissolve automatically, whereupon its members, shall be released from any further duties and responsibilities in the Chapter 11 Cases and under the Bankruptcy Code.

ARTICLE VI

TREATMENT OF CONTRACTS AND LEASES

6.1 Rejection of Contracts and Leases

On the Effective Date, except for the executory contracts and unexpired leases listed on the Plan Supplement, if any, and except to the extent that a Debtor either previously has assumed, assumed and assigned or rejected an executory contract or unexpired lease by an order of the Bankruptcy Court, including, but not limited to, the JCT Sale Order or the SBDRE Sale Order, or has filed a motion to assume or assume and assign an executory contract or unexpired lease prior to the Effective Date, each executory contract and unexpired lease entered into by the Debtors prior to the Petition Date that has not previously expired or terminated pursuant to its own terms will be deemed rejected pursuant to section 365 of the Bankruptcy Code, and written notice will be provided to each such counterparty of such deemed rejected contract or lease (together with a statement of the date by which any Proof of Claim must be filed). Each such contract and lease will be rejected only to the extent that any such contract or lease constitutes an executory contract or unexpired lease. The entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of any such rejections pursuant to Sections 365(a) and 1123 of the Bankruptcy Code and that the rejection thereof is in the best interest of the Debtors, their Estates and all parties in interest in the Chapter 11 Cases.

6.2 Claims Based of Rejection of Executory Contracts of Unexpired Leases

Claims created by the rejection of executory contracts and unexpired leases pursuant to this Section 6.1 of the Plan, or the expiration or termination of any executory contract or unexpired lease prior to the Effective Date, must be filed with the Bankruptcy Court and served on the Litigation Trustee no later than thirty (30) days after the Effective Date. Any Claims arising from the rejection of an executory contract or unexpired lease pursuant to Section 6.1 for which proofs of Claim are not timely filed within that time period will be forever barred from assertion against the Debtors, the Estates, its successors and assigns, and its assets and properties, unless otherwise ordered by the Bankruptcy Court or as otherwise provided herein. All such Claims shall, as of the Effective Date, be subject to the discharge and permanent injunction set forth in Section 10.7. Unless otherwise ordered by the Bankruptcy Court, all such Claims that are timely filed as provided herein shall be

treated as General Unsecured Claims under the Plan and shall be subject to the provisions of Article III of the Plan.

6.3 Assumption of Contracts and Leases

(a) Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into in connection with the Plan, on the Effective Date, pursuant to section 365 of the Bankruptcy Code, the Debtors shall assume each of the respective executory contracts and unexpired leases, if any, listed as Assumed Contracts in the Plan Supplement; provided, however, that the Debtors reserve the right, at any time prior to the Effective Date, to amend the Plan Supplement to: (a) delete any executory contract or unexpired lease listed therein, thus providing for its rejection pursuant hereto; or (b) add any executory contract or unexpired lease to the Plan Supplement, thus providing for its assumption pursuant to this Section 6.3. The Debtors shall provide written notice to each counterparty to an Assumed Contract (together with a statement of the date by which any Cure Claims must be filed) and written notice of any amendments to the Plan Supplement to the parties to the executory contracts or unexpired leases affected thereby and to the parties on the then-applicable service list in the Chapter 11 Cases. Nothing herein or in the Plan Supplement shall constitute an admission by the Debtors that any contract or lease is an executory contract or unexpired lease or that a Debtor has any liability thereunder.

(b) Each executory contract or unexpired lease assumed under this Section 6.3 shall include any modifications, amendments, supplements or restatements to such contract or lease.

6.4 Payments Related to the Assumption of Executory Contracts and Unexpired Leases

Any Cure Claims associated with any executory contract or unexpired lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code: (a) by payment of the Cure Claim in Cash on or after the Effective Date; or (b) on such other terms as are agreed to by the parties to such executory contract or unexpired lease. Pursuant to section 365(b)(2)(D) of the Bankruptcy Code, no Cure Claim shall be allowed for a penalty rate or other form of default rate of interest. If there is an unresolved dispute regarding: (x) the amount of any Cure Claim; (y) the ability of the Reorganized Debtors to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed; or (z) any other matter pertaining to assumption of such contract or lease, the payment of any Cure Claim required by section 365(b)(1) of the Bankruptcy Code shall be made following the resolution of such dispute by the parties or the entry of a Final Order resolving the dispute and approving the assumption.

6.5 Extension of Time to Assume or Reject

Notwithstanding anything set forth in Article VI of the Plan, in the event of a dispute as to whether a contract is executory or a lease is unexpired, the Debtors' right to move to assume or reject such contract or lease shall be extended until the date that is thirty (30) days after entry of a Final Order by the Bankruptcy Court determining that the contract is executory or the lease is unexpired. The deemed rejection provided for in Section 6.1 of the Plan shall not apply to any such contract or lease, and any such contract or lease shall be assumed or rejected only upon motion of the Debtors following the Bankruptcy Court's determination that the contract is executory or the lease is unexpired.

ARTICLE VII

PROVISIONS GOVERNING DISTRIBUTIONS

7.1 Determination of Allowability of Claims and Interests and Rights to Distributions

(a) Only holders of Allowed Claims shall be entitled to receive distributions under the Plan. The Plan Administrator shall make distributions to holders of Allowed Claims on each Distribution Date.

(b) With respect to Filed Claims, the Debtors, the Plan Administrator or any other party in interest with standing shall have the right to object to the Proofs of Claim or Requests for Payment in the Bankruptcy Court by the Claims Objection Deadline (as extended), but shall not be required to do so.

(c) No distribution shall be made on a Disputed Claim until and unless such Disputed Claim becomes an Allowed Claim. Prior to making any distribution under the Plan to a particular Class, the Plan Administrator, shall establish a Disputed Claims Reserve for Disputed Claims in such Class, each of which Disputed Claims Reserves shall be administered by the Plan Administrator. The Plan Administrator shall reserve in Cash or other property, for distribution on account of each Disputed Claim, the full amount of the estimated distribution on account of such Disputed Claim (or such lesser amount as may be estimated or otherwise ordered by the Bankruptcy Court in accordance with Section 7.5 of the Plan or otherwise) with respect to each Disputed Claim.

(d) The Plan Administrator shall hold property in the Disputed Claims Reserves in trust for the benefit of the holders of Claims ultimately determined to be Allowed. Each Disputed Claims Reserve shall be closed and extinguished by the Plan Administrator when all distributions and other dispositions of Cash or other property required to be made under the Plan will have been made in accordance with the terms of the Plan. Upon closure of a Disputed Claims Reserve, all Cash or other property held in that Disputed Claims Reserve shall revest in and become the property of (i) the Reorganized Debtors if the applicable Disputed Claims Reserve was established with assets of the Reorganized Debtors or (ii) the Allied Litigation Trust if the applicable Disputed Claims Reserve was established with the proceeds of the Litigation Claims. All funds or other property that vest or revest in the Reorganized Debtors pursuant to this paragraph shall be used to pay the fees and expenses of the Plan Administrator, and thereafter distributed on a Pro Rata basis to holders of Allowed Claims pursuant to the remaining provisions of this Plan at a time determined in the sole discretion of the Plan Administrator.

(e) Notwithstanding anything to the contrary set forth herein, any distributions that would otherwise be made on account of the Disputed First Lien Obligations by the Debtors or the First Lien Agents shall be made to the Disputed First Lien Obligations Escrow to be held, and ultimately distributed, in accordance with the terms thereof and the JCT Sale Order. On the Effective Date the Plan Administrator shall succeed to the rights and obligations of the Debtors under the Disputed First Lien Obligations Escrow.

7.2 Procedures for Making Distributions to Holders of Allowed Claims

(a) The Plan Administrator shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court.

(b) The Plan Administrator shall send distributions to the holders of the Allowed Claims at the addresses listed for such holder in the Schedules or on the applicable Proof of Claim or notice of transfer of a Claim filed at least 5 days before the Effective Date.

(c) If any holder's distribution is returned as undeliverable, no further distributions to such holder shall be made unless and until the Plan Administrator is notified by the Reorganized Debtors, the Claims Agent, or such holder of such holder's then current address, at which time all missed distributions shall be

made, subject to Section 7.2(d) of the Plan, to such holder without interest. If any distribution is made by check and such check is not returned but remains uncashed for three (3) months after the date of such check, the Plan Administrator may cancel and void such check, and the distribution with respect thereto shall be deemed undeliverable. If, pursuant to Section 7.8 of the Plan, any holder is requested to provide an applicable Internal Revenue Service form or to otherwise satisfy any tax withholding requirements with respect to a distribution and such holder fails to do so within three (3) months of the date of such request, such holder's distribution shall be deemed undeliverable.

(d) Amounts in respect of returned or otherwise undeliverable or unclaimed distributions made by the Plan Administrator shall be returned to or deemed to revest in the Reorganized Debtors or the Allied Litigation Trust, as applicable, until such distributions are claimed. All claims for returned or otherwise undeliverable or unclaimed distributions must be made (i) on or before the first (1st) anniversary of the Effective Date or (ii) with respect to any distribution made later than such date, on or before six (6) months after the date of such later distribution; after which date all undeliverable property shall revert and revest in to the Reorganized Debtors or the Allied Litigation Trust, as applicable, free of any restrictions thereon and the claims of any holder with respect to such property shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary. In the event of a timely claim for any returned or otherwise undeliverable or unclaimed distribution, the Plan Administer shall distribute such amount or property pursuant to the Plan.

(e) The Plan Administrator may elect not make a distribution of less than $25.00 to any holder of an Allowed Claim unless the distribution is a final distribution. If, at any time, the Plan Administrator determines that the remaining Cash and other Assets are not sufficient to make distributions to holders of Allowed Claims in an amount that would warrant the Reorganized Debtor incurring the cost of making such a distribution, the Plan Administrator may dispose of such remaining Cash and other Assets in a manner the Plan Administrator deems to be appropriate, including donating it to a charitable organization.

(f) All distributions made under the Plan shall be final, and none of the Estates, the Litigation Trustee, nor any representative of the Debtors' Estates may seek disgorgement of any distributions made under the Plan.

7.3 Consolidation for Distribution Purposes Only

Solely for the purposes of determining the Allowed amount of Claims to be used in calculating distributions to be made pursuant to the Plan, any holder asserting the same Claim against more than one Debtor (based on a guarantee, joint and several liability under contract or applicable law, or any other basis) shall be deemed to have only one Claim and shall only receive a distribution under the Plan on account of such Claim.

7.4 Application of Distribution Record Date

On the applicable Distribution Record Date, the Debtors' books and records for Unfiled Claims and the claims register maintained by the Claims Agent for Filed Claims shall be closed for purposes of determining the record holders of Claims, and there shall be no further changes in the record holders of any Claims. Except as provided herein, the Plan Administrator and its respective agents, successors, and assigns shall have no obligation to recognize any transfer of Claims occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the applicable books and records, claims registers or transfer ledgers as of 5:00 p.m. prevailing Eastern time on the Distribution Record Date irrespective of the number of distributions to be made under the Plan to such Persons or the date of such distributions.

7.5 Provisions Related to Disputed Claims

(a) Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, the Plan Administrator shall have the right to make, file, prosecute, settle, compromise, withdraw or resolve in any manner approved by the Bankruptcy Court, objections to Claims. The costs of pursuing the objections to Claims shall be borne by the Reorganized Debtors. From and after the Effective Date, the Plan Administrator and any claimant may elect to compromise, settle or otherwise resolve any objection to a Disputed Claim without approval of the Bankruptcy Court. Notwithstanding anything in the Plan, the U.S. Trustee's rights to object to Claims, including Professional Fee Claims and Claims asserted under Section 503(b)(3) or (b)(4), are fully reserved.

(b) All objections to Disputed Claims shall be filed and served upon the holders of each such Claim not later than the Claim Objection Deadline (as extended).

(c) At any time, (a) prior to the Effective Date, the Debtors, and (b) subsequent to the Effective Date, the Plan Administrator, may request that the Bankruptcy Court estimate any contingent or unliquidated Claim to the extent permitted by Section 502(c) of the Bankruptcy Code regardless of whether the Debtors or the Plan Administrator has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall have jurisdiction to estimate any Claim at any time during litigation concerning any objection to such Claim, including during the pendency of any appeal relating to any such objection. If the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount shall constitute either the Allowed amount of such Claim or a maximum limitation on the Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the Claim, the Debtors or the Plan Administrator, as applicable, may elect to object to the ultimate allowance of the Claim or seek to reduce and allow the Claim. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

(d) There shall be no distribution on account of any Claims held by any Person from which property is recoverable under Section 542, 543, 550 or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under Section 522(f), 522(h), 544, 545, 547, 548, 549 or 724(a) of the Bankruptcy Code. Nothing herein shall affect the rights of Yucaipa to file a Claim, if any, under Section 502(h) of the Bankruptcy Code. Any such Claim of Yucaipa, if Allowed, shall be classified in Class 5.

7.6 Adjustment of Claims Without Objection

Any Claim that has been paid or satisfied, or any Claim that has been amended or superseded, may be adjusted on the Claims Register by the Claims Agent at the direction of the Debtors or the Plan Administrator, as applicable, upon notice to the holder of such Claim, but without a Claims objection having to be Filed. If no objection is received within the time period prescribed in the notice, such Claim shall be adjusted without any further notice to or action, order or approval of the Bankruptcy Court.

7.7 Surrender of Cancelled Old Securities

Each holder of an Parent Equity Interest shall be deemed to have surrendered any stock certificate or other documentation underlying each such Interest, and any such stock certificates and other documentation shall be deemed to be cancelled pursuant to Section 5.4 of the Plan.

7.8 Withholding and Reporting Requirements

In connection with the Plan and all distributions hereunder, the Plan Administrator shall, to the extent applicable, comply with all tax withholding and reporting requirements imposed by any federal, state,

provincial, local, or foreign taxing authority, and all distributions hereunder shall be subject to any such withholding and reporting requirements. The Plan Administrator shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements including, without limitation, requiring that, as a condition to the receipt of a distribution, the holder of an Allowed Claim complete the appropriate IRS Form W-8 or IRS Form W-9, as applicable to each holder. Notwithstanding any other provision of the Plan, (a) each holder of an Allowed Claim that is to receive a distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed on such holder by any governmental unit, including income and other tax obligations, on account of such distribution, and (b) no distribution shall be made to or on behalf of such holder pursuant to the Plan unless and until such holder has made arrangements satisfactory to the applicable Plan Administrator to allow it to comply with its tax withholding and reporting requirements. Any property to be distributed pursuant to the Plan shall, pending the implementation of such arrangements, be treated as an undeliverable distribution to be held by the Plan Administrator, as the case may be, until such time as the Plan Administrator is satisfied with the holder's arrangements for any withholding tax obligations.

7.9 Setoffs

The Plan Administrator may, but shall not be required to, set off against any Claim, and the payments or other distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever that the Debtors, the Reorganized Debtors or the Allied Litigation Trust may have against the holder of such Claim; *provided*, *however*, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors, the Reorganized Debtors or the Allied Litigation Trust of any such claim that the Debtors, the Reorganized Debtors or the Allied Litigation Trust may have against such holder.

7.10 Prepayment

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

7.11 No Distribution in Excess of Allowed Amount of Claim

Notwithstanding anything to the contrary contained in the Plan, no holder of an Allowed Claim shall receive in respect of that Claim any Distribution in excess of the Allowed amount of that Claim.

ARTICLE VIII

CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN

8.1 Conditions to Confirmation

The following are conditions precedent to the occurrence of the Confirmation Date, each of which must be satisfied or waived in accordance with Section 8.3 of the Plan:

(a) an order pursuant to Bankruptcy Code Section 1125 shall have been entered finding that the Disclosure Statement contains adequate information;

(b) the proposed Confirmation Order, in form and substance satisfactory to the Debtors, the First Lien Requisite Lender and the Committee, shall have been submitted to the Bankruptcy Court;

(c) the Bankruptcy Court shall have approved (i) the Northwest Settlement, (ii) the Central States Settlement, (iii) the AIG Settlement, and (iv) the settlement among the First Lien Agents (on behalf of the First Lien Lenders), the Debtors and the Committee as contemplated by Section 5.15 of the Plan; and

(d) the Bankruptcy Court shall have determined that the Plan satisfies all requirements for confirmation under the Bankruptcy Code.

8.2 Conditions to Effective Date

The following conditions precedent must be satisfied or waived on or prior to the Effective Date in accordance with Section 8.3 of the Plan:

(a) the Confirmation Order shall have been entered;

(b) the Confirmation Order shall, among other things:

(i) provide that the Debtors, the Reorganized Debtors, the Committee, the Plan Administrator, the Litigation Trustee, the Litigation Oversight Committee and the Allied Litigation Trust are authorized and directed to take all actions necessary or appropriate to enter into, implement, and consummate the transactions contemplated by and the contracts, instruments, releases, indentures, and other agreements or documents created under or in connection with the Plan; and

(ii) authorize the issuance of the New Common Stock;

(c) the Confirmation Order shall not then be stayed, vacated, or reversed;

(d) all other actions, documents, and agreements necessary to implement the Plan shall have been effected or executed, or will be effected or executed contemporaneously with implementation of the Plan (including, without limitation, the New Debtor Governing Documents), each of which shall be in form and substance acceptable to the First Lien Requisite Lender;

(e) the Cash necessary to fund the First Lien Lender Cash Distribution and the GUC Cash Distribution shall have been provided to the Plan Administrator;

(f) the fees and expenses required to be paid on the Effective Date pursuant to Section 10.2 of the Plan shall have been paid in full in Cash;

(g) the aggregate amount of all Allowed Administrative Claims and Priority Tax Claims shall not exceed $4.5 million (such cap to be reduced for all administrative expenses and other wind-down costs paid by the Debtors, in the ordinary course, on or after the date of the Disclosure Statement and prior to the Effective Date) and the aggregate amount of all Allowed Priority Claims shall not exceed $275,000;

(h) BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 Ltd., and Spectrum Investment Partners, L.P. shall each have executed and delivered the Reorganized Allied Holdings Shareholders' Agreement;

(i) all conditions to the effectiveness of the AIG Settlement shall have been satisfied (or waived by AIG);

(j) either the Confirmation Order shall provide that the Retiree Benefit Plans are terminated by their terms on the Effective Date or the 1114 Order shall have been entered; and

(k) The Effective Date shall have occurred by no later than September 30, 2015, or such other date as agreed to by each of the Plan Proponents.

8.3 Waiver of Conditions

Each of the conditions set forth in Sections 8.1 and 8.2, with the express exception of the conditions contained in Sections 8.1(a), 8.2(a) and 8.2(c), may be waived in whole or in part by the Plan Proponents, without any notice to parties in interest or the Bankruptcy Court and without a hearing.

8.4 Operations of the Debtors Between the Confirmation Date and the Effective Date

During the period from the Confirmation Date through and until the Effective Date, the Debtors shall continue to operate its business as debtor in possession, subject to the oversight of the Bankruptcy Court as provided in the Bankruptcy Code, the Bankruptcy Rules, and all Final Orders.

8.5 Effective Date

On or within one Business Day of the Effective Date, the Debtors shall file and serve a notice of occurrence of the Effective Date.

ARTICLE IX

RETENTION OF JURISDICTION

9.1 Scope of Retention of Jurisdiction

Under Bankruptcy Code Sections 105(a) and 1142, and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, and except as otherwise ordered by the Bankruptcy Court, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases and the Plan to the fullest extent permitted by law, including, without limitation, jurisdiction to:

(a) allow, disallow, determine, liquidate, classify, estimate, or establish the priority or secured or unsecured status of any Claim (whether a Filed Claim or Unfiled Claim) or Interest not otherwise Allowed under the Plan (other than personal injury or wrongful death Claims, unless agreed by the holder), including, without limitation, the resolution of any Request for Payment and the resolution of any objections to the allowance or priority of Claims;

(b) hear and determine all applications for Professional Fees; *provided*, *however*, that from and after the Effective Date, the payment of the fees and expenses of the retained Professionals of the Reorganized Debtors, the Plan Administrator or the Allied Litigation Trust (to the extent different from those of the Plan Administrator) shall be made in the ordinary course of business and shall not be subject to the approval of the Bankruptcy Court;

(c) hear and determine all matters with respect to contracts or leases or the assumption or rejection of any contracts or leases to which a Debtors were a party or with respect to which the Debtors may be liable, including, if necessary and without limitation, the nature or amount of any required Cure or the liquidation or allowance of any Claims arising therefrom;

(d) effectuate performance of and payments under the provisions of the Plan;

(e) hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters arising out of, under, or related to, the Litigation Claims or the Chapter 11 Cases, including, without limitation, any matters arising out of the asset purchase agreements evidencing the Sale, the JCT Sale Order, and the SBDRE Sale Order;

(f) enter such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan, the Disclosure Statement, or the Confirmation Order;

(g) hear and determine disputes arising in connection with the interpretation, implementation, consummation, or enforcement of the Plan, including, without limitation, disputes arising under agreements, documents, or instruments executed in connection with the Plan, *provided*, *however*, that any dispute arising under or in connection with the New Debtor Governing Documents shall be adjudicated in accordance with the provisions of the applicable document;

(h) consider any modifications of the Plan, cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

(i) issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any entity with the implementation, consummation, or enforcement of the Plan or the Confirmation Order;

(j) enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified, or vacated;

(k) hear and determine any matters arising in connection with or relating to the Plan, the Plan Supplement, the Disclosure Statement, the Confirmation Order, the Litigation Trust Agreement, or any contract, instrument, release, or other agreement or document created in connection with the Plan, the Plan Supplement, the Disclosure Statement, or the Confirmation Order;

(l) enforce all orders, judgments, injunctions, releases, exculpations, indemnifications, and rulings entered in connection with the Chapter 11 Cases or provided for under the Plan;

(m) except as otherwise limited herein, recover all assets of the Debtors and property of the Estates, wherever located;

(n) hear and determine matters concerning state, local, and federal taxes in accordance with Bankruptcy Code Sections 346, 505, and 1146;

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

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

(q) enter a final decree closing the Chapter 11 Cases.

9.2 Failure of the Bankruptcy Court to Exercise Jurisdiction

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to the Chapter 11 Cases, including the matters set forth in Section 9.1 of the Plan, the provisions of this Article IX shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court having jurisdiction with respect to such matter.

ARTICLE X

MISCELLANEOUS PROVISIONS

10.1 Administrative Expense Claims, Professional Fee Claims and Substantial Contribution Claims

(a) The Bankruptcy Court shall have entered one or more orders establishing the Administrative Expense Claim Bar Date. Objections to Administrative Expense Claims must be filed and served on the Debtor or Reorganized Debtor, as applicable, and the Plan Administrator, their counsel, and the entity submitting such Administrative Expense Claim no later than twenty (20) days (or such longer period as may be allowed by order of the Bankruptcy Court) after the Administrative Expense Claims Bar Date.

(b) All final Requests for Payment of Professional Fee Claims must be filed and served on the Reorganized Debtor and the Plan Administrator, their counsel, and other necessary parties in interest no later than forty-five (45) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to such Requests for Payment must be filed and served on the Reorganized Debtor and the Plan Administrator, their counsel, and the requesting Professional or other entity no later than twenty (20) days (or such longer period as may be allowed by order of the Bankruptcy Court) after the date on which the applicable Request for Payment was served.

10.2 Payment of Statutory Fees

All quarterly fees payable pursuant to Section 1930 of Title 28 of the United States Code prior to the Effective Date shall be paid by the Debtors on or before the Effective Date. All such fees payable after the Effective Date shall be paid by the Plan Administrator as and when due, until such time as the Chapter 11 Cases are closed, dismissed or converted.

10.3 Termination of Retiree Benefit Plans

On the Effective Date, the Retiree Benefit Plans shall be deemed terminated and cancelled as permitted by their terms or otherwise permitted by law. Alternatively, in connection with the confirmation of the Plan, Debtors shall seek entry of the 1114 Order terminating the Retiree Obligations under the Retiree Benefit Plans. Entry of either a form of Confirmation Order providing for the termination of the Retiree Benefit Plans on the Effective Date or the 1114 Order is a condition to the occurrence of the Effective Date.

10.4 Successors and Assigns and Binding Effect

The rights, benefits, and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, personal representative, successor, or assign of such Person, including, but not limited to, the Allied Litigation Trust, the Reorganized Debtors and all other parties in interest in the Chapter 11 Cases.

10.5 Preservation of Subordination Rights

Nothing contained in this Plan shall be deemed to modify, impair, terminate or otherwise affect in any way the rights of any Entity under section 510(a) of the Bankruptcy Code, and all such rights are expressly preserved under this Plan. The treatment set forth in Article III of the Plan and the distributions to the various Classes of Claims hereunder shall not affect the right of any Person to levy, garnish, attach, or employ any other legal process with respect to such distributions by reason of any claimed subordination rights or otherwise. All such rights and any agreements relating thereto shall remain in full force and effect, except as otherwise expressly compromised and settled pursuant to the Plan.

10.6 Releases

(a) **Releases by the Debtors**

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtors, the Reorganized Debtors, the Plan Administrator, the Allied Litigation Trust, the Litigation Trustee and any Person (including the Committee and the First Lien Agents) seeking to exercise the rights of the Debtors' Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to Bankruptcy Code Section 1123(b)(3), shall be deemed to forever release, waive, and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action (including claims or causes of action arising under Chapter 5 of the Bankruptcy Code), and liabilities whatsoever (other than for fraud, willful misconduct, criminal conduct and/or gross negligence), whether direct or derivative, in connection with or related to the Debtors, the Chapter 11 Cases, or the Plan (other than the rights of the Debtors, the Committee, the Reorganized Debtors, the Allied Litigation Trust, the Litigation Trustee and the First Lien Agents to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered thereunder), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity, or otherwise, that are based in whole or part on any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date against (i) any of the directors and officers of the Debtors serving during the pendency of the Chapter 11 Cases, other than those directors and officers named as defendants in either the Amended Complaint or the Lender Direct Complaint or any other director or officer that is party to a tolling agreement with the Committee, (ii) any Professionals of the Debtors, (iii) the First Lien Agents, in their capacity as such, (iv) the First Lien Lenders (other than Yucaipa) in their capacity as such, (v) any Professional of the First Lien Agents, (vi) the Second Lien Lenders (other than Yucaipa) in their capacity as such, (vii) any Professional for the Second Lien Lenders (other than Yucaipa), (viii) the members of the Committee, but only in their capacity as such, (ix) any Professional of the Committee, in their capacity as such; and (x) with respect to the Persons identified in clauses (ii) through (ix), their respective directors, officers, employees, members, participants, agents, representatives, partners, affiliates, counsel, other advisors, successors or assigns (collectively, the "Released Parties"); provided, however, that nothing in this Section 10.6(a) shall be deemed to prohibit the Debtors, the Reorganized Debtors, the Allied Litigation Trust, the Litigation Trustee, the Plan Administrator or the First Lien Agents from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, causes of action or liabilities they may have against any Person identified as a defendant in any of the Litigation Claims.

(b) **Releases by Holders of Claims and Interests**

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, each holder of a Claim or Interest that affirmatively votes in favor of the Plan and does not otherwise elect on its Ballot to withhold the release contemplated by this Section 10.6(b) shall be deemed to forever release, waive, and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action and liabilities whatsoever (other than for fraud, willful misconduct, criminal conduct and/or gross negligence) against the Released Parties in connection with or related to the Debtors, the Chapter 11 Cases, or the Plan (other than the rights under the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered thereunder), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity, or otherwise, that are based in whole or part on any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date; *provided*, *however*, that nothing herein shall be deemed a waiver or release of a Claim holder's right to receive a distribution pursuant to the terms of the Plan or any obligation under the Plan or Confirmation Order. For the avoidance of doubt, this Release by holders of Claims and Interests is not

and shall not be deemed a waiver of the Debtors' rights or claims against the holders of Claims and Interests, including to the Debtors' rights to assert setoffs, recoupments or counterclaims, or to object or assert defenses to any such Claim, and all such rights, causes of action and claims are expressly reserved, except as otherwise provided in the Plan or other Final Order. For the avoidance of doubt, nothing contained in this Section 10.6(b) shall be deemed to prohibit the First Lien Lenders from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, causes of action or liabilities they may have against any Person identified as a defendant in any of the Litigation Claims.

10.7 Discharge of the Debtors

(a) Except as otherwise provided herein or in the Confirmation Order, all consideration distributed under the Plan shall be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims of any nature whatsoever against the Debtors or any of its assets or properties and, regardless of whether any property shall have been abandoned by order of the Bankruptcy Court, retained, or distributed pursuant to the Plan on account of such Claims. Upon the Effective Date, (i) the Debtors shall be deemed discharged and released under Bankruptcy Code Section 1141(d)(1)(A) from any and all Claims, including, but not limited to, demands and liabilities that arose before the Effective Date, and all debts of the kind specified in Bankruptcy Code Section 502, whether or not (A) a Proof of Claim based upon such debt is filed or deemed filed under Bankruptcy Code Section 501, (B) a Claim based upon such debt is Allowed under Bankruptcy Code Section 502, (C) a Claim based upon such debt is or has been disallowed by order of the Bankruptcy Court, or (D) the holder of a Claim based upon such debt accepted the Plan, and (ii) all Interests shall be terminated.

(b) As of the Effective Date, except as provided in the Plan or the Confirmation Order, all Persons shall be precluded from asserting against the Debtors, the Committee, the Reorganized Debtors, the First Lien Agents, the Allied Litigation Trust, the Plan Administrator or the Litigation Trustee any other or further claims, debts, rights, causes of action, claims for relief, liabilities, or equity interests relating to the Debtors based upon any act, omission, transaction, occurrence, or other activity of any nature that occurred prior to the Effective Date. In accordance with the foregoing, except as provided in the Plan or the Confirmation Order, the Confirmation Order shall be a judicial determination of discharge of all such Claims and other debts and liabilities against the Debtors and termination of all Common Stock, pursuant to Bankruptcy Code Sections 524 and 1141, and such discharge shall void any judgment obtained against the Debtors at any time, to the extent that such judgment relates to a discharged Claim or terminated Interest.

10.8 Exculpation and Limitation of Liability

(a) **To the fullest extent permitted by applicable law and approved in the Confirmation Order, neither the Debtors, nor the Litigation Oversight Committee, nor any Released Party shall have any liability for any act or omission in connection with, relating to, or arising out of, the Chapter 11 Cases, the formulation, negotiation, or implementation of the Plan, the solicitation of acceptances of the Plan, the pursuit of Confirmation of the Plan, the 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 acts or omissions that constitute or are the result of fraud, criminal conduct, gross negligence, or willful misconduct or willful violation of federal or state securities laws or the Internal Revenue Code.**

(b) **Notwithstanding any other provision of the Plan other than Section 10.2, to the fullest extent permitted by applicable law and approved in the Confirmation Order, no holder of a Claim or an Interest, no other party in interest, and none of their respective present or former directors, officers, employees, members, participants, agents, representatives, partners, affiliates, counsel, other advisors, successors or assigns, shall have any right of action against the Debtors, the Litigation Oversight Committee or any Released Party for any act or omission in connection with, relating to, or arising out of, the Chapter 11 Cases, the formulation, negotiation, or implementation of the Plan, solicitation of**

acceptances of the Plan, the pursuit of Confirmation of the Plan, the 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 acts or omissions that constitute or are the result of fraud, criminal conduct, gross negligence, or willful misconduct or willful violation of federal or state securities laws or the Internal Revenue Code.

10.9 Injunction

(a) **Except as provided in the Plan or the Confirmation Order, as of the Effective Date, all Persons that have held, currently hold, may hold, or allege that they hold, a Claim or other debt or liability that is discharged pursuant to Section 10.7 of the Plan or Bankruptcy Code Sections 524 and 1141 or an Interest or other right of an equity security holder that is terminated pursuant to the terms of the Plan are permanently enjoined from taking any of the following actions against the Debtors, the Reorganized Debtors, the Committee, the Allied Litigation Trust, the Litigation Oversight Committee, the Plan Administrator, the Litigation Trustee, the First Lien Agents, their respective directors, officers, employees, members, participants, agents, representatives, partners, affiliates, counsel, other advisors, successors or assigns, and their respective subsidiaries or their property, on account of any such discharged Claims, debts, or liabilities or terminated Interests or rights: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff, right of subrogation, or recoupment of any kind against any debt, liability, or obligation due to the Debtors, the Reorganized Debtors, the Allied Litigation Trust or the Litigation Trustee; or (v) commencing or continuing any action, in each such case in any manner, in any place, or against any Person that does not comply with or is inconsistent with the provisions of the Plan.**

(b) **Except as provided in the Plan or the Confirmation Order, as of the Effective Date, all Persons that have held, currently hold, or may hold, a Claim, or an Interest or other right of an equity security holder, obligation, suit, judgment, damage, demand, debt, right, cause of action, or liability that is released pursuant to Sections 10.6, 10.7, or 10.8 of the Plan are permanently enjoined from taking any of the following actions on account of such released Claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities or terminated Interests or rights, including against the Released Parties: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff against any debt, liability, or obligation due to any released Person; or (v) commencing or continuing any action, in any manner, in any place, or against any Person that does not comply with or is inconsistent with the provisions of the Plan.**

10.10 Certain Provisions Relating to Central States, Southeast and Southwest Area Pension Fund and the Pension Benefit Guaranty Corporation

Notwithstanding anything to the contrary contained in the Plan (including, but without limitation, Sections 10.5, 10.6, 10.7 and 10.8), neither Yucaipa nor any Affiliate, officer, director, member or shareholder thereof shall be released from any claim or liability (including, without limitation, any liability or Claim for withdrawal liability under 29 U.S.C. §§ 1383 and 1385) now or hereafter owing to Central States, Southeast and Southwest Area Pension Fund ("**Central States Pension Fund**"), a multi-employer plan as that term is defined by 29 U.S.C. § 1301(a)(3), as a result of any Debtor's participation in Central States Pension Fund. For the avoidance of doubt, subject to the Central States Settlement, nothing in this paragraph shall restrict Central States Pension Fund's right to receive distributions on its Claims pursuant to the terms of the Plan.

Notwithstanding anything to the contrary contained in the Plan, no provision of the Plan shall be construed as discharging, releasing or relieving any party (other than the Reorganized Debtors and their subsidiaries), in any capacity, from any liability imposed under any law or regulatory provision with respect to any pension plans covered by Title IV of ERISA or the Pension Benefit Guaranty Corporation (the "**PBGC**"). Neither the PBGC nor any pension plans covered by Title IV of ERISA will be enjoined or precluded from enforcing any such liability as a result of any provision of the Plan or the Confirmation Order.

10.11 Term of Injunctions or Stays

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Cases under Bankruptcy Code Sections 105 or 362 or otherwise, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date.

10.12 Modifications and Amendments

The Plan Proponents may alter, amend, or modify the Plan under Bankruptcy Code Section 1127(a) at any time prior to the Confirmation Date. After the Confirmation Date and prior to substantial consummation of the Plan, as defined in Bankruptcy Code Section 1101(2), the Plan Proponents may under Bankruptcy Code Section 1127(b), institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, *provided*, *however*, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

10.13 Substantial Consummation

On the Effective Date, the Plan shall be deemed to be substantially consummated under Section 1101 and 1127(b) of the Bankruptcy Code.

10.14 Severability of Plan Provisions

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Plan Proponents shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

10.15 Revocation, Withdrawal, or Non-Consummation

The Plan Proponents reserve the right to revoke or withdraw the Plan at any time prior to the Confirmation Date and to file subsequent plans of reorganization. If the Plan Proponents revoke or withdraw the Plan in accordance with this Section 10.15, or if Confirmation or the Effective Date does not occur, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Class of Claims), assumption or rejection of contracts or leases effected by the Plan, and any document or agreement executed pursuant to the Plan shall be deemed null and void, and (c) nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against, or any Interests in, any Debtors or any other Person, (ii) prejudice in any manner the rights of the Debtors or any

Person in any further proceedings involving the Debtors, or (iii) constitute an admission of any sort by any Plan Proponents or any other Person.

10.16 Notices

Any notice, request, or demand required or permitted to be made or provided to or upon the Debtors, the Reorganized Debtors, the Allied Litigation Trust, the Committee or the First Lien Agents under the Plan shall be (a) in writing, (b) served by (i) certified mail, return receipt requested, (ii) hand delivery, (iii) overnight delivery service, (iv) first class mail, or (v) facsimile transmission, (c) deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, and (d) addressed as follows:

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c/o Jeffrey W. Kelley
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with copies to:

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10.17 Conflicts

To the extent any provision of the Disclosure Statement or any instrument, document or agreement executed in connection with the Plan (or any exhibits, schedules, appendices, supplements or amendments to the foregoing) conflicts with or is in any way inconsistent with the terms of the Plan, the terms and provisions of the Plan shall govern and control.

10.18 Aid and Recognition

The Debtors, the Reorganized Debtors, the Plan Administrator or Litigation Trustee, as the case may be, shall, as needed to effect the terms hereof, request the aid and recognition of any court or judicial, regulatory or administrative body in any province or territory of Canada or any other nation or state.

[SIGNATURE PAGE FOLLOWS]

Dated: June 17, 2015

ASHINC Corp.
(for itself and on behalf of each Debtor)

By: */s/* John F. Blount
Name: John F. Blount
Title: President and CEO/Wind-Down Officer

Official Committee of Unsecured Creditors

By: */s/* Michael G. Burke
Name: Michael G. Burke
Title: Counsel to the Official Committee of Unsecured Creditors

First Lien Agents
By: */s/* Adam C. Harris
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Attorneys for the First Lien Agents

EXHIBIT DS-2

[MACAULAY DECLARATION]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	**Chapter 11**
ALLIED SYSTEMS HOLDINGS, INC., *et al.*,[1]	**Case No. 12-11564 (CSS)**
Debtors.	**(Joint Administration Pending)**

DECLARATION OF SCOTT D. MACAULAY IN SUPPORT OF CHAPTER 11 PETITIONS AND FIRST DAY MOTIONS

Scott D. Macaulay, being duly sworn, deposes and says:

1. I am Senior Vice President and Chief Financial Officer of Allied Systems Holdings, Inc. In this capacity, I have substantial knowledge about the business of Allied Systems Holdings, Inc. and its direct and indirect subsidiaries (collectively "**Allied**").

2. Allied Systems Holdings, Inc. and its direct and indirect U.S. and Canadian subsidiaries (collectively the "**Debtors**") have just become debtors in possession in Chapter 11 cases (collectively the "**Chapter 11 Case**") and are requesting relief by means of motions (the "**First Day Motions**") filed substantially contemporaneously with the orders of relief under Chapter 11. The First Day Motions seek relief necessary to establish joint administration and to continue to operate as a going concern. I submit this Declaration in support of the First Day Motions.

[1] The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: Allied Systems Holdings, Inc. (58-0360550); Allied Automotive Group, Inc. (58-2201081); Allied Freight Broker LLC (59-2876864); Allied Systems (Canada) Company (90-0169283); Allied Systems, Ltd. (L.P.) (58-1710028); Axis Areta, LLC (45-5215545); Axis Canada Company (87568828); Axis Group, Inc. (58-2204628); Commercial Carriers, Inc. (38-0436930); CT Services, Inc. (38-2918187); Cordin Transport LLC (38-1985795); F.J. Boutell Driveaway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

Date filed: 06/11/12
Docket No. 80

3. Except as otherwise indicated, the statements in this Declaration are based upon my personal knowledge and upon Allied's business records, which are kept in the course of Allied's regularly conducted business activity and which were made at or near the time of the activity, in accordance with the regular practice of that business activity.

4. Part I of this Declaration provides an overview of Allied's organization, business operations, financial condition, recent history, and the circumstances giving rise to the commencement of the Chapter 11 Case.[2] Part II of this Declaration sets forth facts more particularly relevant to the various First Day Motions.

I.

OVERVIEW

A. Allied's Corporate Organization and Business.

5. Allied Systems Holdings, Inc., the ultimate parent of the other Debtors, is a privately held Delaware corporation headquartered in Atlanta, Georgia. The Debtors were reorganized in Chapter 11 cases (collectively the "**Original Chapter 11 Case**") that were filed in the United States Bankruptcy Court for the Northern District of Georgia on July 31, 2005 and that resulted in a plan of reorganization (the "**Allied Plan of Reorganization**"), which was confirmed and became effective on May 29, 2007 (the "**Effective Date**").[3] As a result of the reorganization, Allied's then unsecured creditors became the shareholders of Allied Systems

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[2] The financial data for all of the entities which comprise Allied are reported on a consolidated basis. Accordingly, throughout this Declaration, discussions of financial data and the related implications upon business operations are often presented with reference to "Allied."

[3] Allied Systems Holdings, Inc. is the successor by merger with Allied Holdings, Inc., which was the ultimate Allied parent when the Original Chapter 11 Case was filed. When the Allied Plan of Reorganization became effective, Allied Systems Holdings, Inc. was created as a subsidiary of Allied Holdings, Inc., which was merged into Allied Systems Holdings, Inc., the surviving corporation. Thus, in connection with the Original Chapter 11 Case, the terms "Allied" and "Debtors" exclude Allied Systems Holdings, Inc. and include Allied Holdings, Inc. Also, in connection with the Original Chapter 11 Case, the term "Debtors" includes certain indirect Allied subsidiaries that no longer exist. Also, indirect Allied subsidiaries formed under the law of Mexico and Bermuda, as well as Haul Insurance Ltd., a captive insurance company formed under the law of the Cayman Islands, were not then and are not now Debtors.

Holding, Inc. Two investment funds became the largest shareholders. These two funds, Yucaipa American Alliance Fund I, LP and Yucaipa Alliance (Parallel Fund I, L.P. (collectively "**Yucaipa**"), affiliated with The Yucaipa Companies, LLC, together own about 63% of the outstanding shares of Allied Systems Holdings, Inc. After the reorganization, when Yucaipa acquired debt owed by Allied and contributed it to capital, Yucaipa was issued non-voting preferred shares convertible into common shares. If the preferred shares were so converted, Yucaipa would own about 70% of the outstanding common shares.

6. Allied Systems Holdings, Inc. has three direct subsidiaries. Two of them, Allied Automotive Group, Inc. and Axis Group, Inc., are Debtors. The third, Haul Insurance Limited, which is a captive insurance company incorporated under the laws of the Cayman Islands, is not a Debtor.

7. Allied's major line of business is carried out by Allied Automotive Group, Inc. and its direct and indirect subsidiaries (collectively the "**Allied Automotive Group**").[4] This major line of business, known in the industry as "car-haul," is the transport of light vehicles, such as automobiles, sport-utility vehicles and light trucks, from manufacturing plants, ports, auctions, and railway distribution points to automobile dealerships in the United States and Canada. The trips are generally what are known in the industry as "short hauls," with each averaging less than two hundred miles. Allied's major customers are automobile manufacturers.

8. Allied Automotive Group, primarily through its operating subsidiary, Allied Systems Ltd. (L.P.) ("**ASL**") transports light vehicles by means of tractor trailers (the "**Rigs**") specially designed for transporting light vehicles. As of the end of 2011, Allied owned about

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[4] The following Debtors are part of the Automotive Group: Allied Automotive Group, Inc., Allied Systems, Ltd. (L.P.), Allied Systems (Canada) Company, QAT, Inc., RMX LLC, Transport Support LLC, F.J. Boutell Driveaway LLC, GACS Incorporated, Commercial Carriers, Inc., and Allied Freight Broker LLC.

2400 Rigs, which operated out of about 44 terminals, most of which were leased, located in the United States and Canada.

9. ASL's drivers are unionized. These employees (the "**Teamster Employees**") are members of local unions affiliated with the International Brotherhood of Teamsters (the "**Teamsters**"), which negotiates on behalf of the local unions and their members. Allied employs about 1,835 people of whom about 1,062 are Teamster Employees.

10. Allied's much smaller line of business is carried out by Axis Group, Inc. and its direct and indirect subsidiaries (collectively the "**Axis Group**").[5] This line of business includes arranging for and managing vehicle distribution services, automobile inspections, auction and yard management services, vehicle tracking, vehicle accessorizing, and dealer preparation services for the automotive industry in the United States and Canada, and providing yard management services in Mexico. The Axis Group operates from 39 terminals located in the United States, Canada, and Mexico

11. In 2010, Allied had revenue of about $543 million. In 2011, Allied had substantially less revenue (about $343 million) because, in the first quarter of 2011, Allied ceased providing car-haul services to several customers. In March 2011, Allied approached substantially all of its car-haul customers for rate increases, because the rate levels then in effect were not sustainable and did not cover current operating costs. New long-term contracts and rate increases were achieved with Ford and several smaller customers in the United States and with Ford, Mazda, Hyundai, Kia, Honda, Nissan and Mitsubishi in Canada. However, General

[5] The following Debtors are part of the Axis Group: Axis Group, Inc., CT Services, Inc., Cordin Transport LLC, Terminal Services LLC, Axis Canada Company. Axis Areta, LLC, Logistic Technology, LLC, Logistic Systems, LLC. Certain other foreign direct and indirect subsidiaries of Axis Group, Inc. are not Debtors.

Motors, Chrysler, Toyota, and Honda in the United States refused to accept the rate increases and, consequently, Allied discontinued providing car-haul services to these companies.

B. Decline in OEM Production

12. A major reason for the unsustainable rate levels that caused Allied to cease providing car-haul services to several substantial customers and that caused the Debtors to return to this Court is the drastic decline of production ("**OEM Production**") by original equipment manufacturers of light vehicles since the Allied Plan of Reorganization became effective in May 2007. This decline is a result of the recession which began in December 2007 and which is ongoing. The recession has hit the domestic automobile market particularly hard, with General Motors Corporation and Chrysler LLC commencing bankruptcy cases in 2009 and shutting down most production until their assets could be sold.

13. As a result of the drastic decline in OEM Production since 2007, there was an industry-wide oversupply of capacity to transport light vehicles. The fierce competition among trucking companies (both union and non-union) and railroads for contracts to transport these vehicles led Allied's customers to reduce substantially the rate of compensation offered to Allied and its competitors. Thus, lower OEM production combined with lower rates of compensation caused Allied to suffer large losses in the years since its reorganization in 2007.

14. The aggregate industry OEM production of light vehicles in North America in 2007 was approximately 15 million units. OEM Production declined drastically in 2008 and 2009 with a slight improvement in 2010, when production reached 11.9 million units. Reflecting that decline in production, Allied transported 6.9 million light vehicles in 2007 and had revenue of $823 million, while in 2010, Allied transported 4.5 million light vehicles and had revenue of $543 million.

15. While the rate of compensation to Allied for transporting light vehicles has been declining, Allied's expenses in many areas have increased. For example, the rate of compensation of its Teamster Employees increased by over 15% in June 2010 and increased again in June 2011. Also, as the Rigs age, they require more maintenance and capital improvements.

C. Allied's First Reorganization.

16. In connection with the Original Chapter 11 Case, the Debtors commenced ancillary proceedings (the "**CCAA Proceeding**") in the Ontario Superior Court of Justice (Commercial List) (the "**Canadian Court**") under the Companies' Creditors Arrangement Act ("**CCAA**"). In the CCAA Proceeding, the Canadian Court issued orders which, among other things, recognized the Original Chapter 11 Case as a foreign proceeding under the CCAA, stayed creditors from instituting proceedings or taking remedies in Canada against the Debtors or their property, approved the Debtors' financing, and gave full effect to the Allied Plan of Reorganization.

17. In the Original Chapter 11 Case, Allied's goals were (1) to increase revenue by increasing customer pricing, (2) to deleverage by conversion of debt into equity, and (3) to reduce labor costs through reductions in compensation and changes in work rules with respect to the Teamsters Employees and through shared sacrifice from non-union employees.

18. These goals were largely achieved, with significant aid from Yucaipa. During the original Chapter 11 Case, Yucaipa, among other things, (1) acquired about two-thirds of a series of unsecured notes that Allied had issued in the principal amount of $150 million; (2) was the catalyst for obtaining an agreement with the Teamsters for concessions ("Labor Modifications") reducing wages of Allied's Teamster Employees by 15% for a three-year period; (3) financed the

acquisition of Rigs for Allied's use; (4) supported a plan to convert general unsecured debt into equity; and (5) aided Allied in securing the exit financing (the "**Exit Financing**") essential to its reorganization.

19. Yucaipa and the Teamsters joined the Debtors as proponents of the Allied Plan of Reorganization. As of the Effective Date of the Allied Plan of Reorganization, Allied Holdings, Inc. created Allied Systems Holdings, Inc. as a subsidiary and merged into it. As provided in the Allied Plan of Reorganization, the outstanding stock of Allied Holdings, Inc. was canceled and Allied Systems Holdings, Inc. issued new common stock to Allied's general unsecured creditors, with Yucaipa becoming the owner of about 63% of it. Also as of the Effective Date, Allied's Exit Financing and the Labor Modifications became effective. Allied Systems Holdings, Inc. became a private company and terminated its reporting obligations with the Securities and Exchange Commission.

D. Labor Costs

20. At the end of May 2010, the Labor Modifications agreed to as part of the Allied Plan of Reorganization expired. The Teamsters insisted on an immediate snap-back of wage rates to what they were under the then current multi-employer collective bargaining agreement, known as the National Master Automobile Transporter Agreement (the "**NMATA**"), which was for a three-year term beginning June 1, 2008 and expiring May 31, 2011. As a result, as of the beginning of June 2010, Allied no longer had the benefit of the wage concessions agreed to in connection with the Allied Plan of Reorganization, and wage rates rose over 15% for Allied's Teamster Employees.

21. The employers who are parties to the NMATA are members of a multi-employer collective bargaining association, known as the National Automobile Transporters Labor

Division ("**NATLD**"), which is authorized by its employer members to bargain collectively with the Teamsters. When the NMATA for the period June 1, 2008 through May 31, 2011 expired, NATLD agreed to new NMATA for a 51 month term from June 1, 2011 through August 31, 2015 with increases in compensation for all covered employees, including Allied's Teamster Employees. This agreement was entered over Allied's objection but was nevertheless binding on Allied.

E. Allied's Major Credit Facilities

22. The Exit Financing established on the Effective Date of the Allied Plan of Reorganization is still extant as of the commencement of the Chapter 11 Case. This Exit Financing is comprised of two credit facilities which together provide financing of up to $315 million. The largest facility is the credit facility (the "**First Lien Credit Facility**"), which provides for up to $265 million in financing on terms originally set forth in the *Amended and Restated First Lien Secured Super-Priority Debtor in Possession and Exit Credit and Guaranty Agreement*, dated as of March 30, 2007, amended and restated as of May 15, 2007 (the "**First Lien Credit Agreement**"). The other credit facility (the "**Second Lien Credit Facility**") provides for up to $50 million in loans on terms originally set forth in a *Second Lien Secured Super-Priority Debtor in Possession and Exit Credit and Guaranty Agreement*, dated as of May 15, 2007 (the "**Second Lien Credit Agreement**").

23. The First Lien Credit Facility is secured by a first-priority security interest in substantially all of the Debtors' assets, including accounts, general intangibles, money, inventory, equipment (including Rigs), real estate and the stock of certain subsidiaries (the "**Collateral**") as granted by an *Amended and Restated Pledge and Security Agreement (First Lien)* dated as of May 15, 2007. The Second Lien Credit Facility is secured by a second-priority

security interest in the Collateral, as granted by an *Amended and Restated Pledge and Security Agreement (Second Lien)* dated as of May 15, 2007. Allied and the collateral agents for the two credit facilities entered an *Intercreditor Agreement* dated as of May 15, 2007 to set forth, among other things, the relative rights and priorities as between these two credit facilities.

24. The First Lien Credit Facility is provided by a group of financial institutions (the "**Lenders**"), one of which, CIT Group/Business Credit Inc. ("**CIT**"), has served, but is no longer serving, as administrative and collateral agent of this facility. The First Lien Credit Facility is comprised of the following three facilities: (i) a facility (the "**Revolving Loan Facility**") for revolving loans and swing line loans (collectively the "**Revolving Loans**") up to the amount of $35 million, (ii) a facility (the "**Letter of Credit Facility**") for the issuance by a bank ("**Issuing Bank**") of letters of credit ("**Letters of Credit**") for the account of Allied in the amount of up to $50 million; and (iii) a Term Loan Facility for loans ("**First Lien Term Loans**") up to the amount of $180 million.

25. CIT is the sole Lender under the Revolving Loan Facility Agreement and is not a Lender under the other two facilities. The other Lenders ("**First Lien Term Loan Lenders**") have made the First Lien Term Loans and deposited up to $50 million to support the Letter of Credit Facility. CIT asserts that the *Amended and Restated Pledge and Security Agreement (First Lien)* dated as of May 15, 2007 provides for the Revolving Loans to the paid before the Term Loans or the obligations due the First Lien Term Lenders under the Letter of Credit Facility.

26. The Second Lien Credit Facility, which provides for loans ("**Second Lien Term Loans**") of up to $50 million, is provided by certain lenders ("**Second Lien Lenders**"). Goldman Sachs Credit Partners L.P. ("**Goldman Sachs**") was the original administrative agent

and collateral agent of this facility and was later replaced in these capacities by Bank of New York Mellon.

27. Both the First Lien Credit Facility and the Second Lien Credit Facility provide that lenders ("**Requisite Lenders**") under each facility with more than 50% of the exposure under the respective facility have certain powers and the right to direct the administrative agent and the collateral agent with respect to certain actions, including whether to waive or exercise remedies if an event of default ("**Event of Default**") should occur under the respective facility.

F. Administration of the Credit Facility.

28. On May 6, 2008, Yucaipa acquired the face amount of $40 million of the Second Lien Term Loan and exchanged $20 million of it for 21,396 shares of preferred stock ("**Series A Preferred Stock**"), convertible into common stock at a conversion price, whereby each preferred share is valued at $934.74. In connection with Yucaipa's acquisition of the Second Lien Term Loan, the Second Lien Credit Facility was amended to allow Yucaipa to be an assignee (an "**Eligible Assignee**") with no restrictions on its right to vote. Yucaipa thereby became the Requisite Lender under the Second Lien Credit Facility.

29. In August 2008, heavily impacted by the sharp downturn that year in OEM Production, Allied notified CIT, as Administrative Agent of the First Lien Credit Facility, that, as of June 30, 2008, Allied was in default under that facility in that Allied was not in compliance with certain of its financial covenants in the First Lien Credit Agreement. On September 3, 2008, CIT, as Administrative Agent, sent Allied notice of default and of reservation of rights. Effective September 24, 2008, Allied and CIT entered a Forbearance Agreement, which, as amended, expired on November 15, 2008. On November 24, 2008, CIT sent Allied another notice of default and reservation of rights. However, CIT received no instruction from the

Requisite Lenders to terminate the Credit Facility or to declare the indebtedness thereunder to be due.

30. By April 2009, ComVest Investment Partners III, L.P. ("**ComVest**") had acquired a majority of the outstanding Lender exposure under First Lien Credit Facility and had thereby become the Requisite Lender. On August 21, 2009, ComVest and Allied entered an amendment ("**Fourth Amendment**") to the First Lien Credit Agreement to allow Yucaipa to be an Eligible Assignee, with no restriction on its right to vote. In connection with this amendment, Yucaipa purchased from ComVest the majority in face value of the First Lien Exposure. However, CIT declined to recognize the validity of the Fourth Amendment and consequently declined to recognize Yucaipa's status as the Requisite Lender under the First Lien Credit Facility.

31. In November 2009, Allied Systems Holdings, Inc and Yucaipa sued CIT to establish (1) that Yucaipa became the Requisite Lender in August 2009 and (2) that CIT was damaging Yucaipa and Allied by failing to take action lawfully demanded by Yucaipa as Requisite Lender.

32. In 2009, after General Motors Corporation and Chrysler LLC commenced their bankruptcy cases and shut down most production, in order to preserve Allied's liquidity position, Allied did not make quarterly interest payments due under the First Lien Credit Facility for the third and fourth quarters. Since then, Allied has not made payments due under the First Lien Credit Facility and the Second Lien Credit Facility.

33. Allied Systems Holdings, Inc., Yucaipa and CIT settled the litigation among them with regard to the First Lien Credit Facility pursuant to a Settlement Agreement dated as of December 5, 2011, with the parties filing Mutual Dismissals with Prejudice on December 7, 2011. The terms of the Settlement Agreement include, among others, mutual limited releases,

the recognition of the validity of the Fourth Amendment and of Yucaipa as the Requisite Lender, provisions for the resignation and replacement of CIT as administrative and collateral agent, the recognition, by Allied and Yucaipa, of the payment priority of CIT's revolver over the term loans included in the First Lien Credit Facility, and the reduction of the letter of credit facility.

34. On January 18, 2012, three lenders under the First Lien Credit Facility filed suit against Yucaipa in the Supreme Court of the State of New York, Index No. 650150/2012. These lenders were Black Diamond CLO 2005-1 Ltd., its affiliate BDCM Opportunity Fund II, LP, and Spectrum Investment Partners, L.P. In this suit (the "**Black Diamond/Yucaipa Action**"), the plaintiffs seek a judicial declaration that the Fourth Amendment is null and void and that Yucaipa is not the Requisite Lender under the First Lien Credit Facility. The grounds for the Black Diamond/Yucaipa Action are similar to those asserted by CIT in the prior action between CIT, Yucaipa and Allied Systems Holdings, Inc. The Black Diamond/Yucaipa Action is still pending.

35. While the Black Diamond/Yucaipa Action was being litigated, Allied was exploring the possibility of a sale of its business.

36. On May 17, 2012, the three plaintiffs in the Black Diamond/Yucaipa Action filed involuntary bankruptcy petitions seeking relief under Chapter 11 against Allied Systems Holdings, Inc. and its Allied Systems Ltd. (L.P.) in the U.S. Bankruptcy Court for the District of Delaware.

37. As of the commencement of the involuntary bankruptcy cases, the outstanding principal amount due under the First Lien Credit Agreement totaled about $244 million, including about $35 million due under the Revolving Loan Facility. The First Lien Credit Agreement provides for varying interest rates for its facilities, in addition to a default rate of 2%

over the otherwise applicable rates. Also, as of the commencement of the involuntary cases, the outstanding principal amount due under the Second Lien Term Facility was $30 million.

38. In light of the involuntary bankruptcy cases and its financial, condition, Allied determined that it would be in the best interests of their estates to proceed under Chapter 11. Therefore, Allied Systems Holdings, Inc, and Allied System Ltd. (L.P.) consented to relief under Chapter 11, and caused seventeen direct and indirect subsidiaries of Allied Systems Holdings, Inc. to join them by filing voluntary Chapter 11 petitions.

II.

FIRST DAY MOTIONS

39. In furtherance of the objective of successfully administering this Chapter 11 Case and maximizing value for all creditors, the Debtors have sought approval of the First Day Motions and related orders (the "**Proposed Orders**"), and respectfully request that the Court consider entering orders granting such First Day Motions.

40. I have reviewed each of the First Day Motions and Proposed Orders (including the exhibits thereto) listed on **Exhibit A** and the facts set forth therein are true and correct to the best of my knowledge, information, and belief.

41. Moreover, I believe that the relief sought in each of the First Day Motions (a) is vital to enable the Debtor to make the transition to, and operate in, chapter 11 with a minimum of interruption or disruption to its business or loss of productivity or value and (b) constitutes a critical element in achieving the maximization of the Debtors' value.

42. Accordingly, for the reasons stated herein and in each of the First Day Motions, I respectfully request that each of the First Day Motions be granted in its entirety, together with such further relief as the Court deems just and proper.

CONCLUSION

43. I declare under penalty of perjury that I have reviewed the information contained herein and that the information contained herein is true and correct to the best of my information and belief.

Executed on June 10, 2012.

SCOTT D. MACAULAY
Senior Vice President and Chief Financial Officer, Allied Holdings Systems, Inc..

EXHIBIT A

List of First Day Motions

List of First Day Motions

1. Emergency Motion of the Debtors for Bridge Order (I) Authorizing the Use of Cash Collateral, (II) Approving the Continued Use of the Debtors' Cash Management System, (III) Authorizing Debtors to Pay Prepetition Employee Wages and Expenses, and (IV) Granting Related Relief

2. Debtors' Motion for Entry of an Order Directing Joint Administration of Their Related Chapter 11 Cases

3. Application for Order Appointing Rust Consulting/Omni Bankruptcy as Claims and Noticing Agent Pursuant to 28 U.S.C. § 156(c) and Section 105(a) of the Bankruptcy Code *Nunc Pro Tunc* to the Petition Date

4. Motion to Authorize Allied Systems Holdings, Inc. to Act as Foreign Representative of the Debtors

5. Motion for Order (A) Deeming Utilities Adequately Assured of Payment, (B) Prohibiting Utilities from Altering, Refusing, or Discontinuing Services, and (C) Establishing Procedures for Resolving Requests for Additional Assurance

6. Motion for Order Authorizing Debtors to Continue Their Insurance Programs

7. Debtors' Motion for Entry of Interim and Final Orders Authorizing, But Not Directing, the Debtors to Pay Certain Prepetition Claims of Critical Vendors and Granting Certain Related Relief

8. Motion of the Debtors for Order Pursuant to U.S.C. §§ 105(a) and 363(b) Authorizing Payment of Prepetition Customs Duties and Claims of Common Carriers and Warehousemen and Authorizing the Debtors to Honor Certain Prepetition Cargo Claims and Authorizing Financial Institutions to Honor and Process Checks and Transfers Related to Such Claims

9. Motion of the Debtors for Orders Authorizing the Debtors to Pay Prepetition Sales, Use, and Other Taxes and Related Obligations

10. Motion for Authority to (A) Maintain Existing Cash Management System and Bank Accounts, (B) Continue Use of Existing Checks and Business Forms, (C) Obtain Limited Waiver of § 345(b) and (D) Continue to Make Intercompany Advances with § 364(c)(1) Administrative Priority

11. Motion of Debtors for Interim and Final Orders Authorizing Payment of Pre-Petition Wages, Payroll Taxes, Certain Employee Benefits and Related Expenses, and Other Compensation to Employees and Independent Contractors

12. Motion Pursuant to 11 U.S.C. §§ 105, 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503(b) and 507(a), Fed. R. Bankr. P. 2002, 4001 and 9014 and Del. Bankr. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; (IV) Modifying Automatic Stay; and (V) Scheduling a Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c)

EXHIBIT DS-3

[AMENDED COMPLAINT]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
ALLIED SYSTEMS HOLDINGS, INC., *et al.*,[1]	Case No. 12-11564 (CSS)
Debtor.	(Jointly Administered)
THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF ALLIED SYSTEMS HOLDINGS, INC. and its affiliated debtors,	
Plaintiff,	Adv. Proc. No. 13-50530 (CSS)
BLACK DIAMOND OPPORTUNITY FUND II, LP, BLACK DIAMOND CLO 2005-1 LTD., AND SPECTRUM INVESTMENT PARTNERS, L.P.,	
Intervenor(s),	
v.	
YUCAIPA AMERICAN ALLIANCE FUND I, L.P., YUCAIPA AMERICAN ALLIANCE (PARALLEL) FUND I, L.P., YUCAIPA AMERICAN ALLIANCE FUND II, L.P., YUCAIPA AMERICAN ALLIANCE (PARALLEL) FUND II, L.P., MARK J. GENDREGSKE, JOS OPDEWEEGH, JAMES FRANK, DEREX WALKER, JEFF PELLETIER, IRA TOCHNER, and JOSEPH TOMCZAK,	
Defendants.	

[1] The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: Allied Systems Holdings, Inc. (58-0360550); Allied Automotive Group, Inc. (58-2201081); Allied Freight Broker LLC (59-2876864); Allied Systems (Canada) Company (90-0169283); Allied Systems, Ltd. (L.P.) (58-1710028); Axis Areta, LLC (45-5215545); Axis Canada Company (87568828); Axis Group, Inc. (58-2204628); Commercial Carriers, Inc. (38-0436930); CT Services, Inc. (38-2918187); Cordin Transport LLC (38-1985795); F.J. Boutell Driveaway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS' AMENDED COMPLAINT FOR (I) EQUITABLE SUBORDINATION, (II) RECHARACTERIZATION, (III) BREACH OF CONTRACT, (IV) SPECIFIC PERFORMANCE, (V) BREACHES OF FIDUCIARY DUTIES, (VI) AIDING AND ABETTING BREACHES OF FIDUCIARY DUTIES, (VII) AVOIDANCE AND RECOVERY OF AVOIDABLE TRANSFERS, AND (VIII) DISALLOWANCE OF CERTAIN CLAIMS

The Official Committee of Unsecured Creditors (the "Committee" or the "Plaintiff"), appointed in the above-captioned chapter 11 cases of Allied Systems Holdings, Inc. ("Allied"), Allied Systems, Ltd. (L.P.) ("Systems") and their U.S. and Canadian subsidiaries (collectively, the "Debtors" or the "Company"), by and through its undersigned counsel, hereby files, on behalf of the estates of the Debtors, this Amended Complaint for (I) Equitable Subordination, (II) Recharacterization, (III) Breach of Contract, (IV) Specific Performance, (V) Breaches of Fiduciary Duties, (VI) Aiding and Abetting Breaches of Fiduciary Duties, (VII) Avoidance and Recovery of Avoidable Transfers, and (VIII) Disallowance of Certain Claims (the "Amended Complaint") against Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund II, L.P., Yucaipa American Alliance (Parallel) Fund II, L.P. (collectively, "Yucaipa"), Mark J. Gendregske ("Gendregske"), Jos Opdeweegh ("Opdeweegh"), James Frank ("Frank"), Derex Walker ("Walker"), Jeff Pelletier ("Pelletier"), Ira Tochner ("Tochner"), and Joseph Tomczak ("Tomczak," together with Gendregske, Opdeweegh, Frank, Walker, Pelletier and Tochner, the "Allied Directors" and the Allied Directors together with Yucaipa, the "Defendants"). The Committee expressly reserves the right to amend or supplement the parties to, and claims for relief in, the Amended Complaint, and to assert and file additional cross-claims and/or third-party complaints herein and in any related adversary proceeding, including, without limitation, *Allied Systems Holdings, Inc. v. American Money Management Corp. et al.*, Adv. Pro. No. 12-50947 (CSS) (Bankr. D. Del.) (the

"Delaware Action"), which cannot be articulated as a result of the fact that the Committee has not yet been able to confirm or deny many of the allegations in the related adversary proceedings, and/or due to the failure of the complainants to particularize their claims in the related adversary proceedings, and/or due to the fact that the Committee does not have copies of documents relating to certain of the allegations in the related adversary proceedings. In support of the requested relief, the Committee alleges, upon information and belief, as follows:

PRELIMINARY STATEMENT

1. This is a case about the efforts of the owner of the majority of equity in the Debtors to take control over all facets of the Debtors' capital structure in order to protect its equity investment over the legitimate rights and expectations of the Debtors' secured and unsecured creditors. Through various methods, after taking control of the Debtors following their first bankruptcy proceeding, Yucaipa attempted to strip away the protections afforded to all creditors of Allied, all in an effort to protect its equity investment from the legitimate exercise by actual creditors of their rights.

2. Following the first Allied bankruptcy, Yucaipa took control of approximately 67% of the outstanding equity of Allied and was given the ability to name outright three of the five directors on Allied's Board of Directors (the "Board"). What is more, Yucaipa effectively had the power to name all five directors on Allied's Board, as it was empowered, through its express control of an outright majority of the Board, to select Allied's Chief Executive Officer and the fourth Board member, as well as the fifth Board member, who, despite being selected by the creditors' committee in the first Allied bankruptcy, had to be "reasonably acceptable" to Yucaipa. Thus, given its controlling influence and express appointment and veto powers, even the two nominal "independent" directors were under the control of Yucaipa as the appointment

of both so-called "independent" directors was subject to Yucaipa's veto and whim. Accordingly, after Allied's emergence from the first bankruptcy, Yucaipa effectively controlled not only a super-majority of the outstanding equity, and expressly controlled a super-majority of the Board, but it also effectively controlled 100% of the Board.

3. Not long after Allied emerged from its first bankruptcy in May 2007, its business prospects began to falter. The global economic downturn began to come into view in late 2007 and early 2008, and was particularly felt in the automotive market, the primary market that Allied serviced as a long-haul car carrier.

4. Accordingly, as early as 2008, Allied was nearing insolvency, if not already insolvent. Indeed, at that time Allied was increasingly failing to meet various debt covenants and failing to make required debt payments. What was needed to keep the business afloat and to navigate the challenging economic times was an equity investment that could be used to service the outstanding debt or a voluntary restructuring to keep Allied's business running until the challenging economic conditions improved. Indeed, Allied's existing creditors pleaded with its owner, Yucaipa, to provide such an infusion of equity for the benefit of all of its stakeholders, including its creditors, its employees and its equity owners.

5. Yucaipa, however, refused to put equity into Allied, but instead crafted a scheme whereby it would protect its existing equity investment, take control over the outstanding secured debt of the Company and launch a plan to eliminate the existing debt in a manner that would benefit Yucaipa and Yucaipa alone. Additionally, Yucaipa thwarted any possibility of the Company entering into a voluntary restructuring or strategic combination that might have the effect of diluting or eliminating Yucaipa's existing equity. While Yucaipa may not have been required to infuse the Company with additional cash for a new equity investment, what it could

not do was to take steps to prevent the possibility of a voluntary restructuring or the exercise of rights by creditors in order to protect Yucaipa's existing equity investment. However, that is exactly what Yucaipa did, as it utilized its control over Allied to elevate Yucaipa to a status whereby it controlled not only the majority of the equity and effectively 100% of the Board, but also the outstanding secured debt of the company.

6. First, Yucaipa began to push Allied's creditors to lift the restrictions upon Yucaipa's ability to own outstanding debt (the "First Lien Debt") under the Amended and Restated First Lien Secured Super-Priority Debtor in Possession and Exit Credit and Guaranty Agreement, as amended (the "First Lien Credit Agreement"). Initially, the lenders under the First Lien Credit Agreement (collectively, any and all such lenders who at any time held First Lien Debt are the "First Lien Lenders") agreed to permit Yucaipa to take a position in the First Lien Debt, but only if Yucaipa purchased that debt in a manner that prevented Yucaipa from taking control over the exercise of remedies by creditors and only in a manner that required Yucaipa to "put its money where its mouth is," by contributing half of any purchase of First Lien Debt as capital into the company. Yucaipa controlled this process from the outset. Indeed, Yucaipa [redacted] while Allied sat idly by and let its controlling stockholder negotiate the terms of its outstanding First Lien Debt.

7. Nevertheless, and notwithstanding its control over and input into the amendment of the First Lien Credit Agreement, Yucaipa refused to purchase any First Lien Debt unless it could have complete control over the credit facility, as it had already accomplished in the Second Lien Facility (as defined below). Indeed, under the Third Amendment to the First Lien Credit Agreement (the "Third Amendment"), Yucaipa could not protect its equity investment by

purchasing First Lien Debt because any such debt would have been non-voting, and, even if such debt was permitted to vote, the amendment ensured that Yucaipa could not acquire a sufficient amount of First Lien Debt to enable it to block the exercise of remedies for defaults under the First Lien Credit Agreement.

8. Accordingly, instead of proceeding under the Third Amendment [redacted], Yucaipa began to affirmatively seek total control over Allied's outstanding secured debt. Thus, in the second step of its plan, Yucaipa launched a tender offer for the First Lien Debt in an effort to acquire a majority of the First Lien Debt and control over Allied's existing debt facilities. [redacted] Indeed, the existing First Lien Lenders knew full well that permitting the majority equity owner to take control over the outstanding secured debt could have disastrous consequences for the Company and its other stakeholders, as it would permit the equity owner to control any bankruptcy of the Company, all in violation of the spirit, if not the letter, of the absolute priority rule.

9. Not surprisingly, Yucaipa's tender offer failed. However, Yucaipa was not dissuaded by the reaction of the market and instead undertook a more surreptitious route to attempt to reach its goal of total and complete control. In 2009, Yucaipa engaged in discussions with the then existing Requisite Lender under the First Lien Credit Agreement, ComVest Investment Partners III, L.P. ("ComVest"), [redacted]

[redacted].

10. Accordingly, [redacted]. This time, Yucaipa eventually convinced ComVest to attempt to use its status as the Requisite Lender to purport to amend the First Lien Credit Agreement through the purported Fourth Amendment to the First Lien Credit Agreement (the "Fourth Amendment") to enable Yucaipa to purchase a majority of the First Lien Debt and ascend to the status of the Requisite Lender, a position wherein Yucaipa could prevent the exercise of remedies against the Company.

11. Yucaipa was only able to pull off this scheme by promising ComVest something that no legitimate or actual lender would do; [redacted]. Indeed, Yucaipa treated its purchase of the ComVest debt like equity [redacted]. But this was not all. [redacted]

12. In the end, by [redacted] Yucaipa was able to maneuver itself to the front of the line, protect its equity investment, and essentially make an equity contribution to Allied without technically doing so. Through its manipulative scheme, Yucaipa gave itself the ability to prevent creditors from exercising rights against the Company that could have benefitted the Debtors and their creditors but would have adversely affected Yucaipa's equity interests.

13. What is more, throughout this period, Yucaipa utilized Allied and its limited funds to pay Yucaipa and Yucaipa's advisors to engage in the transactions that comprised Yucaipa's scheme to protect Yucaipa's equity investment. Allied was obligated to pay millions of dollars to Yucaipa, under the guise of a consulting agreement, whereby Yucaipa purportedly acted on behalf of Allied in negotiations with customers and employees of Allied. Additionally, Yucaipa caused Allied to pay millions of dollars in legal and other fees to advisors of Yucaipa in connection with [redacted], as well as in connection with litigation that arose out of Yucaipa's scheme to eliminate any threat to its equity investment. However, that is not all, as Yucaipa went so far as [redacted]. All told, Yucaipa's actions caused Allied to pay millions of dollars for services of agents and advisors whose services solely benefitted Yucaipa. All of these funds would otherwise have been available to Allied's legitimate creditors.

14. Once it had claimed to have taken control of the First Lien Debt, Yucaipa exercised its purported power as the Requisite Lender in ways that caused harm to all creditors of the Debtors. For instance, when the agent for the First Lien Lenders objected to the Fourth Amendment and Yucaipa's acquisition of ComVest's interests, Yucaipa caused Allied to bring suit against the agent [redacted].

15. Yucaipa's efforts were also aided and enabled by the members of Allied's Board, who failed to fulfill their fiduciary obligations to the stakeholders and creditors of Allied. The Allied Directors were, or should have been, on notice of the possibility, if not certainty, that Yucaipa's interests, as Allied's primary equity holder, could conflict with the interests of Allied's legitimate creditors. Indeed, even prior to Allied's emergence from the first bankruptcy the possibility that a conflict between the interests of Yucaipa and Allied was apparent, as many of the prior board of directors noted that Yucaipa's actions could be unlawful.

16. Allied's Board, however, failed to take anything approaching reasonable steps to avoid the obvious conflicts of interests that arose from Yucaipa's control over the Debtors. For instance, while Allied nominally established a "Special Committee" (the "Special Committee") of purportedly independent board members to evaluate transactions involving Yucaipa, even if those board members could be deemed to be "independent," the Special Committee process was entirely flawed and deficient. Indeed, the Special Committee – which never retained any independent counsel or advisors until long into these bankruptcy cases – approved most, if not all, of the Yucaipa transactions, and did so without any independent evaluation. Instead, the Special Committee approved most, if not all, of these transactions only after the full Board, including the Yucaipa Board members, had already deliberated and received advice from the same advisors who represented the entire Board and whose retention was subject to the whims of Yucaipa and its Board members.

17. All told, Yucaipa's actions have cost the Debtors' estates and their stakeholders tens, if not hundreds, of millions of dollars that would otherwise be available for distribution to Allied's legitimate and actual creditors. Moreover, in addition to the payment of millions of dollars in benefits to Yucaipa, the Debtors and their creditors have been deprived of tens of

millions of dollars in capital contributions that Yucaipa was required to have made as a result of its acquisition of ComVest's First Lien Debt, which Yucaipa instead has purported to have transformed into First Lien Debt.

18. Accordingly, Plaintiff, derivatively on behalf of the Debtors' estates, brings this action for: (i) equitable subordination of Yucaipa's purported debt holdings to all other claims asserted against the Debtors pursuant to section 510(c) of the Bankruptcy Code; (ii) recharacterization as equity of Yucaipa's purported debt holdings pursuant to section 105(a) of the Bankruptcy Code; (iii) breach of the Third Amendment by Yucaipa; (iv) specific performance of the Third Amendment against Yucaipa; (v) breach of fiduciary duties against Yucaipa; (vi) breach of fiduciary duties against the Allied Directors; (vii) aiding and abetting breach of fiduciary duty against Yucaipa and the Allied Directors; (viii) the avoidance and recovery of fraudulent transfers and obligations against Yucaipa pursuant to sections 548(a) and 550 of the Bankruptcy Code, (ix) the avoidance and recovery of fraudulent transfers, conveyances and obligations against Yucaipa pursuant to sections 544(b) and 550 of the Bankruptcy Code (x) the avoidance and recovery of preferential transfers against Yucaipa pursuant to sections 547 and 550 of the Bankruptcy Code; and (xi) disallowance of certain claims of Yucaipa pursuant to section 502(d) of the Bankruptcy Code.

19. BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 Ltd., and Spectrum Investment Partners, L.P. ("Intervenors") intervened in this proceeding, on behalf of themselves and not on behalf of the Debtors' estates, pursuant to the directions given by the Court at the February 27, 2013 hearing. Additionally, the Intervenors assert a claim for equitable subordination of Yucaipa's purported debt holdings to all other claims asserted against the

Debtors arising under the First Lien Credit Agreement and Second Lien Credit Agreement pursuant to section 510(c) of the Bankruptcy Code for harm caused to the holders of such claims.

JURISDICTION AND VENUE

20. This is an adversary proceeding pursuant to Rule 7001 of the Federal Rules of Bankruptcy Procedure.

21. This Court has original jurisdiction under 28 U.S.C. § 1334(b), in that this is a civil proceeding relating to the underlying case arising under title 11 of the United States Code.

22. This adversary proceeding is a "core" proceeding pursuant to 28 U.S.C. § 157(b).

23. This Court has personal jurisdiction over Defendants pursuant to Rule 7004 of the Federal Rules of Bankruptcy Procedure.

24. Venue of this adversary proceeding in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409(a).

STANDING

25. The Committee has sought and received consent from the Debtors to have standing to bring this action against the Defendants on behalf of the Debtors' estates, [D.I. 907], and were granted such standing by the Court at the February 27, 2013 hearing.

THE PARTIES

26. The Committee, as Plaintiff in this adversary proceeding on behalf of the Debtors' estates, was appointed on June 20, 2012, pursuant to Section 1102 of the Bankruptcy Code.[2] Pursuant to Section 1103 of the Bankruptcy Code, the Committee has investigated and continues to investigate the acts, conduct, assets, liabilities, and financial condition of the Debtors.

[2] The Committee consists of Pension Benefit Guaranty Corporation; Central States, Southeast and Southwest Pension Fund; Teamsters National Automobile Transporters Industry Negotiating Committee; and General Motors LLC.

27. Intervenor BDCM Opportunity Fund II, LP is a Delaware limited partnership, with its principal place of business at One Sound Shore Drive, Suite 200, Greenwich, CT 06830.

28. Intervenor Black Diamond CLO 2005-1 Ltd. is a Cayman Islands limited liability company, with its principal place of business at One Sound Shore Drive, Suite 200, Greenwich CT 06830.

29. Intervenor Spectrum Investment Partners, L.P. is a Delaware limited partnership, with its principal place of business at 1250 Broadway, New York, NY 10001.

30. Upon information and belief, Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund II, L.P. and Yucaipa American Alliance (Parallel) Fund II, L.P. are Delaware limited partnerships headquartered at 9130 West Sunset Boulevard, Los Angeles, California 90069.

31. Upon information and belief, Mark J. Gendregske is a citizen of the state of Georgia and the chief executive officer and a director of Allied.

32. Upon information and belief, Jos Opdeweegh is a citizen of the state of Illinois, had previously served as an operating partner and advisor at The Yucaipa Companies, LLC, an affiliate of Yucaipa, and was a director of Allied.

33. Upon information and belief, James Frank is a citizen of the state of New York, is employed by The Yucaipa Companies, LLC, an affiliate of Yucaipa, and a director of Allied.

34. Upon information and belief, Derex Walker is a citizen of the state of California, a partner at The Yucaipa Companies, LLC, an affiliate of Yucaipa, and a director of Allied.

35. Upon information and belief, Jeff Pelletier is a citizen of the state of California, is an operating partner at The Yucaipa Companies, LLC, an affiliate of Yucaipa, and is a director of Allied.

36. Upon information and belief, Ira Tochner is a citizen of the state of California, is a partner at The Yucaipa Companies, LLC, an affiliate of Yucaipa, and is a director of Allied.

37. Upon information and belief, Joseph Tomczak is a citizen of the state of Illinois and was an operating partner at The Yucaipa Companies, LLC, an affiliate of Yucaipa, and was a director of Allied.

FACTUAL ALLEGATIONS

38. Allied is a leading provider of distribution and transportation services to the automotive industry in North America, primarily focused on the delivery of new automobiles from manufacturing facilities to dealerships.

(a) Allied's 2007 Bankruptcy, Yucaipa's Acquisition of the Majority of the Equity in Allied, and Board Members' Early Concerns About Yucaipa

39. Unfortunately, it is now clear that at least some of the seeds for the Debtors' current financial difficulties were sewn at the time of its last exit from bankruptcy in May 2007, which saw Yucaipa ascend to the role of Allied's majority and controlling shareholder with the power to appoint three of its five directors and the ability to control Allied's senior management.

40. Allied filed its first petition for relief under the Bankruptcy Code on July 31, 2005 in the United States Bankruptcy Court for the Northern District of Georgia (the "2005 Bankruptcy"). In or about May 2006, Yucaipa purchased a majority stake of the then existing Senior Unsecured Notes of Allied at a substantial discount to their par value.

41. After Yucaipa's acquisition of its interests in Allied, and during the 2005 Bankruptcy process, members of Allied's then board of directors were already focused on Yucaipa's tactics and voiced concerns about Yucaipa damaging Allied and its prospects. Among other things, members of the board raised significant concerns about the propriety of Yucaipa's actions taken purportedly on behalf of Allied and concerns about the amount of control that

Yucaipa was exerting over Allied's business. For instance, at a February 9, 2007 special meeting of the board, a board member raised his concern that there was "tort[i]ous interference" with the Company's business or contracts by Yucaipa.

42. During a February 20, 2007 special board meeting, another board member "indicated that he believed that Yucaipa is in the driver's seat and he and [another board member] agreed that once the Company[] signs the addendum, we would not be able to oppose what Yucaipa says or wants to do." At that time, the board discussed creating "value" for "everyone, not just Yucaipa, even in the circumstance if equity is out of the money" and the desire that the "process . . . allow the Company some control over this issue."

43. Additionally, as early as February 12, 2007, the board discussed whether Yucaipa had breached a confidentiality agreement that it had with Allied. The board even discussed whether Allied should bring a tortious interference claim against Yucaipa—so serious were these concerns, the board asked Allied's regular outside counsel to explore potential claims against Yucaipa.

44. By mid-March 2007, it was apparent to the board that, "in practical terms, Yucaipa may really be running and controlling the process."

45. Indeed, one member of the board described the situation in stark terms at a March 16, 2007 special board meeting, stating, "he believes that the Board has failed in its efforts in regard to the involvement of Yucaipa in the process." He was concerned "that the Board has exposure because the Company let Yucaipa do this to the Company," when it "should have required Yucaipa to sign some sort of agreement precluding it from" doing so, but "the Company never did" require such an agreement.

46. When Allied emerged from bankruptcy in May 2007, Yucaipa was in total control of Allied. As part of the exit plan, Yucaipa was permitted to name three of the five members of the Board, giving it a permanent majority and complete control of the board of directors. Not surprisingly, none of the prior directors who had voiced concerns about Yucaipa's actions were retained as members of the Board of the reorganized Allied.

47. Moreover, the Second Amended Joint Plan of Reorganization of Allied Holdings, Inc. And Affiliated Debtors Proposed By The Debtors, Yucaipa, And The Teamsters National Automobile Transportation Industry Negotiating Committee (the "2007 Reorganization Plan"), approved by the United States Bankruptcy Court for the Northern District of Georgia on May 18, 2007 and effective as of May 29, 2007, demonstrates that the "independent" directors were hardly independent at all. Indeed, one of the two so-called "independent" directors was the Chief Executive Officer of the Company, "who shall be selected by Yucaipa and shall be reasonably acceptable to TNATINC [i.e., the Teamsters] and the Creditors' Committee," in addition to the "three other members selected by Yucaipa." (Allied Form 8-K, dated May 24, 2007, at Ex. 2.1 § 7.2.)

48. The other "independent" director had served as the financial advisor to the creditors' committee in the 2005 Allied Bankruptcy. While this member was not employed by Yucaipa or Allied, the 2007 Reorganization Plan makes clear that even though this individual was to be "chosen by the Creditors' Committee," he or she "shall be reasonably acceptable to Yucaipa." (Id.) Thus, following Allied's emergence from bankruptcy in May 2007, Yucaipa effectively controlled all five Board members: it directly appointed 3 directors, its selection of the CEO and fourth Board member was subject only to being "reasonably acceptable" to certain

other creditors, and the fifth Board member, while chosen by the creditors' committee, was to be "reasonably acceptable to Yucaipa."

49. In addition to its ability to control Allied's Board, through the 2007 Reorganization Plan, Yucaipa held 67% of the equity of Allied, which has increased to an approximate 70% equity stake.

50. Through the 2005 Bankruptcy, Yucaipa acquired approximately two-thirds of a series of unsecured notes that Allied had issued in the principal amount of $150 million; it facilitated the $15.1 million financing of certain rigs represented by certain notes that were converted to equity; it supported the conversion of general unsecured debt into equity under the 2007 Reorganization Plan, of which Yucaipa held 67%; and it aided Allied in securing exit financing. Accordingly, through its below-par purchase of Allied's then existing Unsecured Notes, Yucaipa was able to cancel the existing equity and take complete control over Allied thereafter. Not only did Yucaipa own the majority of the newly issued equity in Allied, but it controlled at least two-thirds of the Board and, in reality, controlled one hundred percent of the Board.

(b) **The Secured Debt Structure After Allied's Exit from its First Bankruptcy**

51. Allied exited bankruptcy with $315 million of exit financing comprised of a $265 million senior secured first priority credit facility (the "First Lien Facility"), and a $50 million second lien facility (the "Second Lien Facility").

52. The First Lien Facility was comprised of $180 million of term loans; a $35 million revolving credit facility from The CIT Group/Business Credit, Inc. ("CIT"); and a $50 million letter of credit facility.

53. The First Lien Facility is governed by the First Lien Credit Agreement, entered into by and among Allied Holdings, Inc. ("Holdings") and Allied Systems Ltd (LP) ("Systems"),

as Borrowers, and certain subsidiaries of Holdings, as Guarantors, various lenders, Goldman Sachs Credit Partners L.P. ("Goldman Sachs"), as Lead Arranger and Syndication Agent, and CIT, as Administrative Agent and Collateral Agent.

54. The Second Lien Facility was comprised of $50 million of loans.

55. The Second Lien Facility is governed by that certain Second Lien Secured Super-Priority Debtor in Possession and Exit Credit and Guaranty Agreement, dated May 15, 2007 (the "Second Lien Credit Agreement"), entered into by and among Holdings and Systems as Borrowers and certain subsidiaries of Holdings as Guarantors, various lenders, and Goldman Sachs, as Lead Arranger, Syndication Agent, Administrative Agent and Collateral Agent.

56. Allied has been in default under both the First Lien Credit Agreement and Second Lien Credit Agreement since August 2008. Specifically, and only by way of example among many other Events of Default, Allied has failed to pay required principal and interest payments—at times at Yucaipa's express insistence—even when Allied had the cash on hand to make the payments.

C. The First Lien Credit Agreement and Second Lien Credit Agreement Were Expressly Drafted and Always Intended to Prevent Yucaipa, as the Majority Equity Holder, from Gaining Control Over the Outstanding Debt

57. Given the size of Yucaipa's equity holdings, its control of Allied's Board and, indeed, its control over all of Allied, it was always intended that Yucaipa would be precluded from taking control over the First Lien Debt and the outstanding debt under Second Lien Facility (the "Second Lien Debt"). This intention was hardly surprising and, indeed, standard in such secured debt offerings. Secured creditors had the right to know that the majority equity holder would not attempt to prevent creditors from enforcing rights that could harm the interests of secured creditors. Similarly, unsecured creditors and other stakeholders wanted to ensure that

Yucaipa, as the majority equity holder, would not be able to control the outstanding secured debt of the company in a manner that would favor equity holdings over legitimate debt holders.

58. The First Lien Credit Agreement set forth a mechanism designed to ensure that a majority of the holders of the First Lien Debt would be able to control most of the actions taken by the lending group. In particular, the First Lien Credit Agreement provides that "Requisite Lenders"—defined as holders of debt under the First Lien Facility representing more than 50% of the sum of the aggregate "Term Loan Exposure" of all lenders, the aggregate letter of credit exposure, and the aggregate revolving credit exposure (First Lien Credit Agreement § 1.1)—have the power to make certain key decisions affecting all First Lien Lenders.

59. Among other things, the Requisite Lenders under the First Lien Facility have the authority to declare or not declare "Events of Default" under the First Lien Credit Agreement. (Id. §§ 8.1, 9.8.)

60. The First Lien Credit Agreement expressly prevented Yucaipa from becoming eligible to become a Requisite Lender under the First Lien Credit Agreement because, as Allied's majority shareholder and "Sponsor," it was not a lender under the First Lien Facility and could not become such a lender. (Id. §§ 1.1, 10.6.)

61. The First Lien Credit Agreement was amended or, in the case of the "Fourth Amendment," purportedly amended, on four occasions. The Third Amendment[3] and purported Fourth Amendment,[4] are relevant to this proceeding.

[3] The Third Amendment refers to that certain Amendment No. 3 To Credit Agreement and Consent, dated as of April 17, 2008, to the Amended and Restated First Lien Secured Super-Priority Debtor In Possession and Exit Credit and Guaranty Agreement, dated as of May 15, 2007.

[4] The Fourth Amendment refers to that certain Amendment No. 4 To Credit Agreement, dated as of August 21, 2009, to the Amended and Restated First Lien Secured Super-Priority Debtor In Possession and Exit Credit and Guaranty Agreement, dates as of May 15, 2007.

62. The Second Lien Credit Agreement was amended on three occasions. The "Second Lien Third Amendment" is relevant to this proceeding.

63. Notwithstanding the clear prohibition in the respective First Lien Credit Agreement and Second Lien Credit Agreement that prohibited Yucaipa from acquiring the secured debt of Allied, Yucaipa refused to acknowledge or abide by those terms. [redacted] Yucaipa would subsequently [redacted] that it could take control over the secured debt facilities of Allied.

(d) **Yucaipa Causes the Second Lien Credit Agreement to be Amended and Acquires the Outstanding Second Lien Facility**

64. On May 6, 2008, as part of Yucaipa's scheme to take control over the entirety of Allied's financial structure, Yucaipa, acquired the face amount of $40 million in term loans under the Second Lien Facility and exchanged $20 million of it for 21,396 shares of preferred stock that is convertible into common stock. The $40 million face value acquired by Yucaipa represented approximately 80% of the outstanding amount of the term loans under the Second Lien Facility. Yucaipa acquired its holdings of the Second Lien Facility at a substantial discount to its par value.

65. In connection with Yucaipa's acquisition of the Second Lien Debt, the Second Lien Credit Agreement was amended to allow Yucaipa to become an Eligible Assignee with no restrictions on its right to vote or control the Second Lien Facility. Accordingly, Yucaipa became the Requisite Lender under the Second Lien Facility. Yucaipa, not Allied, controlled the negotiation of the amendment to the Second Lien Facility that enabled Yucaipa to take control over the Second Lien Facility.

(e) **Yucaipa Causes the Third Amendment to the First Lien Facility to be Executed by Allied to Permit Yucaipa to Purchase a Limited Amount of First Lien Debt**

66. Not long after Allied emerged from the first bankruptcy, notwithstanding the terms of the First Lien Credit Agreement but consistent with Yucaipa's belief [redacted], Yucaipa began to push to acquire First Lien Debt. [redacted]

67. [redacted] By contrast, Allied took a back seat and went along for the ride while Yucaipa [redacted].

68. [redacted]

69. Under the Third Amendment, a "Restricted Sponsor Affiliate" was defined as the "Sponsor and its Affiliates," and, under the First Lien Credit Agreement, the Sponsor is Yucaipa. (First Lien Credit Agreement § 1.1.) Accordingly, in light of the Restricted Sponsor Affiliate definition and under the terms of the Third Amendment, Yucaipa could acquire certain First Lien Debt. However, Yucaipa was precluded from becoming a Requisite Lender under the Third

Amendment, and, to the extent Yucaipa decided to acquire any First Lien Debt, it would be subject to the following restrictions, among others:

- Yucaipa could not acquire more than 25% of the aggregate principal amount of the Term Loan Exposure held by all Lenders (Third Amendment § 2.7(c));
- Yucaipa could not acquire more than $50 million of the principal amount of Term Loans (id. § 2.7(c));
- Yucaipa could not exercise any voting rights that it would otherwise have as a Lender, including the right to consent to any amendment to the Credit Agreement or the right to vote its debt in any Allied bankruptcy (id. §§ 2.1(e), 2.7(a), 2.7(b), 2.7(e)); and
- Within ten days of its acquisition of any Term Loans, Yucaipa was required to make a capital contribution to Allied of at least 50% of the aggregate principal amount of those Term Loans (id. § 2.7(e)).

70. Notwithstanding its restrictions, the fact that the Third Amendment permitted Yucaipa, as a Sponsor, to acquire any of Allied's First Lien Debt was a unique achievement for Yucaipa. [redacted]

71. [redacted] Yucaipa was not interested in acquiring any debt subject to the restrictions [redacted] in the Third Amendment. Indeed, in these bankruptcy proceedings, Yucaipa has averred that it "never intended to purchase any debt claims that would make it bound by the Third Amendment's provisions." (Adv. Pro. No. 12-50947 (Bankr. D. Del.), D.I. 65 at ¶25(a).) Yucaipa has made plain to this Court that it "never would have acquired any first lien debt while the Third Amendment's restrictions and conditions limiting Yucaipa's potential

ownership rights existed." (Id. at ¶ 50.) Accordingly, unsatisfied by the terms of the Third Amendment that it solicited and [redacted], Yucaipa continued with its scheme to take total control over the financial structure of Allied in order to protect its equity investment, to the detriment of all of Allied's other creditors.

(f) **Yucaipa's Control Over Allied's Purported Special Committee's Review of Potential Yucaipa Transactions**

72. During the spring of 2008, in connection with the Third Amendment that Yucaipa apparently never actually wanted, Yucaipa continued to pursue ways to take total control over the financial affairs of Allied. Throughout this period, the Allied Board simply went along for the ride. Indeed, notwithstanding the appointment of a so-called "Special Committee" of allegedly independent directors, who were supposed to evaluate any transaction involving Yucaipa, including the Third Amendment, to ensure that it was beneficial to Allied and its stakeholders, the Board, and ultimately the Special Committee, largely sat idly by [redacted]

73. On March 31, 2008 the Special Committee was formed. The Committee consisted of the two purportedly "independent" directors not formally appointed by Yucaipa, Brian Cullen ("Cullen") and Defendant Gendregske, with Cullen appointed as its Chairman. Other individuals, including Allied's in-house and outside counsel, regularly attended Special Committee meetings.

74. The purpose of the Special Committee was purportedly to negotiate on behalf of Allied in connection with any transaction in which Yucaipa would be involved. This necessarily would have included the Third Amendment, which for the first time permitted Yucaipa to acquire First Lien Debt. However, neither Allied nor its Special Committee took any control

[redacted].

75. In addition, the Special Committee never took any steps to ensure that it was represented by or advised by independent professionals who could have taken steps to ensure that the interests of Allied, as opposed to those of Yucaipa, were being represented at the bargaining table over the Third Amendment or any subsequent transaction involving Yucaipa. At no time did the Special Committee retain independent counsel or independent financial advisors to assist its considerations of proposed transactions and whether to make certain recommendations to the Board.[5] Indeed, throughout its entire existence until well into these chapter 11 cases, the Special Committee has relied solely on the legal and other advisors for the Debtors.

76. At an April 1, 2008 Special Committee meeting, a transaction was discussed whereby Yucaipa would purchase Allied's Second Lien Debt, potentially at a discount, and then would turn around and forgive that debt as a contribution to Allied in exchange for equity. Two weeks later, the Special Committee discussed Yucaipa's willingness to acquire and then to convert up to $25 million of Second Lien Debt into equity, subject to a material adverse change clause.

77. Three days later, on April 17, 2008, the Special Committee was advised that Defendant Walker, on behalf of Yucaipa, had stated that Yucaipa was only willing to convert $20 million of Second Lien Debt into equity, despite the fact that Allied's negotiators had advised that they would be more comfortable at the previously discussed $25 million conversion amount. Nevertheless, at the conclusion of the Special Committee's April 17, 2008 meeting, the

[5] Only after months had passed in these current bankruptcy cases did the Special Committee ever retain independent counsel.

Special Committee unanimously agreed to return a term sheet to Yucaipa containing the $20 million commitment that Yucaipa preferred.

78. Yucaipa would ultimately be unwilling, however, [redacted]. Notwithstanding the enactment of the Third Amendment that [redacted]

(g) **Yucaipa Continues to Seek Approval to Acquire a Majority of the First Lien Debt to Protect its Equity Investment**

79. Throughout 2008, Yucaipa was [redacted]

80. [redacted]

81. [redacted]

82. During the same time that Yucaipa was cementing its control, Allied was suffering financially and was informed of the heightened duties that it owed to its creditors as a result. On December 10, 2008, Cullen advised the Board that it should "consider the possibility that the Company was in the zone of insolvency and may have altered responsibilities as a consequence."

83. Nevertheless, while discussions concerning Yucaipa's potential acquisition of First Lien Debt continued, the Board and the Special Committee failed to take even rudimentary steps to ensure that any transaction would be fair to Allied and its stakeholders. For instance, on January 24, 2009, the Special Committee determined that it would not seek a fairness opinion concerning a contemplated transaction where Yucaipa would only acquire a minority amount of the First Lien Debt. Ultimately, Allied failed to ever obtain a fairness opinion concerning any acquisition of First Lien Debt by Yucaipa, including when Yucaipa ultimately purported to acquire the majority of outstanding First Lien Debt.

84. Notably, while the Special Committee and the Board failed to take steps to protect the interests of Allied and its stakeholders, the true motives of Yucaipa were obvious to, and known by, Allied's directors. For instance at a February 3, 2009 Special Committee meeting, Cullen stated in no uncertain terms that "he believed that Yucaipa was putting more money into the Company in an effort to retain and protect its ownership position." The Special Committee shared Cullen's views, as the minutes from that same meeting reflect that the "Special Committee noted that Yucaipa's additional infusion of cash in the Company suggested that it would remain willing to augment the Company's cash position to protect its investment." Still, the Allied Directors failed to take appropriate steps to ensure that the interests of the Company and its creditors, as opposed to the interests of Yucaipa, were protected.

85. Throughout this time, Yucaipa continued to [redacted]

86. [redacted]

87. [redacted]

88. [redacted], on February 4, 2009, Yucaipa launched a tender offer to the existing holders of the First Lien Debt that, if successful, would have permitted Yucaipa "to be Lenders under [First Lien] Credit

Agreement without any capital contributions to [Allied] and without any limit on the amount of Loans and LC Deposits that can be purchased." As part of the tender offer, Yucaipa offered to purchase the outstanding debt at substantial discounts to par, namely term loans and letter of credit deposits for approximately 15 cents on the dollar and revolving credit commitments for approximately 13 cents on the dollar. Simultaneously, Yucaipa caused Allied to seek to secure lender consent to an amendment to the First Lien Credit Agreement that, if successful, would have permitted Yucaipa to become the Requisite Lender under the First Lien Facility.

89. However, the existing lenders to the First Lien Facility would not tender or consent to Yucaipa's desire to take control over the First Lien Facility. Accordingly, the proposed tender offer and amendment strategy failed.

(h) **Yucaipa Initiates Its Backup Plan to Take Total Control Over Allied Utilizing ComVest to Enable Yucaipa to Become the Requisite Lender Over the First Lien Facility**

90. Having failed in its efforts to convince the First Lien Facility lenders to permit Yucaipa to take total control over the First Lien Facility, Yucaipa initiated its backup plan to take complete control over Allied. Accordingly, Yucaipa turned its sights on another entity, ComVest, to give Yucaipa the total control it so desired.

91. At a March 6, 2009 Allied Board meeting, Defendant Walker informed the Board about a contemplated transaction between Yucaipa and ComVest to acquire ComVest's Allied debt holdings. At that meeting, Defendant Walker advised the Board that

> Yucaipa and Com-Vest reached an agreement under which Com-Vest would retain its debt holdings, but would allow Yucaipa full voting control over those holdings, as well as any future Allied debt acquired by Com-Vest. Com-Vest further agreed not to undertake any other activities in the carhaul sector. Com-Vest and Yucaipa reached an agreement as to how the two companies would share any recovery in the event of a liquidation by Allied. Under that agreement, any payments to Com-Vest/Yucaipa would be provided first to Com-Vest for the first $70 million, then to

> Yucaipa up to an amount equal to the amount invested by Yucaipa in purchasing first lien debt, with any remaining funds shared between the companies pro-rata. Yucaipa planned to launch a tender offer for remaining first lien debt at twenty-three cents on the dollar. Finally, under the agreement, Allied was to provide Com-Vest a warrant for 25% of the outstanding shares in Allied. . . . Mr. Walker pointed out that in exchange for the 25% of the Company's equity, the Company would receive an amendment that would cure all defaults and set covenants at a level selected by the Company as achievable. It would also put requisite lender approval in the hands of Yucaipa, more closely aligning the interests of the Company and those of the requisite lenders.

92. After Defendant Walker's presentation, the Board "went on to discuss the ramifications of the proposed transaction, including the impact of the proposed transaction on minority shareholders, and other lenders." As part of that discussion, Defendant Walker stated that ComVest's intention, absent an agreement on the proposed transaction, would be to "push the Company into bankruptcy and force a 363 sale in which it would likely credit bid its loans in order to obtain an order to purchase the Company."

93. At this Board meeting, Cullen inquired as to whether a Special Committee meeting was needed and whether the Board should obtain a fairness opinion. The Board "directed the Special Committee to meet and return to the full Board with a recommendation on whether to authorize the Company to enter into the proposed transaction." The Board meeting was simply suspended momentarily to permit the Special Committee to meet. As usual, the Special Committee received no independent advice regarding the proposed transaction. Shortly thereafter the Board reconvened, and the Special Committee advised that it had unanimously decided to recommend that the Board approve of the proposed transaction and what would ultimately lead to the Fourth Amendment.

94. Yucaipa's intent throughout this period was clear. Having failed in earlier attempts to convince the holders of the First Lien Debt to voluntarily consent to permit Yucaipa

to become the Requisite Lender, Yucaipa would utilize Allied in whatever fashion it desired in order to effectuate Yucaipa's efforts to protect its equity investment.

95. Yucaipa's intentions throughout this period were known to the Allied Directors. All involved understood that Yucaipa, having already succeeded in its efforts to take control over the Second Lien Facility, was seeking approval to obtain First Lien Debt in an effort to support its equity investment in Allied. Nevertheless, the Allied Directors took no measures to stop Yucaipa, or even to ensure that any takeover by Yucaipa of the First Lien Facility would not be inimical to the interests of Allied or its creditors.

(i) **Yucaipa Causes Allied and the Allied Directors to Fail to Negotiate with the First Lien Lenders Concerning a Consensual Restructuring of the First Lien Facility**

96. Notwithstanding Defendant Walker's representation to the Allied Board in March 2009, Yucaipa and ComVest did not have any agreement at that time. To the contrary, ComVest was interested in pursuing a restructuring of the outstanding debt of Allied in a manner that would have involved a potential consensual reorganization of Allied's debt structure.

97. In the spring and summer of 2009, ComVest repeatedly approached Allied in an effort to engage in discussions concerning a potential conversion of the outstanding First Lien Debt into equity of a reorganized Allied. The precise parameters of this potential consensual restructuring were not set in stone, but could have taken a number of different forms, including potentially a strategic combination with other parties in the long-haul auto industry or other potential structures.

98. The benefits of a potential voluntary restructuring of the outstanding debt of the Company should have been clear to the Allied Directors at the time. Indeed, by the spring of 2009, Allied had been in continuous default of its obligations under the First Lien Facility for almost a year. A voluntary restructuring of the First Lien Debt in a manner that involved the

conversion of the outstanding debt into equity of a reorganized Allied would have significantly benefitted Allied and its creditors, as it could have potentially de-levered Allied's balance sheet. Accordingly, given the obvious benefits to the Company and its stakeholders, it was incumbent upon the Allied Directors to at least pursue discussions with ComVest, as the Requisite Lender, concerning a potential voluntary restructuring.

99. The one party that would not have benefitted, however, from such a voluntary restructuring or strategic combination would have been Yucaipa, as the controlling existing equity holder of Allied. In particular, to the extent that the Company entered into such a restructuring or combination, it is likely, if not certain, that Yucaipa would have seen the value of its existing equity holdings eliminated or, at a minimum, substantially diminished and would potentially see its super-majority control over Allied be eliminated or at least reduced.

100. Unfortunately, the Allied Directors failed to even attempt to engage or direct the officers of Allied to engage in discussions or negotiations with ComVest concerning a potential voluntary restructuring of Allied's outstanding First Lien Debt. Although the precise reasons for the failure of the Allied Board to fulfill its fiduciary obligations is not known to date, given Yucaipa's control over the Board and its decision making, it is hardly surprising that Allied failed to even attempt to engage in discussions concerning a potential transaction that could have greatly enhanced the value of the Company where it would not advance Yucaipa's self-serving interests.

101. Accordingly, ComVest, having been rebuffed in its efforts to effectuate a voluntary out-of-court restructuring of Allied's debt structure, went back to the drawing board and began serious negotiations with Yucaipa.

(j) Yucaipa Causes Allied to Fail to Pay Under the First Lien Facility In Order to Benefit Yucaipa in its Negotiations with ComVest

102. Not content to simply pursue its backup plan to take control over Allied's entire financial structure, Yucaipa also took measures to put pressure on the existing First Lien Lenders through its control over Allied's equity and its Board. What is more, Yucaipa utilized Allied's existing funds as a cudgel to assist Yucaipa in connection with negotiations with ComVest, all to the detriment of the existing creditors of Allied.

103. For example, at an August 3, 2009 Board meeting called for the purpose of discussing Allied's "liquidity, especially with respect to the approximately $4.8 million interest payment due to the first lien lenders the next day," the Board was advised that Defendant Walker "had suggested that the Company might be well-advised not to make the payment."

104. At that meeting, Defendant Walker "updated the Board on the status of negotiations with ComVest, stating that ComVest and Yucaipa were back in discussions," that Yucaipa believed a deal could be reached, but "warned, however, that it was critical that the Company have adequate liquidity to provide a sufficient runway for negotiations, and that a free fall into bankruptcy could be highly disruptive to the Company and to the ongoing negotiations." Defendant Walker further "advised that based upon his conversations with ComVest, he did not believe that failure to make the payment would lead to precipitous action by the lenders or anyone else", because, according to Defendant Walker, "ComVest, as the Requisite Lenders, would not seek to exercise any rights and would not allow others to do so given the current state of negotiations between ComVest and Yucaipa."

105. At this same meeting, Scott Macaulay, Allied's chief financial officer, advised the Board that Allied had $16.5 million of cash on hand, of which $12.3 million was immediately available. Of that $12.3 million, $2 million was needed for insurance premium payments,

leaving, as a practical matter, $10.3 million in immediately available cash on hand. Mr. Macaulay advised that making the interest payment of $4.8 million to the First Lien Facility lenders would leave Allied with $5.5 million of immediately available cash on hand. Accordingly, Allied had sufficient funds available to make its payment and to stay current on its payment obligations under the First Lien Facility.

106. Nevertheless, notwithstanding the fact that Allied had sufficient liquidity to pay debt service under the First Lien Facility, in order to facilitate Yucaipa's interests in negotiations with ComVest, Defendant Walker's motion that Allied forego the quarterly interest payment that it owed the First Lien Facility lenders on August 4, 2009 carried unanimously. Based upon the information disclosed to the Committee to date, it does not appear that the Special Committee ever met to consider or evaluate Defendant Walker's motion, notwithstanding that it was clearly in Yucaipa's interests (but not the Debtor's) for Allied not to make the payments owing under the First Lien Facility.

107. Of course, these were hardly the only defaults by Allied under the First Lien Credit Agreement. Indeed, since August 2008, Allied had been in continuous default under the First Lien Credit Agreement, as it failed to meet financial covenants set forth in the First Lien Credit Agreement. Additionally, Allied later disclosed that as of August 30, 2008, it had failed to fulfill its requirement under the First Lien Credit Agreement to disclose Yucaipa's acquisition of Second Lien Debt in June and July 2008. The failure to disclose Yucaipa's purchase of that debt also constituted an Event of Default under the First Lien Credit Agreement. Yucaipa directed or caused Allied to fail to disclose the acquisition of debt by Yucaipa in June and July 2008.

(k) **Yucaipa Completes Its Backup Plan to Take Total Control Over Allied's Financial Structure, as it Causes Allied to Execute The Purported Fourth Amendment**

108. While it was causing Allied to further default on its obligations to its creditors, Yucaipa continued negotiations with ComVest to complete its backup plan to cement its total control over Allied. During this time, Yucaipa [redacted]

109. [redacted]

110. [redacted]

111. Yucaipa had struck a deal with ComVest whereby those parties agreed to amend the terms of the First Lien Agreement to provide precisely the opposite of what was always intended, namely that Yucaipa would now be permitted to control the entirety of Allied's debt structure.

112. The transaction was ultimately approved by Allied's Board on August 19, 2009, at the recommendation of the purportedly independent Special Committee. Despite the approval, neither Allied's Special Committee, nor the full Board, played any significant role in the negotiations of the terms of the

Fourth Amendment. Instead, the Allied Directors simply went along for the ride as Yucaipa completed its backup plan to cement control over Allied.

113. [redacted]

114. The purported Fourth Amendment purported to eliminate all of the Third Amendment's restrictions on Yucaipa's ability to obtain First Lien Debt. The Fourth Amendment purports to amend the First Lien Agreement's definitions of "Eligible Assignee" and "Term Loan Exposure" such that Yucaipa's ability to acquire certain First Lien Debt is no longer capped. (Fourth Amendment § 2.1(b).) It further purports to eliminate the voting restrictions for debt obtained by Yucaipa, purports to remove the $50 million cap, and purports to eliminate the capital contribution requirement. (Id. § 2.4(a).)

115. [redacted] Yucaipa now purports to hold "$114,712,088.66 of Term Loans and $30,400,458.40 of LC Commitments (*i.e.* deposits to support letter of credit), totaling $145,112,547.06 of the $265,000,000 maximum first lien loans authorized by the First Lien Credit Agreement," according to Yucaipa's Cross-Claims. (Adv. Pro. No. 12-50947

(Bankr. D. Del.), D.I. 65 at ¶17.)

116.

117. Following the execution of the Fourth Amendment, Yucaipa contended that it was the Requisite Lender under the Credit Agreement.

(l) **Having Executed its Backup Plan Through the Fourth Amendment, Yucaipa Plans to Eliminate the Threat to Its Equity Position**

118. Having succeeded in its backup plan to take control over the entire secured debt structure of Allied, Yucaipa next turned to planning a reorganization of Allied that would further cement and protect its equity holdings in the Company.

119.

[redacted]

120. During this time, Yucaipa pursued discussions with other parties and entities that had an interest in the First Lien Facility concerning the potential of a reorganization of Allied whereby the existing debt of Allied would be converted to equity or wiped out. Neither Yucaipa nor the Allied Directors considered during this time whether such a reorganization strategy would be consistent with the fiduciary obligations owed by Yucaipa and the Allied Directors to Allied as a whole and its stakeholders, including its creditors.

121. Additionally, following the execution of the Fourth Amendment, [redacted] Yucaipa took additional steps to protect Yucaipa's equity position at the expense of Allied's legitimate creditors. As noted above, beginning in August 2009, Allied, at Yucaipa's direction, began to refuse to make regularly scheduled payments of principal and interest under the First Lien Facility. Additionally, Yucaipa also caused Allied to fail to reimburse collateral accounts that secured the First Lien Facility's letter of credit facility, to attempt to terminate certain control agreements, and to retain excess cash all in violation of the terms of the First Lien Credit Agreement. These steps frustrated the rights of secured and unsecured creditors to attempt to remedy defaults committed by Allied, all during a period in which Allied was insolvent and in default of its obligations to creditors.

(m) **Litigation Surrounding the Purported Fourth Amendment**

122. Although Yucaipa has claimed to be the Requisite Lender under the Credit Agreement in light of the purported Fourth Amendment, its claim to that position has been hotly

contested around the country and has been an issue in at least three separate proceedings (the third of which includes multiple adversary proceedings in the Delaware Action).[6]

(i) **The Georgia Litigation**

123. Approximately one month after the execution of the Fourth Amendment and affiliated agreements, the majority of the other First Lien lenders objected to Yucaipa's acquisition and instructed CIT, which acted as the Administrative Agent and Collateral Agent under the First Lien Credit Agreement, to object to Yucaipa's claim to be the Requisite Lender and to challenge the validity of the Fourth Amendment.

124. Following CIT's objection to the Fourth Amendment, Yucaipa and Allied, at Yucaipa's direction, brought suit against CIT in the Superior Court of Fulton County, Georgia (the "Georgia Action"),[7] seeking, among other things, a declaratory judgment that the Fourth Amendment was valid and that Yucaipa was the Requisite Lender. In response, CIT filed counterclaims seeking, among other things, a declaration that the Fourth Amendment was invalid and stating claims for breach of fiduciary duty against the Allied Board and aiding and abetting breach of fiduciary duty against Yucaipa.

125. Shortly after filing a motion for partial summary judgment in its favor, CIT entered into a settlement agreement with Allied and Yucaipa. The Settlement Agreement made clear that the settlement was made solely by CIT in its individual capacity and did not release any claims that may have existed on behalf of "any other person."

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[6]The Intervenors commenced on January 25, 2013 an adversary proceeding before this Court related to the same issues. *BDCM Opportunity Fund II, LP, et al. v. Yucaipa American Alliance Fund, I, LP et al.*, Adv. Pro. No. 13-50499 (CSS) (Bankr. D. Del.).

[7] In addition to the Georgia Litigation, the purported Fourth Amendment spawned a separate lawsuit against ComVest in Florida state court. In that case, Michael T. Riggs and affiliated entities sued ComVest, claiming that by entering into the transaction with Yucaipa that ComVest had breached various letters of intent and other agreements that contemplated a transaction involving Allied. That lawsuit has apparently been stayed pending these bankruptcy cases.

(ii) **The New York Action**

126. On January 17, 2012, just weeks after the settlement of Yucaipa and Allied's lawsuit against CIT, the Intervenors commenced an action against Yucaipa in the Supreme Court of the State of New York (the "New York Action") seeking a declaration from the court that "(i) the purported Fourth Amendment is null and void, ineffective, and not binding," and (ii) that "Yucaipa is not Requisite Lenders under the Credit Agreement."

127. Yucaipa's motion to dismiss the New York Action was denied at a May 30, 2012 hearing without a written opinion, and the transcript of that hearing was "So Ordered" on August 2, 2012.

128. The Intervenors moved for summary judgment on August 27, 2012. At oral argument on that motion on November 19, 2012, the court indicated it would grant the motion for summary judgment and indicated it would subsequently issue a written order, as Yucaipa has acknowledged (Adv. Pro. No. 12-50947 (Bankr. D. Del.), D.I. 65 at ¶88).

(n) **Yucaipa Has Failed to Perform Under the Third Amendment**

129. By virtue of the ruling in the New York Action, the Fourth Amendment has now been found to be invalid such that reliance on the Fourth Amendment now is misplaced. Accordingly, the Third Amendment is again the operative amendment to the First Lien Credit Agreement and its terms, including the contribution provisions and limitations upon Yucaipa's debt holdings, are binding and controlling.

130. However, notwithstanding the ruling in the New York Action, Yucaipa has refused to perform in accordance with the terms of the First Lien Credit Agreement, as amended by the Third Amendment. Indeed, even if the forthcoming written ruling in the New York Action withstands any appeal that Yucaipa claims it will bring, Yucaipa expressly contends in this proceeding that it would refuse to perform the obligations contained in the First Lien Credit

Agreement, as amended by the Third Amendment. (Adv. Pro. No. 12-50947 (Bankr. D. Del.), D.I. 65 ¶¶ 109, 118-122, 130). Yucaipa's cross claims against the Interventors, setting forth its refusal to perform under the Third Amendment, were dismissed with prejudice by this Court on February 27, 2013.

(o) **The Filing of These Bankruptcy Cases and Yucaipa's Attempt to Fulfill its Plan to Protect its Equity Investment**

131. On May 18, 2012, the Intervenors filed these involuntary bankruptcy proceedings, alleging that Yucaipa had caused Allied to be mismanaged and had caused Allied to be in default under the First Lien Credit Agreement. Subsequently, Allied consented to the bankruptcy cases and filed a voluntary petition under chapter 11 of the Bankruptcy Code.

132. Since that time, Yucaipa has sought to complete its long-standing plans for Allied. In particular, Yucaipa has repeatedly stated that it was preparing to bid to takeover Allied. Yucaipa would essentially retain its control over Allied's equity through any bid and eliminate existing debt of Allied, both secured and unsecured.

CLAIMS FOR RELIEF

First Claim for Relief

Equitable Subordination Pursuant to 11 U.S.C. § 510(c) against Yucaipa

133. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 132 as if fully set forth herein.

134. The equities in this case demand that the amounts allegedly owed to Yucaipa on account of the First and Second Lien Facilities should be subordinated to all other claims except those of equity interest holders under 11 U.S.C. § 510(c).

135. Yucaipa, as the owner of a super-majority of the outstanding equity in the Debtors and having been able to appoint at least three of the five directors on Allied's board of directors, was at all times, and still is, an insider of the Debtors.

136. Yucaipa and its agents, including the members of Allied's Board appointed by Yucaipa, breached their fiduciary duties of good faith, honest governance, loyalty and care to Allied and its creditors by, among other wrongs, looting and engaging in self-dealing transactions for Yucaipa's own benefit and to the detriment of the Debtors and their creditors.

137. Yucaipa's inequitable conduct injured Allied and its creditors by, among other things, causing the Company to fail to repay amounts outstanding under its various debt facilities and to expend millions of dollars in fees and other amounts that served no one's interest but those of Yucaipa. In addition, Yucaipa acted inequitably toward Allied by improperly exercising its control over Allied and causing Allied to pay for and consent to a series of transactions effectuating Yucaipa's purported acquisition of a majority of the outstanding secured debt of Allied, all with the express intention of causing Allied to sell its assets to Yucaipa through the guise of a bid that would eliminate legitimate debt of Allied while protecting the equity interests of Yucaipa at the expense of the Debtors and their creditors.

138. Plaintiff believes that equitable subordination of Yucaipa's purported debt holdings to all other claims except those of equity interest holders is consistent with the provisions of the Bankruptcy Code. Yucaipa should not be permitted to profit from an illicit scheme that it willingly, and intentionally, imposed upon Allied and its creditors, in violation of its fiduciary duties of good faith and loyalty.

139. For the reasons set forth above, Yucaipa's claims, in total, against the Debtors should be subordinated to all other claims asserted against the Debtors pursuant to section 510(c)

of the Bankruptcy Code because Yucaipa's inequitable conduct resulted in injury to the Debtors' creditors as a whole and conferred an unfair advantage on Yucaipa, and such subordination would be consistent with the provisions of the Bankruptcy Code.

Second Claim for Relief

Equitable Subordination Pursuant to 11 U.S.C. § 510(c) against Yucaipa for Harm to All First Lien and Second Lien Lenders

140. Intervenors repeat and reallege each and every allegation in paragraphs 1 through 139 as if set forth fully herein.

141. At all times relevant hereto, Yucaipa was an insider of the Debtor.

142. As more fully described above, Yucaipa has engaged in unfair and inequitable conduct towards First Lien and Second Lien Lenders in that Yucaipa has manipulated the Debtors as an insider and in its capacity as alleged Requisite Lender and has engaged in overreaching with respect to the Debtors and their creditors by, among other things:

(a) Yucaipa caused the Debtors to favor Yucaipa at the expense of other non-insider creditors.

(b) Yucaipa improperly acted as Requisite Lender by failing to permit First Lien Lenders to exercise legitimate rights and remedies.

(c) Yucaipa caused the Debtors to abdicate their duty to maximize value, in favor of protecting Yucaipa's ownership position.

(d) Yucaipa pressured Debtors' management repeatedly to defer to Yucaipa for the sole benefit of Yucaipa.

143. Yucaipa's inequitable conduct has resulted in injury to First Lien and Second Lien Lenders by conferring unfair advantages upon Yucaipa in at least the following ways:

(a) Yucaipa caused the Debtors to adopt a business strategy to benefit Yucaipa at the expense of Plaintiffs.

(b) Yucaipa prevented the Debtors from developing restructuring proposals that maximize value for Intervenors.

(c) Yucaipa forced the Debtors to place the interests of Yucaipa above the Debtors' own interests and those of the Intervenors, including but not limited to orchestrating amendments to the Credit Agreement solely for the benefit of Yucaipa.

144. As a result of Yucaipa's conduct, First Lien and Second Lien Lenders have been materially harmed.

145. Granting the relief sought herein against Yucaipa is consistent with the Bankruptcy Code and is appropriate based on the indisputable facts of this case.

146. Pursuant to 11 U.S.C. §510(c), all distributions to Yucaipa on account of its status as First Lien Lender and Second Lien Lender should be subordinated to the claims of all First Lien and Second Lien Lenders.

Third Claim for Relief

Recharacterization Pursuant to 11 U.S.C. § 105(a) of Yucaipa's Purported Debt Holdings Under the First and Second Lien Facilities against Yucaipa

147. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 146 as if fully set forth herein.

148. The substance and character of Yucaipa's purported debt holdings under the First Lien Facility and Second Lien Facility is one of an equity contribution.

149. Considering the totality of the circumstances surrounding Yucaipa's scheme to take control of Allied's outstanding debt, including, but not limited to, its acquisition of Second Lien Debt, the Third Amendment to the First Lien Credit Agreement, the Fourth Amendment to the First Lien Credit Agreement, [redacted] Yucaipa's claims against the Debtors should be recharacterized as equity interests based on, but not limited to, the following factors:

a) Since at least the spring of 2008, [redacted];

b) Yucaipa's goal of obtaining First and Second Lien Debt was a transparent effort to control both sides of the lending equation—it has controlled the borrower through its majority equity holdings and accompanying power to appoint a majority of the Board, and it has sought to control the First Lien and Second Lien Debt by attempting to become the Requisite Lender under both facilities;

c) Yucaipa has never sought to obtain First or Second Lien Debt as debt, as it never intended to enforce the right of a debt holder to receive regularly scheduled payments of principal and interest on the debt;

d) Indeed, given the restrictions that would have attended any First Lien Debt that it would have acquired under the Third Amendment, in Yucaipa's Cross-Claims in these proceedings and in the New York Action, it has admitted that it did not acquire any First Lien Debt under the Third Amendment, "never would have," and "never intended to purchase any debt claims that would make it bound by the Third Amendment's provisions" (Adv. Pro. No. 12-50947 (Bankr. D. Del.), D.I. 65 at p. 15), an admission that it was only interested in acquiring First Lien Debt to the extent that it could achieve Requisite Lender status in furtherance of its equity interests;

e) Yucaipa's acquisition of First and Second Lien Debt was in the nature of an equity contribution because it was only acquired in furtherance of Yucaipa's equity interest in Allied [redacted].

150. For the reasons set forth above, Yucaipa's claims against the Debtors under the First Lien Facility and Second Lien Facility should be recharacterized as equity pursuant to section 105(a) of the Bankruptcy Code.

Fourth Claim for Relief

Specific Performance of Third Amendment to the First Lien Credit Agreement against Yucaipa (Contribution Provision)

151. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 150 as if fully set forth herein.

152. As a purported holder of First Lien Debt, Yucaipa is bound by the terms of the First Lien Credit Agreement, as amended.

153. The court in the New York Action has declared that the Fourth Amendment is invalid. Accordingly, because the Fourth Amendment has been found to be null and void, the Third Amendment is enforceable and its terms govern the holdings of any holders of First Lien Debt, including Yucaipa.

154. Pursuant to the terms of the Third Amendment, Yucaipa is obligated to make a capital contribution of fifty (50) percent of the face value of certain First Lien Debt holdings that it acquired within ten days of the acquisition of such debt. Specifically, under Section 10.6(j)(iii) of the First Lien Credit Agreement,

> "(j) Restricted Sponsor Affiliates. …Each Lender that is a Restricted Sponsor Affiliate, upon succeeding to an interest in the Term Loans:
>
> …
>
> (iii) agrees further that no later than ten days after the date of such assignment or transfer of such Term Loans (or, if a Default or Event of Default occurs during such ten day period, then three Business Days after such Restricted Sponsor Affiliate has knowledge of the occurrence of such Default or Event of Default but in no event later than the last day of such ten day period), such Restricted Sponsor Affiliate shall make a capital contribution to Borrowers of no less than 50% of the aggregate principal amount of such Term Loans in accordance with Section 10.6(k);

155. Yucaipa acquired a total of $145,112,547.06 in First Lien Debt, $114,712,088.66 in the form of Term Loans.

156. Yucaipa has breached the First Lien Credit Agreement by failing to make the capital contribution of not less than $57,356,044.33, required by the Third Amendment.

157. Plaintiff has no adequate remedy at law for the harm that will continue to be caused by Yucaipa's continued breach of the First Lien Credit Agreement, as amended by the Third Amendment.

158. Accordingly, Plaintiff is entitled to a decree of specific performance by Yucaipa of its obligations under the First Lien Credit Agreement, as amended by the Third Amendment, to, among other things, make the required capital contribution of not less than $57,356,044.33.

Fifth Claim for Relief

Breach of Third Amendment to the First Lien Credit Agreement against Yucaipa (Contribution Provision)

159. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 158 as if fully set forth herein.

160. As a purported holder of First Lien Debt, Yucaipa is bound by the terms of the First Lien Credit Agreement, as amended.

161. The court in the New York Action has declared that the Fourth Amendment is invalid. Accordingly, because the Fourth Amendment has been found to be null and void, the Third Amendment is enforceable and its terms govern the holdings of any holders of First Lien Debt, including Yucaipa.

162. Pursuant to the terms of the Third Amendment, Yucaipa is obligated to make a capital contribution of fifty (50) percent of the face value of certain First Lien Debt holdings that it acquired within ten days of the acquisition of such debt. Specifically, under Section 10.6(j)(iii) of the First Lien Credit Agreement,

> "(j) Restricted Sponsor Affiliates. …Each Lender that is a Restricted Sponsor Affiliate, upon succeeding to an interest in the Term Loans:
>
> …
>
> (iii) agrees further that no later than ten days after the date of such assignment or transfer of such Term Loans (or, if a Default or Event of Default occurs during such ten day period, then three Business Days after such Restricted Sponsor Affiliate has knowledge of the occurrence of such Default or Event of Default but in no event later than the last day of such ten day period), such Restricted Sponsor Affiliate shall make a capital contribution to Borrowers of no less than 50% of the aggregate principal amount of such Term Loans in accordance with Section 10.6(k);

163. Yucaipa acquired a total of $145,112,547.06 in First Lien Debt, $114,712,088.66 in the form of Term Loans.

164. Yucaipa has breached the First Lien Credit Agreement by failing to make the capital contribution of not less than $57,356,044.33, required by the Third Amendment.

165. Yucaipa's breach of the First Lien Credit Agreement, as amended by the Third Amendment has caused, and will continue to cause, substantial monetary damages to the Debtors and their creditors, in an amount to be determined at trial, but reasonably believed to be an amount not less than $57,356,044.33, plus interest.

Sixth Claim for Relief

Specific Performance of Third Amendment to the First Lien Credit Agreement against Yucaipa (Divestiture of Debt)

166. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 165 as if fully set forth herein.

167. Even after giving effect to the terms of the First Lien Credit Agreement, as amended by the Third Amendment, requiring Yucaipa to pay the requisite capital contribution of not less than $57,356,044.33, Yucaipa is still in material breach of the terms of the First Lien Credit Agreement, as amended by the Third Amendment.

168. Yucaipa has breached the First Lien Credit Agreement by exceeding the maximum permissible limits under the First Lien Credit Agreement on the acquisition of Term Loan Exposure under Section 10.6(c) after giving effect to the mandatory capital contribution in Section 10.6(j)(iii). Specifically, Section 10.6(c)(ii) provides, in relevant part:

> "provided further, that (x) no Lender may sell, assign, transfer or otherwise convey any of its rights and obligations under this Agreement (including the Commitments, the LC Deposits or the Loans) to a Restricted Sponsor Affiliate and no Restricted Sponsor Affiliate shall acquire any such rights or obligations, in each case if (A) immediately prior to and after giving effect to such assignment or transfer the aggregate amount of the Term Loan Exposure held or beneficially owned by all Restricted Sponsor Affiliates would exceed 25% of the aggregate principal amount of the Term Loan Exposure held or beneficially owned by all Lenders (including Restricted Sponsor Affiliates) or (B) after giving effect to such assignment or transfer, the aggregate amount of Term Loans acquired by all Restricted Sponsor Affiliates since the Closing Date would

exceed $50 million (notwithstanding whether all or any portion of such acquired Term Loans have been contributed to Borrowers or otherwise disposed of by the Restricted Sponsor Affiliates) and (y) assignments by or to a Restricted Sponsor Affiliate shall be further subject to Section 10.6(j).”

169. Section 10.6(j)(iii) further provides that the “Restricted Sponsor Affiliate shall make a capital contribution to Borrowers of no less than 50% of the aggregate principal amount of such Term Loans . . . .”

170. Under the terms of the Third Amendment, then, at most, Yucaipa would be permitted to hold no more than $25 million of the principal amount of Term Loans under the First Lien Credit Agreement.

171. Yucaipa purports to hold $114,712,088.66 in Term Loans under First Lien Credit Agreement, which, even after reducing such amount by an award of monetary damages or conversion of such holdings into a capital contribution by $57,356,044.33, is still $32,356,044.33 greater than permitted under the First Lien Credit Agreement, as amended by the Third Amendment.

172. Plaintiff has no adequate remedy at law for the harm that will continue to be caused by Yucaipa’s continued breach of the First Lien Credit Agreement, as amended by the Third Amendment, even after Yucaipa is required to make the requisite capital contribution.

173. Accordingly, Plaintiff is entitled to a decree of specific performance by Yucaipa of its obligations under the First Lien Credit Agreement, as amended by the Third Amendment, to, among other things, divest itself of not less than $32,356,044.33 of Term Loans under the First Lien Credit Agreement.

Seventh Claim for Relief

Breach of Fiduciary Duty against Yucaipa

174. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 173 as if fully set forth herein.

175. As the controlling shareholder of Allied, Yucaipa owed Allied and, as of early 2008, its creditors, fiduciary duties of good faith, honest governance, loyalty and care.

176. In addition to its ability to influence Allied by yielding no less than 67% of the voting power of equity, Yucaipa exercised further improper influence over Allied by entering into a consulting agreement with Allied as of May 29, 2007. Through this "Monitoring and Management Services Agreement" ("MMSA"), Allied was induced to and did repose confidence in Yucaipa and its alleged superior knowledge and capabilities in negotiating with Allied's customers and its employees. However, Yucaipa engaged in a self-serving campaign that extracted unnecessary and unreasonable fees from Allied and acted to ensure that Yucaipa and its interests would be served before the interests of Allied and its creditors.

177. In violation of its fiduciary duties, Yucaipa engaged in inequitable conduct with regard to Allied and its creditors by entering into the transactions described above, whereby Yucaipa purported to seize control over the First and Second Lien Facilities with the intention of protecting its equity investment in the Debtors, while knowing that Allied was, at best, undercapitalized and insolvent. Yucaipa further engaged in inequitable conduct through its control of the board of directors of Allied, by causing the directors to fail to even consider potential transactions that could have benefitted Allied if such transactions held even the potential of harming Yucaipa's equity interests. Yucaipa abused its position of trust and control over the Debtors by structuring transactions that were nominally in the name of the Debtors but

were, in reality, actually structured in a manner to ensure and protect Yucaipa's existing equity investments in Allied.

178. The Debtors and their creditors have suffered damages in an amount to be proved at trial as a result of Yucaipa's breaches of its fiduciary duties.

Eighth Claim for Relief

Breach of Fiduciary Duty against the Allied Directors

179. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 178 as if fully set forth herein.

180. As members of the Board, the Allied Directors owed Allied and, as of at least early 2008, when Allied became insolvent, owed its creditors fiduciary duties of loyalty and care.

181. The Allied Directors breached their fiduciary duty of loyalty to Allied by consciously and intentionally disregarding the responsibilities they bore to deal with Allied's debt structure in a manner that did not unduly benefit Yucaipa as Allied's primary equity holder. In abdicating their responsibilities they violated their fiduciary duties to act loyally to the corporation and in good faith.

182. Specifically, the Allied Directors consciously and intentionally turned away from their responsibilities to Allied when they failed to ensure that Allied, and not Yucaipa, [redacted] In derogation of those duties, however, the Allied Directors consciously permitted Yucaipa to control the drafting of the Third Amendment and the Fourth Amendment to the First Lien Debt Facilities in a manner that attempted to ensure that Yucaipa could control the outstanding

secured debt of the company in a manner that would protect Yucaipa's interests, without regard to the interests of Allied and its creditors.

183. Additionally, the Allied Directors consciously and intentionally failed to consider potential transactions that could have potentially greatly benefitted Allied if such transaction held even the potential of harming Yucaipa's equity interests in the Company. In derogation of their duties to benefit the Company, not Yucaipa, the Allied Directors failed to even engage in negotiations with lenders concerning potential restructuring alternatives that could have benefitted the Company and its balance sheet, if such transactions were not likely beneficial to Yucaipa.

184. The Allied Directors also consciously and intentionally disregarded their obligations to the corporation by repeatedly failing to make legitimate or conscientious efforts to ensure that any transactions involving the Company and Yucaipa, including the acquisition of outstanding secured debt, were in the Company's interests, not only Yucaipa's interests. While the board of directors appointed a purported "Special Committee" of independent directors to evaluate any transaction involving Yucaipa, the committee was neither special nor independent and utterly failed in its purpose. Indeed, the "Special Committee" never hired independent advisors, and repeatedly failed to engage in deliberations separate and apart from deliberations with the Yucaipa directors, but instead would merely meet and deliberate after presentations by and deliberations with the conflicted Yucaipa directors and the ordinary advisors to the Company, whose retention was subject to the whims of Yucaipa and its control over Allied.

185. Additionally, the Allied Directors violated their duties of loyalty and care to the corporation by permitting and approving the payment of millions of dollars in purported fees paid to or on behalf of Yucaipa. The Allied Directors failed to ensure that Allied received any

benefit from the millions of dollars that were scheduled to be paid to or on behalf of Yucaipa were necessary and appropriate

186. The Allied Directors further violated their duties of care through their gross negligence of their obligation to seek information about Yucaipa's intentions once and if it acquired a majority stake in the outstanding secured debt of the Company. This failure to act, and the approvals of the amendments to the secured debt facilities that enabled Yucaipa to seize complete control over every aspect of the Debtors' capital structure, were breaches of the Allied Directors fiduciary duties of loyalty and care.

187. The Debtors have suffered damages in an amount to be proved at trial as a result of the Allied Directors' breach of fiduciary duties.

Ninth Claim for Relief

Aiding and Abetting Breach of Fiduciary Duty against the Allied Directors and Yucaipa

188. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 187 as if fully set forth herein.

189. If and to the extent that any Defendant is found not to have owed a fiduciary duty to the Debtors at the time of the transactions complained of herein, each Defendant is nevertheless liable for having aided and abetted the breach of fiduciary duty of one or more of the other Defendants who are found to have direct responsibility for the breaches of such duties.

190. Each of the Defendants knowingly participated in or acquiesced to, benefitted from and aided and abetted the breach of fiduciary duty engaged in by the other Defendants.

191. The Allied Directors knowingly participated in Yucaipa's breach of fiduciary duty by encouraging and approving the transactions described above which have injured the Debtors and its creditors.

192. Yucaipa knew that the Allied Directors breached their fiduciary duties to Allied by entering into the transactions described above. Yucaipa knowingly participated in the Allied Directors' breach by controlling and dictating the terms of the transactions that were nominally entered into by the Debtors but were at all times performed for and perpetrated by Yucaipa.

193. As a result of the insider transactions, which the Allied Directors and Yucaipa aided and abetted, the creditors of Allied have been damaged in an amount to be proved at trial in this action. At a minimum, the damages suffered by the Company, and thereby its creditors, include fees and interest paid to and on behalf of Yucaipa in connection with, among other things, the Third Amendment, the Fourth Amendment[redacted] and the Georgia Litigation, through which Yucaipa received, or received the benefit of having Allied pay for, millions of dollars in fees paid by Allied.

Tenth Claim for Relief

Avoidance and Recovery of Intentional and Constructive Fraudulent Transfers against Yucaipa Pursuant to 11 U.S.C. §§ 548(a) and 550

194. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 193 as if fully set forth herein.

195. Upon information and belief, for Yucaipa's benefit, the Debtor Allied Systems Holdings, Inc. or one of its Debtor affiliates transferred legal fees to Kasowitz, Benson, Torres & Friedman LLP ("Kasowitz") totaling not less than $2,458,549.76 (the "Kasowitz Transfers").

196. The Kasowitz Transfers are as follows:

a) December 23, 2009: $19,155.09.

b) March 8, 2010: $100,379.58.

c) April 13, 2010: $38,128.38.

d) April 16, 2010: $13,359.04.

e) May 13, 2010: $98,894.79.

f) July 26, 2010: $101,538.66.

g) September 15, 2010: $191,526.39.

h) September 20, 2010: $304,033.11.

i) October 6, 2010: $209,165.47.

j) November 2, 2010: $360,447.42.

k) December 16, 2010: $111,808.98.

l) December 21, 2010: $4,897.50.

m) March 7, 2011: $237,893.64.

n) June 30, 2011: $100,000.00.

o) September 7, 2011: $117,321.71.

p) October 12, 2011: $200,000.00.

q) November 23, 2011: $100,000.00.

r) December 9, 2011: $75,000.00.

s) December 15, 2011: $75,000.00.

197. Upon information and belief, for Yucaipa's benefit, the Debtor Allied Systems Holdings, Inc. or one of its Debtor affiliates transferred legal fees to Latham & Watkins LLP ("Latham") totaling not less than $1,911,949.17 (the "Latham Transfers," together with the Kasowitz Transfers, the "Law Firm Transfers").

198. The Latham Transfers are as follows:

a) November 19, 2007: $13,701.44.

b) December 11, 2007: $26,064.71.

c) December 13, 2007: $196,295.99.

d) January 2, 2008: $8,408.82.

e) May 2, 2008: $18,642.50.

f) October 15, 2008: $36,461.28.

g) December 31, 2008: $1,280,000.00.

h) December 23, 2009: $15,276.86.

i) December 31, 2009: $26,961.67.

j) February 4, 2010: $4,495.50.

k) September 23, 2010: $33,220.53.

l) October 6, 2010: $46,285.93.

m) December 9, 2010: $1,235.00.

n) December 31, 2010: $39,106.45.

o) March 11, 2011: $26,536.16.

p) December 27, 2011: $139,256.33.

199. Additionally, since May 29, 2007, the Debtors were required to transfer an annual management services fee of $1,500,000.00 per year to Yucaipa pursuant to the MMSA, whether or not Yucaipa provided such services (the "Yucaipa Transfers").

200. [redacted] collectively with the Law Firm Transfers and any Yucaipa Transfers, the "Fraudulent Transfers") whereby, in connection with the Fourth Amendment and the [redacted], Yucaipa obtained ComVest's First Lien Debt holdings.

201. The Debtors were controlled and dominated by Yucaipa on the date of each of the Fraudulent Transfers.

202. The Debtors were controlled and dominated by Yucaipa when [redacted].

203. Each of the Fraudulent Transfers constituted a transfer of an interest in property of the Debtors that were made to, or for the benefit of, Yucaipa.

204. The Debtors incurred one or more obligations that gave rise to each of the Fraudulent Transfers, and those obligations shall be defined as the "Fraudulent Obligations."

205. The Debtors made each of the Fraudulent Transfers and incurred the Fraudulent Obligations with actual intent to hinder, delay, or defraud any entity to which the Debtors were or became, on or after the date that each such Fraudulent Transfer and Fraudulent Obligation was made, indebted.

206. The Debtors received less than a reasonably equivalent value in exchange for each of the Fraudulent Transfers and Fraudulent Obligations. Moreover, each of the Fraudulent Transfers and Fraudulent Obligations was made or incurred by the Debtors without a fair consideration.

207. At the time each of the Fraudulent Transfers was made and each of the Fraudulent Obligations was incurred, the Debtors (i) were insolvent, or became insolvent as a result of each such transfer or obligation; (ii) were engaged in business or a transaction, or were about to engage in business or a transaction, for which the property remaining with them was an unreasonably small amount of capital or was unreasonably small in relation to the business or transaction; and (iii) intended to incur, or believed that it would incur, debts that would be beyond its ability to pay as such debts matured or became due.

208. None of the recipients of the Fraudulent Transfers or the Fraudulent Obligations took such transfers or obligations for value and in good faith.

209. Yucaipa was either the initial transferee of the Fraudulent Transfers, the entity for whose benefit the Fraudulent Transfers were made or an immediate or mediate transferee of the initial transferee of the Fraudulent Transfers.

210. The Fraudulent Transfers and Fraudulent Obligations made on or within two (2) years of the "Petition Date" (May 17, 2012 for Allied and Systems and June 10, 2012 for the other Debtors) constitute transfers or obligations avoidable by Plaintiff pursuant to section 548(a) of the Bankruptcy Code and such transfers are recoverable from Yucaipa pursuant to section 550 of the Bankruptcy Code. For the foregoing reasons, Yucaipa is liable to the Debtors for the return of these Fraudulent Transfers, or their value, in an amount to be determined at trial, but not less than the sum of those transfers and conveyances, plus interest from the transfer dates, and costs and fees to the extent available for the benefit of the Debtors' estates. Each Yucaipa Defendant is jointly and severally liable for the entire amount of each Fraudulent Transfer.

Eleventh Claim for Relief

Avoidance and Recovery of Intentional and Constructive Fraudulent Transfers and Conveyances against Yucaipa Pursuant to 11 U.S.C. §§ 544(b) and 550

211. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 210 as if fully set forth herein.

212. At all relevant times, there has been at least one creditor – including but not limited to the members of the Committee – holding an unsecured claim against the Debtors that is allowable under section 502 of the Bankruptcy Code or that is not allowable only under section 502(e) of the Bankruptcy Code.

213. Each of the Fraudulent Transfers and Fraudulent Obligations identified above was made to a creditor whose claim arose before the transfer or obligation was made, and was made to an insider for an antecedent debt.

214. At the time each of the Fraudulent Transfers was made, the Debtors were insolvent and the insider receiving the Fraudulent Transfer had reasonable cause to believe that the Debtors were insolvent.

215. The Fraudulent Transfers identified above constitute transfers and conveyances avoidable by Plaintiff pursuant to section 544(b) of the Bankruptcy Code and applicable state law[8] and such transfers are recoverable from Yucaipa pursuant to section 550 of the Bankruptcy Code. The Fraudulent Obligations constitute obligations avoidable by Plaintiff pursuant to section 544(b) of the Bankruptcy Code and applicable state law as set forth above. Yucaipa is liable to the Debtors for the return of these Fraudulent Transfers, or their value, in an amount to be determined at trial, but not less than the sum of those transfers and conveyances, plus interest from the transfer dates, and costs and fees to the extent available for the benefit of the Debtors' estates. Each Yucaipa Defendant is jointly and severally liable for the entire amount of each Fraudulent Transfer.

Twelfth Claim for Relief

Preferential Transfers against Yucaipa Pursuant to 11 U.S.C. §§ 547 and 550

216. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 215 as if fully set forth herein.

217. As described above, Yucaipa was at all relevant times, including at the times of the Fraudulent Transfers, and still is, an insider of the Debtors.

218. The Fraudulent Transfers that were made within one (1) year of the Petition Date (collectively, the "Preferential Transfers") were made (i) to or for the benefit of a creditor, (ii) for or on account of an antecedent debt owed by the Debtors before such Preferential Transfers were

[8] Applicable state law may include, without limitation, Cal. Civ. Code § 3439.01 *et seq.*, Del. Code § 1301 *et seq.*, Fla. Stat. § 726.101 *et seq.*, and Ga. Code Ann. § 18-2-70 *et seq.*, and, if the Court should determine that this action is governed by the laws of other states, the applicable laws of such other states.

made, (iii) made while the Debtors were insolvent or presumed insolvent as a matter of law, and (iv) enabled such creditor would receive if (a) the case were a case under chapter 7 of the Bankruptcy Code, (b) the Preferential Transfers had not been made; and (c) such creditor received payment of such debt to the extent provided by the Bankruptcy Code.

219. The Preferential Transfers are transfers avoidable by Plaintiff pursuant to section 547 of the Bankruptcy Code, and recoverable from Yucaipa pursuant to section 550 of the Bankruptcy Code.

220. For the foregoing reasons, Yucaipa is liable to the Debtors for the return of the Preferential Transfers, or their value, in an amount to be determined at trial, but not less than the sum of those transfers.

Thirteenth Claim for Relief

Disallowance of Claim against Yucaipa

221. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 220 as if fully set forth herein.

222. For Yucaipa's benefit, the Debtors transferred millions of dollars, all of which is either recoverable or avoidable pursuant to the Bankruptcy Code.

223. By reason of the foregoing, pursuant to section 502(d) of the Bankruptcy Code, the Court shall disallow an amount, to be proven at trial, of Yucaipa's claims.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter an order

a) subordinating Yucaipa's claim, in total, against the Debtors to all other claims, or subordinating Yucaipa's claim, in total, against the Debtors to such other claims as the Court may deem appropriate;

b) recharacterizing Yucaipa's claim against the Debtors under the First Lien Facility and Second Lien Facility as equity;

c) decreeing that Yucaipa specifically perform its obligations under the First Lien Facility, as amended by the Third Amendment;

d) entering judgment in favor of Plaintiff and Debtors for money damages due to Yucaipa's breach of the First Lien Facility not less than $57,356,044.33, but in an amount to be proven at trial, plus pre-judgment interest;

e) entering judgment in favor of Plaintiff and Debtors for damages due to Yucaipa's breach of fiduciary duties in an amount not less than $57,356,044.33, but in an amount to be proven at trial, plus pre-judgment interest;

f) entering judgment in favor of Plaintiff and Debtors for damages due to the Allied Directors' breach of fiduciary duties in an amount not less than $57,356,044.33, but in an amount to be proven at trial, plus pre-judgment interest;

g) entering judgment in favor of Plaintiff and Debtors for damages due to Defendants' aiding and abetting breach of fiduciary duty in an amount not less than $57,356,044.33, but in an amount to be proven at trial, plus pre-judgment interest;

h) entering judgment for Plaintiff to recover the value of the preferential and fraudulent transfers that Yucaipa caused the Debtors to make, in an amount to be proven at trial, plus pre-judgment interest;

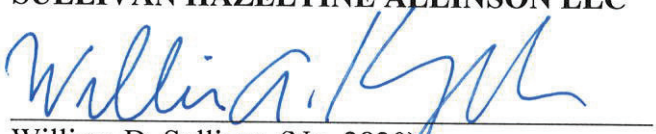
i) disallowing an amount to be proven at trial of Yucaipa's claim pursuant to section 502(d) of the Bankruptcy Code;

j) awarding Plaintiff all reasonable attorneys' fees, costs and disbursements in this action; and

k) granting such other or further relief as is just, proper and equitable.

Dated: Wilmington, Delaware
March 14, 2013

SULLIVAN HAZELTINE ALLINSON LLC



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Counsel for the Official Committee of Unsecured Creditors

EXHIBIT DS-4

[LENDER DIRECT COMPLAINT]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
ASHINC Corporation, *et al.*,[1]	Case No. 12-11564 (CSS)
Debtors.	(Jointly Administered)
BDCM OPPORTUNITY FUND II, LP, BLACK DIAMOND CLO 2005-1 LTD., SPECTRUM INVESTMENT PARTNERS, L.P., BLACK DIAMOND COMMERCIAL FINANCE, L.L.C., AS CO-ADMINISTRATIVE AGENT, AND SPECTRUM COMMERCIAL FINANCE LLC, AS CO-ADMINISTRATIVE AGENT, Plaintiffs, v. YUCAIPA AMERICAN ALLIANCE FUND I, L.P., YUCAIPA AMERICAN ALLIANCE (PARALLEL) FUND I, L.P., YUCAIPA AMERICAN ALLIANCE FUND II, L.P., YUCAIPA AMERICAN ALLIANCE (PARALLEL) FUND II, L.P., RONALD BURKLE, JOS OPDEWEEGH, DEREX WALKER, JEFF PELLETIER, IRA TOCHNER, and JOSEPH TOMCZAK, Defendants.	Adv. Proc. No. _____ (CSS) **COMPLAINT FOR (I) EQUITABLE SUBORDINATION, (II) BREACH OF CONTRACT, (III) BREACH OF THE IMPLIED DUTY OF GOOD FAITH AND FAIR DEALING, AND (IV) TORTIOUS INTERFERENCE WITH CONTRACT**

[1] The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: Allied Systems Holdings, Inc. (58-0360550); Allied Automotive Group, Inc. (58-2201081); Allied Freight Broker LLC (59-2876864); Allied Systems (Canada) Company (90-0169283); Allied Systems, Ltd. (L.P.) (58-1710028); Axis Areta, LLC (45-5215545); Axis Canada Company (87568828); Axis Group, Inc. (58-2204628); Commercial Carriers, Inc. (38-0436930); CT Services, Inc. (38-2918187); Cordin Transport LLC (38-1985795); F.J. Boutell Driveaway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

Docket No. 2703
Adv. Docket No. 1
Date Filed: 11/19/14

BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 Ltd. (collectively, "Black Diamond"), and Spectrum Investment Partners, L.P. ("Spectrum" and, together with Black Diamond, the "Individual Lender Plaintiffs") and Black Diamond Commercial Finance, L.L.C. and Spectrum Commercial Finance LLC, each in its capacity as Co-Administrative Agent under the First Lien Facility (collectively, the "Agent Plaintiffs," and together with the Individual Lender Plaintiffs, the "Plaintiffs"), by and through their undersigned counsel, hereby file this Complaint for (I) Equitable Subordination, (II) Breach of Contract, (III) Breach of the Implied Duty of Good Faith and Fair Dealing, and (IV) Tortious Interference with Contract (the "Complaint") against Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund II, L.P., Yucaipa American Alliance (Parallel) Fund II, L.P. (collectively, "Yucaipa"), Ronald Burkle ("Burkle"), Jos Opdeweegh ("Opdeweegh"), Derex Walker ("Walker"), Jeff Pelletier ("Pelletier"), Ira Tochner ("Tochner"), and Joseph Tomczak ("Tomczak," together with Opdeweegh, Walker, Pelletier, and Tochner, the "Yucaipa Directors" and the Yucaipa Directors together with Yucaipa and Burkle, the "Defendants"). The Plaintiffs expressly reserve the right to amend or supplement the parties to, and claims for relief in, the Complaint, and to assert and file additional claims, cross-claims and/or third-party complaints herein and in any related adversary proceeding, including, without limitation, *Allied Systems Holdings, Inc. v. American Money Management Corp. et al.*, Adv. Proc. No. 12-50947 (CSS) (Bankr. D. Del.) (the "Allied Action") and *The Official Committee of Unsecured Creditors of ASHINC Corporation v. Yucaipa American Alliance Fund I, L.P. et al.*, Adv. Proc. No. 13-50530 (CSS) (Bankr. D. Del.) (the "Committee Action"), which cannot be articulated as a result of the fact that the Plaintiffs have not yet been able to confirm or deny certain of the allegations in the related adversary proceedings, and/or due to the failure of the

complainants to particularize their claims in the related adversary proceedings, and/or due to the fact that the Plaintiffs do not have copies of documents relating to certain of the allegations in the related adversary proceedings. In support of the requested relief, the Plaintiffs allege as follows:

PRELIMINARY STATEMENT

1. This case arises from Yucaipa's intentional scheme to harm the lenders (the "First Lien Lenders") under the Debtors' $265 million first lien credit facility (the "First Lien Facility"), including the Individual Lender Plaintiffs. Yucaipa held a controlling stake in the Debtors' equity, controlled the Debtors' board of directors, wrongfully acquired majority of the debt under the First Lien Facility and improperly declared itself the "Requisite Lender" under the First Lien Facility and used the powers flowing from these positions for its own benefit to the detriment of the First Lien Lenders.

2. Initially, Yucaipa's scheme was designed to protect its equity stake from being wiped out as a result of the legitimate exercise of the rights and remedies of the First Lien Lenders after the occurrence and during the continuance of numerous defaults under the First Lien Facility, including payment defaults. Later, when it became clear its equity stake could not be preserved because the Debtors were unquestionably insolvent, Yucaipa misused its alleged position as Requisite Lender to negotiate a transaction with a strategic buyer to extract more favorable terms for itself relative to the other First Lien Lenders. Ultimately, Yucaipa's greed in demanding a premium relative to the other First Lien Lenders (as opposed to agreeing to pro rata treatment for all First Lien Lenders) killed the proposed transaction, caused harm to all of the legitimate First Lien Lenders (who would have received payment in full on their First Lien Debt) and led to the involuntary filing of the Debtors' current bankruptcy cases.

3. In 2007, pursuant to a reorganization plan (the "2007 Plan") confirmed in the Debtors' first bankruptcy case (the "2005 Bankruptcy Case"), Yucaipa converted its secured debt

into approximately 67% of the Debtors' equity and had the right to appoint outright three of the five directors on Debtors' Board of Directors (the "Board"). In reality, Yucaipa effectively had the power to appoint all five directors on the Debtors' Board, as it was able to select the Debtors' Chief Executive Officer (who would be the fourth director), as well as the fifth director, who, despite being selected by the creditors' committee in the first bankruptcy case, had to be "reasonably acceptable" to Yucaipa. Thus, given its controlling influence and express appointment and veto powers, even the two nominally "independent" directors were under Yucaipa's control. Accordingly, after the Debtors' emergence from their first bankruptcy case, Yucaipa controlled not only a super-majority of the outstanding equity, but it also effectively controlled 100% of the Debtors' Board.

4. As part of the 2007 Plan, the Debtors emerged from the 2005 Bankruptcy Case with two credit facilities, comprised of a $265 million First Lien Facility and a $50 million second lien facility (the "Second Lien Facility").

5. Not long after the Debtors emerged from the 2005 Bankruptcy Case in May 2007, under Yucaipa's control, their business prospects began to falter. By the second quarter of 2008, the Debtors were in default under the First Lien Facility and were nearing insolvency, if not already insolvent. Indeed, at that time, the Debtors were increasingly failing to meet various covenants and failing to pay principal and interest. The Debtors needed either an equity investment to fund their working capital needs and to service the outstanding debt, or a restructuring to reduce the Debtors' leverage and ease their cash requirements. Indeed, the First Lien Lenders pleaded with Yucaipa to provide such an infusion of equity for the benefit of all of the Debtors' stakeholders, including their creditors, their employees and their equity owners, or to negotiate a restructuring to de-lever the balance sheet.

6. Yucaipa, however, refused to infuse equity capital or to negotiate a restructuring (the effect of which would wipe out its equity investment). Instead, the Defendants crafted a scheme whereby Yucaipa would wrongfully seize control over the First Lien Facility so that, despite the occurrence and continuance of events of default (including payment defaults), Defendants would not have to be concerned about the First Lien Lenders' exercise of rights and remedies. Through this scheme, Defendants thwarted any possibility of the Debtors entering into a voluntary restructuring or strategic combination that would dilute or eliminate Yucaipa's existing equity – even though entering into such a transaction would have been in the best interests of the Debtors and their stakeholders, including the First Lien Lenders.

7. Defendants' scheme was implemented through a series of pre-meditated steps. First, Defendants pushed the existing First Lien Lenders to eliminate the prohibitions on Yucaipa's ability (as the controlling equity) to also own debt under the First Lien Facility (the "First Lien Debt") under the Amended and Restated First Lien Secured Super-Priority Debtor in Possession and Exit Credit and Guaranty Agreement, dated May 15, 2007, as amended (the "First Lien Credit Agreement"). Initially, the First Lien Credit Agreement contained an absolute prohibition on Yucaipa owning any First Lien Debt. Subsequently, in April 2008, at Yucaipa's request, the First Lien Lenders agreed to permit Yucaipa to acquire only a strictly limited amount of the First Lien Debt, *provided further*, that (a) 50% of any First Lien Debt acquired by Yucaipa was required to be contributed to capital and (b) the remainder of the First Lien Debt acquired by Yucaipa would be subject to onerous limitations and restrictions that prevented Yucaipa from ever becoming the Requisite Lender (*i.e.*, the First Lien Lender that, under the First Lien Credit Agreement, has the power to exercise, or refrain from exercising, the First Lien Lenders' rights and remedies under the First Lien Credit Agreement).

8. Despite having engineered the amendment to the First Lien Credit Agreement that would permit its acquisition of First Lien Debt (the "Third Amendment"),[2] Yucaipa thereafter declined to purchase any First Lien Debt unless it could do so without any of the restrictions contained in the Third Amendment.

9. To avoid the restrictions in the Third Amendment, Defendants launched a tender offer to acquire a majority of the First Lien Debt. A condition to accepting the tender offer was that the selling First Lien Lender had to execute an amendment to the First Lien Credit Agreement allowing Yucaipa to purchase First Lien Debt without any limitation or restriction. [redacted] The existing First Lien Lenders knew full well that permitting the controlling shareholder to take control of the First Lien Facility could have disastrous consequences for them, since it would permit Yucaipa to preserve its equity stake by blocking the exercise of any rights or remedies of the First Lien Lenders notwithstanding the occurrence and continuance of events of default. In fact, this was the very concern that drove the First Lien Lenders to prohibit Yucaipa from acquiring any First Lien Debt in the original First Lien Credit Agreement, and to impose the onerous restrictions on any First Lien Debt that Yucaipa was allowed to acquire as provided in the Third Amendment.

10. Not surprisingly, Yucaipa's tender offer failed. However, Defendants were not dissuaded and instead undertook a more surreptitious route to reach their goal of total and complete control of the Debtors and the First Lien Debt. That is, after Yucaipa's tender offer

[2] The Third Amendment refers to that certain Amendment No. 3 To Credit Agreement and Consent, dated as of April 17, 2008, to the Amended and Restated First Lien Secured Super-Priority Debtor In Possession and Exit Credit and Guaranty Agreement, dated as of May 15, 2007.

failed in February 2009, Defendants approached ComVest Investment Partners III, L.P. ("ComVest"), who at that time held a majority of the First Lien Debt and thus constituted the Requisite Lender, to acquire ComVest's First Lien Debt. Initially, ComVest rebuffed Defendants' overtures, preferring instead to negotiate with the Debtors to pursue either an asset sale or a restructuring that would convert the First Lien Debt into the Debtors' equity (which would wipe out Yucaipa's equity stake). Defendants persisted and, by virtue of their control of the Debtors and the Board, and, in particular, through a combination of stonewalling any restructuring discussions with ComVest, refusing to allow the Debtors to pursue an asset sale, and directing the Debtors to cease paying interest on the First Lien Debt, convinced ComVest to sell its First Lien Debt. There was, however, a problem for Yucaipa. To accomplish the sale of ComVest's First Lien Debt to Yucaipa, Yucaipa needed an amendment to the First Lien Credit Agreement that would lift the onerous restrictions imposed by the Third Amendment on Yucaipa's ownership of First Lien Debt. So, as a condition to the purchase and sale of the First Lien Debt, Defendants required ComVest to execute and deliver a further amendment to the First Lien Credit Agreement that, if effective, would permit Yucaipa to purchase First Lien Debt without any limitations or restrictions, and in particular to acquire the status of the Requisite Lender (a position that would allow Yucaipa to control, or prevent, the exercise of rights and remedies by the First Lien Lenders against the Debtors) (the "Purported Fourth Amendment").[3]

11. On August 21, 2009, the Purported Fourth Amendment allegedly became effective and the Yucaipa/ComVest transaction closed. By purchasing ComVest's outstanding debt, Defendants were able to improperly maneuver Yucaipa into a position where it held a controlling equity interest, Board control, and (purportedly) control of the First Lien Debt. With

[3] The Purported Fourth Amendment refers to that certain Amendment No. 4 To Credit Agreement, dated as of August 21, 2009, to the Amended and Restated First Lien Secured Super-Priority Debtor In Possession and Exit Credit and Guaranty Agreement, dated as of May 15, 2007.

the powers emanating from these various positions, Defendants were able to do whatever was in their own self-interest, to the detriment of the other First Lien Lenders. Defendants exercised those powers without regard to, and to the significant detriment of, all of the First Lien Lenders.

12. Once Yucaipa had allegedly taken control of the First Lien Debt, Defendants exercised Yucaipa's purported power as the Requisite Lender and controlling shareholder in ways that caused harm to the First Lien Lenders. For instance, when The CIT Group/Business Credit, Inc. ("CIT"), in its capacity as the prior Agent under the First Lien Credit Agreement, objected to the Purported Fourth Amendment and Yucaipa's acquisition of ComVest's First Lien Debt, Defendants used their power to cause the Debtors to bring suit against CIT and to paralyze CIT and the First Lien Lenders from the legitimate exercise of their rights and remedies, notwithstanding the occurrence and continuation of events of default (including payment and other covenant defaults). The litigation against CIT continued for almost two years (from November 2009 through December 2011) during which the First Lien Lenders were unable to pursue the legitimate exercise of rights and remedies due to Yucaipa's wrongful assertion that the Purported Fourth Amendment was valid and that it was the Requisite Lender.

13. Further, as set forth below, Defendants used Yucaipa's position as the purported Requisite Lender to scuttle a transaction with a strategic buyer that would have provided full payment on the First Lien Debt to the First Lien Lenders. Beginning in late 2011, a principal competitor of the Debtors, Jack Cooper Transport Co. ("JCT"), expressed a strong interest in acquiring the Debtors' assets.

14. The appropriate course of conduct would have been for the Debtors to negotiate a transaction with JCT. At that time, the Debtors were unquestionably insolvent, owed fiduciary duties to all of the Debtors' stakeholders, and had a duty to negotiate the highest and best

purchase price for the assets without regard for how those proceeds might be allocated. Rather than allowing the Debtors to undertake these negotiations, Yucaipa – purporting to act as the Requisite Lender – controlled the negotiations.

15. Unfortunately, Yucaipa's primary concern was the maximization of its own recovery, with little or no regard for any other First Lien Lender. As such, it had no interest in allowing the Debtors to pursue a typical M&A type transaction with JCT. Instead, Yucaipa sought to pursue a sale of its First Lien Debt and alleged Requisite Lender status so that it could garner a premium for itself to the detriment of the other First Lien Lenders.

16. Indeed, throughout the negotiations with JCT, Defendants insisted that Yucaipa receive par plus accrued interest for its First Lien Debt, while the other First Lien Lenders were left to "negotiate their own terms." (Yucaipa's Motion for Leave to File a Counterclaim for Equitable Subordination Under 11 U.S.C. § 510(c) or, in the Alternative, to Amend the Answer to Assert Additional Affirmative Defenses (the "Motion for Leave"), Adv. Pro. No. 13-50530 (Bankr. D. Del.), D.I. 320, Ex. A ¶ 50.) When the Individual Lender Plaintiffs legitimately demanded that they receive ratable treatment with Yucaipa for their First Lien Debt, Defendants refused, insisting instead on a disproportionate percentage of the consideration. As a result of Defendants' wrongful actions, the negotiations with JCT eventually broke down.

17. As a result, rather than paying consideration in a transaction that would have satisfied all of the First Lien Debt in full (*i.e.*, in excess of $300 million), JCT eventually purchased substantially all of the Debtors' assets for only $135 million

18. As described in more detail below, Defendants repeatedly engaged in inequitable conduct in an attempt to protect Yucaipa's equity investment and then to receive a more

favorable recovery on the First Lien Debt it wrongfully purchased, to the detriment of all First Lien Lenders, including the Individual Lender Plaintiffs. Specifically, Yucaipa:

(a) improperly acquired First Lien Debt in violation of the First Lien Credit Agreement;

(b) improperly used its purported debt holdings to declare itself the Requisite Lender, in clear violation of the First Lien Credit Agreement;

(c) improperly used its status as purported Requisite Lender to neutralize the First Lien Lenders, giving the Debtors a "free pass" to ignore the provisions of the First Lien Credit Agreement requiring them to pay principal and interest and abide by certain financial and operating covenants;

(d) improperly used its status as purported Requisite Lender to protect its equity investment by precluding a badly-needed restructuring of the Debtors; and

(e) improperly used its status as purported Requisite Lender to insist on a disproportionate share of the consideration JCT was willing to pay for the sale of the Debtors' assets, which resulted in derailing the sale.

19. All told, Defendants' actions caused substantial damages to the First Lien Lenders in an amount to be proven at trial.

20. Accordingly, the Plaintiffs, on behalf of all First Lien Lenders, bring this action for: (i) equitable subordination of Yucaipa's purported First Lien Debt to the First Lien Debt held by all other First Lien Lenders pursuant to section 510(c) of the Bankruptcy Code for harm caused to all other First Lien Lenders; (ii) breach by Yucaipa of the First Lien Credit Agreement, as amended by the Third Amendment; (iii) breach by Yucaipa of the duty of good faith and fair dealing implied in the First Lien Credit Agreement; and (iv) tortious interference with contract against the Yucaipa Directors and Burkle.

JURISDICTION AND VENUE

21. This is an adversary proceeding pursuant to Rule 7001 of the Federal Rules of Bankruptcy Procedure.

22. This Court has original jurisdiction under 28 U.S.C. § 1334(b), in that this is a civil proceeding relating to the underlying case arising under title 11 of the United States Code.

23. This adversary proceeding is a "core" proceeding pursuant to 28 U.S.C. § 157(b)(1)(b)(2)(A), (B), (K) and (O).

24. This Court has personal jurisdiction over Defendants pursuant to Rule 7004 of the Federal Rules of Bankruptcy Procedure.

25. Venue of this adversary proceeding in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409(a).

THE PARTIES

26. BDCM Opportunity Fund II, LP is a Delaware limited partnership, with its principal place of business at One Sound Shore Drive, Suite 200, Greenwich, CT 06830.

27. Black Diamond CLO 2005-1 Ltd. is a Cayman Islands limited liability company, with its principal place of business at One Sound Shore Drive, Suite 200, Greenwich CT 06830.

28. Spectrum Investment Partners, L.P. is a Delaware limited partnership, with its principal place of business at 1250 Broadway, New York, NY 10001.

29. Black Diamond Commercial Finance, L.L.C. is a Delaware limited liability company, with its principal place of business at One Hundred Field Drive, Lake Forest, IL 60045-2596 and is Co-Administrative Agent under the First Lien Credit Agreement, bringing these claims on behalf of all First Lien Lenders.

30. Spectrum Commercial Finance LLC is a Delaware limited partnership, with its principal place of business at 1250 Broadway, New York, NY 10001 and is Co-Administrative Agent under the First Lien Credit Agreement, bringing these claims on behalf of all First Lien Lenders.

31. Upon information and belief, Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund II, L.P. and Yucaipa American Alliance (Parallel) Fund II, L.P. are Delaware limited partnerships headquartered at 9130 West Sunset Boulevard, Los Angeles, California 90069.

32. Defendant Ronald Burkle, an individual, is, upon information and belief, the founder and Managing Partner of The Yucaipa Companies LLC, a private investment firm and, upon information and belief, at all relevant times, controlled the actions of Yucaipa and the Yucaipa Directors.

33. Defendant Jos Opdeweegh is an individual who served as a director of the Debtors during the relevant time period herein. Upon information and belief, Defendant Opdeweegh, at all relevant times herein, was affiliated with Yucaipa or The Yucaipa Companies LLC and acted in his capacity as a director at the direction of and for the benefit of Yucaipa and Burkle.

34. Defendant Derex Walker is an individual who served as a director of and Chairman of the Board of the Debtors during the relevant time period herein. Upon information and belief, Defendant Walker, at all relevant times herein, was affiliated with Yucaipa or The Yucaipa Companies LLC and acted in his capacity as a driector at the direction of and for the benefit of Yucaipa and Burkle.

35. Defendant Jeff Pelletier is an individual who served as a director of the Debtors during the relevant time period herein. Upon information and belief, Defendant Pelletier, at all relevant times herein, was affiliated with Yucaipa or The Yucaipa Companies LLC and acted in his capacity as a director at the direction of and for the benefit of Yucaipa and Burkle.

36. Defendant Ira Tochner is an individual who served as a director of the Debtors during the relevant time period herein. Upon information and belief, Defendant Tochner, at all relevant times herein, was affiliated with Yucaipa or The Yucaipa Companies LLC and acted in his capacity as a director at the direction of and for the benefit of Yucaipa and Burkle.

37. Defendant Joseph Tomczak is an individual who served as an officer and director of the Debtors during the relevant time period herein. Upon information and belief, Defendant Tomczak, at all relevant times herein, was affiliated with Yucaipa or The Yucaipa Companies LLC and acted in his capacity as a director at the direction of and for the benefit of Yucaipa and Burkle.

FACTUAL ALLEGATIONS

38. The Debtors were, at all relevant times, leading providers of distribution and transportation services to the automotive industry in North America, primarily focused on the delivery of new automobiles from manufacturing facilities to dealerships.

(a) The Debtors' 2007 Bankruptcy, Yucaipa's Acquisition of the Majority of the Equity, and the Debtors' Secured Debt

39. The Debtors filed the 2005 Bankruptcy Case on July 31, 2005 in the United States Bankruptcy Court for the Northern District of Georgia. In or about May 2006, Yucaipa purchased a majority stake of the Debtors' then existing senior unsecured notes at a substantial discount to their par value.

40. When the Debtors emerged from bankruptcy in May 2007, Yucaipa was in total control of the Debtors. As part of the 2007 Plan, Yucaipa converted its debt into approximately 67% of the issued and outstanding common stock of the reorganized Debtors (which it later increased to approximately 70%). Yucaipa also had the right to appoint three of the five members of the Board, appoint the Chief Executive Officer (who was a fourth member of the

Board), and had approval rights over the fifth and final member of the Board, who was to be appointed by the creditors' committee in the 2005 Bankruptcy Case. As a result, Yucaipa had a permanent majority and, for all intents and purposes, the ability to exercise complete control of the Board.

41. The Debtors exited the 2005 Bankruptcy Case with $315 million of exit financing comprised of a $265 First Lien Facility and a $50 million Second Lien Facility.

42. The First Lien Facility was comprised of $180 million of term loans, a $35 million revolving credit facility from CIT and a $50 million letter of credit facility.

43. The First Lien Facility is governed by the First Lien Credit Agreement, entered into by and among Allied Holdings, Inc. ("Holdings") and Allied Systems Ltd (LP) ("Systems"), as Borrowers, and certain subsidiaries of Holdings, as Guarantors, various lenders, Goldman Sachs Credit Partners L.P. ("Goldman Sachs"), as Lead Arranger and Syndication Agent, and CIT, as Administrative Agent and Collateral Agent.

44. The Second Lien Facility was comprised of $50 million of term loans.

45. The Second Lien Facility is governed by that certain Second Lien Secured Super-Priority Debtor in Possession and Exit Credit and Guaranty Agreement, dated May 15, 2007 (the "Second Lien Credit Agreement"), entered into by and among Holdings and Systems as Borrowers and certain subsidiaries of Holdings as Guarantors, various lenders, and Goldman Sachs, as Lead Arranger, Syndication Agent, Administrative Agent and Collateral Agent.

46. In 2008, shortly after emergence from the 2005 Bankruptcy Case, the Debtors defaulted under both the First Lien Credit Agreement and Second Lien Credit Agreement. Specifically, and only by way of example among many other Events of Default, the Debtors

failed to pay required principal and interest payments – at times at Defendants'[4] express insistence – even when the Debtors had the cash on hand to make the required payments.

(b) **The First Lien Credit Agreement Was Expressly Drafted and Always Intended to Prevent Yucaipa, as the Majority Equity Holder, from Gaining Control Over the Outstanding Debt**

47. Given the size of Yucaipa's equity stake, its control of the Board and, indeed, its control over all of the Debtors, the First Lien Credit Agreement provided that Yucaipa, as the "Sponsor," could not acquire any First Lien Debt. The purpose of the provision was clear – the First Lien Lenders did not want to have the Sponsor/controlling shareholder as a Lender under their First Lien Credit Facility with the ability to potentially interfere with the legitimate exercise of rights and remedies designed to protect the interests of the true First Lien Lenders

48. The First Lien Credit Agreement set forth a mechanism designed to ensure that a majority of the legitimate holders of the First Lien Debt would be able to control most of the actions taken by the lending group. In particular, the First Lien Credit Agreement provides that "Requisite Lenders" – defined as holders of debt under the First Lien Facility representing more than 50% of the sum of the aggregate "Term Loan Exposure" of all lenders, the aggregate letter of credit exposure, and the aggregate revolving credit exposure (First Lien Credit Agreement § 1.1) – have the power to make certain key decisions affecting all First Lien Lenders.

49. Among other things, the Requisite Lenders under the First Lien Facility have the authority to declare or not declare "Events of Default" under the First Lien Credit Agreement. (*Id.* §§ 8.1, 9.8.). The Requisite Lenders also have the ability to direct the Administrative Agent and Collateral Agent to act, or refrain from acting, upon the occurrence and continuance of an Event of Default.

[4] This allegation as to Burkle, as are the other such allegations as to Burkle herein, is asserted upon information and belief, unless otherwise set forth.

50. The First Lien Credit Agreement expressly prevented Yucaipa – as the Debtors' majority shareholder and "Sponsor" – from becoming a "Lender" under the First Lien Credit Agreement. As a result, Yucaipa could also never become a Requisite Lender. (*Id.* §§ 1.1, 10.6.)

51. The First Lien Credit Agreement was amended or, in the case of the Purported Fourth Amendment, purportedly amended, on four occasions. The Third Amendment and Purported Fourth Amendment are relevant to this proceeding.

(c) **Defendants Cause the Third Amendment to the First Lien Credit Agreement to be Executed by the Debtors to Permit Yucaipa to Purchase a Limited Amount of First Lien Debt**

52. Not long after the Debtors emerged from the 2005 Bankruptcy Case, Yucaipa entered into discussions with CIT, in its capacity as Administrative Agent, concerning an amendment to the First Lien Credit Agreement that would permit Yucaipa to acquire First Lien Debt. Although Yucaipa was not going to be a party to the amendment, it and its attorneys took the lead in negotiating and drafting the terms of the amendment. By contrast, the Debtors took a back seat and allowed Yucaipa to dictate the terms of the negotiations.

53. By April 2008, Yucaipa and CIT had reached agreement as to the terms of the Third Amendment, which amended the First Lien Credit Agreement such that Yucaipa, for the first time, could acquire debt under the First Lien Facility, but only under tight limitations and restrictions, as well as a requirement that half of any First Lien Debt acquired be contributed to capital.

54. Under the Third Amendment, Yucaipa is the "Restricted Sponsor Affiliate," which is defined as the "Sponsor and its Affiliates" (under the First Lien Credit Agreement, the "Sponsor" is Yucaipa). (First Lien Credit Agreement § 1.1.) Accordingly, in light of being the Restricted Sponsor Affiliate under the terms of the Third Amendment, Yucaipa could, for the

first time, acquire certain First Lien Debt. However, under the Third Amendment, Yucaipa was precluded from becoming a Requisite Lender and, to the extent Yucaipa decided to acquire any First Lien Debt, it would be subject to the following restrictions, among others:

- Yucaipa could not acquire more than the lesser of (a) 25% of the aggregate principal amount of the Term Loan Exposure held by all First Lien Lenders and (b) $50 million in principal amount of Term Loans (Third Amendment § 2.7(c));
- Within ten days of its acquisition of any Term Loans, Yucaipa was required to make a capital contribution to the Debtors of at least 50% of the aggregate principal amount of those Term Loans (*id.* § 2.7(e)); and
- Yucaipa could not exercise any voting rights that it would otherwise have as a First Lien Lender, including the right to consent to any amendment to the First Lien Credit Agreement or the right to vote its debt in any bankruptcy (*id.* §§ 2.1(e), 2.7(a), 2.7(b), 2.7(e)).

55. Notwithstanding these restrictions, the fact that the Third Amendment permitted Yucaipa, as the Sponsor, to acquire any of the First Lien Debt was a unique achievement for Yucaipa. [redacted]

56. However, Yucaipa was not interested in acquiring any debt subject to the restrictions that it negotiated in the Third Amendment. Indeed, in these bankruptcy proceedings, Yucaipa has admitted that it "never intended to purchase any debt claims that would make it bound by the Third Amendment's provisions" and that it "never would have acquired any first lien debt while the Third Amendment's restrictions and conditions limiting Yucaipa's potential ownership rights existed." (Yucaipa's Amended Counterclaim and Cross-Claim for Declaratory Judgment and Injunctive and Other Relief and Amended Answer to Debtors' Verified Complaint

(the "Cross-Claims"), Adv. Pro. No. 12-50947 (Bankr. D. Del.), D.I. 65 ¶¶ 25(a), 50.) Accordingly, dissatisfied with the terms of the Third Amendment that they solicited and negotiated, Defendants continued with their scheme to take total control over the First Lien Credit Agreement to the detriment of the legitimate First Lien Lenders.

(d) **Defendants Continue to Pursue Yucaipa's Acquisition of a Majority of the First Lien Debt**

57. Throughout 2008, Defendants were in continuous talks with CIT, as the Agent for the First Lien Lenders, as well as with various holders of the First Lien Debt, regarding the Defaults and Events of Default that had occurred and were continuing under the First Lien Credit Agreement. These discussions led Defendants to become concerned that the First Lien Lenders were not going to stand idly by, given the extensive Defaults and Events of Default that had occurred and were continuing – as well as the continued decline in the operational performance of the Debtors. Defendants were also concerned that the First Lien Lenders could begin to exercise their rights and remedies against the Debtors at any time. Defendants were desperate to prevent that from happening because such action could wipe out Yucaipa's equity stake.

58. Defendants were informed of the request by the existing First Lien Lenders that Yucaipa support the Debtors through the infusion of additional equity capital. [redacted]

59. Faced with the possibility of [redacted] Defendants increased their efforts to keep, and ultimately solidify, Yucaipa's total control over the Debtors. [redacted]

60. [redacted]

61. [redacted]

62. Nevertheless, apparently undeterred by the extraordinary nature of its request, on February 4, 2009, Yucaipa launched a tender offer to the existing holders of the First Lien Debt that, if successful, would have permitted Yucaipa to acquire an unlimited amount of First Lien

Debt without any limitations or restrictions, and to become the Requisite Lender. Thus, pursuant to the tender offer, Yucaipa offered to purchase the outstanding First Lien Debt for approximately 13 to 15 cents on the dollar. As a condition to the acceptance of the tender, Yucaipa required any tendering First Lien Lender to execute a further amendment to the First Lien Credit Agreement that would have removed all of the limitations and restriction imposed on Yucaipa's ability to acquire and vote First Lien Debt under the Third Amendment, thus allowing Yucaipa to acquire an unlimited amount of First Lien Debt without any limitations or restrictions and to become the Requisite Lender.

63. The then existing First Lien Lenders did not accept Yucaipa's offer to tender their First Lien Debt, and the proposed tender offer and amendment strategy failed.

(e) **Defendants Initiate Their Backup Plan to Take Total Control Over the Debtors Utilizing ComVest to Enable Yucaipa to Become the Requisite Lender**

64. Having failed in their efforts to convince the First Lien Lenders to permit Yucaipa to take total control over the First Lien Facility, Defendants initiated their backup plan to take complete control over the Debtors. Accordingly, Defendants turned their sights on another entity, ComVest – who was at that time the Requisite Lender – to give Defendants the total control they desired. ComVest had been threatening to move forward with the exercise of the rights and remedies of the First Lien Lenders and to force either a sale of the Debtors or a restructuring (which would wipe out Yucaipa's equity). Defendants needed to find a way to stop ComVest and the First Lien Lenders from proceeding on either path.

65. To do this, Defendants engaged in a multi-step approach. First, Yucaipa engaged in discussions with ComVest to acquire ComVest's First Lien Debt. Second, Yucaipa – utilizing its control over the Board and management – stonewalled ComVest's efforts to pursue a sale or restructuring while at the same time asserting maximum pressure on ComVest and the other First

Lien Lenders by, *inter alia*, withholding payment of principal and interest due under the First Lien Credit Agreement.

66. For example, at an August 3, 2009 Board meeting called for the purpose of discussing the Debtors' "liquidity, especially with respect to the approximately $4.8 million interest payment due to the First Lien Lenders the next day," the Board was advised that Defendant Walker "had suggested that the Company might be well-advised not to make the payment."

67. At that meeting, Defendant Walker "updated the Board on the status of negotiations with ComVest, stating that ComVest and Yucaipa were back in discussions," that Yucaipa believed a deal could be reached, but "warned, however, that it was critical that the Company have adequate liquidity to provide a sufficient runway for negotiations, and that a free fall into bankruptcy could be highly disruptive to the Company and to the ongoing negotiations." Defendant Walker further "advised that based upon his conversations with ComVest, he did not believe that failure to make the payment would lead to precipitous action by the lenders or anyone else" because, according to Defendant Walker, "ComVest, as the Requisite Lenders, would not seek to exercise any rights and would not allow others to do so given the current state of negotiations between ComVest and Yucaipa."

68. At this same meeting, Scott Macaulay, the Debtors' chief financial officer, advised the Board that the Debtors had $16.5 million of cash on hand, of which $12.3 million was immediately available. Of that $12.3 million, $2 million was needed for insurance premium payments, leaving $10.3 million in immediately available cash on hand. Mr. Macaulay advised that making the interest payment of $4.8 million to the First Lien Facility lenders would leave the Debtors with $5.5 million of immediately available cash on hand. Accordingly, the Debtors

had sufficient funds available to make their payment and to stay current on their payment obligations under the First Lien Credit Agreement.

69. Nevertheless, notwithstanding the fact that the Debtors had sufficient liquidity to pay debt service under the First Lien Facility, in order to facilitate Defendants' interests in negotiations with ComVest, Defendant Walker made a motion to the Board that the Debtors forego the quarterly interest payment that they owed the First Lien Lenders on August 4, 2009, which motion was carried by the Board unanimously.

(f) **Defendants Complete Their Backup Plan to Take Total Control Over the Debtors' Financial Structure, as They Negotiate and Cause the Debtors to Execute the Purported Fourth Amendment**

70. While Defendants were using their control of the Debtors to put pressure on ComVest by, *inter alia*, causing the Debtors to intentionally default on their payment obligations to ComVest and the other First Lien Lenders, Defendants continued negotiations with ComVest to complete their backup plan to acquire control over the First Lien Credit Facility. Yucaipa's negotiating team consisted of Defendants Burkle, Walker, Tochner, and also Stephanie Bond, who was employed by Yucaipa, with a third-party, [redacted], acting as a go-between with ComVest.

71. [redacted]

72. [redacted]

73. Defendants, desperate to forestall the First Lien Lenders' exercise of remedies, caused Yucaipa to pay a significant premium to acquire ComVest's First Lien Debt. [redacted]

74. Although Yucaipa had struck a deal with ComVest to acquire all of ComVest's First Lien Debt and become the Requisite Lender, that transaction was prohibited by the terms of the Third Amendment. So, to accomplish the contemplated purchase and sale, Yucaipa needed for there to be a further amendment to the First Lien Credit Agreement allowing Yucaipa to acquire an unlimited amount of First Lien Debt and eliminating any and all limitations and restrictions contained in the Third Amendment. Thus, as a condition of the closing of the transaction, ComVest and the Debtors (at Yucaipa's direction) executed the Purported Fourth Amendment.

75. The Purported Fourth Amendment (if valid and enforceable) would have eliminated all of the Third Amendment's restrictions on Yucaipa's ability to acquire First Lien Debt. The Purported Fourth Amendment would have amended the First Lien Agreement's definitions of "Eligible Assignee" and "Term Loan Exposure" such that Yucaipa's ability to acquire certain First Lien Debt was no longer prohibited. (Purported Fourth Amendment § 2.1(b).) It further would have eliminated the voting restrictions for First Lien Debt acquired by Yucaipa, removed the cap on the amount that could be acquired, and eliminated the capital contribution requirement. (*Id.* § 2.4(a).) In sum, it would have permitted Yucaipa to become a "Lender" without any restrictions whatsoever, and with the ability to become the Requisite Lender – the exact antithesis of what the First Lien Lenders specifically provided under the original First Lien Credit Agreement.

76. The Loan Purchase Agreement and the Assignment and Assumption Agreement (the "Fourth Amendment Agreements") were executed on August 21, 2009, simultaneously with the Purported Fourth Amendment itself. Through the Fourth Amendment Agreements, Yucaipa purported to acquire and hold "$114,712,088.66 of Term Loans and $30,400,458.40 of LC

Commitments (*i.e.* deposits to support letter of credit), totaling $145,112,547.06 of the $265,000,000 maximum first lien loans authorized by the First Lien Credit Agreement." (Cross-Claims, Adv. Pro. No. 12-50947 (Bankr. D. Del.), D.I. 65 ¶ 17.) [redacted]

77. Following the execution of the Purported Fourth Amendment and the Fourth Amendment Agreements, Yucaipa contended that it was the Requisite Lender under the First Lien Credit Agreement.

(g) **Defendants Use Yucaipa's Alleged Requisite Lender Status to Paralyze the First Lien Lenders**

78. Operating under the Purported Fourth Amendment and the belief that they had succeeded in their plan to take control over the First Lien Credit Agreement, Defendants exercised the authority of the Requisite Lender. Defendants' actions as the purported Requisite Lender violated the First Lien Credit Agreement and the Third Amendment, and thereby prevented the First Lien Lenders from exercising any of their rights or remedies under the First Lien Credit Agreement, notwithstanding the occurrence and continuance of Defaults and Events of Default (including payment defaults), and notwithstanding the continuing decline in the Debtors' operational performance. Clearly, Defendants were determined to assert total control over the Debtors and the First Lien Credit Agreement such that no remedies could be exercised, no restructuring could take place, and no sale could occur, unless it was on terms acceptable to Defendants.

79. Additionally, following the execution of the Purported Fourth Amendment, the Debtors, at Yucaipa's direction as controlling shareholder and with its "consent" as alleged Requisite Lender, refused to make regularly scheduled payments of principal and interest under the First Lien Facility. The Debtors, at Yucaipa's direction as controlling shareholder and with

its "consent" as alleged Requisite Lender, also failed to reimburse collateral accounts that secured the First Lien Facility's letter of credit facility, attempted to terminate certain control agreements, and attempted to retain excess cash all in violation of the terms of the First Lien Credit Agreement. These steps caused continuing harm and damage to the First Lien Lenders.

80. Thus, Yucaipa, acting as the purported Requisite Lender, gave the Debtors a "free pass" to ignore the terms of the First Lien Credit Agreement that required the Debtors to pay principal and interest and abide by various financial and operating covenants.

(h) **Litigation Surrounding the Purported Fourth Amendment**

81. Although Yucaipa claimed to be the Requisite Lender under the Credit Agreement in light of the Purported Fourth Amendment, its claim to that position was contested first by CIT, in its capacity as the Administrative Agent, and later by the Individual Plaintiff Lenders, and was an issue in at least three separate proceedings (the third of which includes multiple adversary proceedings before this Court).

(i) **The Georgia Litigation**

82. Approximately one month after the execution of the Purported Fourth Amendment, the Individual Plaintiff Lenders objected to Yucaipa's acquisition of First Lien Debt and alleged status as Requisite Lender, and instructed CIT, in its capacity as Administrative Agent, to challenge the validity and enforceability of the Purported Fourth Amendment.

83. Following CIT's objection to the Purported Fourth Amendment, in November, 2009, Yucaipa and the Debtors (at Yucaipa's direction), brought suit against CIT in the Superior Court of Fulton County, Georgia (the "Georgia Action"), seeking, among other things, a declaratory judgment that the Purported Fourth Amendment was valid and that Yucaipa was the Requisite Lender. In response, CIT filed counterclaims seeking, among other things, a declaration that the Purported Fourth Amendment was invalid and stating claims for breach of

fiduciary duty against the Allied Board and aiding and abetting breach of fiduciary duty against Yucaipa.

84. After two years of litigation in the Georgia Action – during which time the First Lien Lenders were completely paralyzed and unable to take action in respect of the numerous Events of Default that occurred and were continuing – CIT entered into a settlement agreement with the Debtors and Yucaipa, in which CIT capitulated that Yucaipa was the Requisite Lender. The settlement agreement, however, clearly provided that the settlement was made solely by CIT in its individual capacity and did not release any claims that may have existed on behalf of "any other person."

(ii) **The New York Action**

85. On January 17, 2012, just weeks after the settlement of Yucaipa's and the Debtors' lawsuit against CIT, the Individual Lender Plaintiffs commenced an action (the "New York Action") against Yucaipa in the Supreme Court of the State of New York (the "New York Court") seeking a declaration that "(i) the purported Fourth Amendment is null and void, ineffective, and not binding," and (ii) that "Yucaipa is not the Requisite Lenders under the Credit Agreement."

86. Yucaipa's motion to dismiss the New York Action was denied at a May 30, 2012 hearing without a written opinion, and the transcript of that hearing was "So Ordered" on August 2, 2012.

87. The Individual Lender Plaintiffs moved for summary judgment on August 27, 2012. At oral argument on that motion on November 19, 2012, the court indicated it would grant the Individual Lender Plaintiffs' motion for summary judgment and that it would subsequently issue a written order.

88. In its written decision, dated March 8, 2013, the New York Court held that the restrictions contained in the Third Amendment "precluded Yucaipa from becoming the Requisite Lender or exerting control over the other Lenders." *BDCM Opportunity Fund II, LP v. Yucaipa American Alliance Fund I, LP*, No. 650150/2012, 2013 WL 1290394, at *5 (N.Y. Sup. Ct. Mar. 8, 2013). The New York Court further held that Yucaipa's attempt to usurp Requisite Lender status through the Purported Fourth Amendment was "of course, flatly prohibited under the Credit Agreement" and therefore "the Purported Fourth Amendment is *invalid and of no force or effect*." *Id.* at *5 (emphasis added). Based on the foregoing, the New York Court unequivocally held that "***Yucaipa is not the Requisite Lender***." *Id.* at *6 (emphasis added).

89. On December 17, 2013, the New York Appellate Division affirmed the New York Court's finding that the Purported Fourth Amendment was void *ab initio* and that Yucaipa is not the Requisite Lender. *BDCM Opportunity Fund II, LP v. Yucaipa American Alliance Fund I, LP*, 978 N.Y.S.2d 10, 11-12 (N.Y. App. Div. 2013).

90. On January 17, 2014, conceding that the Appellate Division's decision did not disturb the New York Court's finding that the Purported Fourth Amendment was void *ab initio* and that Yucaipa is not the Requisite Lender, Yucaipa filed a motion for leave to appeal to the New York Court of Appeals. The New York Court of Appeals subsequently denied the motion. As a result, Yucaipa has exhausted its appeals in the New York Action.

(i) **Yucaipa, as the Alleged Requisite Lender, Usurps Negotiations with JCT With Catastrophic Results**

91. JCT was a principal competitor of the Debtors and had long sought to acquire the Debtors' assets in a strategic combination that would consolidate the industry.

92. In fact, JCT's Chairman (Michael Riggs) often remarked that acquiring the Debtors' assets and merging them with JCT would be the fulfillment of "a life dream." At the

bankruptcy auction in September 2013, Riggs noted that he had been pursuing the Debtors for so long that "no one on the planet wants it [Allied] more than me."

93. JCT ultimately acquired substantially all of the Debtors' assets in a Section 363 sale, which closed on December 27, 2013. The price paid by JCT for substantially all of the Debtors' assets – $135 million – was far less than the value previously offered by JCT in proposals tendered in late 2011 and 2012, proposals that would have returned significantly greater value to the First Lien Lenders but for the Defendants' interference and inappropriate conduct.

94. The significant deterioration in the value actually realized by the First Lien Lenders was the direct result of Yucaipa's wrongful usurpation of the negotiations with JCT. The negotiation of the JCT proposals, unfortunately, took place between JCT and Yucaipa (in its alleged capacity as Requisite Lender – which it was not), rather than with the "disinterested" members of the Board (or a special committee of the Board), whose responsibility would have been to negotiate the highest and best purchase price for the assets without immediate regard for how those proceeds might be allocated.

95. Defendants, however, had a different agenda. They had no interest in allowing the Debtors to pursue a typical M&A type transaction. In fact, Defendants' strategy is confirmed by an e-mail from Riggs to the Individual Lender Plaintiffs in December 2011, in which Riggs explains that Yucaipa "is not interested in exploring a typical M&A type transaction" and instead wants JCT to "find a way to . . . buy their debt."

96. Yucaipa, improperly using its alleged Requisite Lender position, wanted to pursue a sale of its First Lien Debt (instead of a typical M&A transaction) so that it could garner a premium for itself by demanding a disproportionate share of the consideration that JCT was

willing to pay, to the detriment of the other First Lien Lenders. The preferential and disparate treatment that Defendants were seeking to obtain for Yucaipa is reflected in documents produced during discovery. [redacted]

97. When Individual Lender Plaintiffs legitimately requested that they receive ratable treatment with Yucaipa on account of the First Lien Debt they held, Yucaipa refused to yield, insisting instead on a disproportionate percentage of the consideration. As a result of Defendants' wrongful actions, the prospects for a transaction with JCT deteriorated dramatically.

98. In February 2012, and again in March 2012, when it became evident that Defendants' intransigence was making it impossible to pursue a transaction with JCT that would benefit all of the First Lien Lenders equally, the Individual Lender Plaintiffs wrote letters to the Board demanding that the Board step in and take action consistent with its fiduciary obligations. Not surprisingly, the Yucaipa dominated board refused to act, leaving Defendants in the position of setting their own terms for allowing any JCT transaction to move forward. The terms Defendants set, however, continued to require disproportionately better treatment for Yucaipa and ultimately cratered any prospect for a transaction with JCT.

99. Defendants' improper conduct in connection with the 2011/2012 negotiations with JCT forms part of the basis for Plaintiffs' claim for equitable subordination of Yucaipa's claims. Equitable subordination is appropriate when, as here, there is evidence showing that creditors should recover less on their debts as a result of the defendant's misconduct. Had Defendants not engaged in the inequitable conduct described above, JCT "would have paid each Lender in full (i.e., par plus accrued interest) for the $305.1 million of outstanding first lien debt." (*See* Motion for Leave, Adv. Pro. No. 13-50530 (Bankr. D. Del.), D.I. 320, Ex. A ¶ 57.) Yucaipa's First Lien Debt claims should be equitably subordinated so as to compensate the harmed First Lien Lenders in an amount equal to the difference between (i) the actual recovery to First Lien Lenders (other than Yucaipa) from the proceeds of the JCT sale and (ii) the recovery that could have been realized had Yucaipa not wrongly appropriated discussions regarding a potential acquisition of the Debtors by JCT in late December 2011 (approximately 100% of a par recovery plus accrued interest). As a result, Yucaipa's distribution as First Lien Lenders should be equitably subordinated and, to the extent already paid, then turned over to the Co-Administrative Agents on behalf of the non-Yucaipa First Lien Lenders until the non-Yucaipa First Lien Lenders are made whole.

100. In addition, Defendants' wrongful conduct in connection with the JCT negotiations turned what would have been a quick and relatively inexpensive proceeding to accomplish a Section 363 sale to JCT into a protracted, and expensive, battle lasting nineteen months. As a result, the Debtors were forced to incur $30 million in post-petition financing, reducing the amount available from the Debtors' assets for distribution to the First Lien Lenders. The non-Yucaipa First Lien Lenders were also forced to incur millions of dollars in legal fees in

connection with the bankruptcy cases and the New York Action made necessary by Yucaipa's wrongful acts.

(j) **Yucaipa Has Failed to Perform Under the Third Amendment**

101. In the New York Action, the Purported Fourth Amendment was found to be invalid such that any reliance on the Purported Fourth Amendment now is misplaced. Accordingly, the Third Amendment is clearly the operative amendment to the First Lien Credit Agreement and its terms, including the contribution provisions and limitations upon Yucaipa's debt holdings, are binding and controlling.

102. However, notwithstanding the ruling in the New York Action, Yucaipa refused to perform in accordance with the terms of the First Lien Credit Agreement, as amended by the Third Amendment.

(k) **The Filing of These Bankruptcy Cases and Prior Proceedings in This Court**

103. On May 18, 2012, the Individual Lender Plaintiffs filed these involuntary bankruptcy proceedings against the Debtors. Thereafter, the Debtors consented to the entry of an order for relief and filed voluntary petitions on behalf of their subsidiaries and affiliates.

104. During the initial period of the chapter 11 cases, and even after the decision by the New York Court, Yucaipa continued to allege that it was the Requisite Lender under the First Lien Credit Agreement. To resolve the question, on July 9, 2013, the Individual Lender Plaintiffs filed a motion for summary judgment seeking a determination that they were the Requisite Lenders.

105. On August 8, 2013, this Court granted the Individual Lender Plaintiffs' motion for summary judgment, holding that any First Lien Debt held by Yucaipa is subject to the terms of the Third Amendment, and that the Individual Lender Plaintiffs are the Requisite Lenders under the First Lien Credit Agreement.

106. The Debtors subsequently conducted a court-approved auction to sell substantially all of their assets, including the collateral securing the First Lien Debt. Substantially all of the Debtors' assets were sold to JCT for a net recovery to First Lien Lenders of approximately $105 million (the "Sale Proceeds").[5] The Sale Proceeds were more than $100 million less than the amount offered by JCT in late 2011 and early 2012.

CLAIMS FOR RELIEF

First Claim for Relief

Equitable Subordination Pursuant to 11 U.S.C. § 510(c) Against Yucaipa for Harm to All First Lien and Second Lien Lenders

107. The Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 106 as if set forth fully herein.

108. At all times relevant hereto, Yucaipa was either a statutory "insider" of the Debtors as such term is defined in 11 U.S.C. § 101(31) or, alternatively, a *de facto* insider of the Debtors.

109. As more fully described above, Yucaipa, as an insider with effective control over the Debtors and the Board and in its capacity as alleged Requisite Lender, has engaged in inequitable misconduct that specifically harmed the First Lien Lenders (other than Yucaipa) in ways that are different from any harm suffered by the Debtors' other creditors by, among other things:

(a) improperly acquiring First Lien Debt in violation of the First Lien Credit Agreement;

(b) improperly using its purported First Lien Debt holdings to declare itself the Requisite Lender, in clear violation of the First Lien Credit Agreement;

(c) improperly using its status as purported Requisite Lender to neutralize the First Lien Lenders, giving the Debtors a "free pass" to ignore the provisions of the First

[5] The gross proceeds from the JCT sale totaled approximately $135 million.

Lien Credit Agreement requiring it to pay principal and interest and abide by certain financial and operating covenants;

(d) improperly using its status as purported Requisite Lender to protect its equity investment by precluding a badly-needed restructuring of the Debtors;

(e) improperly using its status as purported Requisite Lender to insist on a disproportionate share of the consideration JCT was willing to pay for the sale of the Debtors' assets, which derailed the sale;

(f) improperly usurping Requisite Lender status, causing the First Lien Lenders to incur unnecessary legal costs regarding the impropriety of Yucaipa's status as Requisite Lender and the invalidity of the Purported Fourth Amendment; and

(g) improperly usurping Requisite Lender status, preventing the Debtors from consummating a sale, which in turn caused the Debtors and the First Lien Lenders to incur unnecessary legal costs.

110. As a result of Yucaipa's conduct, the First Lien Lenders (other than Yucaipa) have been materially harmed.

111. Granting the relief sought herein against Yucaipa is consistent with the Bankruptcy Code and is appropriate based on the indisputable facts of this case.

112. Pursuant to 11 U.S.C. §510(c), all distributions to Yucaipa on account of its status as First Lien Lender should be subordinated to the claims of all other First Lien Lenders and, to the extent already distributed to Yucaipa, then turned over to the Co-Administrative Agents on behalf of the non-Yucaipa First Lien Lenders until the non-Yucaipa First Lien Lenders are made whole.

Second Claim for Relief

Breach of Contract Against Yucaipa

113. The Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 112 as if fully set forth herein.

114. As a holder of First Lien Debt, Yucaipa is bound by the terms of the First Lien Credit Agreement, as amended by the Third Amendment.

115. The court in the New York Action declared that the Purported Fourth Amendment is invalid. Accordingly, because the Purported Fourth Amendment has been found to be null and void, the Third Amendment is enforceable and its terms govern any holders of First Lien Debt, including Yucaipa.

116. In addition, this Court has determined that the Third Amendment is binding on Yucaipa. (Transcript of Proceedings Held on July 30, 2013, Adv. Proc. No. 13-50530 (Bankr. D. Del.), D.I. 297 at 127:13-15.)

117. Yucaipa has breached the First Lien Credit Agreement, as amended by the Third Amendment, by acquiring more Term Loan Exposure than permitted under Section 10.6(c) of the Third Amendment. Specifically, Section 10.6(c)(ii) provides, in relevant part:

> no Lender may sell, assign, transfer or otherwise convey any of its rights and obligations under this Agreement . . . and no Restricted Sponsor Affiliate shall acquire any such rights or obligations, in each case if (A) . . . the aggregate amount of the Term Loan Exposure held or beneficially owned by all Restricted Sponsor Affiliates would exceed 25% of the aggregate principal amount of the Term Loan Exposure . . . or (B) after giving effect to such assignment or transfer, the aggregate amount of Term Loans acquired by all Restricted Sponsor Affiliates since the Closing Date would exceed $50 million . . . .

118. Thus, under the terms of the Third Amendment, at most, Yucaipa would be permitted to hold the lesser of $50 million or 25% of the aggregate principal amount of Term Loans.

119. Yucaipa breached the First Lien Credit Agreement, as amended by the Third Amendment, by purchasing, and purporting to hold, $114,712,088.66 in Term Loans, which is substantially greater than the amount it is permitted to hold.

120. In addition, the First Lien Credit Agreement, as amended by the Third Amendment, provides that Yucaipa may not purchase or hold any Revolving Loans or LC

Commitments. (Third Amendment § 2.1(c).) Yucaipa breached the First Lien Credit Agreement, as amended by the Third Amendment, by purchasing, and purporting to hold, $30,400,458.40 of LC Commitments.

121. As a result of its impermissible acquisition of First Lien Debt, Yucaipa declared itself to be the Requisite Lender, with all the rights and powers granted thereto under the First Lien Credit Agreement.

122. By improperly acting as the Requisite Lender, Yucaipa breached numerous other provisions of the First Lien Credit Agreement, as amended by the Third Amendment, including, but not limited to:

(a) Section 2.7(a) of the Third Amendment, which provides that Yucaipa "shall have no voting rights for all purposes under this Agreement (whether before, during, or after an Insolvency or Liquidation Proceeding) . . . with respect to their Term Loans."

(b) Section 2.7(b) of the Third Amendment, which provides that Yucaipa "shall not . . . make any election, give any consent, commence any action or file any motion, claim, obligation, notice or application or take any other action in any Insolvency or Liquidation Proceeding without the prior written consent of all Lenders . . . ."

(c) Section 2.7(e)(iv) of the Third Amendment, which provides that Yucaipa "knowingly and irrevocably waives any and all rights to exercise any voting rights it would otherwise have as a Lender for all purposes under this Agreement . . . ."

123. Yucaipa's improper usurpation of Requisite Lender status breached the First Lien Credit Agreement, as amended by the Third Amendment, in at least the following ways:

(a) Yucaipa improperly acquired First Lien Debt in violation of the First Lien Credit Agreement;

(b) Yucaipa improperly used its purported debt holdings to declare itself the Requisite Lender, in clear violation of the First Lien Credit Agreement;

(c) Yucaipa improperly used its status as purported Requisite Lender to neutralize the First Lien Lenders, giving the Debtors a "free pass" to ignore the provisions of the First Lien Credit Agreement requiring them to pay principal and interest and abide by certain financial and operating covenants;

(d) Yucaipa improperly used its status as purported Requisite Lender to protect its equity investment by precluding a badly-needed restructuring of the Debtors; and

(e) Yucaipa's improper usurpation of Requisite Lender status caused the First Lien Lenders to incur unnecessary legal costs regarding the impropriety of Yucaipa's status as Requisite Lender and the invalidity of the Purported Fourth Amendment.

124. In addition, starting in November or December 2011, Yucaipa, acting as the purported Requisite Lender, hijacked negotiations with JCT by insisting on terms that would benefit Yucaipa, rather than the Debtors, and by demanding that any deal disproportionately favor Yucaipa at the expense of the First Lien Lenders, including the Plaintiffs. Yucaipa's improper usurpation of Requisite Lender status prevented the Debtors from consummating a sale with JCT, which in turn caused the Debtors and the First Lien Lenders to incur unnecessary legal costs.

125. But for Yucaipa's wrongful usurpation of Requisite Lender status, JCT would have acquired the Debtors in late 2011 or early 2012 for an amount substantially in excess of $135 million. Instead, the Debtors were forced to incur additional debt to fund a prolonged bankruptcy proceeding.

126. As a result, the Plaintiffs have been harmed in an amount to be proven at trial.

Third Claim for Relief

Breach of the Duty of Good Faith and Fair Dealing Against Yucaipa

127. The Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 126 as if fully set forth herein.

128. The covenant of good faith and fair dealing is implied in all contracts under New York law. The covenant operates to prevent a party from acting arbitrarily or unreasonably, and thereby frustrating the benefits of the bargain that the other party reasonably expected. The

implied covenant also applies when a contract confers discretion on a party and requires that the party exercising that discretion do so reasonably and in good faith.

129. To the extent that Yucaipa's wrongful usurpation of Requisite Lender status and its subsequent actions as purported Requisite Lender were not explicitly prohibited by the First Lien Credit Agreement, as amended by the Third Amendment, they are a violation of the covenant of good faith and fair dealing which is implied in the First Lien Credit Agreement, as amended by the Third Amendment.

130. Yucaipa breached the implied covenant of good faith and fair dealing by acting arbitrarily and unreasonably, by frustrating the benefits of the bargain that the First Lien Lenders reasonably expected, and by exercising discretion granted to it by the First Lien Credit Agreement in an unreasonable and bad faith manner, as set forth above.

131. As a result, the Plaintiffs have been harmed by Yucaipa's wrongful actions in an amount to be proven at trial.

Fourth Claim for Relief

Tortious Interference with Contract Against the Yucaipa Directors and Burkle

132. The Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 131 as if fully set forth herein.

133. The First Lien Credit Agreement, as amended by the Third Amendment, is a valid contract that governs the rights of First Lien Lenders with respect to the First Lien Debt.

134. The Yucaipa Directors and Burkle were aware of the First Lien Credit Agreement and its terms.

135. The Yucaipa Directors and Burkle, in their individual capacities, intentionally and maliciously induced multiple breaches by Yucaipa of the First Lien Credit Agreement through their control of Yucaipa, including:

a) In August 2009, the Yucaipa Directors, and, upon information and belief, Burkle caused Yucaipa to purchase ComVest's First Lien Debt, in contravention of the First Lien Credit Agreement, as amended by the Third Amendment, which purchase purported to result in Yucaipa becoming the Requisite Lender. As a result, the First Lien Lenders were unable to exercise remedies available under the First Lien Credit Agreement.

b) In late 2011 and early 2012, the Yucaipa Directors and, upon information and belief, Burkle, caused Yucaipa, wrongfully acting as the Requisite Lender, to hijack ongoing negotiations with JCT by insisting on terms that would benefit Yucaipa, rather than the Debtors, and by demanding that any deal disproportionately favored Yucaipa at the expense of the Debtors' other First Lien Lenders, including the Individual Lender Plaintiffs. As a result, the Debtors were forced to incur additional debt to fund a prolonged bankruptcy proceeding.

136. The intentional acts committed by the Yucaipa Directors and Burkle were significant factors in causing Yucaipa's breaches of the First Lien Credit Agreement and were without justification.

137. The Yucaipa Directors and Burkle acted improperly and without privilege in inducing Yucaipa's breaches of the First Lien Credit Agreement.

138. In inducing Yucaipa's breaches of the First Lien Credit Agreement, the Yucaipa Directors and Burkle exceeded the scope of their agency as Yucaipa managers, employees, and/or agents and were motivated by a malicious and bad faith purpose to injure Plaintiffs.

139. In inducing Yucaipa's breaches of the First Lien Credit Agreement, the Yucaipa Directors and Burkle were not pursuing in good faith the legitimate profit-seeking activities of Yucaipa or the Debtors. Rather, they were pursing to benefit themselves individually at the expense of the Debtors and their stakeholders, including the First Lien Lenders.

140. Yucaipa's breaches of the First Lien Credit Agreement damaged the First Lien Lenders in at least the following ways:

(a) Yucaipa improperly acquired First Lien Debt in violation of the First Lien Credit Agreement;

(b) Yucaipa improperly used its purported debt holdings to declare itself the Requisite Lender, in clear violation of the First Lien Credit Agreement;

(c) Yucaipa improperly used its status as purported Requisite Lender to neutralize the First Lien Lenders, giving the Debtors a "free pass" to ignore the provisions of the First Lien Credit Agreement requiring them to pay principal and interest and abide by certain financial and operating covenants;

(d) Yucaipa improperly used its status as purported Requisite Lender to protect its equity investment by precluding a badly-needed restructuring of the Debtors;

(e) Yucaipa improperly used its status as purported Requisite Lender to insist on a disproportionate share of the consideration JCT was willing to pay for the sale of the Debtors' assets which resulted in derailing the sale.

(f) Yucaipa's improper usurpation of Requisite Lender status caused the First Lien Lenders to incur unnecessary legal costs regarding the impropriety of Yucaipa's status as Requisite Lender and the invalidity of the Purported Fourth Amendment.

(g) Yucaipa's improper usurpation of Requisite Lender status prevented the Debtors from consummating a sale, which in turn caused the debtors and the First Lien Lenders to incur unnecessary legal costs.

141. As a result, the Plaintiffs have suffered damages in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment

a) subordinating Yucaipa's claims as First Lien Lender, in total, against the Debtors to the claims of the other First Lien Lenders;

b) in favor of the Plaintiffs and against Yucaipa due to Yucaipa's breaches of the First Lien Credit Agreement in an amount to be proven at trial, plus pre-judgment interest;

c) or, in the alternative, in favor of the Plaintiffs and against Yucaipa due to Yucaipa's breaches of the implied duty of good faith and fair dealing in an amount to be proven at trial, plus pre-judgment interest;

d) in favor of the Plaintiffs and against the Yucaipa Directors and Burkle due to their' tortious interference with contract in an amount to be proven at trial, plus pre-judgment interest; and

e) granting such other or further relief as is just, proper and equitable.

Dated: November 19, 2014
Wilmington, Delaware

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EXHIBIT DS-5

[LIQUIDATION ANALYSIS]

Consolidated Hypothetical Liquidation Analysis for ASHINC. and Affiliated Debtors

Assets Available for Distribution	Notes	Amount of Claims	Estimated Chapter 7 Recovery		Estimated Chapter 11 Plan Recovery
Cash and Cash Equivalents	1		$593,000.00		$593,000.00
Accounts Receivable, Net	2		$639,500.00		$1,139,500.00
Other Receivables	3		$1,460,283.15		$3,677,000.00
Fixed Assets, Net	4		$486,750.00		$774,625.00
Equity in Non-Debtor Subsidiaries	5		$1,320,000.00		$2,640,000.00
Estate Claims	6		-		-
Estimated Proceeds			**$4,499,533.15**		**8,824,125.00**
Estimted Chapter 7 Expenses					
Chapter 7 Trustee Fees (3% of distributions)	7		$252,960.00		
Chapter 7 Trustee's Counsel and Other Professional Fees	8		$450,000.00		
Other Chapter 7 Administrative Expenses	9		$50,000.00		
Total Estimated Chapter 7 Expenses			$752,960.00		
Estimated Proceeds After Chapter 7 Expenses			**$3,746,573.15**		**$8,824,125.00**
Distribution to Creditors					
Administrative & Priority Tax Claims	10	$4,432,000.00			
Recovery $			$4,299,040.00		$4,432,000.00
Recovery %			97.00%		100.00%
Priority Claims	11	$250,000.00			
Recovery $			$242,500.00		$250,000.00
Recovery %			97.00%		100.00%
First Lien Lender Claims	12	$244,021,526.00			
Recovery $			-$4,432,466.85		$392,125.00
Recovery %			-1.82%		0.16%
Second Lien Lender Claims	13	$30,000,000.00			
Recovery $			$0.00		$0.00
Recovery %			0.00%		0.00
AIG Claims	14	$4,382,495			
Recovery $			$970,000.00		$1,000,000.00
Recovery %			22.13%		22.82%
General Unsecured Claims	15	$1,742,807,202.00			
Recovery $			$2,910,000.00		$3,000,000.00
Recovery %			0.167%		0.172%
Parent Equity Interests	16	[]			
Recovery $			$0.00		
Recovery %			0.00%		
Subsidiary Equity Interests	17	[]			
Recovery $			$0.00		$0.00
Recovery %			0.00%		0.00%

LIQUIDATION ANALYSIS FOR THE DEBTORS

A. Introduction and Reservation

Section 1129(a)(7) of the Bankruptcy Code, often referred to as the "Best Interests Test," requires that each holder of an Impaired Claim or Interest either (a) accept the Plan or (b) receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive if the Debtors were liquidated under Chapter 7 of the Bankruptcy Code. In order to determine whether this test has been satisfied, the Debtors must first determine the dollar amount that would be generated from the liquidation of the Debtors' assets in the context of Chapter 7 liquidation cases. The gross amount of proceeds generated would then be reduced by the costs and expenses of administering the Chapter 7 estate (including the costs and expenses associated with the liquidation of the assets), leaving the amount available for distribution to creditors. That amount would then be allocated to creditors and shareholders in strict priority in accordance with Section 726 of the Bankruptcy Code.

In connection with the Plan and Disclosure Statement, the Plan Proponents have prepared this hypothetical liquidation analysis ("Liquidation Analysis"). The Liquidation Analysis is for all of the Debtors on a consolidated basis and should be read in conjunction with the Plan and Disclosure Statement. Estimating recoveries in any hypothetical liquidation under Chapter 7 is an uncertain process due to the number of unknown variables. Accordingly, extensive use of estimates and assumptions has been made that, while considered reasonable by the Plan Proponents and their advisors, are inherently subject to a number of contingencies. The Plan Proponents make no representations or warranties regarding the accuracy of the estimates and assumptions used in the Liquidation Analysis or a Chapter 7 trustee's ability to achieve the forecasted results. In the event the Debtors' Chapter 11 Cases are converted to cases under Chapter 7, actual recoveries and resulting distributions may vary substantially from the estimates and projections set forth in the Liquidation Analysis.

The Plan embodies various settlements between and among the Debtors, the Committee, the First Lien Agents and various creditors asserting Administrative Expense Claims. These settlements resolve various disputes regarding (among others) (a) the legal entitlement of the First Lien Agents to "adequate protection" and the amount of the diminution claim (if any) the First Lien Agents have or may have under the 2012 Final DIP Order and the Replacement DIP Order, and (b) the obligation of the First Lien Agents to fund the Wind Down Budget pursuant to the terms of the JCT Sale Order. These disputes would not be rendered moot by a conversion of the Debtors' Chapter 11 Cases to cases under Chapter 7. As a result, this Liquidation Analysis assumes that the First Lien Agents would enter into settlements with the Chapter 7 trustee (in lieu of the Debtors and the Committee) having substantially similar terms and resulting in payments to holders of Administrative Expense Claims, Priority Claims and General Unsecured

Claims. In addition, this Liquidation Analysis assumes that the First Lien Agents and the Chapter 7 trustee would enter into the AIG Settlement, the Central States Settlement and the Northwest Settlement.

As is evident from the Liquidation Analysis, the Plan Proponents believe that the Plan provides a superior recovery for the Holders of Claims, and the Plan meets the requirements of the Best Interests Test. Because the majority of the Debtors' assets have already been liquidated, the value of such assets and the Cash available for distribution has already been determined (subject to the continued use of Cash Collateral to fund the wind down of the Debtors' estates). Thus, the principal difference between the recoveries to be received by holders of Allowed Claims in the Chapter 11 Cases versus a Chapter 7 relates to (a) the incremental costs associated with a conversion of the Chapter 11 Cases and the administration of the Chapter 7 Cases, and (b) lower anticipated values for assets yet to be sold or recovered. Conversion of the Chapter 11 Cases to Chapter 7 cases would require the appointment of a Chapter 7 trustee, and in turn, such Chapter 7 trustee would likely retain new professionals. The "learning curve" that the trustee and new professionals would face comes at a significant cost to the Estates and with a significant delay compared to the Plan (and prosecution of the Estate Claims). Further, a Chapter 7 trustee would be entitled to fees of up to 3% of the total amount distributed to creditors, degrading further creditor recoveries.

As a result, the Plan Proponents believe that holders of Claims in all Impaired Classes will recover less if the Debtors' cases were converted to Chapter 7 cases. Accordingly, the Plan Proponents believe the Plan satisfies the "Best Interests Test" requirements of Bankruptcy Code Section 1129.

B. General Assumptions

The Liquidation Analysis reflects estimates of the proceeds that might be realized through the liquidation of the Debtors in accordance with Chapter 7 of the Bankruptcy Code. A general summary of the assumptions used in preparing this Liquidation Analysis follows.

This Liquidation Analysis is based on the estimated and unaudited book values of the Debtors' assets as of May 31, 2015, unless otherwise indicated. The book values used to prepare the Liquidation Analysis have not been subject to review, compilation, or audit by an independent accounting firm.

The Liquidation Analysis has been prepared assuming the Debtors' Chapter 11 Cases convert to proceedings under Chapter 7 on July 24, 2015. Thereafter, a Chapter 7 trustee would be appointed or elected to liquidate all of the Debtors' remaining assets. The liquidation is assumed to occur over a 12 month period (the "Liquidation Period"). There can be no assurance that the liquidation would be completed in this time frame nor is there any assurance that the

recoveries assigned to the assets would in fact be realized. Under section 704 of the Bankruptcy Code, an appointed trustee must, among other duties, collect and convert the property of the estate as expeditiously as is compatible with the best interests of the parties-in-interest. Depending on actual circumstances, the liquidation period could be significantly longer, in which event, wind-down costs would increase and recoveries would likely decrease.

C. Notes to Liquidation Analysis

1. Cash and Cash Equivalents – The Liquidation Analysis assumes no further cash would be generated during the Chapter 7 cases. It is assumed that the cash balance of the Debtors' bank and operating accounts as of May 31, 2015, will be fully recoverable, less outstanding checks and projected account fees and/or charges.

2. Accounts Receivable, Net – Accounts Receivable consist primarily of past-due rent from sublessees and trade accounts payables, each of which is subject to pending litigation. The Debtors' largest account receivable is owed by Plaza Automall, Ltd under a defaulted sublease. The Debtors have filed suit against Plaza Automall, Ltd. to collect the past due rent, asserting damages in the amount of $1,664,740.02. The litigation is pending in the United States District Court for the Southern District of New York under Case No. 1:14-cv-04648, and the parties are currently engaged in discovery.

3. Other Receivables – Other Receivables consist primarily of cash collateral and letters of credit in excess of liabilities for the Debtors' self-insured workers compensation plans. Currently, cash collateral in the amount of $1,810,000 and $3,780,525 is held by the Georgia Self-Insurers Guaranty Trust Fund and the State of Kentucky, respectively, to secure ASLTD's self-insured retention payment obligations under the respective policies. Based on prior loss portfolio transfer valuations, a net recovery under both the Georgia and Kentucky policies is estimated at 15% (Chapter 7) and 45% (Plan) of the current cash collateral value (net of anticipated expenses associated with maintaining the plans). The Debtors believe it will take several years for these programs to be wound down and it is unlikely that any significant value will be realized in the Liquidation Period. Additionally, Great American Insurance Corporation currently holds cash collateral totaling $1,100,000 to secure bonds issued to governmental agencies and freight brokers to guaranty payment of transportation-related obligations of the Debtors, such as tolls and customs charges. Great American Insurance Corporation has agreed to release approximately $379,704.40 of cash collateral, but will continue to hold $720,295.60 pending discharge of outstanding bonds in the penal sum of $626,344.00 and payment of related attorneys' fees. Finally, the Debtors anticipate receiving approximately $242,000

being held by SunTrust Bank under an escrow agreement set to expire on March 15, 2016, that is not subject to any pending claims.

4. Fixed Assets, Net - Net Fixed Assets consists of real property and related improvements, equipment, office furniture and fixtures, and leasehold improvements. The Debtors own three parcels of improved real estate located in Memphis, Tennessee; Columbia, South Carolina; and Soldotna, Alaska. The liquidation recovery for these parcels is based on information currently available to the Debtors' management, including without limitation, purchase offers for the Tennessee and South Carolina parcels dated December 10, 2014, and November 7, 2014, respectively. Based on time elapsed since the purchase offers, the potential need to enlist real estate brokers to market the property should the previous purchase offers not materialize, and the general real estate market of the respective locations, liquidation discounts ranging from 40% to 50% were applied to the purchase offers (net of anticipated expenses associated with the sale of these properties). The Alaska property is currently subject to a potential adverse possession claim from an adjacent property owner and, as a result, any sale of the property would require litigation to resolve the Debtors' ownership rights. Accordingly, the Debtors have not associated any liquidation or Plan value to the Alaska parcel.

5. Equity in Non-Debtor Subsidiaries – Haul Insurance Limited, a Cayman-domiciled captive insurance company, is a wholly-owned subsidiary of ASHINC Corporation. Haul ceased writing new business in 2010, and has three insurance programs remaining: (i) the Reliance workers' compensation program, which covers the periods from 3/1/1991 to 4/1/1995 and from 1/1/1996 to 1/1/2000, with deductibles of $500,000 from 1991 through 1996, and then $650,000 from 1997 onward; (ii) the Royal & Sun Alliance ("RSA") Canadian auto liability program covering from 1/1/1996 to 1/1/2002; and (iii) the AIG Canada Canadian auto liability program covering a $500,000 deductible from 1/1/2002 to 1/1/2010. Reliance, which itself is in liquidation, is holding $6,682,673 to secure actuarially estimated liabilities of $5,335,105. The Debtors anticipate that it would take approximately 4-5 years to run-out the remaining claims. There are no open claims in the RSA program and RSA is holding no collateral. All that remains under the program are claims payments in the amount of C$457,482 advanced by RSA for which it is seeking reimbursement; the Debtors have a settlement in principle to resolve the payable in return for a one-time payment of $275,000. AIG Canada is holding $1,928,206 in collateral to secure actuarially estimated liabilities of $172,442. In addition, AIG is entitled to reimbursement for claims payments in excess of $735,000 made on Haul's behalf. In addition, the Debtors' ability to realize any value on account of its equity interest in Haul is subject to the approval of the Cayman Island Monetary Authority, whose approval is required before Haul can distribute any funds to or for the

benefit of its parent company. There can be no assurance when, or if, such approval might be obtained. The estimated recovery for Haul under the Chapter 7 and Chapter 11 scenarios is based upon information currently available to the Debtors, and the assumption that the value realized for Haul in a Chapter 7 would be significantly reduced by the constraint of the Liquidation Period.

6. Estate Claims – Estate Claims consist of any and all claims of the Debtors' Estates asserted in the Amended Complaint and any additional claims of the Debtors' Estates arising out of or related to the facts and circumstances described therein. Under the Plan the Estate Claims will be jointly prosecuted along with the Lender Direct Claims by the Litigation Trustee, in consultation with the Litigation Oversight Committee. Funding for the prosecution of the Estate Claims and the Lender Direct Claims shall be provided through the Litigation Funding Loans issued by the Litigation Lenders. Any proceeds resulting from the prosecution of the Estate Claims will be distributed pursuant to the Litigation Proceeds Waterfall, as more fully described on pages 21-22 of the Plan. The Plan Proponents believe that in a Chapter 7 liquidation, to resolve issues related to the First Lien Agents' adequate protection claims and the wind-down budget required under the JCT Sale Order, the Litigation Lenders would enter into a similar arrangement with the Chapter 7 trustee to fund prosecution of the Estate Claims with a similar Litigation Proceeds Waterfall as provided in the Plan. Thus, expected recoveries and distributions on Estate Claims under either the Plan or Chapter 7 is assumed to be the same, except that additional expenses for the Chapter 7 trustee fees would be incurred in Chapter 7. Because the value of the Estate Claims is difficult to quantify, and because the expected recoveries and distributions are assumed to be the same under either the Plan or Chapter 7, the Liquidation Analysis does not analyze the specific amounts that will be recovered and distributed in each case.

7. Chapter 7 Trustee Fees – These include fees payable to a Chapter 7 trustee pursuant to Section 326 of the Bankruptcy Code. The Liquidation Analysis assumes trustee fees equal to 3% of the total value of the Cash and/or assets distributed. The fee is deducted from the estimated distributions in Chapter 7 to each class of claims shown on the Liquidation Analysis.

8. Chapter 7 Trustee's Counsel and Professional Fees – During the liquidation period, it will be necessary for the Chapter 7 trustee to employ the services of various professionals to carry out the liquidation of estate assets, including but not limited to counsel to the Chapter 7 trustee, accountants, financial advisors, and real estate brokers. The trustee, and any professionals retained by the trustee, would undoubtedly require time to become familiar with the Debtors' assets and any attendant issues, thereby resulting in a "learning

curve" and associated costs to the Debtors' Estates. Compensation for these professionals is estimated to be approximately $450,000.

9. Other Chapter 7 Administrative Expenses – These include various wind-down and overhead expenses likely to be incurred during the Liquidation Period. Significant liquidation activities would include, but are not limited to: (i) the sale of the Debtors' real property and improvements located in Alaska, South Carolina, and Tennessee, (ii) collection of accounts receivable; (iii) administration and wind-down of the Debtors' various insurance programs; and (iv) closing of books and records and filing final tax returns. The wind-down costs include estimated wages for an employee of the Debtors and general overhead costs.

10. Administrative & Priority Tax Claims – These include, without limitation, fees and expenses incurred by the Debtors' retained professionals prior to conversion of the Debtors' Chapter 11 Cases, obligations owing to various taxing authorities or other claimants and entitled to priority under Bankruptcy Code Section 507 or 503, as well as amounts payable under the Northwest Settlement and Central States Settlement. The Debtors have assumed that, in accordance with the settlements reached by the Debtors, the Committee and the First Lien Agents relating to, among other things, the obligation of the First Lien Agents to fund the Wind Down Budget under the JCT Sale Order, the payments to these creditors would be the same in a Chapter 7 liquidation as are being proposed under the Plan (other than the 3% fee for the Chapter 7 trustee).

11. Priority Claims – These include Allowed Claims entitled to priority under Bankruptcy Code Section 507(a), other than Administrative and Priority Tax Claims, and include without limitation accrued and unpaid wages and benefits owing to any current or former employees of the Debtors. The Debtors have assumed that, in accordance with the settlements reached by the Debtors, the Committee and the First Lien Agents relating to, among other things, the obligation of the First Lien Agents to fund the Wind Down Budget under the JCT Sale Order, the payments to these creditors would be the same in a Chapter 7 liquidation as are being proposed under the Plan (other than the 3% fee for the Chapter 7 trustee).

12. First Lien Lender Claims – The Liquidation Analysis assumes that the First Lien Lenders receive the proceeds from the sale of the Debtors' remaining parcels of real property in Alaska, South Carolina and Tennessee, as well as any excess collateral recovered under the Debtors' self-insured workers' compensation plans. The Liquidation Analysis does not include any proceeds from any prior sale of the Debtors' assets that were distributed to the First Lien Agents.

13. Second Lien Lender Claims – The Liquidation Analysis assumes no recovery for any holder of Second Lien Lender Claims by virtue of the enforcement by the First Lien Agents of the Intercreditor Agreement.

14. AIG Claims – As a condition to AIG's renewal of certain U.S. and Canadian insurance policies effective January 1, 2013, the Debtors were required to assume the U.S. Insurance Program and the Canadian Insurance Program (as defined in the Plan). As a result of that assumption, AIG alleges that it holds an administrative claim for, among other things: (i) any amounts needed to satisfy the Debtors deductible obligations under its U.S. auto liability policies ($1 million/claim from 2006-2011, and $250,000/claim for 2012 & 2013) and Canadian auto and garage liability policies ($250,000), against which AIG is holding $6,381,880; (ii) reimbursement for any claims payments advanced by AIG in connection with the Debtors' self-insured workers' compensation programs in Missouri, Ohio, Florida, and Georgia; and (iii) premium adjustments of $1,141,000 for the policy period January 1, 2012 through December 31, 2012, and $93,624 for policy period January 1, 2013 through December 28, 2013. AIG's estimate of the total value of these claims is $10,764,325, leaving an administrative claim of $4,382,495 after the collateral is applied. AIG has agreed to settle its administrative claim for $1,000,000 under the Plan, as reflected in the estimated distribution on the claim. The Liquidation Analysis assumes that this claim will be paid in Chapter 7 pursuant to the AIG Settlement.

15. General Unsecured Claims – These include claims scheduled by or filed against the Debtors. No attempt has been made to estimate potential additional general unsecured claims that may arise as a result of the cessation of the Debtors' operations, including, without limitation, the rejection of any remaining executory contracts and/or real property leases or the failure of the Debtors to perform under any other agreements. Under the Plan, holders of Allowed General Unsecured Claims would receive a Pro Rata share of (a) the GUC Cash Distribution and (b) the beneficial interests of the Allied Litigation Trust, resulting in funds totaling at least $3,000,000 that would be distributable to such claimants. The GUC Cash Distribution, the Litigation Funding Loans, and the beneficial interests in the Allied Litigation Trust given to General Unsecured Creditors are part of a global settlement, reflected in the terms of the Plan, between the First Lien Agents, the Committee, and the Debtors related to disputes surrounding the First Lien Agents' adequate protection claims and the Wind Down Budget. The Plan Proponents believe these issues would remain in a Chapter 7 and that a similar settlement would be executed with a Chapter 7 trustee to resolve such issues. Accordingly, the Liquidation Analysis assumes that General Unsecured Creditors would receive the GUC Cash Distribution in

Chapter 7, less the 3% Chapter 7 trustee fees. As stated in note 6, distributions on beneficial interests in the Allied Litigation Trust would also be the same in both a Chapter 7 and under the Plan, except that distributions would be reduced in a Chapter 7 on account of Chapter 7 trustee fees.

16. Parent Equity Interests – Will neither receive nor retain any property under the Plan (other than the Subsidiary Equity Interests) or in a Chapter 7 liquidation.

17. Subsidiary Equity Interests – Will neither receive nor retain any property under the Plan or in a Chapter 7 liquidation.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF ALLIED SYSTEMS HOLDINGS, INC., ALLIED SYSTEMS (CANADA) COMPANY, AXIS CANADA COMPANY AND THOSE OTHER COMPANIES LISTED ON SCHEDULE "A" HERETO

APPLICATION OF ALLIED SYSTEMS HOLDINGS, INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

Court File No: 12-CV-9757-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

INFORMATION OFFICER'S REPORT
July 16, 2015

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