

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)

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In Re:

APEX XPRESS, INC.,

Debtor.

Case No.: 18-13134

Judge: Stacey L. Meisel

Chapter: 11

**UPDATED THIRD AMENDED CHAPTER 11 PLAN
OF REORGANIZATION OF APEX XPRESS, INC.**

Dated: April 1, 2019

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INTRODUCTION TO PLAN

Apex Xpress, Inc. (the “Debtor”), as debtor and debtor-in-possession in the above-captioned chapter 11 case, proposes the following Updated Third Amended Chapter 11 Plan of Reorganization of Apex Xpress, Inc. (as defined below, the “Plan”).

On February 16, 2018, the Debtor filed a petition for relief under chapter 11 of the United States Bankruptcy Code. This document is the Plan proposed by the Debtor. Filed contemporaneously with this Plan is the Debtor’s Disclosure Statement which provides a discussion of the Debtor’s history, business, results of operations, historical financial information, projections, and contemplated future operations, as well as a summary and analysis of the Plan and certain related matters, including distributions to be made under the Plan. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

THE DEBTOR URGES ALL HOLDERS OF CLAIMS AND EQUITY INTERESTS TO READ THIS PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY. NO SOLICITATION MATERIALS OTHER THAN THE DISCLOSURE STATEMENT AND ANY DOCUMENTS, SCHEDULES, EXHIBITS OR LETTERS ATTACHED THERETO OR REFERENCED THEREIN HAVE BEEN AUTHORIZED BY THE DEBTOR OR THE BANKRUPTCY COURT FOR USE IN SOLICITING ACCEPTANCES OR REJECTIONS OF THIS PLAN.

ARTICLE I. DEFINITIONS, INTERPRETATION, AND EXHIBITS

A. *Rules of Interpretation, Computation of Time, and Governing Law*

For purposes herein: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been filed or to be filed shall mean that document or exhibit, as it may thereafter be amended, modified, or supplemented in accordance with the terms of such document or exhibit; (d) unless otherwise specified, all references herein to “Articles” are references to Articles hereof or hereto; (e) unless otherwise stated, 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 are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (h) any term used in capitalized form herein that is not otherwise defined herein but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Federal Rules of Bankruptcy Procedure) or unless otherwise specifically stated, the laws of the State of New York, without giving effect to the principles of conflict of laws, shall govern the rights, obligations, construction and implementation of this Plan, any agreements, documents, instruments or contracts executed or entered into in connection with this Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control).

B. Defined Terms

Unless the context requires otherwise, the following terms shall have the following meanings whether presented in the Plan or the Disclosure Statement with initial capital letters or otherwise. As used herein:

“Administrative Claim” means a Claim for: (a) any cost or expense of administration (including, without limitation, the Professional Fee Claims) of the Chapter 11 Case asserted or arising under sections 503, 507(a)(1), 507(b) or 1114(e)(2) of the Bankruptcy Code including, but not limited to (i) any actual and necessary post-Petition Date cost or expense of preserving the Debtor’s Estate or operating the Debtor, (ii) any post-Petition Date cost, indebtedness or contractual obligation duly and validly incurred or assumed by the Debtor in the ordinary course of its business, (iii) compensation or reimbursement of expenses of Professionals to the extent Allowed by the Bankruptcy Court under sections 330(a) or 331 of the Bankruptcy Code, and (iv) all Allowed Claims that are entitled to be treated as Administrative Claims pursuant to a Final Order of the Bankruptcy Court under section 546 of the Bankruptcy Code; and (b) any fees or charges assessed against the Debtor’s Estate under section 1930 of title 28 of the United States Code.

“Affiliate” shall have the meaning set forth in section 101(2) of the Bankruptcy Code.

“Allowed” means, with reference to any Claim, (a) any Claim against the Debtor that has been listed by the Debtor in the Schedules, as such Schedules may have been amended by the Debtor from time-to-time in accordance with Bankruptcy Rule 1009, as liquidated in amount and not Disputed or contingent, and with respect to which no contrary Proof of Claim has been filed, (b) any Claim specifically allowed under the Plan, (c) any Claim the amount or existence of which has been determined or allowed by a Final Order, or (d) any Claim as to which a Proof of Claim has been timely filed before the Bar Date, provided that at the time of the Effective Date the Debtor has not identified such Claim as being objectionable in part or in whole and no Objection to the allowance thereof has been filed by the Claims Objection Deadline; provided, however, that the term Allowed, with reference to any Claim, shall not include (x) any unliquidated Claim or (y) interest or attorneys’ fees on or related to any Claim that accrues from and after the Petition Date unless otherwise expressly provided for in the Plan. For the avoidance of doubt, if a Creditor filed a Proof of Claim, all Claims listed by the Debtor in the Schedules for such Creditor are superseded by such Proof of Claim pursuant to Bankruptcy Rule 3003(c)(4).

“Allowed Claim” means a Claim that is Allowed.

“Assumed Obligations” means the obligations listed on Schedule 1.

“Ballot” means the form of ballot to be provided to Holders of claims in classes which are entitled to vote on the Plan, upon which such Holder shall, among other things, indicate their acceptance or rejection of the Plan in accordance with the instructions regarding voting.

“Bankruptcy Code” means the Bankruptcy Reform Act of 1978, as codified in title 11 of the United States Code, 11 U.S.C. §§101 *et seq.*, as in effect on the Petition Date, together with all amendments and modifications thereto that subsequently may be made applicable to the Chapter 11 Case.

“Bankruptcy Court” means the United States Bankruptcy Court for this District, or, if such court ceases to exercise jurisdiction over these proceedings, the court or adjunct thereof that exercises jurisdiction over the Chapter 11 Case.

“Bankruptcy Rules” means: (a) the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, as amended and promulgated under section 2075 of title 28 of the United States Code; (b) the Federal Rules of Civil Procedure, as amended and promulgated under section 2072 of title 28 of the United States Code; (c) any local rules applicable to the Bankruptcy Court; and (d) any standing orders governing practice and procedure issued by the Bankruptcy Court, each as in effect on the Petition Date, together with all amendments and modifications thereto that were subsequently made applicable to the Chapter 11 Case or proceedings therein, as the case may be.

“Bar Date” means the applicable bar date or deadline by which a Proof of Claim must be, or must have been, filed, as established by an order of the Bankruptcy Court.

“Business Day” means any day which is not a Saturday, a Sunday, a “legal holiday” as defined in Bankruptcy Rule 9006(a), or a day on which banking institutions in this State are authorized or obligated by law, executive order or governmental decree to be closed.

“Cash” means money, currency and coins, negotiable checks, balances in bank accounts and other lawful currency of the United States of America and its equivalents.

“Cash Distribution” means any Distribution involving the transfer of Cash.

“Causes of Action” means any and all actions, Claims, rights, defenses, third-party claims, damages, executions, demands, crossclaims, counterclaims, suits, choses in action, controversies, agreements, promises, rights to legal remedies, rights to equitable remedies, rights to payment and claims whatsoever, whether known, unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured and whether asserted or assertable directly, indirectly or derivatively, at law, in equity or otherwise, accruing to the Debtor, including, but not limited to, Causes of Action under chapter 5 of the Bankruptcy Code.

“Chapter 11 Case” means this case under Chapter 11 of the Bankruptcy Code commenced by the Debtor in the Bankruptcy Court on the Petition Date.

“Claim” shall have the meaning set forth in section 101(5) of the Bankruptcy Code.

“Claimant” means a person or entity holding a Claim or Interest (including their successors, assigns, heirs, executors or personal representatives).

“Claims Agent” means Stretto, the notice, claims, and solicitation agent for the Debtor in the Chapter 11 Case.

“Claims Objection Deadline” means the latest of: (a) 90 days after the Effective Date; (b) 60 days after the date on which any Claim is filed; or (c) such other date as may be fixed by the Bankruptcy Court, whether fixed before or after the date specified in clauses (a) and (b) above.

“Claims Register” means the claims register in this Chapter 11 Case.

“Class” means each class, subclass or category of Claims or Interests as classified in Article III of the Plan.

“Collective Bargaining Agreement” means any collective bargaining agreement by and between the Debtor and Truck Drivers Local Union No. 807, affiliated with the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers of America, a/k/a Teamsters Local Union No. 807 (the “Teamsters Local 807”), including without limitation any side letter, “T/A,” memorandum of agreement or understanding, amendment, or arbitral award arising out of any such agreement, amendment or side letter.

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

“Confirmation Date” means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court with respect to the Chapter 11 Case.

“Confirmation Hearing” means the hearing held before the Bankruptcy Court to consider confirmation of the Plan pursuant to sections 1128 and 1129 of the Bankruptcy Code.

“Confirmation Order” means the order entered by the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

“Creditor” means any Person that is the Holder of any Claim against the Debtor.

“Cure Claim” means any Claim arising from the assumption or assumption and assignment of any Executory Contract or Unexpired Lease in connection with which the Debtor is required to cure any existing default under such Executory Contract or Unexpired Lease in accordance with section 365(b)(1) of the Bankruptcy Code.

“Day(s)” means, unless expressly otherwise provided, calendar day(s).

“Debtor” means Apex Xpress, Inc., debtor and debtor-in-possession in this Chapter 11 Case.

“Disbursing Agent” means the Reorganized Debtor solely with respect to Class 1, 2, 3 and 4, and the Litigation Trustee solely with respect to Class 5.

“Disallowed” means, with respect to any Claim or Interest or portion thereof, any Claim against or Interest in the Debtor which: (a) has been withdrawn, in whole or in part, by agreement of the Debtor and the Holder thereof; (b) has been withdrawn, in whole or in part, by the Holder thereof; or (c) has been disallowed, in whole or in part, by Final Order of a court of competent jurisdiction. In each case a Disallowed Claim or a Disallowed Interest is disallowed only to the extent of disallowance or withdrawal.

“Disclosure Statement” means the Debtor’s Disclosure Statement with respect to the Plan including all exhibits, appendices, schedules and annexes, if any, attached thereto, as submitted by the Debtor, as the same may be altered, amended, supplemented or modified from time-to-time, and which was prepared and distributed in accordance with sections 1125 and 1126(b) of the Bankruptcy Code and Bankruptcy Rule 3018.

“Disputed Claim” means a Claim, or any portion thereof, that is disputed. For purposes of the Plan, a Claim that has been neither Allowed nor Disallowed shall be considered a Disputed Claim.

“Distribution” means any distribution of Cash or other Property made in accordance with Article VI of this Plan.

“Distribution Date” means any date on which payments are to be distributed in accordance with the terms of this Plan.

“Distribution Record Date” means the Confirmation Date.

“Effective Date” means the first Business Day following the date on which all conditions to consummation set forth in Article X of the Plan have been satisfied or waived (if capable of being duly and expressly waived), provided that no stay of the Confirmation Order is then in effect.

“Entity” means any individual, corporation, limited or general partnership, joint venture, association, joint stock company, limited liability company, estate, trustee, United States Trustee, unincorporated organization, government, governmental unit (as defined in the Bankruptcy Code), agency or political subdivision thereof.

“Estate” means the estate created in the Chapter 11 Case pursuant to section 541 of the Bankruptcy Code upon commencement of the Chapter 11 Case.

“Executory Contract” means a contract under which, as of the Petition Date, the obligations of both the Debtor and the other party to the contract are so far unperformed that the failure of either to complete performance would constitute a material breach excusing the performance of the other.

“Existing Equity Interests” means all Interests in the Debtor in existence prior to the Effective Date.

“Freedom Bank” means Freedom Bank, New Jersey.

“Final Decree” means the final decree entered by the Bankruptcy Court after the Effective Date and pursuant to section 350(a) of the Bankruptcy Code and Bankruptcy Rule 3022.

“Final Order” means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket of such court, the operation or effect of which has not been stayed, reversed, vacated, modified or amended, and as to which order or judgment (or any revision, modification, or amendment thereof) of the time to appeal, petition for certiorari, or seek review or rehearing has expired and as to which no appeal, petition for certiorari, or petition for review or rehearing was filed or, if filed, remains pending; provided, however, that the possibility that a motion may be filed pursuant to Rules 9023 or 9024 of the Bankruptcy Rules or Rules 59 or 60(b) of the Federal Rules of Civil Procedure shall not mean that an order or judgment is not a Final Order.

“General Unsecured Claims” means all Claims, including Rejection Claims, that are not Administrative Claims, Priority Tax Claims, Class 1 Claims, Class 2 Claims, Class 3 Claims, Class 4 Claims, or Class 6 Claims.

“Governmental Unit” shall have the meaning set forth in section 101(27) of the Bankruptcy Code.

“Holder” means an Entity holding a beneficial interest in a Claim or Interest and, when used in conjunction with a Class or type of Claim or Interest, means a holder of a beneficial interest in a Claim or Interest in such Class or of such type.

“Impaired” means, when used with reference to a Claim or Interest, a Claim or Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

“Impaired Claim” means a Claim that is Impaired.

“Insider” shall have the meaning set forth in section 101(31) of the Bankruptcy Code.

“Interests” means an equity interest in the Debtor or the right to acquire the same.

“Liens” means, with respect to any asset or Property (or the rents, revenues, income, profits or proceeds therefrom), and in each case, whether the same is consensual or nonconsensual or arises by contract, operation of law, legal process or otherwise: (a) any and all mortgages, liens, pledges, attachments, charges, leases evidencing a capitalizable lease obligation, conditional sale or other title retention agreement, or other security interest or encumbrance or other legally cognizable security devices of any kind in respect of any asset or Property, or upon the rents, revenues, income, profits or proceeds therefrom; or (b) any arrangement, express or implied, under which any Property is transferred, sequestered or otherwise identified for the purpose of subjecting or making available the same for the payment of debt or performance of any other obligation in priority to the payment of General Unsecured Creditors.

“Litigation Trust” means the Entity to be created on the Effective Date in accordance with Article VIII of the Plan and the Litigation Trust Agreement for the benefit of holders of Claims or Interests classified under Class 5.

“Litigation Trust Agreement” means the trust agreement, substantially in the form provided in the Plan.

“Litigation Trust Assets” means the Litigation Trust Claims, the Litigation Trust Funds and any other assets acquired by the Litigation Trust after the Effective Date or pursuant to the Plan.

“Litigation Trust Claims” means any and all claims of the Debtor’s estate against Insiders, Choice Logistics Group, LLC, and Xpedited Svcs, LLC, and any and all Chapter 5 avoidance actions.

“Litigation Trust Funds” means the \$50,000.00 set forth in section 5(B) of Article III of the Plan.

“Litigation Trust Interests” means the beneficial interests in the Litigation Trust to be deemed distributed, pro rata, to holders of General Unsecured Claims classified under Class 5.

“Litigation Trustee” means Charles M. Forman, Formanlaw LLC, 66 Route 17 North, Paramus, NJ 07652, solely in his capacity as Litigation Trustee, approved prior to the Effective Date by the Bankruptcy Court to administer the Litigation Trust in accordance with the terms and provisions of Article VIII hereof and the Litigation Trust Agreement.

“New Capital Contribution” means \$100,000 paid into the Reorganized Debtor on the Effective Date, which sum will be paid by the New Money Investor in exchange for the New Equity Interests.

“New Equity Interests” means the new common stock of the Reorganized Debtor issued Pro Rata to the New Money Investors in exchange for the New Capital Contribution

“New Money Investors” means Raymond Cerchione and the Margaret L. Cerchione Revocable Trust.

“Objection” means any objection, application, motion, complaint or any other legal proceeding seeking, in whole or in part, to Disallow, determine, liquidate, classify, reclassify or establish the priority of, expunge, subordinate or estimate any Claim (including the resolution of any request for payment of any Administrative Claim) or Interest other than a Claim or an Interest that is Allowed.

“Other Priority Claim” means any Claim against the Debtor entitled to priority pursuant to section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

“Other Secured Claim” means any Secured Claim against the Debtor other than the Secured Claim of Freedom Bank.

“Oversight Committee” means the group of Persons selected in accordance with the provisions of the Litigation Trust Agreement and approved by the Bankruptcy Court to oversee the Litigation Trust and the activities of the Litigation Trustee and who shall have the rights, powers and duties set forth in the Litigation Trust Agreement.

“Person” means and includes a natural person, individual, partnership, corporation (as defined in section 101(a) of the Bankruptcy Code), or organization including, without limitation, corporations, limited partnerships, limited liability companies, general partnerships, joint ventures, joint stock companies, trusts, land trusts, business trusts, unincorporated organizations or associations, or other organizations, irrespective of whether they are legal entities, governmental bodies (or any agency, instrumentality or political subdivision thereof), or any other form of legal entities; provided, however, “Person” does not include governmental units, except a governmental unit that (a) acquires an asset from a Person (i) as a result of the operation of a loan guarantee agreement or (ii) as receiver or liquidating agent of a Person; (b) is a guarantor of a pension benefit payable by or on behalf of a Debtor or an Affiliate of a Debtor of; or (c) is the legal or beneficial owner of an asset of (i) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986 or (ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986, shall be considered for purposes of section 1102 of the Bankruptcy Code to be a Person with respect to such asset or such benefit.

“Petition Date” means the date the Debtor commenced the Chapter 11 Case.

“Plan” means this Third Amended Plan of Reorganization of Apex Xpress, Inc., including all exhibits, appendices, schedules and annexes, if any, attached hereto, as submitted by the Debtor, as such Plan may be altered, amended, supplemented or modified from time-to-time in accordance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Confirmation Order and the terms and conditions of the Plan.

“Plan Documents” means, collectively, the Disclosure Statement, the Plan, the Confirmation Order, and any exhibit to such documents.

“Post-Effective Date Professional Fees” means professional fees incurred by professionals for the Reorganized Debtor for services provided to the Reorganized Debtor after the Effective Date to effectuate the provisions of this Plan.

“Priority Tax Claim” means any and all Claims accorded priority in payment pursuant to section 507(a)(8) of the Bankruptcy Code.

“Professional Fee Claim” means an Allowed Claim for compensation and/or reimbursement of expenses pursuant to sections 327, 328, 330, 331 or 503(b) of the Bankruptcy Code relating to services incurred on and after the Petition Date and prior to and including the Effective Date in connection with an application by the Professionals in the Chapter 11 Case made to and approved by the Bankruptcy Court.

“Pro Rata” means the proportion that an Allowed Claim in a particular Class or a New Equity Interest Holder to all of the New Equity Interest Holders bears to the aggregate amount of Allowed Claims in the Class or aggregate amount of New Equity Interest Holders.

“Professionals” means any professional employed in the Chapter 11 Case pursuant to sections 327 or 1103 of the Bankruptcy Code or any Professional entitled to compensation pursuant to sections 327, 328, 330, 331, 503(b)(2) or (4), or 1103 of the Bankruptcy Code, exclusive of ordinary course professionals retained in this Chapter 11 Case pursuant to the Order Authorizing Retention and Compensation of Certain Professionals Utilized in the Ordinary Course of Business entered by the Bankruptcy Court.

“Proof of Claim” means a proof of claim filed against the Debtor in the Chapter 11 Case.

“Property” means all assets or property of the Debtor’s Estate of any nature whatsoever, real or personal, tangible or intangible, including contract rights, accounts and Causes of Action, previously or now owned by the Debtor, or acquired by the Debtor’s Estate, as defined in section 541 of the Bankruptcy Code.

“Rejection Claim” means any Claim arising from the rejection of an Executory Contract or Unexpired Lease in accordance with section 365 of the Bankruptcy Code.

“Released Party” If the Effective Date occurs, Released Party means (i) the Debtor; (ii) the Reorganized Debtor; (iii) the New Money Investors; and (iv) their respective officers, directors, shareholders, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other Professionals, solely in their respective capacities as representatives of the Released Party.

“Reorganized Debtor” means the Debtor on and after the Effective Date. Except as otherwise provided in the Plan, the Reorganized Debtor shall continue to exist as a separate legal

entity, with all the powers of a limited liability company under the laws of the State of New York and without prejudice to any right to alter or terminate such existence (whether by merger or otherwise) under applicable state law.

“Schedules” means the schedules of assets and liabilities and statement of financial affairs filed by the Debtor in the Chapter 11 Case, as required by section 521 of the Bankruptcy Code, as the same may have been or may be amended, modified or supplemented.

“Secured Claim” means any Claim arising before the Petition Date that is: (a) secured in whole or part, as of the Petition Date, by a Lien which is valid, perfected and enforceable under applicable law on Property in which the Debtor’s Estate has an interest and is not subject to avoidance under the Bankruptcy Code or applicable non-bankruptcy law; or (b) subject to setoff under section 553 of the Bankruptcy Code, but, with respect to both case (a) and (b), only to the extent of the value of the assets or Property securing any such Claim or the amount subject to setoff, as the case may be.

“State” means the state of New Jersey.

“Tax” means any tax, charge, fee, levy, impost or other assessment by any federal, state, local or foreign governmental authority, including, without limitation, income, excise, property, sales, transfer, employment, payroll, franchise, profits, license, use, ad valorem, estimated, severance, stamp, occupation and withholding tax, together with any interest, penalties, fines or additions attributable to, imposed on, or collected by any such federal, state, local or foreign governmental authority.

“Unexpired Lease” means any lease of personal or real property that remained in effect as of the Petition Date.

“Unimpaired” means any Claim that is not Impaired within the meaning of section 1124 of the Bankruptcy Code.

“Union” means Truck Drivers Local Union No. 807, affiliated with the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers of America, a/k/a Teamsters Local Union No. 807.

“United States Trustee” means the United States Trustee appointed under section 581(a)(3) of title 28 of the United States Code to serve in this District.

“United States Trustee Fee Claims” means a claim for any fees assessed against the Debtor’s Estate pursuant to section 1930(a)(6) of title 28 of the United States Code.

“Voting Deadline” means the date and time set by the Bankruptcy Court for the submission of Ballots voting in favor of or against the Plan.

“Voting Record Date” means the date as established in the Order approving the Disclosure Statement.

C. *Exhibits.*

All Exhibits to the Plan are incorporated into and are a part of the Plan as if set forth in full herein, regardless of when filed.

ARTICLE II.
ADMINISTRATIVE CLAIMS, PRIORITY TAX CLAIMS, AND UNITED STATES
TRUSTEE STATUTORY FEE

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims (except for those arising from assumed obligations or contracts), and Priority Tax Claims have not been classified and thus are excluded from the Classes of Claims and Equity Interests set forth in Article III.

A. *Administrative Claims*

Except with respect to Administrative Claims that are Professional Fee Claims, except to the extent that an Administrative Claim has already been paid during the Chapter 11 Case, and except Administrative Claims arising from assumed obligations or contracts or those in Class 4 (see below), or a Holder of an Allowed Administrative Claim and the Debtor agree to less favorable treatment, each Holder of an Allowed Administrative Claim shall be paid in full in Cash on the unpaid portion of its Allowed Administrative Claim on the latest of: (a) on or as soon as reasonably practicable after the Effective Date if such Administrative Claim is Allowed as of the Effective Date; (b) on or as soon as reasonably practicable after the date such Administrative Claim is Allowed; and (c) the date such Allowed Administrative Claim becomes due and payable, or as soon thereafter as is reasonably practicable; *provided* that Allowed Administrative Claims (except for those arising from assumed obligations or contracts) that arise in the ordinary course of the Debtor's business shall be paid in the ordinary course of business in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to such transactions. Notwithstanding the foregoing, no request for payment of an Administrative Claim need be filed with respect to an Administrative Claim previously Allowed by Final Order. Notwithstanding any provision of the Plan to the contrary, no Governmental Unit shall be required to file a request for the payment of an expense described in 11 U.S.C. § 503(b)(1)(B) or (C) as a condition of it being allowed as an administrative expense.

B. *Administrative Claims Bar Date*

All requests for payment of an Administrative Claim (other than: Professional Fee Claims; those claims arising from assumed obligations or contracts; and Class 2 claims) that accrued on or before the Effective Date that were not accrued in the ordinary course of business must be filed with the Bankruptcy Court and served on the Reorganized Debtor no later than thirty (30) days from and after the Effective Date (the "Administrative Claim Bar Date"). Holders of Administrative Claims that are, based on the preceding sentence, required to, but do not, file and serve a request for payment of such Administrative Claims by the Administrative Claim Bar Date shall be forever barred, estopped, and enjoined from asserting such

Administrative Claims against the Debtor, the Reorganized Debtor or their property and such Administrative Claims shall be deemed discharged as of the Effective Date.

Subject to Article VII.B.2, the Reorganized Debtor, in its sole and absolute discretion, may settle Administrative Claims in the ordinary course of business without further Bankruptcy Court approval. The Reorganized Debtor may also choose to object to any Administrative Claim no later than sixty (60) days from the Administrative Claims Bar Date, subject to extensions by the Bankruptcy Court, agreement in writing of the parties, or upon the motion of a party in interest approved by the Bankruptcy Court. Unless the Reorganized Debtor (or other party with standing) objects to a timely filed and properly served Administrative Claim, such Administrative Claim will be deemed allowed in the amount requested.

C. Professional Compensation

1. Final Fee Applications

All final requests for Professional Fee Claims shall be filed no later than thirty (30) days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts of such Professional Fee Claims shall be determined by the Bankruptcy Court.

2. Professional Fee Claims

Professional Fee Claims shall either be paid in full on the Effective Date or paid in accordance with any agreement between the respective Professional and the Debtor.

3. Employment of Professionals after the Effective Date.

From and after the Effective Date, any requirement that Professionals comply with sections 327 through 331 of the Bankruptcy Code or any order previously entered by the Bankruptcy Court in seeking retention or compensation for services rendered or expenses incurred after such date will terminate.

D. Priority Tax Claims

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, compromise, settlement, release, and discharge of, and in exchange for, each Allowed Priority Tax Claim, each Holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code.

E. United States Trustee Statutory Fees

The Debtor shall timely pay all United States Trustee quarterly fees under 28 U.S.C. § 1930(a)(6), plus interest due and payable under 31 U.S.C. § 3717 on all disbursements made by the Debtor, until the entry of a Final Order, dismissal of the Chapter 11 Case, or conversion of the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code. The Litigation Trustee shall

timely pay all United States Trustee quarterly fees under 28 U.S.C. § 1930(a)(6), plus interest due and payable under 31 U.S.C. § 3717 on all disbursements made by the Litigation Trustee, until the entry of a Final Order, dismissal of the Chapter 11 Case, or conversion of the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code. Following Confirmation, the Debtor and the Litigation Trustee shall file with the Bankruptcy Court quarterly reports in a form reasonably acceptable to the U.S. Trustee.

ARTICLE III.

CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS

A. Summary

This Plan constitutes a the chapter 11 plan of reorganization for the Debtor. Except for the Claims addressed in Article II above (or as otherwise set forth herein), all Claims against and Interests in the Debtor are placed in Classes. In accordance with section 1123(a)(1) of the Bankruptcy Code, the Plan does not classify Administrative Claims and Priority Tax Claims as described in Article II.

The categories of Claims and Interests listed below classify Claims and Interests for all purposes, including, without limitation, voting, Confirmation, and distribution pursuant hereto and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Interest to be classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of such Claim or Interest qualifies within the description of such different Class. A Claim or an Interest is in a particular Class only to the extent that any such Claim or Interest is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date.

1. Summary of Classification and Treatment of Classified Claims and Interests

Class	Claim	Status	Voting Rights
1	Other Priority Claims	Unimpaired	Deemed to Accept, Not Entitled to Vote
2	Freedom Bank New Jersey Secured Claim	Impaired	Entitled to Vote
3	Other Secured Claims	Unimpaired	Deemed to Accept, Not Entitled to Vote
4	Assumed Obligations	Impaired	Entitled to Vote
5	General Unsecured Claims	Impaired	Entitled to Vote
6	Equity Interests	Impaired	Not Entitled to Vote

B. Classification and Treatment of Claims and Interests

1. Class 1 – Other Priority Claims

- (a) *Classification:* Class 1 consists of Other Priority Claims against the Debtor.
- (b) *Treatment:* On the Effective Date or as soon as reasonably practicable thereafter, except to the extent a Holder of an Allowed Other Priority Claim has already been paid during the Chapter 11 Case or such Holder of an Allowed Other Priority Claim, together with the Debtor, agrees to less favorable treatment, in full and final satisfaction, settlement, release, and discharge of and in exchange for its Allowed Other Priority Claim, each Holder of an Allowed Other Priority Claim shall receive payment in full, in Cash, of the unpaid portion of its Allowed Other Priority Claim.
- (c) *Voting:* Unimpaired. Each Holder of an Allowed Other Priority Claim will be conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, each Holder of an Allowed Other Priority Claim will not be entitled to vote to accept or reject the Plan.

2. Class 2 – Freedom Bank New Jersey Secured Claim

- (a) *Classification:* Class 2 consists of Freedom Bank New Jersey's Secured Claim against the Debtor.
- (b) *Treatment:* Except to the extent that Freedom Bank New Jersey agrees to a less favorable treatment, in exchange for settlement and satisfaction of its claim, Freedom Bank New Jersey shall retain its secured lien on the Debtor's assets to the extent of its Allowed Secured Claim. Commencing on the first day of the month following the Effective Date, the Debtor shall pay Freedom Bank New Jersey sixty (60) payments, of principal and interest, in equal monthly installments with the first payment due on the 60th day following the Effective Date of the Plan.
- (c) *Voting:* Impaired. Freedom Bank New Jersey will be entitled to vote to accept or reject the Plan.

3. Class 3 – Other Secured Claims

- (a) *Classification:* Class 3 consists of Other Secured Claims against the Debtor.
- (b) *Treatment:* On the Effective Date or as soon as reasonably practicable thereafter, except to the extent that a Holder of an Allowed Other Secured Claim has already been paid during the Chapter 11 Case or such Holder, together with the Debtor, agrees to less favorable treatment, in full and final satisfaction, settlement, release, and discharge of and in exchange for its Allowed Other

Secured Claim, each Holder of an Allowed Other Secured Claim shall be paid in accordance with and pursuant to the terms of its respective agreement with the Debtor.

- (c) *Voting:* Unimpaired. Each Holder of an Allowed Other Secured Claim will be conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, each Holder of an Allowed Other Secured Claim will not be entitled to vote to accept or reject the Plan.

4. Class 4 – Assumed Obligations

- (a) *Classification:* Class 4 consists of Assumed Obligations.
- (b) *Treatment:* On the Effective Date or as soon as reasonably practicable thereafter, except to the extent a Holder of an Assumed Obligation, together with the Debtor, agrees to less favorable treatment, in full and final satisfaction, settlement, release, and discharge of their claim, each Holder of an Allowed Assumed Obligation shall be paid the Allowed amount of their respective Assumed Obligation, without interest, in sixty (60) equal monthly installments with the first payment due on the 60th day following the Effective Date of the Plan.
- (c) *Voting:* Impaired. Holders of Assumed Obligations will be entitled to vote to accept or reject the Plan.

5. Class 5 – General Unsecured Claims

- (a) *Classification:* Class 5 consists of General Unsecured Claims against the Debtor.
- (b) *Treatment:* Except to the extent that a Holder of a General Unsecured Claim agrees to a less favorable treatment, in exchange for settlement and satisfaction of each Allowed General Unsecured Claim, each Holder of an Allowed General Unsecured Claim shall receive its Pro Rata share (not to exceed the amount of such Allowed General Unsecured Claim) of the net proceeds of the Litigation Trust Funds as well as its Pro Rata Share of the remaining Litigation Trust Assets realized upon their liquidation pursuant to the terms of the Litigation Trust Agreement.
- (c) *Voting:* Impaired. Each Holder of an Allowed General Unsecured Claim will be entitled to vote to accept or reject the Plan.

6. Class 6 – Existing Equity Interests

- (a) *Classification:* Class 6 consists of Existing Equity Interests.

- (b) *Treatment:* Holders of Existing Equity Interests in the Debtor shall not receive any distribution on account of such Existing Equity Interest. On the Effective Date, the Existing Equity Interests shall be canceled.
- (c) *Voting:* Holders of Existing Equity Interests are deemed to reject this Plan and are not entitled to vote to accept or reject this Plan.

C. *Special Provision Governing Claims that are Not Impaired*

Except as otherwise provided in this Plan, nothing under this Plan shall affect the Debtor's rights in respect of any Claims that are not Impaired, including all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Claims that are not Impaired.

D. *Acceptance or Rejection of this Plan*

(a) Voting Classes

Classes 2, 4 and 5 are Impaired and are entitled to vote to accept or reject this Plan.

(b) Presumed Acceptance of this Plan

Classes 1 and 3 are Unimpaired, and are therefore deemed to have accepted this Plan and are not entitled to vote to accept or reject this Plan.

(c) Presumed Rejection of this Plan

Class 6 is Impaired and Holders of Existing Equity Interests shall receive no distribution under this Plan. Class 6 is deemed to have rejected this Plan and is not entitled to vote to accept or reject this Plan.

E. *Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code*

Section 1129(a)(10) of the Bankruptcy Code shall be satisfied for purposes of Confirmation by acceptance of this Plan by Class 2. The Debtor shall seek Confirmation pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests.

ARTICLE IV.
MEANS FOR IMPLEMENTATION OF THIS PLAN

A. *Implementation of the Plan*

This Plan shall be implemented by the Debtor pursuant to the terms herein and funded by: (1) the Debtor's cash on hand as of the entry of the Confirmation Order; (2) the proceeds from future earnings through the operation of the Debtor's business; (3) the New Capital Contribution from the New Money Investors payable on the Effective Date; (4) the Exit Facility;

and (5) execution of all necessary documents to create the Litigation Trust and the transfer of the Litigation Trust Assets to the Litigation Trust.

B. Equity in the Reorganized Debtor

On or as soon as reasonably practicable after the Effective Date, new equity interests shall be issued in the Reorganized Debtor to the New Money Investors who shall own 100% of the New Equity Interests, the common voting equity interests in the Reorganized Debtor.

C. Disputed Claims

Notwithstanding anything in the Plan to the contrary, in the event that any Claim shall remain a Disputed Claim as of the Effective Date or the applicable date of payment pursuant to this Plan, the amount of the distribution for such Claim under this Plan shall not be made with respect to such Disputed Claim until such Claim becomes an Allowed Claim by virtue of a Final Order.

D. Payment after Allowance of Disputed Claim

Payments to each Holder of a Disputed Claim, to the extent such Claim becomes an Allowed Claim by virtue of a Final Order, shall be made in accordance with the provisions of the Plan governing the Class of Claims to which the Allowed Claim belongs. No interest shall be paid on account of a Disputed Claim which later becomes an Allowed Claim.

E. Schedule of Disputed Claims

Solely with respect to Class 1, 2, 3 and 4 Claims, on or before the Effective Date, the Debtor shall file with the Bankruptcy Court a list of all Claims (the "Disputed Claims Schedule") that the Debtor believes are subject to an objection disputing the amount, validity, secured status, priority, or other aspect of such Claim. For purposes of distributions under this Plan, each Claim listed by the Debtor on the Disputed Claims Schedule shall be deemed a Disputed Claim until such Claim has been Allowed by virtue of a Final Order.

F. Claims Objection Deadline

Objections to Claims shall be filed with the Bankruptcy Court on or before the Claims Objection Deadline. The Claims Objection Deadline may be extended by the Bankruptcy Court upon motion of the Reorganized Debtor or the Litigation Trustee.

G. Organizational Action

Each officer or agent of the Debtor and/or the Reorganized Debtor is authorized, in accordance with his or her authority under any resolution of the board of directors of the Debtor and/or the Reorganized Debtor to execute, deliver, file or record such contracts, instruments, releases, indentures and/or other agreements or documents and to take such action as may be necessary and appropriate to effectuate the terms and provisions of the Plan.

H. Exit Facility

The Reorganized Debtor shall enter into an exit factoring arrangement prior to the Effective Date (the “Exit Facility”). Confirmation shall be deemed approval of the Exit Facility (including the transactions contemplated thereby, and all actions to be taken, undertakings to be made, and obligations and guarantees to be incurred and fees paid in connection therewith), to the extent not approved by the Court previously, the Reorganized Debtor is authorized to execute and deliver those documents necessary or appropriate to obtain the Exit Facility, including the Exit Facility documents and any related documents, without further notice to or order of the Court, act or action under applicable law, regulation, order or rule or vote, consent, authorization, or approval of any Person, subject to such modifications as the Debtor (or Reorganized Debtor) may deem to be necessary to consummate the Exit Facility.

The total amount of the Exit Facility shall not to exceed \$800,000. The proceeds of the Exit Facility shall be used by the Reorganized Debtor to pay Allowed Administrative Claims and Allowed Priority Tax Claims as well as provide working capital for the Reorganized Debtor’s business operations.

I. Exemption from Certain Taxes and Fees

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any stamp tax, recording tax, personal property tax, real estate transfer tax, sales tax, use tax, privilege tax, or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct and be deemed to direct the appropriate federal, state or local governmental officials or agents to forgo the collection of any such tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to (1) the creation of any mortgage, deed of trust, lien or other security interest; (2) the assuming or assuming and assigning of any contract, lease or sublease; (3) any transaction authorized by this Plan; (4) any sale of the Debtor’s assets in furtherance of the Plan, including but not limited to any sale of personal or real property; and (5) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with this Plan, including: (a) any merger agreements; (b) agreements of consolidation, restructuring, disposition, liquidation or dissolution; (c) deeds; (d) bills of sale; or (e) assignments executed in connection with any transaction occurring under this Plan.

ARTICLE V.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Assumption and Rejection of Executory Contracts and Unexpired Leases

On the Effective Date, except as otherwise provided in the Plan or by other Bankruptcy Court order, each Executory Contract or Unexpired Lease, not previously assumed, assumed and assigned, or rejected shall be deemed automatically rejected pursuant to sections 365 and 1123 of the Bankruptcy Code.

Those of the Debtor's Collective Bargaining Agreement(s) which have an effective date of July 1, 2016 or later (including specifically that certain Collective Bargaining Agreement commencing July 1, 2016 and expiring June 30, 2019, between the Debtor and the Union, together with any and all agreements, documents, or instruments relating thereto which have been executed subsequent to July 1, 2016) are being treated as, and deemed to be, Executory Contracts under the Plan. On the Effective Date, the Debtor shall be deemed to have assumed such Collective Bargaining Agreement(s) (the "Assumed CBAs"). All Proofs of Claim filed for amounts due under the Assumed CBAs, or any of them, shall be considered satisfied by the agreement and obligation to assume and cure such claims and shall be paid in accordance with payment to Class 4 claims as provided herein.

The Apex Xpress, Inc. Administrative Security Plan (Plan 002), the Apex Xpress, Inc. Employee Security Plan (Plan 003) and the Apex Xpress, Inc. Group Insurance Plan (Plan 501) (each, a "Benefit Plan; together, the "Benefit Plans"), three (3) employee benefit plans the Debtor heretofore has sponsored and established and continues to maintain and administer in substantial compliance with the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and relevant Internal Revenue Code provisions, likewise are being treated as, and deemed to be, Executory Contracts under the Plan. On the Effective Date, the Debtor also shall be deemed to have assumed such Benefit Plans (the "Assumed Benefit Plans"). All Proofs of Claim filed for amounts due under the Assumed Benefit Plans, or any of them, [or due and payable in connection with their administration,] shall be considered satisfied in accordance with payment to Class 4 claims as provided herein. Nothing herein shall be deemed an assumption of any claim asserted by Local 807 Pension and Benefit Fund.

Other than the Executory Contracts or Unexpired Leases set forth on Schedule 1 attached hereto, no other Executory Contracts or Unexpired Leases shall be assumed and assigned pursuant to the Plan and said Executory Contracts and Unexpired Leases shall be deemed rejected upon the Effective Date.

B. Claims Based on Rejection of Executory Contracts or Unexpired Leases

Proofs of Claim with respect to Rejection Claims, if any, must be filed with the Bankruptcy Court within thirty (30) days after the effective date of such rejection. Any Rejection Claim(s) not filed within such time will be automatically disallowed, forever barred from assertion and shall not be enforceable against the property to be distributed under this Plan without the need for any objection by the Debtor or further notice to, or action, order or approval of the Bankruptcy Court. Rejection Claims shall be classified as General Unsecured Claims and shall be treated in accordance with Article III of this Plan, as applicable.

Rejection Claims for which a Proof of Claim is not timely filed will be forever barred from assertion against the Debtor, the Estate and the Debtor's property or the Reorganized Debtor unless otherwise ordered by the Bankruptcy Court or as otherwise provided herein.

ARTICLE VI.
PROVISIONS GOVERNING DISTRIBUTIONS

A. Timing and Calculation of Amounts to Be Distributed

Unless otherwise provided in this Plan, on each Distribution Date, each Holder of an Allowed Claim shall receive such distributions that this Plan provides for Allowed Claims in each applicable Class in accordance with Article III hereof. In the event that any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent that there are Disputed Claims, distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in Article VII of this Plan. Except as otherwise provided in this Plan, Holders of Claims shall not be entitled to interest, dividends or accruals on the distributions provided for in this Plan, regardless of whether such distributions are delivered on or at any time after the Effective Date. The Reorganized Debtor or the Litigation Trustee shall have no obligation to recognize any transfer of Claims or Interests occurring on or after the Confirmation Date.

B. Disbursing Agent

Cash Distributions under this Plan shall be made by the Reorganized Debtor in accordance with Article III of the Plan. Cash Distributions made in accordance with the Litigation Trust by the Litigation Trustee shall be made in accordance with the Litigation Trust Agreement. The Reorganized Debtor shall not be required to give any bond or surety or other security for the performance of its duties. The Litigation Trustee's duties and responsibilities shall be set forth in the Litigation Trust Agreement.

C. Rights and Powers of Disbursing Agent

1. Powers of the Disbursing Agent

The Disbursing Agent shall be empowered to: (a) effect all actions and execute all agreements, instruments and other documents necessary to perform its duties under this Plan; (b) make all distributions contemplated hereby; and (c) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to this Plan or the Litigation Trust Agreement, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

D. Delivery of Distributions and Undeliverable or Unclaimed Distributions

1. Delivery of Distributions

Except as otherwise provided in this Plan, distributions to Holders of Allowed Claims shall be made to holders of record as of the Distribution Record Date by the proper Disbursing Agent, as appropriate: (i) to the signatory set forth on any of the Proofs of Claim filed by such Holder or other representative identified therein; (ii) at the addresses set forth in any written

notice of address change delivered to the Debtor, the Litigation Trustee or the Claims Agent prior to the Effective Date, with respect to any Proof of Claim; (iii) at the addresses reflected in the Schedules if no Proof of Claim has been filed and the Debtor, the Litigation Trustee or the Claims Agent, prior to the Effective Date, have not received a written notice of a change of address with respect to such Claim; or (iv) to the attention of any counsel that has appeared in the Chapter 11 Case on the Holder's behalf. Subject to this Article VI, Distributions under this Plan on account of Allowed Claims shall not be subject to levy, garnishment, attachment or like legal process, so that each Holder of an Allowed Claim shall have and receive the benefit of the Distributions in the manner set forth in this Plan. The Disbursing Agent shall not incur any liability whatsoever on account of any distributions under this Plan except for gross negligence or willful misconduct.

2. Fractional Dollars; *De Minimis* Distributions

Notwithstanding any other provision of this Plan to the contrary, (a) the Disbursing Agent shall not be required to make Distributions or payments of fractions of dollars, and whenever any Distribution of a fraction of a dollar under the Plan would otherwise be required, the actual Distribution made may reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down and (b) the Disbursing Agent shall have no duty to make a Distribution on account of any Allowed Claim on a Distribution Date (i) if the aggregate amount of all Distributions authorized to be made on such date is less than \$50.00, in which case such Distributions shall be deferred to the next Distribution Date.

3. Undeliverable Distributions and Unclaimed Property

In the event that any Distribution to any Holder is returned as undeliverable, no distribution to such Holder shall be made unless and until the Disbursing Agent has been provided written notice of or has determined the then-current address of such Holder, at which time such Distribution shall be made to such Holder without interest; *provided, however*, that upon the expiration of 120 days after a Distribution is returned as undeliverable, such Distribution shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and shall revert to the issuing Disbursing Agent automatically and without need for a further order by the Bankruptcy Court (notwithstanding any applicable federal, provincial or state escheat, abandoned or unclaimed property laws to the contrary).

E. *Compliance with Tax Requirements*

In connection with this Plan, to the extent applicable, the Debtor and the Litigation Trust shall comply with all tax withholding and reporting requirements imposed on it by any Governmental Unit, and all distributions pursuant to this Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in this Plan to the contrary, the Disbursing Agent shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under this Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions or establishing any other mechanisms the Disbursing Agents believe are reasonable and appropriate. The Disbursing Agent reserves the right to allocate all distributions made under

this Plan in compliance with applicable wage garnishments, alimony, child support and other spousal awards, liens and encumbrances.

The Disbursing Agent shall be authorized to require each Creditor for which they serve as Disbursing Agent to provide a current executed Form W-9, Form W-8, or similar tax form as a condition precedent to being sent a Distribution. If any holder of an Allowed Claim fails to provide such form, such failure shall result in a forfeiture of the right to receive any Distribution, and any such Distribution shall revert to the Reorganized Debtor or the Litigation Trust and the Allowed Claim originally entitled to such Distribution shall be waived, discharged and forever barred. If the Holder of the Allowed Claim does not provide the Reorganized Debtor or the Litigation Trust with a current executed Form W-9, Form W-8 or similar tax form, such Holder shall be deemed to have forfeited the right to receive any Distribution, any such Distribution shall revert to the Reorganized Debtor for distribution to other Allowed Claims, and the Claim originally entitled to such Distribution shall be waived, discharged and forever barred.

F. Allocations

Distributions in respect of Allowed Claims shall be allocated first to the principal amount of such Claims (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claims, to any portion of such Claims for accrued but unpaid interest.

G. Setoffs and Recoupment

The Debtor may, but shall not be required to, setoff against or recoup from any Claim (for purposes of determining the Allowed amount of such Claim on which a Distribution shall be made), any claims of any nature whatsoever that the Debtor may have against the Holder of such Claim, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor of any such Claim the Debtor may have against the Holder of such Claim.

H. Claims Paid or Payable by Third Parties

1. Claims Paid by Third Parties

The Reorganized Debtor and the Litigation Trust shall be authorized to reduce, in full or in part, as applicable, a Claim, and such Claim shall be disallowed without a Claim objection having to be filed and without any further notice to or action, order or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment on account of such Claim from a party that is not a Debtor.

2. Claims Payable by Third Parties

No Distributions under this Plan shall be made on account of an Allowed Claim that is payable pursuant to the Debtor's insurance policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtor's insurers agree to satisfy in full or in part a Claim (if and to the extent adjudicated by

a court of competent jurisdiction), then immediately upon such insurers' agreement, the applicable portion of such Claim may be expunged without a Claims objection having to be filed and without any further notice to or action, order or approval of the Bankruptcy Court.

3. Applicability of Insurance Policies

Except as otherwise provided in this Plan, Distributions to Holders of Allowed Claims shall be made in accordance with the provisions of any applicable insurance policy. Nothing contained in this Plan shall constitute or be deemed a waiver of any Cause of Action that the Debtor or any Entity may hold against any other Entity, including insurers under any policies of insurance, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

ARTICLE VII. **PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED AND DISPUTED CLAIMS**

A. *Allowance of Claims*

After the Effective Date and except for Class 5 Claims, the Reorganized Debtor shall have and retain any and all rights and defenses that the Debtor had with respect to any Claim or Interest immediately before the Effective Date.

After the Effective Date, and solely with respect to Class 5 Claims, the Litigation Trust and the Litigation Trustee shall have and retain any and all rights and defenses that the Debtor had with respect to any Claim or Interest immediately before the Effective Date.

B. *Claims Administration Responsibilities*

Except for Class 5 Claims and except as otherwise specifically provided in this Plan, after the Effective Date, the Reorganized Debtor shall have the authority: (1) to file, withdraw or litigate to judgment objections to Claims or Interests; (2) to settle or compromise any Disputed Claim (other than a Fee Claim) without any further notice to or action, order or approval by the Bankruptcy Court; and (3) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order or approval by the Bankruptcy Court.

Solely with respect to Class 5 Claims, after the Effective Date, the Litigation Trust and the Litigation Trustee shall have the authority: (1) to file, withdraw or litigate to judgment objections to Claims or Interests; (2) to settle or compromise any Disputed Claim (other than a Fee Claim) without any further notice to or action, order or approval by the Bankruptcy Court; and (3) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order or approval by the Bankruptcy Court.

C. *Estimation of Claims*

Before or after the Effective Date, the Debtor, the Reorganized Debtor or the Litigation

Trustee, as applicable (but are not required to), at any time request that the Bankruptcy Court estimate any Disputed Claim that is contingent or unliquidated pursuant to section 502(c) of the Bankruptcy Code for any reason, regardless of whether any party previously has objected to such Claim or Interest or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any such Claim or Interest, including during the litigation of any objection to any Claim or Interest or during the appeal relating to such objection. Notwithstanding any provision otherwise in this Plan, a Claim that has been expunged from the Claims Register, but that either is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim or Interest, that estimated amount shall constitute a maximum limitation on such Claim or Interest for all purposes under this Plan (including for purposes of distributions), and the Reorganized Debtor and the Litigation Trustee may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim or Interest.

D. Reserve for Disputed Administrative Claims

On and after the Effective Date, the Disbursing Agent shall hold in the Disputed Claims Reserve, Cash in an aggregate amount sufficient to pay to each Holder of a Disputed Claim, the amount of Cash that such Holder would have been entitled to receive under this Plan if such Claim had been an Allowed Claim on the Effective Date. For the avoidance of doubt, the amount reserved by the Disbursing Agent pursuant to this section shall not be deemed an admission as to the validity or amount of any Claim in whole or in part.

E. Adjustment to Claims Without Objection

Any Claim or Interest that has been paid or satisfied, or any Claim or Interest that has been amended or superseded, cancelled or otherwise expunged (including pursuant to this Plan), may be adjusted or expunged (including on the Claims Register, to the extent applicable) by the Reorganized Debtor or the Litigation Trustee without a Claims objection having to be Filed and without any further notice to or action, order or approval of the Bankruptcy Court.

F. Disallowance of Claims

Except as otherwise provided herein, any Claims held by Entities against which the Debtor, the Reorganized Debtor or the Litigation Trustee has filed a complaint seeking to recover property under section 542, 543, 550 or 553 of the Bankruptcy Code to avoid a transfer under section 522(f), 522(h), 544, 545, 547, 548, 549 or 724(a) of the Bankruptcy Code, shall be deemed a Disputed Claim pursuant to section 502(d) of the Bankruptcy Code, and Holders of a Disputed Claim may not receive any distributions on account of any Disputed Claim until each such Cause of Action against that Entity is settled or a Bankruptcy Court order with respect thereto has been entered and all sums due, if any, to the Debtor by that Entity have been turned over or paid to the appropriate party.

EXCEPT AS PROVIDED HEREIN OR OTHERWISE AGREED, ANY AND ALL PROOFS OF CLAIM FILED AFTER THE APPLICABLE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE

WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS ON OR BEFORE THE CONFIRMATION DATE SUCH LATE CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.

G. Amendments to Claims

On or after the Effective Date, except as otherwise provided herein or in a prior order of the Bankruptcy Court, a Claim may not be filed or amended without the prior authorization of the Bankruptcy Court or upon consent by the appropriate party. Absent such authorization, any new or amended Claim filed shall be deemed disallowed in full and expunged without any further action.

H. No Distributions Pending Allowance

If an objection to a Claim or portion thereof is filed as set forth in Article VII, no payment or Distribution provided under this Plan shall be made on account of such Claim or portion thereof unless and until such Disputed Claim becomes an Allowed Claim.

I. Distributions After Allowance

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, Distributions (if any) shall be made to the Holder of such Allowed Claim in accordance with the provisions of this Plan. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, the Disbursing Agent shall provide to the Holder of such Claim the Distribution (if any) to which such Holder is then entitled under this Plan as of the Effective Date, without any interest to be paid on account of such Claim unless required under applicable bankruptcy law.

**ARTICLE VIII.
LITIGATION TRUST**

A. Establishment of the Litigation Trust

On the Effective Date, the Debtor or the Reorganized Debtor, as the case may be, on its own behalf and on behalf of the holders of Class 5 Unsecured Creditors shall execute the Litigation Trust Agreement and shall take all other steps necessary to establish the Litigation Trust in accordance with and pursuant to the terms of the Plan. The Debtor or the Reorganized Debtor shall transfer to the Litigation Trust all of their right, title, and interest in the Litigation Trust Assets. Any recoveries on account of the Litigation Trust Assets shall be distributed to holders of Litigation Trust Interests in accordance with the Plan and Litigation Trust Agreement. Any attorney-client privilege, work-product privilege, or other privilege or immunity attaching to any documents or communications (whether written or oral) associated with the above-described rights and Causes of Action shall be transferred to the Litigation Trust and shall vest in the Litigation Trustee and its representatives. The Debtor or the Reorganized Debtor, as the case may be, and the Litigation Trustee are authorized to take all necessary actions to effectuate the

transfer of such privileges. The Confirmation Order shall provide that the Litigation Trustee's receipt of transferred privileges shall be without waiver in recognition of the joint and/or successorship interest in prosecuting claims on behalf of the Debtor's estate.

B. Purpose of the Litigation Trust

The Litigation Trust shall be established for the sole purpose of liquidating the Litigation Trust Assets, in accordance with Treasury Regulation Section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

C. Funding Expenses of the Litigation Trust

In accordance with the Litigation Trust Agreement, upon the creation of the Litigation Trust, the Debtor or the Reorganized Debtor, as the case may be, shall transfer the Litigation Trust Funds to finance the operations of the Litigation Trust. The Debtor, Debtor in Possession, and the Reorganized Debtor shall have no further obligation to provide any funding with respect to the Litigation Trust. After payment in full of the Litigation Trust Funds pursuant to the preceding sentence, any Cash received in respect of any Litigation Trust Assets (excluding the Litigation Trust Funds themselves) shall be distributed to holders of Litigation Trust Interests in accordance with the Plan and Litigation Trust Agreement.

D. Transfer of Assets

The transfer of the Litigation Trust Assets to the Litigation Trust shall be made, as provided herein, for the benefit of the holders of General Unsecured Claims classified under Class 5. Upon transfer of the Litigation Trust Assets, the Debtor, Debtor in Possession and the Reorganized Debtor shall have no interest in or with respect to the Litigation Trust Assets or the Litigation Trust. Notwithstanding, for purposes of section 553 of the Bankruptcy Code, the transfer of the Litigation Trust Assets to the Litigation Trust shall not affect the mutuality of obligations which otherwise may have existed prior to the effectuation of such transfer. All net proceeds of such Litigation Trust Assets shall be transferred to the Litigation Trust to be distributed to holders of the Litigation Trust Interests consistent with the terms of this Plan and the Litigation Trust Agreement.

E. Litigation; Responsibilities of Litigation Trustee

1. The Litigation Trustee shall, in an expeditious but orderly manner, liquidate and convert to Cash the assets of the Litigation Trust, make timely distributions, and not unduly prolong the duration of the Litigation Trust. The liquidation of the Litigation Trust Assets may be accomplished whether through the prosecution, compromise and settlement, abandonment, or dismissal of any or all claims, rights, or causes of action, or otherwise. The Litigation Trustee shall have the absolute right to pursue or not to pursue any and all Litigation Trust assets as it determines are in the best interests of the beneficiaries of the Litigation Trust, and consistent with the purposes of the Litigation Trust, and shall have no liability for the outcome of its decision except for any damages caused by willful misconduct or gross negligence.

2. No Entity or Creditor shall be permitted to assert, bring, institute, commence, or participate in any Litigation Trust Claim (other than distributions, if any, in its capacity as a holder of Litigation Trust Interests).

F. Investment Powers

1. The right and power of the Litigation Trustee to invest assets transferred to the Litigation Trust, the proceeds thereof, or any income earned by the Litigation Trust shall be limited to include only those investments that a liquidating trust may be permitted to hold pursuant to Treasury Regulations, or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements, or otherwise; and

2. The Litigation Trustee may expend the assets of the Litigation Trust as reasonably necessary (i) to meet contingent liabilities and maintain the value of the assets of the Litigation Trust during liquidation, (ii) to pay reasonable administrative expenses (including, but not limited to, any taxes imposed on the Litigation Trust or reasonable fees and expenses in connection with litigation), and (iii) to satisfy other liabilities incurred or assumed by the Litigation Trust (or to which the assets are otherwise subject) in accordance with the Plan or the Litigation Trust Agreement.

G. Reporting Duties

1. For all federal income tax purposes, all parties (including, without limitation, the Debtor, the Reorganized Debtor, the Litigation Trustee and the beneficiaries of the Litigation Trust) shall treat the transfer of the Litigation Trust Assets to the Litigation Trust for the benefit of beneficiaries of the Litigation Trust, whether their Claims are Allowed on or after the Effective Date, as (i) a transfer of the Litigation Trust Assets directly to those holders of Allowed Claims receiving Litigation Trust Interests (other than to the extent allocable to Disputed Claims), followed by (ii) the transfer by such Persons to the Litigation Trust of the Litigation Trust Assets in exchange for beneficial interests in the Litigation Trust. Accordingly, those holders of Allowed Claims receiving Litigation Trust Interests shall be treated for federal income tax purposes as the grantors and owners of their respective shares of the Litigation Trust Assets. The foregoing treatment also shall apply, to the extent permitted by applicable law, for state and local income tax purposes.

2. The Litigation Trustee shall file returns for the Litigation Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a) and in accordance with the Litigation Trust Agreement.

3. The Litigation Trustee shall be responsible for payments, out of the Litigation Trust Assets, of any taxes imposed on the Litigation Trust or its assets.

H. Trust Implementation

On the Effective Date, the Litigation Trust shall be established and become effective for the benefit of the holders of General Unsecured Claims classified under Class 5. The Litigation Trust Agreement shall contain provisions similar to those contained in trust agreements utilized in comparable circumstances, including, but not limited to, any and all provisions necessary to

ensure the continued treatment of the Litigation Trust as a grantor trust for federal income tax purposes. All parties (including the Debtor or the Reorganized Debtor, as the case may be, the Litigation Trustee, and holders of General Unsecured Claims classified under Class 5) shall execute any documents or other instruments as necessary to cause title to the applicable assets to be transferred to the Litigation Trust.

I. Registry of Beneficial Interests

The Litigation Trustee shall maintain a registry of the holders of the Litigation Trust Interests. The Litigation Trust Interests may not be transferred or assigned, except by operation of law or by will or the laws of descent and distribution.

J. Termination

The Litigation Trust shall terminate no later than the third (3rd) anniversary of the Effective Date; provided, however, that on or prior to the date that is ninety (90) days prior to such termination, the Bankruptcy Court, upon motion by a party in interest, may extend the term of the Litigation Trust if it is necessary to the liquidation of the Litigation Trust Assets. Notwithstanding the foregoing, multiple extensions can be obtained so long as Bankruptcy Court approval is obtained at least 90 days prior to the expiration of each extended term; provided, however, that in no event shall the term of the Litigation Trust extend past the fifth (5th) anniversary of the Effective Date.

K. Net Litigation Trust Recovery

Notwithstanding anything contained herein to the contrary, in the event that a defendant in a litigation brought by the Litigation Trustee for and on behalf of the Litigation Trust (i) is required by a Final Order to make payment to the Litigation Trust (the “Judgment Amount”) and (ii) is permitted by a Final Order to assert a right of setoff under sections 553, 555, 556, 559, 560 and 561 of the Bankruptcy Code or applicable non-bankruptcy law against the Judgment Amount (a “Valid Setoff”), such defendant shall be obligated to pay only the excess, if any, of the amount of the Judgment Amount over the Valid Setoff and none of the Litigation Trust or the holders or beneficiaries of the Litigation Trust Interests shall be entitled to assert a claim against the Debtor or the Reorganized Debtor with respect to the Valid Setoff.

ARTICLE IX.
EFFECT OF CONFIRMATION, SETTLEMENT, RELEASE, INJUNCTION AND
RELATED PROVISIONS

A. Vesting of Property

If the Effective Date occurs, then on the Effective Date (a) the Litigation Trust Assets shall vest with the Litigation Trust free and clear of all claims, Liens, charges and other interests of Creditors or Interest holders arising prior to the Petition Date, and (b) the Reorganized Debtor shall be vested with all interests and property remaining in the Debtor’s estate free and clear of all claims, Liens, charges and other interests of Creditors or Interest holders arising prior to the Petition Date.

B. Compromise and Settlement of Claims, Interests and Controversies

Pursuant to sections 363 and 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the Distributions and other benefits provided pursuant to this Plan, the provisions of this Plan shall constitute a good faith compromise of all Claims, Interests and controversies relating to the contractual, legal and subordination rights that a Holder of a Claim may have with respect to any Allowed Claim or Interest or any distribution to be made on account of such Allowed Claim or Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtor, its Estate and Holders, and is fair, equitable and reasonable.

C. Release of Liens

Except as otherwise provided in this Plan or in any contract, instrument, release or other agreement or document created pursuant to this Plan, on the Effective Date and concurrently with the applicable Distributions made pursuant to this Plan and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, Liens, pledges or other security interests against any Property of the Estate shall be fully released as to the collateral, and all of the right, title and interest of any Holder of such mortgages, deeds of trust, Liens, pledges or other security interests shall revert to the Debtor, and its successors and assigns.

D. Limited Release of Insiders

No claims of the Debtor's estate against its present and former Insiders and arising from or relating to the period prior to the Petition Date are released by this Plan. Except as otherwise provided by prior or subsequent Final Order of the Bankruptcy Court, the Debtor and the Debtor in Possession shall be deemed, as of the Effective Date, to have waived and released its Insiders who were officers, employees, consultants, or agents, respectively, at any time during this chapter 11 case, from any and all claims of the Debtor's estate arising from or relating to the period from and after the Petition Date.

E. Releases by the Debtor

EXCEPT AS PROVIDED IN SECTION D OF ARTICLE IX, ON THE EFFECTIVE DATE OF THIS PLAN AND TO THE FULLEST EXTENT AUTHORIZED BY APPLICABLE LAW AND EXCEPT FOR THE CLAIMS TRANSFERRED TO THE LITIGATION TRUST, THE RELEASED PARTIES WILL BE EXPRESSLY, GENERALLY AND INDIVIDUALLY AND COLLECTIVELY RELEASED, ACQUITTED AND DISCHARGED BY THE DEBTOR AND THEIR ESTATES FROM ANY AND ALL ACTIONS, CLAIMS, OBLIGATIONS, RIGHTS, SUITS, DAMAGES, CAUSES OF ACTION, REMEDIES AND LIABILITIES WHATSOEVER, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, MATURED OR UNMATURED, EXISTING OR HEREINAFTER ARISING, IN LAW, EQUITY, CONTRACT, TORT OR OTHERWISE, BY

STATUTE OR OTHERWISE, THAT THE DEBTOR, THE REORGANIZED DEBTOR, THE DEBTOR'S ESTATE OR ITS AFFILIATES (WHETHER INDIVIDUALLY OR COLLECTIVELY) OR ON BEHALF OF THE HOLDER OF ANY CLAIM OR INTEREST OR OTHER ENTITY, EVER HAD, NOW HAS OR HEREAFTER CAN, SHALL OR MAY HAVE, BASED ON OR RELATING TO, OR IN ANY MANNER ARISING FROM, IN WHOLE OR IN PART, THE DEBTOR, THE DEBTOR'S REORGANIZATION, THE CHAPTER 11 CASE, THE PURCHASE, SALE OR RESCISSION OF THE PURCHASE OR SALE OF ANY SECURITY OF THE DEBTOR, THE SUBJECT MATTER OF, OR THE TRANSACTIONS OR EVENTS GIVING RISE TO, CONTRACTUAL ARRANGEMENTS BETWEEN THE DEBTOR AND ANY RELEASED PARTY, THE RESTRUCTURING OF CLAIMS AND INTERESTS BEFORE OR DURING THE CHAPTER 11 CASE, THE NEGOTIATION, FORMULATION OR PREPARATION OF THIS PLAN, THE PLAN SUPPLEMENT, THE DISCLOSURE STATEMENT OR RELATED AGREEMENTS, INSTRUMENTS OR OTHER DOCUMENTS OR ANY OTHER ACT OR OMISSION, TRANSACTION, AGREEMENT, EVENT OR OTHER OCCURRENCE RELATING TO THE DEBTOR TAKING PLACE ON OR BEFORE THE CONFIRMATION DATE OF THIS PLAN, EXCEPT FOR ANY CLAIMS AND CAUSES OF ACTION FOR ACTUAL FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

F. Releases by Holders

ON THE EFFECTIVE DATE OF THIS PLAN AND TO THE FULLEST EXTENT AUTHORIZED BY APPLICABLE LAW, EACH HOLDER OF A CLAIM SHALL BE DEEMED TO HAVE EXPRESSLY, UNCONDITIONALLY, GENERALLY AND INDIVIDUALLY AND COLLECTIVELY, RELEASED AND ACQUITTED THE RELEASED PARTIES (INCLUDING THE RELEASED PARTIES PREDECESSORS, SUCCESSORS AND ASSIGNS, SUBSIDIARIES, AFFILIATES, MANAGED ACCOUNTS OR FUNDS, CURRENT AND FORMER OFFICERS, DIRECTORS, PRINCIPALS, SHAREHOLDERS, DIRECT AND INDIRECT EQUITY HOLDERS, MEMBERS, PARTNERS (GENERAL AND LIMITED), EMPLOYEES, AGENTS, ADVISORY BOARD MEMBERS, FINANCIAL ADVISORS, ATTORNEYS, ACCOUNTS, INVESTMENT BANKERS, CONSULTANTS, REPRESENTATIVES, MANAGEMENT COMPANIES, FUND ADVISORS AND OTHER PROFESSIONALS) AND THE RELEASED PARTIES FROM ANY AND ALL ACTIONS, CLAIMS, INTERESTS, OBLIGATIONS, RIGHTS, SUITS, DAMAGES, CAUSES OF ACTION, REMEDIES AND LIABILITIES WHATSOEVER, INCLUDING ANY DERIVATIVE CLAIMS ASSERTED ON BEHALF OF THE DEBTOR, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, MATURED OR UNMATURED, EXISTING OR HEREAFTER ARISING, IN LAW, EQUITY, CONTRACT, TORT OR OTHERWISE, THAT SUCH HOLDER (WHETHER INDIVIDUALLY OR COLLECTIVELY) EVER HAD, NOW HAS OR HEREAFTER CAN, SHALL OR MAY HAVE, BASED ON OR RELATING TO, OR IN ANY MANNER ARISING FROM, IN WHOLE OR IN PART, THE DEBTOR, THE DEBTOR'S REORGANIZATION, THE CHAPTER 11 CASE, THE PURCHASE, SALE OR RESCISSION OF THE PURCHASE OR SALE OF ANY SECURITY OF THE DEBTOR, THE SUBJECT MATTER OF, OR THE TRANSACTIONS OR EVENTS GIVING RISE TO, ANY CLAIM OR INTEREST THAT IS TREATED IN THIS PLAN, THE BUSINESS OR CONTRACTUAL ARRANGEMENTS BETWEEN THE DEBTOR AND ANY RELEASED PARTY, THE RESTRUCTURING OF CLAIMS AND INTERESTS BEFORE OR

DURING THE CHAPTER 11 CASE, INCLUDING THE NEGOTIATION, FORMULATION OR PREPARATION OF THE PLAN SUPPORT AGREEMENT, THIS PLAN, THE DISCLOSURE STATEMENT, OR RELATED AGREEMENTS, INSTRUMENTS OR OTHER DOCUMENTS OR ANY OTHER ACT OR OMISSION, TRANSACTION, AGREEMENT, EVENT OR OTHER OCCURRENCE RELATING TO THE DEBTOR TAKING PLACE ON OR BEFORE THE CONFIRMATION DATE OF THIS PLAN, EXCEPT FOR (I) ANY CLAIMS AND CAUSES OF ACTION FOR ACTUAL FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND (II) THE RIGHT TO RECEIVE DISTRIBUTIONS FROM THE DEBTOR AND THE REORGANIZED DEBTOR ON ACCOUNT OF AN ALLOWED CLAIM AGAINST THE DEBTOR PURSUANT TO THIS PLAN.

G. Liabilities to, and Rights of, Governmental Units

Nothing in this Plan or Confirmation Order shall discharge, release, or preclude: (1) any liability to a Governmental Unit that is not a Claim; (2) any Claim of a Governmental Unit arising on or after the Confirmation Date; (3) any liability to a Governmental Unit on the part of any Person or Entity other than the Debtor or the Reorganized Debtor; (4) any valid right of setoff or recoupment by a Governmental Unit; or (5) any criminal liability. Nothing in this Plan or Confirmation Order shall enjoin or otherwise bar any Governmental Unit from asserting or enforcing, outside the Bankruptcy Court, any liability described in the preceding sentence. The discharge and injunction provisions contained in this Plan and Confirmation Order are not intended and shall not be construed to bar any Governmental Unit from, after the Confirmation Date, pursuing any police or regulatory action.

H. Exculpation

EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS PLAN OR PLAN SUPPLEMENT, NO EXCULPATED PARTY SHALL HAVE OR INCUR, AND EACH EXCULPATED PARTY IS HEREBY RELEASED AND EXCULPATED FROM ANY EXCULPATED CLAIM OR LIABILITY FOR ANY EXCULPATED CLAIM, EXCEPT FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THE DEBTOR (AND ITS RESPECTIVE AFFILIATES, AGENTS, DIRECTORS, OFFICERS, EMPLOYEES, ADVISORS AND ATTORNEYS) HAVE PARTICIPATED IN COMPLIANCE WITH THE APPLICABLE PROVISIONS OF THE BANKRUPTCY CODE WITH REGARD TO THE SOLICITATION AND DISTRIBUTIONS PURSUANT TO THIS PLAN AND, THEREFORE, ARE NOT, AND ON ACCOUNT OF SUCH DISTRIBUTIONS SHALL NOT BE, LIABLE AT ANY TIME FOR THE VIOLATION OF ANY APPLICABLE LAW, RULE OR REGULATION GOVERNING THE SOLICITATION OF ACCEPTANCES OR REJECTIONS OF THIS PLAN OR SUCH DISTRIBUTIONS MADE PURSUANT TO THIS PLAN.

I. Injunction

FROM AND AFTER THE EFFECTIVE DATE, ALL ENTITIES ARE PERMANENTLY ENJOINED FROM COMMENCING OR CONTINUING IN ANY MANNER, ANY CAUSE OF ACTION RELEASED OR TO BE RELEASED PURSUANT TO THIS PLAN OR THE CONFIRMATION ORDER.

FROM AND AFTER THE EFFECTIVE DATE, TO THE EXTENT OF THE RELEASES AND EXCULPATION GRANTED IN ARTICLE IX, THE DEBTOR AND HOLDERS OF CLAIMS OR INTERESTS SHALL BE PERMANENTLY ENJOINED FROM COMMENCING OR CONTINUING IN ANY MANNER AGAINST THE RELEASED PARTIES AND THE EXCULPATED PARTIES AND THEIR ASSETS AND PROPERTIES, AS THE CASE MAY BE, ANY SUIT, ACTION OR OTHER PROCEEDING, ON ACCOUNT OF OR RESPECTING ANY CLAIM, DEMAND, LIABILITY, OBLIGATION, DEBT, RIGHT, CAUSE OF ACTION, INTEREST OR REMEDY RELEASED OR TO BE RELEASED PURSUANT TO ARTICLE IX.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS PLAN, THE PLAN SUPPLEMENT (IF ANY) OR RELATED DOCUMENTS, OR IN OBLIGATIONS ISSUED PURSUANT TO THIS PLAN, ALL ENTITIES WHO HAVE HELD, HOLD OR MAY HOLD CLAIMS OR INTERESTS THAT HAVE BEEN RELEASED OR DISCHARGED PURSUANT TO ARTICLE IX.C, ARTICLE IX.D, OR ARTICLE IX.E, OR ARE SUBJECT TO EXCULPATION PURSUANT TO ARTICLE VIII.G ARE PERMANENTLY ENJOINED, FROM AND AFTER THE EFFECTIVE DATE, FROM TAKING ANY OF THE FOLLOWING ACTIONS: (1) COMMENCING OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS; (2) ENFORCING, ATTACHING, COLLECTING OR RECOVERING BY ANY MANNER OR MEANS ANY JUDGMENT, AWARD, DECREE OR ORDER AGAINST SUCH ENTITIES ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS; (3) CREATING, PERFECTING OR ENFORCING ANY ENCUMBRANCE OF ANY KIND AGAINST SUCH ENTITIES OR THE PROPERTY OR ESTATE OF SUCH ENTITIES ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS; AND (4) COMMENCING OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS RELEASED OR SETTLED PURSUANT TO THIS PLAN.

THE RIGHTS AFFORDED IN THIS PLAN AND THE TREATMENT OF ALL CLAIMS AND INTERESTS HEREIN SHALL BE IN EXCHANGE FOR AND IN COMPLETE SATISFACTION OF CLAIMS AND INTERESTS OF ANY NATURE WHATSOEVER, INCLUDING ANY INTEREST ACCRUED ON CLAIMS FROM AND AFTER THE PETITION DATE, AGAINST THE DEBTOR OR ANY OF ITS ASSETS, PROPERTY OR THE ESTATE. ON THE EFFECTIVE DATE, ALL SUCH CLAIMS AGAINST THE DEBTOR SHALL BE FULLY RELEASED AND THE INTERESTS SHALL BE CANCELLED.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN OR IN OBLIGATIONS ISSUED PURSUANT HERETO FROM AND AFTER THE EFFECTIVE DATE, ALL CLAIMS SHALL BE FULLY RELEASED, AND THE INTERESTS SHALL BE CANCELLED, AND THE DEBTOR'S LIABILITY WITH RESPECT THERETO SHALL BE EXTINGUISHED COMPLETELY, INCLUDING ANY LIABILITY OF THE KIND SPECIFIED UNDER SECTION 502(G) OF THE BANKRUPTCY CODE.

ALL ENTITIES SHALL BE PRECLUDED FROM ASSERTING AGAINST THE DEBTOR, THE ESTATE, EACH OF ITS RESPECTIVE SUCCESSORS AND ASSIGNS, AND ASSETS AND PROPERTIES, ANY OTHER CLAIMS OR INTERESTS BASED UPON ANY DOCUMENTS, INSTRUMENTS OR ANY ACT OR OMISSION, TRANSACTION OR OTHER ACTIVITY OF ANY KIND OR NATURE THAT OCCURRED BEFORE THE EFFECTIVE DATE.

J. Discharge

Upon Confirmation of the Plan, the Debtor shall be discharged of liability for payment of debts incurred before Confirmation, to the extent specified in 11 U.S.C. §1141. However, any liability imposed by the Plan will not be discharged. If Confirmation of this Plan does not occur, the Plan shall be deemed null and void. In such event, nothing contained in this Plan shall be deemed to constitute a waiver or release of any claims against the Debtor or its Estate or any other Persons, or to prejudice in any manner the rights of the Debtor or its Estate or any person in any further proceeding involving the Debtor or its estate. The provisions of this Plan shall be binding upon the Debtor, all Creditors, parties-in-interest, and all Holders of Interests, regardless of whether the Holders of such Claims, or Interests are impaired, or whether such parties accept this Plan, upon Confirmation thereof.

K. Reservation of Causes of Action/Reservation of Rights

Except with respect to the exculpation in Article IX.H of this Plan and the releases in Article IX.E of this Plan, nothing contained in this Plan shall be deemed to be a waiver or the relinquishment of any and all Causes of Action that the Debtor or the Reorganized Debtor, as applicable, may have or may choose to assert against any Person.

L. Term of Injunctions or Stays

Unless otherwise provided in this Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Case pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in this Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date. All injunctions or stays contained in this Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

ARTICLE X.
CONDITIONS PRECEDENT TO CONFIRMATION AND
CONSUMMATION OF THIS PLAN

A. Conditions Precedent to Confirmation

It shall be a condition to Confirmation that all provisions, terms and conditions hereof are approved in the Confirmation Order.

B. Conditions Precedent to the Effective Date

It shall be a condition to the Effective Date of this Plan that the following conditions shall have been satisfied or waived pursuant to the provisions of Article X.C hereof:

1. The Confirmation Order (a) shall have been duly entered and be a Final Order and (b) shall be in form and substance otherwise reasonably acceptable to the Debtor.

2. Any amendments, modifications or supplements to this Plan (including the Plan Supplement) are filed with the Bankruptcy Court.

3. The Confirmation Order shall, among other things, provide that all transfers of property by the Debtor and proceeds and property due under the Plan (a) to the Reorganized Debtor (i) are or shall be legal, valid, and effective transfers of property, (ii) vest or shall vest the Reorganized Debtor with good title to such property free and clear of all liens, charges, claims, encumbrances or interests, except as expressly provided in the Plan or Confirmation Order, (iii) do not and shall not constitute voidable transfers under the Bankruptcy Code or under applicable non-bankruptcy law, (iv) shall be exempt from any transfer, sales, stamp or other similar tax (which exemption shall also apply to the transfers by the Reorganized Debtor) and (v) do not and shall not subject the Reorganized Debtor or Holders of Claims to any liability by reason of such transfer under the Bankruptcy Code or under applicable non-bankruptcy law, including, without limitation, any laws affecting successor or transferee liability and (b) to Holders of Claims under the Plan are for good consideration and value.

4. All actions and transfers and all agreements, instruments, or other documents necessary to implement the terms and provisions of this Plan shall have been effected or executed and delivered, as applicable, in form and substance satisfactory to the Debtor.

5. The Reorganized Debtor entering into an Exit Facility.

C. Waiver of Conditions

The conditions to the effective date of the Plan set forth in this Article X may be waived by the Debtor without notice, leave or order of the Bankruptcy Court, or any formal action other than a proceeding to confirm or consummate this Plan.

D. Effect of Failure of Conditions

If the Consummation of this Plan does not occur, this Plan shall be null and void in all respects and nothing contained in this Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any Claims by the Debtor, any Holders or any other Entity; (2) prejudice in any manner the rights of the Debtor, any Holders or any other Entity; or (3) constitute an admission, acknowledgment, offer or undertaking by the Debtor, any Holders or any other Entity in any respect.

ARTICLE XI.
MODIFICATION, REVOCATION OR WITHDRAWAL OF THIS PLAN

A. Modification and Amendments

Except as otherwise specifically provided in this Plan, the Debtor reserves the right to modify this Plan, whether such modification is material or immaterial, and seek Confirmation consistent with the Bankruptcy Code. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 (as well as those restrictions on modifications set forth in this Plan), the Debtor expressly reserves its right to revoke or withdraw, to alter, amend or modify this Plan, one or more times, after Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend or modify this Plan, or remedy any defect or omission or reconcile any inconsistencies in this Plan, the Disclosure Statement or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of this Plan.

B. Effect of Confirmation on Modifications

Entry of the Confirmation Order shall mean that all modifications or amendments to this Plan since the solicitation thereof are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or re-solicitation under Bankruptcy Rule 3019.

C. Revocation or Withdrawal of Plan

The Debtor reserves the right to revoke or withdraw this Plan before the Confirmation Date and to file subsequent plans. If the Plan is revoked or withdrawn, or if Confirmation or Consummation does not occur, then: (1) this Plan shall be null and void in all respects; (2) any settlement or compromise embodied in this Plan (including the fixing or limiting to an amount certain of the Claims or Interests or Class of Claims or Interests), rejection of Executory Contracts or Unexpired Leases effected by this Plan, and any document or agreement executed pursuant to this Plan, shall be deemed null and void; and (3) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of such Debtor, any Holder or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by such Debtor, any holder or any other Entity.

ARTICLE XII.
RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, or related to, the Chapter 11 Case and this Plan pursuant to sections 105(a) and 1142 of the Bankruptcy Code, including specifically and without limitation jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured or unsecured status, or amount of any Claim or Interest, including the

resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the secured or unsecured status, priority, amount or allowance of Claims or Interests;

2. decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals (including Professional Fee Claims) authorized pursuant to the Bankruptcy Code or this Plan;
3. resolve any matters related to: (a) the assumption, assumption and assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor may be liable and to hear, determine and, if necessary, liquidate, any Claims arising therefrom, including Cure Claims pursuant to section 365 of the Bankruptcy Code; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed or assumed and assigned; and (c) any dispute regarding whether a contract or lease is or was executory, expired or terminated;
4. ensure that Distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of this Plan;
5. adjudicate, decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters, and grant or deny any applications involving the Debtor that may be pending on the Effective Date;
6. adjudicate, decide or resolve any and all matters related to section 1141 of the Bankruptcy Code;
7. enter and implement such orders as may be necessary or appropriate to execute, implement or consummate the provisions of this Plan and all contracts, instruments, releases, indentures and other agreements or documents created in connection with this Plan, the Plan Supplement or the Disclosure Statement;
8. enter and enforce any order for the sale of property pursuant to sections 363, 1123 or 1146(a) of the Bankruptcy Code;
9. adjudicate, decide, or resolve any and all matters related to any Causes of Action, whether commenced before or after the Confirmation Date;
10. resolve any cases, controversies, suits, disputes or Causes of Action that may arise in connection with Consummation and/or Confirmation, including interpretation or enforcement, of this Plan or any Entity's obligations incurred in connection with this Plan;
11. 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 effectiveness or enforcement of this Plan;

12. resolve any cases, controversies, suits, disputes or Causes of Action with respect to the releases, injunctions and other provisions contained in Article IX, and enter such orders as may be necessary or appropriate to implement such releases, injunctions and other provisions;
13. resolve any cases, controversies, suits, disputes or Causes of Action with respect to the repayment or return of Distributions and the recovery of additional amounts owed by the Holder of a Claim for amounts not timely repaid;
14. enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;
15. determine any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement or the Confirmation Order;
16. enter an order or final decree concluding or closing the Chapter 11 Case;
17. adjudicate any and all disputes arising from or relating to Distributions under this Plan;
18. consider any modifications of this Plan, to cure any defect or omission or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;
19. determine requests for the payment of Claims entitled to priority pursuant to section 507 of the Bankruptcy Code;
20. hear and determine disputes arising in connection with the interpretation, implementation or enforcement of this Plan or the Confirmation Order, including disputes arising under agreements, documents or instruments executed in connection with this Plan;
21. hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;
22. hear and determine all disputes involving the existence, nature, scope or enforcement of any exculpations, discharges, injunctions and releases granted in connection with and under this Plan, including under Article IX;
23. hear and determine all disputes in connection with the Litigation Trust, including, but not limited to, formation, funding, liquidation of Litigation Trust Claims, distributions and termination;
24. enforce all orders previously entered by the Bankruptcy Court; and
25. hear any other matter not inconsistent with the Bankruptcy Code.

ARTICLE XIII.
MISCELLANEOUS PROVISIONS

A. Immediate Binding Effect

Subject to Article X.B and notwithstanding Bankruptcy Rules 3020(e), 6004(h) or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of this Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Debtor, the Reorganized Debtor and any and all Holders of Claims or Interests (irrespective of whether their Claims or Interests are deemed to have accepted this Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, discharges and injunctions described in this Plan, each Entity acquiring property under this Plan and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtor.

B. Additional Documents

On or before the Effective Date, the Debtor may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan. The Debtor or the Reorganized Debtor, as applicable, and all Holders receiving Distributions pursuant to this Plan and all other parties in interest may, from time-to-time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan.

C. Reservation of Rights

Except as expressly set forth in this Plan, this Plan shall have no force or effect unless the Bankruptcy Court enters the Confirmation Order, and the Confirmation Order shall have no force or effect if the Effective Date does not occur. None of the filing of this Plan, any statement or provision contained in this Plan or the taking of any action the Debtor with respect to this Plan, the Disclosure Statement or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of any Debtor with respect to the Holders of Claims before the Effective Date.

D. Successors and Assigns

The rights, benefits and obligations of any Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor or assign, Affiliate, officer, director, agent, representative, attorney, beneficiaries or guardian, if any, of each Entity.

E. Notices

Any notice required or permitted to be provided under this Plan to the Debtor, or any request for information with respect to the Plan, shall be in writing and served by either (a) certified mail, return receipt requested, postage prepaid, (b) hand delivery or (c) reputable overnight delivery service, freight prepaid, to be addressed as follows:

Apex Xpress, Inc.
120 Seaview Drive
Secaucus, NJ 07094
Attn: Robert Cerchione, President
Email: bobby.cerchione@apexxpress.com

With copies to:

Saul Ewing Arnstein & Lehr LLP
1037 Raymond Boulevard, Suite 1520
Newark, NJ 07102
Attn.: Dipesh Patel
Email: dipesh.patel@saul.com

After the Effective Date, the Reorganized Debtor may notify Entities entitled to receive documents pursuant to Bankruptcy Rule 2002 as of the Effective Date, that in order to continue to receive such documents, such Entities must file and serve on the Reorganized Debtor and its counsel a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Reorganized Debtor is authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have filed such renewed requests.

F. Entire Agreement

Except as otherwise indicated, this Plan and the Plan Supplement supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings and representations on such subjects, all of which have become merged and integrated into this Plan.

G. Exhibits

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of this Plan as if set forth in full in this Plan. After the exhibits and documents are filed, copies of such exhibits and documents shall be available upon written request to the Debtor's counsel at the address above or by downloading such exhibits and documents from the website of the Claim Agent at www.jndla.com/cases/ApexXpress or the Bankruptcy Court's website at <https://ecf.njb.uscourts.gov/>. To the extent any exhibit or document is inconsistent with the terms of this Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit or non-document portion of this Plan shall control.

H. Severability of Plan Provisions

If, before Confirmation, any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court 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 this Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (1) valid and enforceable pursuant to its terms; (2) integral to this Plan and may not be deleted or modified without the Debtor's consent; and (3) non-severable and mutually dependent.

I. Votes Solicited in Good Faith

Upon entry of the Confirmation Order, the plan proponents will be deemed to have solicited votes on this Plan in good faith and in compliance with the Bankruptcy Code and pursuant to section 1125(e) of the Bankruptcy Code.

J. Conflicts

Except as set forth in this Plan, to the extent that any provision of the Disclosure Statement, the Plan Supplement or any other order (other than the Confirmation Order) referenced in this Plan (or any exhibits, schedules, appendices, supplements or amendments to any of the foregoing), conflict with or are in any way inconsistent with any provision of this Plan, this Plan shall govern and control. To the extent there are any inconsistencies between this

Dated: April 1, 2019

Respectfully submitted,

Apex Xpress, Inc.

By: /s/Robert M. Cerchione

Name: Robert M. Cerchione

Title: President of Apex Xpress, Inc.

Schedule 1
Assumed Obligations

Contract Counterparty	Address	Nature of Lease Interest	Expiration Date of Contract
114-120 Seaview Drive, LLC	120 Seaview Drive, Secaucus, NJ 07094	Lease for Secaucus location	May 31, 2021
Coral Cadillac	5101 N. Federal Hwy., Pompano Beach, FL 33064	2017 Cadillac	August, 2019
Kobra Leasing	P.O. Box 98, 963 Route 173, Bloomsbury, NJ 08804	2013 Mack Truck	June, 2019
Kobra Leasing	P.O. Box 98, 963 Route 173, Bloomsbury, NJ 08804	(2) 2015 Mack Trucks	November, 2020
Kobra Leasing	P.O. Box 98, 963 Route 173, Bloomsbury, NJ 08804	2015 Mack Truck	August, 2019
Maintainco, Inc.	65 E. Leuning St., South Hackensack, NJ 07606	Toyota Forklift	June, 2022
Ryder Truck Rental, Inc.	4008 E. Columbus Drive, Tampa, FL 33605-3225	2014 Truck	March, 2019
Ryder Truck Rental, Inc.	4008 E. Columbus Drive, Tampa, FL 33605-3225	2016 Truck	October, 2021
Teamster Local 807	32-43 49 th St., Long Island City, NY 11103	Collective Bargaining Agreement	June 20, 2019