

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:)
) Chapter 11
)
IEH AUTO PARTS HOLDING LLC, et al.,¹) Case No. 23-90054 (CML)
)
Debtors.) (Jointly Administered)
) Re: Docket Nos. 689, 733

NOTICE OF FILING OF SECOND AMENDED PLAN SUPPLEMENT

On June 9, 2023, the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed the Plan Supplement [Docket No. 689].²

On June 16, 2023, the Bankruptcy Court entered the Order Confirming the Third Amended Combined Disclosure Statement and Joint Plan of Liquidation of IEH Auto Parts Holding LLC and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 749] (the "Confirmation Order") that, among other things, confirmed the Debtors' Plan. On June 16, 2023, the Debtors filed the Amended Plan Supplement [Docket No. 733].

The Debtors hereby file this Second Amended Plan Supplement, solely for the purposes of amending Exhibit A to the Amended Plan Supplement. For the avoidance of doubt, this Second Amended Plan Supplement shall be deemed incorporated into and part of the Plan as if set forth therein in full.

If you would like to access or request electronic or paper copies of the Plan, Plan Supplement, Amended Plan Supplement, Confirmation Order, or related documents, such materials are available free of charge by: (a) accessing the Debtors' case website at https://www.kccllc.net/autoplus; (b) calling (888) 802-7207 (toll free) or (781) 575-2107 (international); or (c) emailing AutoPlusInfo@kccllc.com. Additionally, you may also obtain copies of any pleadings filed in the chapter 11 cases for a fee via PACER at https://ecf.txsb.uscourts.gov/ (a PACER account is required).

¹ The Debtor entities in these chapter 11 cases, along with the last four digits of each Debtor entity's federal tax identification number, are: IEH Auto Parts Holding LLC (6529); AP Acquisition Company Clark LLC (4531); AP Acquisition Company Gordon LLC (5666); AP Acquisition Company Massachusetts LLC (7581); AP Acquisition Company Missouri LLC (7840); AP Acquisition Company New York LLC (7361); AP Acquisition Company North Carolina LLC (N/A); AP Acquisition Company Washington LLC (2773); Auto Plus Auto Sales LLC (6921); IEH AIM LLC (2233); IEH Auto Parts LLC (2066); IEH Auto Parts Puerto Rico, Inc. (4539); and IEH BA LLC (1428). The Debtors' service address is: 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Third Amended Combined Disclosure Statement and Joint Plan of Liquidation of IEH Auto Parts Holding LLC and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 738] (the "Plan").



Houston, Texas
Dated: October 5, 2023

/s/ Veronica A. Polnick

JACKSON WALKER LLP

Matthew D. Cavanaugh (TX Bar No. 24062656)

Veronica A. Polnick (TX Bar No. 24079148)

Vienna Anaya (TX Bar No. 24091225)

Emily Meraia (TX Bar No. 24129307)

1401 McKinney Street, Suite 1900

Houston, TX 77010

Telephone: (713) 752-4200

Facsimile: (713) 752-4221

Email: mcavanaugh@jw.com

vpolnick@jw.com

vanaya@jw.com

emeraia@jw.com

*Counsel to the Debtors
and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:)	
)	Chapter 11
)	
IEH AUTO PARTS HOLDING LLC, <i>et al.</i> , ¹)	Case No. 23-90054 (CML)
)	
Debtors.)	(Jointly Administered)

SECOND AMENDED PLAN SUPPLEMENT

TABLE OF CONTENTS

<u>Exhibit</u>	<u>Description</u>
A	Retained Contracts
B	Retained Causes of Action
C	Form of Plan Agent Agreement
D	GUC Trust Agreement

¹ The Debtor entities in these chapter 11 cases, along with the last four digits of each Debtor entity's federal tax identification number, are: IEH Auto Parts Holding LLC (6529); AP Acquisition Company Clark LLC (4531); AP Acquisition Company Gordon LLC (5666); AP Acquisition Company Massachusetts LLC (7581); AP Acquisition Company Missouri LLC (7840); AP Acquisition Company New York LLC (7361); AP Acquisition Company North Carolina LLC (N/A); AP Acquisition Company Washington LLC (2773); Auto Plus Auto Sales LLC (6921); IEH AIM LLC (2233); IEH Auto Parts LLC (2066); IEH Auto Parts Puerto Rico, Inc. (4539); and IEH BA LLC (1428). The Debtors' service address is: 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.

EXHIBIT A

Retained Contracts

Non-Debtor Contract Counterparty	Non-Debtor Contract Counterparty Address	Debtor Contract Counterparty	Description of Executory Contract	Cure
Allianz Global Risks US Insurance Company	225 West Washington Street, Suite 1800 Chicago, IL 60606 1001 Leadenhall Road PO Box 5039 Mt. Laurel, New Jersey 08054	IEH Auto Parts Holdings LLC	Insurance Policy USF01312223	\$ -
ARI Fleet LT and Automotive Rentals, Inc.	-and- ARI Fleet & Automotive Rentals, Inc. c/o Richard Aguilar, Adams & Reese LLP 701 Poydras Street, Suite 4500 New Orleans, LA 70139	IEH Auto Parts LLC	Assignment Agreement, which incorporates Lease Agreement solely as to Assigned Lease Vehicles	Cure - To be clarified via forthcoming stipulation between the parties.
Bank of America	100 North Tryon Street Charlotte, NC 28255	IEH Auto Parts LLC	Bank of America NA Merchant Agreement	\$ -
CAPFinancial Partners, LLC dba CAPTRUST Financial Advisors	c/o Greg Rohrbach 4208 Six Forks Road #1700 Raleigh, NC 27609 greg.rohrbach@captrust.com	IEH Auto Parts LLC	Investment Consulting Services Agreement, as amended and supplemented	\$ -
CorVel Enterprise Comp. Inc.	2010 Main Street, Suite 600 Irvine, CA 92614	IEH Auto Parts LLC	CorVel Enterprise Comp Services Agreement	\$ -
Falcon Claims Services	55 Union Place, #287 Summit, NJ 07901	IEH Auto Parts Holdings LLC	Insurance Policy FRH-G-ML-00000550-01	\$ -
Grant Thornton	27777 Franklin Road Suite 800 Southfield, MI 48034	IEH Auto Parts LLC	Audit Services Agreement	\$ -
HDI Global Insurance Company	161 NORTH CLARK STREET, 48th Floor CHICAGO, IL 60601	IEH Auto Parts Holdings LLC	Insurance Policy FRH-G-ML-00000550-01	\$ -
Integrated Imaging, LLC	419 Salem Roanoke, VA 24016	IEH Auto Parts LLC	Statement of Work regarding data migration of Integrated system	\$ -
Markel American Insurance Company	310 Highway 35 South Red Bank, NJ 07701	IEH Auto Parts Holdings LLC	Insurance Policy MKLM1MXM000916	\$ -
NAVEX Global, Inc.	5500 Meadows Road, Suite 500 Lake Oswego, OR 97035	IEH Auto Parts, LLC	Master Services Agreement	\$ -
T. ROWE PRICE RETIREMENT PLAN SERVICES, INC.	100 East Pratt Street Baltimore, MD 21202	IEH Auto Parts LLC	Plan Recordkeeping Agreement	\$ -
T. Rowe Price Trust Company	100 East Pratt Street Baltimore, MD 21202	IEH Auto Parts LLC	Participation Agreement	\$ -
THE PEP BOYS - MANNY, MOE & JACK LLC	3111 West Allegheny Avenue Philadelphia, PA 19132	IEH Auto Parts LLC	Transition Services Agreement	\$ -

EXHIBIT B

Retained Causes of Action

Retained Causes of Action

Any and all Claims and Causes of Action retained by Debtors, which, for the avoidance of doubt, shall not include any of the Causes of Action that are settled, released, assigned, or exculpated under the Plan.

Any and all D&O Causes of Action. D&O Causes of Action include all claims of the Debtors in law or equity (including but not limited to, claims for breach of fiduciary duty, breach of contract, misappropriation of trade secrets, unfair competition, conspiracy, tortious interference, and conversion) against Steve Shipman and other current and former D&Os (including presidents, vice presidents, directors, and managers). Former D&O's are all of the directors and officers of the Debtors that were not directors or officers on the Petition Date.

Any and all KERP Claims. Pursuant to a Key Employee Retention Program, the Debtors made Retention Bonus payments to certain employees on or about January 31, 2023, conditioned on the employees remaining employed and or otherwise being terminated without cause (the "KERP Payments"). The Debtors retain any all KERP Claims which includes all claims and causes of action relating to KERP Payments made by Debtors, including but not limited to, claims for enforcement of or breach of Debtors' Key Employee Retention Agreements. A list of all employees who received retention bonuses or other payments pursuant to the Key Employee Retention Program is attached hereto as **Exhibit 1**.

Any and all Claims and Causes of Action include all claims of the Debtors in law or equity (including but not limited to, claims for aiding and abetting breach of fiduciary duty, breach of contract, misappropriation of trade secrets, unfair competition, conspiracy, tortious interference, fraud, and conversion) against Clutch Acquisition LLC, Parts Authority LLC, Fisher Auto Parts Inc. (including any and all of their parents, subsidiaries, affiliates, and co-conspirators, and their retained legal counsel) related to Debtors' auction, potential sale, sale, diligence, or bidding of the Debtors' assets in Case No. 23-90054, in the United States Bankruptcy Court for the Southern District of Texas.

Any and all Claims and Causes of Action, based in whole or in part upon any promissory note held by Debtors as lenders, whether secured or unsecured.

Exhibit 1**KERP Participants**

#	Name	Position
1	Michael Neyrey	Chief Executive Officer
2	Kenneth Buettner	Chief Information Officer
3	Steven Shipman	VP Store Operations
4	Wesley Fulbright	Controller
5	Nicholas Miele ¹	VP Regional - Store
6	Brian Evanoka ¹	VP Independent & Major Accounts
7	Scott Rolf	VP Merchandising & Marketing
8	David Stark ¹	VP Regional - Store
9	David Carr	VP, IT
10	Susanne Edwards	AVP of Shared Services
11	Margaret Njoroge	AVP of Financial Planning
12	Christopher Shannon ¹	Senior Director, Supply Chain
13	Tara Givens	VP Human Resources
14	Rich Matthews	Commercial & National Accounts AVP
15	Mark Crinnion	Corporate Counsel
16	Tangi Williams	Sr. Manager - Shared Services
17	Brandon Elam	Real Estate Manager
18	Mike Middleton	Store Operations Director
19	Arlo Thomas	Store Operations Director

EXHIBIT C

Form of Plan Agent Agreement

PLAN AGENT AGREEMENT

PREAMBLE

This Plan Agent Agreement (as it may be amended, modified, supplemented or restated from time to time, this "**Plan Agent Agreement**") is made effective this _____ day of _____, 2023, by and among the following parties (each a "**Party**" and, collectively, the "**Parties**"): (a) IEH Auto Parts Holding LLC and its debtor affiliates, as debtors and debtors in possession in the Chapter 11 Cases (defined below) (collectively, the "**Debtors**"),¹ (b) the Debtors as they shall exist on and after the Effective Date of the Plan (the "**Wind-Down Debtors**") (as such terms are defined below); and (c) Patrick Bartels, as the Plan Agent (defined below).

RECITALS

WHEREAS, on January 31, 2023 (the "**Petition Date**"), each of the Debtors filed voluntary petitions under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "**Bankruptcy Court**"), thereby initiating the bankruptcy cases (the "**Chapter 11 Cases**"); and

WHEREAS, on May 2, 2023, the Debtors filed their *First Amended Combined Disclosure Statement and Joint Plan of Liquidation of IEH Auto Parts Holding LLC and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 465] (as amended or supplemented from time to time, collective the "**Plan**"), the final and Bankruptcy Court Confirmed version of which is attached hereto as Exhibit A;² and

WHEREAS, on [●], 2023, the Bankruptcy Court entered an Order confirming the Plan (the "**Confirmation Order**"), a copy of which is attached hereto as Exhibit B; and

WHEREAS, the Plan contemplates, on the Effective Date: (a) the creation of the GUC Trust; (b) the appointment of the GUC Trustee; (c) the execution of the GUC Trust Agreement; and (d) the funding of (i) the GUC Claims Reconciliation Fund, (ii) the GUC Payment, and (iii) the GUC Pool (if applicable) (collectively, (i), (ii) and (iii) are hereinafter referred to as the "**GUC Trust Assets**"); and

WHEREAS, the Plan contemplates, on the Effective Date the Debtors will, *inter alia*, transfer the GUC Trust Assets to the GUC Trust Beneficiaries (as defined in the GUC Trust

¹ The Debtor entities in the chapter 11 cases, along with the last four digits of each Debtor entity's federal tax identification number, are: IEH Auto Parts Holding LLC (6529); AP Acquisition Company Clark LLC (4531); AP Acquisition Company Gordon LLC (5666); AP Acquisition Company Massachusetts LLC (7581); AP Acquisition Company Missouri LLC (7840); AP Acquisition Company New York LLC (7361); AP Acquisition Company North Carolina LLC (N/A); AP Acquisition Company Washington LLC (2773); Auto Plus Auto Sales LLC (6921); IEH AIM LLC (2233); IEH Auto Parts LLC (2066); IEH Auto Parts Puerto Rico, Inc. (4539); and IEH BA LLC (1428). The Debtors' service address is: 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.

² Capitalized terms used but not otherwise defined in this Plan Agent Agreement shall have the meanings provided in the Plan unless otherwise noted herein.

Agreement), followed by a deemed transfer of the GUC Trust Assets by the GUC Trust Beneficiaries to the GUC Trust; and

WHEREAS, the Plan contemplates, on the Effective Date: (a) the Debtors becoming the Wind-Down Debtors; and (b) the appointment of the Plan Agent, to administer the Plan, undertake the Wind-Down Transactions, and the Wind Down of the Debtors' Estates; and

WHEREAS, pursuant to and in accordance with the Plan, the Debtors have selected Patrick Bartels as the Plan Agent, and such selection and retention has been approved by the Bankruptcy Court pursuant to the Confirmation Order; and

WHEREAS, Patrick Bartels is willing to serve as the Plan Agent on the terms set forth herein and pursuant to the terms of the Plan and the Confirmation Order; and

NOW, THEREFORE, pursuant to the Plan and the Confirmation Order, in consideration of the premises, the mutual agreements of the Parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and affirmed, the Parties hereby agree as follows:

ARTICLE I DEFINITIONS AND INTERPRETATIONS

1.1. Definitions. The following capitalized terms have the meanings herein as described below:

(a) “**GUC Trust Responsibilities**” means all obligations of the GUC Trust and the GUC Trustee pursuant to the GUC Trust Agreement, including the administration of the GUC Trust, the GUC Claim Reconciliation, payment of GUC Trust Expenses (as defined in the GUC Trust Agreement), and the Distribution to Holders of Allowed General Unsecured Claims.

(b) “**Wind-Down Debtors' Accounts**” means, any and all accounts at financial institutions established, at any time, by the Wind-Down Debtors and the Plan Agent to hold the Wind-Down Debtors' Assets.

(c) “**Wind-Down Debtors' Assets**” means all of the Debtors' property, rights and interest that are property of the Estates pursuant to section 541 of the Bankruptcy Code, including all Assets of the Debtors as of the Effective Date, including but not limited to, cash on hand, Retained Causes of Action, and the Debtors' accounts receivable, other than the GUC Trust Assets.

1.2. Incorporation of Plan and the Confirmation Order. The Plan and Confirmation Order are each hereby incorporated into this Plan Agent Agreement and made a part hereof by this reference; *provided, however*, to the extent that there is conflict between the provisions of this Plan Agent Agreement, the provisions of the Plan, and/or the Confirmation Order, each such document shall have controlling effect in the following order: (1) the Confirmation Order; (2) the Plan; and (3) this Plan Agent Agreement.

1.3. References herein to the Plan, the Confirmation Order, and this Plan Agent Agreement. All references herein to the Plan, the Confirmation Order and/or this Plan Agent Agreement shall refer to all 3 documents/pleadings, regardless of the specific identification of all 3 documents/pleadings herein, subject to Section 1.2. hereof.

ARTICLE II ESTABLISHMENT OF THE WIND-DOWN DEBTORS

2.1. Name of the Wind-Down Debtors. From and after the Effective Date, the Debtors shall be known as and referred to as the “**Wind-Down Debtors**” and/or, in the Plan Agent’s sole discretion, as the “**Auto Parts Wind-Down Debtors**”.

2.2. Vesting of the Debtors’ and the Estates’ assets in and to the Wind-Down Debtors.

(a) On the Effective Date, all Assets of the Debtors and the Estates, other than the GUC Trust Assets, shall be vested in the Wind-Down Debtors, free and clear of any and all Liens, Claims, and Interests except as otherwise specifically provided in the Plan or in the Confirmation Order. The Plan Agent shall be authorized to obtain, liquidate, and collect all of the of the Wind-Down Debtors’ Assets not in the Debtors’ possession on the Effective Date. The Plan Agent shall have no duty to arrange for any of the transfers contemplated hereunder and shall be conclusively entitled to rely on the legality and validity of such transfers.

(b) In connection with the vesting and transfer of the Wind-Down Debtors’ Assets, the Plan Agent shall stand in the same position as the Debtors with respect to any claim the Debtors and/or their Estates may have as to an attorney-client privilege, work-product doctrine, or any other privilege or confidentiality protections attaching to any documents or communications (whether written or oral) relating to the Wind-Down Debtors’ Assets and the Plan Agent shall succeed to all rights of the Debtors and/or their Estates to have the sole right to hold, preserve, assert, be the beneficiary of or waive any such privilege or protection (collectively, “**Privileges**”). As of the Effective Date, all Privileges of the Debtors relating to the Wind-Down Debtors’ Assets shall be deemed transferred, assigned, and delivered by the Debtors to the Wind-Down Debtors, without waiver or release, and shall vest with the Wind-Down Debtors. No such Privilege shall be waived by disclosures to the Plan Agent of the Debtors’ documents, information, or communication subject to attorney-client privilege, work product protections, or other immunities (including those related to common interest or joint defense with third parties), or protections from disclosure held by the Debtors. The Privileges relating to the Wind-Down Debtors’ Assets will remain subject to the rights of third parties under applicable law, including any rights arising from the common interest doctrine, the joint defense doctrine, joint attorney-client representation, or any agreement; *provided, however*, prior to waiving such privilege, the Plan Agent shall provide such third party with any written notice to the extent required by any joint defense or common interest agreements as of the Petition Date. Any and all work product created by or on behalf of the Wind-Down Debtors or the Plan Agent, the professionals, and their respective agents, representatives, and employees shall be deemed confidential to the extent that such work product is not protected by the attorney-client privilege, attorney work-product doctrine, or any other applicable privilege. In

addition, the rights to conduct investigations pursuant to Bankruptcy Rule 2004 or any other law, rule, or order held by the Debtors prior to the Effective Date with respect to the Wind-Down Debtors' Assets shall continue and vest in the Wind-Down Debtors from the Effective Date through the date of dissolution and termination of the Wind-Down Debtors.

(c) To the extent any of the foregoing provided in Sections 2.2(a) and (b), hereof, does not automatically occur on the Effective Date or is not effectuated through the Confirmation Order or this Plan Agent Agreement, the Debtors shall, on the Effective Date or such later date as may be requested by the Plan Agent, execute such other and further documents as are reasonably necessary to effectuate all of the foregoing.

(d) The Plan Agent may, after the Effective Date, abandon or otherwise not accept any Wind-Down Debtors' Assets that the Plan Agent believes, in good faith, have no value or will be unduly burdensome to the Wind-Down Debtors; *provided, further*, that no abandonment or non-acceptance shall have occurred, or be deemed to have occurred, without an express written statement of such abandonment or non-acceptance by the Plan Agent, which written statement will be filed on the Docket of the Bankruptcy Court.

2.3. Funding of the Wind-Down Debtors.

(a) As provided in the Plan, the Wind-Down Debtors shall be funded, *inter alia*, on the Effective Date, with: (i) the Wind-Down Debtors' Assets; (ii) the Debtors' Cash on hand; and (iii) the proceeds of the Debtors' accounts receivable.

(b) The Wind-Down Debtors and the Plan Agent shall operate pursuant to and shall comply with the Wind Down Budget attached hereto as Exhibit C.

(c) The Professional Fee Escrow Account, established by the Debtors on or before the Effective Date, shall not be property of the Wind-Down Debtors.

(d) Notwithstanding Section 2.3(c), hereof, on the Effective Date, the Debtors shall transfer sole control over the Professional Fee Escrow Account to the Plan Agent, who shall administer the Professional Fee Escrow Account, solely by making distributions therefrom to holders of Allowed Professional Fee Claims. To the extent that the Professional Fee Escrow Account is insufficient to pay all Allowed Professional Fee Claims, the shortfall thereof, if any, shall be paid from the Wind-Down Debtors' Assets. Any excess in the Professional Fee Escrow Account, after payment of all Allowed Professional Fee Claims, and a reserve, as determined by the Plan Agent, for pending disputed Professional Fee Claims, shall be distributed pursuant to the Plan.

2.4. [Reserved]

2.5. Rights of the Wind-Down Debtors and the Plan Agent.

(a) From and after the Effective Date, the Plan Agent shall be deemed the sole representative of the Debtors' Estates and the Wind-Down Debtors pursuant to sections 1123(a)(5), (a)(7), and (b)(3)(B) of the Bankruptcy Code, and as such shall be vested with the authority and power (subject to the terms of this Plan Agent Agreement, the Plan, and the

Confirmation Order) to, among other things: (i) administer, object to or settle any Non-GUC Claims; (ii) make distributions in accordance with the terms of the Plan and this Plan Agent Agreement to Holders of Allowed Non-GUC Claims; and (iii) carry out the provisions of the Plan related to the Wind-Down Debtors.

(b) As the representative of the Debtors' Estates and the Wind-Down Debtors, in its capacity as Plan Agent, the Plan Agent will succeed to all of the rights and powers of the Debtors and their Estates with respect to all Causes of Action assigned and transferred to the Wind-Down Debtors, and the Plan Agent will be substituted and will replace the Debtors, their Estates, and the Committee, in all such Causes of Action, whether or not such claims are pending in filed litigation as of the Effective Date. Without limiting the generality of the foregoing provisions, from and after the Effective Date, prosecution and settlement of all Retained Causes of Action and conveyed to the Wind-Down Debtors shall be the sole responsibility of the Wind-Down Debtors, and all rights, powers, and interests of the Debtors' Estates in respect of the Retained Causes of Action and, shall be transferred to and vest exclusively in the Wind-Down Debtors, pursuant to the Plan, the Confirmation Order and this Plan Agent Agreement. From and after the Effective Date, the Plan Agent shall have sole and exclusive rights, powers, and interests to pursue, settle, or abandon such Causes of Action and as the sole representative of the Debtors, their Estates and the Wind-Down Debtors pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The Plan Agent shall constitute a "trustee" under section 108 of the Bankruptcy Code and, notwithstanding entry of the Confirmation Order or occurrence of the Effective Date, shall have the benefits of the tolling provisions set forth in such section.

(c) All Retained Causes of Action that are not expressly released or waived under the Plan are reserved and preserved and shall vest in the Wind-Down Debtors and shall not be impacted or affected in any way by the confirmation of the Plan, the occurrence of the Effective Date, or the limited substantive consolidation of the Estates pursuant to the Plan. No Person or Entity may rely on the absence of a specific reference in the Plan, or the Plan Supplement, to any Cause of Action against them as any indication that the Wind-Down Debtors will not pursue any and all available Retained Causes of Action against them. No preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable, or otherwise) or laches shall apply to any rights of the Wind-Down Debtors or the Plan Agent with respect to any Retained Causes of Action upon or after entry of the Confirmation Order or Effective Date based on the Plan, or the Confirmation Order.

ARTICLE III THE PLAN AGENT

3.1. Appointment and retention of the Plan Agent. From and after the Effective Date, the Person named in the introductory paragraph to this Plan Agent Agreement as the Plan Agent, and (y) any successors or replacements duly appointed under the terms of this Plan Agent Agreement, shall be the Plan Agent (the "**Plan Agent**"). The Plan Agent shall be deemed an officer of the Bankruptcy Court appointed as a fiduciary and representative of the Wind-Down Debtors in order to implement the terms of the Plan.

3.2. Retention and Acceptance by Plan Agent. Upon the Effective Date and the execution of this Plan Agent Agreement, the Plan Agent shall be deemed to be retained by the Wind-Down Debtors, under the terms of this Plan Agent Agreement. The Plan Agent hereby accepts the duties and responsibilities imposed upon him by this Plan Agent Agreement and agrees to observe and perform that such duties and responsibilities on and subject to the terms and conditions set forth in this Plan Agent Agreement, the Plan, and the Confirmation Order.

3.3. Appointment. The Plan Agent shall be appointed, pursuant to Bankruptcy Code section 1123(b)(3)(B), to assume his responsibilities on the Effective Date. The Plan Agent's appointment shall continue until the earlier of (a) the compliance by the Wind-Down Debtors of the provisions of Section 5.3., 5.4, 5.5., and Article X, of this Plan Agent Agreement, or (b) the Plan Agent's resignation, removal, death, or disability (meaning herein, incapacity resulting in the inability to perform services for three consecutive months or in the aggregate of 180 days during any 12-month period).

3.4. Sole Entity/Person. On the Effective Date, the Plan Agent shall be the sole manager, officer, director, and shareholder of the Wind-Down Debtors.

3.5. General Powers. Except as otherwise provided in this Plan Agent Agreement, the Plan, or the Confirmation Order, the Plan Agent shall have the sole control and exercise the sole authority over the Wind-Down Debtors and the Wind-Down Debtors' Assets, over the acquisition, management, and disposition thereof, and over the management and conduct of the affairs of the Wind-Down Debtors. No Person dealing with the Plan Agent shall be obligated to inquire into the Plan Agent's authority in connection with the acquisition, management, or disposition of the Wind-Down Debtors' Assets. The Plan Agent shall administer the Wind-Down Debtors and the Wind-Down Debtors' Assets and make Distributions from the proceeds of the Wind-Down Debtors' Assets in accordance with the Plan, the Confirmation Order, and this Plan Agent Agreement. The Plan Agent shall be authorized, empowered and directed to take all actions necessary to comply with the Plan, the Confirmation Order and this Plan Agent Agreement, and exercise and fulfill the duties and obligations arising thereunder, including, without limitation, to:

(a) receive, manage, invest, supervise, protect, liquidate in an orderly manner, and convert to Cash the Wind-Down Debtors' Assets;

(b) withdraw, make distributions and pay taxes and other obligations owed by the Wind-Down Debtors from the Wind-Down Debtors Assets in accordance with the Plan, the Confirmation Order, this Plan Agent Agreement, or applicable law;

(c) to invest the Wind-Down Debtors' Assets, including any earnings thereon or proceeds therefrom. The Plan Agent and the Wind-Down Debtors are not required to comply with Section 345 of the Bankruptcy Code. Further, the Plan Agent shall not exercise any investment power other than the power to invest in demand and time deposits in banks or savings institutions, temporary investments such as short term certificates of deposit or Treasury bills, money market mutual funds that are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as amended, and operated in accordance with Rule 2a-7 and that at the time of such investment are rated Aaa by Moody's and/or AAA by S&P;

(d) to execute, deliver, file, and record contracts, instruments, releases, indentures, certificates, and other agreements or documents, and take such actions, as it may deem reasonably necessary or appropriate to effectuate and implement the terms and conditions thereof or of the Plan, which actions may include, but is not limited to, the creation of entities for the purpose of facilitating transactions between the Wind-Down Debtors and other parties;

(e) to raise additional funding for the Wind-Down Debtors in order to (A) pursue the Retained Causes of Action, and/or support Distributions to Non-GUC Claims by the Wind-Down Debtors as provided for or contemplated in the Plan; and (B) support or facilitate any other function, duty or responsibility of the Wind-Down Debtors that is contemplated by the Plan, the Confirmation Order or this Plan Agent Agreement, in each case in accordance with this Plan Agent Agreement;

(f) to report and pay any and all statutory fees, arising after the Effective Date, when due and payable, solely from Wind-Down Debtors' Assets;

(g) to limit the list of parties in interest receiving notice of documents pursuant to Bankruptcy Rule 2002 to (A) the U.S. Trustee; (B) the United States; (C) the DIP Lender, and (D) those parties in interest who have Filed, after the Effective Date, a renewed notice of appearance requesting receipt of documents pursuant to Bankruptcy Rule 2002; *provided, however*, that the Plan Agent also shall serve any known parties directly affected by or having a direct interest in the particular filing in accordance with the Local Rules of the Bankruptcy Court, Rule 2002-1(b);

(h) to establish, maintain and administer the Wind-Down Debtors' Accounts;

(i) to maintain accounts, calculate and implement Distributions to holders Non-GUC Claims in accordance with the Plan;

(j) to protect, and enforce the rights to, the Wind-Down Debtors' Assets by any method deemed appropriate, including by judicial, administrative, arbitative or other nonjudicial proceeding;

(k) to appear on behalf of the Wind-Down Debtors in any proceeding that may directly or indirectly affect the Wind-Down Debtors' Assets or their value or the recovery of Non-GUC Claims;

(l) with respect to the Retained Causes of Action, to exercise, in a manner not inconsistent with the Plan, all power and authority that may be or could have been exercised, commence all proceedings that may be or could have been commenced and take all actions that may be or could have been taken by any member, officer, director or shareholder of the Debtors, with like effect as if authorized, exercised, and taken by unanimous action of such members, officers, directors, and shareholders;

(m) to prosecute, compromise, adjust, arbitrate, sue on or defend, abandon, dismiss, or otherwise resolve or settle, in accordance with the terms hereof, claims in favor of, or against, the Wind-Down Debtors, including but not limited to, the Retained Causes of Action;

(n) to conduct investigations pursuant to Bankruptcy Rule 2004 or any other law, rule, or order, as may have been conducted by the Debtors prior to the Effective Date with respect to the Wind-Down Debtors' Assets;

(o) to make Distribution payments to the Holders of Allowed Non-GUC Claims in accordance with the terms of this Plan Agent Agreement, the Plan, and the Confirmation Order;

(p) except to the extent a Non-GUC Claim has been previously Allowed, to control and effectuate the Non-GUC Claims reconciliation process (including Allowance or Disallowance of Non-GUC Claims), in accordance with the terms of the Plan and Confirmation Order, including to object to, seek to subordinate, compromise, estimate, or settle any and all Non-GUC Claims;

(q) to determine the Distribution Date and make Distributions to Holders of Allowed Non-GUC Claims in accordance with the Plan, and the Confirmation Order, and to reserve Cash or property on account of Disputed Non-GUC Claims, in accordance with Article VI.D of the Plan;

(r) to determine and satisfy any and all liabilities created, incurred, or assumed by the Wind-Down Debtors;

(s) to pay all reasonable obligations and out-of-pocket expenses of the Wind-Down Debtors, including Wind-Down Debtors' Expenses, and make other payments relating to the Wind-Down Debtors' Assets, in each case exclusively from the Wind-Down Debtors' Assets;

(t) from and after the Effective Date, and prior to dissolution and termination of the Wind-Down Debtors, to file with the Bankruptcy Court all quarterly reports, in a form reasonably acceptable to the U.S. Trustee, and pay any and all fees or assessments, when due;

(u) to file, if necessary, any and all required federal, state and local tax and informational returns required with respect to the Wind-Down Debtors, make tax elections by and on behalf of the Wind-Down Debtors, first due after the Effective Date, and pay taxes (including, without limitation, federal, state, local or non-U.S. taxes), if any, properly payable by the Wind-Down Debtors, which taxes shall be paid exclusively from the Wind-Down Debtors' Assets, and to take any and all actions that may be necessary or appropriate to comply with any withholding and reporting requirements imposed by applicable Tax Law;

(v) to obtain and maintain insurance coverage with respect to the liabilities and obligations of the Wind-Down Debtors and the Plan Agent (in the form of an errors and omissions policy, fiduciary policy, Manager, Director and/or Officer policy, or otherwise);

(w) to obtain and maintain insurance coverage with respect to real and personal property which may become Wind-Down Debtors' Assets;

(x) to retain and pay such third parties, including, one or more paying agents or counsel, as the Plan Agent may deem necessary or appropriate in its reasonable discretion to assist the Wind-Down Debtors and/or the Plan Agent in carrying out their powers and duties under this Plan Agent Agreement, the Plan and the Confirmation Order;

(y) to exercise all powers vested in Debtors, the Wind-Down Debtors, or the Plan Agent pursuant to the Bankruptcy Code, the Plan, any Bankruptcy Court order, or as may be necessary, proper and appropriate to carry out the provisions of the Plan, the Confirmation Order, or this Plan Agent Agreement; and

(z) to enforce, in the Bankruptcy Court, by any means deemed reasonable by the Plan Agent, the Debtors' rights under that certain *Order Approving Debtors' Emergency Motion for Entry of an Order Approving the Settlement Between the IEH Debtors, AEP, Pep Boys, the Committee, and the Committee Members* [Docket No. 469] (the "**9019 Order**").

3.6. General Duties, Obligations, Rights and Benefits of the Plan Agent. In addition to the provisions of Section 3.5, hereof, the Plan Agent shall have all duties, obligations, rights and benefits assumed by, assigned to, or vested in the Wind-Down Debtors under the Plan, the Confirmation Order, this Plan Agent Agreement and any other agreement entered into pursuant to or in connection with the Plan. Such duties, obligations, rights and benefits include, without limitation, all duties, obligations, rights, and benefits relating to the collection and liquidation of the Wind-Down Debtors' Assets, administration of Non-GUC Claims, satisfaction of Allowed Non-GUC Claims to the extent provided in the Plan, distributions to Creditors of the Wind-Down Debtors, administration of the Wind-Down Debtors and any other duties, obligations, rights and benefits reasonably necessary to accomplish the purpose of the Plan, the Confirmation Order, this Plan Agent Agreement and any other agreement entered into pursuant to or in connection with the Plan. Without limiting the duties, obligations, rights and benefits of the Plan Agent under this Section or any other provision of this Plan Agent Agreement, the Plan Agent shall have all the duties, obligations, rights, and benefits assigned to the Plan Agent under the Confirmation Order.

3.7. No Authority over the GUC Trust and the GUC Trust Assets. The Plan Agent shall have no authority over the GUC Trust and/or the GUC Trust Assets (as defined in the GUC Trust Agreement). The Plan Agent and the Wind-Down Debtors shall have no obligation to, interest in the GUC Trust, or with respect to GUC Trust Expenses. Notwithstanding the foregoing sentence, nothing in this Plan Agent Agreement, the GUC Trust Agreement, the Plan or the Confirmation Order, prohibits nor creates a conflict for the individual serving as the Plan Agent also serving concurrently as the GUC Trustee.

3.8. Discretion. Subject to his fiduciary duties, the Plan Agent shall have discretion to pursue, or not pursue, any and all claims, rights, or Causes of Action, as he determines is in the best interests of the Wind-Down Debtors and/or the Holders of Non-GUC Claims and consistent with the purposes of the Plan, and shall have no liability for the outcome of his decisions, except as set forth herein and in the Plan. Except as expressly set forth in the Plan, and subject to his duties and obligations, the Plan Agent, on behalf of the Wind-Down Debtors,

shall have absolute discretion in the administration of the Wind-Down Debtors' Assets. The Plan Agent may incur any reasonable and necessary expenses in liquidating and converting the Wind-Down Debtors' Assets to Cash. Unless specifically stated otherwise herein, the Plan Agent shall not be required to obtain Bankruptcy Court approval with respect to any proposed action or inaction authorized in this Plan Agent Agreement or specifically contemplated in the Plan. Notwithstanding the foregoing, the Wind-Down Debtors and/or the Plan Agent shall have the right to submit to the Bankruptcy Court any question or questions, motions, applications or requests for instructions, regarding which the Wind-Down Debtors and/or the Plan Agent may desire to have explicit approval of the Bankruptcy Court for the taking of any specific action proposed to be taken by the Wind-Down Debtors with respect to any of the Wind-Down Debtors' Assets, this Plan Agent Agreement, the Confirmation Order, or the Plan, including the administration or distribution of any of the Wind-Down Debtors' Assets. The Bankruptcy Court shall retain jurisdiction and power for such purposes and shall approve or disapprove any such proposed action upon motion, request, application or otherwise, by the Wind-Down Debtors and/or the Plan Agent.

3.9. Retention of Professionals. The Plan Agent may retain and compensate attorneys, other professionals and independent contractors (including any professional or independent contractors who represented or provided services to a party in interest in the Chapter 11 Cases) to assist in his duties and obligations as the Plan Agent on such terms as the Plan Agent deems appropriate, whether on an hourly, contingency fee or other basis, including, without limitation, accountants, auditors, attorneys, tax professionals, consultants, and other professionals, and to pay the fees and charges incurred by the Plan Agent on the Wind-Down Debtors' behalf after the Effective Date for fees and expenses of such professionals (including those retained by the Plan Agent), disbursements, expenses, or related support services relating to the Wind-Down Debtors and/or the Plan Agent, or as otherwise provided in this Plan Agent Agreement, *provided* that any such professionals/person/entities shall be compensated solely from the Wind-Down Debtors' Assets and in no event shall the Plan Agent or any of its professionals have or make any claim for reimbursement of fees or expenses against any Person other than the Wind-Down Debtors or any property other than the Wind-Down Debtors' Assets. Nothing in the preceding sentence shall limit or affect the rights of the Wind-Down Debtors and/or the Plan Agent to enforce any obligations under the 9019 Order. The Plan Agent shall be entitled to rely, in good faith, on the advice of its retained professionals. Accordingly, the Plan Agent, on behalf of the Wind-Down Debtors and/or the Plan Agent, may employ, without further order of the Bankruptcy Court, any professional to assist in carrying out the Plan Agent's duties under the Plan, Confirmation Order, and this Plan Agent Agreement and may compensate and reimburse the reasonable expenses of the Wind-Down Debtors and/or the Plan Agent, the without further Order of the Bankruptcy Court. Professionals employed by the Wind-Down Debtors and/or the Plan Agent, may represent both the Wind-Down Debtors and the Plan Agent, absent a conflict.

3.10. Compensation of Plan Agent and its Professionals.

(a) The Plan Agent shall be entitled to receive reasonable compensation in connection with its performance of its duties. Such compensation shall be fixed-fee plus reimbursement for reasonable out-of-pocket expenses and structured as follows:

a. First, the Plan Agent shall be paid a flat fee equal to Fifteen Thousand Dollars (\$15,000.00) per month beginning with the month following the

Effective Date until six (6) months thereafter (the “Initial Term”). Following the Initial Term, the Plan Agent shall be paid a flat fee equal to Twelve Thousand Five Hundred Dollars (\$12,500.00) per month.

b. The Plan Agent shall not be entitled to a fee for the balance of the month in which the Effective Date occurs.

(b) Any successor to the Plan Agent shall also be entitled to reasonable compensation in connection with the performance of its duties, which compensation may be different from the terms provided herein, plus the reimbursement of reasonable out-of-pocket expenses.

3.11. Replacement of the Plan Agent. The Plan Agent may resign at any time upon thirty (30) days’ written notice delivered to counsel for the Creditors Committee, counsel to the DIP Lender, and a filing on the Docket of the Bankruptcy Court. If the Plan Agent resigns from his position hereunder, subject to a final accounting, such Plan Agent shall be entitled to all accrued but unpaid fees, expenses, and other compensation to the extent incurred, arising or relating to events occurring before such resignation, and any out-of-pocket expenses reasonably incurred in connection with the transfer of all powers and duties to the successor Plan Agent. The Plan Agent may be removed by the Bankruptcy Court only for cause, which shall be defined as fraud, gross negligence, or willful misconduct. In the event of the resignation or removal of the Plan Agent, the Bankruptcy Court shall designate a person to serve as a successor Plan Agent. Upon its appointment, the successor Plan Agent, without any further act, shall become fully vested with all of the rights, powers, duties and obligations of its predecessor and all responsibilities of the predecessor Plan Agent relating to the Wind-Down Debtors shall be terminated. In the event the Plan Agent’s appointment terminates by reason of termination (except for termination with cause), for death or disability (as defined above), such Plan Agent shall be immediately compensated for all reasonable fees and expenses accrued through the effective date of termination, whether or not previously invoiced. The Wind-Down Debtors shall survive the resignation or removal of any Plan Agent.

3.12. Successor Plan Agent. Any successor to the initial Plan Agent shall execute an instrument accepting such appointment and shall file such acceptance with the with the Bankruptcy Court. The resigning Plan Agent shall duly assign, transfer, and deliver to such successor Plan Agent all Wind-Down Debtors’ Assets held by such resigning Plan Agent under the Plan or this Plan Agent Agreement and shall, as directed by the Bankruptcy Court or as reasonably requested by the successor Plan Agent, execute and deliver an instrument or instruments conveying and transferring to such successor Plan Agent upon the Trust herein expressed, all the liabilities, duties, powers, rights, title, discretion, and privileges of such resigning Plan Agent. Immediately upon the acceptance of appointment by any successor Plan Agent, all rights, powers, duties, authority, and privileges of the predecessor Plan Agent will be vested in and undertaken by the successor Plan Agent without any further act; the predecessor Plan Agent and any director, officer, affiliate, employee, employer, professional, agent or representative of the predecessor Plan Agent shall have no further liability or responsibility with respect thereto. A successor Plan Agent shall have no duty to examine or inquire into the acts or omissions of its immediate or remote predecessor and no successor Plan Agent shall be in any way liable for the acts or omissions of any predecessor Plan Agent unless a successor Plan Agent expressly assumes such responsibility. A predecessor

Plan Agent shall have no liability for the acts or omissions of any immediate or subsequent successor Plan Agent for any events or occurrences subsequent to the cessation of its role as Plan Agent.

3.13. Wind-Down Debtors' Continuance. The death, disability, resignation, or removal of the Plan Agent shall not terminate the Wind-Down Debtors or revoke any existing agency created by the Plan Agent pursuant to this Plan Agent Agreement or invalidate any action theretofore taken by the Plan Agent, and the successor Plan Agent agrees that the provisions of this Plan Agent Agreement shall be binding upon and inure to the benefit of the successor Plan Agent and all its successors or assigns.

ARTICLE IV LIABILITY OF PLAN AGENT

4.1. Standard of Care; Exculpation. Neither the Plan Agent, nor any director, officer, affiliate, employee, employer, professional, agent or representative of the Plan Agent (the "**Exculpated Party**" and collectively, the "**Exculpated Parties**") shall be liable for losses, claims, damages, liabilities, obligations, settlements, proceedings, suits, judgments, causes of action, litigation, actions, investigations (whether civil or administrative and whether sounding in tort, contract or otherwise), penalties, costs, and expenses, including reasonable fees and disbursements (collectively referred to herein as "**Losses**") whether or not in connection with litigation in which any Exculpated Party is a party, or enforcing this Plan Agent Agreement (including these exculpation provisions), as and when imposed on the Plan Agent, incurred, caused by, relating to, based upon or arising out of (directly or indirectly) the Plan Agent's execution, delivery, and acceptance of or the performance or nonperformance of his powers, duties and obligations under this Plan Agent Agreement, the Plan, or the Confirmation Order or as may arise by reason of any action, omission or error of an Exculpated Party; provided, however, that the foregoing limitation shall not apply to any Losses suffered or incurred by any Holder of a Non-GUC Claim that are found in a final judgment by the Bankruptcy Court (not subject to further appeal) to have resulted primarily and directly from the fraud, gross negligence or willful misconduct of such Exculpated Party. Every act taken or omitted, power exercised or obligation assumed by the Wind-Down Debtors or any Exculpated Party pursuant to the provisions of this Plan Agent Agreement shall be held to be taken or omitted, exercised, or assumed, as the case may be, by the Wind-Down Debtors or any Exculpated Party acting for and on behalf of the Wind-Down Debtors and not otherwise; provided, however, that none of the foregoing Entities or Persons are deemed to be responsible for any other such Entities' or Persons' actions or inactions. Except as provided in the first proviso of the first sentence of this Section 4.1, every Person, firm, corporation, or other Entity contracting or otherwise dealing with or having any relationship with the Wind-Down Debtors or any Exculpated Party shall have recourse only to the Wind-Down Debtors' Assets for payment of any liabilities or other obligations arising in connection with such contracts, dealings or relationships and the Exculpated Parties shall not be individually liable therefore. In no event shall the Plan Agent or any Exculpated Party be liable for indirect, punitive, special, incidental, or consequential damage or loss (including but not limited to lost profits) whatsoever, even if the Plan Agent or any Exculpated Party has been informed of the likelihood of such loss or damages and regardless of the form of action.

4.2. Indemnification.

(a) Except as otherwise set forth in the Plan or Confirmation Order, the Plan Agent, and any director, officer, affiliate, employee, employer, professional, agent, or representative of the Plan Agent (each, an “**Indemnified Party**” and collectively, the “**Indemnified Parties**”) shall be defended, held harmless and indemnified from time to time by the Wind-Down Debtors against any and all losses, claims, damages, liabilities, penalties, obligations and expenses, including the costs for counsel or others in investigating, preparing, or defending any action or claim, whether or not in connection with litigation in which any Indemnified Party is a party, or enforcing this Plan Agent Agreement (including these indemnity provisions), as and when imposed on the Plan Agent, or the Indemnified Party, incurred, caused by, relating to, based upon or arising out of (directly or indirectly) the Plan Agent’s execution, delivery, and acceptance of or the performance or nonperformance of its powers, duties, and obligations under this Plan Agent Agreement, the Plan, or the Confirmation Order or as may arise by reason of any action, omission, or error of an Indemnified Party; provided, however, such indemnity shall not apply to any such Losses to the extent it is found in a final judgment by the Bankruptcy Court (not subject to further appeal) to have resulted primarily and directly from the fraud, gross negligence, or willful misconduct of such Indemnified Party. Satisfaction of any obligation of the Wind-Down Debtors arising pursuant to the terms of this Section shall be payable only from the Wind-Down Debtors’ Assets, shall be advanced prior to the conclusion of such matter and such right to payment shall be prior and superior to any other rights to receive a Distribution by Holders of Allowed Non-GUC Claims, of the Wind-Down Debtors’ Assets.

(b) Subject to the availability of Wind-Down Debtors’ Assets, the Wind-Down Debtors shall promptly pay to the Indemnified Party the expenses set forth in subparagraph (a) above upon submission of invoices therefore on a current basis. Each Indemnified Party hereby undertakes, and the Wind-Down Debtors hereby accepts its undertaking, to repay any and all such amounts so paid by the Wind-Down Debtors if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified therefore under this Plan Agent Agreement.

4.3. Reliance by Plan Agent on Documents or Advice of Counsel. Except as otherwise provided in this Plan Agent Agreement, the Plan Agent, and any director, officer, affiliate, employee, employer, professional, agent or representative of the Plan Agent may reasonably rely, and shall be protected from liability for acting, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order or other paper or document reasonably believed by the Plan Agent to be genuine and to have been presented by an authorized party. The Plan Agent shall not be liable for any action taken or suffered by the Plan Agent in reasonable reliance upon the advice of counsel or other professionals, entity or Person, engaged by the Plan Agent. The Plan Agent shall be fully indemnified by the Wind-Down Debtors for or in respect of any action taken, suffered or omitted by it and in accordance with such advice or opinion.

4.4. The provisions of this Article IV shall survive the termination of this Plan Agent Agreement and the death, resignation, removal, Liquidation, dissolution, or replacement of the Plan Agent.

ARTICLE V
GENERAL PROVISIONS CONCERNING ADMINISTRATION OF WIND-DOWN DEBTORS

5.1. Register of Holders of Non-GUC Claims. The Wind-Down Debtors shall maintain at all times a register of the names, distribution addresses, amounts of Non-GUC Claims (the “**Register**”). The initial Register shall be delivered to the Plan Agent by the Debtors and shall be based on the list of holders of Non-GUC Claims maintained by Kurtzman Carson Consultants LLC as of the Effective Date and prepared in accordance with the provisions of the Plan and the Confirmation Order. All references in this Plan Agent Agreement to holders of Non-GUC Claims shall be read to mean holders of record as set forth in the Register, or on the Bankruptcy Court’s Docket, maintained by the Plan Agent. The Plan Agent shall cause the Register to be kept at its office or at such other place or places as may be designated by the Plan Agent from time to time.

(a) **Books and Records.** On the Effective Date, the Debtors shall transfer and assign to the Wind-Down Debtors full title to, and the Wind-Down Debtors shall be authorized to take possession of, all of the books and records of the Debtors. The Wind-Down Debtors shall have the responsibility of storing and maintaining books and records transferred hereunder until the Chapter 11 Cases are closed, after which time such books and records may, to the extent not prohibited by applicable law, be abandoned or destroyed without further Bankruptcy Court order. For the purpose of this Section 5.2, books and records include computer generated or computer-maintained books and records and computer data, as well as electronically generated or maintained books and records or data, along with books and records of the Debtors maintained by or in possession of third parties and all of the claims and rights of the Debtors in and to their books and records, wherever located.

(b) **Record of Income.** The Plan Agent also shall maintain in respect of the Wind-Down Debtors and the Holders of Non-GUC Claims, books and records relating to the Wind-Down Debtors’ Assets and any income or proceeds realized therefrom and the payment of expenses of and claims against or assumed by the Wind-Down Debtors in such detail and for such period of time as may be necessary to enable it to make full and proper reports in respect thereof. Except as expressly provided in this Plan Agent Agreement, the Plan, or the Confirmation Order, or as may be required by applicable law (including securities law), nothing in this Plan Agent Agreement is intended to require the Wind-Down Debtors or the Plan Agent to file any accounting or seek approval of any court with respect to the administration of the Wind-Down Debtors and the Wind-Down Debtors’ Assets, or as a condition for making any payment or distribution out of the Wind-Down Debtors’ Assets.

5.2. Dissolution of the Debtors.

(a) Upon a certification to be Filed with the Bankruptcy Court by the Plan Agent of all Distributions having been made to Holder of Allowed Non-GUC Claims and completion of all its duties under the Plan and entry of a final decree closing the Chapter 11 Cases, the Wind-Down Debtors shall be deemed to be dissolved without any further action by the Plan Agent, including the filing of any documents with the secretary of state for the state in which the Debtors are formed or any other jurisdiction. Notwithstanding the foregoing, the Plan Agent shall retain the authority to take all necessary actions to dissolve the Wind-Down

Debtors, and withdraw the Wind-Down Debtors from, applicable states and provinces to the extent required by applicable law.

(b) Subject in all respects to the terms of this Plan, the Plan Agent shall have the power and authority to take any action necessary to wind-down and dissolve the Wind-Down Debtors, and may: (a) file a certificate of dissolution for the Wind-Down Debtors, together with all other necessary corporate and company documents, to effect the dissolution of the Wind-Down Debtors under the applicable laws of the Debtors' state of formation; (b) complete and file all final or otherwise required federal, state, and local Tax returns and shall pay Taxes required to be paid for the Debtors, and pursuant to section 505(b) of the Bankruptcy Code, request an expedited determination of any unpaid Tax liability of any of the Debtors or their Estates for any Tax incurred during the administration of the Debtors' Chapter 11 Cases, as determined under applicable tax laws; and (c) represent the interests of the Debtors or the Estates before any taxing authority in all Tax matters, including any action, suit, proceeding, or audit.

(c) Any filing by the Plan Agent of the Wind-Down Debtors' certificates of dissolution shall be authorized and approved in all respects without further action under applicable law, regulation, order, or rule, including any action by the stockholder, members, board of directors, or board of managers of the Debtors or any of their Affiliates.

(d) As the Wind-Down Debtors will be dissolved upon completion of the administration of the Plan, no new corporate organizational documents will be executed.

5.3. Final Accounting of Plan Agent. The Plan Agent (or any such successor Plan Agent) shall, within ninety (90) days after the dissolution of the Wind-Down Debtors or the death, dissolution, resignation or removal of the Plan Agent, render an accounting, filed on the Docket of the Bankruptcy Court, containing at least the following information:

(a) A description of the value of the Wind-Down Debtors' Assets.

(b) A summarized accounting in sufficient detail of all gains, losses, receipts, disbursements and other transactions in connection with the Wind-Down Debtors and the Wind-Down Debtors' Assets during the Plan Agent's term of service, including their source and nature.

(c) The ending balance of all Wind-Down Debtors' Assets as of the date of the accounting, including the Cash balance on hand and the name(s) and location(s) of the depository or depositories where the Cash is kept.

(d) All known liabilities of the Wind-Down Debtors.

(e) All pending actions.

5.4. Filing of Accounting. The final accounting described in Section 5.3 shall be filed with the Bankruptcy Court and all Holders of Non-GUC Claims shall be deemed to have notice that the final accounting has been filed and an opportunity to have a hearing on the approval of the accounting and the discharge and release of the Plan Agent.

**ARTICLE VI
FUNDING OF THE WIND-DOWN DEBTORS, THE BUDGET, AND THE PLAN
AGENT**

6.1. On the Effective Date, except for the GUC Claim Reconciliation Fund, the GUC Payment, and the GUC Pool which will be transferred to the GUC Trust, the Debtors' Assets will constitute, and will be revested as, the Wind-Down Debtors' Assets. The Wind-Down Debtors' Assets will include, as of the Effective Date and thereafter, the Debtors' Cash, the Debtors' accounts receivable, and the proceeds thereof. Nothing herein shall modify any obligation of the DIP Lender in the 9019 Order.

**ARTICLE VII
HOLDERS OF NON-GUC CLAIMS**

7.1. Change of Address. A Holder of a Non-GUC Claim may, after the Effective Date, select an alternative distribution address by filing a notice with the Bankruptcy Court and by written notice under penalty of perjury (copy served on the Plan Agent) identifying such alternative distribution address. Absent such notice, the Plan Agent shall not recognize any such change of distribution address. Such notification shall be effective only upon filing on the Docket of the Bankruptcy Court and by the receipt of the Plan Agent.

7.2. Standing. Nothing in this Plan Agent Agreement shall grant any Holder of a Non-GUC Claim standing to direct the Plan Agent to do or not to do any act or to institute any action or proceeding at law or in equity against any party upon or with respect to the Wind-Down Debtors' Assets.

**ARTICLE VIII
PROCEDURES FOR RESOLVING AND TREATING DISPUTED NON-GUC
CLAIMS**

8.1. Incorporation of Plan Provisions. As of the Effective Date, the Wind-Down Debtors shall assume responsibility for all Non-GUC Claims established by the Plan. In accordance with Article VI.D. of the Plan, the Wind-Down Debtors shall establish Disputed Claims Reserves for Non-GUC Claims pending resolution, as set forth in the Plan, of all contested matters and adversary proceedings concerning Disputed Non-GUC Claims.

8.2. Disputed Claims Reserve.

(a) **Establishment of Disputed Claims Reserve for Non-GUC Claims.** On the initial distribution date (or on any other date on which distributions are made by the Plan Agent), and in connection with making all distributions required to be made on any such date under the Plan, the Plan Agent shall establish a separate Disputed Claims Reserve for Non-GUC Claims on account of distributions of Cash as necessary pursuant to the Plan.

(b) **Amounts to Be Reserved.** The Plan Agent shall reserve the ratable proportion of all Cash, or other property allocated for distribution on account of each Disputed Non-GUC Claim based upon the asserted amount of each such Disputed Non-GUC Claim, or such lesser amount as may be estimated by the Bankruptcy Court in accordance with the Plan.

All Cash or other property allocable to Disputed Non-GUC Claims hereunder shall be distributed by the Plan Agent to the relevant Disputed Claims Reserve for Non-GUC Claims on the initial distribution date (or such other date on which distributions are made pursuant to the Plan and this Plan Agent Agreement).

(c) **Distribution.** Payments on any Disputed Non-GUC Claim that becomes an Allowed Non-GUC Claim shall be distributed by the Plan Agent from the Disputed Claims Reserve for Non-GUC Claims. If a distribution to such Holder of such Allowed Non-GUC Claim's applicable class has already occurred, then the Plan Agent shall make any necessary catch-up payments to the Holder of such Allowed Claim within a reasonable amount of time after such Disputed Non-GUC Claim becomes an Allowed Claim. Distributions to each holder of a Disputed Non-GUC Claim that has become an Allowed Non-GUC Claim (and to the extent that the Holder of the Disputed Non-GUC Claim has not received prior distributions on account of that Non-GUC Claim) shall be made in accordance with the provisions of the Plan.

(d) **Termination of Disputed Claims Reserves.** Each Disputed Claims Reserve for Non-GUC Claims shall be closed and extinguished by the Plan Agent when all distributions and other dispositions of Cash or other property required to be made therefrom under the Plan and this Plan Agent Agreement have been made. Upon closure of a Disputed Claims Reserve for Non-GUC Claims, all Cash and other property held in that Disputed Claims Reserve for Non-GUC Claims shall revert in the Wind-Down Debtors as a part of the general Wind-Down Debtors' Assets and such Cash and property shall be used to pay the fees and expenses of the Wind-Down Debtors in accordance with this Plan Agent Agreement, and thereafter distributed, if required by the Plan, on a *pro rata* basis to holders of Allowed Non-GUC Claims entitled to distributions from the Wind-Down Debtors.

(e) **Transmittal of Distributions and Notices.** Any property or notice to which a person is or becomes entitled to receive pursuant to the Plan and this Plan Agent Agreement may be delivered by electronic or regular mail, postage prepaid, in an envelope addressed to that person's address listed in the Register, or the Docket of the Bankruptcy Court. Property distributed in accordance with this subsection shall be deemed delivered to such person regardless of whether such property is actually received by that person. Notice given in accordance with this subsection shall be effective only upon receipt.

ARTICLE IX DISTRIBUTIONS

9.1. Distributions to Allowed Non-GUC Claims from Wind-Down Debtors' Assets. All payments to be made by the Wind-Down Debtors to any Holder of an Allowed Non-GUC Claim shall be made only in accordance with the Plan, the Confirmation Order and this Plan Agent Agreement and from the Wind-Down Debtors' Assets (or from the income and proceeds realized from the Wind-Down Debtors' Assets) net of any Wind-Down Debtors' Reserve (defined below), Disputed Claims Reserve for Non-GUC Claims, and other reserves established by the Plan Agent, if any, and only to the extent that the Wind-Down Debtors have sufficient Wind-Down Debtors' Assets (or income and proceeds realized from the Wind-Down Debtors' Assets) to make such

payments in accordance with and to the extent provided for in the Plan, the Confirmation Order, and this Plan Agent Agreement.

9.2. Distributions; Withholding. The Plan Agent shall make the initial distribution to Holders of Allowed Non-GUC Claims entitled to distributions from the Wind-Down Debtors as provided in the Plan and, following the initial distribution the Plan Agent shall make prompt distributions to holders of Allowed Non-GUC Claims (including distributions of all net Cash (including net Cash proceeds)) on such dates as it chooses in its reasonable discretion; provided, however, that all such distributions shall be made in an expeditious and orderly manner; provided, further, that the Wind-Down Debtors may retain an amount of net proceeds or net income (the “**Wind Down Debtors’ Reserve**”) in such amount (a) as is reasonably necessary to meet contingent liabilities and to maintain the value of the Wind-Down Debtors’ Assets during the existence (or post-termination) of the Wind-Down Debtors; (b) to pay reasonable administrative expenses including, without limitation, the compensation and the reimbursement of reasonable, actual and necessary costs, fees, and expenses (including attorneys’ fees and expenses, financial advisor fees and expenses, and disbursing agent fees and expenses) of the Plan Agent, in connection with the performance of their duties in connection with this Plan Agent Agreement; and (c) to satisfy all other liabilities and claims of creditors of the Wind-Down Debtors incurred or assumed in respect of the Wind-Down Debtors (or to which the Wind-Down Debtors’ Assets are otherwise subject) in accordance with the Plan, the Confirmation Order and this Plan Agent Agreement. All such distributions shall be made as provided, and subject to any withholding or reserve, in this Plan Agent Agreement, the Plan or the Confirmation Order. Additionally, the Plan Agent may withhold from amounts distributable to any Holder of an Allowed Non-GUC Claim any and all amounts, determined in the Plan Agent’s reasonable discretion, to be required by any law, regulation, rule, ruling, directive, or other governmental requirement. In addition, all distributions under this Plan Agent Agreement shall be net of the actual and reasonable costs of making such distributions.

9.3. No Distribution Pending Allowance. No payment or distribution shall be made with respect to any Non-GUC Claim to the extent it is a Disputed Non-GUC Claim unless and until such Disputed Non-GUC Claim becomes an Allowed Non-GUC Claim, except for distributions into a Disputed Claims Reserve for Non-GUC Claims in accordance with the Plan, Confirmation Order, and this Plan Agent Agreement.

9.4. Distributions after Allowance. Distributions to each holder of a Disputed Non-GUC Claim, to the extent that such Non-GUC Claim ultimately becomes an Allowed Non-GUC Claim, shall be made in accordance with the provisions of the Plan, Confirmation Order, and this Plan Agent Agreement.

9.5. Non-Cash Property. Any non-Cash property of the Wind-Down Debtors may be sold, transferred or abandoned by the Plan Agent. Notice of such sale, transfer, or abandonment shall be filed on the Docket of the Bankruptcy Court. If, in the Plan Agent’s reasonable judgment, such property cannot be sold in a commercially reasonable manner, or the Plan Agent believes, in good faith, such property has no value to the Holders of Allowed Non-GUC Claims, the Plan Agent shall have the right, to abandon or otherwise dispose of such property, including by donation of such property to a charity designated by the Plan Agent. Except in the case of fraud, willful misconduct, or gross negligence, no party in interest shall have a cause of action against the Plan

Agent or any director, officer, employee, consultant, or professional of the Plan Agent, arising from or related to the disposition of non-Cash property in accordance with this Section.

9.6. Location for Distributions; Notice of Change of Address. Distributions to the Holders of Allowed Non-GUC Claims shall be made by the Plan Agent (a) at the addresses set forth on the respective proofs of claims, application or motions of the Holders of Non-GUC Claims; (b) at the addresses set forth on the Docket of the Bankruptcy Court, any written notices of address changes delivered to the Plan Agent, after the date of any related application, motion or proof of Non-GUC Claim; or (c) at the address reflected in the Schedules or, if not reflected in the Schedules, then in the other records of the Debtors if no application, motion or proof of Non-GUC Claim is filed and the Plan Agent has not received a written notice of a change of address. The Plan Agent shall have the absolute and unconditional right to rely on the information provided by the Debtors for purposes of notices and distributions under this Plan Agent Agreement.

9.7. Undeliverable Distributions. If any distribution is returned as undeliverable, the Plan Agent may, in its discretion, make such efforts to determine the current address of the holder of the Non-GUC Claim with respect to which the distribution was made as the Plan Agent deems appropriate, but no distribution to any holder shall be made unless and until the Plan Agent has determined the then-current address of the holder, at which time the distribution to such holder shall be made to the holder without interest. Amounts in respect of any undeliverable distributions made by the Liquidation Trust shall be returned to, and held in trust by, the Plan Agent, until the distributions are claimed or are deemed to be unclaimed property under section 347(b) of the Bankruptcy Code (“**Unclaimed Property**”).

9.8. Unclaimed Property. Except with respect to property not distributed because it is being held in a Disputed Non-GUC Claim Reserve, distributions that are not claimed by the earlier to occur of (i) 30 days after the final distribution; or (ii) 90 days after the distribution is returned as undeliverable or the date of issuance of check (in the case of an unclaimed distribution) (the “**Unclaimed Property Date**”), shall be deemed to be Unclaimed Property and shall vest or re-vest in the Wind-Down Debtors, and the Non-GUC Claims with respect to which those distributions are made shall be automatically canceled. After the expiration of Unclaimed Property Date, the claim of any Person or Entity to those distributions shall be discharged and forever barred. Nothing contained in the Plan or this Plan Agent Agreement shall require the Liquidation Trust to attempt to locate any holder of an Allowed Claim entitled to distributions from the Wind-Down Debtors. All funds or other property that vests or re-vests in the Wind-Down Debtors and pursuant to this Section 9.8 shall be distributed by the Plan Agent in accordance with the provisions of the Plan and this Plan Agent Agreement. A Non-GUC Claim, and the Unclaimed Property distributed on account of such Non-GUC Claim, shall not escheat to any federal, state, or local government or other entity by reason of the failure of its holder to claim a distribution in respect of such Non-GUC Claim.

9.9. Manner of Payment. Unless otherwise expressly agreed, in writing, all Cash payments to be made pursuant to the Plan shall be made by check drawn on a domestic bank or an electronic wire or ACH transfer, in the sole discretion of the Plan Agent.

9.10. Time Bar to Cash Payments by Check. Checks issued by the Plan Agent on account of Allowed Non-GUC Claims shall be null and void if not negotiated within 90 days after

the date of issuance thereof. After that date, all Non-GUC Claims in respect of void checks shall be discharged and forever barred and the proceeds of those checks shall revert in and become property of the Wind-Down Debtors as Unclaimed Property in accordance with Section 347(b) of the Bankruptcy Code and be distributed as Unclaimed Property.

9.11. Distributions on Non-Business Days. Any payment or distribution due on a day other than a Business Day shall be made, without interest, on the next Business Day.

9.12. No Distribution in Excess of Allowed Amount of Claim. Notwithstanding anything to the contrary herein, no Holder of an Allowed Non-GUC Claim shall receive in respect of such Non-GUC Claim any distribution in excess of the Allowed amount of such Non-GUC Claim. No Holder of a Non-GUC Claim shall be entitled to interest accruing on or after the Petition Date. No prepetition Non-GUC Claim shall be Allowed to the extent it is for postpetition interest or other similar charges.

9.13. Setoff and Recoupment. As set forth in Article VI.K of the Plan, the Wind-Down Debtors may, but shall not be required to, setoff against, or recoup from, any Non-GUC Claim and the distribution to be made pursuant to the Plan in respect thereof, any claims or defenses of any nature whatsoever that any of the Debtors, the Estates or the Wind-Down Debtors may have against the holder of such Non-GUC Claim, but neither the failure to do so nor the allowance of any Non-GUC Claim under the Plan shall constitute a waiver or release by the Debtors, the Estates or the Wind-Down Debtors of any claim, defense, right of setoff, or recoupment that any of them may have against the holder of any Non-GUC Claim.

9.14. Compliance with Laws. Any and all distributions of Wind-Down Debtors' Assets shall be in compliance with applicable laws except as may be expressly provided herein or in the Plan. Without limiting the generality of the foregoing, (a) the Plan Agent shall make distributions from the Wind-Down Debtors' Assets to the extent it determines the Wind-Down Debtors have sufficient cash available for distribution from all net cash income and all other cash received by the Wind-Down Debtors; provided, however, that the Plan Agent may, retain such amounts (i) as are reasonably necessary to meet contingent liabilities (including Disputed Claims), and to maintain the value of the Wind-Down Debtors' Assets during the existence (and post-termination) of the Wind-Down Debtors, (ii) to pay reasonable administrative expenses including, without limitation, the compensation and the reimbursement of reasonable, actual and necessary costs, fees (including attorneys' fees) and expenses of the Plan Agent in connection with the performance of the Plan Agent's duties in connection with this Plan Agent Agreement and any amounts owed to the Plan Agent pursuant to the terms hereof, and (iii) to satisfy all other liabilities incurred or assumed by the Wind-Down Debtors (or to which the Wind-Down Debtors' Assets are otherwise subject) in accordance with the Plan and this Plan Agent Agreement; and (b) the Plan Agent, in its discretion, may cause the Wind-Down Debtors to withhold and/or pay to the appropriate tax authority from amounts distributable from the Wind-Down Debtors' Assets to Holders of Allowed Non-GUC Claims any and all amounts as may be sufficient to pay the amount of any tax or other charge that has been or might be assessed or imposed by any law, regulation, rule, ruling, directive, or other governmental requirement on such Holder or the Wind-Down Debtors with respect to the amount to be distributed to such Holders. The Plan Agent shall determine such amount to be withheld by the Wind-Down Debtors in its reasonable discretion and shall cause the Wind-Down Debtors to distribute to the Holder any excess amount withheld. All such amounts withheld and paid to the

appropriate tax authority (or reserved pending resolution of the need to withhold) shall be treated as amounts distributed to such Holder for all purposes of this Plan Agent Agreement.

ARTICLE X TAXES

10.1. Income Tax Status. The Estate's disposition of the Wind-Down Debtors' Assets to the Wind-Down Debtors is generally considered a nontaxable disposition of property for U.S. federal income tax purposes. The Wind-Down Debtors assume the same basis in the property that the Estate had prior to the deemed transfer. To the extent that any of the Wind-Down Debtors' Assets are sold by the Plan Agent on behalf of the Wind-Down Debtors, such sale will be considered a taxable transaction for U.S. federal income tax purposes. Gain or loss, if any, will be recognized by the Wind-Down Debtors, based on the difference between the tax basis in the assets that were disposed of in that transaction and the sale price allocable to such assets. To the extent any taxable income is generated in connection with such sale, the Wind-Down Debtors may have certain tax attributes available to offset any such taxable income.

10.2. Tax Returns. After the Effective Date, the Plan Agent shall be responsible for filing all federal, state and local tax returns for the Wind-Down Debtors or with respect to the Wind-Down Assets. The Plan Agent will be required to report on each of the Wind-Down Debtors' U.S. federal income tax returns all items of income, gain, loss, deduction and credit recognized upon the Wind-Down Debtors' deemed receipt of the Wind-Down Debtors' Assets. The Wind-Down Debtors will not file any future federal income tax returns except via the Plan Agent.

10.3. Withholding of Taxes and Reporting Related to Wind-Down Debtors' Operations. The Wind-Down Debtors shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all distributions made by the Wind-Down Debtors shall be subject to any such withholding and reporting requirements. The Wind-Down Debtors shall take reasonable steps, including requesting appropriate forms from the Holders of Non-GUC Claims, to reduce or eliminate any such withholding tax. To the extent that the operation of the Wind-Down Debtors or the liquidation of the Wind-Down Debtors' Assets creates a tax liability, the Wind-Down Debtors shall promptly pay such tax liability out of the Wind-Down Debtors' Assets (or the income or proceeds thereof) and any such payment shall be considered a cost and expense of the operation of the Wind-Down Debtors payable without Bankruptcy Court order. The Wind-Downs may reserve a sum, the amount of which shall be determined by the Wind-Down Debtors, sufficient to pay the accrued or potential tax liability arising out of the operations of the Wind-Down Debtors or the operation of the Wind-Down Debtors' Assets. The Plan Agent, on behalf of Wind-Down Debtors, may enter into agreements with taxing authorities or other governmental units for the payment of such amounts as may be withheld. Any federal, state, or local withholding taxes or other amounts required to be withheld under applicable law shall be deducted from distributions hereunder. All Holders of Allowed Non-GUC Claims shall be required to provide any information necessary to effect the withholding of such taxes.

10.4. Treatment of Disputed Claims Reserve for Non-GUC Claims.

(a) The Wind-Down Debtors shall be responsible for payment, out of the Wind-Down Debtors' Assets, of any taxes imposed on the Wind-Down Debtors or the Wind-Down Debtors' Assets. In accordance therewith, any taxes imposed on any disputed ownership fund or its assets will be paid out of the assets of the disputed ownership fund and netted against any subsequent distribution in respect of the allowance or disallowance of such Non-GUC Claims.

10.5. Expedited Determination of Taxes. The Wind-Down Debtors (or the Plan Agent on the Wind-Down Debtors' behalf) may request an expedited determination of taxes of the Wind-Down Debtors, including the Disputed Claims Reserve for Non-GUC Claims, under section 505(b) of the Bankruptcy Code for all returns filed for the Wind-Down Debtors for all taxable periods through the dissolution of the Wind-Down Debtors.

**ARTICLE XI
TERMINATION AND DISSOLUTION OF WIND-DOWN DEBTORS**

11.1. Termination of Wind-Down Debtors. The Plan Agent shall be discharged and the Wind-Down Debtors shall be terminated, at such time as (a) all Disputed Non-GUC Claims have been resolved, (b) all of the Wind-Down Debtors' Assets have been liquidated, (c) all duties and obligations of the Plan Agent hereunder have been fulfilled, (d) all distributions required to be made by the Plan Agent under the Plan and this Plan Agent Agreement have been made, and (e) all of the Chapter 11 Cases have been closed.

11.2. Events Upon Termination. At the conclusion of the existence of the Wind-Down Debtors, the Plan Agent shall distribute the remaining Wind-Down Debtors' Assets, if any, in accordance with the Plan, the Confirmation Order, and this Plan Agent Agreement.

11.3. Winding Up, Discharge, and Release of the Plan Agent. For the purposes of winding up the affairs of the Wind-Down Debtors at its conclusion, the Plan Agent shall continue to act as Plan Agent until its duties under this Plan Agent Agreement have been fully discharged or its role as Plan Agent is otherwise terminated under this Plan Agent Agreement and the Plan. The Plan Agent shall retain the books, records, and files that shall have been delivered to or created by the Plan Agent until such time that the Plan Agent determines, in its sole discretion, that such books, records, and files may be destroyed (unless such records and documents are necessary to fulfill the Plan Agent's obligations pursuant to this Plan Agent Agreement), subject to the terms of any joint prosecution and common interests agreement(s) to which the Plan Agent may be a party. The Plan Agent may, in its sole discretion, file a motion with the Bankruptcy Court to enter an order relieving the Plan Agent, its agents and employees of any further duties, discharging, and releasing the Plan Agent.

**ARTICLE XII
MISCELLANEOUS PROVISIONS**

12.1. Amendments. The Plan Agent may amend, supplement, or waive any provision of this Plan Agent Agreement, without notice to or the consent of any Holder of any Non-GUC Claims or the approval of the Bankruptcy Court, but only to cure any ambiguity, omission, defect,

or inconsistency in this Plan Agent Agreement; provided that such amendments, supplements or waivers shall not adversely affect the Distributions to any of the Holder of Non-GUC Claims. Any substantive provision of this Plan Agent Agreement may be amended or waived by the Plan Agent, subject to the approval of the Bankruptcy Court; provided, however, that no change may be made to this Plan Agent Agreement that would expand, add to, or modify the original stated purpose of the Wind-Down Debtors. Notwithstanding this section, any amendments to this Plan Agent Agreement shall not be inconsistent with the purpose and intention of the Plan to liquidate and distribute, in an expeditious but orderly manner, the Wind-Down Debtors' Assets. Notwithstanding any other provision herein, the Plan Agent may apply to the Bankruptcy Court to order or allow any amendment of this Plan Agent Agreement and the Bankruptcy Court shall have jurisdiction and authority to approve amendments of this Plan Agent Agreement.

12.2. Waiver. No failure by the Wind-Down Debtors or the Plan Agent to exercise or delay in exercising any right, power, or privilege hereunder shall operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege hereunder preclude any further exercise thereof, or of any other right, power, or privilege.

12.3. Cumulative Rights and Remedies. The rights and remedies provided in this Plan Agent Agreement are cumulative and are not exclusive of any rights under law or in equity.

12.4. No Bond Required. Notwithstanding any state law to the contrary, the Plan Agent (including any successor Plan Agent) shall be exempt from giving any bond or other security in any jurisdiction. Notwithstanding the foregoing, in the Plan Agents sole discretion a bond(s) may be obtained, as a Wind-Down Debtor Expense, and paid from the Wind-Down Debtors' Assets.

12.5. Irrevocability. This Plan Agent Agreement created hereunder shall be irrevocable, except as otherwise expressly provided in this Plan Agent Agreement.

12.6. Tax Identification Numbers. The Plan Agent may require any Holder of a Non-GUC Claim to furnish to the Plan Agent its social security number or employer or taxpayer identification number as assigned by the IRS or an applicable Form W-8.

12.7. Applicable Law. This Liquidation Trust shall be governed by and construed in accordance with the laws of the State of Texas, without giving effect to rules governing the conflict of laws.

12.8. Retention of Jurisdiction. Notwithstanding the Effective Date, and to the fullest extent permitted by law, the Bankruptcy Court shall retain exclusive jurisdiction over the Wind-Down Debtors after the Effective Date, including, without limitation, jurisdiction to resolve any and all controversies, suits and issues that may arise in connection therewith, including, without limitation, this Plan Agent Agreement, or any entity's obligations incurred in connection herewith, including without limitation, any action against the Plan Agent, or any professional retained by the Plan Agent. Each party to this Plan Agent Agreement hereby irrevocably consents to the exclusive jurisdiction of the Bankruptcy Court in any action to enforce, interpret or construe any provision of this Plan Agent Agreement or of any other agreement or document delivered in connection with this Plan Agent Agreement, and also hereby irrevocably waives any defense of improper venue, forum non conveniens or lack of personal jurisdiction to any such action brought in the Bankruptcy

Court. Each Party further irrevocably agrees that any action to enforce, interpret, or construe any provision of this Plan Agent Agreement will be brought only in the Bankruptcy Court. Each Party hereby irrevocably consents to the service by certified or registered mail, return receipt requested, of any process in any action to enforce, interpret or construe any provision of this Plan Agent Agreement.

12.9. Severability. In the event that any provision of this Plan Agent Agreement or the application thereof to any person or circumstance shall be determined by the Bankruptcy Court to be invalid or unenforceable to any extent, the remainder of this Plan Agent Agreement, or the application of such provision to persons or circumstance, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Plan Agent Agreement shall be valid and enforced to the fullest extent permitted by law.

12.10. Limitation of Benefits. Except as otherwise specifically provided in this Plan Agent Agreement, the Plan or the Confirmation Order, nothing herein is intended or shall be construed to confer upon or to give any person other than the parties hereto and the Holders of Non-GUC Claims any rights or remedies under or by reason of this Plan Agent Agreement.

12.11. Notices. All notices, requests, demands, consents, and other communications hereunder shall be in writing (with email being sufficient) and shall be deemed to have been duly given to a person, if delivered in person or by facsimile with an electromagnetic report of delivery or if sent by overnight mail, registered mail, certified mail, or regular mail, with postage prepaid, to the following addresses:

If to the Plan Agent:

Patrick Bartels
5330 Carmel Crest Lane
Charlotte, North Carolina 28226
patrick@redanadvisors.com

-and-

Matthew D. Cavanaugh
Veronica A. Polnick
Vienna Anaya
Emily Meraia
Jackson Walker LLP
1401 McKinney Street, Suite 1900
Houston, TX 77010
mcavanaugh@jw.com
vpolnick@jw.com
vanaya@jw.com
emeraia@jw.com

The parties may designate in writing from time to time other and additional places to which notices may be sent.

12.12. Further Assurances. From and after the Effective Date, the Parties hereto covenant and agree to execute and deliver all such documents and notices and to take all such further actions as may reasonably be required from time to time to carry out the intent and purposes of this Plan Agent Agreement, and to consummate the transactions contemplated hereby.

12.13. Integration. This Plan Agent Agreement, the Plan, and the Confirmation Order constitute the entire agreement with, by and among the parties thereto, and there are no representations, warranties, covenants, or obligations except as set forth herein, in the Plan and in the Confirmation Order. This Plan Agent Agreement, together with the Plan and the Confirmation Order, supersede all prior and contemporaneous agreements, understandings, negotiations, and discussions, written or oral, of the parties hereto, relating to any transaction contemplated hereunder.

12.14. Interpretation. The enumeration and Section headings contained in this Plan Agent Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Plan Agent Agreement or of any other provision hereof. Unless context otherwise requires, whenever used in this Plan Agent Agreement the singular shall include the plural and the plural shall include the singular, and words importing the masculine gender shall include the feminine and the neuter, if appropriate, and vice versa, and words importing persons shall include partnerships, associations, and corporations. The words herein, hereby, and hereunder and words with similar import, refer to this Plan Agent Agreement as a whole and not to any particular Section or subsection hereof unless the context requires otherwise. Any reference to the “Plan Agent” shall be deemed to include a reference to the “Wind-Down Debtors” and any reference to the “Wind-Down” shall be deemed to include a reference to the “Plan Agent.”

12.15. Counterparts. This Plan Agent Agreement may be signed by the Parties hereto in counterparts, which, when taken together, shall constitute one and the same document. Delivery of an executed counterpart of this Plan Agent Agreement by facsimile or email in pdf format shall be equally effective as delivery of a manually executed counterpart.

IN WITNESS WHEREOF, the Parties hereto have either executed and acknowledged this Plan Agent Agreement, or caused it to be executed and acknowledged on their behalf by their duly authorized officers or representatives, all as of the date first above written.

DEBTORS:

IEH AUTO PARTS HOLDING LLC, et al.

By: _____

Name:

Title:

PLAN AGENT:

Patrick Bartels, solely in his capacity as Plan Agent

Exhibit A - PLAN

Exhibit B – CONFIRMATION ORDER

Exhibit C - BUDGET

EXHIBIT D

GUC Trust Agreement

GUC TRUST AGREEMENT

PREAMBLE

This GUC Trust Agreement (as it may be amended, modified, supplemented or restated from time to time, this “**GUC Trust Agreement**”) is made effective this _____ day of _____, 2023, by and among the following parties (each a “**Party**” and, collectively, the “**Parties**”): (a) IEH Auto Parts Holding LLC and its debtor affiliates, as debtors and debtors in possession in the Chapter 11 Cases (defined below) (collectively, the “**Debtors**” or the “**Wind-Down Debtors**,” as applicable);¹ and (b) Michael D. Warner, as the duly-appointed GUC Trustee (defined below).

RECITALS

WHEREAS, on January 31, 2023 (the “**Petition Date**”), each of the Debtors filed voluntary petitions under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “**Bankruptcy Court**”), thereby initiating the bankruptcy cases (the “**Chapter 11 Cases**”); and

WHEREAS, on May 2, 2023, the Debtors filed their *First Amended Combined Disclosure Statement and Joint Plan of Liquidation of IEH Auto Parts Holding LLC and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 465] (as amended or supplemented from time to time, collective the “**Plan**,”), the final and Bankruptcy Court Confirmed version of which is attached hereto as Exhibit A;² and

WHEREAS, on [●], 2023, the Bankruptcy Court entered an Order confirming the Plan (the “**Confirmation Order**”), a copy of which is attached hereto as Exhibit B; and

WHEREAS, pursuant to the Plan, the Confirmation Order, and this GUC Trust Agreement, a trust (the “**GUC Trust**”) is established for the benefit of the Holders of Allowed General Unsecured Claims (each a “**GUC Trust Beneficiary**”) for the purpose of, *inter alia* (i) collecting, holding, administering, distributing, and liquidating the Assets of the GUC Claim Reconciliation Fund and GUC Pool (the “**GUC Trust Assets**”), and (ii) making distributions to the GUC Trust Beneficiaries, in each case to the extent required by and permitted under the Plan and this GUC Trust Agreement; and

¹ The Debtor entities in these chapter 11 cases, along with the last four digits of each Debtor entity's federal tax identification number, are: IEH Auto Parts Holding LLC (6529); AP Acquisition Company Clark LLC (4531); AP Acquisition Company Gordon LLC (5666); AP Acquisition Company Massachusetts LLC (7581); AP Acquisition Company Missouri LLC (7840); AP Acquisition Company New York LLC (7361); AP Acquisition Company North Carolina LLC (N/A); AP Acquisition Company Washington LLC (2773); Auto Plus Auto Sales LLC (6921); IEH AIM LLC (2233); IEH Auto Parts LLC (2066); IEH Auto Parts Puerto Rico, Inc. (4539); and IEH BA LLC (1428). The Debtors' service address is: 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.

² Capitalized terms used but not otherwise defined in this GUC Trust Agreement shall have the meanings provided in the Plan unless otherwise noted herein.

WHEREAS, the GUC Trust shall have no objective or authority to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with the purpose of the GUC Trust as set forth in this GUC Trust Agreement, the Plan, and the Confirmation Order; and

WHEREAS, the GUC Trust is intended to qualify as a liquidating trust within the meaning of United States Treasury Regulation (hereinafter “**Treasury Regulation**”) Section 301.7701-4(d) and, accordingly, as a grantor trust for U.S. federal income tax purposes pursuant to Internal Revenue Code (the “**IRC**”) Section 671, *et seq.*, with the GUC Trust Beneficiaries treated as the grantors of the GUC Trust (subject to the treatment of any portion of the GUC Trust allocable to Disputed Claims as one or more “disputed ownership funds” governed by Treasury Regulation Section 1.468B-9); and

WHEREAS, the GUC Trust created pursuant to this GUC Trust Agreement, is intended to be exempt from the requirements of the Investment Company Act of 1940; and

WHEREAS, it is intended that for all U.S. federal income tax purposes, the transfer of the GUC Trust Assets to the GUC Trust be treated as a deemed transfer of the GUC Trust Assets by the Debtors to the GUC Trust Beneficiaries under the Plan, followed by a deemed transfer of the GUC Trust Assets by the GUC Trust Beneficiaries to the GUC Trust in exchange for the GUC Trust Interests, and to treat the GUC Trust Beneficiaries as the grantors and owners of the GUC Trust in accordance with Treasury Regulation Section 301.7701-4 (subject to the treatment of any portion of the GUC Trust allocable to Disputed Claims as one or more “disputed ownership funds” governed by Treasury Regulation Section 1.468B-9); and

WHEREAS, the Bankruptcy Court shall have jurisdiction over the GUC Trust, GUC Trustee, and the GUC Trust Assets as provided herein, in the Plan and in the Confirmation Order.

WHEREAS, the Plan and Confirmation Order contemplate the appointment of the GUC Trustee to serve as trustee for the purpose of overseeing the GUC Trust, and making Distributions to the GUC Trust Beneficiaries in accordance with the Plan; and

WHEREAS, pursuant to and in accordance with the Plan, the Committee has selected and appointed Michael D. Warner as the GUC Trustee, and such selection and appointment has been approved by the Bankruptcy Court pursuant to the Confirmation Order; and

WHEREAS, Michael D. Warner is willing to serve as the GUC Trustee on the terms set forth herein and pursuant to the terms of the Plan and the Confirmation Order; and

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, and in the Plan, the Debtors and the GUC Trustee (and the GUC Trust Beneficiaries, on the Effective Date, by virtue of the Confirmation Order³), agree as follows:

³ The Confirmation Order, and the occurrence of the Effective Date, shall conclusively be deemed the agreement of each of the GUC Trust Beneficiaries (and of Holders of General Unsecured Claims, which have not been Allowed) to the terms of this GUC Trust Agreement. All reference to the Debtors’ and the GUC Trustee’s agreement to the terms

**ARTICLE I
DEFINITIONS AND INTERPRETATIONS**

1.1 Definitions. The following capitalized terms have the meanings herein as described below:

1.1.1. “**Transfer**” shall mean, with respect to a GUC Trust Interest, any transfer, sale, pledge, assignment, conveyance, gift, bequest, inheritance, grant, distribution, hypothecation or other disposition of or creation of a security interest in such GUC Trust Interest, whether voluntarily or by operation of law. “Transferor,” “Transferee,” and “Transferred” shall have correlative meanings.

1.1.2. “**GUC Trustee**” shall mean (x) initially, the Person named in the introductory paragraph to this GUC Trust Agreement as the GUC Trustee, and (y) any successors or replacements duly appointed under the terms of this GUC Trust Agreement. The GUC Trustee shall be deemed an officer of the Bankruptcy Court appointed as a fiduciary and representative of the GUC Trust in order to implement the terms of the Plan with respect to the GUC Trust.

1.1.3. “**GUC Trust Interest**” shall mean a GUC Trust Beneficiary’s *pro-rata* interest in the Assets of the GUC Pool, administered by the GUC Trust.

1.2 Priority of Controlling Terms. In the case of any inconsistency between or among the terms of this GUC Trust Agreement, the terms of the Plan, and/or the Confirmation Order, the terms of the Confirmation Order shall govern and control over the terms of this GUC Trust Agreement, which GUC Trust Agreement shall govern and control over the terms of the Plan.

**ARTICLE II
ESTABLISHMENT, PURPOSE AND FUNDING OF GUC TRUST**

2.1 Creation and Name; Formation. The GUC Trust shall be deemed created upon the Effective Date of the Plan. The GUC Trustee may conduct the affairs, including the filing of pleadings and other documents in the Bankruptcy Court, or other courts to the extent provided in the Plan, of the GUC Trust under the name of the “Auto Parts GUC Trust,” or such variation thereof as the GUC Trustee sees fit.

2.2 Purpose of the GUC Trust. The Debtors and the GUC Trustee, pursuant to the Plan and the Confirmation Order and in accordance with the Bankruptcy Code, hereby establish the GUC Trust (i) for the purpose of collecting, administering, distributing and liquidating the GUC Trust Assets for the benefit of the GUC Trust Beneficiaries in accordance with the terms of this GUC Trust Agreement, the Plan, and the Confirmation Order and (ii) to make distributions to the GUC Trust Beneficiaries, in each case to the extent required herein, and by the Plan and Confirmation Order. Except for any claims arising from their respective obligations under the Plan, the Debtors, Wind-Down Debtors, the Committee, the Plan Agent, and their Related Parties (as applicable) shall have no liability for any claim related to any act or omission in connection with, relating to, or arising out of, in whole or in part, the GUC Trust, including, but not limited

of this GUC Trust Agreement, shall include the agreement to such terms and this GUC Trust Agreement by the GUC Trust Beneficiaries, and the Holders of General Unsecured Claims, which have not been Allowed.

to, distribution or payment of any proceeds of the GUC Trust Assets to any of the GUC Trust Beneficiaries. The activities of the GUC Trust and the GUC Trustee shall be limited to those activities set forth in this GUC Trust Agreement and as otherwise contemplated by the Plan. The GUC Trust is intended to qualify as a liquidating trust pursuant to Treasury Regulation Section 301.7701-4(d) and the primary purpose of the GUC Trust shall be to liquidate, administer, and distribute the GUC Trust Assets, and the GUC Trustee understands and agrees that the GUC Trust has no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the GUC Trust as set forth in the Plan.

2.3 Transfer of GUC Trust Assets.

2.3.1. On or prior to the Effective Date, the Debtors shall have transferred, or caused the transfer to the GUC Trust pursuant to the Settlement, the GUC Trust Assets, which shall vest or be deemed to vest in the GUC Trust as of the Effective Date as provided herein and, in the Plan, and the Confirmation Order. All such GUC Trust Assets, or interests in GUC Trust Assets, are irrevocably, indefeasibly, and automatically vested in the GUC Trust on the Effective Date, free and clear of any Claims or Liens. Upon the transfer of the GUC Trust Assets to the GUC Trust in accordance with this GUC Trust Agreement, the Plan, and the Confirmation Order, none of the Debtors or Wind-Down Debtors, the DIP Lender, or the Plan Agent, shall have any further obligations with respect to the Allowed Claims of General Unsecured Creditors under the Plan, or the Distribution or payment of any proceeds of the GUC Trust Assets to any of the GUC Trust Beneficiaries, except that the Debtors or the Wind-Down Debtors, as applicable, and their respective successors, shall, from time to time, (i) execute and deliver or cause to be executed and delivered all such documents (in recordable form where necessary or appropriate, as may be reasonably requested by the GUC Trustee) and (ii) take or cause to be taken such further action, in each case as the GUC Trustee may reasonably deem necessary or appropriate, to vest in or confirm to the GUC Trustee title to and possession of the GUC Trust Assets.

2.3.2. For U.S. federal income tax purposes, all parties (including the Debtors, the Wind-Down Debtors, the Estates, the Plan Agent, the GUC Trust Beneficiaries, the GUC Trust and the GUC Trustee) shall treat the transfer of the GUC Trust Assets to the GUC Trust as a deemed transfer of the GUC Trust Assets by the Debtors to the GUC Trust Beneficiaries under the Plan on account of their Allowed Claims, followed by a deemed transfer of the GUC Trust Assets by the GUC Trust Beneficiaries to the GUC Trust in exchange for their beneficial interests in the GUC Trust to the extent of their GUC Trust Interests (subject to the treatment of any portion of the GUC Trust allocable to Disputed Claims as one or more “disputed ownership funds” governed by Treasury Regulation Section 1.468B-9). Thus, the GUC Trust Beneficiaries shall be treated as the grantors and owners of the GUC Trust to the extent of their applicable GUC Trust Interests for U.S. federal income tax purposes. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes. Further, the GUC Trust shall at all times be administered so as to constitute a domestic trust for U.S. federal income tax purposes.

2.4 Capacity of GUC Trust. Notwithstanding any state or federal law to the contrary or anything herein, the GUC Trust shall itself have the capacity, in its own right and name, to act or refrain from acting, including the capacity to sue and be sued and to enter into contracts. The GUC Trust may alone be the named movant, respondent, party plaintiff or defendant, or the like in all

adversary proceedings, contested matters, and other state or federal proceedings brought by or against it, and may settle and compromise all such matters in its own name to the extent set forth in the Plan, the Confirmation Order, and this GUC Trust Agreement.

2.5 Nature of GUC Trust. The GUC Trust is irrevocable, but this GUC Trust Agreement is subject to amendment and waiver. The GUC Trust is not intended to be, and shall not be deemed to be or treated as, a general partnership, limited partnership, limited liability partnership, joint venture, corporation, limited liability company, joint stock company or association, nor shall the GUC Trust, the GUC Trustee, or the GUC Trust Beneficiaries, or any of them, for any purpose be, or be deemed to be or treated in any way whatsoever to be, liable or responsible hereunder as partners or joint venturers. The relationship of the GUC Trust Beneficiaries, on the one hand, to the GUC Trust and the GUC Trustee, on the other hand, shall not be deemed a principal or agency relationship, and their rights shall be limited to those conferred upon them solely by this GUC Trust Agreement, the Plan and the Confirmation Order.

2.6 Effectiveness. The effectiveness of this GUC Trust Agreement shall occur upon the Effective Date of the Plan and the receipt by the GUC Trust of the GUC Trust Assets as provided therein. Upon the Effective Date, this GUC Trust Agreement shall conclusively be deemed binding upon and enforceable against each of the GUC Trust Beneficiaries, and the Holders of General Unsecured Claims, without any further action by any Person or Entity.

ARTICLE III ADMINISTRATION OF THE GUC TRUST

3.1 Rights, Powers, and Privileges. In connection with the administration of the GUC Trust, except as set forth in this GUC Trust Agreement and the Plan, the GUC Trust and the GUC Trustee are authorized to perform any acts necessary or desirable to accomplish the purposes of the GUC Trust (including all powers, rights, and duties under applicable law); provided that the GUC Trust and the GUC Trustee shall not perform any acts that are inconsistent with this GUC Trust Agreement, the Plan or Confirmation Order. All actions, inactions, decisions, and directions to be taken by the GUC Trust shall be undertaken by the GUC Trustee; and all provisions in this GUC Trust Agreement with regard to the GUC Trust shall be undertaken by the GUC Trustee, regardless of specific identification in this GUC Trust Agreement. All references herein to the GUC Trust shall include the GUC Trustee, regardless of the specific identification of the GUC Trustee. Without limiting the foregoing, the GUC Trust and the GUC Trustee, as applicable, shall have the powers and authority set forth in the Plan and herein, including the power to:

3.1.1. effect all actions and execute all agreements, instruments and other documents necessary to complete the GUC Claim Reconciliation;

3.1.2. establish, as necessary, one or more disbursement accounts for the deposit and distribution of all GUC Trust Assets, including amounts to be distributed under the Plan to GUC Trust Beneficiaries;

3.1.3. maintain an accurate record of the GUC Trust Interest held by each GUC Trust Beneficiary in accordance with this GUC Trust Agreement;

3.1.4. establish, adjust, and maintain a Disputed Claims Reserve for Disputed General Unsecured Claims;

3.1.5. calculate and make Distributions in accordance with the Plan, and this GUC Trust Agreement to the GUC Trust Beneficiaries;

3.1.6. employ and compensate professionals and agents, including, attorneys, financial advisors, accountants, and financial institutions, to represent the GUC Trust and the GUC Trustee with respect to the GUC Trust's and the GUC Trustee's responsibilities,⁴ provided, that notwithstanding anything to the contrary herein, on and after the Effective Date, (i) all of the costs and expenses of the GUC Trust and the GUC Trustee, including any professional fees, (ii) all costs and expenses incurred in connection with the establishment of the GUC Trust and/or this GUC Trust Agreement incurred on or after the Confirmation Date; and (iii) all costs and expenses incurred by any professionals employed by the Committee and/or any Committee members on or after the Confirmation Date (collectively, the "**GUC Trust Expenses**"), shall be paid from the GUC Claim Reconciliation Fund;

3.1.7. cause the GUC Trust to make all tax withholdings, file tax information returns, file and prosecute tax refund claims, make tax elections by and on behalf of the GUC Trust, and file tax returns for the GUC Trust as a grantor trust under IRC Section 671 and Treasury Regulation Section 1.671-4 pursuant to and in accordance with the Plan and this GUC Trust Agreement (subject to the treatment of any portion of the GUC Trust allocable to Disputed Claims as one or more "disputed ownership funds" governed by Treasury Regulation Section 1.468B-9), and pay taxes, if any, payable for and on behalf of the GUC Trust; *provided, however*, neither the GUC Trust nor the GUC Trustee shall have any responsibility in any capacity whatsoever for, or control with respect to, the preparation, filing, signing or accuracy of the Debtors' or the Wind-Down Debtors' tax returns that are due to be filed before or after the Effective Date or for any tax liability related thereto, which shall be the sole responsibility and under the sole control of the Debtors, the Wind-Down Debtors, or Plan Agent as the case may be;

3.1.8. Neither the GUC Trust nor the GUC Trustee shall be file, report to or pay any fee, expense, charge or statutory claim, to the United States Trustee;

3.1.9. exercise such other powers as may be vested in the GUC Trust by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the GUC Trustee to be necessary and proper to implement the provisions of the Plan and this GUC Trust Agreement as they pertain to (a) General Unsecured Claims, (b) the GUC Trust Assets, or (c) the GUC Trust Beneficiaries; and

3.1.10. appear and be heard on all matters before the Bankruptcy Court on behalf of the GUC Trust as (i) a party in interest under Section 1109(b) of the Bankruptcy Code, including for purposes of the GUC Claim Reconciliation,⁵ including objecting to General Unsecured Claims;

⁴ Nothing in the Plan, the Confirmation Order, or this GUC Trust Agreement, shall limit the GUC Trust and/or the GUC Trustee from employing Professionals previously employed in the Chapter 11 Cases, as professionals for the GUC Trust.

⁵ Solely to the extent provided in the Plan, the GUC Trust shall succeed to and have standing to prosecute, settle, compromise, dismiss, withdraw, resolve or otherwise address, in the business judgment of the GUC Trustee, any

and (ii) a designated representative of the Debtors pursuant to Section 1123(b)(3)(B) of the Bankruptcy Code with respect to any matters involving General Unsecured Claims under the Plan and for purposes of carrying out the GUC Trust's duties under this GUC Trust Agreement.

3.2 Agents and Professionals. The GUC Trust and the GUC Trustee may, but shall not be required to, consult with and retain attorneys, accountants, a third-party disbursing agent, or other parties deemed by the GUC Trust and/or the GUC Trustee to have qualifications necessary to assist in the proper administration of the GUC Trust. The GUC Trust, through the GUC Trustee, shall be responsible for paying the GUC Trust Expenses, including, without limitation, reasonable salaries, fees, and expenses of such applicable persons (including, without limitation, himself, in the capacity of the GUC Trustee, and/or in the capacity of a professional for the GUC Trust and/or the GUC Trustee), out of the GUC Claim Reconciliation Fund. Nothing herein shall preclude the GUC Trustee from retaining such professionals on a contingency fee basis.

3.3 Investment and Safekeeping of GUC Trust Assets. All GUC Trust Assets received by the GUC Trust shall, until distributed or paid as provided in this GUC Trust Agreement and the Plan, be held in the GUC Trust for the benefit of the GUC Trust Beneficiaries to the extent of their applicable GUC Trust Interests. The GUC Trust and the GUC Trustee shall be under no obligation to generate or produce, or have any liability for, interest or other income on any monies received by the GUC Trust and held for distribution or payment to the GUC Trust Beneficiaries, except as such interest or income shall be actually received by the GUC Trust. Investments of any monies held by the GUC Trust shall be administered in view of the manner in which individuals of ordinary prudence, discretion and judgment would act in the management of their own affairs; provided, however, that the right and power of the GUC Trust and the GUC Trustee to invest monies held by the GUC Trust, or any income earned by the GUC Trust shall be limited to the right and power to invest such monies, pending periodic distributions in accordance with the terms hereof and the Plan. For the avoidance of doubt, the investment powers of the GUC Trust, other than those reasonably necessary to maintain the value of the GUC Trust Assets and the liquidation purpose of the GUC Trust, are limited to powers to invest in demand and time deposits, such as short-term certificates of deposits, in banks or other savings institutions, or other temporary, liquid investments, such as treasury bills, and in all cases limited only to those investments permitted to be made by a "liquidating trust" within the meaning of Treasury Regulation Section 301.7701-4(d).

3.4 Limitations on the GUC Trust and the GUC Trustee. Notwithstanding anything to the contrary, on behalf of the GUC Trust or the GUC Trust Beneficiaries, the GUC Trust shall not at any time: (i) enter into or engage in any trade or business (other than the management and distribution of the GUC Trust Assets), and no part of the GUC Trust Assets or the proceeds, revenue or income therefrom shall be used or disposed of by the GUC Trust in furtherance of any trade or business, (ii) except as provided in sections 3.3 and 3.4 of this GUC Trust Agreement and below, reinvest any GUC Trust Assets, or (iii) take any action that would jeopardize treatment of the GUC Trust as a "liquidating trust" for U.S. federal income tax purposes.

objections to, or motions, adversary proceedings, contested matters, or any other proceeding, other than Retained Causes of Action, concerning General Unsecured Claims, in each case, which are pending as of the Effective Date.

3.4.1. Other than as contemplated by the Plan or this GUC Trust Agreement, the GUC Trust is not empowered to incur indebtedness.

3.4.2. The GUC Trust may invest Cash of the GUC Trust, including any earnings thereon or proceeds therefrom, any Cash realized from the liquidation of the GUC Trust Assets, or any Cash that is remitted to the GUC Trust from any Person, which investments, for the avoidance of doubt, will not be required to comply with Section 345(b) of the Bankruptcy Code; provided, however, that such investments must be investments that are permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation Section 301.7701-4(d), as reflected therein, or under applicable guidelines, rulings, or other controlling authorities. The GUC Trust and the GUC Trustee shall have no liability in the event of insolvency or failure of any institution in which it has invested any funds of the GUC Trust.

3.4.3. The GUC Trust shall hold, collect, conserve, protect and administer the GUC Trust Assets in accordance with the provisions of this GUC Trust Agreement and the Plan, and pay and distribute amounts as set forth herein for the purposes set forth in this GUC Trust Agreement. Any determination by the GUC Trustee as to what actions are in the best interest of the GUC Trust shall be made in accordance with the GUC Trustee’s fiduciary duty to act in the best interest of the GUC Trust Beneficiaries and shall be determinative.

3.5 Bankruptcy Court Approval of the GUC Trust’s and the GUC Trustee’s Actions. Except as provided in the Plan or Confirmation Order or otherwise specified in this GUC Trust Agreement, the GUC Trust and the GUC Trustee need not obtain the order or approval of the Bankruptcy Court in the exercise of any power, rights, or discretion conferred hereunder, or account to the Bankruptcy Court. Except as otherwise provided herein, the GUC Trustee shall exercise his business judgment for the benefit of the GUC Trust Beneficiaries in order to maximize the value of the GUC Trust Assets and distributions, giving due regard to the cost, risk, and delay of any course of action. Notwithstanding the foregoing, the GUC Trust and the GUC Trustee shall have the right to submit to the Bankruptcy Court any question or questions, motions, applications or requests for instructions, regarding which the GUC Trust and/or the GUC Trustee may desire to have explicit approval of the Bankruptcy Court for the taking of any specific action proposed to be taken by the GUC Trust with respect to any of the GUC Trust Assets, this GUC Trust Agreement, or the Plan, including the administration or distribution of any of the GUC Trust Assets. The Bankruptcy Court shall retain jurisdiction and power for such purposes and shall approve or disapprove any such proposed action upon motion, request, application or otherwise, by the GUC Trust and/or the GUC Trustee.

3.6 Reliance by the GUC Trust and the GUC Trustee:

- (a) The GUC Trust and the GUC Trustee may rely, and shall be protected in acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by the GUC Trustee to be genuine and to have been signed or presented by the proper party or parties;
- (b) The GUC Trust and the GUC Trustee may consult with any and all of the GUC Trust’s professionals and agents and the GUC Trustee shall not be

liable for any action taken or omitted to be taken in accordance with the advice of such professionals and agents; and

- (c) Persons dealing with the GUC Trust and/or the GUC Trustee shall look only to the GUC Claim Reconciliation Fund to satisfy any liability incurred by the GUC Trust or the GUC Trustee to such Person in carrying out the terms of this GUC Trust Agreement or the Plan, and the GUC Trustee shall not have any personal obligation to satisfy any such liability.

3.7 Valuation of GUC Trust Assets. As soon as reasonably practicable after GUC Trust Assets are transferred to the GUC Trust, the GUC Trust shall make a good faith valuation of GUC Trust Assets and shall apprise, in writing, the GUC Trust Beneficiaries of such valuation, as relevant, from time to time, which may be done by filing or posting a notice accessible by the GUC Trust Beneficiaries, including by a filing on the docket of the Bankruptcy (which shall be deemed sufficient notice to all GUC Trust Beneficiaries). All parties (including the Debtors, the Wind-Down Debtors, the Plan Agent, the GUC Trust, and as applicable, the GUC Trust Beneficiaries) will consistently report the valuation determined by the GUC Trust of the assets transferred to the GUC Trust for all U.S. federal, state, local, or other income tax purposes. Income, deductions, gain, or loss from the GUC Trust shall be reported to the GUC Trust Beneficiaries in conjunction with the filing of the GUC Trust's income tax returns, and such reporting shall be deemed sufficient, if filed on the docket of the Bankruptcy Court. Any dispute regarding the valuation of GUC Trust Assets shall be resolved by the Bankruptcy Court.

3.8 Abandonment. If, in the GUC Trustee's reasonable judgment, any GUC Trust Assets cannot be sold in a commercially reasonable manner or any GUC Trust Assets have inconsequential value to the GUC Trust or the GUC Trust Beneficiaries, the GUC Trustee shall have the right to cause the GUC Trust to abandon or otherwise dispose of such property, including, but not limited to, by way of donation to a non-profit 501(c)(3) organization that the GUC Trustee may select in his sole discretion.

ARTICLE IV DISTRIBUTIONS FROM THE GUC TRUST

4.1 Distributions. After the Effective Date, as and to the extent required by the Plan, the GUC Trust shall make distributions from the GUC Trust Assets in accordance herewith to GUC Trust Beneficiaries in respect of their GUC Trust Interests.

4.2 Provisions Governing Distributions. All distributions to be made under this GUC Trust Agreement shall be made in accordance with the Plan, the Confirmation Order and this GUC Trust Agreement.

4.3 Timing of Distributions. The GUC Trustee shall determine, in his business judgment, the appropriate time at which to issue a Distribution or Distributions in accordance with the Plan. Any payment of Cash to be made pursuant to the Plan, subject to the terms hereof, shall be deemed made, if by electronic wire transfer, when the applicable electronic wire transfer is initiated by the sending bank or, if by check drawn on a domestic bank, when the earliest occurs of depositing in the mail for the entitled recipient, receipt by the entitled recipient, or delivery to a

third party delivery service for delivery to the entitled recipient. For the avoidance of doubt, all distributions will be made by check unless the GUC Trustee, in his sole discretion, agrees to make a payment by wire transfer.

4.4 Payments Limited to GUC Trust Assets. The GUC Trust shall make distributions from the GUC Trust to the GUC Trust Beneficiaries only to the extent that the GUC Trust has sufficient funds net of reasonable reserves, as determined in the GUC Trustee's sole discretion, to make such payments in accordance with this GUC Trust Agreement, the Plan and the Confirmation Order.

4.5 Fees and Expenses. From and after the Effective Date, the GUC Trustee, on behalf of the GUC Trust, is authorized, without further order of the Bankruptcy Court, to pay the GUC Trust Expenses from the GUC Claims Reconciliation Fund. Neither the Debtors, Wind-Down Debtors, Plan Agent nor any other party shall be responsible for any GUC Trust Expenses.

4.6 Claims other than General Unsecured Claims. The GUC Trust shall have no obligation, of any nature, to address Claims other than General Unsecured Claims, including no obligation to address Administrative Claims or Professional Fee Claims, arising at any time.

4.7 Priority of Distributions. Any recovery by the GUC Trust on account of the GUC Trust Assets shall be applied in accordance with the Plan; provided, however, that the GUC Trust must pay or reserve for all GUC Trust Expenses and indemnification obligations of/for GUC Trustee Indemnified Parties, as provided in section 6.3 of this GUC Trust Agreement (incurred and anticipated to be incurred) before making distributions to GUC Trust Beneficiaries.

4.8 Compliance with Laws. All Distributions of GUC Trust Assets shall comply with applicable laws, to the extent not superseded or preempted by Section 1123 of the Bankruptcy Code or any other provision of the Bankruptcy Code. Without limiting the generality of the foregoing, (a) the GUC Trust shall make distributions from the GUC Trust to the GUC Trust Beneficiaries at a date and time appropriate in the GUC Trustee's business judgment and upon determining that the GUC Trust has sufficient cash available for distribution; provided, however, that the GUC Trustee may, to the extent consistent with applicable law as to liquidating trusts (*e.g.*, Revenue Procedure 82-58, 1982-2 C.B. 847, as amplified by Revenue Procedure 91-15, 1991-1 C.B. 484 and Revenue Procedure 94-45, 1994-2 C.B. 684), retain such amounts (i) as are reasonably necessary to meet contingent liabilities (including Disputed Claims), and to maintain the value of the GUC Trust Assets during the term of the GUC Trust, (ii) to pay GUC Trust Expenses from the GUC Claim Reconciliation Fund, and (iii) to satisfy all other liabilities incurred or assumed by the GUC Trust (or to which the GUC Trust Assets are otherwise subject) in accordance with the Plan and this GUC Trust Agreement, and (b) the GUC Trustee, in his business judgment, may cause the GUC Trust to withhold and/or pay to the appropriate tax authority from amounts distributable from the GUC Trust to any GUC Trust Beneficiary any and all amounts as may be sufficient to pay the maximum amount of any tax or other charge that has been or might be assessed or imposed by any law, regulation, rule, ruling, directive, or other governmental requirement on such GUC Trust Beneficiary or the GUC Trust with respect to the amount to be distributed to such GUC Trust Beneficiary. The GUC Trustee shall determine such maximum amount to be withheld by the GUC Trust using his business judgment and shall cause the GUC Trust to distribute to the GUC Trust Beneficiary any excess amount withheld. All such amounts

withheld and paid to the appropriate tax authority (or reserved pending resolution of the need to withhold) shall be treated as amounts distributed to such GUC Trust Beneficiary for all purposes of this GUC Trust Agreement.

4.9 Tax Withholdings. The GUC Trust shall comply with all tax withholding and reporting requirements as set forth in the Plan and the Confirmation Order.

4.10 Setoff Rights. The GUC Trust shall have the setoff and recoupment rights set forth in the Plan, as may be applicable to the GUC Trust.

4.11 Right to Object to General Unsecured Claims. Solely to the extent provided in the Plan, the GUC Trust shall have the exclusive responsibility and authority for administering, disputing, compromising and settling or otherwise resolving and finalizing payments or other distributions with respect to General Unsecured Claims, all without Bankruptcy Court approval, and may object to any General Unsecured Claims until the later of one hundred eighty (180) days following the Effective Date or such other and later date that is approved by the Bankruptcy Court (the "**GUC Claims Objection Deadline**"). The GUC Trust shall be entitled to seek an extension of the GUC Claims Objection Deadline from time to time by filing an appropriate motion with the Bankruptcy Court based upon the GUC Trustee's sole determination that such extension is appropriate and reasonable under the circumstances. It is anticipated that the GUC Trust may seek multiple extensions of the GUC Claims Objection Deadline, and that the Bankruptcy Court will grant the GUC Trust's requests. Nothing herein shall prejudice the GUC Trust's right to seek an extension of the GUC Claims Objection Deadline at any time. The GUC Trust shall generally prosecute objections to General Unsecured Claims pending as of the Effective Date and any additional objections it determines to file from and after the Effective Date but the GUC Trustee shall be entitled to exercise any and all judgment and discretion with respect to the manner in which to defend against or settle any General Unsecured Claim. In addition, subject to the foregoing sentence, the GUC Trust may, at any time, request that the Bankruptcy Court estimate any Contingent, Disputed or Unliquidated Claim pursuant to Section 502(c) of the Bankruptcy Code regardless of whether any party previously objected to or sought estimation of such Claim, for purposes of creating a reserve and/or distribution under the Plan and/or this GUC Trust Agreement.

4.12 No Distributions Pending Allowance. If a General Unsecured Claim or any portion of such a Claim is Disputed, no payment or Distribution shall be made on account of any portion of such Claim unless and until all objections to such Claim are resolved by Final Order or as otherwise permitted by the Plan or this GUC Trust Agreement. For clarity, a General Unsecured Claim includes all General Unsecured Claims held by such Holder.

4.13 Undeliverable and Unclaimed Distributions. If any Distribution to any GUC Trust Beneficiary is returned as undeliverable, no further Distributions will be made to that GUC Trust Beneficiary unless the GUC Trust Beneficiary notifies the GUC Trust in writing of that GUC Trust Beneficiary's then-current address within 60 days after the date of the Distribution determined from the date on which the Distribution is deposited in the mail, physically or electronically, for the entitled GUC Trust Beneficiary. If a Distribution to a GUC Trust Beneficiary is returned as undeliverable, the GUC Trust may, but is not required to, use reasonable efforts to determine the then-current address of the GUC Trust Beneficiary and re-send such distribution to such Holder.

If a Distribution is not returned as undeliverable but remains unclaimed for a period of 60 days after the date of the Distribution determined from the date on which the Distribution is deposited in the mail, physically or electronically, for the entitled GUC Trust Beneficiary, then it shall be deemed unclaimed and no further Distributions will be made to that GUC Trust Beneficiary. All unclaimed and undeliverable Distributions as set forth above shall be deemed unclaimed property under Section 347(b) of the Bankruptcy Code at the expiration of 60 days from the date that is the earliest to occur of depositing the Distribution in the mail, physically or electronically, for the entitled recipient, receipt by the entitled recipient, or delivery to a third-party delivery service for delivery to the entitled recipient. After such date, all unclaimed property or interests in property shall revert to the GUC Trust without need for a further order by the Bankruptcy Court (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary), and the Allowed Claim of the applicable GUC Trust Beneficiary to such property or its GUC Trust Interest shall be discharged and forever barred; and no further distributions to such GUC Trust Beneficiary shall be made.

4.14 Conflicting Claims. If any conflicting claims or demands are made or asserted with respect to any GUC Trust Interest or if there is any disagreement between the assignees, transferees, heirs, representatives, or legatees succeeding to all or a part of such an interest resulting in adverse claims or demands being made in connection with such interest, then, in any of such events, the GUC Trustee shall be entitled, in his business judgment, to refuse to comply with any such conflicting claims or demands.

4.14.1. The GUC Trustee, at his sole election, may elect to cause the GUC Trust to make no payment or distribution with respect to the GUC Trust Interest subject to the conflicting claims or demand, or any part thereof, and to refer such conflicting claims or demands to the Bankruptcy Court, which shall have exclusive jurisdiction over resolution of such conflicting claims or demands. Neither the GUC Trust nor the GUC Trustee shall be or become liable to any party for refusal to comply with any such conflicting claims or demands, nor shall the GUC Trust or GUC Trustee be liable for interest on any funds which may be so withheld.

4.14.2. The GUC Trust and the GUC Trustee shall be entitled to refuse to act until either (i) the rights of the adverse claimants have been adjudicated by a final order of the Bankruptcy Court, or another court of competent jurisdiction, should the Bankruptcy Court decline jurisdiction, or (ii) all differences have been resolved by a valid written agreement among all parties to the satisfaction of the GUC Trustee, which agreement shall include a complete release of the GUC Trust and GUC Trustee. Until the GUC Trustee receives written notice that one of the conditions of the preceding sentence is met, the GUC Trustee may deem and treat the GUC Trust Beneficiary identified as the owner of the disputed GUC Trust Interest in the books and records maintained by the GUC Trust as the absolute owner of such GUC Trust Interest for purposes of receiving distributions and any payments on account thereof for federal and state income tax purposes, and for all other purposes under this GUC Trust Agreement.

4.14.3. In acting or refraining from acting under and in accordance with this section 4.14 of this GUC Trust Agreement, the GUC Trust and the GUC Trustee shall be fully protected and incur no liability to any purported claimant or any other Person to the extent set forth in Article VI of this GUC Trust Agreement.

ARTICLE V BENEFICIARIES

5.1 Identification and Addresses of GUC Trust Beneficiaries. In order to determine the actual names and addresses of the GUC Trust Beneficiaries, the GUC Trust may, but shall not be required, deliver a notice to the GUC Trust Beneficiaries at their last known address indicated in the Claims Register or the books and records of the Debtors. Such notice may include a form for each GUC Trust Beneficiary to complete in order to be properly registered as a GUC Trust Beneficiary and be eligible for distributions under the Plan and this GUC Trust Agreement. Such form may request the GUC Trust Beneficiary's federal taxpayer identification number or social security number if the GUC Trust determines that such information is necessary to fulfill the GUC Trust's tax reporting and withholding obligations. A GUC Trust Beneficiary may, after the Effective Date, select an alternative mailing address for receiving distributions by notifying the GUC Trustee in writing of such alternative address. Such notification shall be effective only upon actual receipt by the GUC Trust and, absent actual receipt of such notification, the GUC Trust shall not be obligated to recognize any change of address.

5.2 Beneficial Interest Only. The ownership of a GUC Trust Interest shall not entitle any GUC Trust Beneficiary to any title in or to, possession of, management of or control of any of the GUC Trust Assets or to any right to call for a partition or division of such GUC Trust Assets or to require an accounting, except as specifically provided herein. Except as expressly provided in this GUC Trust Agreement, a GUC Trust Beneficiary shall not have standing to direct or to seek to direct the GUC Trust or GUC Trustee to do or not to do any act or to institute any action or proceeding at law or in equity against any Person upon or with respect to the GUC Trust Assets or their distribution.

5.3 Ownership of Beneficial Interests Hereunder. Each GUC Trust Beneficiary shall own a beneficial interest in the GUC Trust (as represented by the GUC Trust Interest(s) issued to such Beneficiary consistent with the Plan). The record holders of the GUC Trust Interests shall be recorded and set forth in a registry maintained by, or at the direction of, the GUC Trust expressly for such purpose.

5.4 Evidence of Beneficial Interest. Ownership of a GUC Trust Interest shall not be evidenced by any certificate, security, or receipt (unless otherwise determined by the GUC Trustee) or in any other form or manner whatsoever. Ownership of the GUC Trust Interests shall be reflected on the books and records of the GUC Trust maintained by the GUC Trustee, which may be the Claims Register. The GUC Trustee shall, upon the written request of a holder of a GUC Trust Interest, provide reasonably adequate documentary evidence of such holder's GUC Trust Interest, as indicated on the GUC Trust's register. The expense of providing such documentation shall be borne by the requesting holder.

5.5 No Right to Accounting. Except as set forth in sections 3.7, 7.4 and 7.9 of this GUC Trust Agreement, neither the GUC Trust Beneficiaries nor their successors, assigns, creditors, or any other Person shall have any right to an accounting by the GUC Trust or GUC Trustee, and the GUC Trust and the GUC Trustee shall not be obligated to provide any accounting to any Person. Nothing in this GUC Trust Agreement is intended to require the GUC Trust or the GUC Trustee at any time or for any purpose to file any accounting or seek approval of any court with respect to

the administration of the GUC Trust or as a condition for making any advance, payment, or distribution out of proceeds of GUC Trust Assets.

5.6 Requirement of Undertaking. The GUC Trust and the GUC Trustee may ask the Bankruptcy Court to require, in any suit for the enforcement of any right or remedy under this GUC Trust Agreement, or in any suit against the GUC Trust or GUC Trustee for any action taken or omitted by the GUC Trust or the GUC Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, including reasonable attorneys' fees, against any party litigant in such suit; provided, however, that no similar requirement shall apply to any suit, claim, objection, motion, adversary proceeding, application or similar action by the GUC Trust or the GUC Trustee.

5.7 Limitation on Transferability. It is understood and agreed that GUC Trust Interests shall be non-transferable and non-assignable during the term of this GUC Trust Agreement other than if transferred by will, intestate succession, or otherwise by operation of law. Any such Transfer by operation of law shall not be effective until appropriate notification and proof thereof is submitted to the GUC Trust, and the GUC Trustee may continue to cause the GUC Trust to pay all amounts to or for the benefit of the assigning GUC Trust Beneficiaries until receipt of proper notification and proof of such Transfer. The GUC Trust may rely upon such proof without the requirement of any further investigation. Notwithstanding any other provision to the contrary, the GUC Trust and the GUC Trustee may disregard any purported Transfer of Claims or GUC Trust Interests by will, intestate succession or operation of law if sufficient necessary information (as reasonably determined by the GUC Trustee), including applicable tax-related information, is not provided by such purported transferee or assignee to the GUC Trust.

5.8 Exemption from Registration. The Parties hereto intend that the GUC Trust Interests shall not be "securities" under applicable laws, but none of the Parties hereto represent or warrant that such interests shall not be securities or shall be entitled to exemption from registration under applicable securities law. If such rights constitute securities, the exemption from registration provided by Section 1145 of the Bankruptcy Code and under applicable securities laws shall apply to their issuance under the Plan. No Party to this GUC Trust Agreement shall make a contrary or different contention.

ARTICLE VI THIRD PARTY RIGHTS AND LIMITATION OF LIABILITY

6.1 Parties Dealing with the GUC Trust and the GUC Trustee. In the absence of actual knowledge to the contrary, any Person dealing with the GUC Trust or the GUC Trustee shall be entitled to rely on the authority of the GUC Trustee or any of the GUC Trust's agents to act in connection with any matters covered by this GUC Trust Agreement. No Person that may deal with the GUC Trust and/or the GUC Trustee shall have any obligation to inquire into the validity or expediency or propriety of any transaction by the GUC Trust and/or the GUC Trustee or any agent of the GUC Trust.

6.2 Limitation of GUC Trustee's Liability. Anything herein to the contrary notwithstanding, in exercising the rights granted herein, the GUC Trustee shall exercise his business judgment, to the end that the affairs of the GUC Trust shall be properly managed and the

interests of all the GUC Trust Beneficiaries are safeguarded; but the GUC Trustee shall not incur any responsibility or liability by reason of any error of law or of any matter or thing done or suffered or omitted to be done under this GUC Trust Agreement, unless the GUC Trustee has acted with gross negligence, fraud or willful misconduct as determined by Final Order of the Bankruptcy Court. Any act or omission reasonably taken on the written advice of counsel or other retained professional, such as, by way of example only, accountant, financial advisor, or financial institutions, will be conclusively deemed not to constitute gross negligence, willful misconduct, or fraud. The GUC Trustee's obligations, duties and responsibilities under the Plan, the Confirmation Order and this GUC Trust Agreement are qualified in their entirety by the availability of only the GUC Reconciliation Fund to fund the GUC Trustee's activities and the GUC Trust Expenses. Upon the appointment of a successor GUC Trustee and the delivery of the then remaining GUC Trust Assets to the successor GUC Trustee, the predecessor GUC Trustee and any of his accountants, agents, assigns, attorneys, bankers, consultants, directors, employees, executors, financial advisors, investment bankers, managers, members, officers, partners, predecessors, principals, professional persons, representatives, affiliate, employer, and successors shall have no further liability or responsibility with respect thereto (other than liabilities arising prior to the cessation of his role as GUC Trustee). A successor GUC Trustee shall have no duty to examine or inquire into the acts or omissions of its immediate or remote predecessor, and no successor GUC Trustee shall be in any way liable for the acts or omissions of any predecessor GUC Trustee, unless a successor GUC Trustee expressly assumes such responsibility. A predecessor GUC Trustee shall have no liability for the acts or omissions of any immediate or subsequent successor GUC Trustee for any events or occurrences subsequent to the cessation of its role as GUC Trustee.

6.3 Indemnification. The GUC Trustee and each of his Related Parties (each, a "GUC Trustee Indemnified Party") shall be indemnified against and held harmless by the GUC Trust, and solely from the GUC Trust Assets, any loss, liability, damage, judgment, fine, penalty, claim, demand, settlement, cost, or expense (including the reasonable fees and expenses of their respective professionals) actually incurred without gross negligence, willful misconduct, or fraud on the part of the applicable GUC Trustee Indemnified Party (which gross negligence, willful misconduct, or fraud, if any, must be determined by a Final Order of the Bankruptcy Court) for any action taken, suffered, or omitted to be taken by the GUC Trustee Indemnified Parties in connection with the acceptance, administration, exercise, and performance of their duties under the Plan or this GUC Trust Agreement, as applicable, if the applicable GUC Trustee Indemnified Party acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interest of the GUC Trust or the GUC Trust Beneficiaries. An act or omission taken with the approval of the Bankruptcy Court will be conclusively deemed not to constitute gross negligence, willful misconduct, or fraud. The amounts necessary for the indemnification provided in this section 6.3 of this GUC Trust Agreement (including, but not limited to, any costs and expenses incurred in enforcing the right of indemnification in this section 6.3 of this GUC Trust Agreement) shall be paid by the GUC Trustee out of the GUC Trust Assets. The GUC Trustee shall not be personally liable for the payment of any GUC Trust Expenses or claim or other liability of the GUC Trust, and no Person shall look to the GUC Trustee personally for the payment of any such expense or liability. The indemnification provided in this section 6.3 of this GUC Trust Agreement shall survive the death, dissolution, incapacity, resignation or removal of the GUC Trustee, GUC Trustee Indemnified Party or the termination of the GUC Trust and shall inure to the benefit of each GUC Trustee Indemnified Party's heirs and assigns.

ARTICLE VII
SELECTION, REMOVAL AND COMPENSATION OF GUC TRUSTEE

7.1.1. Appointment. The GUC Trustee (i) has been selected and appointed pursuant to the provisions of the Plan and Confirmation Order to effectuate an orderly and efficient transition of the administration, in accordance herewith, of the GUC Trust Assets for the benefit of the GUC Trust Beneficiaries and (ii) is a “United States person” within the meaning of IRC Section 7701(a)(30). The GUC Trustee shall be deemed an officer of the Bankruptcy Court appointed as a fiduciary and representative of the GUC Trust in order to implement the terms of the Plan with respect to the GUC Trust.

7.2 Term of Service. The GUC Trustee shall serve until the earlier to occur of (a) the termination of the GUC Trust in accordance with this GUC Trust Agreement and the Plan or (b) the GUC Trustee’s death, dissolution, incapacity, resignation or removal.

7.3 Removal of a GUC Trustee. Any Person serving as GUC Trustee may be removed and replaced by an order of the Bankruptcy Court upon a motion by the Committee (which may be reconstituted for this limited purpose) and a showing of good cause. The removal shall be effective on the date specified in the order of the Bankruptcy Court. Notwithstanding the removal of the GUC Trustee pursuant to this section 7.3 of this GUC Trust Agreement, the rights of the resigning GUC Trustee under this GUC Trust Agreement with respect to acts or omissions occurring prior to the effectiveness of such removal will continue for the benefit of such resigning GUC Trustee following the effectiveness of such resignation.

7.4 Resignation of GUC Trustee. The GUC Trustee may resign at any time by giving prior written notice of his intention to do so to the Persons who were members of the Committee and its counsel as of the day prior to the Effective Date, to the DIP Lender, and to the Wind-Down Debtors through the Plan Agent, which notice shall be at least thirty (30) days unless the resignation is due to a disability or other incapacity. Without limiting any other reporting or accounting obligations under the Plan or this GUC Trust Agreement, in the event of a resignation, the resigning GUC Trustee shall file with the Bankruptcy Court a full and complete written accounting of monies and GUC Trust Assets received, disbursed, and held during the term of office of that GUC Trustee. The resignation shall be effective on the later to occur of: (a) the date specified in the notice; or (b) the appointment of a successor by the Committee or any remaining Committee participants serving under the Plan in a purely advisory role, the acceptance by such successor of such appointment and the approval of the successor’s appointment by the Bankruptcy Court; provided, that such resignation shall become effective on the date specified in the GUC Trustee’s notice without the appointment of a successor GUC Trustee if the Insurance Coverages (as defined below) terminate for any reason other than the GUC Trustee’s unreasonable refusal to renew such Insurance Coverages, and provided further that if a successor GUC Trustee is not appointed or does not accept its appointment or if the appointment of a successor GUC Trustee has not been approved by the Bankruptcy Court within sixty (60) days following delivery of notice of resignation, the resigning GUC Trustee may petition the Bankruptcy Court for the appointment of a successor GUC Trustee. Notwithstanding the resignation of the GUC Trustee pursuant to this section 7.4 of this GUC Trust Agreement, the rights of the resigning GUC Trustee under this GUC Trust Agreement with respect to acts or omissions occurring prior to the effectiveness of such

resignation will continue for the benefit of such resigning GUC Trustee following the effectiveness of such resignation.

7.5 Appointment of Successor GUC Trustee. Upon the resignation, death, dissolution, incapacity, or removal of a GUC Trustee, the Committee (which shall be deemed reconstituted for this limited purpose) shall appoint a successor GUC Trustee to fill the vacancy so created, subject to the approval of the Bankruptcy Court so long as any of the Chapter 11 Cases are pending. Any successor GUC Trustee shall be a “United States person” within the meaning of IRC Section 7701(a)(30). If the reconstituted Committee does not appoint a successor GUC Trustee, the Bankruptcy Court may do so of its own accord. Any successor GUC Trustee so appointed shall consent to and accept in writing the terms of this GUC Trust Agreement and agrees that the provisions of this GUC Trust Agreement shall be binding upon and inure to the benefit of the successor GUC Trustee.

7.6 Powers and Duties of Successor GUC Trustee. A successor GUC Trustee shall have all the rights, privileges, powers, and duties of his predecessor under this GUC Trust Agreement and the Plan. Notwithstanding anything to the contrary herein, a removed or resigning GUC Trustee shall, when requested in writing by the successor GUC Trustee, execute and deliver an instrument or instruments conveying and transferring to such successor GUC Trustee under the GUC Trust all the estates, properties, rights, and powers of such predecessor GUC Trustee.

7.7 GUC Trust Continuance. The death, resignation, dissolution, incapacity, or removal of the GUC Trustee shall not terminate the GUC Trust, revoke any then-existing agency created pursuant to this GUC Trust Agreement or invalidate any action theretofore taken by the GUC Trustee.

7.8 Compensation and Costs of Administration. The GUC Trustee shall receive fair and reasonable compensation for his services, in the amount of \$100,000, on a fixed fee basis, plus all reasonable and documented costs and expenses, which shall be charged against and paid out of the GUC Claims Reconciliation Fund as GUC Trust Expenses without further Bankruptcy Court approval or order (subject to the limitations set forth in this GUC Trust Agreement and the Plan). The GUC Trustee shall be compensated in his capacity as the GUC Trustee and in his capacity as counsel to the GUC Trust, without allocation between such capacities. All reasonable and documented costs, expenses, and obligations, including filing fees, incurred by the GUC Trustee (or professionals who may be employed by the GUC Trustee in administering the GUC Trust, in carrying out their responsibilities under this GUC Trust Agreement, or in any manner connected, incidental, or related thereto) shall be paid from the GUC Trust Assets prior to any distribution to the GUC Trust Beneficiaries without further Bankruptcy Court approval or order (subject to the limitations set forth in this GUC Trust Agreement and the Plan).

7.9 Periodic Reporting; Filing Requirements.

7.9.1. The GUC Trustee shall file tax returns for the GUC Trust as a grantor GUC Trust pursuant to Treasury Regulation Section 1.671-4(a) and any other Federal applicable laws or regulations with the GUC Trust Beneficiaries treated as the grantors of the GUC Trust for federal income tax purposes in respect of their GUC Trust Interests. In addition, the GUC Trustee shall file in a timely manner such other tax returns as are required by applicable law and pay any

taxes shown as due thereon. The GUC Trustee may withhold from amounts distributable to any Person any and all amounts, determined in the GUC Trustee's business judgment, to be required by any law, regulation, rule, ruling, directive or other governmental requirement.

7.9.2. The tax returns filed by/for the GUC Trust shall report all GUC Trust earnings for the taxable year being reported. The "taxable year" of the GUC Trust shall be the "calendar year" as those terms are defined in IRC Section 441.

7.10 Confidentiality. Except as required in the performance of his duties, the GUC Trustee shall, while serving as GUC Trustee under this GUC Trust Agreement, hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to any Person to which any of the GUC Trust Assets relate or of which he has become aware in his capacity as GUC Trustee.

ARTICLE VIII MAINTENANCE OF RECORDS

8.1 The GUC Trust shall maintain accurate records of the administration of GUC Trust Assets, including receipts and disbursements and other activity of the GUC Trust. The Claims Register and the Debtors' Schedules (to the extent not superseded by Filed Proofs of Claim), in each case, with respect to General Unsecured Claims, may serve as the basis for the GUC Trust's register of GUC Trust Interests, if any. The books and records maintained by the GUC Trust and any records of the Debtors transferred to the GUC Trust may be disposed of by the GUC Trust at the later of (i) such time as the GUC Trustee determines that the continued possession or maintenance of such books and records is no longer necessary for the benefit of the GUC Trust or the GUC Trust Beneficiaries and (ii) upon the termination and completion of the winding down of the GUC Trust.

ARTICLE IX DURATION OF GUC TRUST

9.1 Duration. This GUC Trust Agreement shall remain and continue in full force and effect until the GUC Trust is terminated in accordance with the provisions of this GUC Trust Agreement and the Plan.

9.2 Dissolution of the GUC Trust. The GUC Trustee and the GUC Trust shall be discharged or dissolved, as the case may be, at such time as all distributions required to be made by the GUC Trust to the GUC Trust Beneficiaries have been made, but in no event shall the GUC Trust be terminated later than five (5) years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such fifth anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six (6) months before the end of the preceding extension), determines that a fixed period extension (not to exceed three (3) years, together with any prior extensions) is necessary to facilitate or complete the recovery on, and liquidation and distribution of, the GUC Trust Assets. Upon dissolution of the GUC Trust, any remaining GUC Trust Assets shall be distributed to GUC Trust Beneficiaries in accordance with the Plan and this GUC Trust Agreement.

9.3 Continuance of GUC Trust for Winding Up. After the termination of the GUC Trust and for the purpose of liquidation and winding up the affairs of the GUC Trust, the GUC Trustee shall continue to act as such until his duties have been fully performed, including such post-termination tasks as necessary to wind up the affairs of the GUC Trust. Subject to the provisions of section 8.1 of this GUC Trust Agreement, after the termination of the GUC Trust, the GUC Trustee, for a reasonable time determined in his sole judgement but subject in all cases to the Plan and any confidentiality agreements entered into in connection therewith, may retain or cause to be retained certain books, records, GUC Trust Beneficiary lists, and other documents and files that shall have been delivered to or created by the GUC Trust. Except as otherwise specifically provided herein, upon the discharge of all liabilities of the GUC Trust and final distribution of the GUC Trust, the GUC Trustee shall have no further duties or obligations hereunder.

9.4 No Termination by GUC Trust Beneficiaries. The GUC Trust may not be terminated at any time by the GUC Trust Beneficiaries.

ARTICLE X MISCELLANEOUS

10.1 GUC Trust Consultation Group. Pursuant to the Plan, members of the Committee may withdraw from the Committee at any time following the Effective Date. Upon the Effective Date, and following the Effective Date of the Plan and except as otherwise set forth herein, the members of Committee may voluntarily, and without compensations or reimbursement of expenses, continue to participate in the administration of the GUC Trust Assets by: (i) consulting with the GUC Trustee regarding the GUC Claim Reconciliation (notwithstanding the foregoing clause, the GUC Trustee shall have sole authority over the administration of the GUC Trust, including the GUC Claim Reconciliation); (ii) participating in update calls with the Wind-Down Debtors or Plan Agent on a reasonable basis; and (iii) consulting with the GUC Trustee regarding the Plan Agent's prosecution the Retained Causes of Action to the extent the prosecution of those Retained Causes of Action may result in additional Assets for the GUC Pool. Notwithstanding the foregoing, and subject to the terms of this GUC Trust Agreement, after the Effective Date each Committee member shall be discharged from all other further duties, responsibilities, and obligations related to the Chapter 11 Cases. If Committee members serve the GUC Trust and GUC Trustee in a post-Effective Date consulting or advisory role as set forth herein, then they shall be entitled to the same post-Effective Date releases, indemnifications, and exculpations provided to the GUC Trustee under Article VI of this GUC Trust Agreement for services they render to the GUC Trust and GUC Trustee.

10.2 Books and Records. The GUC Trust shall be provided with reasonable access, during normal business hours, to the Debtors' and Wind-Down Debtors' personnel and books and records upon request in order to allow the GUC Trustee to discharge his duties in regards to the GUC Claims Reconciliation.

10.3 Preservation of Privilege. As set forth in the Plan, the Wind-Down Debtors, Plan Agent, and the GUC Trust shall enter into a common interest agreement whereby the Wind-Down Debtors, Plan Agent, GUC Trust, and GUC Trustee will be able to share documents, information, or communications (whether written or oral) relating to GUC Claims Reconciliation and resolution

of other Claims. The GUC Trust shall seek to preserve and protect all applicable privileges attaching to any such documents, information, or communications. The GUC Trust's receipt of such documents, information or communications shall not constitute a waiver of any privilege. All privileges shall remain in the control of the Debtors or the Wind-Down Debtors, as applicable, and the Debtors, the Wind-Down Debtors, or the Plan Agent, as applicable, retain the sole right to waive their own privileges. Reasonable agreements will be made with the GUC Trust such that confidential information and privileges are preserved, while permitting the GUC Trust to use, as necessary to administer the GUC Trust, such information and privilege; absent such agreements, either the GUC Trust or the Plan Agent may present the issue to the Bankruptcy Court for resolution.

10.4 Notices. Unless otherwise expressly provided herein, all notices to be given to GUC Trust Beneficiaries may be given by ordinary mail, or may be delivered personally, to the holders at the addresses appearing on the books kept by the GUC Trustee. Any notice or other communication which may be or is required to be given, served, or sent to the GUC Trust shall be in writing and shall be sent by registered or certified United States mail, return receipt requested, postage prepaid, or transmitted by hand delivery (if receipt is confirmed) addressed as follows:

If to the GUC Trust and/or the GUC Trustee:

Michael D. Warner, Esq.
In his Official Capacity as the Auto Parts GUC Trustee
Pachulski Stang Ziehl & Jones LLP
440 Louisiana Street, Suite 900
Houston TX 77002
mwarner@pszjlaw.com

with a copy to:

Joseph M. Coleman, Esq.
John J. Kane, Esq.
Kane Russell Coleman Logan PC
901 Main Street, Suite 5200
Dallas, Texas 75202
jcoleman@krcl.com
jkane@krcl.com

or to such other address as may from time to time be provided in written notice by the GUC Trust.

10.5 No Bond/Insurance. Notwithstanding any state law to the contrary, the GUC Trustee (including any successor) shall be exempt from giving any bond or other security in any jurisdiction, unless the GUC Trustee decides in his reasonable judgment to obtain such bond or other security, in which case the cost thereof shall be a GUC Trust Expenses and paid out of the GUC Claims Reconciliation Fund. The GUC Trustee is hereby authorized, but not required, to obtain all reasonable insurance coverage for the GUC Trust, himself, his agents, representatives, employees or independent contractors, including coverage with respect to the liabilities, duties and obligations of the GUC Trustee and his agents, representatives, employees or independent

contractors under this GUC Trust Agreement and the Plan (“**Insurance Coverages**”). The cost of any such Insurance Coverage shall be a GUC Trust Expense and paid out of the GUC Claims Reconciliation Fund.

10.6 Governing Law. This GUC Trust Agreement shall be governed by and construed in accordance with the laws of the State of Delaware (excluding conflict of laws rules), including all matters of validity, construction and administration; provided, however, that there shall not be applicable to the GUC Trust, the GUC Trustee or this GUC Trust Agreement, (a) the provisions of Section 3540 of Title 12 of the Delaware Code and (b) any provisions of the laws (statutory or common) of the State of Delaware pertaining to trusts that relate to or regulate, in a manner inconsistent with the terms hereof, (i) the filing with any court or governmental body or agency of trust accounts or schedule of trustee fees and charges, (ii) affirmative requirements to post bonds for trustees, officers, agents or employees of a trust, (iii) the necessity for obtaining court or other governmental approval concerning the acquisition, holding or disposition of real or personal property, (iv) fees or other sums payable to trustees, officers, agents or employees of a trust, (v) the allocation of receipts and expenditures to income and principal, (vi) restrictions or limitations on the permissible nature, amount or concentration of trust investments or requirements relating to the titling, storage or other manner of holding or investing trust assets, or (vii) the establishment of fiduciary or other standards or responsibilities or limitations on the acts or powers of trustees.

10.7 Successors and Assigns. This GUC Trust Agreement shall inure to the benefit of and shall be binding upon the Parties hereto and their respective successors and assigns.

10.8 Headings. The various headings of this GUC Trust Agreement are inserted for convenience only and shall not affect the meaning or understanding of this GUC Trust Agreement or any provision hereof.

10.9 Cumulative Rights and Remedies. The rights and remedies provided in this GUC Trust Agreement are cumulative and not exclusive of any rights and remedies under law or in equity.

10.10 No Execution. All funds in the GUC Trust shall be deemed *in custodia legis* until such times as the funds have actually been paid to or for the benefit of a GUC Trust Beneficiary, and no GUC Trust Beneficiary or any other Person can execute upon, garnish or attach the GUC Trust Assets or the GUC Trust in any manner or compel payment from the GUC Trust except by Final Order of the Bankruptcy Court. Payment will be solely governed by this GUC Trust Agreement, the Plan, and the Confirmation Order.

10.11 Intention of Parties to Establish Grantor Trust. This GUC Trust Agreement is intended to create a grantor trust for United States federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as such a grantor trust. Consistent with Revenue Procedure 82-58, 1982-2 C.B. 847, as amplified by Revenue Procedure 91-15, 1991-1 C.B. 484 and Revenue Procedure 94-45, 1994-2 C.B. 684, the GUC Trust shall be treated as a liquidating trust pursuant to Treasury Regulation Section 301.7701-4(d) and as a grantor trust pursuant to Sections 671-677 of the IRC. As such, for federal income tax purposes, the GUC Trust Beneficiaries will be treated as both the grantors and the deemed owners of the GUC Trust.

10.12 Treatment as a Disputed Ownership Fund for Tax Purposes.

10.12.1. Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the receipt by the GUC Trustee of a private letter ruling if the GUC Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the GUC Trustee) in respect of the disputed ownership fund (“**DOF**”) provisions of Treasury Regulation Section 1.468B-9, the GUC Trustee may, in the GUC Trustee’s business judgment, determine the best way to report for tax purposes with respect to any portion of the GUC Trust allocable to Disputed Claims of GUC Trust Beneficiaries (including reserves for Disputed Claims), including, but not limited to, (i) filing a tax election to treat any and all such portion as one or more DOFs within the meaning of Treasury Regulation Section 1.468B-9 for U.S. federal income tax purposes rather than to tax such portion as a part of the grantor trust for U.S. federal income tax purposes or (ii) electing to report as a separate GUC Trust or sub-GUC Trust or other entity; provided however, that the GUC Trustee acknowledges that if on the Effective Date the GUC Trust has received all cash to which it is entitled under the Plan, the assets treated as transferred to the GUC Trust, other than any such assets that are allocable to Claims that are Allowed Claims as of the Effective Date, may be required to be treated as held by a DOF (without any election) and not as a liquidating trust, for U.S. federal income tax purposes. If any portion of the GUC Trust is treated as a DOF, the GUC Trust shall comply with all U.S. federal and other applicable reporting and tax compliance requirements of the DOF, including, but not limited to, the filing of a separate U.S. federal tax return for the DOF and the payment of taxes due. For the avoidance of doubt, all of the GUC Trust’s income shall be treated as subject to tax on a current basis consistent with Revenue Procedure 82-58, 1982-2, C.B. 847, as amplified by Revenue Procedure 91-15, 1991-1 C.B. 484 and Revenue Procedure 94-45, 1994-2 C.B. 684.

10.12.2. If all or a portion of the GUC Trust is treated as a DOF, all parties shall report for U.S. federal, state, and local income tax purposes consistently with the foregoing. Any taxes (including with respect to earned interest, if any) imposed on the GUC Trust as a result of this treatment (including as a result of any deemed transfer of the assets out of the DOF upon resolution of any Claim) shall be paid by the GUC Trustee out of GUC Trust Assets (and reductions shall be made to amounts disbursed from the trust to account for the need to pay such taxes or any other costs or expenses). For the avoidance of doubt, the GUC Trustee shall be permitted to sell any assets of the DOF to the extent necessary to satisfy such tax liability (including any tax liability arising in connection with such sale).

10.13 Amendment. The GUC Trustee may, from time to time, modify, supplement, or amend this GUC Trust Agreement but only to clarify any ambiguity or inconsistency, or render this GUC Trust Agreement in compliance with its stated purposes, and only if such amendment does not materially and adversely affect any interests, rights or treatment of, or distributions to, any GUC Trust Beneficiary. The GUC Trustee, with the approval of the Bankruptcy Court may, from time to time, modify, supplement, or amend this GUC Trust Agreement in any way that is not inconsistent with the Plan or the Confirmation Order.

10.14 Waiver. No failure by any Party to exercise or delay in exercising any right, power, or privilege hereunder shall operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege hereunder preclude any further exercise thereof, or of any other right, power, or privilege.

10.15 Severability. If any term, provision, covenant or restriction contained in this GUC Trust Agreement is held by a court of competent jurisdiction or other authority to be invalid, void, unenforceable or against its regulatory policy, the remainder of the terms, provisions, covenants and restrictions contained in this GUC Trust Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

10.16 Further Assurances. Without limitation of the generality of Article II of this GUC Trust Agreement, the Parties hereto agree to execute and deliver all such documents and notices and to take all such further actions as may reasonably be required from time to time to carry out the intent and purposes and provide for the full implementation of this GUC Trust Agreement and the pertinent provisions of the Plan, and to consummate the transactions contemplated hereby.

10.17 Counterparts and Facsimile Signatures. This GUC Trust Agreement may be executed in counterparts and a facsimile or other electronic form of signature shall be of the same force and effect as an original.

10.18 Jurisdiction. The Bankruptcy Court shall have jurisdiction and venue to hear and finally determine all disputes and related matters arising out of or related to this GUC Trust Agreement, the GUC Trust, the GUC Trustee, the GUC Trust Assets, and the GUC Trust Interests, including the determination of all disputes arising out of or related to administration of the GUC Trust and GUC Trust Assets or distributions on account of the GUC Trust Interests. The parties expressly consent to the Bankruptcy Court hearing and exercising such judicial power as is necessary to finally determine all such disputes and matters. If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to the Chapter 11 Cases, including the matters set forth in this GUC Trust Agreement, then the provisions of this GUC Trust Agreement shall have no effect on and shall not control, limit or prohibit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter, and all applicable references in this GUC Trust Agreement to an order or decision of the Bankruptcy Court shall instead mean an order or decision of such other court of competent jurisdiction.

10.19 No Conflict – the GUC Trustee and the Plan Agent. The Parties (including the GUC Trust Beneficiaries, and Holders of General Unsecured Claims that have not been Allowed), acknowledge and agree that the GUC Trustee may, in his sole discretion, concurrently hold the position, title and duties of the GUC Trustee and the Plan Agent.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this GUC Trust Agreement as of the day and year written above.

DEBTORS:

IEH AUTO PARTS HOLDING LLC, et al.

By: _____

Name:

Title:

GUC TRUSTEE:

By: _____

Name: Michael D. Warner, solely in his
official capacity as the GUC Trustee

Exhibit A - PLAN

Exhibit B – CONFIRMATION ORDER